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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10782

AMENDING EXECUTIVE ORDER NO. 10773[1] OF JULY 1, 1958, RELATING TO CIVIL AND DEFENSE MOBILIZATION

By virtue of the authority vested in me as President of the United States, and consonant with the provisions of the act of August 26, 1958 (72 Stat. 861), it is ordered, effective as of August 26, 1958, that Executive Order No. 10773 of July 1, 1958, be, and it is hereby, amended (1) by deleting the words "Defense and Civilian Mobilization", whenever used as part of the title of any officer or the name of any agency or body, and by inserting in lieu thereof, the words "Civil and Defense Mobilization", and (2) by inserting in section 1 thereof, as hereinabove amended, after "1958" a comma and the words "as amended".

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
September 6, 1958.

[F. R. Doc. 58-7401; Filed, Sept. 8, 1958; 4:19 p. m.]

TITLE 7—AGRICULTURE

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

PART 989—RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

SUBPART—ADMINISTRATIVE RULES AND REGULATIONS

REPORTS

Pursuant to Marketing Agreement No. 109, as amended, and Order No. 89, as amended (7 CFR Part 989), regulating the handling of raisins produced from raisin variety grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), the Raisin Administrative Committee unanimously recommended an amendment of the handler reporting provisions of § 989.173 (b) (1) (ii) of the Administrative Rules and Regulations (23 F. R. 2444, 2568) to relax a time filing requirement on handlers with respect to two off-grade raisin reports.

Section 989.173 (b) (1) (ii) provides, in part, that whenever it is found that the season average price to producers for raisins will be in excess of the season average parity price, each handler shall, during the pertinent crop year or any remaining portion thereof, file with the committee for each month, and not later than the fifth business day of the succeeding month, the reports specified in § 989.173 (b) (4) and (6) which relate respectively to off-grade raisins returned to tenderers (producers or dehydrators) and to off-grade raisins received and retained without reconditioning for disposition in prescribed outlets.

Section 989.173 (c) (3) of the aforesaid administrative rules and regulations requires that each handler shall file with the committee on or before the fifteenth day of each month a special raisin report covering off-grade raisins received under agreements with tenderers (producers or dehydrators) for reconditioning which were reconditioned by him during the previous month.

In order to simplify and alleviate handlers' reporting requirements with respect to off-grade raisins during above-parity periods, the committee has proposed that the three off-grade raisin reports called for by the said provisions of § 989.173 (b) (4) and (6) and § 989.173 (c) (3) may be filed with the committee not later than the fifteenth day of each month on one consolidated reporting form. Thus, instead of being required to file with the committee two off-grade raisin reports by the fifth day, and one off-grade special raisin report by the fifteenth day, of each month, handlers would be permitted to file with the committee the specified information on one form at one time by the fifteenth day of the month. In order to effectuate this desirable change, the provisions of § 989.173 (b) (1) (ii) should be amended to provide that handlers file with the committee the off-grade raisin reports prescribed in § 989.173 (b) (4) and (6) on or before the fifteenth day of each month instead of on or before the fifth business day of each month.

After consideration of all relevant information, including the committee's recommendation, it is concluded that the aforesaid amendment should be ap-

(Continued on p. 6973)

[1] 23 F. R. 5061.

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

proved and, for the reasons hereinafter set forth, should become effective at the time hereinafter provided.

Therefore, it is hereby ordered, That § 989.173 (b) (1) (ii) of the Administrative Rules and Regulations (23 F. R. 2444, 2568) be amended by deleting therefrom the words "the fifth business day" and substituting therefor the words "the fifteenth day."

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule-making procedure, and that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.), and for making this amendment effective upon execution hereof in that: (1) The provisions of § 989.173 (b) (1) (ii) are currently in effect on the basis of the finding (23 F. R. 6591) that the estimated season average price to producers for raisins for the crop year which began September 1, 1958, will be in excess of the parity level specified in section 2 (1) of the said act; (2) in the absence of this amendatory action handlers will have to file with the committee not later than the fifth business day of this month certain off-grade raisin reports; (3) this amendatory action will relieve restrictions on the time of filing of such reports by providing additional time for such filing; (4) this amendment will reduce handlers' costs of complying with these reporting requirements as to off-grade raisins during above-parity periods through the simplification of handlers' record-keeping and reporting requirements by permitting the filing of a single consolidated report and by providing additional time for filing reports; and (5) handlers are aware that this amendment was recommended by the committee and require no additional advance notice to comply therewith. In those circumstances, this amendment should become effective upon execution.

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

Executed: September 5, 1958, to become effective upon execution.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 58-7353; Filed, Sept. 9, 1958; 8:54 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

Effective upon publication in the FEDERAL REGISTER, § 6.363 (a) is added as set out below.

§ 6.363 *Office of Civil and Defense Mobilization.* (a) One Confidential Administrative Assistant to each of the following: Assistant Director for Training, Education, and Public Affairs; Assistant Director for Plans and Operations; and Assistant Director for Resources Management.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[F. R. Doc. 58-7345; Filed, Sept. 9, 1958; 8:53 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6872]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

SUNWAY VITAMIN CO. ET AL.

Subpart—*Advertising falsely or misleadingly:* § 13.170 *Qualities or properties of product or service.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Sunway Vitamin Company et al., Chicago, Ill., Docket 6872, August 14, 1958]

In the Matter of Sunway Vitamin Company, a Corporation, and Ethel P. Heyman and Daniel J. Haskell, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging sellers in Chicago, Ill., with representing falsely in pamphlets, circulars, and other advertising matter that use of their "Sunway Super Vitamin Tablets With Iron" would be effective in providing pep, zip, vitality, and more red blood, and in relieving nervousness and restlessness.

Following acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on August 14 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondents Sunway Vitamin Company, a corporation, and its officers, and Ethel P. Heyman and Daniel J. Haskell, individually and as officers of said corporation, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Sunway Super Vitamin Tablets With Iron, or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated, any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication:

(a) That the use of said product is of value in providing pep, zip or vitality or in relieving nervousness or restlessness, unless expressly limited, in a clear and conspicuous manner, to those cases where the lack of pep, zip or vitality or nervousness or restlessness are due solely to a deficiency of vitamins;

(b) That the use of said product will be of value in providing benefits for or relief from any condition or disorder, unless expressly limited in a clear and conspicuous manner, to those cases where such conditions or disorders are due solely to a deficiency of vitamins;

(c) That the use of said product will provide red blood, or that it will have any significant beneficial effect on the blood.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph one hereof.

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

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: August 14, 1958.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 58-7311; Filed, Sept. 9, 1958; 8:49 a. m.]

TITLE 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 112—HARDTACK NUCLEAR TEST SERIES, 1958

REVOCATION

On September 8, 1958, the Atomic Energy Commission issued public notice of the completion of the HARDTACK nuclear test series and the disestablishment of the danger area surrounding the Eniwetok and Bikini Atolls, Marshall Islands. The prohibitions contained in Part 112 against entry into the HARDTACK test series danger area, as defined therein, are no longer necessary, and Part 112 is hereby revoked.

Inasmuch as this action is intended to relieve from, rather than to impose, restrictions under regulations currently in effect, the Atomic Energy Commission has found that general notice of proposed rule making and public procedures thereon are unneeessary and that good cause exists why this amendment should be made effective without the customary period of notice and upon filing with the FEDERAL REGISTER.

(Sec. 161, 68 Stat. 948, as amended; 42 U. S. C. 2201)

Dated at Germantown, Maryland, this 8th day of September 1958.

For the U. S. Atomic Energy Commission.

PAUL F. FOSTER,
General Manager.

[F. R. Doc. 58-7392; Filed, Sept. 8, 1958; 2:25 p. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

Subchapter A—Test Fee Schedules

PART 204—ATOMIC AND RADIATION PHYSICS

In accordance with the provisions of section 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on these schedules of fees are unnecessary for the reason that such procedures, because of the nature of these rules, serve no useful purpose. This revision is effective from September 15, 1958.

Part 204 is revised to read as follows:

RADIOLOGICAL EQUIPMENT—GAMMA-RAY SOURCES

Sec.

AUTHORITY: §§ 204.131 to 204.902 issued under sec. 9, 31 Stat. 1450, as amended; 15 U. S. C. 277. Interpret or apply sec. 8, 31 Stat. 1450, as amended; 15 U. S. C. 276.

RADIOLOGICAL EQUIPMENT—GAMMA-RAY SOURCES

§ 204.131 *X-ray protective materials.*

Item	Description	Fee
204.131a	Determination of opacity of one sample—ionization method	$23
204.131b	Determination of opacity of each additional sample—ionization method	9
204.131c	Determination of opacity of one sample—radiographic method	24
204.131d	Determination of opacity of each additional sample—radiographic method	10
204.131z	For special opacity tests of protective materials not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

§ 204.132 *X-ray and gamma-ray instruments.*

Item	Description	Fee
204.132a	Calibration of one X-ray dose indicating instrument of one range, in international rotentgens for lightly or moderately filtered X-rays of one half-value-layer from the following selections.	$37

Lightly filtered X-rays

kv cp	Approx. inherent filter (mm)	Added filter (mm)	Approx. half-value-layer (mm)	Instrument max. range from zero (r)
10	1.5 Be	0	0.05 Al	25-250
20	1.5 Be	0	0.1 Al	100-5000
20	1.5 Be	0.3 Al	0.2 Al	25-500
30	1.5 Be	0.5 Al	0.4 Al	25-1000
50	1.5 Be	1.0 Al	1.0 Al	25-1000
75	2.0 Be	1.5 Al	1.8 Al	25-2000
100	2.0 Be	2.0 Al	3.0 Al	25-2000

Moderately filtered X-rays

kv cp	Approx. inherent filter (mm)	Added filter (mm)		Approx. half-value-layer (mm)	Instrument max. range from zero (r)
		Cu	Al		
60	3 Al	0	0	0.085 Cu	2.5-250
75	3 Al	0	0	0.11 Cu	2.5-250
100	3 Al	0	1.0	0.19 Cu	.25-250
150	3 Al	.25	1.0	0.61 Cu	.25-250
200	3 Al	.5	1.0	1.2 Cu	.25-250
250	3 Al	1.0	1.0	2.1 Cu	2.5-250

Calibration accuracy within ±3 percent

204.132b	Calibration of each additional X-ray dose indicating instrument of the same range and for the same half-value-layer of lightly or moderately filtered X-rays as selected under 204.132a and not requiring a change in setup.	14
204.132c	Calibration of one X-ray instrument, either dose or dose-rate indicating, in international roentgens for heavily filtered X-rays of one effective energy from the following selections.	45

kv cp	Approx. inherent filter (mm)	Added filter (mm)				Approx. effective energy (kev)	Max. dose (r)	Range from zero dose rate (r/min)
		Pb	Sn	Cu	Al			
50	3 Al	0.12	0	0	0	40	0.1-25	0.01-0.1
100	3 Al	.5	0	0	0	70	.1-25	.05-0.5
150	3 Al	0	1.5	4.0	0	120	.1-25	.05-.5
200	3 Al	.7	4.0	.6	0	170	.1-25	.05-.5
250	3 Al	2.7	1.0	.6	0	215	.1-100	.25-2.5

Calibration accuracy within ±3 percent

204.132d	Calibration of each additional X-ray instrument, of the same dose or dose-rate range, for heavily filtered X-rays of one effective energy as selected under 204.132c, not requiring a change in setup and when the instruments are submitted at the same time.	15
204.132e	Calibration of one instrument in international roentgens for cobalt 60 gamma rays. (a) Dose-rate-indicating instrument for dose rates ranging from 0.01 to 15 r/mm; or (b) Dose-indicating-instruments or ranges 0-0.1 r to 0-25 r.	20
204.132f	Calibration accuracy within ±3 percent.	12
204.132g	Calibration of each additional instrument having the same dose or dose-rate range for cobalt 60 gamma rays, as under 204.132e, when the instruments are submitted at the same time.	
204.132z	Calibration of one X-ray or gamma-ray instrument, dose or dose-rate-indicating, in international roentgens: (a) calibrations of higher accuracy than 3 percent routinely furnished; or (2) calibrations on X-rays of energies other than those listed under 204.132 a, c or e; or (3) calibrations requiring a special setup or special procedures. Fees will be charged dependent upon the nature of the test. NOTE: Only a limited number of special calibrations can be undertaken and requests for such should be submitted with full details for consideration.	

§ 204.133 *X-ray inspections.*

Item	Description	Fee
204.133x	X-ray inspections—For special tests including the radiographic inspection of metal objects; measurement of X-ray fluorescence; calibration of fluorescent screens; inspection and testing of complete X-ray equipments; and other special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

§ 204.134 *Gamma-ray sources.* (a) Radioactive preparations submitted to the Bureau for test are subject to the following conditions:

(1) *Financial responsibility.* The Bureau assumes no responsibility for loss or damage to radioactive preparations while in its possession. The risk should be covered by insurance.

(2) *Period of measurement.* Approximately 10 days are required for measurement of these radioactive preparations.

(3) *Preparation of specimens.* Radioactive preparations submitted for test must be carefully sealed so that there can be no escape of any radioactive material including any gaseous decay products. The preparations, shielding and packaging must be free of contamination. Contaminated or leaking preparations cannot be measured and may cause considerable loss of time and damage to laboratory facilities. Preparations must have been sealed for a sufficient time to be substantially in radioactive equilibrium with their decay products when these contribute to the gamma emission. (At least 30 days for radium.)

(4) *Packaging for shipment.* Regulations of the Interstate Commerce Commission regarding the shipment of radioactive substances by rail must be complied with. These regulations are enforceable by law and prospective shippers of these substances need to be familiar with them. Copies of the regulations can be obtained from the Interstate Commerce Commision, Washington 25, D. C.

(5) *Type of measurements.* (i) Radium is calibrated in terms of milligrams of radium content measured relative to the National Radium Standard. Cobalt-60 is calibrated in terms of dose rate, milliroentgens per hour at one meter, based upon comparison with derived standards of Cobalt. Application may be made for other measurements of gamma emitters.

(ii) Postal regulations prohibit mailing radioactive materials which require a caution label under ICC regulations. This effectively prohibits placing radioactive preparations in the mail.

Item	Description	Fee
	Gamma-ray measurements of radioactive preparations. Measurement to ±0.7% for radium; and to ±3% for cobalt 60:	
204.134a	0.5 to 15 mg radium or encapsulated cobalt 60 having gamma rays 0.5 to 15 mrhm (milliroentgens per hour at one meter).	$14
204.134b	15+ to 100 mg radium or encapsulated cobalt 60 having gamma rays 15 to 100 mrhm (milliroentgens per hour at one meter).	21
204.134c	100+ to 200 mg radium or encapsulated cobalt 60 having gamma rays 100 to 200 mrhm (milliroentgens per hour at one meter).	30
204.134d	200+ to 500 mg radium or encapsulated cobalt 60 having gamma rays 200 to 400 mrhm (milliroentgens per hour at one meter).	42
204.134e	For measurements in groups not exceeding 10 preparations, double the fee for preparations of same content as the total content of the group.	
204.134f	For handling and examination of a shipment containing contaminated or leaking preparations the fee will be the same as for measurements of a preparation having a content equal to the total nominal radioactive content of the shipment.	
204.134x	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test. As only a limited number of special tests can be carried out, prior arrangements must be made including submission of full details concerning the required test.	

RADIOMETRY

§ 204.201 *Radiometry.*

Item	Description	Fee
204.201a	Eye protective glasses—Test for compliance with safety code, covering transmission of ultraviolet, visible and total radiation.	$20
204.201b	Eye protective glasses—Test for luminous transmittance by comparison with standard filters.	20
204.201c	Eye protective glasses—Measurement of percent ultraviolet spectral transmittance at regular intervals or selected points in the spectrum.	20
204.201d	Standards of radiation—Lamps seasoned and calibrated for intensity of radiant energy, per lamp.	40
204.201e	Calibration of radiant energy meter for energy of 2537A	20
204.201f	Measurement of radiant flux of 2537A, from germicidal or sterilamp	20
204.201g	Laminated safety glass—Determination of effect on exposure to ultraviolet radiant energy.	20
204.201x	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

NEUTRON PHYSICS

§ 204.701 *Neutron physics.*

Item	Description	Fee
204.701a	Determination of ratio of neutron emission rate of unknown source to primary standard in $MnSO_4$ bath or graphite column.	$315
204.701x	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

§ 204.702 *Neutron instruments.*

Item	Description	Fee
204.702a	Calibration of a set (one to three) of thermal neutron dosimeters	$64
204.702x	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test.	

§ 204.703 *Neutron irradiation of foils.*

Item	Description	Fee
204.703a	Activation of a set (one to four) of foils in the NBS standard thermal neutron flux geometry. Cadmium difference irradiations (one set bare, one set in cadmium covers) double fee.	$48

RADIOACTIVITY

§ 204.901 *Calibration of gamma-emitting samples.*

Item	Description	Fee
204.901a	Calibration of gamma-emitting radioactive samples that conform to the physical, chemical and activity-level specifications for measurement in the National Bureau of Standards gamma ionization chamber. (1) 100–300 micrograms radium, calibration in terms of micrograms of radium content measured relative to the National Radium Standard. See Sec. 204.134–1, 2, 3, 4, 50 for pertinent information. (2) Chemically stable solutions of the following nuclides can be measured: sodium 22, sodium 24, potassium 42, iron 59, cobalt 60, zinc 65, iodine 131, cesium 137–barium 137, tantalum 182, gold 198. Solution should be 5 ml in volume and flame-sealed in a glass vial or ampoule of O. D.-16.0±0.5 mm, wall thickness approximately 0.5 mm. Activities of liquid samples should be 25–100 microcuries, total. New postal regulations, effective May 20, 1958 (see 23 F. R. 2221, April 4, 1958), permit the mailing of nuclides listed above in the activity range specified. (3) Requests for these tests should be submitted, with full details for consideration.	$32

§ 204.902 *Calibration of alpha emission rate of sources.*

Item	Description	Fee
204.902a	Calibration of alpha emission rate of sources submitted for test	$25

A. V. ASTIN,
Director,
National Bureau of Standards.

Approved: September 3, 1958.

WALTER WILLIAMS,
Acting Secretary of Commerce.

[F. R. Doc. 58-7260; Filed, Sept. 9, 1958; 8:45 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

Subchapter B—Federal Farm Loan System

PART 10—FEDERAL LAND BANKS GENERALLY

INTEREST RATES ON LOANS MADE THROUGH ASSOCIATIONS

Effective August 1, 1958, the interest rate on loans being closed through national farm loan associations by the Federal Land Bank of New Orleans was reduced from 5½ percent per annum to 5 percent per annum. In order to reflect that change, § 10.41 of Title 6 of the Code of Federal Regulations, as amended (23 F. R. 2137, 3029) is amended by substituting "5" for "5½" in the line with "New Orleans" therein.

(Sec. 6, 47 Stat. 14, as amended; 12 U. S. C. 665. Interprets or applies secs. 12 "Second", 17, 39 Stat. 370, 375, as amended; 12 U. S. C. 771 "Second", 831)

[SEAL] R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F. R. Doc. 58-7344; Filed, Sept. 9, 1958; 8:53 a. m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[1958 C. C. C. Grain Price Support Bulletin 1, Supp. 2, Amdt. 1, Soybeans]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1958-CROP SOYBEAN LOAN AND PURCHASE AGREEMENT PROGRAM

BASIC COUNTY SUPPORT RATES; ALABAMA AND FLORIDA

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 23 F. R. 4441 and 5850 and containing the specific requirements for the 1958-crop soybean price support program are amended as follows:

Section 421.3437 (a) (1) is amended by increasing the basic county support rates for all counties in Alabama and Florida from $2.03 to $2.04 per bushel.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interprets or applies sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053; 15 U. S. C. 714c, 7 U. S. C. 1447, 1421)

Issued this 3d day of September 1958.

[SEAL] WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 58-7314; Filed, Sept. 9, 1958; 8:49 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income Tax

[T. D. 6308]

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

PERSONAL HOLDING COMPANIES; DEDUCTIONS FOR DIVIDENDS PAID

On November 16, 1956, notice of proposed rule making regarding the regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954 (except as otherwise provided) under parts II, III, and IV of subchapter G of chapter 1 of the Internal Revenue Code of 1954, was published in the FEDERAL REGISTER (21 F. R. 8920). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, such regulations are hereby prescribed subject to the changes set forth below. The regulations hereby adopted supersede paragraphs 11, 12, and 13 of Treasury Decision 6118 (Temporary Rules (26 CFR 1954)), approved December 30, 1954.

PARAGRAPH 1. The last sentence in paragraph (a) of § 1.541–1 is revised to read as follows: "See section 6501 (f) and § 301.6501 (f)–1 of the Regulations on Procedure and Administration (Part 301 of this chapter) with respect to the period of limitation on assessment of personal holding company tax upon failure to file a schedule of personal holding company income."

PAR. 2. Section 1.542–2 is revised.

PAR. 3. Paragraph (a) (2) of § 1.542–3 is revised as follows:

(A) Subdivision (iii) (*a*) is changed.

(B) The first sentence in the example under subdivision (iii) (*b*) is changed to read as follows: "This subparagraph is illustrated by the following example."

PAR. 4. Paragraph (b) (4) of § 1.542–4 is revised by changing the next to the last sentence in example (2) to read as follows: "Under section 542 (b) (2) and subparagraph (1) of this paragraph both the gross income and the personal holding company income requirements must be satisfied in determining that an affiliated group constitutes an ineligible group."

PAR. 5. Paragraph (b) of § 1.543–1 is revised as follows:

(A) The parenthetical citation in the last sentence of subparagraph (2) is changed to read "(46 U. S. C. 1161 or 1177)".

(B) The first sentence of subparagraph (5) (i) is changed to read as follows: "Except in the case of regular dealers in stocks or securities as provided in subdivision (ii) of this subparagraph, gross income and personal holding company income include the amount by which the gains exceed the losses from the sale or exchange of stock or securities."

(C) The last sentence of subparagraph (5) (ii) is changed to read as follows: "See section 1236 and § 1.1236–1."

(D) The first sentence of subparagraph (6) is changed to read as follows: "Gross income and personal holding company income include the amount by which the gains exceed the losses from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange."

(E) The last sentence of subparagraph (6) is changed to reads as follows: "See section 1233 and § 1.1233–1."

(F) Subparagraph (8) is changed.

(G) Subparagraph (11) (ii) is changed.

(H) Subparagraph (11) (iii) is changed.

PAR. 6. Paragraph (b) of § 1.544–1 is revised as follows:

(A) Subparagraph (2) is changed.

(B) Subparagraph (3) is changed.

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

PAR. 7. Paragraph (b) of § 1.544–3 is changed.

PAR. 8. Paragraph (a) of § 1.545–2 is changed.

PAR. 9. Paragraph (b) of § 1.552–4 is changed.

PAR. 10. Paragraph (b) (2) of § 1.553–1 is changed.

PAR. 11. Paragraph (a) of § 1.556–2 is changed.

PAR. 12. Section 1.561–1 is revised.

PAR. 13. Section 1.562–1 is revised as follows:

(A) Paragraph (a) is changed.

(B) Paragraph (b) (1) is changed.

(C) Paragraph (b) (2) (iii) is changed by inserting the word "of" in lieu of the word "or" immediately preceding the amount of "$75,000" at the end of the fifth sentence in example (1).

PAR. 14. Section 1.563–3 is revised as follows:

(A) Paragraph (a) is changed.

(B) The last sentence of paragraph (c) is changed to read as follows: "See paragraph (b) of § 1.9000–8, relating to treatment of certain dividends, prescribed pursuant to section 4 (c) (4) of the Act of June 15, 1955 (Public Law 74, 84th Congress, 69 Stat. 136)."

PAR. 15. Section 1.565–1 is revised as follows:

(A) Paragraph (b) (1) is changed.

(B) The second sentence of paragraph (b) (3) is changed to read as follows: "With such return, and not later than the due date thereof, the corporation must file Forms 972 duly executed by each consenting shareholder, and a return on Form 973 showing by classes the stock outstanding on the first and last days of the taxable year, the dividend rights of such stock, distributions made during the taxable year to shareholders, and giving all the other information required by the form."

(C) Paragraph (c) (1) is changed.

(D) Paragraph (c) (2) is changed.

PAR. 16. Paragraph (a) of § 1.565–2 is revised by changing the reference to "section 565" therein to "section 565 (b)".

PAR. 17. The example in paragraph (c) (2) of § 1.565–2 is changed.

PAR. 18. Paragraph (b) of § 1.565–3 is revised by changing the third sentence in example (1) to read as follows: "If A Corporation was a personal holding company for 1954 and had undistributed personal holding company income for that year of $10,000 or more (determined without regard to distributions under section 316 (b) (2)), the B Corporation must include $10,000 in its gross income as a taxable dividend."

PAR. 19. The following sentence is added at the end of § 1.565–4: "See paragraph (b) (2) of § 1.565–2 for examples illustrating the treatment of distributions which consist in part of consent dividends and in part of other property."

[SEAL] RUSSELL C. HARRINGTON,
Commissioner.

Approved: September 3, 1958.

NELSON P. ROSE,
Acting Secretary of the Treasury.

The regulations set forth below are prescribed under sections 541 to 565 inclusive, of the Internal Revenue Code of 1954. Except as otherwise stated in the regulations, the rules are applicable for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

NORMAL TAXES AND SURTAXES; CORPORATIONS USED TO AVOID INCOME TAX ON SHAREHOLDERS

PERSONAL HOLDING COMPANIES

FOREIGN PERSONAL HOLDING COMPANIES

DEDUCTION FOR DIVIDENDS PAID

AUTHORITY: §§ 1.541 to 1.565–6, issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

PERSONAL HOLDING COMPANIES

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

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

(1) 75 percent of the undistributed personal holding company income not in excess of $2,000, plus

(2) 85 percent of the undistributed personal holding company income in excess of $2,000.

§ 1.541–1 *Imposition of tax.* (a) Section 541 imposes a graduated tax upon corporations classified as personal holding companies under section 542. This tax, if applicable, is in addition to the tax imposed upon corporations generally under section 11. Unless specifically excepted under section 542 (c) the tax applies to domestic and foreign corporations and, to the extent provided by section 542 (b), to an affiliated group of corporations filing a consolidated return. Corporations classified as personal holding companies are exempt from the accumulated earnings tax imposed under section 531 but are not exempt from other income taxes imposed upon corporations, generally, under any other provisions of the Code. Unlike the accumulated earnings tax imposed under section 531, the personal holding company tax imposed by section 541 applies to all personal holding companies as defined in section 542, whether or not they were formed or availed of to avoid income tax upon shareholders. See section 6501 (f) and § 301.6501 (f)–1 of the Regulations on Procedure and Administration (Part 301 of this chapter) with respect to the period of limitation on assessment of personal holding company tax upon failure to file a schedule of personal holding company income.

(b) A foreign corporation, whether resident or nonresident, which is classified as a personal holding company is subject to the tax imposed under section 541 with respect to its income from sources within the United States, even though such income is not fixed or determinable annual or periodical income specified in section 881. A foreign corporation is not classified as a personal holding company subject to tax under section 541 if it is a foreign personal holding company as defined in section 552 or if it meets the requirements of the exception provided in section 542 (c) (10).

§ 1.542 *Statutory provisions; definition of personal holding company.*

SEC. 542. *Definition of personal holding company*—(a) *General rule.* For purposes of this subtitle, the term "personal holding company" means any corporation (other than a corporation described in subsection (c)) if—

(1) *Gross income requirement.* At least 80 percent of its gross income for the taxable year is personal holding company income as defined in section 543, and

(2) *Stock ownership requirement.* At any time during the last half of the taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals. For purposes of this paragraph, an organization described in section 503 (b) or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642 (c) or a corresponding provision of a prior income tax law shall be considered an individual. The preceding sentence shall not apply in the case of an organization or trust organized or created before July 1, 1950, if at all times on or after July 1, 1950, and before the close of the taxable year such organization or trust has owned all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation, but only if such organization or trust is not denied exemption under section 504 or an unlimited charitable deduction is not denied under section 681 (c) and, for this purpose—

(A) All income of the corporation which is available for distribution as dividends to its shareholders at the close of any taxable year shall be deemed to have been distributed at the close of such year whether or not any portion of such income was in fact distributed; and

(B) Section 504 (a) (1) and section 681 (c) (1) shall also not apply to income attributable to property of a decedent dying before January 1, 1951, which was transferred during his lifetime to a trust or property that was transferred under his will to such trust.

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

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

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

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

For purposes of this paragraph, section 543 shall be applied as if the amount described in subparagraph (A) were the gross income of the corporation.

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

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

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

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

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

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

(2) A bank as defined in section 581;

(3) A life insurance company;

(4) A surety company;

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

(6) A licensed personal finance company under State supervision, 80 percent or more of the gross income of which is lawful interest received from loans made to individuals in accordance with the provisions of applicable State law if at least 60 percent of such gross income is lawful interest—

(A) Received from individuals each of whose indebtedness to such company did not at any time during the taxable year exceed in principal amount the limit prescribed for small loans by such law (or, if there is no such limit, $500), and

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

(7) A lending company, not otherwise excepted by this subsection, authorized to engage in the small loan business under one or more State statutes providing for the direct regulation of such business, 80 percent or more of the gross income of which is lawful interest, discount or other authorized charges—

(A) Received from loans maturing in not more than 36 months made to individuals in accordance with the provisions of applicable State law, and

(B) Which do not, in the case of any individual loan, exceed in the aggregate an amount equal to simple interest at the rate of 3 percent per month not payable in advance and computed only on unpaid balances, if at least 60 percent of the gross income is lawful interest, discount or other authorized charges received from individuals each of whose indebtedness to such company did not at any time during the taxable year exceed in principal amount the limit prescribed for small loans by such law (or, if there is no such limit, $500), and if the deductions allowed to such company under section 162 (relating to trade or business expenses), other than for compensation for personal services rendered by shareholders (including members of the shareholder's family as described in section 544 (a) (2)) constitute 15 percent or more of its gross income, and the loans to a person, who is a shareholder in such company during the taxable year by or for whom 10 percent or more in value of its outstanding stock is owned directly or indirectly (including, in the case of an individual, stock owned by the members of his family as defined in section 544 (a) (2)), outstanding at any time during such year do not exceed $5,000 in principal amount;

(8) A loan or investment corporation, a substantial part of the business of which consists of receiving funds not subject to check and evidenced by installment or fully paid certificates of indebtedness or investment, and making loans and discounts, and the loans to a person who is a shareholder in such corporation during such taxable year by or for whom 10 percent or more in value of its outstanding stock is owned directly or indirectly (including, in the case of an individual, stock owned by the members of his family as defined in section 544 (a) (2)) outstanding at any time during such year do not exceed $5,000 in principal amount;

(9) A finance company, actively and regularly engaged in the business of purchasing or discounting accounts or notes receivable or installment obligations, or making loans secured by any of the foregoing or by tangible personal property, at least 80 percent of the gross income of which is derived from such business in accordance with the provisions of applicable State law or does not constitute personal holding company income as defined in section 543, if 60 percent of the gross income is derived from one or more of the following classes of transactions—

(A) Purchasing or discounting accounts or notes receivable, or installment obligations evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements, arising out of the sale of goods or services in the course of the transferor's trade or business;

(B) Making loans, maturing in not more than 36 months, to, and for the business purposes of, persons engaged in trade or business, secured by—

(i) Accounts or notes receivable, or installment obligations, described in subparagraph (A);

(ii) Warehouse receipts, bills of lading, trust receipts, chattel mortgages, bailments, or factor's liens, covering or evidencing the borrower's inventories;

(iii) A chattel mortgage on property used in the borrower's trade or business;

except loans to any single borrower which for more than 90 days in the taxable year of the company exceed 15 percent of the average funds employed by the company during such taxable year;

(C) Making loans, in accordance with the provisions of applicable State law, secured by chattel mortgages on tangible personal property, the original amount of each of which is not less than the limit referred to in, or prescribed by, paragraph (6) (A), and the aggregate principal amount of which owing by any one borrower to the company at any time during the taxable year of the company does not exceed $5,000; and

(D) If 30 percent or more of the gross income of the company is derived from one or more of the classes of transactions described in subparagraphs (A), (B), and (C), purchasing, discounting, or lending upon the

security of, installment obligations of individuals where the transferor or borrower acquired such obligations either in transactions of the classes described in subparagraphs (A) and (C) or as a result of loans made by such transferor or borrower in accordance with the provisions of subparagraphs (A) and (B) of paragraph (6) or of subparagraphs (A) and (B) of paragraph (7) of this subsection, if the funds so supplied at all times bear an agreed ratio to the unpaid balance of the assigned installment obligations, and documents evidencing such obligations are held by the company; provided that the deductions allowable under section 162 (relating to trade or business expenses), other than compensation for personal services rendered by shareholders (including members of the shareholder's family as described in section 544 (a) (2)), constitute 15 percent or more of the gross income, and that loans to a person who is a shareholder in such company during such taxable year by or for whom 10 percent or more in value of its outstanding stock is owned directly or indirectly (including, in the case of an individual, stock owned by members of his family as defined in section 544 (a) (2)), outstanding at any time during such year do not exceed $5,000 in principal amount;

(10) A foreign corporation if—

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

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

[Sec. 542 as amended by sec. 3, Act of Aug. 12, 1955 (Pub. Law 385, 84th Cong., 69 Stat. 718). Sec. 3, Pub. Law 385, added the last sentence of sec. 542 (a) (2), effective with respect to taxable years beginning after December 31, 1954]

§ 1.542–1 *General rule.* A personal holding company is any corporation (other than one specifically excepted under section 542 (c)) which, for the taxable year, meets—

(a) The gross income requirement specified in section 542 (a) (1) and § 1.542–2, and

(b) The stock ownership requirement specified in section 542 (a) (2) and § 1.542–3.

Both requirements must be satisfied with respect to each taxable year.

§ 1.542–2 *Gross income requirement.* To meet the gross income requirement it is necessary that at least 80 percent of the total gross income of the corporation for the taxable year be personal holding company income as defined in section 543 and §§ 1.543–1 and 1.543–2. For the definition of "gross income" see section 61 and §§ 1.61–1 through 1.61–14. Under such provisions gross income is not necessarily synonymous with gross receipts. Further, in the case of transactions in stocks and securities and in commodities transactions, gross income for personal holding company tax purposes shall include only the excess of gains over losses from such transactions. See section 543 (b), paragraph (b) (5) and (6) of §§ 1.543–1, and 1.543–2.

§ 1.542–3 *Stock ownership requirement*—(a) *General rule.* To meet the stock ownership requirement, it is necessary that at some time during the last half of the taxable year more than 50 percent in value of the outstanding stock of the corporation be owned, directly or indirectly, by or for not more than 5 individuals. Any organization or trust to which subparagraph (1) of this paragraph applies shall be considered as one individual for purposes of this stock ownership requirement subject, however, to the exception in subparagraph (2) of this paragraph which is applicable only to taxable years beginning after December 31, 1954. Thus, if an organization or trust which is considered as an individual owns 51 percent in value of the outstanding stock of the corporation at any time during the last half of the taxable year, the stock ownership requirement will be met by ownership of the required percentage by one individual. See section 544 and §§ 1.544–1 through 1.544–7 for the determination of stock ownership.

(1) *An organization or trust considered as an individual.* Any of the following organizations or trusts shall be considered as an individual:

(i) An organization to which section 503 applies, namely, any organization described in section 501 (c) (3) (relating to charitable, etc., organizations) or section 401 (a) (relating to employees' pension trust, etc.) other than an organization excepted from the application of section 503 by paragraphs (1) to (5) of section 503 (b). Therefore, a religious organization (other than a trust) excepted under section 503 (b) (1) is not considered an individual for purposes of the stock ownership requirement of section 542 (a) (2).

(ii) A portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642 (c), relating to amounts set aside for charitable purposes, or described in a corresponding provision of the prior income tax law (such as section 162 (a), Internal Revenue Code of 1939).

(2) *Exception.* For taxable years beginning after December 31, 1954, an organization or trust to which subparagraph (1) of this paragraph applies shall not be considered an individual if all of the following conditions are met:

(i) It was organized or created before July 1, 1950,

(ii) At all times on or after July 1, 1950, and before the close of the taxable year, it owned all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation, and

(iii) (*a*) For the taxable year it is not denied exemption under section 504 or the unlimited charitable deduction under section 681 (c). In determining whether, for the purpose of section 542 (a) (2), exemption is not denied under section 504 (a) or the unlimited charitable deduction is not denied under section 681 (c) all the income of the corporation which is available for distribution as dividends to its shareholders shall be deemed to have been distributed at the close of the taxable year whether or not any portion of such income was in fact distributed. If the amounts described in section 504 (a) or section 681 (c), increased by the income of the corporation deemed distributed pursuant to the preceding sentence, would be sufficient to deny exemption or the unlimited charitable deduction, the organization or trust will be considered to be an individual for the purpose of section 542 (a) (2). For the purpose of this subdivision the restrictions in sections 504 (a) (1) and 681 (c) (1) against unreasonable accumulations will not apply to income attributable to property of a decedent dying before January 1, 1951, which was transferred during his lifetime to a trust or property that was transferred under his will to such trust.

(*b*) *Example.* This subparagraph is illustrated by the following example. The X Charitable Foundation (an organization described in section 501 (c) (3) to which section 503 is applicable) has owned all of the stock of the Y Corporation since Y's organization in 1949. Both X and Y are calendar year corporations. At the end of the year 1955, X has accumulated $100,000 out of income and has actually paid out only $75,000 of this amount, leaving a balance of $25,000 on December 31, 1955. X was not denied an exemption under section 504 (a) for the year 1955. Y, during the calendar year 1955, has $400,000 taxable income of which $200,000 is available for distribution as dividends at the end of the year. X will be considered to have accumulated out of income during the calendar year 1955 the amount of $225,000 for the purpose of determining whether it would have been denied an exemption under section 504 (a) (1). If X would have been denied an exemption under section 504 (a) (1) by reason of having been deemed to have accumulated $225,000, the stock ownership requirement of section 542 (a) (2) and this section will have been satisfied. If Y Corporation also satisfies the gross income requirement of section 542 (a) (1) and § 1.542–2 it will be a personal holding company.

(*b*) *Changes in stock outstanding.* It is necessary to consider any change in the stock outstanding during the last half of the taxable year, whether in the number of shares or classes of stock, or in the ownership thereof. Stock subscribed and paid for will be considered as stock outstanding, whether or not such stock is evidenced by issued certificates. Treasury stock shall not be considered as stock outstanding.

(c) *Value of stock outstanding.* The value of the stock outstanding shall be determined in the light of all the circumstances. The value may be determined upon the basis of the company's net worth, earning and dividend paying capacity, appreciation of assets, together with such other factors as have a bearing upon the value of the stock. If the value of the stock is greatly at variance with that reflected by the corporate books, the evidence of such value should be filed with the return. In any case where there are two or more classes of stock outstanding, the total value of all the stock should be allocated among the different classes according to the relative value of each class.

(d) *Applicability of rules.* The rules stated in this section are equally applicable in determining the stock ownership requirement specified in section 543 (a) (5), relating to personal service con-

tracts, and in section 543 (a) (6), relating to the use of corporation property by a shareholder. The stock ownership requirement specified in these sections relates, however, to the stock outstanding at any time during the entire taxable year and not merely during the last half thereof.

§ 1.542–4 *Corporations filing consolidated returns*—(a) *General rule.* A consolidated return under section 1501 shall determine the application of the personal holding company tax to the group and to any member thereof on the basis of the consolidated gross income and consolidated personal holding company income of the group, as determined under the regulations prescribed pursuant to section 1502 (relating to consolidated returns); however, this rule shall not apply to either (1) an ineligible affiliated group as defined in section 542 (b) (2) and paragraph (b) of this section, or (2) an affiliated group of corporations a member of which is excluded from the definition of a personal holding company under section 542 (c) and paragraph (c) of this section. Thus, in the latter two instances the gross income requirement provided in section 542 (a) (1) and § 1.542–2 shall apply to each individual member of the affiliated group of corporations.

(b) *Ineligible affiliated group.* (1) Except for certain affiliated railroad corporations, as provided in subparagraph (2) of this paragraph, an affiliated group of corporations is an ineligible affiliated group and therefore may not use its consolidated gross income and consolidated personal holding company income to determine the liability of the group or any member thereof for personal holding company tax (as provided in paragraph (a) of this section), if (i) any member of such group, including the common parent, derived gross income from sources outside the affiliated group for the taxable year in an amount equal to 10 percent or more of its gross income from all sources for that year and (ii) 80 percent or more of the gross income from sources outside the affiliated group consists of personal holding company income as defined in section 543 and §§ 1.543–1 and 1.543–2. For purposes of subdivision (i) of this subparagraph gross income shall not include certain dividend income received by a common parent from a corporation not a member of the affiliated group which qualifies under section 542 (b) (4) and paragraph (d) of this section. See particularly the examples contained in paragraph (d) (2) of this section. Intercorporate dividends received by members of the affiliated group (including the common parent) are to be included in the gross income from all sources for purposes of the test in subdivision (i) of this subparagraph. For purposes of subdivision (ii) of this subparagraph, section 543 and paragraph (a) of § 1.543–1 shall be applied as if the amount of gross income derived from sources outside the affiliated group by a corporation which is a member of such group is the gross income of such corporation.

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

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

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

Example (1). Corporations X, Y, and Z constitute an affiliated group of corporations which files a consolidated return for the calendar year 1954; Corporations Y and Z are wholly-owned subsidiaries of Corporation X and derive no gross income from sources outside the affiliated group; Corporation X, the common parent, has gross income in the amount of $250,000 for the taxable year 1954. $200,000 of such gross income consists of dividends received from Corporations Y and Z. The remaining $50,000 was derived from sources outside the affiliated group, $40,000 of which represents personal holding company income as defined in section 543. The $50,000 included in the gross income of Corporation X and derived from sources outside the affiliated group is more than 10 percent of X's gross income ($50,000/250,000) and the $40,000 which represents personal holding company income is 80 percent of $50,000 (the amount considered to be the gross income of Corporation X). Accordingly, Corporations X, Y, and Z would be an ineligible affiliated group and the gross income requirement under section 542 (a) (1) and § 1.542–2 would be applied to each corporation individually.

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

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

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

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

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

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

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

Example (1). Corporation X is the common parent of Corporation Y and Corporation Z and together they constitute an affiliated group which files a consolidated return under section 1501. Corporation Y and Corporation Z derived no income from sources outside the affiliated group. Corporation X, the common parent, had gross income of $100,000 for the calendar year 1954 of which amount $20,000 represented a dividend received from Corporation W, and $4,000 represented interest from Corporation T. The remaining gross income of X, $76,000, was received from Corporations Y and Z. Corporation X, for its entire taxable year, owned 60 percent of the voting stock of Corporation W which was not a personal holding company for the calendar year 1954. For the purpose of the gross income and personal holding company income test under section 542 (b) (2) and paragraph (b) of this section, the $20,000 dividend received from Corporation W would not be included in the gross income or personal holding company income of Corporation X. The affiliated group would not be an ineligible group under section 542 (b) (2) because 10 percent or more of its gross income was not from sources outside the affiliated group as required by section 542 (b) (2) (A). Inasmuch as the $20,000 dividend from Corporation W is not included in the gross income of Corporation X for purposes of section 542 (b) (2) Corporation X only has $4,000 gross income from sources outside the affiliated group which is only 5 percent of its gross income from all sources, $80,000.

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

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

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

income" means the portion of the gross income which consists of:

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

(2) *Stock and securities transactions.* Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

(3) *Commodities transactions.* Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This paragraph shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

(4) *Estates and trusts.* Amounts includible in computing the taxable income of the corporation under part I of subchapter J (sec. 641 and following, relating to estates, trusts, and beneficiaries); and gains from the sale or other disposition of any interest in an estate or trust.

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

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

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

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

(7) *Rents.* Rents, unless constituting 50 percent or more of the gross income. For purposes of this paragraph, the term "rents" means compensation, however designated, for the use of, or right to use, property, and the interest on debts owed to the corporation, to the extent such debts represent the price for which real property held primarily for sale to customers in the ordinary course of its trade or business was sold or exchanged by the corporation; but does not include amounts constituting personal holding company income under paragraph (6).

(8) *Mineral, oil, or gas royalties.* Mineral, oil, or gas royalties, unless—

(A) Such royalties constitute 50 percent or more of the gross income, and

(B) The deductions allowable under section 162 (relating to trade or business expenses) other than compensation for personal services rendered by the shareholders, constitute 15 percent or more of the gross income.

(b) *Limitation on gross income in certain transactions.* For purposes of this part—

(1) Gross income and personal holding company income determined with respect to transactions described in section 543 (a) (2) (relating to gains from stock and security transactions) shall include only the excess of gains over losses from such transactions, and

(2) Gross income and personal holding company income determined with respect to transactions described in section 543 (a) (3) (relating to gains from commodity transactions) shall include only the excess of gains over losses from such transactions.

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

§ 1.543–1 *Personal holding company income*—(a) *General rule.* The term "personal holding company income" means the portion of the gross income which consists of the classes of gross income described in paragraph (b) of this section. See section 543 (b) and § 1.543–2 for special limitations on gross income and personal holding company income in cases of gains from stocks', securities', and commodities' transactions.

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

(2) *Interest.* The term "interest" means any amounts, includible in gross income, received for the use of money loaned. However, (i) interest which constitutes "rent" shall not be classified as interest but shall be classified as "rents" (see subparagraph (10) of this paragraph) and (ii) interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U. S. C. 1161 or 1177), shall not be included in personal holding company income.

(3) *Royalties (other than mineral, oil, or gas royalties).* The term "royalties" (other than mineral, oil, or gas royalties) includes amounts received for the privilege of using patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property. It does not, however, include rents. For rules relating to rents see section 543 (a) (7) and subparagraph (10) of this paragraph. For rules relating to mineral, oil, or gas royalties, see section 543 (a) (8) and subparagraph (11) of this paragraph.

(4) *Annuities.* The term "annuities" includes annuities only to the extent includible in the computation of gross income. See section 72 and §§ 1.72–1—1.72–14 for rules relating to the inclusion of annuities in gross income.

(5) *Gains from the sale or exchange of stock or securities.* (i) Except in the case of regular dealers in stocks or securities as provided in subdivision (ii) of this subparagraph, gross income and personal holding company income include the amount by which the gains exceed the losses from the sale or exchange of stock or securities. See section 543 (b) (1) and § 1.543–2 for provisions relating to this limitation. For this purpose, there shall be taken into account all those gains includible in gross income (including gains from liquidating dividends and other distributions from capital) and all those losses deductible from gross income which are considered under chapter 1 of the Internal Revenue Code of 1954 to be gains or losses from the sale or exchange of stock or securities. The term "stock or securities" as used in section 543 (a) (2) and this subparagraph includes shares or certificates of stock, stock rights or warrants, or interest in any corporation (including any joint stock company, insurance company, association, or other organization classified as a corporation by the Internal Revenue Code of 1954), certificates of interest or participation in any profit-sharing agreement, or in any oil, gas, or other mineral property, or lease, collateral trust certificates, voting trust certificates, bonds, debentures, certificates of indebtedness, notes, car trust certificates, bills of exchange, obligations issued by or on behalf of a State, Territory, or political subdivision thereof.

(ii) In the case of "regular dealers in stock or securities" there shall not be included gains or losses derived from the sale or exchange of stock or securities made in the normal course of business. The term "regular dealer in stock or securities" means a corporation with an established place of business regularly engaged in the purchase of stock or securities and their resale to customers. However, such corporations shall not be considered as regular dealers with respect to stock or securities which are held for investment. See section 1236 and § 1.1236–1.

(6) *Gains from futures transactions in commodities.* Gross income and personal holding company income include the amount by which the gains exceed the losses from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. See § 1.543–2 for provisions relating to this limitation. In general, for the purpose of determining such excess, there are included all gains and losses on futures contracts which are speculative. However, for the purpose of determining such excess, there shall not be included gains or losses from cash transactions, or gains or losses by a producer, processor, merchant, or handler of the commodity, which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others. See section 1233 and § 1.1233–1.

(7) *Estates and trusts.* Under section 543 (a) (4) personal holding company income includes amounts includible in computing the taxable income of the corporation under part I of subchapter J

(relating to estates, trusts, and beneficiaries); and any gain derived by the corporation from the sale or other disposition of any interest in an estate or trust.

(8) *Personal service contracts.* (i) Under section 543 (a) (5) amounts received under a contract under which the corporation is to furnish personal services, as well as amounts received from the sale or other disposition of such contract, shall be included as personal holding company income if—

(*a*) Some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and

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

(ii) If the contract, in addition to requiring the performance of services by a 25-percent stockholder who is designated or who could be designated (as specified in section 543 (a) (5) and subdivision (i) of this subparagraph), requires the performance of services by other persons which are important and essential, then only that portion of the amount received under such contract which is attributable to the personal services of the 25-percent stockholder shall constitute personal holding company income. Incidental personal services of other persons employed by the corporation to facilitate the performance of the services by the 25-percent stockholder, however, shall not constitute important or essential services. Under section 482 gross income, deductions, credits, or allowances between or among organizations, trades, or businesses may be allocated if it is determined that allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organizations, trades, or businesses.

(iii) The application of section 543 (a) (5) and this subparagraph may be illustrated by the following examples:

Example (1). A, whose profession is that of an actor, owns all of the outstanding capital stock of the M Corporation. The M Corporation entered into a contract with A under which A was to perform personal services for the person or persons whom the M Corporation might designate, in consideration of which A was to receive $10,000 a year from the M Corporation. The M Corporation entered into a contract with the O Corporation in which A was designated to perform personal services for the O Corporation in consideration of which the O Corporation was to pay the M Corporation $500,000 a year. The $500,000 received by the M Corporation from the O Corporation constitutes personal holding company income.

Example (2). Assume the same facts as in example (1), except that, in addition to A's contract with the M Corporation, B, whose profession is that of a dancer and C, whose profession is that of a singer, were also under contract to the M Corporation to perform personal services for the person or persons whom the M Corporation might designate, in consideration of which they were each to receive $25,000 a year from the M Corporation. Neither B nor C were stockholders of the M Corporation. The contract entered into by the M Corporation with the O Corporation, in addition to designating that A was to perform personal services for the O Corporation, designated that B and C were also to perform personal services for the O Corporation. Although the O Corporation particularly desired the services of A for an entertainment program it planned, it also desired the services of B and C, who were prominent in their fields, to provide a good supporting cast for the program. The services of B and C required under the contract are determined to be important and essential; therefore, only that portion of the $500,000 received by the M Corporation which is attributable to the personal services of A constitutes personal holding company income. The same result would obtain although the dancer and the singer required by the contract were not designated by name but the contract gave the M Corporation discretion to select and provide the services of a singer and a dancer for the program and such services were provided.

Example (3). The N Corporation is engaged in engineering. Its entire outstanding capital stock is owned by four individuals. The N Corporation entered into a contract with the R Corporation to perform engineering services in consideration of which the R Corporation was to pay the N Corporation $50,000. The individual who was to perform the services was not designated (by name or by description) in the contract and no one but the N Corporation had the right to designate (by name or by description) such individual. The $50,000 received by the N Corporation from the R Corporation does not constitute personal holding company income.

(9) *Compensation for use of property.* Under section 543 (a) (6) amounts received as compensation for the use of, or right to use, property of the corporation shall be included as personal holding company income if, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned directly or indirectly, by or for an individual entitled to the use of the property. Thus, if a shareholder who meets the stock ownership requirements of section 543 (a) (6) and this subparagraph uses, or has the right to use a yacht, residence or other property owned by the corporation, the compensation to the corporation for such use, or right to use, the property constitutes personal holding company income. This is true even though the shareholder may acquire the use of, or the right to use, the property by means of a sublease or under any other arrangement involving parties other than the corporation and the shareholder. However, if the personal holding company income of the corporation (after excluding any such income described in section 543 (a) (6) and this subparagraph, relating to compensation for use of property, and after excluding any such income described in section 543 (a) (7) and subparagraph (10) of this paragraph, relating to rents) is not more than 10 percent of its gross income, compensation for the use of property shall not constitute personal holding company income. For the purpose of applying section 543 (a) (6) and this subparagraph, the value of the outstanding stock shall be determined in accordance with the rules set forth in § 1.542–3. It should be noted that the stock ownership requirement of section 543 (a) (6) and this subparagraph relates to the stock outstanding at any time during the entire taxable year. For rules relating to the determination of stock ownership, see section 544 and §§ 1.544–1—1.544–7.

(10) *Rents (including interest constituting rents).* Rents which are to be included as personal holding company income consist of compensation (however designated) for the use, or right to use, property of the corporation. The term "rents" does not include amounts includible in personal holding company income under section 543 (a) (6) and subparagraph (9) of this paragraph. The amounts considered as rents include charter fees, etc., for the use of, or the right to use, property, as well as interest on debts owed to the corporation (to the extent such debts represent the price for which real property held primarily for sale to customers in the ordinary course of the corporation's trade or business was sold or exchanged by the corporation). However, if the amount of the rents includible under section 543 (a) (7) and this subparagraph constitutes 50 percent or more of the gross income of the corporation, such rents shall not be considered to be personal holding company income.

(11) *Mineral, oil, or gas royalties.* (i) The income from mineral, oil, or gas royalties is to be included as personal holding company income, unless (*a*) the aggregate amount of such royalties constitutes 50 percent or more of the gross income of the corporation for the taxable year and (*b*) the aggregate amount of deductions allowable under section 162 (other than compensation for personal services rendered by the shareholders of the corporation) equals 15 percent or more of the gross income of the corporation for the taxable year.

(ii) The term "mineral, oil, or gas royalties" means all royalties, including production payments and overriding royalties, received from any interest in mineral, oil, or gas properties. The term "mineral" includes those minerals which are included within the meaning of the term "minerals" in the regulations under section 611.

(iii) The first sentence of subdivision (ii) of this subparagraph shall apply to overriding royalties received from the sublessee by the operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid, and to mineral, oil, or gas production payments, only with respect to amounts received after September 30, 1958.

§ 1.543–2 *Limitation on gross income and personal holding company income in transactions involving stocks, securities and commodities.* (a) Under section 543 (b) (1) the gains which are to be included in gross income, and in personal

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

(b) The application of section 543 (b) may be illustrated by the following examples:

Example (1). The P Corporation, not a regular dealer in stocks and securities, received rentals of $250,000 for its property from a 25-percent shareholder, and also had gains of $50,000 during the taxable year from the sale of stocks and securities. It also had losses on the sale of stocks and securities in the amount of $30,000. Accordingly, P Corporation had gross income during the taxable year of $270,000 ($250,000 plus $20,000 net gain from the sales of stocks and securities). It had personal holding company income of $20,000. (The rentals of $250,000 would not be personal holding company income under section 543 (a) (6) since the personal holding company income of the corporation, $20,000 (after excluding any such income described in section 543 (a) (6)), is not more than 10 percent of its gross income.)

Example (2). The R Corporation, not a regular dealer in stocks or securities, realized total gains during the taxable year of $900,000 from commodity futures transactions and $200,000 from the sales of stocks and securities. It also sustained total losses of $1,000,000 on such commodity futures transactions, resulting in a net gain for the taxable year of $100,000. None of the commodity futures transactions are hedging or other types of futures transactions excluded from the application of section 543 (a) (3). No part of the loss on commodity futures transactions is to be taken into account in determining personal holding company income and gross income for personal holding company tax purposes for the taxable year. The full amount of the $200,000 in gains from the sales of stocks and securities is to be included in personal holding company income and in gross income for personal holding company tax purposes for the taxable year.

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

SEC. 544. *Rules for determining stock ownership*—(a) *Constructive ownership.* For purposes of determining whether a corporation is a personal holding company, insofar as such determination is based on stock ownership under section 542 (a) (2), section 543 (a) (5), or section 543 (a) (6)—

(1) *Stock not owned by individual.* Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

(2) *Family and partnership ownership.* An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For purposes of this paragraph, the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(3) *Options.* If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

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

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

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

(5) *Constructive ownership as actual ownership.* Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.

(6) *Option rule in lieu of family and partnership rule.* If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

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

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

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

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

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

§ 1.544–1 *Constructive ownership.* (a) Rules relating to the constructive ownership of stock are provided by section 544 for the purpose of determining whether the stock ownership requirements of the following sections are satisfied:

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

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

(3) Section 543 (a) (6), relating to personal holding company income derived from property used by shareholders.

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

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

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

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

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

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

(c) All forms and classes of stock, however denominated, which represent the interests of shareholders, members, or beneficiaries in the corporation shall be taken into consideration in applying the constructive ownership rules of section 544.

(d) For rules applicable in treating constructive ownership, determined by one application of section 544, as actual ownership for purposes of a second application of section 544, see section 544 (a) (5) and § 1.544–6.

§ 1.544–2 *Constructive ownership by reason of indirect ownership.* The following example illustrates the application of section 544 (a) (1), relating to constructive ownership by reason of indirect ownership:

Example. A and B, two individuals, are the exclusive and equal beneficiaries of a trust or estate which owns the entire capital stock of the M Corporation. The M Corporation in turn owns the entire capital stock of the N Corporation. Under such circumstances the entire capital stock of both the M Corporation and the N Corporation shall be considered as being owned equally by A and B as the individuals owning the beneficial interest therein.

§ 1.544–3 *Constructive ownership by reason of family and partnership ownership.* (a) The following example illustrates the application of section 544 (a) (2), relating to constructive ownership by reason of family and partnership ownership.

Example. The M Corporation at some time during the last half of the taxable year,

had 1,800 shares of outstanding stock, 450 of which were held by various individuals having no relationship to one another and none of whom were partners, and the remaining 1,350 were held by 51 shareholders as follows:

Relationships	Shares		Shares		Shares		Shares		Shares	
An individual	A	100	B	20	C	20	D	20	E	20
His father	AF	10	BF	10	CF	10	DF	10	EF	10
His wife	AW	10	BW	40	CW	40	DW	40	EW	40
His brother	AB	10	BB	10	CB	10	DB	10	EB	10
His son	AS	10	BS	40	CS	40	DS	40	ES	40
His daughter by former marriage (son's half-sister)	ASHS	10	BSHS	40	CSHS	40	DSHS	40	ESHS	40
His brother's wife	ABW	10	BBW	10	CBW	10	DBW	160	EBW	10
His wife's father	AWF	10	BWF	10	CWF	110	DWF	10	EWF	10
His wife's brother	AWB	10	BWB	10	CWB	10	DWB	10	EWB	10
His wife's brother's wife	AWBW	10	BWBW	10	CWBW	10	DWBW	10	EWBW	110
Individual's partner	AP	10								

By applying the statutory rule provided in section 544 (a) (2) five individuals own more than 50 percent of the outstanding stock as follows:

A (including AF, AW, AB, AS, ASHS, AP)	160
B (including BF, BW, BB, BS, BSHS)	160
CW (including C, CS, CWF, CWB)	220
DB (including D, DF, DBW)	200
EWB (including EW, EWF, EWBW)	170
Total, or more than 50 percent	910

Individual A represents the obvious case where the head of the family owns the bulk of the family stock and naturally is the head of the group. A's partner owns 10 shares of the stock. Individual B represents the case where he is still head of the group because of the ownership of stock by his immediate family. Individuals C and D represent cases where the individuals fall in groups headed in C's case by his wife and in D's case by his brother because of the preponderance of holdings on the part of relatives by marriage. Individual E represents the case where the preponderant holdings of others eliminate that individual from the group.

(b) For the restriction on the applicability of the family and partnership rules of this section, see paragraph (b) of § 1.544–1. For rules relating to constructive ownership as actual ownership, see § 1.544–6.

§ 1.544–4 *Options.* The shares of stock which may be acquired by reason of an option shall be considered to be constructively owned by the individual having the option to acquire such stock. For example: If C, an individual, on March 1, 1955, purchases an option, or otherwise comes into possession of an option, to acquire 100 shares of the capital stock of M Corporation, such 100 shares of stock shall be considered to be constructively owned by C as if C had actually acquired the stock on that date. If C has an option on an option (or one of a series of options) to acquire such stock, he shall also be considered to have constructive ownership of the stock which may be acquired by reason of the option (or the series of options). Under such circumstances, C shall be considered to have acquired constructive ownership of the stock on the date he acquired his option. For the restriction on the applicability of the rule of this section, see paragraph (b) of § 1.544–1.

§ 1.544–5 *Convertible securities.* Under section 544 (b) outstanding securities of a corporation such as bonds, debentures, or other corporate obligations, convertible into stock of the corporation (whether or not convertible during the taxable year) shall be considered as outstanding stock of the corporation. The consideration of convertible securities as outstanding stock is subject to the exception that, if some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be considered as outstanding stock although the others are not so considered, but no convertible securities shall be considered as outstanding stock unless all outstanding securities having a prior conversion date are also so considered. For example, if outstanding securities are convertible in 1954, 1955 and 1956, those convertible in 1954 can be properly considered as outstanding stock without so considering those convertible in 1955 or 1956, and those convertible in 1954 and 1955 can be properly considered as outstanding stock without so considering those convertible in 1956. However, the securities convertible in 1955 could not be properly considered as outstanding stock without so considering those convertible in 1954 and the securities convertible in 1956 could not be properly considered as outstanding stock without so considering those convertible in 1954 and 1955. For the restriction on the applicability of the rule of this section, see paragraph (b) of § 1.544–1.

§ 1.544–6 *Constructive ownership as actual ownership*—(a) *General rules.* (1) Stock constructively owned by a person by reason of the application of the rule provided in section 544 (a) (1), relating to stock not owned by an individual, shall be considered as actually owned by such person for the purpose of again applying such rule or of applying the family and partnership rule provided in section 544 (a) (2), in order to make another person the constructive owner of such stock, and

(2) Stock constructively owned by a person by reason of the application of the option rule provided in section 544 (a) (3) shall be considered as actually owned by such person for the purpose of applying either the rule provided in section 544 (a) (1), relating to stock not owned by an individual, or the family and partnership rule provided in section 544 (a) (2) in order to make another person the constructive owner of such stock, but

(3) Stock constructively owned by an individual by reason of the application of the family and partnership rule provided in section 544 (a) (2) shall not be considered as actually owned by such individual for the purpose of again applying such rule in order to make another individual the constructive owner of such stock.

(b) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). A's wife, AW, owns all the stock of the M Corporation, which in turn owns all the stock of the O Corporation. The O Corporation in turn owns all the stock of the P Corporation. Under the rule provided in section 544 (a) (1), relating to stock not owned by an individual, the stock in the P Corporation owned by the O Corporation is considered to be owned constructively by the M Corporation, the sole shareholder of the O Corporation. Such constructive ownership of the stock of the M Corporation is considered as actual ownership for the purpose of again applying such rule in order to make AW, the sole shareholder of the M Corporation, the constructive owner of the stock of the P Corporation. Similarly, the constructive ownership of the stock by AW is considered as actual ownership for the purpose of applying the family and partnership rule provided in section 544 (a) (2) in order to make A the constructive owner of the stock of the P Corporation, if such application is necessary for any of the purposes set forth in paragraph (b) of § 1.544–1. But the stock thus constructively owned by A may not be considered as actual ownership for the purpose of again applying the family and partnership rule in order to make another member of A's family, for example, A's father, the constructive owner of the stock of the P Corporation.

Example (2). B, an individual, owns all the stock of the R Corporation which has an option to acquire all the stock of the S Corporation, owned by C, an individual, who is not related to B. Under the option rule provided in section 544 (a) (3) the R Corporation may be considered as owning constructively the stock of the S Corporation owned by C. Such constructive ownership of the stock by the R Corporation is considered as actual ownership for the purpose of applying the rule provided in section 544 (a) (1), relating to stock not owned by an individual, in order to make B, the sole shareholder of the R Corporation, the constructive owner of the stock of the S Corporation. The stock thus constructively owned by B by reason of the application of the rule provided in section 544 (a) (1) likewise is considered as actual ownership for the purpose, if necessary, of applying the family and partnership rule provided in section 544 (a) (2), in order to make another member of B's family, for example, B's wife, BW, the constructive owner of the stock of the S Corporation. However, the family and partnership rule could not again be applied so as to make still another individual the constructive owner of the stock of the S Corporation, that is, the stock constructively owned by BW could not be considered as actually owned by her in order to make BW's father the constructive owner of such stock by a second application of the family and partnership rule.

§ 1.544–7 *Option rule in lieu of family and partnership rule.* (a) If, in determining the ownership of stock, such stock may be considered as constructively owned by an individual by an application of either the family and partnership rule (section 544 (a) (2)) or the option rule (section 544 (a) (3)), such stock shall be considered as owned constructively by the individual by reason of the application of the option rule.

(b) The application of this section may be illustrated by the following example:

Example. Two brothers, A and B, each own 10 percent of the stock of the M Cor-

poration, and A's wife, AW, also owns 10 percent of the stock of such corporation. AW's husband, A, has an option to acquire the stock owned by her at any time. It becomes necessary, for one of the purposes stated in section 544 (a) (4), to determine the stock ownership of B in the M Corporation. If the family and partnership rule were the only rule that applied in the case, B would be considered, under that rule, as owning 20 percent of the stock of the M Corporation, namely, his own stock plus the stock owned by his brother. In that event, B could not be considered as owning the stock held by AW since (1) AW is not a member of B's family and (2) the constructive ownership of such stock by A through the application of the family and partnership rule in his case is not considered as actual ownership so as to make B the constructive owner by a second application of the same rule with respect to the ownership of the stock. However, there is more than the family and partnership rule involved in this example. As the holder of an option upon the stock, A may be considered the constructive owner of his wife's stock by the application of the option rule and without reference to the family relationship between A and AW. If A is considered as owning the stock of his wife by application of the option rule, then such constructive ownership by A is regarded as actual ownership for the purpose of applying the family and partnership rule so as to make another member of A's family, for example, B, the constructive owner of the stock. Hence, since A may be considered as owning his wife's stock by applying either the family-partnership rule or the option rule, the provisions of section 544 (a) (6) apply and accordingly A must be considered the constructive owner of his wife's stock under the option rule rather than the family-partnership rule. B thus becomes the constructive owner of 30 percent of the stock of the M Corporation, namely, his own 10 percent, A's 10 percent, and AW's 10 percent constructively owned by A as the holder of an option on the stock.

§ 1.545 *Statutory provisions; undistributed personal holding company income.*

SEC. 545. *Undistributed personal holding company income*—(a) *Definition.* For purposes of this part, the term "undistributed personal holding company income" means the taxable income of a personal holding company adjusted in the manner provided in subsection (b), minus the dividends paid deduction as defined in section 561.

(b) *Adjustments to taxable income.* For the purposes of subsection (a), the taxable income shall be adjusted as follows:

(1) *Taxes.* There shall be allowed as a deduction Federal income and excess profits taxes (other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940) and income, war profits and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 164 (b) (6)), accrued during the taxable year, but not including the accumulated earnings tax imposed by section 531, the personal holding company tax imposed by section 541, or the taxes imposed by corresponding sections of a prior income tax law. A taxpayer which, for each taxable year in which it was subject to the tax imposed by section 500 of the Internal Revenue Code of 1939, deducted Federal income and excess profits taxes when paid for the purpose of computing subchapter A net income under such Code, shall deduct taxes under this paragraph when paid, unless the taxpayer elects, in its return for a taxable year ending after June 30, 1954, to deduct the taxes described in this paragraph when accrued. Such an election shall be irrevocable and shall apply to the taxable year for which the election is made and to all subsequent taxable years.

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed but with the limitations in section 170 (b) (1) (A) and (B) (in lieu of the limitation in section 170 (b) (2)). For purposes of this paragraph, the term "adjusted gross income" when used in section 170 (b) (1) means the taxable income computed with the adjustments provided in section 170 (b) (2) and without the deduction of the amount disallowed under paragraph (8) of this subsection.

(3) *Special deductions disallowed.* The special deductions for corporations provided in part VIII (except section 248) of subchapter B (section 241 and following, relating to the deduction for dividends received by corporations, etc.) shall not be allowed.

(4) *Net operating loss.* The net operating loss deduction provided in section 172 shall not be allowed, but there shall be allowed as a deduction the amount of the net operating loss (as defined in section 172 (c)) for the preceding taxable year.

(5) *Long-term capital gains.* There shall be allowed as a deduction the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year, minus the taxes imposed by this subtitle attributable to such excess. The taxes attributable to such excess shall be an amount equal to the difference between—

(A) The taxes imposed by this subtitle (except the tax imposed by this part) for such year, and

(B) Such taxes computed for such year without including such excess in taxable income.

(6) *Bank affiliates.* There shall be allowed the deduction described in section 601 (relating to bank affiliates).

(7) *Payment of indebtedness incurred prior to January 1, 1934.* There shall be allowed as a deduction amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred before January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness.

(8) *Expenses and depreciation applicable to property of the taxpayer.* The aggregate of the deductions allowed under section 162 (relating to trade or business expenses) and section 167 (relating to depreciation), which are allocable to the operation and maintenance of property owned or operated by the corporation, shall be allowed only in an amount equal to the rent or other compensation received for the use of, or the right to use, the property, unless it is established (under regulations prescribed by the Secretary or his delegate) to the satisfaction of the Secretary or his delegate—

(A) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

(B) That the property was held in the course of a business carried on bona fide for profit; and

(C) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

(9) *Amount of a lien in favor of the United States.* There shall be allowed as a deduction the amount, not to exceed the taxable income of the taxpayer, of any lien in favor of the United States (notice of which has been filed as provided in section 6323 (a) (1), (2), or (3)) to which the taxpayer is subject at the close of the taxable year. The sum of the amounts deducted under this paragraph with respect to any lien shall, for the purposes of this section, be added to the taxable income of the taxpayer for the taxable year in which such lien is satisfied or released. Where an amount is added to the taxable income of a corporation by reason of the preceding sentence of this paragraph, the shareholders of the corporation may, pursuant to regulations prescribed by the Secretary or his delegate, elect to compute the income tax with respect to such dividends as are attributable to such amount as though they were received ratably over the period the lien was in effect.

§ 1.545–1 *Definition.* (a) Undistributed personal holding company income is the amount which is subject to the personal holding company tax imposed under section 541. Undistributed personal holding company income is the taxable income of the corporation adjusted in the manner described in section 545 (b) and § 1.545–2, less the deduction for dividends paid. See sections 561–565 and §§ 1.561–1—1.565–6, relating to the dividends paid deduction.

(b) For purposes of the imposition of the personal holding company tax on a foreign corporation, resident or nonresident, which files or causes to be filed a return, the undistributed personal holding company income shall be computed on the basis of the taxable income from sources within the United States, and such income shall be adjusted in accordance with the principles of section 545 (b) and § 1.545–2. For purposes of the imposition of such tax on a foreign corporation, resident or nonresident, which files no return, the undistributed personal holding company income shall be computed on the basis of the gross income from sources within the United States without allowance of any deductions.

§ 1.545–2 *Adjustments to taxable income.* (a) *Taxes*—(1) *General rule.* (i) In computing undistributed personal holding company income for any taxable year, there shall be allowed as a deduction the amount by which Federal income and excess profits taxes accrued during the taxable year exceed the credit provided by section 33 (relating to taxes of foreign countries and possessions of the United States), and the income, war profits, and excess profits taxes of foreign countries and possessions of the United States accrued during the taxable year (to the extent provided by subparagraph (3) of this paragraph), except that no deduction shall be allowed for (*a*) the accumulated earnings tax imposed by section 531 (or a corresponding section of a prior law), (*b*) the personal holding company tax imposed by section 541 (or a corresponding section of a prior law), and (*c*) the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939, for taxable years beginning after December 31, 1940. The deduction is for taxes for the taxable year, determined under the accrual method of accounting, regardless of whether the corporation uses an accrual method of accounting, the cash receipts and disbursement method, or any other allowable method of accounting. In computing the amount of taxes accrued, an unpaid tax which is being contested is not considered accrued until the contest is resolved.

(ii) However, the taxpayer shall deduct taxes paid, rather than taxes accrued, if it used that method with respect to Federal taxes for each taxable year

for which it was subject to the tax imposed by section 500 of the Internal Revenue Code of 1939, unless an election is made under subparagraph (2) of this paragraph to deduct taxes accrued.

(2) *Election by taxpayer which deducted taxes paid.* (i) If the corporation was subject to the personal holding company tax imposed by section 500 of the Internal Revenue Code of 1939 and, for the purpose of that tax, deducted Federal taxes paid rather than such taxes accrued for each taxable year for which it was subject to such taxes, the corporation may elect for any taxable year ending after June 30, 1954, to deduct taxes accrued, including taxes of foreign countries and possessions of the United States, rather than taxes paid, for the purposes of the tax imposed by section 541 of the Internal Revenue Code of 1954. The election shall be made by deducting such taxes accrued on Schedule PH, Form 1120, to be filed with the return. The schedule shall, in addition, contain a statement that the corporation has made such election and shall set forth the year to which such election was first applicable. The deduction of taxes accrued in the year of election precludes the deduction of taxes paid during such year. The election, if made, shall be irrevocable and the deduction for taxes accrued shall be allowed for the year of election and for all subsequent taxable years.

(ii) Pursuant to section 7851 (a) (1) (C), the election provided for in subdivision (i) of this subparagraph may be made with respect to a taxable year ending after June 30, 1954, even though such taxable year is subject to the Internal Revenue Code of 1939.

(3) *Taxes of foreign countries and United States possessions.* In computing undistributed personal holding company income for any taxable year, a deduction is allowed for income, war profits and excess profits taxes accrued (or paid, if required under subparagraph (1) (ii) of this paragraph) during such taxable year to foreign countries or possessions of the United States if the taxpayer chooses the benefits of section 901 for such taxable year. The credit for such taxes provided by section 901 is not allowed against the personal holding company tax imposed by section 541. See section 901 (a).

(b) *Charitable contributions.* (1) Section 545 (b) (2) provides that, in computing the undistributed personal holding company income of a corporation, the deduction for charitable contributions by a corporation shall be computed with the limitations of section 170 (b) (1) (A) and (B) (relating to charitable contributions by individuals) instead of the limitation in section 170 (b) (2) (relating to charitable contributions by corporations).

(2) Although the limitations of section 170 (b) (1) (A) and (B) are 10 and 20 percent, respectively, of the individual's adjusted gross income, the limitations are applied for purposes of section 545 (b) (2) by using 10 and 20 percent, respectively, of the corporation's taxable income as adjusted for purposes of section 170 (b) (2) (that is, the same amount of taxable income to which the 5-percent limitation applied). However, a further adjustment for this purpose is that the taxable income shall also be computed without the deduction of the amount disallowed under section 545 (b) (8) (relating to expenses and depreciation applicable to property of the taxpayer.)

(3) See the regulations under section 170 (b) (1) (A) and (B) with respect to the charitable contributions to which the 10-percent limitation is applicable and the charitable contributions to which the 20-percent limitation is applicable.

(4) In some cases, a deduction in excess of the 5-percent limitation may be allowed for one taxable year under section 545 (b) (2) for purposes of the personal holding company tax only, and may also be allowed as a deduction in computing taxable income for a subsequent taxable year under the carryover provisions of section 170 (b) (2). To the extent that the charitable contributions carried over from a previous year have already been deducted for purposes of the personal holding company tax in the year when the charitable contributions were made, they may not be deducted again as part of the contribution carryover deduction for purposes of the personal holding company tax for a subsequent year. However, this adjustment is only for purposes of the personal holding company tax, and the carryover in such case is allowable in computing taxable income for purposes of the corporation normal tax and surtax.

(c) *Special deductions disallowed.* Part VIII of subchapter B of chapter 1 allows corporations, in computing taxable income, special deductions for such matters as partially tax-exempt interest, certain dividends received, dividends paid on certain preferred stock of public utilities, organizational expenses, etc. See section 241. Such special deductions, except the deduction provided by section 248 (relating to organizational expenses) shall be disallowed in computing undistributed personal holding company income.

(d) *Net operating loss.* The net operating loss deduction provided in section 172 is not allowed for purposes of the computation of undistributed personal holding company income; however, there is allowed as a deduction for such purposes the amount of the net operating loss (as defined in section 172 (c)) for the preceding taxable year.

(e) *Long-term capital gains.* (1) There is allowed as a deduction the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year, minus the taxes attributable to such excess, as provided in section 545 (b) (5).

(2) Section 631 (c) (relating to gain or loss in the case of disposal of coal) shall have no application.

(f) *Bank affiliates.* There is allowed the deduction provided by section 601 in the case of bank affiliates (as defined in section 2 of the Banking Act of 1933; 12 U. S. C. 221a (c)).

(g) *Payment of indebtedness incurred prior to January 1, 1934*—(1) *General rule.* In computing undistributed personal holding company income, section 545 (b) (7) provides that there shall be allowed as a deduction amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred before January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness.

(2) *Indebtedness.* The term "indebtedness" means an obligation absolute and not contingent, to pay on demand or within a given time, in cash or other medium, a fixed amount. The term "indebtedness" does not include the obligation of a corporation on its capital stock. The indebtedness must have been incurred (or, if incurred by assumption, assumed) by the taxpayer before January 1, 1934. An indebtedness evidenced by bonds, notes, or other obligations issued by a corporation is ordinarily incurred as of the date such obligations are issued and the amount of such indebtedness is the amount represented by the face value of the obligations. In the case of refunding, renewal, or other change in the form of an indebtedness, the giving of a new promise to pay by the taxpayer will not have the effect of changing the date the indebtedness was incurred.

(3) *Amounts used or irrevocably set aside.* The deduction is allowable, in any taxable year, only for amounts used or irrevocably set aside in that year. The use or irrevocable setting aside must be to effect the extinguishment or discharge of indebtedness. In the case of refunding, renewal, or other change in the form of an indebtedness, the mere giving of a new promise to pay by the taxpayer will not result in an allowable deduction. If amounts are set aside in one year, no deduction is allowable for such amounts for a later year in which actually paid. As long as all other conditions are satisfied, the aggregate amount allowable as a deduction for any taxable year includes all amounts (from whatever source) used and all amounts (from whatever source) irrevocably set aside, irrespective of whether in cash or other medium. Double deductions shall not be allowed.

(4) *Reasonableness of the amounts with reference to the size and terms of the indebtedness.* (i) The reasonableness of the amounts used or irrevocably set aside must be determined by reference to the size and terms of the particular indebtedness. Hence, all the facts and circumstances with respect to the nature, scope, conditions, amount, maturity, and other terms of the particular indebtedness must be shown in each case.

(ii) Ordinarily an amount used to pay or retire an indebtedness, in whole or in part, at or prior to the maturity and in accordance with the terms thereof will be considered reasonable, and may be allowable as a deduction for the year in which so used. However, if an amount has been set aside in a prior year for payment or retirement of the same indebtedness, the amount so set aside shall not be allowed as a deduction in the year of the payment.

(iii) All amounts irrevocably set aside for the payment or retirement of an indebtedness in accordance with and pursuant to the terms of the obligation, for example, the annual contribution to trustees required by the provisions of a

mandatory sinking fund agreement, will be considered as complying with the requirement of reasonableness. To be considered reasonable, it is not necessary that the plan of retirement provide for a retroactive setting aside of amounts for years prior to that in which the plan is adopted. However, if a voluntary plan was adopted before 1934, no adjustment is allowable in respect of the amounts set aside in the years prior to 1934.

(5) *Burden of proof.* The burden of proof will rest upon the taxpayer to sustain the deduction claimed. Therefore, the taxpayer must furnish the information required by the return, and such other information as the district director may require in substantiation of the deduction claimed.

(6) *Allowance to a successor corporation.* For allowance of deduction for pre-1934 indebtedness to a successor corporation, see section 381 (c) (15).

(h) *Expenses and depreciation applicable to property of the taxpayer.* (1) In computing undistributed personal holding company income in the case of a personal holding company which owns or operates property, section 545 (b) (8) provides a specific limitation with respect to the allowance of deductions for trade or business expenses and depreciation allocable to the operation or maintenance of such property. Under this limitation, these deductions shall not be allowed in an amount in excess of the aggregate amount of the rent or other compensation received for the use of, or the right to use, the property, unless it is established to the satisfaction of the Commissioner—

(i) That the rent or other compensation received was the highest obtainable, or if none was received, that none was obtainable;

(ii) That the property was held in the course of a business carried on bona fide for profit; and

(iii) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

(2) The burden of proof will rest upon the taxpayer to sustain the deduction claimed. If, in computing undistributed personal holding company income, a personal holding company claims deductions for expenses and depreciation allocable to the operation and maintenance of property owned or operated by the company, in an aggregate amount in excess of the rent or other compensation received for the use of, or the right to use, the property, it shall attach to its income tax return a statement setting forth its claim for allowance of the additional deductions, together with a complete statement of the facts and circumstances pertinent to its claim and the arguments on which it relies. Such statement shall set forth:

(i) A description of the property;

(ii) The cost or other basis to the corporation and the nature and value of the consideration paid for the property;

(iii) The name and address of the person from whom the property was acquired and the date the property was acquired;

(iv) The name and address of the person to whom the property is leased or rented, or the person permitted to use the property, and the number of shares of stock, if any, held by such person and the members of his family;

(v) The nature and gross amount of the rent or other compensation received for the use of, or the right to use, the property during the taxable year and for each of the five preceding years and the amount of the expenses incurred with respect to, and the depreciation sustained on, the property for such years;

(vi) Evidence that the rent or other compensation was the highest obtainable or, if none was received, a statement of the reasons therefor;

(vii) A copy of the contract, lease or rental agreement;

(viii) The purpose for which the property was used;

(ix) The business, carried on by the corporation, with respect to which the property was held and the gross income, expenses, and taxable income derived from the conduct of such business for the taxable year and for each of the five preceding years;

(x) A statement of any reasons which existed for expectation that the operation of the property would be profitable, or a statement of the necessity for the use of the property in the business of the corporation, and the reasons why the property was acquired; and

(xi) Any other information pertinent to the taxpayer's claim.

(i) *Amount of a lien in favor of the United States.* (1) If notices of lien are filed in the manner provided in section 6323 (a) (1), (2), or (3), the amount of the liability to the United States outstanding at the close of the taxable year, and secured by such liens which are in effect at that time, shall be allowed as a deduction in computing undistributed personal holding company income. However, the amount of such deduction which may be allowed for any taxable year shall not exceed the taxable income (as adjusted for purposes of determining the undistributed personal holding company income, but without regard to the deduction under section 545 (b) (9)) for such year. The fact that the amount of, or any part of, the outstanding obligation to the United States was deducted for one taxable year does not prevent its deduction for a subsequent taxable year to the extent the obligation is still outstanding at the close of the subsequent taxable year and is secured by a lien, notice of which has been filed.

(2) Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. If the taxpayer (on the calendar year basis) is subject to a lien (notice of which has been properly filed) in the amount of $500,000 at the close of the calendar year 1954 and has taxable income of $400,000 for such taxable year, the deduction allowable by reason of the lien for the calendar year 1954 is $400,000. If, at the close of the taxable year ended December 31, 1955, the taxpayer is still subject to the same lien of $500,000 and it has taxable income of $450,000, a deduction is allowed by reason of such lien in the amount of $450,000.

(3) When the obligation secured by the lien in favor of the United States has been satisfied or released, the sum of the amounts which have been allowed as deductions under section 545 (b) (9) in respect of such obligation shall be restored to taxable income for the year in which such lien is satisfied or released. If only a part of the obligation secured by the lien has been satisfied, the sum of the amounts which have been allowed as deductions under section 545 (b) (9) in respect of such part shall be included in taxable income for the year of the satisfaction for the purpose of determining undistributed personal holding company income. It should be noted, however, that only the sum of the amounts which have been allowed as deductions under section 545 (b) (9) and subparagraph (1) of this paragraph shall be included in taxable income. Thus, any amounts which were allowed as deductions under section 504 (e) of the Internal Revenue Code of 1939 shall not be included as taxable income for any taxable year under section 545 (b) (9) and subparagraph (1) of this paragraph.

(4) The application of subparagraph (3) of this paragraph may be illustrated by the following example:

Example. Assume the same facts as in the example in subparagraph (2) of this paragraph, and assume further that the corporation has $100,000 taxable income both for 1956 (before including the $400,000 described below) and for 1957. In 1956, the corporation pays $200,000 of the obligation, thereby reducing its liability from $500,000 to $300,000. In such case, $400,000 is included in taxable income in computing its undistributed personal holding company income for 1956, that is, the sum of the $200,000 deduction for 1954 and the $200,000 deduction for 1955 in respect of the liability which is paid in 1956. In 1957, property of the corporation is discharged from the lien by reason of the fact that the value of the remaining property of the corporation exceeds double the outstanding liability. (See section 6325 (b) (1).) Since this was not a release or satisfaction of the lien, no amount is added to taxable income for 1957 with respect to the property discharged from the lien. In 1958, the remaining property is released from the lien by reason of a bond being accepted under section 6325 (a) (2). There is added to taxable income in computing undistributed personal holding company income for 1958, $850,000, that is, the sum of the deductions allowed for 1954, 1955, 1956, and 1957 in respect of the $300,000 liability, the lien for which was released in 1958. This amount of $850,000, is computed as follows:

Year	Outstanding liability	Taxable income	Deduction as limited by taxable income	Amount attributable to part payment of $200,000 in 1956	Amount attributable to release of lien in 1958
1954	$500,000	$400,000	$400,000	$200,000	$200,000
1955	500,000	450,000	450,000	200,000	250,000
1956	300,000	500,000	300,000	----------	300,000
1957	300,000	100,000	100,000	----------	100,000
Total	----------	----------	----------	----------	850,000

(5) (i) If an amount has been included in undistributed personal holding company income of the personal holding company by reason of section 545 (b) (9), any shareholder of the company may elect to compute his income tax with respect to such of his dividends as are attributable to such amount as though such dividends were received ratably over the period the lien was in effect.

(ii) For purposes of section 545 (b) (9), the dividends paid during the taxable year of the personal holding company (computed as of the close of such year) shall be deemed attributable first to undistributed personal holding company income by reason of section 545 (b) (9) (computed as of the close of the taxable year of the personal holding company). If the period over which the lien was in effect consists of several taxable years of the personal holding company, the dividend deemed received for any taxable year shall be deemed received on the last day of such taxable year of the personal holding company.

(iii) Such election shall be made in a statement showing the amount of the deduction under section 545 (b) (9) for each taxable year of the period in which the lien was in effect, the amount of such deduction, if any, which was added to undistributed personal holding company income in a later year or years as a result of partial satisfaction or release of such lien, and the details thereof, the taxable year or years to which such dividends are allocable, and a computation of tax, on the basis of the election, for all taxable years affected by such ratable allocation of the dividends. Further, the statement shall show the district director's office in which the returns, for the years to which the dividends are allocable, were filed, the kind of returns which were filed (separate returns or joint returns), and the name and address under which the returns were filed. The statement shall be attached to the shareholder's return for the taxable year for which the dividend would be reported but for such election.

(iv) The operation of this subparagraph may be illustrated as follows: If, in the example under subparagraph (4) of this paragraph, shareholder A owns 75 percent in value of the outstanding stock of the personal holding company, and receives a dividend of $540,000 from such company during 1958 (the total dividend distribution being $720,000) he may elect to compute his income tax with respect to the $540,000 in dividends for 1958 as if he had received $127,058.82 of such dividends for 1954 ($200,000/850,000 of $540,000), $158,823.53 of such dividends for 1955 ($250,000/850,000 of $540,000), $190,588.23 of such dividends for 1956 ($300,000/850,000 of $540,000), and $63,529.41 of such dividends for 1957 ($100,000/850,000 of $540,000). Accordingly, the tax computed for 1958 with respect to such dividends shall be the aggregate of the taxes attributable to such amounts had they been distributed in the respective years.

§ 1.546 *Statutory provisions; income not placed on annual basis.*

SEC. 546. *Income not placed on annual basis.* Section 443 (b) (relating to computation of tax on change of annual accounting period) shall not apply in the computation of the personal holding company tax imposed by section 541.

§ 1.547 *Statutory provisions; deduction for deficiency dividends.*

SEC. 547. *Deduction for deficiency dividends*—(a) *General rule.* If a determination (as defined in subsection (c)) with respect to a taxpayer establishes liability for personal holding company tax imposed by section 541 (or by a corresponding provision of a prior income tax law) for any taxable year, a deduction shall be allowed to the taxpayer for the amount of deficiency dividends (as defined in subsection (d)) for the purpose of determining the personal holding company tax for such year, but not for the purpose of determining interest, additional amounts, or assessable penalties computed with respect to such personal holding company tax.

(b) *Rules for application of section*—(1) *Allowance of deduction.* The deficiency dividend deduction shall be allowed as of the date the claim for the deficiency dividend deduction is filed.

(2) *Credit or refund.* If the allowance of a deficiency dividend deduction results in an overpayment of personal holding company tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitation on the filing of claim for refund for the taxable year to which the overpayment relates. No interest shall be allowed on a credit or refund arising from the application of this section.

(c) *Determination.* For purposes of this section, the term "determination" means—

(1) A decision by the Tax Court or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

(2) A closing agreement made under section 7121; or

(3) Under regulations prescribed by the Secretary or his delegate, an agreement signed by the Secretary or his delegate and by, or on behalf of, the taxpayer relating to the liability of such taxpayer for personal holding company tax.

(d) *Deficiency dividends*—(1) *Definition.* For purposes of this section, the term "deficiency dividends" means the amount of the dividends paid by the corporation on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for personal holding company tax exists, if distributed during such taxable year. No dividends shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination.

(2) *Effect on dividends paid deduction*—(A) *For taxable year in which paid.* Deficiency dividends paid in any taxable year (to the extent of the portion thereof taken into account under subsection (a) in determining personal holding company tax) shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year and succeeding years.

(B) *For prior taxable year.* Deficiency dividends paid in any taxable year (to the extent of the portion thereof taken into account under subsection (a) in determining personal holding company tax) shall not be allowed for purposes of section 563 (b) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

(e) *Claim required.* No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary or his delegate) claim therefor is filed within 120 days after the determination.

(f) *Suspension of statute of limitations and stay of collection*—(1) *Suspension of running of statute.* If the corporation files a claim, as provided in subsection (e), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency and all interest, additional amounts, or assessable penalties, shall be suspended for a period of 2 years after the date of the determination.

(2) *Stay of collection.* In the case of any deficiency with respect to the tax imposed by section 541 established by a determination under this section—

(A) The collection of the deficiency and all interest, additional amounts, and assessable penalties shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

(B) If claim for deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

(g) *Deduction denied in case of fraud, etc.* No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to wilful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary or his delegate in pursuance of law.

(h) *Effective date.* Subsections (a) through (f), inclusive, shall apply only with respect to determinations made more than 90 days after the date of enactment of this title. If the taxable year with respect to which the deficiency is asserted began before January 1, 1954, the term "deficiency dividend" includes only amounts which would have been includible in the computation under the Internal Revenue Code of 1939 of the basic surtax credit for such taxable year. Subsection (g) shall apply only if the taxable year with respect to which the deficiency is asserted begins after December 31, 1953.

§ 1.547–1 *General rule.* Section 547 provides a method under which, by virtue of dividend distributions, a corporation may be relieved from the payment of a deficiency in the personal holding company tax imposed by section 541 (or by a corresponding provision of a prior income tax law), or may be entitled to a credit or refund of a part or all of any such deficiency which has been paid. The method provided by section 547 is to allow an additional deduction for a dividend distribution (which meets the requirements of this section) in computing undistributed personal holding company income for the taxable year for which a deficiency in personal holding company tax is determined. The additional deduction for deficiency dividends will not, however, be allowed for the purpose of determining interest, additional amounts, or assessable penalties, computed with respect to the personal holding company tax prior to the allowance of the additional deduction for deficiency dividends. Such amounts remain pay-

able as if section 547 had not been enacted.

§ 1.547–2 *Requirements for deficiency dividends*—(a) *In general.* There are certain requirements which must be fulfilled before a deduction is allowed for a deficiency dividend under section 547 and this section. These are—

(1) The taxpayer's liability for personal holding company tax shall be determined only in the manner provided in section 547 (c) and paragraph (b) (1) of this section.

(2) The deficiency dividend shall be paid by the corporation on, or within 90 days after, the date of such determination and prior to the filing of a claim under section 547 (e) and paragraph (b) (2) of this section for deduction for deficiency dividends. This claim must be filed within 120 days after such determination.

(3) The deficiency dividend must be of such a nature as would have permitted its inclusion in the computation of a deduction for dividends paid under section 561 for the taxable year with respect to which the liability for personal holding company tax exists, if it had been distributed during such year. See section 562 and §§ 1.562–1—1.562–3. In this connection, it should be noted that under section 316 (b) (2), the term "dividend" means (in addition to the usual meaning under section 316 (a)) any distribution of property (whether or not a dividend as defined in section 316 (a)) made by a corporation to its shareholders, to the extent of its undistributed personal holding company income (determined under section 545 and §§ 1.545–1 and 1.545–2 without regard to section 316 (b) (2)) for the taxable year in respect of which the distribution is made.

(b) *Special rules*—(1) *Nature and details of determination.* (i) A determination of a taxpayer's liability for personal holding company tax shall, for the purposes of section 547, be established in the manner specified in section 547 (c) and this subparagraph.

(ii) The date of determination by a decision of the Tax Court of the United States is the date upon which such decision becomes final, as prescribed in section 7481.

(iii) The date upon which a judgment of a court becomes final, which is the date of the determination in such cases, must be determined upon the basis of the facts in the particular case. Ordinarily, a judgment of a United States district court becomes final upon the expiration of the time allowed for taking an appeal, if no such appeal is duly taken within such time; and a judgment of the United States Court of Claims becomes final upon the expiration of the time allowed for filing a petition for certiorari if no such petition is duly filed within such time.

(iv) The date of determination by a closing agreement, made under section 7121, is the date such agreement is approved by the Commissioner.

(v) A determination under section 547 (c) (3) may be made by an agreement signed by the district director or such other official to whom authority to sign the agreement is delegated, and by or on behalf of the taxpayer. The agreement shall set forth the total amount of the liability for personal holding company tax for the taxable year or years. The date of the determination is the date such agreement is signed by the district director or such other official to whom authority to sign the agreement is delegated.

(2) *Claim for deduction*—(i) *Contents of claim.* A claim for deduction for a deficiency dividend shall be made in duplicate, with the requisite declaration, on Form 976 and shall contain the following information:

(*a*) The name and address of the corporation;

(*b*) The place and date of incorporation;

(*c*) The amount of the deficiency determined with respect to the tax imposed by section 541 (or a corresponding provision of a prior income tax law) and the taxable year or years involved; the amount of the unpaid deficiency or, if the deficiency has been paid in whole or in part, the date of payment and the amount thereof; a statement as to how the deficiency was established, if unpaid; or if paid in whole or in part, how it was established that any portion of the amount paid was a deficiency at the time when paid and, in either case whether it was by an agreement under section 547 (c) (3), by a closing agreement under section 7121, or by a decision of the Tax Court or court judgment and the date thereof; if established by a final judgment in a suit against the United States for refund, the date of payment of the deficiency, the date the claim for refund was filed, and the date the suit was brought; if established by a Tax Court decision or court judgment, a copy thereof shall be attached, together with an explanation of how the decision became final; if established by an agreement under section 547 (c) (3), a copy of such agreement shall be attached;

(*d*) The amount and date of payment of the dividend with respect to which the claim for the deduction for deficiency dividends is filed;

(*e*) A statement setting forth the various classes of stock outstanding, the name and address of each shareholder, the class and number of shares held by each on the date of payment of the dividend with respect to which the claim is filed, and the amount of such dividend paid to each shareholder;

(*f*) The amount claimed as a deduction for deficiency dividends; and

(*g*) Such other information as may be required by the claim form.

(ii) *Filing of claim and corporate resolution.* The claim in duplicate together with a certified copy of the resolution of the board of directors or other authority, authorizing the payment of the dividend with respect to which the claim is filed, shall be filed with the district director of internal revenue for the district in which the return is filed.

(iii) *Carryover of deficiency dividends paid by acquiring corporation.* In the case of the acquisition of assets of a corporation by another corporation in a distribution or transfer described in section 381 (a), the distributor or transferor corporation shall be entitled to a deduction for any deficiency dividends (as defined in section 547 (d)) paid by the acquiring corporation with respect to such distributor or transferor corporation. See section 381 (c) (17).

§ 1.547–3 *Claim for credit or refund.* (a) If a deficiency in personal holding company tax is asserted for any taxable year, and the corporation has paid any portion of such asserted deficiency, it is entitled to a credit or refund of such payment to the extent that such payment constitutes an overpayment as the result of a deduction for a deficiency dividend as provided in section 547 and §§ 1.547–1—1.547–7. It should be noted that a "determination" under section 547 (c) and paragraph (b) (1) of § 1.547–2, of taxpayer's liability for personal holding company tax may take place subsequent to the time the deficiency was paid. To secure credit or refund of such overpayment, the taxpayer must file a claim on Form 843 in addition to the claim for the deduction for deficiency dividends required under section 547 (e) and paragraph (b) (2) of § 1.547–2.

(b) No interest shall be allowed on such credit or refund.

(c) Such credit or refund will be allowed as if, on the date of the determination under section 547 (c) and paragraph (b) (1) of § 1.547–2, two years remained before the expiration of the period of limitation on the filing of claim for refund for the taxable year to which the overpayment relates.

§ 1.547–4 *Effect on dividends paid deduction.* The deficiency dividends deduction shall be allowed as of the date the claim is filed. No duplication of deductions with respect to any deficiency dividends is permitted. If a corporation claims and receives the benefit of the provisions of section 547 (or the corresponding section 506 of the Internal Revenue Code of 1939, or section 407 of the Revenue Act of 1938), based upon a distribution of deficiency dividends, that distribution does not become a part of the dividends paid deduction under section 561. Likewise, it will not be made the basis of a dividends paid deduction under section 561 by reason of the application of section 563 (b), relating to dividends paid after the close of the taxable year and on or before the 15th day of the third month following the close of such taxable year.

§ 1.547–5 *Deduction denied in case of fraud or wilful failure to file timely return.* No deduction for deficiency dividends shall be allowed under section 547 (a) if the determination contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to wilful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary or his delegate in pursuance of law. See § 1.547–7 for effective date.

§ 1.547–6 *Suspension of statute of limitations and stay of collection*—(a) *Statute of limitations.* If the corporation files a claim for a deduction for deficiency dividends under section 547 (e) and paragraph (b) (2) of § 1.547–2, the running of the statute of limitations

upon assessment, distraint, and collection in court in respect of the deficiency, and all interest, additional amounts, or assessable penalties, shall be suspended for a period of two years after the date of the determination under section 547 (c) and paragraph (b) (1) of § 1.547–2.

(b) *Stay of collection.* If a deficiency in personal holding company tax is established by a determination under section 547 (c) and paragraph (b) (1) of § 1.547–2, collection by distraint or court proceeding (except in case of jeopardy), of the deficiency and all interest, additional amounts, and assessable penalties, shall be stayed for a period of 120 days after the date of such determination, and, to the extent any part of such deficiency remains after deduction for deficiency dividends, for an additional period until the date the claim is disallowed. After such claim is allowed or rejected, either in whole or in part, the amount of the deficiency which was not eliminated by the application of section 547, together with interest, additional amounts and assessable penalties, will be assessed and collected in the usual manner.

§ 1.547–7 *Effective date.* The deduction for deficiency dividends, in computing personal holding company tax for any taxable year, is allowable only with respect to determinations under section 547 (c) made after November 14, 1954 (the date falling 90 days after the date of enactment of the Internal Revenue Code of 1954). If the taxable year with respect to which the deficiency is asserted began before January 1, 1954, the deficiency dividends deduction shall include only the amounts which would have been includible in the computation of the basic surtax credit for such taxable year under the Internal Revenue Code of 1939. Section 547 (g), relating to the denial of a deficiency dividends deduction if the determination contains a finding that any part of the deficiency is due to fraud, etc., shall apply only if the taxable year with respect to which the deficiency is asserted begins after December 31, 1953.

FOREIGN PERSONAL HOLDING COMPANIES

§ 1.551 *Statutory provisions; foreign personal holding company income taxed to United States shareholders.*

SEC. 551. *Foreign personal holding company income taxed to United States shareholders—*

(a) *General rule.* The undistributed foreign personal holding company income of a foreign personal holding company shall be included in the gross income of the citizens or residents of the United States, domestic corporations, domestic partnerships, and estates or trusts (other than estates or trusts the gross income of which under this subtitle includes only income from sources within the United States), who are shareholders in such foreign personal holding company (hereinafter called "United States shareholders") in the manner and to the extent set forth in this part.

(b) *Amount included in gross income.* Each United States shareholder, who was a shareholder on the day in the taxable year of the company which was the last day on which a United States group (as defined in section 552 (a) (2)) existed with respect to the company, shall include in his gross income, as a dividend, for the taxable year in which or with which the taxable year of the company ends, the amount he would have received as a dividend if on such last day there had been distributed by the company, and received by the shareholders, an amount which bears the same ratio to the undistributed foreign personal holding company income of the company for the taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) *Deduction for obligations of United States and its instrumentalities.* Each United States shareholder shall take into account in determining his income tax his proportionate share of partially tax-exempt interest on obligations described in section 35 or 242 which is included in the gross income of the company otherwise than by the application of the provisions of section 555 (b) (relating to the inclusion in the gross income of a foreign personal holding company of its distributive share of the undistributed foreign personal holding company income of another foreign personal holding company in which it is a shareholder). If the foreign personal holding company elects under section 171 to amortize the premiums on such obligations, for purposes of the preceding sentence each United States shareholder's proportionate share of such interest received by the foreign personal holding company shall be his proportionate share of such interest (determined without regard to this sentence) reduced by so much of the deduction under section 171 as is attributable to such share.

(d) *Information in return.* Every United States shareholder who is required under subsection (b) to include in his gross income any amount with respect to the undistributed foreign personal holding company income of a foreign personal holding company and who, on the last day on which a United States group existed with respect to the company, owned 5 percent or more in value of the outstanding stock of such company, shall set forth in his return in complete detail the gross income, deductions and credits, taxable income, foreign personal holding company, and undistributed foreign personal holding company income of such company.

(e) *Effect on capital account of foreign personal holding company.* An amount which bears the same ratio to the undistributed foreign personal holding company income of the foreign personal holding company for its taxable year as the portion of such taxable year up to and including the last day on which a United States group existed with respect to the company bears to the entire taxable year, shall, for the purpose of determining the effect of distributions in subsequent taxable years by the corporation, be considered as paid-in surplus or as a contribution to capital, and the accumulated earnings and profits as of the close of the taxable year shall be correspondingly reduced, if such amount or any portion thereof is required to be included as a dividend, directly or indirectly, in the gross income of United States shareholders.

(f) *Basis of stock in hands of shareholders.* The amount required to be included in the gross income of a United States shareholder under subsection (b) shall, for the purpose of adjusting the basis of his stock with respect to which the distribution would have been made (if it had been made), be treated as having been reinvested by the shareholder as a contribution to the capital of the corporation; but only to the extent to which such amount is included in his gross income in his return, increased or decreased by any adjustment of such amount in the last determination of the shareholder's tax liability, made before the expiration of 6 years after the date prescribed by law for filing the return.

(g) *Cross references.* (1) For basis of stock or securities in a foreign personal holding company acquired from a decedent, see section 1014 (b) (5).

(2) For period of limitation on assessment and collection without assessment, in case of failure to include in gross income the amount properly includible therein under subsection (b), see section 6501.

(3) For treatment of gain on liquidation of certain foreign personal holding companies, see section 342.

§ 1.551–1 *General rule.* Part III of subchapter G of chapter 1 of the Internal Revenue Code of 1954 (sections 551–557) does not impose a tax on foreign personal holding companies. The undistributed foreign personal holding company income of such companies, however, must be included in the manner and to the extent set forth in section 551, in the gross income of their "United States shareholders," that is, the shareholders who are individual citizens or residents of the United States, domestic corporations, domestic partnerships, and estates or trusts other than estates or trusts the gross income of which under subtitle A includes only income from sources within the United States.

§ 1.551–2 *Amount included in gross income.* (a) The undistributed foreign personal holding company income is included only in the gross income of the United States shareholders who were shareholders in the company on the last day of its taxable year on which a United States group (as defined in section 552 (a) (2)) existed with respect to the company. Such United States shareholders, accordingly, are determined by the stock holdings as of such specified time. This rule applies to every United States shareholder who was a shareholder in the company at the specified time regardless of whether the United States shareholder is included within the United States group. For example, a domestic corporation which is a United States shareholder at the specified time must return its distributive share in the undistributed foreign personal holding company income even though the domestic corporation cannot be included within the United States group since, under section 554, the stock it owns in the foreign corporation is considered as being owned proportionately by its shareholders for the purpose of determining whether the foreign corporation is a foreign personal holding company.

(b) The United States shareholders must include in their gross income their distributive shares of that proportion of the undistributed foreign personal holding company income for the taxable year of the company which is equal in ratio to that which the portion of the taxable year up to and including the last day on which the United States group with respect to the company existed bears to the entire taxable year. Thus, if the last day in the taxable year on which the required United States group existed was also the end of the taxable year, the portion of the taxable year up to and including such last day would be equal to 100 percent and, in such case, the United States shareholders would be required to return their distributive shares in the entire undistributed foreign personal holding company income. But if the last day on which the required United States group existed was September 30, and the taxable year was a calendar year, the portion of the taxable year up to and including such last day would be equal

to nine-twelfths and, in that case, the United States shareholders would be required to return their distributive shares in only nine-twelfths of the undistributed foreign personal holding company income.

(c) The amount which each United States shareholder must return is that amount which he would have received as a dividend if the above-specified portion of the undistributed foreign personal holding company income had in fact been distributed by the foreign personal holding company as a dividend on the last day of its taxable year on which the required United States group existed. Such amount is determined, therefore, by the interest of the United States shareholder in the foreign personal holding company, that is, by the number of shares of stock owned by the United States shareholder and the relative rights of his class of stock, if there are several classes of stock outstanding. Thus, if a foreign personal holding company has both common and preferred stock outstanding and the preferred shareholders are entitled to a specified dividend before any distribution may be made to the common shareholders, then the assumed distribution of the stated portion of the undistributed foreign personal holding company income must first be treated as a payment of the specified dividend on the preferred stock before any part may be allocated as a dividend on the common stock.

(d) The assumed distribution of the required portion of the undistributed foreign personal holdng company income must be returned as dividend income by the United States shareholders for their respective taxable years in which or with which the taxable year of the foreign personal holding company ends. For example, if the M Corporation, whose taxable year is the calendar year, is a foreign personal holding company for 1954 and if A, one of its United States shareholders, makes returns on a calendar year basis, while B, another United States shareholder, makes returns on the basis of a fiscal year ending November 30, A must return his assumed dividend as income for the taxable year 1954 and B must return his distributive share as income for the fiscal year ending November 30, 1955. In applying this rule, the date as of which the United States group last existed with respect to the company is immaterial. Thus, in the foregoing example, if September 30, 1954, was the last day on which the United States group with respect to the M Corporation existed, B would still be required to return his assumed dividend as income for the fiscal year ending November 30, 1955, even though September 30, 1954, the date as of which the distribution is assumed to have been made, does not fall within such fiscal year.

(e) For the treatment of gain on the sale of certain stock, see section 306 (f) and paragraph (h) of § 1.306–3.

§ 1.551–3 *Deduction for obligations of the United States and its instrumentalities.* (a) Each United States shareholder required to return his distributive share of undistributed foreign personal holding company income for any taxable year shall take into account in computing the credit against tax under section 35, or the deduction under section 242, whichever is allowable to such shareholder, his proportionate share of whatever interest on obligations of the United States or its instrumentalities (as specified in sections 35 or 242, as the case may be) may be included in the gross income of the company for such taxable year, with the exception of any such interest as may be so included by reason of the application of the provisions of section 555. For reduction of credit for such interest on account of amortizable bond premium, see section 171 and the regulations thereunder.

(b) The rule set forth in paragraph (a) of this section may be illustrated by the following example:

Example. The M Corporation is a foreign personal holding company which owns all the stock of the N Corporation, another foreign personal holding company. Both companies receive interest on obligations of the United States or its instrumentalities as specified in section 35. In determining the amount of the credit allowable under section 35 (if the shareholder is an individual) or the deduction allowable under section 242 (if the shareholder is a corporation), the United States shareholder of the M Corporation would be entitled to a credit or a deduction, as the case may be, only for his proportionate share of the interest received by that Company and not for any part of the interest received by the N Corporation, regardless of whether the interest received by the N Corporation is included in the gross income of the M Corporation as an actual dividend or as a constructive dividend under section 555.

§ 1.551–4 *Information in return.* The information required by section 551 (d) in the returns of certain United States shareholders relates only to the taxable year of a foreign personal holding company for which any part of such corporation's undistributed foreign personal holding company income must be included in gross income by the United States shareholder of whom the information is required. The information shall be submitted as a part of the income tax return in the form of a statement attached to the return.

§ 1.551–5 *Effect on capital account of foreign personal holding company and basis of stock in hands of shareholders.* (a) Sections 551 (e) and 551 (f) are designed to prevent double taxation with respect to the undistributed foreign personal holding company income.

(b) The application of sections 551 (e) and 551 (f) may be illustrated by the following examples:

Example (1). The M Corporation is a foreign personal holding company. Seventy-five percent in value of its capital stock is owned by A, a citizen of the United States, and the remainder, or 25 percent, of its stock is owned by B, a nonresident alien individual. For the calendar year 1954 the M Corporation has an undistributed foreign personal holding company income of $100,000. A is required to include $75,000 of such income in gross income as a dividend in his return for the calendar year 1954. The $100,000 is treated as paid-in surplus or as a contribution to the capital of the M Corporation and its accumulated earnings and profits as of the close of the calendar year 1954 are correspondingly reduced. If after treating such $100,000 as paid-in surplus or as a contribution to capital, the M Corporation has no accumulated earnings and profits at the close of 1954, and if for the calendar year 1955, the M Corporation had no earnings and profits, but distributed $40,000, the amount so distributed would be a nontaxable distribution and would not be included in the gross income of either A or B for the calendar year 1955. If, however, after treating the $100,000 as paid-in surplus or as a contribution to capital, the M Corporation had accumulated earnings and profits of $100,000 at the close of 1954, the facts otherwise being the same, the distributions in 1955 would be taxable to A as a dividend, and the taxability of such distributions to B would depend upon the application of section 861 (a) (2), relating to the treatment of dividends from a foreign corporation as income from sources within or without the United States.

Example (2). In example (1) assume the basis of A's stock to be $300,000. If A includes in gross income in his return for the calendar year 1954, $75,000 as a dividend from the M Corporation, the basis of his stock would be $375,000. After the nontaxable distribution of $30,000 to A by the M Corporation in 1955 (75 percent of the $40,000 distribution) the basis of A's stock, assuming no other changes, would be $345,000. If A failed to include the $75,000 as a dividend in gross income in his return for 1954 and his failure was not discovered until after the 6-year period of limitations had expired, the application of the rule would not increase the basis of A's stock. The subsequent nontaxable distribution of $30,000 to A in 1955 would reduce his basis of $300,000 to $270,000, thus tending to compensate for his failure to include the amount of $75,000 as a dividend in his gross income for 1954. If the undistributed foreign personal holding company income of the M Corporation is readjusted within the statutory period of limitations, thus increasing or decreasing the amount A would have to include in his gross income, proper adjustment is required to be made to the basis of A's stock on account of such readjustment.

§ 1.552 *Statutory provisions; definition of foreign personal holding company.*

SEC. 552. *Definition of foreign personal holding company*—(a) *General rule.* For purposes of this subtitle, the term "foreign personal holding company" means any foreign corporation if—

(1) *Gross income requirement.* At least 60 percent of its gross income (as defined in section 555 (a)) for the taxable year is foreign personal holding company income as defined in section 553; but if the corporation is a foreign personal holding company with respect to any taxable year ending after August 26, 1937, then, for each subsequent taxable year, the minimum percentage shall be 50 percent in lieu of 60 percent, until a taxable year during the whole of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 50 percent of the gross income is foreign personal holding company income. For purposes of this paragraph, there shall be included in the gross income the amount includible therein as a dividend by reason of the application of section 555 (c) (2); and

(2) *Stock ownership requirement.* At any time during the taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, hereinafter called "United States group".

(b) *Exceptions.* The term "foreign personal holding company" does not include—

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

(2) A corporation organized and doing business under the banking and credit laws of a foreign country if it is established (annually or at other periodic intervals) to the satisfaction of the Secretary or his delegate that such corporation is not formed or availed of for the purpose of evading or avoiding United States income taxes which would otherwise be imposed upon its shareholders. If the Secretary or his delegate is satisfied that such corporation is not so formed or availed of, he shall issue to such corporation annually or at other periodic intervals a certification that the corporation is not a foreign personal holding company.

Each United States shareholder of a foreign corporation which would, except for the provisions of paragraph (2), be a foreign personal holding company, shall attach to and file with his income tax return for the taxable year a copy of the certification by the Secretary or his delegate made pursuant to paragraph (2). Such copy shall be filed with the taxpayer's return for the taxable year if he has been a shareholder of such corporation for any part of such year.

§ 1.552–1 *Definition of foreign personal holding company.* (a) A foreign personal holding company is any foreign corporation, other than a corporation exempt from taxation under subchapter F (section 501 and following) and other than certain banking institutions which satisfy the requirements of section 552 (b) (2) and paragraph (b) of § 1.552–4 which for the taxable year meets (1) the gross income requirement specified in section 552 (a) (1); and (2) the stock ownership requirement specified in section 552 (a) (2). Both requirements must be satisfied with respect to each taxable year.

(b) A foreign corporation which comes within the classification of a foreign personal holding company is not subject to taxation either under section 531 or section 541. See sections 532 (b) (2) and 542 (c) (5). The fact that a foreign corporation is a foreign personal holding company does not relieve the corporation from liability for the taxes imposed generally upon foreign corporations, such as the taxes imposed by sections 881 and 882, since such taxes apply regardless of the classification of the foreign corporation as a foreign personal holding company.

§ 1.552–2 *Gross income requirement.* (a) To meet the gross income requirement, it is necessary that either of the following percentages of gross income of the corporation for the taxable year (including the additions to gross income provided in section 555 (b) as required by section 555 (c) (2)) be foreign personal holding company income as defined in section 553:

(1) 60 percent or more; or

(2) 50 percent or more if the foreign corporation has been classified as a foreign personal holding company for any taxable year ending after August 26, 1937, unless—

(i) A taxable year has intervened since the last taxable year for which it was so classified, during no part of which the stock ownership requirement specified in section 552 (a) (2) exists; or

(ii) Three consecutive years have intervened since the last taxable year for which it was so classified, during each of which its foreign personal holding company income was less than 50 percent of its gross income.

(b) In determining whether the foreign personal holding company income is equal to the required percentage of the total gross income, the determination must not be made upon the basis of gross receipts, since gross income is not synonymous with gross receipts. For meaning of gross income in this part, see section 555 and § 1.555–1.

§ 1.552–3 *Stock ownership requirement.* (a) To meet the stock ownership requirement, it is necessary that at sometime in the taxable year more than 50 percent in value of the outstanding stock of the foreign corporation be owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, herein referred to as "United States group." For the purpose of the requirement under section 552 (a) (2), section 554 provides that the ownership of the stock must be determined under the rules prescribed by section 544 (relating to rules for determining stock ownership in the case of personal holding companies generally). Accordingly, section 544 and §§ 1.544–1—1.544–7 are applicable for purposes of section 552 (a) (2) and this section as if each reference in section 544 and §§ 1.544–1—1.544–7 to a personal holding company or to part II (sections 541–547) of subchapter G of the 1954 Code was a reference to a foreign personal holding company or to part III (sections 551–557) of subchapter G of the 1954 Code, as the case may be.

(b) It is necessary to consider any change in the stock outstanding during the taxable year, whether in the number of shares or classes of stock, or in the ownership thereof, since a corporation comes within the classification if the statutory conditions with respect to stock ownership are present at any time during the taxable year.

(c) In determining whether the statutory conditions with respect to stock ownership are present at any time during the taxable year, the phrase "in value" shall, in the light of all the circumstances, be deemed the value of the corporate stock outstanding at such time (not including treasury stock). This value may be determined upon the basis of the company's net worth, earning and dividend paying capacity, appreciation of assets, together with such other factors as have a bearing upon the value of the stock. If the value of the stock which is used is greatly at variance with that reflected by the corporate books, the evidence of such value should be filed with the return. In any case where there are two or more classes of stock outstanding, the total value of all the stock should be allocated among the different classes according to the relative value of each class therein.

§ 1.552–4 *Certain excluded banks.* (a) A corporation is excluded from the definition of "foreign personal holding company" if it is organized and doing business under the banking and credit laws of a foreign country and if it establishes to the satisfaction of the Commissioner that it was not formed or availed of for the purpose of evading or avoiding United States income taxes which would otherwise be imposed on its shareholders. If this is established, the Commissioner, or such other official to whom authority may be delegated, will certify, by letter to the corporation, that it is not a foreign personal holding company.

(b) An application for certification under section 552 (b) (2) shall be made in writing to the Commissioner of Internal Revenue, Washington 25, D. C., Attention: Director of International Operations. A separate application shall be filed for each taxable year for which certification is requested, and the application shall be accompanied by a completed Form 958 for the taxable year. See section 6035. The following information shall be set forth in, or submitted with, the application:

(1) A complete reference to the banking or credit laws of the foreign country under which the corporation operates;

(2) A statement as to the extent of the corporation's business in receiving deposits and making loans and discounts and similar banking and credit operations;

(3) A statement as to the extent of the operations of the corporation other than such banking and credit operations;

(4) A statement as to whether the banking and credit operations of the corporation are customary for it;

(5) A statement setting forth the degree and manner of supervision exercised over it by the foreign government under its banking and credit laws; a copy (in English) of the corporation's last annual financial statement, as submitted to the Government authority having jurisdiction over it, shall be submitted with the application;

(6) A statement setting forth the business reasons of the corporation for not distributing the amount which would be its undistributed foreign personal holding company income if the corporation were not excluded under section 552 (b);

(7) A statement setting forth the extent of the corporation's profits which must be retained as reserves under the foreign law;

(8) A statement setting forth the date or dates when the corporation reasonably expects to distribute is undistributed foreign personal holding company income for the taxable year;

(9) A statement setting forth the name and address of each of the individuals described in section 552 (2) (2), the extent of their stock ownership in the corporation, and the amount of distributions or other payments to such stockholders, including, but not limited to, dividends, compensation, interest, and rents; and

(10) Any other facts or information the corporation may wish to submit to show that it was not formed or availed of for the purpose of evading or avoiding United States income taxes which would otherwise be imposed on its shareholders.

The corporation shall also furnish such other information requested as necessary by the Director of International Operations. The application for certification, together with the information required by this paragraph, should be filed within 60 days after the close of the taxable year of the corporation or within 60 days after the date of publication of §§ 1.541 to 1.565–6 in the FEDERAL REGISTER, whichever is later. However, if the corporation is unable, for good cause, to submit the application for certification within such 60-day period, additional time may be granted by the Director of International Operations upon receipt of a request from the corporation setting forth the reasons for such request.

§ 1.552–5 *United States shareholder of excluded bank.* A copy of the certification issued to an excluded bank under section 552 (b) (2) and § 1.552–4 shall be filed with, and made a part of, the income tax return for the taxable year of each United States shareholder of such foreign corporation, if he has been a shareholder of such corporation for any part of such year. If the certificate has not been issued at the time the return of the United States shareholder is filed, the shareholder shall compute the tax on his return by treating the bank as a foreign personal holding company. If a certificate is issued after the return is filed, the United States shareholder may file a claim for refund or an amended return, and shall attach thereto a copy of the certification.

§ 1.553 *Statutory provisions; foreign personal holding company income.*

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

§ 1.553–1 *Foreign personal holding company income.* Foreign personal holding company income shall consist of the items defined under section 543 and §§ 1.543–1 and 1.543–2, relating to personal holding company income, with the following exceptions:

(a) The entire amount received as "interest", whether or not treated as rent, shall be considered to be foreign personal holding company income. Thus, the exception in the second sentence of section 543 (a) (1) and paragraph (b) (2) of § 1.543–1 (relating to interest treated as rent under section 543 (a) (7) and paragraph (b) (10) of § 1.543–1), is inapplicable for the purpose of determining foreign personal holding company income. Similarly, section 543 (a) (7) and paragraph (b) (10) of § 1.543–1 are applied for this purpose without regard to the interest described in that section.

(b) (1) The entire amount received as "royalties", whether or not mineral, oil, or gas royalties, shall be considered to be foreign personal holding company income. Thus, subparagraphs (A) and (B) of section 543 (a) (8) and paragraph (b) (11) (i) (*a*) and (b) of § 1.543–1 are inapplicable for the purpose of determining foreign personal holding company income.

(2) In computing foreign personal holding company income, the first sentence of paragraph (b) (11) (ii) of § 1.543–1 shall apply to overriding royalties received from the sublessee by the operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid, and to mineral, oil, or gas production payments, only with respect to amounts received after September 30, 1958.

§ 1.554 *Statutory provisions; stock ownership.*

SEC. 554. *Stock ownership.* For purposes of determining whether a foreign corporation is a foreign personal holding company, insofar as such determination is based on stock ownership, the rules provided in section 544 shall be applicable as if any reference in such section to a personal holding company was a reference to a foreign personal holding company and as if any reference in such section to a provision of part II (relating to personal holding companies) was a reference to the corresponding provision of this part.

§ 1.554–1 *Stock ownership.* For regulations under section 554, see § 1.552–3.

§ 1.555 *Statutory provisions; gross income of foreign personal holding companies.*

SEC. 555. *Gross income of foreign personal holding companies*—(a) *General rule.* For purposes of this part, the term "gross income" means, with respect to a foreign corporation, gross income computed (without regard to the provisions of subchapter N (sec. 861 and following)) as if the foreign corporation were a domestic corporation which is a personal holding company.

(b) *Additions to gross income.* In the case of a foreign personal holding company (whether or not a United States group, as defined in section 552 (a) (2), existed with respect to such company on the last day of its taxable year) which was a shareholder in another foreign personal holding company on the day in the taxable year of the second company which was the last day on which a United States group existed with respect to the second company, there shall be included, as a dividend, in the gross income of the first company, for the taxable year in which or with which the taxable year of the second company ends, the amount the first company would have received as a dividend if on such last day there had been distributed by the second company, and received by the shareholders, an amount which bears the same ratio to the undistributed foreign personal holding company income of the second company for its taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) *Application of subsection (b).* The rule provided in subsection (b)—

(1) Shall be applied in the case of a foreign personal holding company for the purpose of determining its undistributed foreign personal holding company income which, or a part of which, is to be included in the gross income of its shareholders, whether United States shareholders or other foreign personal holding companies;

(2) Shall be applied in the case of every foreign corporation with respect to which a United States group exists on some day of its taxable year, for the purpose of determining whether such corporation meets the gross income requirements of section 552 (a) (1).

§ 1.555–1 *General rule.* The gross income of a foreign corporation which is a foreign personal holding company is computed the same as if the foreign corporation were a domestic corporation which is a personal holding company. See section 542 (a) (1) and § 1.542–2. The gross income of a foreign personal holding company thus includes income from all sources, whether within or without the United States, which is not specifically excluded from gross income under any other provisions of the Code. For example, the gross income of a foreign personal holding company includes all income from sources outside the United States even though the foreign personal holding company is a foreign corporation not engaged in trade or business within the United States.

§ 1.555–2 *Additions to gross income.* (a) If, for any taxable year—

(1) A foreign corporation meets the stock ownership requirement specified in section 552 (a) (2) and § 1.552–3, regardless of whatever day in its taxable year is the last day on which the required United States group exists, and

(2) Such foreign corporation is a shareholder in a foreign personal holding company on any day of a taxable year of the second company which ends with or within the taxable year of the first company and such day is the last day in the taxable year of the second company in which the United States group exists with respect to the second company, then for the purpose of—

(i) Determining whether the first company meets the specified gross income requirement so as to come within the classification of a foreign personal holding company, and

(ii) Determining the undistributed foreign personal holding company income of the first company which (in the event the first company is a foreign personal holding company) is to be included, in whole or in part, in the gross income of its shareholders, whether United States shareholders or other foreign personal holding companies:

there shall be included as a dividend in the gross income of the first company for the taxable year in which or with which the taxable year of the second company ends, the amount the first company would have received as a dividend, if on the last day referred to in this subparagraph there had been distributed by the second company, and received by the shareholders, an amount which bears the same ratio to the undistributed foreign personal holding company income of the second company for its taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year. The foregoing rules apply to any chain of foreign corporations regardless of the number of corporations included in the chain.

(b) The application of section 555 (b) may be illustrated by the following examples:

Example (1). The X Corporation is a foreign corporation whose stock is owned by A, a United States citizen. The X Corporation owns the entire stock of the Y Corporation,

another foreign corporation. The taxable year of the X Corporation is the calendar year and the taxable year of the Y Corporation is the fiscal year ending June 30. For the fiscal year ending June 30, 1955, more than the required percentage of the Y Corporation's gross income consists of foreign personal holding company income and no part of the earnings for such year is distributed as dividends. On the basis of these facts the Y Corporation is a foreign personal holding company for the fiscal year ending June 30, 1955. The X Corporation meets the stock ownership requirement and constitutes a foreign personal holding company for 1955, if it also meets the gross income requirement. For the purpose of determining whether the X Corporation meets the gross income requirement, the entire undistributed foreign personal holding company income of the Y Corporation for the fiscal year ending June 30, 1955, must be included as a dividend in the gross income of the X Corporation for 1955, since—

(1) The X Corporation was a shareholder in the Y Corporation on a day (June 30, 1955) in the taxable year of the Y Corporation ending with or within the taxable year of the X Corporation, which day was the last day in the taxable year of the Y Corporation on which the United States group required with respect to the Y Corporation existed,

(2) Such last day was also the end of the Y Corporation's taxable year so that the portion of the taxable year of the Y Corporation up to and including such last day is equal to 100 percent of the taxable year of the Y Corporation, and, therefore, the portion of the undistributed foreign personal holding company income of the Y Corporation includible in the gross income of its shareholders is likewise equal to 100 percent, and

(3) The X Corporation being the sole shareholder of the Y Corporation must include such portion in its gross income for 1955, the taxable year in which or with which the taxable year of the Y Corporation ends. If, after the inclusion of the presumptive dividend in its gross income, the X Corporation is a foreign personal holding company for 1955, then the undistributed foreign personal holding company income of the Y Corporation must also be included as a dividend in the gross income of the X Corporation in determining its undistributed foreign personal holding company income which is to be included in the gross income of A, the sole shareholder in the X Corporation. On the other hand, if, after including such presumptive dividend, the X Corporation does not constitute a foreign personal holding company, the undistributed foreign personal holding company income of the Y Corporation is not includible in the gross income of the X Corporation.

Example (2). The X Corporation referred to in example (1) sold the stock in the Y Corporation to other interests on September 30, 1955, so that after that date no United States group existed with respect to the Y Corporation. For the fiscal year ending June 30, 1956, more than the required percentage of the gross income of the Y Corporation consists of foreign personal holding company income. The taxable income of the Y Corporation for such fiscal year amounts to $1,000,000, of which $900,000 is distributed in dividends after September 30, 1955. The undistributed foreign personal holding company income of the Y Corporation for such fiscal year amounts to $100,000. Upon the basis of these facts the Y Corporation is a foreign personal holding company for the fiscal year ending June 30, 1956, since at one time in such fiscal year, or from July 1 to and including September 30, 1955, it meets the stock ownership requirement, and the gross income requirement is also satisfied. In determining whether the X Corporation constitutes a foreign personal holding company for 1956, a portion of the undistributed foreign personal holding company income of the Y Corporation for the fiscal year ending June 30, 1956 (three-twelfths of $100,000, or $25,000), must be included as a dividend in the gross income of the X Corporation, since—

(1) The X Corporation was a shareholder in the Y Corporation on September 30, 1955, or on a day in the taxable year of the Y Corporation ending with or within the taxable year of the X Corporation which day was the last day in the Y Corporation's taxable year on which the United States group required with respect to the Y Corporation existed.

(2) The portion of the taxable year of the Y Corporation up to and including such day is three-twelfths of the entire taxable year of the Y Corporation and, therefore, the portion of the undistributed foreign personal holding company income of the Y Corporation includible in the gross income of its shareholders also is equal to three-twelfths, and

(3) The X Corporation, being the sole shareholder of the Y Corporation at the time the United States group with respect to the Y Corporation last existed, must include all of such portion in its gross income for 1956, the taxable year of the X Corporation in which or with which the taxable year of the Y Corporation ends.

It is to be observed that three-twelfths of the undistributed foreign personal holding company income of the Y Corporation for the entire taxable year and not the earnings realized by the Y Corporation up to and including September 30, 1955, the last day on which the United States group with respect to the Y Corporation existed, must be included in the gross income of the X Corporation.

Example (3). The X Corporation referred to in example (1) sold the stock in the Y Corporation to other interests on September 30, 1955, so that after that date a different United States group existed with respect to the Y Corporation. Assuming that the Y Corporation is a foreign personal holding company for the fiscal year ending June 30, 1956, no part of the undistributed foreign personal holding company income of the Y Corporation for such fiscal year would, in this instance, be includible in the gross income of the X Corporation for the year 1956, in determining whether the X Corporation is a foreign personal holding company for that year. In such case, the undistributed foreign personal holding company income of the Y Corporation is includible in the gross income of the other foreign personal holding companies, if any, and of the United States shareholders who are shareholders in the Y Corporation the day after September 30, 1955, which was the last day in the taxable year of the Y Corporation on which the United States group with respect to the Y Corporation existed. If, however, the X Corporation sells 90 percent of its stock in the Y Corporation and thus is a minority shareholder in the Y Corporation on the last day of the taxable year of the Y Corporation on which the United States group with respect to the Y Corporation exists, the portion of the undistributed foreign personal holding company income allocable to the minority interests of the X Corporation would be includible in the gross income of the X Corporation, even though on such last day the United States group is not the same with respect to both corporations.

Example (4). If the Y Corporation in example (1) owns all of the stock of the Z Corporation, another foreign corporation, there would be a chain of three foreign corporations. In such case, assuming that the Z Corporation is a foreign personal holding company for a taxable year ending with or within the taxable year of the Y Corporation, the undistributed foreign personal holding company income of the Z Corporation would be included in the gross income of the Y Corporation for the purpose of determining whether the Y Corporation comes within the classification of a foreign personal holding company. If, after the inclusion of such presumptive dividend, the Y Corporation is a foreign personal holding company, the undistributed foreign personal holding company income of the Z Corporation would be included in the gross income of the Y Corporation in determining the undistributed foreign personal holding company income of the Y Corporation which is includible in the gross income of its shareholder, the X Corporation. The same process would be repeated with respect to determining whether the X Corporation is a foreign personal holding company and in determining its undistributed foreign personal holding company income. If all three corporations are foreign personal holding companies, the undistributed foreign personal holding company income of each would, in this manner, be reflected as a dividend in the gross income of A, the ultimate beneficial shareholder of the chain. In the event that after the inclusion of the undistributed foreign personal holding company income of the Z Corporation in the gross income of the Y Corporation, the Y Corporation is not a foreign personal holding company, then no part of the income of either the Z Corporation or the Y Corporation would be includible in the gross income of the X Corporation. In that event, whether the X Corporation is a foreign personal holding company, and its undistributed foreign personal holding company income, would be determined independently of the income of the Y Corporation and the Z Corporation.

§ 1.556 *Statutory provisions; undistributed foreign personal holding company income.*

SEC. 556. *Undistributed foreign personal holding company income*—(a) *Definition.* For purposes of this part, the term "undistributed foreign personal holding company income" means the taxable income of a foreign personal holding company adjusted in the manner provided in subsection (b), minus the dividends paid deduction (as defined in section 561).

(b) *Adjustments to taxable income.* For the purposes of subsection (a), the taxable income shall be adjusted as follows:

(1) *Taxes.* There shall be allowed as a deduction Federal income and excess profits taxes (other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940) and income, war profits, and excess-profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 164 (b) (6)), accrued during the taxable year, but not including the accumulated earnings tax imposed by section 531, the personal holding company tax imposed by section 541, or the taxes imposed, by corresponding sections of a prior income tax law. A taxpayer which, for each taxable year in which it was subject to the provisions of supplement P of the Internal Revenue Code of 1939, deducted Federal income and excess profits taxes when paid for the purpose of computing undistributed supplement P net income under such code, shall deduct taxes under this paragraph when paid, unless the corporation elects, under regulations prescribed by the Secretary or his delegate, after the date of enactment of this title to deduct the taxes described in this paragraph when accrued. Such election shall be irrevocable and shall apply to the taxable year for which the election is made and to all subsequent taxable years.

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed, but with the limitation in section 170 (b) (1) (A) and (B) (in lieu of the limitation in section 170 (b) (2)). For purposes of this paragraph,

the term "adjusted gross income" when used in section 170 (b) (1) means the taxable income computed with the adjustments provided in section 170 (b) (2) and without the deduction of the amounts disallowed under paragraphs (5) and (6) of this subsection or the inclusion in gross income of the amounts includible therein as dividends by reason of the application of the provisions of section 555 (b) (relating to the inclusion in gross income of a foreign personal holding company of its distributive share of the undistributed foreign personal holding company income of another company in which it is a shareholder).

(3) *Special deductions disallowed.* The special deductions for corporations provided in part VIII (except sections 242 and 248) of subchapter B (section 241 and following, relating to the deduction for dividends received by corporations, etc.) shall not be allowed.

(4) *Net operating loss.* The net operating loss deduction provided in section 172 shall not be allowed, but there shall be allowed as a deduction the amount of the net operating loss (as defined in section 172 (c)) for the preceding taxable year.

(5) *Expenses and depreciation applicable to property of the taxpayer.* The aggregate of the deductions allowed under section 162 (relating to trade or business expenses) and section 167 (relating to depreciation) which are allocable to the operation and maintenance of property owned or operated by the company, shall be allowed only in an amount equal to the rent or other compensation received for the use of, or the right to use, the property, unless it is established (under regulations prescribed by the Secretary or his delegate) to the satisfaction of the Secretary or his delegate—

(A) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

(B) That the property was held in the course of a business carried on bona fide for profit; and

(C) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

(6) *Taxes and contributions to pension trusts.* The deductions provided in section 164 (e) (relating to taxes of a shareholder paid by the corporation) and in section 404 (relating to pension, etc., trusts) shall not be allowed.

§ 1.556–1 *Definition.* Undistributed foreign personal holding company income is the amount which is to be included in the gross income of the United States shareholders under section 551 (b) and § 1.551–2. Undistributed foreign personal holding company income is the taxable income of the foreign personal holding company, as defined in section 63 (a) (computed without regard to subchapter N), and adjusted in the manner described in section 556 (b) and § 1.556–2, less the deduction for dividends paid (§§ 1.561–1.565). See § 1.556–3 for an illustration of the computation of undistributed foreign personal holding company income.

§ 1.556–2 *Adjustments to taxable income*—(a) *Taxes*—(1) *General rule.* (i) In computing undistributed foreign personal holding company income for any taxable year, there shall be allowed as a deduction the Federal income and excess profits taxes accrued during the taxable year except that no deduction shall be allowed for (*a*) the accumulated earnings tax imposed by section 531 (or a corresponding section of a prior law), (*b*) the personal holding company tax imposed by section 541 (or a corresponding section of a prior law), and (*c*) the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940. The deduction is for taxes for the taxable year determined under the accrual method of accounting, regardless of whether the corporation uses an accrual method of accounting, the cash receipts and disbursements method, or any other allowable method of accounting. In computing the amount of taxes accrued, an unpaid tax which is being contested is not considered accrued until the contest is resolved.

(ii) However, the corporation shall deduct taxes paid, rather than taxes accrued, if it used that method with respect to Federal taxes for each taxable year for which it was subject to the provisions of supplement P of the Internal Revenue Code of 1939, unless an election is made under subparagraph (2) of this paragraph to deduct taxes accrued.

(2) *Election by corporation which deducted taxes paid.* (i) If the corporation was subject to supplement P of the Internal Revenue Code of 1939, and, for the purpose of computing undistributed supplement P net income under such Code, deducted Federal taxes paid, rather than such taxes accrued, for each taxable year for which it was subject to supplement P of the 1939 Code, the corporation may elect for any taxable year ending after August 16, 1954, to deduct taxes accrued, rather than taxes paid, for the purpose of computing its undistributed foreign personal holding company income. The election shall be made by deducting such taxes accrued in the return (Form 958) required to be filed for such taxable year. The return shall, in addition, contain a statement that the corporation has made such election and shall set forth the year to which such election was first applicable. The deduction of taxes accrued in the year of election precludes the deduction of taxes paid during such year. The election, if made, shall be irrevocable and the deduction for taxes accrued shall be allowed for the year of election and for all subsequent taxable years. See section 6035 and the regulations thereunder for rules relative to the filing of returns of officers, directors, and shareholders of foreign personal holding companies.

(ii) Pursuant to section 7851 (a) (1) (C), the election provided for in subdivision (i) of this subparagraph may be made with respect to a taxable year ending after August 16, 1954, even though such taxable year is subject to the Internal Revenue Code of 1939.

(3) *Taxes of foreign countries and United States possessions.* In computing taxable income, a foreign personal holding company is allowed a deduction under section 164 for income, war profits, and excess-profits taxes paid or accrued during the taxable year to foreign countries or possessions of the United States, but is not allowed the foreign tax credit under section 901. Therefore, in computing undistributed foreign personal holding company income for any taxable year, no adjustment under section 556 (b) (1) is allowed for such taxes.

(b) *Charitable contributions.* (1) Section 556 (b) (2) provides that, in computing the undistributed foreign personal holding company income of a corporation, the deduction for charitable contributions by a corporation shall be computed with the limitations of section 170 (b) (1) (A) and (B) (relating to charitable contributions by individuals) instead of the limitation in section 170 (b) (2) (relating to charitable contributions by corporations).

(2) Although the limitations of section 170 (b) (1) (A) and (B) are 10 and 20 percent, respectively, of the individual's adjusted gross income, the limitations are applied for purposes of section 556 (b) (2) by using 10 and 20 percent, respectively, of the corporation's taxable income as adjusted for purposes of section 170 (b) (2) (that is, the same amount of taxable income to which the 5-percent limitation applied). However, a further adjustment for this purpose is that the taxable income shall also be computed without the deduction of the amount disallowed under section 556 (b) (5) (relating to expenses and depreciation applicable to property of the taxpayer), and section 556 (b) (6) (relating to taxes and contributions to pension trusts), and without the inclusion of the amounts includible as dividends under section 555 (b) (relating to the inclusion in gross income of a foreign personal holding company of its distributive share of the undistributed foreign personal holding company income of another company in which it is a shareholder).

(3) See the regulations under section 170 (b) (1) (A) and (B) with respect to the charitable contributions to which the 10-percent limitation is applicable and the charitable contributions to which the 20-percent limitation is applicable.

(4) In some cases, a deduction in excess of the 5-percent limitation may be allowed for one taxable year under section 556 (b) (2) for purposes of computing the undistributed foreign personal holding company income only, and may also be allowed as a deduction in computing taxable income for a subsequent taxable year under the carryover provisions of section 170 (b) (2). To the extent that the charitable contributions carried over from a previous year have already been deducted for purposes of determining undistributed foreign personal holding company income in the year when the charitable contributions were made, they may not be deducted again as part of the contribution carryover deduction, for purposes of determining undistributed foreign personal holding company income for a subsequent year. However, this adjustment is only for purposes of computing the undistributed foreign personal holding company income, and the carryover in such case is allowable in computing taxable income.

(c) *Special deductions disallowed.* Part VIII of subchapter B of chapter 1 allows corporations special deductions in computing taxable income for such matters as partially tax-exempt interest, certain dividends received, dividends paid on certain preferred stock of public utilities, organizational expenses, etc. See

section 241. Such special deductions, except the deduction provided by section 242 (relating to partially tax-exempt interest) and the deduction provided by section 248 (relating to organizational expenses), shall be disallowed in computing undistributed foreign personal holding company income.

(d) *Net operating loss.* The net operating loss deduction provided in section 172 is not allowed for purposes of the computation of undistributed foreign personal holding company income; however, there is allowed as a deduction for such purposes the amount of the net operating loss (as defined in section 172 (c)) for the preceding taxable year.

(e) *Expenses and depreciation applicable to property of the corporation.* (1) Section 556 (b) (5) provides a specific limitation in computing undistributed foreign personal holding company income, with respect to the allowance of deductions for trade or business expenses and depreciation which are allocable to the operation and maintenance of property owned or operated by a foreign personal holding company. Under this limitation these deductions shall not be allowed in excess of the aggregate amount of the rent or other compensation received for the use of, or the right to use, the property, unless it is established to the satisfaction of the Commissioner—

(i) That the rent or other compensation received was the highest obtainable, or if none was received, that none was obtainable;

(ii) That the property was held in the course of a business carried on bona fide for profit; and

(iii) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

(2) The burden of proof will rest upon the taxpayer to sustain the deduction claimed. If a United States shareholder, in computing his distributive share of undistributed foreign personal holding company income to be included in gross income in his individual return (see section 551, and §§ 1.551–1 and 1.551–2), claims deductions for expenses and depreciation allocable to the operation and maintenance of property owned or operated by the company, in an aggregate amount in excess of the rent or other compensation received for the use of, or the right to use, the property, he shall attach to his income tax return a statement setting forth his claim for allowance of the additional deductions, together with a complete statement of the facts and circumstances pertinent to his claim and the arguments on which he relies. Such statement shall set forth—

(i) A description of the property;

(ii) The cost or other basis to the corporation and the nature and value of the consideration paid for the property;

(iii) The name and address of the person from whom the property was acquired and the date the property was acquired;

(iv) The name and address of the person to whom the property is leased or rented, or the person permitted to use the property, and the number of shares of stock, if any, held by such person and the members of his family;

(v) The nature and gross amount of the rent or other compensation received for the use of, or the right to use, the property during the taxable year and for each of the five preceding years and the amount of the expenses incurred with respect to, and the depreciation sustained on, the property for such years;

(vi) Evidence that the rent or other compensation was the highest obtainable, or, if none was received, a statement of the reasons therefor;

(vii) A copy of the contract, lease or rental agreement;

(viii) The purpose for which the property was used;

(ix) The business carried on by the corporation with respect to which the property was held and the gross income, expenses, and taxable income derived from the conduct of such business for the taxable year and for each of the five preceding years;

(x) A statement of any reasons which existed for expectation that the operation of the property would be profitable, or a statement of the necessity for the use of the property in the business of the corporation, and the reasons why the property was acquired; and

(xi) Any other information pertinent to the taxpayer's claim.

(f) *Taxes and contributions to pension trusts.* Section 164 (e) provides for deduction by a corporation for taxes of a shareholder paid by it; section 404 provides for deduction by an employer for its contributions to an employees' trust, etc. For the purpose of computing undistributed foreign personal holding company income, neither of these deductions is allowable.

§ 1.556–3 *Illustration of computation of undistributed foreign personal holding company income.* The method of computation of the undistributed foreign personal holding company income may be illustrated by the following example:

Example. (a) The following facts exist with respect to the M Corporation, a foreign personal holding company, for the calendar year 1954:

(1) The gross income of the corporation as defined in section 555 amounts to $300,000, of which $85,000 represents its distributive share of the undistributed foreign personal holding company income of another foreign personal holding company in which it is a shareholder, $200,000 consists of dividends, $10,000 consists of fully taxable interest, and the remainder ($5,000) consists of rent received from the principal shareholder of the corporation for the use of property owned by the corporation.

(2) The expenses of the corporation amount to $85,000, of which $75,000 is allocable to the maintenance and operation of the property used by the principal shareholder and $10,000 consists of ordinary and necessary office expenses allowable as a deduction. The claim for deduction for the expenses of, and depreciation on, the rented property in excess of the rent received for its use is not established as provided in section 556 (b) (5). The yearly depreciation on the rented property amounts to $30,000.

(3) Federal income tax withheld at the source on the income of the corporation from sources within the United States amounts to $59,125.

(4) No gain from the sale or exchange of stock or securities is realized during the taxable year, but losses in the amount of $10,000 are sustained from the sale of stock or securities which constitute capital assets. Such losses are not allowed as a deduction in any amount. See section 1211 (a).

(5) Contributions, payment of which is made to or for the use of donees described in section 170 (b) (1) (A) for the purposes therein specified, amount to $15,000, of which $5,000 is deductible in computing taxable income under section 63.

(6) Dividends paid by the corporation to its shareholders during the taxable year amount to $50,000.

(b) The taxable income of the corporation (including the distributive share of the undistributed foreign personal holding company income of the other foreign personal holding company) is $180,000, computed as follows (assuming for the purposes of this example only that the expenses of, and depreciation on, the rental property are deductible under sections 162 and 167):

Income (Section 61)

Dividends	$200,000
Interest	10,000
Rent	5,000
Gross income as defined in section 61	215,000
Add: Distributive share of undistributed income of the other foreign personal holding company (considered as a dividend)	85,000
Gross income as defined in section 555	300,000

Deductions (Section 161)

Expenses allocable to operation of the rented property	$75,000
Depreciation of the rented property	30,000
Ordinary and necessary expenses (office)	10,000
Contributions (within the 5-percent limitation specified in section 170 (b) (2))	$5,000
	120,000
Taxable income for purposes of computing undistributed foreign personal holding company income	180,000

(c) The undistributed foreign personal holding company income of the corporation is $160,875, computed as follows:

Taxable income for purposes of computing undistributed foreign personal holding company income	$180,000
Add (see section 556 (b)): Contributions deductible in computing taxable income under section 63	5,000
Excess property expenses and depreciation over amount of rent received for use of property ($105,000 − $5,000)	100,000
Total	105,000
Deduct (see section 556 (b)): Federal income taxes	59,125
Contributions (within the percentage limitations specified in section 170 (b) (1) (A) and (B), determined under the rules provided in section 556 (b) (2))	15,000
Total	74,125

Net additions under section 556 (b)	$30,875
Taxable income, as adjusted under section 556 (b)	210,875
Less: Deduction for dividends paid (see section 561)	50,000
Undistributed foreign personal holding company income	160,875

§ 1.557 *Statutory provisions; income not placed on annual basis.*

SEC. 557. *Income not placed on annual basis.* Section 443 (b) (relating to computation of tax on change of annual accounting period) shall not apply in the computation of the undistributed foreign personal holding company income under section 556.

DEDUCTION FOR DIVIDENDS PAID

§ 1.561 *Statutory provisions; definition of deduction for dividends paid.*

SEC. 561. *Definition of deduction for dividends paid*—(a) *General rule.* The deduction for dividends paid shall be the sum of—

(1) The dividends paid during the taxable year,

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

(3) In the case of a personal holding company, the dividend carryover described in section 564.

(b) *Special rules applicable.* In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable.

§ 1.561–1 *Deduction for dividends paid.* (a) The deduction for dividends paid is applicable in determining accumulated taxable income under section 535, undistributed personal holding company income under section 545, undistributed foreign personal holding company income under section 556, and investment company taxable income under section 852. The deduction for dividends paid includes—

(1) The dividends paid during the taxable year;

(2) The consent dividends for the taxable year, determined as provided in section 565; and

(3) In the case of a personal holding company, the dividend carryover computed as provided in section 564.

(b) For dividends for which the dividends paid deduction is allowable, see section 562 and § 1.562–1. As to when dividends are considered paid, see § 1.561–2.

§ 1.561–2 *When dividends are considered paid*—(a) *In general.* (1) A dividend will be considered as paid when it is received by the shareholder. A deduction for dividends paid during the taxable year will not be permitted unless the shareholder receives the dividend during the taxable year for which the deduction is claimed. See section 563 for special rule with respect to dividends paid after the close of the taxable year.

(2) If a dividend is paid by check and the check bearing a date within the taxable year is deposited in the mails, in a cover properly stamped and addressed to the shareholder at his last known address, at such time that in the ordinary handling of the mails the check would be received by the shareholder within the taxable year, a presumption arises that the dividend was paid to the shareholder in such year.

(3) The payment of a dividend during the taxable year to the authorized agent of the shareholder will be deemed payment of the dividend to the shareholder during such year.

(4) If a corporation, instead of paying the dividend directly to the shareholder, credits the account of the shareholder on the books of the corporation with the amount of the dividend, the deduction for a dividend paid will not be permitted unless it be shown to the satisfaction of the Commissioner that such crediting constituted payment of the dividend to the shareholder within the taxable year.

(5) A deduction will not be permitted for the amount of a dividend credited during the taxable year upon an obligation of the shareholder to the corporation unless it is shown to the satisfaction of the Commissioner that such crediting constituted payment of the dividend to the shareholder within the taxable year.

(6) If the dividend is payable in obligations of the corporation, they should be entered or registered in the taxable year on the books of the corporation, in the name of the shareholder (or his nominee or transferee), and, in the case of obligations payable to bearer, should be received in the taxable year by the shareholder (or his nominee or transferee) to constitute payment of the dividend within the taxable year.

(7) In the case of a dividend from which the tax has been deducted and withheld as required by chapter 3 of the Internal Revenue Code of 1954 (sections 1441–1443) the dividend is considered as paid when such deducting and withholding occur.

(b) *Methods of accounting.* The determination of whether a dividend has been paid to the shareholder by the corporation during its taxable year is in no way dependent upon the method of accounting regularly employed by the corporation in keeping its books or upon the method of accounting upon the basis of which the taxable income of the corporation is computed.

(c) *Records.* Every corporation claiming a deduction for dividends paid shall keep such permanent records as are necessary (1) to establish that the dividends with respect to which such deduction is claimed were actually paid during the taxable year and (2) to supply the information required to be filed with the income tax return of the corporation. Such corporation shall file with its return (i) a copy of the dividend resolution; and (ii) a concise statement of the pertinent facts relating to the payment of the dividend, clearly specifying (*a*) the medium of payment and (*b*) if not paid in money, the fair market value and adjusted basis (or face value, if paid in its own obligations) on the date of distribution of the property distributed and the manner in which such fair market value and adjusted basis were determined. Canceled dividend checks and receipts obtained from shareholders acknowledging payment of dividends paid otherwise than by check need not be filed with the return but shall be kept by the corporation as a part of its records.

§ 1.562 *Statutory provisions; rules applicable in determining dividends eligible for dividends paid deduction.*

SEC. 562. *Rules applicable in determining dividends eligible for dividends paid deduction*—(a) *General rule.* For purposes of this part, the term "dividend" shall, except as otherwise provided in this section, include only dividends described in section 316 (relating to definition of dividends for purposes of corporate distributions).

(b) *Distributions in liquidation.* In the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction. In the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.

(c) *Preferential dividends.* The amount of any distribution shall not be considered as a dividend for purposes of computing the dividends paid deduction, unless such distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class, and with no preference to one class of stock as compared with another class except to the extent that the former is entitled (without reference to waivers of their rights by shareholders) to such preference.

(d) *Distributions by a member of an affiliated group.* In the case where a corporation which is a member of an affiliated group of corporations filing or required to file a consolidated return for a taxable year is required to file a separate personal holding company schedule for such taxable year, a distribution by such corporation to another member of the affiliated group shall be considered as a dividend for purposes of computing the dividends paid deduction if such distribution would constitute a dividend under the other provisions of this section to a recipient which is not a member of an affiliated group.

§ 1.562–1 *Dividends for which the dividends paid deduction is allowable*—(a) *General rule.* Except as otherwise provided in section 562 (b) and (d), the term "dividend", for purposes of determining dividends eligible for the dividends paid deduction, refers only to a dividend described in section 316 (relating to definition of dividends for purposes of corporate distributions). No distribution, however, which is preferential within the meaning of section 562 (c) and § 1.562–2 shall be eligible for the dividends paid deduction. Further, for purposes of the dividends paid deduction, the term "dividend" does not include a distribution in liquidation unless the distribution qualifies under section 562 (b) and paragraph (b) of this section. If a dividend is paid in property (other than money) the amount of the dividend paid deduction with respect to such property shall be the adjusted basis of the property in the hands of the distributing corporation at the time of the distribution. See paragraph (c) of this

section for a special rule for personal holding companies. Also see section 563 for special rules with respect to dividends paid after the close of the taxable year.

(b) *Distributions in liquidation*—(1) *Distributions in liquidation for which the dividends paid deduction is allowable.* In the case of amounts distributed in liquidation section 562 (b) makes an exception to the general rule that a deduction for dividends paid is permitted only with respect to dividends described in section 316. In order to qualify under that exception, the distribution must be one either in complete or partial liquidation of a corporation pursuant to sections 331, 332, or 333. As provided by section 346 (a), for the purposes of section 562 (b), a partial liquidation includes a redemption of stock to which section 302 applies. Amounts distributed in liquidation in a transaction which is preceded, or followed, by a transfer to another corporation of all or part of the assets of the liquidating corporation, may not be eligible for the dividends paid deduction.

(2) *Amount of dividends paid deduction allowable*—(i) *General rule.* In the case of distributions in liquidation with respect to which a deduction for dividends paid is permissible under subparagraph (1) of this paragraph, the amount of the deduction is equal to the part of such distribution which is properly chargeable to the earnings or profits accumulated after February 28, 1913. To determine the amount properly chargeable to the earnings or profits accumulated after February 28, 1913, there must be deducted from the amount of the distribution that part allocable to capital account. The capital account, for the purposes of this subparagraph, includes not only amounts representing the par or stated value of the stock with respect to which the liquidation distribution is made, but also that stock's proper share of the paid-in surplus, and such other corporate items, if any, which for purposes of income taxation, are treated like capital in that they are not taxable dividends when distributed but are applied against and reduce the basis of the stock. The remainder of the distribution in liquidation is, ordinarily, properly chargeable to the earnings or profits accumulated after February 28, 1913. Thus, if there is a deficit in earnings and profits on the first day of a taxable year, and the earnings and profits for such taxable year do not exceed such deficit, no dividends paid deduction would be allowed for such taxable year with respect to a distribution in liquidaton; if the earnings and profits for such taxable year exceed the deficit in earnings and profits which existed on the first day of such taxable year, then a dividends paid deduction would be allowable to the extent of such excess.

(ii) *Special rule.* Section 562 (b) provides that in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation the amount of the deduction is equal to the earnings and profits for each taxable year in which distributions are made. Thus, if there is a distribution in liquidation pursuant to section 333, or a distribution in complete liquidation pursuant to sections 331 (a) (1) or 332 which occurs within a 24-month period after the adoption of a plan of liquidation, a dividends paid deduction will be allowable to the extent of the current earnings and profits for the taxable year or years even though there was a deficit in earnings and profits on the first day of such taxable year or years. In computing the earnings and profits for the taxable year in which the distributions are made, computation shall be made with the inclusion of capital gains and without any deduction for capital losses.

(iii) *Examples.* The application of this subparagraph may be illustrated by the following examples:

Example (1). The Y Corporation, which makes its income tax returns on the calendar year basis, was organized on January 1, 1910, with an authorized and outstanding capital stock of 2,000 shares of common stock of a par value of $100 each and 1,000 shares of participating preferred stock of a par value of $100 each. The preferred stock was to receive annual dividends of $7 per share and $100 per share on complete liquidation of the corporation in priority to any payments on common stock, and was to participate equally with the common stock in either instance after the common stock had received a similar amount. However, the preferred stock was redeemable in whole or in part at the option of the board of directors at any time at $106 per share plus its proportion of the earnings of the company at the time of such redemption. In 1910 the preferred stock was issued at $106 per share, for a total of $106,000 and the common stock was issued, at $100 per share, for a total of $200,000. On July 15, 1954, the company had a paid-in surplus of $6,000, consisting of the premium received on the preferred stock; earnings or profits of $30,000 accumulated prior to March 1, 1913; and earnings or profits accumulated since February 28, 1913, of $75,000. On July 15, 1954, the option with respect to the preferred stock was exercised and the entire amount of such stock was redeemed at $141 per share or a total of $141,000 in a transaction upon which gain or loss to the distributees resulting from the exchange was determined and recognized under section 302 (a). The amount of the distribution allocable to capital account was $116,000 ($100,000 attributable to par value, $6,000 attributable to paid-in surplus, and $10,000 attributable to earnings or profits accumulated prior to March 1, 1913). The remainder, $25,000 ($141,000, the amount of the distribution, less $116,000, the amount allocable to capital account) is properly chargeable to the earnings or profits accumulated since February 28, 1913, and is deductible as dividends paid.

Example (2). The M Corporation, a calendar year taxpayer, is completely liquidated on November 1, 1955, pursuant to a plan of liquidation adopted April 1, 1955. On January 1, 1955, the M Corporation has a deficit in earnings and profits of $100,000. During the period January 1, 1955, to the date of liquidation, November 1, 1955, it has earnings and profits of $10,000. The M Corporation is entitled to a dividends paid deduction in the amount of $10,000 as a result of its distribution in complete liquidation on November 1, 1955.

Example (3). The N Corporation, a calendar year taxpayer, is completely liquidated on July 1, 1958, pursuant to a plan of liquidation adopted February 1, 1955. No distributions in liquidation were made pursuant to the plan of liquidation adopted February 1, 1955, until the distribution in complete liquidation on July 1, 1958. On January 1, 1958, N Corporation had a deficit in earnings and profits of $30,000. During the period January 1, 1958, to the date of liquidation, on July 1, 1958, the N Corporation has earnings and profits of $5,000. The N Corporation is not entitled to any deduction for dividends paid as a result of the distribution in complete liquidation on July 1, 1958. If the earnings and profits for the period January 1, 1958, to July 1, 1958, had been $32,000, the N Corporation would have been entitled to a deduction for dividends paid in the amount of $2,000.

(c) *Special rule for personal holding companies.* Section 316 (b) (2) provides that in the case of a corporation which, under the law applicable to the taxable year in which a distribution is made, is a personal holding company, the term "dividend" (in addition to the general meaning set forth in section 316 (a)) also means a distribution to its shareholders to the extent of the corporation's undistributed personal holding company income (determined under section 545 without regard to such distributions) for the taxable year in which the distribution was made. See paragraph (b) of § 1.316–1.

§ 1.562–2 *Preferential dividends.* (a) Section 562 (c) imposes a limitation upon the general rule that a corporation is entitled to a deduction for dividends paid with respect to all dividends which it actually pays during the taxable year. Before a corporation may be entitled to any such deduction with respect to a distribution regardless of the medium in which the distribution is made, every shareholder of the class of stock with respect to which the distribution is made must be treated the same as every other shareholder of that class, and no class of stock may be treated otherwise than in accordance with its dividend rights as a class. The limitation imposed by section 562 (c) is unqualified, except in the case of an actual distribution made in connection with a consent distribution (see section 565), if the entire distribution composed of such actual distribution and consent distribution is not preferential. The existence of a preference is sufficient to prohibit the deduction regardless of the fact (1) that such preference is authorized by all the shareholders of the corporation or (2) that the part of the distribution received by the shareholder benefited by the preference is taxable to him as a dividend. A corporation will not be entitled to a deduction for dividends paid with respect to any distribution upon a class of stock if there is distributed to any shareholder of such class (in proportion to the number of shares held by him) more or less than his pro rata part of the distribution as compared with the distribution made to any other shareholder of the same class. Nor will a corporation be entitled to a deduction for dividends paid in the case of any distribution upon a class of stock if there is distributed upon such class of stock more or less than the amount to which it is entitled as compared with any other class of stock. A preference exists if any rights to preference inherent in any class of stock are violated. The disallowance, where any preference in fact exists, extends to the entire amount of the distribution and not merely to a part of such distribution. As used in this section, the

term "distribution" includes a dividend as defined in subchapter C of chapter 1 and a distribution in liquidation referred to in section 562 (b).

(b) The application of the provisions of section 562 (c) may be illustrated by the following examples:

Example (1). A, B, C, and D are the owners of all the shares of class A common stock in the M Corporation, which makes its income tax returns on a calendar year basis. With the consent of all the shareholders, the M Corporation on July 15, 1954, declared a dividend of $5 a share payable in cash on August 1, 1954, to A. On September 15, 1954, it declared a dividend of $5 a share payable in cash on October 1, 1954, to B, C, and D. No allowance for dividends paid for the taxable year 1954 is permitted to the M Corporation with respect to any part of the dividends paid on August 1, 1954, and October 1, 1954.

Example (2). The N Corporation, which makes its income tax returns on the calendar year basis, has a capital of $100,000 (consisting of 1,000 shares of common stock of a par value of $100) and earnings or profits accumulated after February 28, 1913, in the amount of $50,000. In the year 1954, the N Corporation distributes $7,500 in cancellation of 50 shares of the stock owned by three of the four shareholders of the corporation. No deduction for dividends paid is permissible under section 562 (c) and paragraph (a) of this section with respect to such distribution.

Example (3). The P Corporation has two classes of stock outstanding, 10 shares of cumulative preferred, owned by E, entitled to $5 per share and on which no dividends have been paid for two years, and 10 shares of common, owned by F. On December 31, 1954, the corporation distributes a dividend of $125, $50 to E, and $75 to F. The corporation is entitled to no deduction for any part of such dividend paid, since there has been a preference to F. If, however, the corporation had distributed $100 to E and $25 to F, it would have been entitled to include $125 as a dividend paid deduction.

§ 1.562–3 *Distributions by a member of an affiliated group.* A personal holding company which files or is required to file a consolidated return with other members of an affiliated group may be required to file a separate personal holding company schedule by reason of the limitations and exceptions provided in section 542 (b) and § 1.542–4. Section 562 (d) provides that in such case the dividends paid deduction shall be allowed to the personal holding company, with respect to a distribution made to any member of the affiliated group, if such distribution would constitute a dividend if it were made to a shareholder which is not a member of the affiliated group.

§ 1.563 *Statutory provisions; rules relating to dividends paid after close of taxable year.*

SEC. 563. *Rules relating to dividends paid after close of taxable year*—(a) *Accumulated earnings tax.* In the determination of the dividends paid deduction for purposes of the accumulated earnings tax imposed by section 531, a dividend paid after the close of any taxable year and on or before the 15th day of the third month following the close of such taxable year shall be considered as paid during such taxable year.

(b) *Personal holding company tax.* In the determination of the dividends paid deduction for purposes of the personal holding company tax imposed by section 541, a dividend paid after the close of any taxable year and on or before the 15th day of the third month following the close of such taxable year shall, to the extent the taxpayer elects in its return for the taxable year, be considered as paid during such taxable year. The amount allowed as a dividend by reason of the application of this subsection with respect to any taxable year shall not exceed either—

(1) The undistributed personal holding company income of the corporation for the taxable year, computed without regard to this subsection, or

(2) 10 percent of the sum of the dividends paid during the taxable year, computed without regard to this subsection.

(c) *Dividends considered as paid on last day of taxable year.* For the purpose of applying section 562 (a), with respect to distributions under subsection (a) or (b) of this section, a distribution made after the close of a taxable year and on or before the 15th day of the third month following the close of the taxable year shall be considered as made on the last day of such taxable year.

§ 1.563–1 *Accumulated earnings tax.* In the determination of the dividends paid deduction for purposes of the accumulated earnings tax imposed by section 531, a dividend paid after the close of any taxable year and on or before the 15th day of the third month following the close of such taxable year shall be considered as paid during such taxable year, and shall not be included in the computation of the dividends paid deduction for the year of payment. However, the rule provided in section 563 (a) is not applicable to dividends paid during the first two and one-half months of the first taxable year of the corporation subject to tax under chapter 1 of the Internal Revenue Code of 1954.

§ 1.563–2 *Personal holding company tax.* In the case of a personal holding company subject to the provisions of section 541 dividends paid after the close of the taxable year and before the 15th day of the third month thereafter shall be included in the computation of the dividends paid deduction for the taxable year only if the taxpayer so elects in its return for such taxable year. The election shall be made by including such dividends in computing its dividends paid deduction. The amount of such dividends which may be included in computing the dividends paid deduction for the taxable year shall not exceed either—

(a) The undistributed personal holding company income of the corporation for the taxable year, computed without regard to this section, or

(b) 10 percent of the sum of the dividends paid during the taxable year (not including consent dividends), computed without regard to this section. In computing the amount of the dividends paid deduction allowable for any taxable year, the amount allowed by reason of section 563 (b) for any preceding taxable year is considered a dividend paid in such preceding taxable year and not in the year of actual distribution. Thus, a double deduction is not allowable.

§ 1.563–3 *Dividends considered as paid on last day of taxable year*—(a) *General rule.* Where a distribution made after the close of the taxable year is considered as paid during such taxable year, for purposes of applying section 562 (a) the distribution shall be considered as made on the last day of such taxable year.

(b) *Personal holding company tax.* In the case of a corporation which under the law applicable to the taxable year in respect of which a distribution is made under section 563 (b) and § 1.563–2 is a personal holding company under the law applicable to such taxable year, section 316 (b) (2) provides that the term dividend means (in addition to the general rule under section 316 (a)) any distribution to the extent of the corporation's undistributed personal holding company income (determined under section 545 without regard to distributions under section 316 (b) (2)) for such year. See paragraph (b) of § 1.316–1.

(c) *Dividends paid on or before December 15, 1955.* Public Law 74 (84th Congress) approved June 15, 1955, repealed sections 452 and 462 of the Internal Revenue Code of 1954, relating to prepaid income and reserve for estimated expenses. Under section 4 (c) (4) of Public Law 74, dividends paid after the 15th day of the third month following the close of the taxable year and on or before December 15, 1955, may be treated as having been paid on the last day of the taxable year for purposes of the accumulated earnings tax or the personal holding company tax and in the case of regulated investment companies, but only to the extent that such dividends are attributable to an increase in taxable income for the taxable year by reason of the repeal of sections 452 and 462. See paragraph (b) of § 1.9000–8, relating to treatment of certain dividends, prescribed pursuant to section 4 (c) (4) of the Act of June 15, 1955 (Public Law 74, 84th Congress, 69 Stat. 136).

§ 1.564 *Statutory provisions; dividend carryover.*

SEC. 564. *Dividend carryover*—(a) *General rule.* For purposes of computing the dividends paid deduction under section 561, in the case of a personal holding company the dividend carryover for any taxable year shall be the dividend carryover to such taxable year, computed as provided in subsection (b), from the two preceding taxable years.

(b) *Computation of dividend carryover.* The dividend carryover to the taxable year shall be determined as follows:

(1) For each of the 2 preceding taxable years there shall be determined the taxable income computed with the adjustments provided in section 545 (whether or not the taxpayer was a personal holding company for either of such preceding taxable years), and there shall also be determined for each such year the deduction for dividends paid during such year as provided in section 561 (but determined without regard to the dividend carryover to such year).

(2) There shall be determined for each such taxable year whether there is an excess of such taxable income over such deduction for dividends paid or an excess of such deduction for dividends paid over such taxable income, and the amount of each such excess.

(3) If there is an excess of such deductions for dividends paid over such taxable income for the first preceding taxable year, such excess shall be allowed as a dividend carryover to the taxable year.

(4) If there is an excess of such deduction for dividends paid over such taxable income for the second preceding taxable year, such excess shall be reduced by the amount determined in paragraph (5), and the remainder

of such excess shall be allowed as a dividend carryover to the taxable year.

(5) The amount of the reduction specified in paragraph (4) shall be the amount of the excess of the taxable income, if any, for the first preceding taxable year over such deduction for dividends paid, if any, for the first preceding taxable year.

(c) *Determination of dividend carryover from taxable years to which this subtitle does not apply.* In a case where the first or second preceding taxable year began before the taxpayer's first taxable year under this subtitle, the amount of the dividend carryover to taxable years to which this subtitle applies shall be determined under the provisions of the Internal Revenue Code of 1939.

§ 1.564–1 *Dividend carryover*—(a) *General rule.* The dividend carryover from the two preceding years, allowable only to personal holding companies, is includible in the dividends paid deduction under section 561. It is computed as follows:

(1) If, for each of the preceding two years, the deduction for dividends paid under section 561 (determined without regard to the dividend carryover to each such year) exceeds the taxable income (adjusted as provided in section 545 for purposes of determining undistributed personal holding company income) then the dividend carryover to the taxable year is the sum of both such excess amounts.

(2) If the deduction for dividends paid under section 561 for the second preceding year (determined without regard to the dividend carryover to such year) exceeds the taxable income for such year (adjusted as provided in section 545), and if the taxable income for the first preceding year (as so adjusted) exceeds the dividends paid deduction for such first preceding year (as so determined), then the dividend carryover to the taxable year shall be such excess amount for the second preceding year, less such excess amount for the first preceding year.

(3) If for the first preceding year the deduction for dividends paid under section 561 (determined without regard to the dividend carryover to such year) exceeds the taxable income (adjusted as provided in section 545) for such year, and such excess is not present in the second preceding year, then the dividend carryover to the taxable year shall be such excess amount for the first preceding year.

(b) *Dividend carryover from year in which taxpayer was not a personal holding company.* In computing the dividend carryover, the taxable income as adjusted under section 545 of any preceding taxable year shall be determined as if the corporation was, under the law applicable to such taxable year, a personal holding company.

(c) *Dividend carryover from year in which taxpayer was subject to 1939 Code.* In a case where the first or the second preceding taxable year began before the taxpayer's first taxable year under the Internal Revenue Code of 1954, the amount of the dividend carryover shall be determined under the Internal Revenue Code of 1939.

(d) *Statement to be filed with return.* Every corporation claiming a dividend carryover for any taxable year shall file with its return for such year a concise statement setting forth the amount of the dividend carryover claimed and all material and pertinent facts relative thereto, including a detailed schedule showing the computation of the dividend carryover claimed.

(e) *Computation of dividend carryover.* The computation of the dividend carryover may be illustrated by the following examples:

Example (1). The X Corporation, which files its income tax returns on the calendar year basis, has taxable income, adjusted as required by section 545, in the amount of $110,000 and has a dividends paid deduction of $150,000 for the year 1954. For 1955, its taxable income, adjusted as required by section 545, is $200,000 and its dividends paid deduction is $300,000. The dividend carryover to the year 1956 is $140,000, computed as follows:

Dividends paid deduction for 1954	$150,000
Taxable income for 1954	110,000
Dividend carryover from 1954	40,000
Dividends paid deduction for 1955	300,000
Taxable income for 1955	200,000
Dividend carryover from 1955	100,000
Dividend carryover for 2 preceding taxable years, allowable as a deduction for the year 1956	140,000

Example (2). The Y Corporation, which files its income tax returns on the calendar year basis, has taxable income, adjusted as required by section 545, in the amount of $100,000 and has a dividends paid deduction of $150,000 for the year 1954. For 1955, its taxable income, adjusted as required by section 545, is $200,000 and its dividends paid deduction is $170,000. The dividend carryover to the year 1956 is $20,00 computed as follows:

Dividends paid deduction for 1954	$150,000
Taxable income for 1954	100,000
Dividend carryover from 1954	50,000
Taxable income for 1955	200,000
Dividends paid deduction for 1955	170,000
Excess of taxable income over dividends paid deduction	30,000
Dividend carryover for second preceding taxable year, allowable as a deduction for the year 1956	20,000

§ 1.565 *Statutory provisions; consent dividends.*

SEC. 565. *Consent dividends*—(a) *General rule.* If any person owns consent stock (as defined in subsection (f) (1)) in a corporation on the last day of the taxable year of such corporation, and such person agrees, in a consent filed with the return of such corporation in accordance with regulations prescribed by the Secretary or his delegate, to treat as a dividend the amount specified in such consent, the amount so specified shall, except as provided in subsection (b), constitute a consent dividend for purposes of section 561 (relating to the deduction for dividends paid).

(b) *Limitations.* A consent dividend shall not include—

(1) An amount specified in a consent which, if distributed in money, would constitute, or be part of, a distribution which would be disqualified for purposes of the dividends paid deduction under section 562 (c) (relating to preferential dividends), or

(2) An amount specified in a consent which would not constitute a dividend (as defined in section 316) if the total amounts specified in consents filed by the corporation had been distributed in money to shareholders on the last day of the taxable year of such corporation.

(c) *Effect of consent.* The amount of a consent dividend shall be considered, for purposes of this title—

(1) As distributed in money by the corporation to the shareholder on the last day of the taxable year of the corporation, and

(2) As contributed to the capital of the corporation by the shareholder on such day.

(d) *Consent dividends and other distributions.* If a distribution by a corporation consists in part of consent dividends and in part of money or other property, the entire amount specified in the consents and the amount of such money or other property shall be considered together for purposes of applying this title.

(e) *Nonresident aliens and foreign corporations.* In the case of a consent dividend which, if paid in money would be subject to the provisions of section 1441 (relating to withholding of tax on nonresident aliens) or section 1442 (relating to withholding of tax on foreign corporations), this section shall not apply unless the consent is accompanied by money, or such other medium of payment as the Secretary or his delegate may by regulations authorize, in an amount equal to the amount that would be required to be deducted and withheld under sections 1441 or 1442 if the consent dividend had been, on the last day of the taxable year of the corporation, paid to the shareholder in money as a dividend. The amount accompanying the consent shall be credited against the tax imposed by this subtitle on the shareholder.

(f) *Definitions*—(1) *Consent stock.* Consent stock, for purposes of this section, means the class or classes of stock entitled, after the payment of preferred dividends, to a share in the distribution (other than in complete or partial liquidation) within the taxable year of all the remaining earnings and profits, which share constitutes the same proportion of such distribution regardless of the amount of such distribution.

(2) *Preferred dividends.* Preferred dividends, for purposes of this section, means a distribution (other than in complete or partial liquidation), limited in amount, which must be made on any class of stock before a further distribution (other than in complete or partial liquidation) of earnings and profits may be made within the taxable year.

§ 1.565–1 *General rule.* (a) The dividends paid deduction, as defined in section 561, includes the consent dividends for the taxable year. A consent dividend is a hypothetical distribution (as distinguished from an actual distribution) which any person, who owns consent stock on the last day of the taxable year of the corporation, agrees to treat as a dividend, subject to the limitations in section 565 (b) and § 1.565–2. The amount of the distribution must be specified by such person in a consent (or consents) filed at the time and in the manner specified in paragraph (b) of this section.

(b) *Making and filing of consents.* (1) A consent shall be made on Form 972 in accordance with this section and the instructions on the form issued therewith. It may be made only by or on behalf of a person who was the actual owner on the last day of the corporation's taxable year of any class of consent stock, that is, the person who would have been required to include in gross income any dividends on such stock actually distrib-

uted on the last day of such year. Form 972 shall contain or be verified by a written declaration that it is made under the penalties of perjury. In the consent such person must agree to include in his gross income for his taxable year in which or with which the taxable year of the corporation ends a specific amount as a taxable dividend.

(2) See § 1.565–2 for rules as to when all or a portion of the amount so specified will be disregarded for tax purposes.

(3) A consent may be filed at any time not later than the due date of the corporation's income tax return for the taxable year for which the dividends paid deduction is claimed. With such return, and not later than the due date thereof, the corporation must file Forms 972 duly executed by each consenting shareholder, and a return on Form 973 showing by classes the stock outstanding on the first and last days of the taxable year, the dividend rights of such stock, distributions made during the taxable year to shareholders, and giving all the other information required by the form. Form 973 shall contain or be verified by a written declaration that it is made under the penalties of perjury.

(c) *Taxability of amounts specified in consents.* (1) Once a shareholder's consent is filed, the full amount specified therein shall be included in his gross income as a taxable dividend, except as otherwise provided in section 565 (b) and § 1.565–2. Where the shareholder is taxable on a dividend only if received from sources within the United States, the amount specified in the consent of such shareholder shall be treated as a dividend from such sources in the same manner as if the dividend had been paid in money to the shareholder on the last day of the corporation's taxable year. See paragraph (b) of this section, relating to the making and filing of consents, and section 565 (e) and § 1.565–5, with respect to the payment requirements in the case of nonresident aliens and foreign corporations.

(2) Except as provided in section 565 (b) and § 1.565–2, the ground upon which a consent dividends deduction is denied the corporation does not affect the taxability of a shareholder whose consent has been filed for the amount specified in his consent. Thus, he is taxable on the full amount so specified even though a consent dividends deduction may be denied the corporation or may be of less value to it because, for example, (i) it is determined that it is not a corporation subject to part I, II, or III of subchapter G of chapter 1 of the Internal Revenue Code of 1954, (ii) although subject to part II of subchapter G of the 1954 Code, its taxable income (as adjusted under section 545 (b) and § 1.545–2) is less than the total of the consent dividends, or (iii) in the case of nonresident aliens or foreign corporations, payment has not been made as required by section 565 (e) and § 1.565–5.

§ 1.565–2 *Limitations.* (a) Amounts specified in consents are not treated as consent dividends to the extent that they would constitute a preferential dividend, or would not constitute a dividend (as defined in section 316), if distributed in money to shareholders on the last day of the taxable year of the corporation. If any portion of an amount specified in a consent is not treated as a consent dividend under section 565 (b) and this section, it is disregarded for all tax purposes. For example, it is not taxable to the consenting shareholder, and paragraph (c) of § 1.565–1 is not applicable to such portion of the amount specified in the consent.

(b) (1) A preferential distribution is an actual distribution, or a consent distribution, or a combination of the two, which involves a preference to one or more shares of stock as compared with other shares of the same class or to one class of stock as compared with any other class of stock. See section 562 (c) and § 1.562–2.

(2) The application of section 565 (b) (1) may be illustrated by the following examples:

Example (1). The X Corporation, which makes its income tax returns on the calendar year basis, has 200 shares of stock outstanding, owned by A and B in equal amounts. On December 15, 1954, the corporation distributes $600 to B and $100 to A. As a part of the same distribution A executes a consent to include $500 in his gross income as a taxable dividend though such amount is not distributed to him. The X Corporation, assuming the other requirements of section 565 have been complied with, is entitled to a consent dividends deduction of $500. Although the consent dividend is deemed to have been paid on December 31, 1954, the last day of the taxable year of the corporation, they constitute a single nonpreferential distribution of $1,200.

Example (2). The Y Corporation, which makes its income tax returns on the calendar year basis, has one class of consent stock outstanding, owned in equal amounts by A, B, and C. On December 15, 1954, the corporation makes a distribution in cash of $5,000 each to A and B, and $3,000 to C. The distribution is preferential. If A and B each receive a distribution in cash of $5,000 and C consents to include $3,000 in gross income as a taxable dividend, the combined actual and consent distribution is preferential. Similarly, if no one receives a distribution in cash, but A and B each consents to include $5,000 as a taxable dividend in gross income and C agrees to include only $3,000, the consent distribution is preferential.

Example (3). The Z Corporation, which makes its income tax returns on the calendar year basis, has only two classes of stock outstanding, each class being consent stock and consisting of 500 shares. Class A, with a par value of $40 per share, is entitled to two-thirds of any distribution of earnings and profits. Class B, with a par value of $20 per share, is entitled to one-third of any distribution of earnings and profits. On December 15, 1954, there is distributed on the class B stock $2 per share, or $1,000, and shareholders of the class A stock consent to include in gross income amounts equal to $2 per share, or $1,000. The distribution is preferential, inasmuch as the class B stock has received more than its pro rata share of the combined amounts of the actual distributions and the consent distributions.

(c) (1) An additional limitation under section 565 (b) is that the amounts specified in consents which may be treated as consent dividends cannot exceed the amounts which would constitute a dividend (as defined in section 316) if the corporation had distributed the total specified amounts in money to shareholders on the last day of the taxable year of the corporation. If only a portion of such total would constitute a dividend, then only a corresponding portion of each specified amount is treated as a consent dividend.

(2) The application of section 565 (b) (2) may be illustrated by the following example:

Example. The X Corporation, which makes its income tax returns on the calendar year basis, has only one class of stock outstanding, owned in equal amounts by A and B. It makes no distributions during the taxable year 1954. Its earnings and profits for the calendar year 1954 amount to $8,000, there being at the beginning of such year no accumulated earnings or profits. A and B execute proper consents to include $5,000 each in their gross income as a dividend received by them on December 31, 1954. The sum of the amount specified in the consents executed by A and B is $10,000, but if $10,000 had actually been distributed by the X Corporation on December 31, 1954, only $8,000 would have constituted a dividend under section 316 (a). The amount which could be considered as consent dividends in computing the dividends paid deduction for purposes of the accumulated earnings tax is limited to $8,000, or $4,000 of the $5,000 specified in each consent. The remaining $1,000 in each consent is disregarded for all tax purposes. In the case of a personal holding company, the amount which could be considered as consent dividends in computing the dividends paid deduction for purposes of the personal holding company tax is $10,000 (assuming that the undistributed personal holding company income, determined without regard to distributions under section 316 (b) (2), is equal to at least that amount). In that event, A and B would each include $5,000 in gross income as a dividend received on December 31, 1954.

§ 1.565–3 *Effect of consent.* (a) The amount of the consent dividend shall be considered, for all purposes of the Internal Revenue Code of 1954, as if it were distributed in money by the corporation to the shareholder on the last day of the taxable year of the corporation, received by the shareholder on such day, and immediately contributed by the shareholder as paid-in capital to the corporation on such day. Thus, the amount of the consent dividend will be treated by the shareholder as a dividend. The shareholder will be entitled to the dividends received credit under section 34 and the exclusion under section 116, or to the dividends received deduction under section 243, with respect to such consent dividend. The basis of the shareholder's consent stock in a corporation will be increased by the amount thus treated in his hands as a dividend which he is considered as having contributed to the corporation as paid-in capital. The amount of the consent dividend will also be treated as a dividend received from sources within the United States in the same manner as if the dividend had been paid in money to the shareholders. Among other effects of the consent dividend, the earnings and profits of the corporation will be decreased by the amount of the consent dividends. Moreover, if the shareholder is a corporation, its accumulated earnings and profits will be increased by the amount of the consent dividend with respect to which it makes a consent.

(b) The application of section 565 (c) to a corporate shareholder may be illustrated by the following examples:

Example (1). The A Corporation has one shareholder, the B Corporation, whose consent to include $10,000 in its gross income for the calendar year 1954 has been duly made and filed. The earnings and profits of the A Corporation for the calendar year 1954 amount to only $8,000, there being at the beginning of such year no accumulated earnings or profits. If A Corporation was a personal holding company for 1954 and had undistributed personal holding company income for that year of $10,000 or more (determined without regard to distributions under section 316 (b) (2)) the B Corporation must include $10,000 in its gross income as a taxable dividend. On the other hand, if A was not a personal holding company for 1954, the B Corporation must include in its gross income $8,000 as a taxable dividend.

Example (2). Assume the B Corporation to have begun the year 1954 with $5,000 accumulated earnings and profits, to have made no distributions during the year, and to have had neither profit nor loss from operations during the year 1954. If the A Corporation was a personal holding company for 1954, the amount of $10,000 included in the income of the B Corporation shall be considered as earnings and profits for the year 1954 and the earnings and profits of B Corporation at the close of such year will include both the $5,000 accumulated earnings and profits and the $10,000 included in income. But if A Corporation was not a personal holding company for 1954, the amount of $8,000 included in the income of the B Corporation shall be considered as earnings and profits for the year 1954 and the earnings and profits of B Corporation at the close of such year will include both the $5,000 accumulated earnings and profits and the $8,000 included in income.

§ 1.565–4 *Consent dividends and other distributions.* Section 565 (d) provides a rule applicable where a distribution is made in part in consent dividends and in part in money or other property. With respect to such a distribution the entire amount specified in the consents and the amount of such money or other property shall be considered together. Thus, if as a part of the same distribution consents are filed by some of the shareholders and cash is distributed to other shareholders, for example, those who may be unwilling to sign consents, the total amount of the cash and the amounts specified in the consents will be viewed as a single distribution to determine the tax effects of such distribution. For example, the total of such amounts must be considered to determine whether the distribution (including the amounts specified in the consents) is preferential and whether any part of such distribution would not be dividends if the total amounts specified in the consents were distributed in cash. See paragraph (b) (2) of § 1.565–2 for examples illustrating the treatment of distributions which consist in part of consent dividends and in part of other property.

§ 1.565–5 *Nonresident aliens and foreign corporations.* In the event that any consent filed by the corporation is made by a shareholder to whom the payment of a dividend in cash on the last day of the taxable year of the corporation would have made it necessary for the corporation to deduct and withhold any amount as a tax under section 1441 or section 1442, such consent, when filed by the corporation, must be accompanied by payment of the amount which would have been required to be deducted and withheld if the amount specified in such consent had, on the last day of the corporation's taxable year, been paid to the shareholder in cash as a dividend. Such payment must be in one of the following forms:

(a) Cash;

(b) United States postal money order;

(c) Certified check drawn on a domestic bank, provided that the law of the place where the bank is located does not permit the certification to be rescinded prior to presentation;

(d) A cashier's check of a domestic bank, or

(e) A draft on a domestic bank or a foreign bank maintaining a United States agency or branch and payable in United States funds.

The amount of such payment shall be credited against the tax imposed on the shareholder.

§ 1.565–6 *Definitions*—(a) *Consent stock.* (1) The term "consent stock" includes what is generally known as common stock. It also includes participating preferred stock, the participation rights of which are unlimited.

(2) The definition of consent stock may be illustrated by the following example:

Example. If in the case of the X Corporation there is only one class of stock outstanding, it would all be consent stock. If, on the other hand, there were two classes of stock, class A and class B, and class A was entitled to 6 percent before any distribution could be made on class B, but class B was entitled to everything distributed after class A had received its 6 percent, only class B stock would be consent stock. Similarly, if class A, after receiving its 6 percent, was to participate equally or in some fixed proportion with class B until it had received a second 6 percent, after which class B alone was entitled to any further distributions, only class B stock would be consent stock. The same result would follow if the order of preferences were class A 6 percent, then class B 6 percent, then class A a second 6 percent, either alone or in conjunction with class B, then class B the remainder. If, however, class A stock is entitled to ultimate participation without limit as to amount, then it, too, may be consent stock. For example, if class A is to receive 3 percent and then share equally or in some fixed proportion with class B in the remainder of the earnings or profits distributed, both class A stock and class B stock are consent stock.

(b) *Preferred dividends.* (1) The term "preferred dividends" includes all fixed amounts (whether determined by percentage of par value, a stated return expressed in a certain number of dollars per share, or otherwise) the distribution of which on any class of stock is a condition precedent to a further distribution of earnings or profits (not including a distribution in partial or complete liquidation). A distribution, though expressed in terms of a fixed amount, is not a preferred dividend, however, unless it is preferred over a subsequent distribution within the taxable year upon some class or classes of stock other than one on which it is payable.

(2) The definition of preferred dividends may be illustrated by the following example:

Example. If, in the case of the X Corporation, there are only two classes of stock outstanding, class A and class B, and class A is entitled to a distribution of 6 percent of par, after which the balance of the earnings and profits are distributable on class B exclusively, class A's 6 percent is a preferred dividend. If the order of preferences is class A $6 per share, class B $6 per share, then class A and class B in fixed proportions until class A receives $3 more per share, then class B the remainder, all of class A's $9 per share and $6 per share of the amount distributable on class B are preferred dividends. The amount which class B is entitled to receive in conjunction with the payment to class A of its last $3 per share is not a preferred dividend, because the payment of such amount is preferred over no subsequent distribution except one made on class B itself. Finally, if a distribution must be $6 on class A, $6 on class B, then on class A and class B share and share alike, the distribution on class A of $6 and the distribution on class B of $6 are both preferred dividends.

[F. R. Doc. 58-7310; Filed, Sept. 9, 1958; 8:48 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 46—RURAL SERVICE

PAYMENT OF POSTAGE

The proposed amendment to § 46.4 published in the FEDERAL REGISTER of July 30, 1958, at page 5734 (23 F. R. 5734) is hereby adopted, without change, as a regulation of the Post Office Department, as set forth below:

In § 46.4 *Payment of postage*, insert the following as the second sentence of paragraph (a): "During the month of December, however, patrons are required to affix stamps to all greeting cards and letter mail."

NOTE: The corresponding Postal Manual section is 156.41.

(R. S. 161, as amended, Pub. Law 85-619, 396, as amended; sec. 1, 39 Stat. 423; 5 U. S. C. 22, 369, 39 U. S. C. 191)

[SEAL] LEO G. KNOLL,
Acting General Counsel.

[F. R. Doc. 58-7337; Filed, Sept. 9, 1958; 8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1726]

[Oregon 03791]

[Oregon 04135]

[Oregon 04645]

OREGON

RESERVING LANDS IN ROGUE RIVER AREA, UNDER JURISDICTION OF SECRETARIES OF AGRICULTURE AND INTERIOR, AS INDICATED, FOR PRESERVATION OF SCENIC AND RECREATION AREAS

By virtue of the authority vested in the President by the Act of June 4, 1897

(30 Stat. 34, 36; 16 U. S. C. 473), and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Subject to valid existing rights, the public lands, revested Oregon and California Railroad grant lands, and national forest lands described in this order are hereby withdrawn, as hereafter indicated, and reserved and set aside for the protection and preservation of the scenic and recreation areas adjacent to the Rogue River and its tributaries, as follows:

(a) Under the jurisdiction of the Secretary of Agriculture, from all forms of appropriation under the public-land laws, including the mining but not the mineral leasing laws nor the Act of July 31, 1947 (61 Stat. 681, 69 Stat. 367; 30 U.S.C. 601–604), as amended:

WILLAMETTE MERIDIAN

SISKIYOU NATIONAL FOREST

T. 33 S., R. 8 W.,
Sec. 34, SE¼NW¼.
T. 33 S., R. 10 W.,
Sec. 9 Lots 4, 5, and 6 (those portions not within MS 860) SW¼SW¼;
Sec. 16, Lots 1 to 8 inclusive (those portions not within MS 860) W½NE¼ (that portion not within MS 860) NW¼NW¼, and NE¼SW¼;
Sec. 17, Lots 1, 2, 4, 5, 6, 8, 9, 10, 11, N½N½ and SE¼NE¼;
Sec. 18, Lots 2 to 8 inclusive, Lots 13, 14, and 15,
Lots 17 and 20, N½NE¼, NE¼NW¼, S½SE¼, N½NE¼NW¼SW¼, and NE¼NW¼NW¼SW¼;
Sec. 19, Lots 1, 2, 3, 5, 6, 7, 8, 9, and 10, S½NE¼ and SE¼;
Sec. 20, Lots 1 to 4, inclusive;
Sec. 30, Lots 1, 2, 3, and NE¼NW¼.
T. 33 S., R. 11 W.,
Sec. 25, Lots 2, 5, and 6, NW¼NE¼, NW¼, N½SW¼, and S½SE¼;
Sec. 35, Lots 1 to 6, inclusive, S½NE¼, and NE¼SW¼;
Sec. 36, Lots 1 to 10, inclusive, N½NE¼, NE¼NW¼, and SW¼NW¼.
T. 34 S., R. 8 W.,
Sec. 24, Portion of Lots 5 and 8 described as a tract beginning at a point on E. Sec. line of Sec. 24, lying 15 chains N. of southeast corner, said section thence W. 10 chains; thence N. 20 chains; thence E. to W. bank of Rogue River; thence southerly along W. bank of Rogue River to E. Sec. line Sec. 24; thence S. to point of beginning.
T. 34 S., R. 11 W.,
Sec. 1, Lots 1, 2, 3, and 4;
Sec. 2, Lots 2 to 9, inclusive, SE¼NE¼, and NE¼SW¼;
Sec. 3, Lots 1 to 10, inclusive, S½N½ W½SW¼, NE¼SW¼, and NW¼SE¼;
Sec. 9, Lots 3 and 9, N½NW¼, SW¼ NW¼, E½SE¼, and SW¼SE¼;
Sec. 10, Lots 1, 3, 4, NW¼NE¼, SE¼NW¼, and E½SW¼NW¼;
Sec. 17, Lots 1, 4, 5, 7, S½SW¼, SE¼, and SE¼NE¼;
Sec. 19, Lots 5 to 9, inclusive, Lot 14, NE¼SE¼, and S½SE¼;
Sec. 31, Lots 1, 6, 7, 9, 10, 11, 12, NE¼, and NE¼SE¼.
T. 35 S., R. 11 W.,
Sec. 5, Lots 6 and 7;
Sec. 7, Lots 1, 2, 9, 10, 11, and 12, NE¼ NW¼, SE¼NE¼, and E½SE¼;
Sec. 8, Lot 1.
T. 35 S., R. 12 W.,
Sec. 21, Lots 1, 3, 4, and 6.
T. 36 S., R. 13 W.,
Sec. 1, Lot 8, and SW¼SW¼;
Sec. 2, Lots 7, 10, 11, and 12, and NE¼ SW¼;
Sec. 3, Lot 2.

The areas described aggregate 6,393.63 acres of national forest land.

(b) Under the jurisdiction of the Secretary of the Interior, from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws nor disposal of materials under the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601–604) as amended, or forest products under the act of August 28, 1937 (50 Stat. 874), nor leasing under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a) as amended, nor lease or sale under the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741; 68 Stat. 173; 43 U. S. C. 869) as amended, nor lease, permits or easements for public works under the Act of September 3, 1954 (63 Stat. 1146; 43 U. S. C. 931c, 931d):

WILLAMETTE MERIDIAN

PUBLIC DOMAIN

T. 33 S., R. 1 E.,
Sec. 24, NW¼SW¼;
Sec. 32, NW¼NW¼.
T. 34 S., R. 1 W.,
Sec. 2, Lot 3 and N½SW¼;
Sec. 10, Lot 2, E½NE¼, and NE¼SE¼.
T. 34 S., R. 7 W.,
Sec. 6, Lots 3 to 7 inclusive, and SE¼NW¼;
Sec. 18, Lots 3, 4, and E½SW¼;
Sec. 30, Unpatented part of Lot 1, Lots 2, 4, and E½NW¼.
T. 34 S., R. 11 W.,
Sec. 8, Lots 1, 2, and 4;
Sec. 30, Lot 2.
T. 35 S., R. 7 W.,
Sec. 4, Lots 5 to 9 inclusive, S½NE¼, and N½SE¼;
Sec. 5, S½ lot 8;
Sec. 6, Lots 1 to 7 inclusive, Lots 12 and 13, SE¼NW¼, and NE¼SW¼;
Sec. 10, Lots 1 and 5, SW¼NW¼, S½SE¼, N½NE¼, SE¼NE¼, and N½SW¼;
Sec. 24, Lot 1.
T. 35 S., R. 11 W.,
Sec. 6, Lots 8, 9, 10, and 14, SE¼SW¼.
T. 35 S., R. 12 W.,
Sec. 10, Lots 1, 16, and 17;
Sec. 11, Lots 2, 4, 5, and 16;
Sec. 12, Lot 3;
Sec. 15, Lot 1.
T. 36 S., R. 3 W.,
Sec. 12, Lots 5, 8, and 9;
Sec. 14, E½NE¼.
T. 36 S., R. 7 W.,
Sec. 2, Lots 5, 8, 9, and 10;
Sec. 3, Lots 1, 8, and 9;
Sec. 12, Lot 3 and W½SW¼.

The areas described aggregate 3,175.74 acres.

WILLAMETTE MERIDIAN

O & C LANDS

T. 33 S., R. 1 E.,
Sec. 23, E½SW¼ and S½SE¼.
T. 33 S., R. 2 E.,
Sec. 11, NE¼SW¼, S½SW¼, and SE¼;
Sec. 19, NW¼NE¼, S½NE¼, E½NW¼, SE¼SW¼, and SW¼SE¼.
T. 33 S., R. 1 W.,
Sec. 35, SE¼SE¼.
T. 33 S., R. 8 W.,
Sec. 32, Lots 1 to 7, inclusive, and NW¼ SW¼;
Sec. 33, Lots 1, 6, and 7, N½NW¼, SW¼ NW¼, and SE¼SW¼.
T. 33 S., R. 9 W.,
Sec. 8, S½S½;
Sec. 16, Lots 1 to 5 inclusive, NW¼NW¼, SE¼NW¼, SW¼SW¼, NW¼SE¼, and SE¼SE¼;
Sec. 17, Lots 1 to 8 inclusive, SW¼NE¼, N½S½, SW¼SW¼, and SE¼SE¼;
Sec. 18, Lots 1 to 13, inclusive (those portions not within MS 844), N½NE¼, and NE¼NW¼;
Sec. 21, Lots 1, 2, and 3, SW¼NE¼, N½ NW¼, SE¼NW¼, N½SE¼, and SE¼ SE¼;
Sec. 22, Lots 1 to 8, inclusive; lot 10 NW¼ NW¼, SE¼NE¼, and NW¼SW¼;
Sec. 23, Lots 1, 2, and 3, NE¼SW¼, S½ NW¼, NW¼SE¼, and S½SE¼;
Sec. 26, Lots 1 to 9, inclusive, and NW¼ NE¼;
Sec. 35, Lots 1 to 10, inclusive, NE¼SE¼, W½SW¼, W½NE¼, and SE¼NE¼;
Sec. 36, Lots 1, 2, 3.
T. 33 S., R. 10 W.,
Sec. 9, Lot 2, N½NE¼, N½SW¼NE¼, NW¼, N½SW¼, and SE¼SE¼;
Sec. 10, Lots 1 and 2, Lots 6 to 10 inclusive, NE¼NE¼, SE¼NW¼NE¼, W½ NE¼NW¼, NW¼NW¼, NE¼SE¼, and S½S½;
Sec. 11, Lots 1 to 9 inclusive, S½NE¼, NW¼NW¼, SE¼NW¼, N½SE¼, and SW¼SW¼;
Sec. 12, Lots 1 and 2, N½SW¼, NW¼SE¼, and S½SE¼;
Sec. 13, Lots 1 to 8 inclusive, S½NW¼, and N½SE¼;
Sec. 14, Lots 1, 2, and 3, NE¼NW¼, and S½NE¼.
T. 34 S., R. 1 W.,
Sec. 3, NE¼SE¼.
T. 34 S., R. 7 W.,
Sec. 19, Lots 2 and 4, and E½W½;
Sec. 31, Lots 3 and 4, E½SW¼, and S½ SE¼.
T. 34 S., R. 8 W.,
Sec. 5, Lots 1 to 5 inclusive, S½NW¼, and N½SW¼;
Sec. 6, Lots 1 to 12 inclusive, NE¼SW¼, and NW¼SE¼;
Sec. 24, Lots 3 and 4, Lots 5 and 8 except a tract described as beginning at a point on the E. sec. line of sec. 24, which is 15 chains N. of southeast corner said section; thence W. 10 chains; thence N. 20 chains; thence E. to W. bank of Rogue River; thence southerly along W. bank of Rogue River to E. sec. line sec. 24; thence S. to point of beginning.
Sec. 25, Lots 1, 2, 3, 4, 5, 6, 8, 9, and 10.
T. 34 S., R. 9 W.,
Sec. 1, Lots 1 to 10 inclusive, N½SW¼, SE¼, and SW¼NW¼;
Sec. 2, Lots 1, 2, and 3.
T. 34 S., R. 11 W.
Sec. 19, Lot 11.
T. 35 S., R. 7 W.,
Sec. 3, SW¼;
Sec. 5, Lots 7, N½ lot 8, lot 9, and S½NE¼, SE¼NW¼, and NE¼SW¼;
Sec. 9, Lots 1 and 2, NW¼NE¼, and S½NE¼.
T. 35 S., R. 8 W.,
Sec. 1, Lots 1, 2, 3, 5, and 8, NW¼SW¼, and N½SE¼.
T. 36 S., R. 2 W.,
Sec. 13, Lot 7.
T. 36 S., R. 3 W.,
Sec. 11, Lot 3, N½SE¼, and SE¼SE¼;
Sec. 13, Lot 7.
T. 36 S., R. 7 W.,
Sec. 3, Lots 2 and 7;
Sec. 11, Lot 3.
T. 38 S., R. 3 W.,
Sec. 33, Lot 1.
T. 39 S., R. 1 W.,
Sec. 29, S½SW¼.
T. 39 S., R. 2 W.,
Sec. 19, NE¼SE¼;
Sec. 23, SW¼SW¼ and SW¼SE¼.

The areas described aggregate 10,703.57 acres.

The total area described in paragraph 1 (b) above aggregates 13,879.31 acres.

(c) Under the jurisdiction of the Secretary of the Interior, from all forms of

appropriation under the public land laws, except the mining and mineral leasing laws, the disposal of materials under the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601–604) as amended, leasing under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a) as amended, lease, permits or easements for public works under the act of September 3, 1954 (63 Stat. 1146; 43 U. S. C. 931c, 931d), and disposals of forest products under the act of August 29, 1937 (50 Stat. 874):

WILLAMETTE MERIDIAN

O & C LANDS

T. 33 S., R. 7 W.,
Sec. 31, Lot 4.
T. 33 S., R. 8 W.,
Sec. 33, Lots 2, 3, 4, and 5, N½NE¼, S½SE¼;
Sec. 34, Lot 1;
Lots 3 to 10, inclusive, S½SW¼;
Sec. 35, Lots 8, 9, and 10, SE¼SW¼, S½SE¼.
T. 34 S., R. 8 W.,
Sec. 1, Lots 1 to 13, inclusive, SW¼NE¼, NW¼SE¼, and SW¼;
Sec. 12, Lots 1 to 8, inclusive, NW¼SW¼;
Sec. 13, Lots 1 to 13, inclusive, SE¼NE¼, W½SW¼;
Sec. 24, Lot 1;
Sec. 25, NE¼NW¼.

The areas described aggregate 2,322.75 acres.

2. It is the intent of this order that the withdrawal made thereby shall attach to all interests retained by the United States in patented lands in the townships named, and shall attach to all nonpublic lands in the townships named, upon acceptance of title to or any interest in such lands by the United States excepting, however, any smallest legal subdivision of such lands, any portion of which is located in excess of one mile from the bank of the Rogue River. Any such lands being or becoming national forest lands shall be governed by the restriction on uses provided by paragraph 1 (a) of this order, lands other than national forest lands to be subject to the uses and limitations upon uses provided by paragraph 1 (b) of this order.

ROGER C. ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 3, 1958.

[F. R. Doc. 58-7243; Filed, Sept. 9, 1958; 8:45 a. m.]

[Public Land Order 1727]

[917971]

ALASKA

REVOKING EXECUTIVE ORDER NO. 3264 OF APRIL 29, 1920, WHICH ESTABLISHED ALASKA TOWNSITE WITHDRAWAL NO. 18

By virtue of the authority vested in the President by the act of March 12, 1914 (38 Stat. 305; 48 U. S. C. 301, 303), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Order No. 3264 of April 29, 1920, which reserved the following-described lands for townsite purposes, and which was revoked in part by Executive Order No. 4394 of March 15, 1926, is hereby revoked in its entirety:

SEWARD MERIDIAN

T. 1 N., R. 1 W.,
Sec. 34, U. S. Survey No. 242.

The tract described contains 160 acres.

The lands are patented, except 28.83 acres which are withdrawn by Executive Order No. 9026 of January 16, 1942, and 2.92 acres within right-of-way of the Alaska Railroad.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 4, 1958.

[F. R. Doc. 58-7306; Filed, Sept. 9, 1958; 8:47 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12483]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS, (MILWAUKEE, BEAVER DAM, CHILTON, WISC., AND LUDINGTON, MICH.)

In the matter of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations (Milwaukee, Beaver Dam and Chilton, Wisconsin; Ludington, Michigan).

1. Attention is invited to an error appearing in the Report and Order issued in the above-entitled matter on August 7, 1958 (FCC 58-775 Corrected), and published in the FEDERAL REGISTER on August 9, 1958 (23 F. R. 6122).

2. The channels listed in paragraph 6 for Milwaukee should read as follows:

City	
Milwaukee, Wisconsin	4−, *10+, 12, 18+, 24+, 30

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7317; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket No. 11994]

PART 19—CITIZENS RADIO SERVICE

MISCELLANEOUS AMENDMENTS

In the matter of complete revision of Part 19, rules governing the Citizens Radio Service, and reallocation of frequencies in the range 26.96–27.23 Mc from the Amateur Radio Service (Part 12) to the Citizens Radio Service.

Part 19—Citizens Radio Service, of the Commission's Second Report and Order in Docket No. 11994 of August 4, 1958 (Mimeo 60912, FCC 58-798), in the above-entitled matter is corrected as follows:

1. Correct the last frequency 27.255 Mc in the table of frequencies shown in § 19.31 (d) to read 27.225 Mc.

2. Correct the date September 1, 1958, in § 19.42 (b) to read September 11, 1958.

3. Correct the reference to § 19.52 in § 19.72 (c) (2) to read § 19.62.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7318; Filed, Sept. 9, 1958; 8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

[7 CFR Part 722]

1959 CROP OF EXTRA LONG STAPLE COTTON

NATIONAL MARKETING QUOTA, ALLOTMENTS AND DATE FOR HOLDING REFERENDUM

Notice of determinations to be made with respect to a national marketing quota; national, state and county allotments, fixing of a date for holding a referendum and formulation of regulations pertaining to acreage allotments.

Pursuant to the authority contained in the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "act") (52 Stat. 31, as amended; 7 U. S. C. 1281 et seq.), including amendments of the act contained in the Agricultural Act of 1958 (Pub. Law 85-835, approved August 28, 1958), the Secretary of Agriculture is preparing to determine as soon as practicable whether a national marketing quota is required to be proclaimed for the 1959 crop of extra long staple cotton (hereinafter referred to as "ELS cotton"). If such quota is required, the Secretary will also determine and proclaim the amount of the quota and the amount of the national allotment for the 1959 crop of ELS cotton and will issue regulations pertaining to acreage allotments for such cotton.

Section 347 (b) of the act provides that whenever during any calendar year, not later than October 15, the Secretary determines that the total supply of ELS cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year by more than 8 per centum the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of ELS cotton produced in the next calendar year. It further provides that the Secretary shall determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales adequate to make available a normal supply of ELS cotton taking into account (1) the estimated carry-over at the beginning of the

marketing year which begins in the next calendar year, and (2) the estimated imports during such marketing year. The national marketing quota for ELS cotton can not be less than the larger of 30,000 bales or a number of bales euqal to 30 per centum of the estimated domestic consumption plus exports of ELS cotton for the marketing year beginning in the calendar year in which such quota is proclaimed.

In order that the Agricultural Stabilization and Conservation State and county committees may properly perform their functions in connection with allotments for the 1959 crop of ELS cotton, it will be necessary to issue any such proclamation and to determine the national, State and county allotments as soon as practicable.

As defined in section 301 of the act, for purposes of the determinations provided for in section 347 (b) of the act, "total supply" of ELS cotton for any marketing year is the carry-over at the beginning of such marketing year, plus the estimated production of ELS cotton in the United States during the calendar year in which such marketing year begins, and the estimated imports of ELS cotton into the United States during such marketing year; "carry-over" of ELS Cotton for any marketing year is the quantity of ELS cotton on hand in the United States at the beginning of such marketing year not including any part of the crop which was produced in the United States during the calendar year then current nor any Government stocks of ELS cotton acquired pursuant to, or under the authority of, the Strategic and Critical Materials Stockpiling Act; "normal supply" of ELS cotton for any marketing year is the estimated domestic consumption of ELS cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of ELS cotton for such marketing year, plus 30 per centum of such consumption and exports as an allowance for carry-over; and "marketing year" for ELS cotton is the period August 1–July 31. For purposes of the supply determinations required to be made under section 347 (b) of the act, the term "ELS cotton" refers to all American-Egyptian, Sea Island and Sealand cotton (both the continental United States and Puerto Rico), and to all similar types of cotton imported from Egypt, Anglo-Egyptian Sudan, and Peru.

Section 344 (a) of the act as amended by section 103 (4) of the Agricultural Act of 1958, provides that whenever a national marketing quota is proclaimed, the Secretary shall determine and proclaim a national allotment for the crop of ELS cotton to be produced in the next calendar year. The national allotment for ELS cotton for 1959 is that acreage, based upon the national average yield per acre of ELS cotton for the four years 1954, 1955, 1956, and 1957, which is required to make available from such crop an amount of cotton equal to the national marketing quota.

If a national allotment is proclaimed for the 1959 crop of ELS cotton, such allotment will be apportioned among the States, as provided by section 344 (b) of the act, on the basis of the acreage planted to ELS cotton during the 5 calendar years 1953, 1954, 1955, 1956, and 1957 with adjustments during such period as provided under the act and the Soil Bank provisions of the Agricultural Act of 1956 (70 Stat. 188; 7 U. S. C. 1801 et seq.).

The regulations which the Secretary will issue pertaining to acreage allotments for the 1959 crop of ELS cotton will differ from those issued for the 1958 crop to the extent necessary to implement the applicable provisions of the Agricultural Act of 1958. The regulations will provide or approval by the Secretary and publication thereof in the FEDERAL REGISTER of State and county allotments and State and county reserves.

Section 106 amends section 344 (f) of the act by providing in a new paragraph (8) that notwithstanding the provisions of section 344 (f) (2) of the act (cropland method of establishing farm allotments) and section 344 (f) (6) of the act (historical method of establishing farm allotments), the Secretary may provide for establishing farm allotments on the basis of the 1958 farm allotments, adjusted as may be necessary for any change in the acreage of cropland available for the production of cotton or to meet the requirements of any provision of the act (other than section 344 (f) (2) and (6)) with respect to the counting of acreage for history purposes. It is expected that the Secretary will determine that establishment of farm allotments pursuant to the method in section 344 (f) (8) of the act will facilitate effective administration of the act and that such method will be used in determining 1959 farm allotments in all counties.

Section 343 of the act provides that not later than December 15 following the issuance of the proclamation of the national marketing quota, the Secretary shall conduct a referendum by secret ballot, of farmers engaged in the production of ELS cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed. If a quota is proclaimed for the 1959 crop of ELS cotton, it is expected that the Secretary will set December 15, 1958, for holding the ELS cotton referendum. Section 362 of the act provides that notice of the farm allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the data of the referendum.

Prior to making any of the foregoing determinations with respect to the national marketing quota, the national allotment, the apportionment of the national allotment to the States and the State allotments to the counties, fixing a date for holding a referendum, and the formulation of regulations pertaining to acreage allotments for the 1959 crop of ELS cotton, consideration will be given to any data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Cotton Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D. C., within 15 days following the publication of this notice in the FEDERAL REGISTER. The date of the postmark will be considered as the date of any submission.

Done at Washington, D. C., this 4th day of September 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL] WALTER C. BERGER,
Administrator.

[F. R. Doc. 58-7355; Filed, Sept. 9, 1958; 8:55 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 194]

[Ex Parte No. MC-40]

MOTOR CARRIERS; REPORTING OF ACCIDENTS

NOTICE OF PROPOSED RULE MAKING

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 20th day of February A. D. 1958.

It appearing that our continuing study of the Motor Carrier Safety Regulations and the effectiveness thereof indicates the desirability, in the public interest, of making the fullest use of accident reports submitted to us by motor carriers; and

It further appearing that it is necessary to modify existing regulations in order to permit the use of such reports, or excerpts therefrom, as evidence in proceedings before the Commission or in court proceedings instituted by or at the request of the Commission:

It is ordered, That pursuant to section 4 (a) of the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1003) notice is hereby given of the Commission's proposal to amend § 194.1 of the Motor Carrier Safety Regulations, adopted April 14, 1952, as amended, (49 CFR 194.1) (49 Stat. 546, as amended, 49 U. S. C. 304), as follows:

Delete the period at the end of the present section, add a semicolon and the following words: "*Provided, however,* When the Commission considers such action consistent with the public interest and necessary to the proper administration and enforcement of the provisions of the Act, or of orders, rules, and regulations issued thereunder, it may in its discretion, upon prior approval of an application of a Bureau of this Commission, allow such reports, or excerpts therefrom to be offered in evidence, (a) by attorneys in the employ of the Commission in a Commission proceeding, and (b) by attorneys in the employ of the Commission or by United States attorneys in a court proceeding instituted by or at the request of the Commission."

It is further ordered, That interested persons may on or before October 31, 1958, submit written statements containing data, views, or arguments, verified

under oath by a person having knowledge of such data, views, or arguments, and that thereafter consideration will be given to the proposed amendment, or some revision thereof, in the light of the statements which may be submitted.

It is further ordered, That one signed copy and 14 additional copies of such statements be furnished for the use of the Commission by mailing to the Secretary of the Interstate Commerce Commission, Washington, D. C. No oral hearing is contemplated, but any request for such hearing shall be supported by an explanation as to why the evidence to be presented cannot reasonably be submitted in the form heretofore provided. The Commission thereafter will determine whether or not assignment of the matter for oral hearing is necessary or desirable.

And it is further ordered, That notice of this proposed rule modification shall be given to motor carriers, other persons of interest, and to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D. C., and by filing a copy with the Director, Federal Register Division.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 58-7342; Filed, Sept. 9, 1958; 8:53 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[CO 845-P]

STATEMENT OF ORGANIZATION

MISCELLANEOUS AMENDMENTS

Effective upon publication in the FEDERAL REGISTER, the following amendments to the Statement of Organization of the Immigration and Naturalization Service (19 F. R. 8071, December 8, 1954), as amended, are prescribed:

1. The list of Class A ports of entry in District No. 8—Detroit, Mich., of subparagraph (2) *Ports of entry for aliens arriving by vessel or by land transportation* of paragraph (c) *Suboffices* of sec. 1.51 *Field Service* is amended by deleting "Gibralter, Mich. (May 15–Oct. 15)" and by adding in alphabetical sequence "Grosse Isle Yacht Club, Grosse Isle, Mich. (May 15–Oct. 15)".

2. The list of Class B ports of entry in District No. 8—Detroit, Mich., of subparagraph (2) *Ports of entry for aliens arriving by vessel or by land transportation* of paragraph (c) *Suboffices* of sec. 1.51 *Field Service* is amended by adding in alphabetical sequence the following:

Alpena, Mich.
Rogers City, Mich.

3. The list of Class B ports of entry in District No. 30—Helena, Mont., of subparagraph (2) *Ports of entry for aliens arriving by vessel or by land transportation* of paragraph (c) *Suboffices* of sec. 1.51 *Field Service* is amended by deleting "Trail Creek, Mont.".

Dated: September 2, 1958.

J. M. SWING,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 58-7316; Filed, Sept. 9, 1958; 8:49 a. m.]

POST OFFICE DEPARTMENT

PHILIPPINES: IMPORT REGULATIONS; GIFT PARCELS TO RYUKU ISLANDS DISCONTINUED

1. Information has been received that the minimum value for which certificates of origin are required for parcels addressed to the Philippines is increased from $10 to $50, and the minimum value for which consular invoices are required for such parcels is increased from $100 to $250.

Also, it is understood that the forms to be used for such certificates and invoices must now be obtained from Philippine consulates and executed in the manner they prescribe.

2. Acceptance of U. S. A. Gift Parcels for the Ryuku Islands is discontinued. All gift parcels for that country by surface means will be subject to the regular parcel post rate. This action is taken because the small amount of packages being mailed does not warrant continuance of the arrangement.

(R. S. 161, as amended, 396, as amended, 398, as amended; 5 U. S. C. 22, 369, 372)

[SEAL] LEO G. KNOLL,
Acting General Counsel.

[F. R. Doc. 58-7338; Filed, Sept. 9, 1958; 8:52 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The Civil Aeronautics Administration has filed an application, Serial Number 017903, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining law, but excluding the provisions of the mineral leasing law and the Materials Act.

The applicant desires the land for location, operation and maintenance of air navigation radio equipment and associated facilities.

For a period of thirty days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P. O. Box 1050, Fairbanks, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

BETHEL AREA

PARCEL 1

From the N. W. corner of the Territorial Department of Aviation Tract 2, at coordinates N. 105,369.46 E. 108,672.26 (U. S. C. and G. S. "Bethel" being the origin of coordinates at N. 100,000 E. 100,000), which is the true point of beginning; thence N. 23°30' E. 15,840 feet; thence S. 66°30' E. 4,000 feet; thence S. 66°30' W. 15,840 feet; thence N. 66°30' W. 4,000 feet; containing 1,454.55 acres, more or less.

PARCEL 2

From the N. W. corner of the Territorial Department of Aviation Tract 2, as described above, go S. 66°30' E. 4,000 feet; thence S. 23°30' W. 2,400 feet to the true point of beginning; thence S. 66°30' E. 1,500 feet; thence S. 23°30' W. 4,000 feet; thence N. 66°30' W. 1,500 feet; thence N. 23°30' E. 4,000 feet to the point of beginning; containing 137.74 acres, more or less.

RICHARD L. QUINTUS,
Operations Supervisor, Fairbanks.

[F. R. Doc. 58-7346; Filed, Sept. 9, 1958; 8:53 a. m.]

Office of the Secretary

VOLUNTARY OIL IMPORT PROGRAM

GOVERNMENT PURCHASES OF CRUDE PETROLEUM AND PETROLEUM PRODUCTS

1. Section 6 of the rules on "Government Purchases of Crude Petroleum and Petroleum Products" (23 F. R. 2872) is amended to read at follows:

A new section 6.1 reading as follows, is added to the rules on "Government Purchases of Crude Petroleum and Petroleum Products":

SEC. 6.1 *Districts I–IV on and after October 1, 1958.* (a) This section applies to Districts I–IV.

(b) With respect to bids opened in October 1958 and thereafter, an importer will be deemed to be in compliance for the three months preceding the month in which a bid is opened, as required by Executive Order 10761, when his average barrels per day of crude oil imports for the three months preceding the month in which a bid is opened have not been greater than his average allocation for the same months.

(c) If an importer's average barrels per day of crude oil imports for a particular period of three months has ex-

ceeded his average allocation for that period, the Administrator, Voluntary Oil Import Program, may determine that the importer is in compliance for that period if the importer (1) makes a satisfactory showing that the overage was due solely to the difficulty of scheduling receipts or to an historical pattern of imports based on seasonal availability of transportation and (2) offers satisfactory assurance that his imports during succeeding months through December 1958, will result in an average barrels per day of crude oil imports during the period April 1, 1958, through December 31, 1958, that will not be greater than his average allocation for that period.

2. Paragraph (a) of section 10 of the rules on "Government Purchases of Crude Petroleum and Petroleum Products" is revised to read as follows:

(a) With respect to Districts I–IV, an importer will be deemed to be in compliance with the Voluntary Oil Import Program during the period falling between April 1, 1958, and December 31, 1958, if his average barrels per day of actual crude imports for those months in which he has imported during the period April 1, 1958, through December 31, 1958, plus the average barrels per day of crude oil imports estimated for the remainder of the period April 1 through December 31, 1958, in the reports submitted to the Administrator, Voluntary Oil Import Program, are not greater than his average daily allocation for the period April 1, through December 31, 1958.

M. V. CARSON, Jr.,
Administrator,
Voluntary Oil Import Program.

[F. R. Doc. 58-7307; Filed, Sept. 9, 1958; 8:48 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 402]

MARKET AGENCIES AT UNION STOCK YARDS CHICAGO, ILL.

NOTICE OF PETITIONS FOR MODIFICATION OF RATE ORDER

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), an order was issued on October 15, 1957 (16 A. D. 966) authorizing the respondents, Market Agencies at Union Stock Yards, Chicago, Illinois, to assess the current schedule of rates and charges to and including October 21, 1959, unless modified or extended by further order before the latter date.

On August 18, 1958, a petition was filed on behalf of The Chicago Live Stock Exchange requesting authority to modify, as soon as possible, the current schedule of rates and charges by adding the following new Section J.

SECTION J

FEEDER CATTLE AND CALF AUCTION BUYING AND SERVICE CHARGES

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

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

J–1	Cattle (average weight over 400 lbs.). Plus extra service charges provided in section E.	$1.25 per head.
J–2	Calves (average weight 400 lbs. or under). Plus extra service charges provided in section E.	$0.55 per head.

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

J–3	Cattle (average weight over 400 lbs.). Plus extra service charges provided in section E.	$0.95 per head.
J–4	Calves (average weight 400 lbs. or under). Plus extra service charges provided in section E.	$0.40 per head.

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

J–5	Cattle (average weight over 400 lbs.). Plus extra service charges provided in section E.	$0.65 per head.
J–6	Calves (average weight 400 lbs. or under). Plus extra service charges provided in section E.	$0.30 per head.

On August 25, 1958, a second petition was filed on behalf of the Chicago Live Stock Exchange requesting authority to modify, as soon as possible, Items B–12, B–13, and B–14 of section B of their current schedule of charges for selling hogs, to provide as follows:

B–12	Hogs:	
	Consignments of one head and one head only:	
	Each head weighing 250 pounds or over	$0.69 per head.
	Each head weighing under 250 pounds	$0.54 per head.
	Consignments of more than one head:	
	First 10 head in each consignment	$0.46 per head.
	Next 15 head in each consignment	$0.41 per head.
	Each head over 25 head in each consignment	$0.36 per head.
B–13	Hogs, by rail, maximum charge: In no instance shall the charge for selling a consignment of hogs arriving by rail exceed $30.50 for each single deck car, and $42.00 for each double deck car, plus extra service charges provided in section E.	
B–14	Hogs, by other than rail, maximum charge: In no instance shall the charge for selling a consignment of hogs arriving other than by rail exceed the aggregate of $30.50 for the first 18,000 pounds, plus 15 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in section E.	

Certain of the rates and charges specified in the proposed section J and the modifications in Items B–12, B–13 and B–14 of section B, as set forth above, would involve increases over the comparable current rates and charges. Accordingly, it appears that this public notice of the filing of the petitions and their contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

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

Done at Washington, D. C., this 4th day of September 1958.

[SEAL] JOHN C. PIERCE, Jr.,
Acting Director, Livestock Division, Agriculture Marketing Service.

[F. R. Doc. 58-7354; Filed, Sept. 9, 1958; 8:54 a. m.]

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

SEPTEMBER 1958 MONTHLY SALES LIST

Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F. R. 6669) and subject to the conditions stated therein, the commodities listed below are available for sale in the quantities stated and on the price basis set forth. The Commodity Credit Corporation will entertain offers from prospective buyers for the purchase of any such commodity.

Announcements containing the contractual terms and conditions of sale for the respective commodities will be furnished upon request. For ready reference a number of these announcements are identified by code number in the following list.

CCC reserves the right to refuse any or all offers placed with it for the purchase of commodities pursuant to such announcements. If CCC does not have adequate information as to the financial responsibility of prospective purchaser to meet all contract obligations that might arise by acceptance of an offer or if CCC deems such purchaser's financial responsibility to be inadequate, CCC reserves the right (i) to refuse to consider the offer, (ii) to accept the offer only after submission by the purchaser of a certified or cashier's check, bond, letter of credit, or other security, acceptable to CCC, assuring that the purchaser will discharge his responsibility under the contract, or (iii) to accept the offer upon condition that the purchaser promptly submit to CCC such of the aforementioned security as CCC may direct. If a prospective purchaser is in doubt as to whether CCC is acquainted with his financial responsibility, he should communicate with the CCC or CSS Commodity Office at which the offer is to be placed to determine whether a financial statement or advance financial arrangement will be necessary in his case.

Commodity Credit Corporation also reserves the right to amend, from time to time, any of its announcements, which amendments shall be applicable to and

made a part of the sales contracts thereafter entered into.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered promptly upon appearance by public notice issued by the appropriate CSS Commodity Office and therefore generally they do not appear in the Monthly Sales List.

Notice to export buyers. Available interest rates on sales made in September under the Export Credit Sales Announcement GSM 1 are as follows:

For periods up to and including 6 months, 2¼ percent per annum.

For periods over 6 months up to and including 18 months, 2¾ percent per annum.

For periods over 18 months up to and including 36 months, 3¼ percent per annum.

The Commodity Credit Corporation reserves the right, before making any sale, to define or limit export areas.

On sales for which the buyer is required to submit proof to CCC of exportation, the buyer shall be regularly engaged in the business of buying or selling commodities and, for this purpose, shall maintain a bona fide business office in the United States, its territories, or possessions and therein have a person, principal or resident agent, upon whom service of judicial process may be had.

SEPTEMBER 1958 MONTHLY SALES LIST

Commodity	Sales price or method of sale
Dairy products	All sales are under LD-26 and amendments. All sales are in carlots only. As many as 3 buyers may participate in purchasing a single carlot.
Butter	Domestic price: For unrestricted use price is "in store" [1] at storage locations of products. For restricted use price is on the basis of delivery f. o. b. cars at point of use named in offer. CCC will convert to "in store" price as provided in LD-26 and amendments. Export prices are on the basis of delivery f. a. s. vessel or at buyer's option f. o. b. cars point of export. If delivery is to be "in store" CCC will convert to "in store" price as provided in LD-26, and amendments. Submission of offers: For products in Arizona, California, Idaho, Nevada, Oregon, Utah and Washington, submit offers to the Portland CSS Commodity Office. For products in other States and the District of Columbia, submit offers to the Cincinnati CSS Commodity Office. Domestic, unrestricted use: 68 cents per pound, New York, New Jersey, Pennsylvania, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico. 67¼ cents per pound, Washington, Oregon, and California. All other States 67 cents per pound. Domestic, restricted use: For use as an extender for cocoa butter in the manufacture of chocolate and in such a manner as will not displace other dairy products from use in the manufacture of other products made from chocolate, 39 cents per pound. Export, unrestricted use: 39 cents per pound.
Nonfat dry milk (spray roller) as available.	Domestic, unrestricted use: Spray process, U. S. Extra Grade; in barrels and drums, 16.25 cents per pound; in bags, 15.40 cents per pound. Roller process, U. S. Extra Grade; in barrels and drums, 14.25 cents per pound; in bags, 13.40 cents per pound. Domestic, restricted use (animal and poultry feed): In barrels, drums or bags 10.65 cents per pound. Export, unrestricted use: Spray or roller process, U. S. Extra Grade; in barrels and drums, 9.9 cents per pound; in bags, 9.05 cents per pound.
Cheddar cheese, cheddars, flats, twins, and rindless blocks (standard moisture basis).	Domestic: 38.5 cents per pound for New York, New Jersey, Pennsylvania, New England, and other States bordering the Atlantic and Pacific and Gulf of Mexico. All other States 38.5 cents per pound. Export: 22 cents per pound. Cheese prices are subject to usual adjustments for moisture content.
Cotton, upland	Domestic: Competitive bid and under the terms and conditions of Announcement NO-C-5 (Revision I), as amended, but not less than the higher of (1) 105 percent of the current support price plus reasonable carrying charges, or (2) the domestic market price as determined by CCC. Export: Competitive bid and under the terms and conditions of Announcements CN-EX-5 and NO-C-11.
Cotton, extra long staple	Domestic: Competitive bid and under the terms and conditions of Announcement NO-C-6, as amended, and NO-C-10, as amended, but not less than the higher of (1) 105 percent of the current support price plus reasonable carrying charges, or (2) the domestic market price as determined by CCC. Export: Competitive bid and under the terms and conditions of Announcement NO-C-6, as amended, and NO-C-10, as amended. Catalogs for Upland and Extra Long Staple cotton showing quantities, qualities, and locations may be obtained for a nominal fee from the New Orleans CSS Commodity Office.

See footnotes at end of table.

SEPTEMBER 1958 MONTHLY SALES LIST—Continued

Commodity	Sales price or method of sale
Peanuts	Domestic (for crushing) or export: Competitive bid basis for limited quantities announced by Peanut Cooperative Associations under CCC Peanut Announcement 1, as amended. Domestic, unrestricted use: Shelled (1956 crop in cold storage): Market price but not less than the 1956 applicable loan rate for type and grade basis in store point of origin, plus 5 percent, adjusted for milling, storage, and other charges. Example of minimum price at point of storage: Virginias U. S. Grade, extra large kernels, 27.30 cents per pound. Available Dallas CSS Commodity Office.
Wheat, bulk	Domestic: Commercial wheat-producing area: A. For wheat stored at any designated terminal set forth in CCC Price Support Bulletin Supplement and transit billing wheat: Market price basis in store but not less than the 1958 applicable loan rates plus (1) 18 cents per bushel if received by truck or (2) 13 cents per bushel if received by rail or barge. B. For wheat not included under A above: Market price but not less than the 1958 applicable rate plus (1) 18 cents per bushel if received by truck or 13 cents if received by rail, plus (2) any reductions in freight rates, in effect at time of sale, from those in effect on May 1, 1958, from the point of storage to the designated terminal.[2] Examples of the foregoing minimum per bushel (exrail or barge): Chicago, No. 1 RW $2.28; Minneapolis, No. 1 DNS 2.33; Kansas City, No. 1 HW 2.28; Portland, No. 1 SW 2.18. Noncommercial wheat-producing area: Same basis as in commercial area except 133 percent of applicable support rate. If delivery is outside the area of production, applicable freight will be added to the above. Export (as wheat): Under Announcement GR-261 revised, as amended for application to certain barter contracts and specially approved credit sales only at prices determined daily, and under Announcement GR-212 revised, amended, for specific offerings as announced. Disposals under Payment-in-Kind Program under Announcement GR-365. Available Dallas, Evanston, Minneapolis, Kansas City, and Portland CSS Commodity Offices for domestic or export sale, except under GR-345 at Dallas and Evanston, and Portland when announced.
Rice milled (as available)	Domestic, unrestricted use: Market price but not less than equivalent 1958 loan rate for rough rice by varieties and grades plus 5 percent adjusted for milling, plus 18 cents per cwt. basis in store. Prices and quantities available by varieties and grades may be obtained from Dallas CSS Commodity Office. Example of minimum prices of milled rice per cwt., at mills:

	U. S. No. 3	U. S. No. 4	U. S. No. 5
Blue Bonnet	$9.78	$9.08	$8.30
Century Patna	8.84	8.25	7.58

Rice, milled, broken (as available)	Export: Competitive bid under DL-MR-400/57 (Revised) and GR-PD-99 for export only under Title I, P. L. 480 P. A.'s, as announced by Dallas and Portland CSS Commodity Offices. Special export: Competitive bid on "as is" basis, under DL-MR/53, as announced by Dallas CSS Commodity Office. Domestic (unrestricted use) or export: Available by competitive bid under DL-BR/500 and GR-PD-103 as announced by Dallas and Portland CSS Commodity Offices. Any bid less than the statutory minimum will not be considered.
Rice, rough	Domestic: Market price but not less than the 1958 loan rate plus 5 percent, plus 16 cents per cwt., basis in store. Prices and quantities available by varieties may be obtained from Dallas CSS Commodity Office, or from Portland CSS Commodity Office for Pearl and Calrose. Export: For export as milled rice. Competitive bid as announced by Dallas and Portland CSS Commodity Offices.
Corn, bulk	Domestic: Commercial corn-producing area: Market price, basis in store,[2] but not less than the 1957 applicable loan rate for corn produced in compliance with 1957 acreage allotments plus: (1) a markup of 23 cents per bushel for corn in storage at point of production, (2) a markup of 25 cents per bushel and the rail freight from point of production to the present point of storage for corn in storage at other than point of production. Examples of the foregoing minimum price per bushel for No. 2 yellow corn, 13.3 percent moisture and 1.4 percent foreign material including average paid-in freight from Woodford County, Ill., to Chicago and Redwood County, Minn., to Minneapolis, respectively: Chicago, $1.84½; Minneapolis, $1.73½.

SEPTEMBER 1958 MONTHLY SALES LIST—Continued

Commodity	Sales price or method of sale
Corn, bulk	Noncommercial corn-producing area: Market price, basis in store,[2] but not less than 110 percent of the applicable 1957 loan rate plus markups as above. Available Evanston, Dallas, Kansas City, Minneapolis, and Portland CSS Commodity Offices. Non-storable corn, unrestricted use, (as available): At other than bin sites, through the above offices. At bin sites, through ASC County Offices. Export: Under Announcement GR-212 revised, amended, for application to barter contracts and approved credit and emergency sales, and under Announcement GR-368, for Feed Grain Payment-in-Kind Program.
Oats, bulk	Domestic: Market price, basis in store[2], but not less than the 1958 applicable loan rate, plus (1) a markup of 8 cents per bushel for oats in storage at point of production, (2) a markup of 10 cents per bushel and the rail freight from point of production to present point of storage for oats in storage at other than the point of production. Examples of the foregoing minimum price per bushel including average paid-in freight from Woodford County, Ill., to Chicago and Redwood County, Minn., to Minneapolis, respectively: Chicago, No. 3 oats or better ..... $.29¼ Minneapolis, No. 3 oats or better ..... .73½ Available Minneapolis, Evanston, Kansas City, Portland and Dallas CSS Commodity Offices. Export: Under Announcement GR-212 revised, amended, for application to barter contracts and approved credit and emergency sales and under Announcement GR-368 for Feed Grain Payment-in-Kind Program.
Barley, bulk	Domestic: A. For barley stored at any designated terminal set forth in CCC Price Support Bulletin Supplement and transit billing barley: Market price basis in store but not less than the 1958 applicable loan rates plus (1) 12 cents per bushel if received by truck or (2) 9 cents per bushel if received by rail or barge. B. For barley not included under A above: Market price but not less than the 1958 applicable rate plus (1) 12 cents per bushel if received by truck or 9 cents per bushel if received by rail, plus (2) any reductions in freight rates in effect at time of sale from those in effect on May 1, 1958, from the point of storage to the designated terminal.[3] If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (exrail or barge): Minneapolis, No. 2 barley ..... $1.27 Export: Under Announcement GR-212 revised, amended, for application to barter contracts and approved credit and emergency sales, and under Announcement GR-368 for Feed Grain Payment-in-Kind Program. Available Minneapolis, Evanston, Kansas City, Portland, and Dallas CSS Commodity Offices.
Rye, bulk	Domestic: A. For rye stored at any designated terminal set forth in CCC Price Support Bulletin Supplement and transit billing rye: Market price basis in store but not less than the 1958 applicable loan rates plus (1) 15 cents per bushel if received by truck or (2) 10 cents per bushel if received by rail or barge. B. For rye not included under A above: Market price but not less than the 1958 applicable rate plus (1) 15 cents per bushel if received by truck or 10 cents per bushel if received by rail, plus (2) any reductions in freight rates in effect at time of sale from those in effect on May 1, 1958, from the point of storage to the designated terminal.[3] If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (exrail or barge): Minneapolis, No. 2 or better ..... $1.44 Available Evanston, Kansas City, Minneapolis, Portland and Dallas CSS Commodity Offices. Export: Under Announcement GR-212 revised, amended, for application to barter contracts and approved credit and emergency sales, and under Announcement GR-368, for Feed Grain Payment-in-Kind Program.
Grain sorghums, bulk	Domestic: A. For grain sorghums originating in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington or stored at any designated terminal set forth in CCC Price Support Bulletin Supplement and transit billing grain sorghums: Market price basis in store but not less than the 1958 applicable loan rates plus (1) 25 cents per cwt. if received by truck or (2) 16 cents per cwt. if received by rail or barge. B. For grain sorghums not included under A above: Market price but not less than the 1958 applicable rate plus (1) 25 cents per cwt. if received by truck or 16 cents per cwt. if received by rail, plus (2) any reductions in freight rates in effect at time of sale from those in effect on May 1, 1958, from the point of storage to the designated terminal.[3] If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per cwt. (exrail or barge): Kansas City, No. 2 or better $2.47
Grain Sorghums, bulk	Available Dallas, Portland, and Kansas City CSS Commodity Offices. Export: Under Announcement GR-212 revised, amended, for application to barter contracts and approved credit and emergency sales, and under Announcement GR-368, for Feed Grain Payment-in-Kind Program.
Soybeans, bulk (as available)	Domestic (for crushing) or export: Market price basis in store but not less than the 1957 basic loan rate for No. 2 grade, basis point of production plus 11 cents per bushel. Market discounts for quality factors will be applied to the basic price to determine the actual minimum sales prices. If delivery is outside the area of production, applicable freight and out-elevation charges at country loading point and in-elevation charges at subterminal or terminal storage point will be added to the above price. Available Evanston, Kansas City, and Minneapolis CSS Commodity Offices.
Burley Tobacco (as available)	Domestic or export, unrestricted use: Competitive bid under the terms and conditions of Announcement to be issued. This announcement will cover a limited quantity (about 16 million pounds). Copies of such announcement, when issued may be obtained from the Tobacco Division, Commodity Stabilization Service, U. S. Department of Agriculture, Washington 25, D. C.
Gum rosin	Domestic or export: Offer and acceptance basis "as is" in galvanized metal drums (averaging 517 pounds net) in the stated quantities and on the designated storage yards, subject to the terms and conditions of Announcement TB-21 (Revised), and supplements thereto which will be issued monthly. Available through the American Turpentine Farmers Association Cooperative, Valdosta, Ga.
Gum turpentine	Domestic or export: Offer and acceptance basis, "as is", bulk in tanks in the stated quantities and in the designated storage tanks subject to the prices, terms and conditions of Announcement TB-21 (Revised), and supplements thereto which will be issued monthly. Available through ATFA, Valdosta, Ga.

See footnotes at end of table.

[2] At the processor's plant or warehouse but with any prepaid storage and outhandling charges for the benefit of the buyer.

[3] In those counties in which grain is stored in CCC binsites, delivery will be made f. o. b. buyer's conveyance at binsite without additional cost; sales will also be made in store approved warehouses in such county and adjacent counties at the same price, provided the buyer makes arrangements with the warehouse for storage documents.

[4] The minimum-pricing revision has been made necessary by a recent change in the price support program for wheat, barley, rye, and (in some areas) grain sorghums. This change gives producers who store their grain locally the price support benefit at time of settlement of any reductions in rail freight rates to their designated terminals occurring after the price support loan rates were set and before the maturity dates of the loans. To insure continuation of CCC sales at terminal locations during August (and later months) in their normal ratio to sales at nonterminal locations, the minimum sales prices of these grains at affected locations will be increased by an amount corresponding to any decrease since May 1, 1958, in the freight rates from the point of storage to a designated terminal. CSS Commodity Offices will furnish freight rate information upon request.

Issued: September 3, 1958.

[SEAL] WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 58-7313; Filed, Sept. 9, 1958; 8:49 a. m.]

Office of the Secretary

MINNESOTA

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a–2 (a)), as amended, it has been determined that in the following counties in the State of Minnesota a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Minnesota

Mahnomen Norman

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after June 30, 1959, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 4th day of September 1958.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 58-7315; Filed, Sept. 9, 1958; 8:49 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-13]

BABCOCK & WILCOX CO.

NOTICE OF PROPOSED ISSUANCE OF CONSTRUCTION PERMIT AND FACILITY LICENSE

Please take notice that the Atomic Energy Commission proposes to issue to The Babcock & Wilcox Company a construction permit substantially as set forth below unless within fifteen (15) days after the filing of this notice with the Federal Register Division a request for a formal hearing is filed with the Commission as provided by the Commission's rules of practice (10 CFR Part 2). For further details see (1) the application submitted by The Babcock & Wilcox Company and amendments thereto, and (2) a memorandum by the Division of Licensing and Regulation which summarizes the principal factors considered in reviewing the application for license, both on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C. A copy of item (2) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D. C., Attention: Director, Division of Licensing and Regulation.

Notice is also hereby given that if the Commission issues the construction permit, the Commission may without further prior public notice convert the construction permit to a Class 104 license authorizing operation of the facility by The Babcock & Wilcox Company at the company's laboratory at Lynchburg, Virginia, if it is found that the facility has been constructed in compliance with the terms and conditions contained in the construction permit and in conformity with the provisions of the act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission that the granting of such license would not be in accordance with the provisions of the act.

Dated at Germantown, Maryland, this 3d day of September 1958.

For the Atomic Energy Commission.

EBER R. PRICE,
Acting Director,
Division of Licensing and Regulation.

PROPOSED CONSTRUCTION PERMIT

By application dated May 19, 1958, and amendments thereto dated June 30, 1958, and July 7, 1958, The Babcock & Wilcox Company requested a Class 104 license, defined in § 50.21 of Part 50, "Licensing of Production and Utilization Facilities", Title 10, Chapter I, CFR, authorizing construction and operation, at its site in Lynchburg, Virginia, of a critical experiments facility (hereinafter referred to as "the facility") for the purpose of obtaining experimental data for the proposed Liquid Metal Fuel Reactor Experiment. Reference to the application herein will be to the original application as amended.

The Atomic Energy Commission (hereinafter referred to as "the Commission") finds that:

A. The facility will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities".

B. The facility will be useful in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act").

C. The Babcock & Wilcox Company is financially qualified to construct and operate the facility in accordance with the regulations contained in Title 10, Chapter I, CFR.

D. The Babcock & Wilcox Company is technically qualified to design and construct the facility.

E. The Babcock & Wilcox Company has submitted sufficient information to provide reasonable assurance that the facility can be constructed at the proposed location without undue risk to the health and safety of the public.

F. The issuance of a construction permit to The Babcock & Wilcox Company will not be inimical to the common defense and security or to the health and safety of the public.

G. The Babcock & Wilcox Company has filed with the Commission as proof of financial protection, pursuant to 10 CFR Part 140, a showing that it has adequate resources in the form specified to provide the financial protection required.

Pursuant to the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to The Babcock & Wilcox Company to construct the facility in accordance with the specifications contained in the application. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:

A. The earliest completion date of the facility is September 22, 1958. The latest completion date of the facility is October 15, 1958. The term "completion date" as used herein means the date on which construction of the facility is completed except for the introduction of the fuel material.

B. The facility shall be constructed and located at the location in Lynchburg, Virginia, specified in the application.

Upon finding that the facility authorized has been constructed in compliance with the terms and conditions contained in this construction permit and in conformity with the provisions of the Act and of the rules and regulations of the Commission, the Commission will issue a Class 104 license to The Babcock & Wilcox Company pursuant to section 104c of the Act, which license shall expire 20 years after the date of this construction permit.

Date of issuance:

For the Atomic Energy Commission.

———,
Director,
Division of Licensing and Regulation.

[F. R. Doc. 58-7358; Filed, Sept. 8, 1958; 2:59 p. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12248; FCC 58M-920]

ST. ANTHONY TELEVISION CORP.

ORDER CONTINUING HEARING

In re application of St. Anthony Television Corporation, Houma, Louisiana; for construction permit for a new television Broadcast Station, (Channel 11); Docket No. 12248, File No. BPCT-2328.

The Hearing Examiner having under consideration a petition filed September 3, 1958, by St. Anthony Television Corporation requesting that the evidentiary hearing presently scheduled to begin on September 4, 1958, be continued to September 18, 1958; and

It appearing that the reason for the requested continuance arises from the fact that the applicant intends to amend its application in certain particulars and requires additional time to prepare such amendment; and

It further appearing that counsel for the Broadcast Bureau informally stated that there are no objections to the granting of the petition for continuance, that the orderly conduct of Commission business requires immediate action on the petition for continuance and good cause for granting the petition having been shown;

It is ordered, This the 3d day of September 1958, that the petition for continuance be and the same is hereby granted and the evidentiary hearing now scheduled to begin on September 4, 1958, is continued until September 18, 1958.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7347; Filed, Sept. 9, 1958; 8:54 a. m.]

[Docket Nos. 12427, 12428; FCC 58M-926]

ELECTRONIC MUSIC CO. AND WSBC BROADCASTING CO.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of John Englebrecht and Stephen A. Cisler, d/b as Electronic Music Company, Chicago, Illinois, Docket No. 12427, File No. BPH-2342; WSBC Broadcasting Company, Chicago, Illinois, Docket No. 12428, File No. BPH-2359; for construction permits.

It is ordered, This 3d day of September 1958, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a pre-hearing conference pursuant to the provisions of § 1.111 of the Commission's rules, in the offices of the Commission, Washington, D. C. at 10 o'clock a. m., September 17, 1958.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7348; Filed, Sept. 9, 1958; 8:54 a. m.]

[Docket No. 12534; FCC 58M-924]

SOUTH KENTUCKY BROADCASTERS (WRUS)

ORDER SCHEDULING PREHEARING CONFERENCE

In re application of Roth E. Hook and Woodrow Sosh, d/b as South Kentucky Broadcasters (WRUS), Russellville, Kentucky, Docket No. 12534, File No. BMP-7734; for construction permit.

It is ordered, This 3d day of September 1958, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a pre-hearing conference pursuant to the provisions of § 1.111 of the Commission's rules, in the offices of the Commission, Washington, D. C. at 10 o'clock a. m., September 19, 1958.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7349; Filed, Sept. 9, 1958; 8:54 a. m.]

[Docket Nos. 12512, 12513; FCC 58M-925]

BALTIMORE BROADCASTING CORP. AND COMMERCIAL RADIO INSTITUTE, INC.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Baltimore Broadcasting Corporation, Baltimore, Maryland, Docket No. 12512, File No. BPH-2384; Commercial Radio Institute, Inc., Baltimore, Maryland, Docket No. 12513, File No. BPH-2415; for construction permits.

It is ordered, This 3d day of September 1958, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a pre-hearing conference pursuant to the provisions of § 1.111 of the Commission's rules, at the offices of the Commission, Washington, D. C., 10:00 o'clock a. m., September 18, 1958.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7350; Filed, Sept. 9, 1958; 8:54 a. m.]

[Docket Nos. 12535, 12536; FCC 58M-921]

ARNOLD J. STONE ET AL.

ORDER CONTINUING HEARING CONFERENCE

In re applications of Arnold J. Stone, Alameda, California, Docket No. 12535, File No. BPH-2414; Patrick Henry and David D. Larsen, a Partnership, Alameda, California, Docket No. 12536, File No. BPH-2437; for construction permits.

The Hearing Examiner having under consideration the above-entitled proceeding;

It is ordered, This 3d day of September 1958, on the Hearing Examiner's own motion, that the prehearing conference presently scheduled for September 15, 1958 is continued until October 1, 1958, at 10:00 a. m.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7351; Filed, Sept. 9, 1958; 8:54 a. m.]

[Docket No. 12565; FCC 58M-923]

SOUTH BAY BROADCASTING CO. (KAPP)

ORDER SCHEDULING PREHEARING CONFERENCE

In re application of Sherman Somers and Robert William Crites, d/b as South Bay Broadcasting Company (KAPP), Redondo Beach, California, Docket No. 12565, File No. BPH-2416; for construction permit.

It is ordered, This 3d day of September 1958, that a prehearing conference, in accordance with § 1.111 of the rules, will be held in the above-entitled matter at 10:00 o'clock a. m., on Wednesday, September 10, 1958, in the offices of the Commission, Washington, D. C.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7352; Filed, Sept. 9, 1958; 8:54 a. m.]

[Docket No. 11751; FCC 58M-910]

COPPER CITY BROADCASTING CORP.

ORDER CONTINUING HEARING

In the matter of amendment of § 3.606 *Table of assignments*, Television Broadcast Stations Albany-Schenectady-Troy and Vail Mills, New York and order directing Copper City Broadcasting Corporation to show cause why its authorization for Station WKTV, Utica, New York should not be modified to specify operation on Channel 2 in lieu of Channel 13; Docket No. 11751.

By agreement of the parties: *It is ordered*, This 3d day of September 1958, that the hearing in the above-entitled matter presently scheduled for September 3, 1958, at 10:00 a. m., be, and the same, is hereby continued without date.

Released: September 3, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7319; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket Nos. 12107, 12222; FCC 58M-905]

RIVERSIDE CHURCH IN CITY OF NEW YORK AND HUNTINGTON-MONTAUK BROADCASTING CO. INC.

ORDER CONTINUING HEARING

In re application of The Riverside Church in the City of New York, New York, New York, Docket No. 12107, File No. BPH-2174; Huntington-Montauk Broadcasting Co., Inc., Huntington, New York, Docket No. 12222, File No. BPH-2233; for construction permits.

The Hearing Examiner having under consideration a "Petition for Continuance of Hearing" filed in the above-entitled proceeding on August 19, 1958, by Huntington-Montauk Broadcasting Co., Inc., and an opposition thereto filed on August 21, 1958, by The Riverside Church in the City of New York;

It appearing that the hearing in the above-entitled proceeding is presently scheduled for September 9, 1958; and

It further appearing that the present workload of the Examiner makes a hearing on the scheduled date an impossibility, and that for the same reason, a hearing on September 24, 1958, as requested in said petition for continuance, is also unavailing;

It is ordered, This 28th day of August, 1958, that the "Petition for Continuance of Hearing" filed by Huntington-Montauk Broadcasting Co., Inc., requesting a continuance to September 24, 1958, be, and the same, is hereby denied; and

It is further ordered, On the Examiner's own motion, that the hearing in the above-entitled proceeding, presently scheduled for September 9, 1958, is hereby continued to October 14, 1958, at 10:00 a. m., in the offices of the Commission, Washington, D. C.

Released: August 29, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7320; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket No. 12201 etc.; FCC 58-819]

SOUTH NORFOLK BROADCASTING CO. INC. ET AL.

MEMORANDUM OPINION AND ORDER AMENDING ISSUES

In re applications of South Norfolk Broadcasting Company, Incorporated, South Norfolk, Virginia, Docket No. 12201, File No. BP-10981; Cy Blumenthal, tr/as Denbigh Broadcasting Co., Denbigh, Virginia, Docket No. 12202, File No. BP-11250; Virginia Beach Broadcasting Corporation (WBOF), Virginia Beach, Virginia, Docket No. 12394, File No. BP-11600; for construction permits.

1. The Commission has under consideration (1) a petition to enlarge issues filed by South Norfolk Broadcasting Company, Inc. on February 26, 1958; (2) an opposition filed by Cy Blumenthal on March 5, 1958; (3) a reply to Blumenthal's opposition filed by South Norfolk on March 13, 1958; and (4) a comment on South Norfolk's petition filed by the Broadcast Bureau on March 18, 1958. Virginia Beach Broadcasting Corporation (WBOF) filed no pleadings and took no part in this interlocutory matter.

2. South Norfolk Broadcasting Company was dismissed from this proceeding with prejudice by the Chief Hearing Examiner on June 23, 1958 (FCC 58M-665; No. 60501). However, the matter having come to the attention of the Commission, and having been the subject of comment by the Broadcast Bureau, we have retained the matter for consideration despite South Norfolk's dismissal.

3. South Norfolk sought the addition of an issue to determine whether Blumenthal's application, reciting as it does his proposed station and main studio location as "Denbigh, Warwick County,

Virginia", complied with 47 CFR 3.30(a) which provides that a station will be licensed to serve a particular city, town or other political subdivision. South Norfolk alleged that there was no political subdivision known as Denbigh, Virginia, and that the physical location proposed was, in fact, in the City of Warwick, Virginia, which entity has since 1952 superseded, although being conterminous with, the former County of Warwick. In addition, and related to the foregoing, South Norfolk sought the addition of issues to determine whether Blumenthal's proposals would result in furnishing the signal strength required by the Commission's rules to the City of Warwick.

4. Blumenthal, in reply, states that Denbigh is a political subdivision of the type contemplated by the rules.

5. The Broadcast Bureau, while conceding that an issue has been raised as to the status of Denbigh, suggests that the issues be limited to the existence of Denbigh as an identifiable community inasmuch as, since Blumenthal has not proposed service to the City of Warwick, there is no call to explore a potential service to that city if such be the true location of Blumenthal's proposed station.

6. We agree with the Broadcast Bureau. However, in view of Blumenthal's continued assertion that he intends to serve Denbigh and the fact that Denbigh is an identifiable location, regardless of whether it be a political sub-division within 47 CFR 3.30 (a), an exploration of the status of Denbigh with an opportunity for a showing, if such be possible, of reasons for waiver or relaxation of the rules is, we believe, justified.

In view, therefore, of the foregoing reasons:

It is ordered, That petitioner South Norfolk's petition to enlarge issues is in all respects denied, as moot, and

It is further ordered, That the Commission on its own motion amends the issues previously published in this matter (22 F. R. 8094; 23 F. R. 2778) to renumber existing issue 6 as issue 7 and to add the following issue:

6. To determine whether the application of Cy Blumenthal d/b as Denbigh Broadcasting Company proposes to serve primarily a particular city, town, or other political subdivision as contemplated by § 3.30 (a) of the Commission's Rules, and if not, whether the provisions of the rule should be waived.

Adopted: September 3, 1958.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7321; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket Nos. 12229, 12230; FCC 58M-917]

WALTER G. ALLEN AND MARSHALL COUNTY BROADCASTING CO. INC.

ORDER CONTINUING HEARING

In re applications of Walter G. Allen, Huntsville, Alabama; Docket No. 12229, File No. BP-10871; Marshall County Broadcasting Company, Inc., Arab, Alabama; Docket No. 12230, File No. BP-11088; for construction permits.

It is ordered, This 3d day of September 1958, on the Hearing Examiner's own motion and with the concurrence of counsel for all parties to this proceeding, that the hearing presently scheduled herein for September 10, 1958, is hereby rescheduled for October 7, 1958, at 10:00 o'clock a. m. in the Commission's offices, Washington, D. C.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7322; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket No. 1294; FCC 58-828]

REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FB BROADCAST STATIONS

ORDER TERMINATING PROCEEDING

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of September 1958;

The Commission having under consideration amending the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in Docket No. 12294 to add Channel 289 to Framingham, Massachusetts; and

It appearing that on July 30, 1958, the Commission adopted an Order in Docket No. 12461, effective August 30, 1958, to abandon the Revised Tentative Allocation Plan for Class B FM Broadcast Stations thereby making unnecessary any further proceedings in Docket No. 12294;

Accordingly, for the foregoing reason:

It is ordered, That this proceeding is terminated.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7323; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket Nos. 12315, 12316; FCC 58M-918]

SHEFFIELD BROADCASTING CO. AND J. B. FALT, JR.

ORDER CONTINUING HEARING CONFERENCE

In re applications of Iralee W. Benns, tr/as Sheffield Broadcasting Co., Sheffield, Alabama; Docket No. 12315, File No. BP-11130; J. B. Falt, Jr., Sheffield, Alabama; Docket No. 12316, File No. BP-11559; For construction permits.

It is ordered, This 3d day of September 1958, on the Hearing Examiner's own motion, that the prehearing conference in the above-entitled proceeding, which is presently scheduled for September 9, 1958, is rescheduled for October 6, 1958, at 9:00 o'clock a. m. in the Commission's offices, Washington, D. C.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7324; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket No. 12343; FCC 58-829]

REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FM BROADCAST STATIONS

ORDER TERMINATING PROCEEDING

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of September, 1958;

The Commission having under consideration amending the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in Docket No. 12343 to substitute Channel 229 for 293 in Sacramento, California, and to substitute Channel 293 for 229 in Santa Rosa, California;

It appearing that on July 30, 1958 the Commission adopted an Order in Docket No. 12461, effective August 30, 1958, to abandon the Revised Tentative Allocation Plan for Class B FM Broadcast Stations thereby making unnecessary any further proceedings in Docket No. 12343;

Accordingly, for the foregoing reason:

It is ordered, That this proceeding is terminated.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7325; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket No. 12361; FCC 58-830]

REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FM BROADCAST STATIONS

ORDER TERMINATING PROCEEDING

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of September 1958;

The Commission having under consideration amending the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in Docket No. 12361 to allocate Channel 233 to Sacramento, California;

It appearing that on July 30, 1958, the Commission adopted an Order in Docket No. 12461, effective August 30, 1958, to abandon the Revised Tentative Allocation Plan for Class B FM Broadcast Stations thereby making unnecessary any further proceedings in Docket No. 12361;

Accordingly, for the foregoing reason:

It is ordered, That this proceeding is terminated.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7326; Filed, Sept. 9, 1958; 8:50 a. m.]

[Docket No. 12362; FCC 58-831]

REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FM BROADCAST STATIONS

ORDER TERMINATING PROCEEDING

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of September 1958;

The Commission having under consideration amending the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in Docket No. 12362 to allocate Channel 273 to Sacramento, California, and to substitute Channel 245 for Channel 273 in Santa Rosa, California;

It appearing that on July 30, 1958, the Commission adopted an Order in Docket No. 12461, effective August 30, 1958, to abandon the Revised Tentative Allocation Plan for Class B FM Broadcast Stations thereby making unnecessary any further proceedings in Docket No. 12362;

Accordingly, for the foregoing reason: *It is ordered*, That this proceeding is terminated.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7327; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket No. 12416 etc.; FCC 58M-909]

NICK J. CHACONAS ET AL.

ORDER CONTINUING HEARING

In re applications of Nick J. Chaconas, Gaithersburg, Maryland; Docket No. 12416, File No. BP-10996; I. T. Cohen and Anne H. Cohen, d/b as Tri-County Broadcasting Company, Laurel, Maryland; Docket No. 12417, File No. BP-11309; The Eleven Fifty Corp., Capitol Heights, Maryland; Docket No. 12418, File No. BP-11379; TCA Broadcasting Corporation, College Park, Maryland; Docket No. 12419, File No. BP-11741; for construction permits.

With the agreement of all parties to the proceeding, *It is ordered*, This 2d day of September 1958, that hearing now scheduled for September 16, 1958, is continued to Thursday, September 18, 1958, at 10:00 a. m. in the offices of the Commission, Washington, D. C.

Released: September 3, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7328; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket No. 12472; FCC 58-832]

REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FM BROADCAST STATIONS

ORDER TERMINATING PROCEEDING

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of September 1958;

The Commission having under consideration amending the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in Docket No. 12472 proposing to allocate Channel 300 to Redlands and Lancaster, California;

It appearing that on July 30, 1958, the Commission adopted an Order in Docket No. 12461, effective August 30, 1958, to abandon the Revised Tentative Allocation Plan for Class B FM Broadcast Stations thereby making unnecessary any further proceedings in Docket No. 12472;

Accordingly, for the foregoing reason: *It is ordered*, That this proceeding is terminated.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7330; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket No. 12453 etc.; FCC 58M-902]

ALFRED RAY FUCHS (KTJS) ET AL.

ORDER SCHEDULING HEARING

In re applications of Alfred Ray Fuchs (KTJS), Hobart, Oklahoma, Docket No. 12453, File No. BP-11045; KGFL, Incorporated (KGFL), Roswell, New Mexico, Docket No. 12454, File No. BP-11273; Bob Garrison and H. H. Huntley d/b as Garrison-Huntley Enterprises, Lubbock, Texas, Docket No. 12455, File No. BP-11538; Joseph S. Lodato, Santa Rosa, New Mexico, Docket No. 12456, File No. BP-11721; Clarence E. Wilson, Hobbs, New Mexico, Docket No. 12457, File No. BP-11817; for construction permits.

The Chief Hearing Examiner having under consideration the petition of Joseph S. Lodato, filed August 14, 1958, requesting changes in the dates heretofore specified by the Hearing Examiner for certain procedures in the above-entitled matter;

It appearing that the petition is supported by a showing of good cause and that none of the parties to the proceeding have filed objections thereto;

It is ordered, This 27th day of August 1958, that the petition is granted and that the following schedule for procedures in the above-entitled matter will be observed: Preliminary exchange of exhibits—September 22, 1958; final exchange of exhibits—October 6, 1958; notification of witnesses re cross-examinations—October 15, 1958; commencement of formal hearing—October 20, 1958.

Released: August 28, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7329; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket Nos. 12488, 12489; FCC 58M-919]

YOUNG PEOPLES CHURCH OF THE AIR, INC. AND WJMJ BROADCASTING CORP.

ORDER CONTINUING HEARING

In re applications of The Young People's Church of the Air, Inc., Philadelphia, Pennsylvania, Docket No. 12488, File No. BPH-2394; WJMJ Broadcasting Corporation, Philadelphia, Pennsylvania, Docket No. 12489, File No. BPH-2423; for construction permits.

The Hearing Examiner having under consideration a petition to continue hearing and prehearing conference and to name a deferred date for exchanging exhibits, filed by The Young People's Church of the Air, Inc., on September 2, 1958;

It appearing that counsel for each of the other parties have agreed not to oppose the continuance and have informally consented to immediate consideration of this petition;

It is ordered, This 3d day of September 1953, that the above petition is granted to the extent indicated herein; and the dates designated for various procedural steps herein are postponed as follows:

	From	To
Date for furnishing stipulations or statement referred to at pages 44-7 of the transcript of prehearing conference	Sept. 5, 1958	Oct. 3, 1958
Prehearing conference	Sept. 11, 1958	Oct. 9, 1958
Hearing date	Oct. 2, 1958	Oct. 30, 1958

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7331; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket No. 12492; FCC 58-833]

REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FM BROADCAST STATIONS

ORDER TERMINATING PROCEEDING

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of September 1958;

The Commission having under consideration amending the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in Docket No. 12492 to allocate Channel 293 to San Diego, California;

It appearing that on July 30, 1958, the Commission adopted an Order in Docket No. 12461, effective August 30, 1958, to abandon the Revised Tentative Allocation Plan for Class B FM Broadcast Stations thereby making unnecessary any further proceedings in Docket No. 12492;

Accordingly, for the foregoing reason: *It is ordered*, That this proceeding is terminated.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7332; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket No. 12500; FCC 58-835]

REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FM BROADCAST STATIONS

ORDER TERMINATING PROCEEDING

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of September 1958;

The Commission having under consideration amending the Revised Tentative Allocation Plan for Class B FM Broadcast Stations in Docket No. 12500 to allocate Channel 294 to Baltimore, Maryland;

It appearing that on July 30, 1958, the Commission adopted an Order in Docket No. 12461, effective August 30, 1958, to abandon the Revised Tentative Allocation Plan for Class B FM Broadcast Stations thereby making unnecessary any further proceedings in Docket No. 12500;

Accordingly, for the foregoing reason: *It is ordered*, That this proceeding is terminated.

Released: September 4, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7333; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket No. 12525; FCC 58M-906]

AQUADA PRODUCTS, INC.

ORDER CONTINUING HEARING

In the matter of cease and desist order to be directed to Aquada Products, Inc., 721 Broadway, New York 3, New York.

It is ordered, This 29th day of August 1958, that hearing in the above-entitled proceeding, which is presently scheduled to commence on September 9, 1958, is continued without date.

Released: August 29, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7334; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket No. 12527; FCC 58M-908]

EMAR SEPARATOR CO.

ORDER CONTINUING HEARING

In the matter of cease and desist order to be directed to R. Major Moscovitz and H. Moscovitz tr/as Emar Separator Co., 421 W. 28th Street, New York 1, New York.

It is ordered, This 29th day of August 1958, that hearing in the above-entitled proceeding, which is presently scheduled to commence on September 11, 1958, is continued without date.

Released: August 29, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7335; Filed, Sept. 9, 1958; 8:51 a. m.]

[Docket No. 12580]

JAMES M. BRANDENBURG

ORDER ASSIGNING MATTER FOR HEARING ON STATED ISSUES

In the matter of James M. Brandenburg, 1832 Josie Avenue, Long Beach 15, California; suspension of Restricted Radiotelephone Operator Permit; Docket No. 12580.

The Commission having under consideration the suspension of the Restricted Radiotelephone Operator Permit, 11SD-7407, issued to James M. Brandenburg, whose address appears above; and

It appearing that acting in accordance with the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, the above-named party filed with the Commission within the time provided therefor an application requesting a hearing on the Commission's Order dated March 28, 1958, suspending for a period of two months his restricted radiotelephone operator permit; and

It further appearing that under the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, the said permittee is entitled to a hearing in this matter and that upon the filing of a timely written application therefor, the Commission's Order of suspension is held in abeyance until the conclusion of the proceeding in this matter.

It is ordered, This 2d day of September 1958 that the matter of the suspension of the Restricted Radiotelephone Operator Permit of James M. Brandenburg is hereby designated for hearing in San Francisco, California before a Hearing Examiner at a time and place to be specified by further order, upon the following issues:

1. To determine whether James M. Brandenburg violated §§ 8.178 and 8.358 (a) of the Commission's rules in that he transmitted or allowed to be transmitted on 2638 kc communications other than safety and operational communications after a warning notice was served on him for a previous violation of the same type while operating the radiotelephone station WA-2492 on board the vessel M/V AQUARIUS.

2. In the light of the evidence adduced in the preceding issue to determine whether the terms of the original order of suspension should be made final, rescinded, or modified.

It is further ordered, That a copy of this Order be transmitted by Certified Mail, Return Receipt Requested, to James M. Brandenburg, and that he notify the Commission in writing within 10 days after the receipt of this Order that he will appear in person or by counsel at said hearing.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7336; Filed, Sept. 9, 1958; 8:51 a. m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

GEOFFREY BAKER

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No change since previous report.

This amends statement previously published in the FEDERAL REGISTER, February 14, 1958 (23 F. R. 988).

Dated: August 1, 1958.

GEOFFREY BAKER.

[F. R. Doc. 58-7288; Filed, Sept. 9, 1958; 8:45 a. m.]

HAROLD S. BLACKMAN

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No change since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER, February 11, 1958 (23 F. R. 896).

Dated: August 1, 1958.

HAROLD S. BLACKMAN.

[F. R. Doc. 58-7289; Filed, Sept. 9, 1958; 8:45 a. m.]

JAMES F. BROWNLEE

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Purchased: shares Britalta Petroleums Ltd.; shares Thomas Industries, Class B Com-

mon; shares Spencer Chemical Co.; shares Minute Maid Corp.; Note of the Seaplant Corp.

Sold: shares Britalta Petroleums Ltd., U. S. Bonds.

This amends statement previously published in the FEDERAL REGISTER, February 22, 1958 (23 F. R. 1163).

Dated: August 1, 1958.

JAMES F. BROWNLEE.

[F. R. Doc. 58-7290; Filed, Sept. 9, 1958; 8:45 a. m.]

GORDON B. CARSON

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER, February 22, 1958 (23 F. R. 1163).

Dated: August 1, 1958.

GORDON B. CARSON.

[F. R. Doc. 58-7291; Filed, Sept. 9, 1958; 8:45 a. m.]

PETER HENLE

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER, February 6, 1958 (23 F. R. 816).

Dated: August 1, 1958.

PETER HENLE.

[F. R. Doc. 58-7292; Filed, Sept. 9, 1958; 8:45 a. m.]

DAVID C. HOLUB

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes of interests since previously reported.

This amends statement previously published in the FEDERAL REGISTER March 21, 1958 (23 F. R. 1909).

Dated: August 1, 1958.

DAVID C. HOLUB.

[F. R. Doc. 58-7293; Filed, Sept. 9, 1958; 8:45 a. m.]

JOSEPH D. KEENAN

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Bought: American Security and Trust; Dixilyn Drill; Drug Fair.

Sold: Drug Fair.

This amends statement previously published in the FEDERAL REGISTER, February 6, 1958 (23 F. R. 816).

Dated: August 1, 1958.

JOSEPH D. KEENAN.

[F. R. Doc. 58-7294; Filed, Sept. 9, 1958; 8:46 a. m.]

GEORGE ROSS LESAUVAGE

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No change—same as previous statement.

This amends statement previously published in the FEDERAL REGISTER, February 22, 1958 (23 F. R. 1163).

Dated: August 1, 1958.

GEORGE ROSS LESAUVAGE.

[F. R. Doc. 58-7295; Filed, Sept. 9, 1958; 8:46 a. m.]

RUSSELL C. MCCARTHY

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER, February 6, 1958 (23 F. R. 816).

Dated: August 1, 1958.

RUSSELL C. MCCARTHY.

[F. R. Doc. 58-7296; Filed, Sept. 9, 1958; 8:46 a. m.]

C. F. OGDEN

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Accessions: None.

Deletions: None.

This amends statement previously published in the FEDERAL REGISTER, February 6, 1958 (23 F. R. 816).

Dated: August 1, 1958.

C. F. OGDEN.

[F. R. Doc. 58-7297; Filed, Sept. 9, 1958; 8:46 a. m.]

PHILIP N. POWERS

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER, February 22, 1958 (23 F. R. 1162).

Dated: August 1, 1958.

PHILIP N. POWERS.

[F. R. Doc. 58-7298; Filed, Sept. 9, 1958; 8:46 a. m.]

E. D. REEVES

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Change: No longer a Director of the Jersey Production Research Company.

This amends statement previously published in the FEDERAL REGISTER, February 6, 1958 (23 F. R. 816).

Dated: August 1, 1958.

E. D. REEVES.

[F. R. Doc. 58-7299; Filed, Sept. 9, 1958; 8:46 a. m.]

THOMAS R. REID

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER, February 22, 1958 (23 F. R. 1163).

Dated: August 1, 1958.

THOMAS R. REID.

[F. R. Doc. 58-7300; Filed, Sept. 9, 1958; 8:46 a. m.]

STANLEY RUTTENBERG

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER, February 6, 1958 (23 F. R. 816).

Dated: August 1, 1958.

STANLEY RUTTENBERG.

[F. R. Doc. 58-7301; Filed, Sept. 9, 1958; 8:47 a. m.]

MAURICE C. WALSH

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No change since the last report.

This amends statement previously published in the FEDERAL REGISTER, February 22, 1958 (23 F. R. 1163).

Dated: August 1, 1958.

MAURICE C. WALSH.

[F. R. Doc. 58-7302; Filed, Sept. 9, 1958; 8:47 a. m.]

J. ED WARREN

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Additions: Bethlehem Steel.
Deletions: Johns Manville, Texas Pacific Coal & Oil.

This amends statement previously published in the FEDERAL REGISTER, February 22, 1958 (23 F. R. 1163).

Dated: August 10, 1958.

J. ED WARREN.

[F. R. Doc. 58-7303; Filed, Sept. 9, 1958; 8:47 a. m.]

WILLIAM WEBSTER

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Additions: F. C. Huyck, Fidelity Fund Trend, Carpenter Steel Co.
Delete: Northeastern Steel Co.

This amends statement previously published in the FEDERAL REGISTER, February 6, 1958 (23 F. R. 816).

Dated: August 1, 1958.

WILLIAM WEBSTER.

[F. R. Doc. 58-7304; Filed, Sept. 9, 1958; 8:47 a. m.]

R. CARTER WELLFORD

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No changes since last submission of Form ODM-163.

This amends statement previously published in the FEDERAL REGISTER, February 22, 1958 (23 F. R. 1162).

Dated: August 1, 1958.

R. CARTER WELLFORD.

[F. R. Doc. 58-7305; Filed, Sept. 9, 1958; 8:47 a. m.]

INTERNATIONAL COOPERATION ADMINISTRATION

CONTROLLER, INTERNATIONAL COOPERATION ADMINISTRATION

DELEGATION OF AUTHORITY TO CERTIFY VOUCHERS

Pursuant to authority vested in me by the Mutual Security Act of 1954, as amended (Pub. Law 665, 83d Congress), authority is hereby delegated to the Controller, International Cooperation Administration, and to such subordinate officials as he may designate, to make to the Treasury Department such certification as is required to permit the Treasury Department to make payment for salaries, travel, and for such other expenditures as may be incurred by the Corporation, including payments to vendors, contractors, etc., for services, supplies, materials or equipment furnished the Development Loan Fund.

ROBERT B. MENAPACE,
Acting Managing Director,
Development Loan Fund.

August 29, 1958.

[F. R. Doc. 58-7309; Filed, Sept. 9, 1958; 8:48 a. m.]

Development Loan Fund

CONTROLLER, INTERNATIONAL COOPERATION ADMINISTRATION

DELEGATION OF AUTHORITY TO SIGN FISCAL DOCUMENTS

By virtue of the authority vested in me by the Mutual Security Act of 1954, as amended (Pub. Law. 665, 83d Congress), I hereby delegate to the Controller, International Cooperation Administration, and to such subordinate officers and employees as he may designate, authority to sign on behalf of the Managing Director of the Development Loan Fund, in connection with loans made from the Development Loan Fund, the documents listed below:

a. Letters of Commitment.
b. Amendments to Letter.

ROBERT B. MENAPACE,
Acting Managing Director,
Development Loan Fund.

AUGUST 29, 1958.

[F. R. Doc. 58-7308; Filed, Sept. 9, 1958; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 5, 1958.

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. 34946: *Grains—Minnesota points to Gulf ports.* Filed by Western Trunk Line Committee, Agent (No. A-2008), for interested rail carriers. Rates on corn, oats, barley, rye, wheat, and soybeans, carloads from Minneapolis, Minnesota Transfer, St. Paul, and Red Wing, Minn., to Gulf ports in Alabama, Florida, Louisiana, Mississippi, and Texas, for export.

Grounds for relief: Barge competition.

Tariff: Supplement 11 to Chicago, Burlington & Quincy Railroad Company's tariff I. C. C. 20486, and other schedules.

FSA No. 34947: *Soda ash—Ohio points to Carteret, N. J.* Filed by O. E. Schultz, Agent (ER No. 2458), for interested rail carriers. Rates on soda ash, in bulk, carloads from Fairport Harbor, Painesville, and Perry, Ohio, to Carteret, N. J.

Grounds for relief: Market competition with Solvay and Syracuse, N. Y.

Tariff: Supplement 15 to Trunk Line Central Territory Railroads tariff I. C. C. C-17.

FSA No. 34948: *Livestock—Southern points to points in Iowa and Nebraska.* Filed by O. W. South, Jr., Agent (SFA No. A3725), for interested rail carriers. Rates on cattle, calves, goats, hogs, and sheep, carloads from Fulton, Ky., Clarksdale, Miss., Jackson, Tenn., and other specified points in Mississippi and Tennessee to Des Moines, Waterloo, Iowa, Omaha and South Omaha, Nebr.

Grounds for relief: Short-line distance formulas.

Tariff: Supplement 47 to Southern Freight Tariff Bureau tariff I. C. C. 1572.

FSA No. 34949: *Boxes and cartons—Shenandoah, Iowa to northern and western points.* Filed by Western Trunk Line Committee, Agent (No. A-2005), for interested rail carriers. Rates on fibreboard or strawboard boxes and cartons,

carloads from Shenandoah, Iowa to specified points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, South Dakota, Wisconsin, and Wyoming.

Grounds for relief: Short-line distance formula and market competition.

Tariff: Supplement 75 to Western Trunk Line Committee tariff I. C. C. A-4082.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-7339; Filed, Sept. 9, 1958; 8:52 a. m.]

[Notice 51]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 5, 1958.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Special Rules Revised, 1957 (49 CFR 211.1 (c) (8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d) (4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1 (e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 7920 (Deviation No. 1), HERRIOTT TRUCKING COMPANY, INC., Alice and Sumner Streets, East Palestine, Ohio, filed August 28, 1958. Attorney for said carrier, Robert N. Krier, 3440 Leveque-Lincoln Tower, Columbus 15, Ohio. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between junction U. S. Highways 6 and 23, one and one quarter miles south of New Rochester, Ohio, and junction Ohio Highway 199 and U. S. Highway 23 at Postoria, Ohio, as follows: From Junction U. S. Highways 6 and 23 over U. S. Highway 6 to junction Ohio Highway 199, thence over Ohio Highway 199 to Postoria and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between junction U. S. Highways 6 and 23, one and one quarter miles south of New Rochester, Ohio, and Postoria, Ohio over U. S. Highway 23.

No. MC 7920 (Deviation No. 2), HERRIOTT TRUCKING COMPANY, INC., Alice and Sumner Streets, East Palestine, Ohio, filed August 28, 1958. Attorney for said carrier, Robert N. Krier, 3440 LeVeque-Lincoln Tower, Columbus 15, Ohio. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between junction Indiana Turnpike and the Calument Skyway, and the Indiana-Ohio State line, as follows: From junction Indiana Turnpike and Calument Skyway over the Indiana Turnpike and access routes to the Indiana-Ohio State line and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Chicago, Ill., and the Indiana-Ohio State line over the following pertinent route: From Chicago over U. S. Highway 41 to junction U. S. Highway 6, thence over U. S. Highway 6 to New Rochester, Ohio.

No. MC 7920 (Deviation No. 3), HERRIOTT TRUCKING COMPANY, INC., Alice and Sumner Streets, East Palestine, Ohio, filed August 28, 1958. Attorney for said carrier, Robert N. Krier, 3440 LeVeque-Lincoln Tower, Columbus 15, Ohio. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Ohio-Indiana State line, and the Ohio-Pennsylvania State line, as follows: from the Ohio-Indiana State line over the Ohio Turnpike and access routes to the Ohio-Pennsylvania State line, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: From the Ohio-Indiana State line over U. S. Highway 6 to New Rochester, Ohio, thence over U. S. Highway 23 to Fostoria, Ohio, thence over Ohio Highway 18 to Tiffin, Ohio, thence over U. S. Highway 224 via Akron, Ohio, to the Ohio-Pennsylvania State line; from Deerfield, Ohio, over Ohio Highway 14 to the Pennsylvania-Ohio State line; from Salem, Ohio, over Ohio Highway 45 to Lisbon, Ohio, thence over U. S. Highway 30 to East Liverpool, Ohio, thence over Ohio Highway 39 to the Ohio-Pennsylvania State line; from Ellsworth, Ohio, over Ohio Highway 45 to Waverly, Ohio, thence over Ohio Highway 82 to the Ohio-Pennsylvania State line; from Sharon, Pa., over U. S. Highway 62 to Youngstown, Ohio, thence over Ohio Highway 90 through Poland, Ohio, to Petersburg, Ohio, thence over Ohio Highway 170 to junction U. S. Highway 30, and thence over U. S. Highway 30 to East Liverpool, Ohio; and from Boardman, Ohio, over Ohio Highway 7 to Youngstown, Ohio; and return over the same routes.

No. MC 7920 (Deviation No. 4), HERRIOTT TRUCKING COMPANY, INC., Alice and Sumner Streets, East Palestine, Ohio, filed August 28, 1958. Attorney for said carrier, Robert N. Krier, 3440 LeVeque-Lincoln Tower, Columbus 15, Ohio. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Pennsylvania-Ohio State line, and Interchange No. 8 of the Pennsylvania Turnpike as follows: From the Pennsylvania-Ohio State line over the Pennsylvania Turnpike and access routes to Interchange No. 8 of the said Turnpike and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: From Uniontown, Pa., over U. S. Highway 40 to Washington, Pa., thence over Pennsylvania Highway 19 to junction Pennsylvania Highway 519, thence over Pennsylvania Highway 519 via Canonsburg, Hendersonville, Bridgeville, and Carnegie, Pa., to Pittsburgh, Pa., thence over Pennsylvania Highway 88 to Rochester, Pa. (also from Pittsburgh over Pennsylvania Highway 51 to Rochester), thence over Pennsylvania Highway 18 via New Brighton, Pa., to Girard, Pa.; from Uniontown over U. S. Highway 119 via Ruffs Dale, Pa., to Greensburg, Pa., thence over U. S. Highway 30 to Pittsburgh, Pa., thence to New Brighton as specified above, thence over Pennsylvania Highway 88 to Elwood City, Pa. (also from Pittsburgh over U. S. Highway 19 to Erie); from Pittsburgh over Pennsylvania Highway 8 to Butler, Pa.; from Uniontown to Pittsburgh as specified above, thence over Pennsylvania Highway 28 to West New Kensington, Pa.; from Pennsylvania-Ohio State line over U. S. Highway 224 to New Castle, Pa.; from Pennsylvania-Ohio State line over Pennsylvania Highway 51 to Beaver; from Pennsylvania-Ohio State line over Pennsylvania Highway 68 to Rochester, Pa.; and from Pennsylvania-Ohio State line over U. S. Highway 62 to junction Pennsylvania Highway 18, and thence over Pennsylvania Highway 18 to New Castle; and return over the same routes.

No. MC 7920 (Deviation No. 5), HERRIOTT TRUCKING COMPANY, INC., Alice and Sumner Streets, East Palestine, Ohio, filed August 28, 1958. Attorney for said carrier, Robert N. Krier, 3440 LeVeque-Lincoln Tower, Columbus 15, Ohio. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, between the Pennsylvania-New York State line and Interchange No. 50 of the New York Thruway, as follows: From the Pennsylvania-New York State line over the New York Thruway and access routes to Interchange No. 50 of the said Thruway and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: From Girard, Pa., over U. S. Highway 20 to junction New York Highway 130, thence over New York Highway 130 to Buffalo, N. Y.; and from the Pennsylvania-New York State line over New York Highway 5 to Buffalo; and return over the same routes.

No. MC 59488 (Deviation No. 2), SOUTHWESTERN TRANSPORTATION COMPANY, P. O. Box 619, Texarkana, Tex., filed September 2, 1958. Attorney for said carrier, Lloyd M. Roach, P. O. Box 619, Texarkana, Tex. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Bossier City, La., and Magnolia, Ark., as follows: From junction Louisiana Highway 3 and U. S. Highways 79 and 80 in Bossier City over U. S. Highways 79 and 80 to Mindon, La., thence over U. S. Highway 79 to junction U. S. Highway 82 at Magnolia and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: From Memphis, Tenn., over U. S. Highway 70 to junction Arkansas Highway 17, thence over Arkansas Highway 17 to junction U. S. Highway 79, thence over U. S. Highway 79 to Magnolia, Ark., and thence over U. S. Highway 82 to Texarkana, Tex.; and from Lewisville, Ark., over Arkansas Highway 29 to the Arkansas-Louisiana State line, thence over Louisiana Highway 3 (formerly Louisiana Highway 10) to junction U. S. Highway 80, and thence over U. S. Highway 80 to Shreveport, La.; and return over the same routes.

No. MC 61440 (Deviation No. 4), LEE WAY MOTOR FREIGHT, INC., P. O. Box 2488, Oklahoma City 8, Okla., filed August 29, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Oklahoma City, Okla., and Purcell, Okla., as follows: From Oklahoma City over Oklahoma Highway 74 to Purcell and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Houston, Tex., and Oklahoma City, Okla., over the following pertinent route: From Houston over U. S. Highway 75 to Dallas, Tex., and thence over U. S. Highway 77 to Oklahoma City.

No. MC 116004 (Deviation No. 3), TEXAS-OKLAHOMA EXPRESS, INC., 1005 S. Lamar St., Dallas, Tex., filed September 2, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Tulsa, Okla., and Dallas, Tex., as follows: From Tulsa over Oklahoma Highway 51 to Wagoner, Okla., thence over U. S. Highway 69 to Denison, Tex., thence over U. S. Highway 75 to Dallas and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the some commodities between Tulsa, Okla., and Dallas, Tex., over the following pertinent route: From Tulsa over U. S. Highway 66 to Oklahoma City, Okla., and thence over U. S. Highway 77 to Dallas.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-7340; Filed, Sept. 9, 1958; 8:52 a. m.]

[Notice 233]

MOTOR CARRIER APPLICATIONS

SEPTEMBER 5, 1958.

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

All hearings will be called at 9:30 o'clock a. m., United States standard time (or 9:30 o'clock a. m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Sub No. 167), filed July 25, 1958. Applicant: ROADWAY EXPRESS, INC., 147 Park Street, P. O. Box 471, Akron, Ohio. Applicant's attorney: William O. Turney, 2001 Massachusetts Avenue NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, 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, between Birmingham, Ala., and Reform, Ala., from Birmingham over U. S. Highway 11 to Tuscaloosa, Ala., thence over U. S. Highway 82 to Reform, and return over the same route, with service at Reform, Ala., only and serving no intermediate points. Applicant is authorized to conduct operations at Alabama, Connecticut, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: October 16, 1958, at 1:00 o'clock p. m., United States standard time (or 1:00 o'clock p. m. local daylight saving time, if that time is observed), at the U. S. Court Rooms, Montgomery, Ala., before Joint Board No. 100, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 11107 (Sub No. 9), filed August 25, 1958. Applicant: ORVILLE K. McCLEARY, Stewartstown, Pa. Applicant's attorney: S. Harrison Kahn, 726-34 Investment Building, Washington, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass House limestone*, in bulk, in tractor-trailer dump or covered hopper trucks, from Thomasville, Jackson Township, York County, Pa., to Salem, Bridgeton, Millville, Barrington, and Freehold, N. J., and points within 5 miles of each destination point. Applicant is authorized to conduct operations in Pennsylvania, New York, District of Columbia, Maryland, Virginia and Delaware.

HEARING: October 15, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Allen W. Hagerty.

No. MC 19553 (Sub No. 20), filed September 3, 1958. Applicant: KNOX MOTOR SERVICE, INC., P. O. Box 359, Rockford, Ill. Applicant's representative: Robert M. Kaske, same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Class A and B explosives, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Forest Products Division of The Olin Mathieson Chemical Corporation located approximately 4 miles southeast of the junction of U. S. Highway 6 and U. S. Highway 66, in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Iowa, Wisconsin and Illinois.

HEARING: September 11, 1958, in Room 852, U. S. Custom House, 610 South Canal St., Chicago, Ill., before Joint Board No. 149.

No. MC 31600 (Sub No. 455), filed August 11, 1958. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. Applicant's attorney: Harry C. Ames, Jr., Transportation Building, Washington, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Denatured rum*, in bulk from Boston, Mass., to Reidsville, and Durham, N. C., and *empty containers or other such incidental facilities* (not specified) used in transporting denatured rum on return. Applicant is authorized to conduct operations in Massachusetts, Rhode Island, New York, Connecticut, New Jersey, New Hampshire, Vermont, Maine, Delaware, Pennsylvania, West Virginia, South Carolina, Kentucky, Virginia, Ohio, Illinois, Indiana, Michigan, and North Carolina.

HEARING: October 14, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner C. Evans Brooks.

No. MC 40215 (Sub No. 8), filed August 13, 1958. Applicant: RICHARDSON TRANSFER AND STORAGE CO., INC., 246 North Fifth Street, Salina, Kans. Applicant's attorney: Tom B. Kretsinger, 1014-18 Temple Building, Kansas City 6, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Household goods*, as defined by the Commission, between points in West Virginia, North Carolina and Louisiana, on the one hand, and, on the other, points in Kansas. Applicant is authorized to conduct operations in Missouri, Kansas, Illinois, Iowa, Colorado, Nebraska, Minnesota, Wisconsin, Michigan, Ohio, Indiana, South Dakota, Arkansas, Texas, Oklahoma, Arizona, California, Idaho, Kentucky, Louisiana, Nevada, New Mexico, North Carolina, Tennessee, Utah, West Virginia, Wyoming, New York, Maryland, the District of Columbia, Pennsylvania, and Virginia.

NOTE: Applicant states it is authorized to conduct operations between the proposed points; the purpose in filing this application is for the discontinuance of the gateway of Portage County, Ohio.

HEARING: October 14, 1958, at the New Hotel Pickwick, Kansas City, Mo., before Examiner David Waters.

No. MC 40215 (Sub No. 9), filed August 14, 1958. Applicant: RICHARDSON TRANSFER AND STORAGE CO., INC., 246 North Fifth Street, Salina, Kans. Applicant's attorney: Tom B. Kretsinger, Suite 1014–18 Temple Building, Kansas City 6, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Colorado, Utah, Nevada, New Mexico, Arizona and California, on the one hand, and, on the other, points in Oklahoma and Texas. Applicant is authorized to conduct regular-route operations in Illinois, Indiana, Iowa, Kansas, and Missouri, and irregular-route operations in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

NOTE: Applicant states it is presently authorized to operate between the points described above, that this application is for the purpose of eliminating certain gateway operations and those gateways referred to are Kansas City, Mo., and the State of Kansas.

HEARING: October 16, 1958, at the New Hotel Pickwick, Kansas City, Mo., before Examiner David Waters.

No. MC 64806 (Sub No. 6), filed July 10, 1958. Applicant: R. P. THOMAS TRUCKING COMPANY, INCORPORATED, Danville Road, Martinsville, Va. Applicant's representative: Thaxton Richardson, Greensboro, N. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tempered glass*, from Martinsville, Va., to points in Georgia, South Carolina, North Carolina, Maryland, Delaware, Pennsylvania, New Jersey, New York, West Virginia, Ohio, Indiana, Illinois, Michigan, and the District of Columbia; and (2) *Glass*, from Cumberland, Md., to Martinsville, Va. Applicant is authorized to conduct operations in Alabama, Delaware, Georgia, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia, and the District of Columbia.

HEARING: October 10, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Charles H. Riegner.

No. MC 70451 (Sub No. 207), filed September 2, 1958. Applicant: WATSON BROS. TRANSPORTATION CO., INC., 1523 Marcy Street, Omaha, Nebr. Applicant's attorney: David Axelrod, 39 South LaSalle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, 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, serving the site of the Forest Products Division of Olin Mathieson Chemical Corporation plant located approximately four miles southeast of the junction of U. S. Highway 6 and U. S. Highway 66, as an off-route point in connection with applicant's authorized regular route operations between Omaha, Nebr., and Chicago, Ill., over U. S. Highway 6. Applicant is authorized to conduct operations in Minnesota, Iowa, Kansas, Missouri, Nebraska, Illinois, Colorado, Arizona, New Mexico, California, Indiana, Ohio, Kentucky, Oklahoma, Wyoming, Utah, Idaho, Montana, Oregon, Washington, Arkansas, Texas, Michigan, New Jersey, Pennsylvania, Tennessee, Maryland, Virginia, and Alabama.

HEARING: September 11, 1958, in Room 852, U. S. Custom House, 610 South Canal St., Chicago, Ill., before Joint Board No. 149.

No. MC 78062 (Sub No. 35), filed August 18, 1958. Applicant: BEATTY MOTOR EXPRESS, INC., Jefferson Avenue Extension, Washington, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated houses* in pieces or sections, *material, equipment* and *supplies* used or useful in the construction, selling or distribution thereof when shipped to building sites to be used in the erection and completion of such houses, from the plant site of Showcases Homes, Inc., located at South Strabane Township, Pa., the warehouse of Showcase Homes, Inc., located at Meadowlands, Pa., and the plant site of Iron City Sash & Door Company, located at Greentree, Pa., to points in Kentucky on and east of a line extending from the Kentucky-Tennessee State line along U. S. Highway 25 to the Kentucky-Ohio State line, points in Ohio on and east of a line beginning at the Ohio-Lake Erie boundary line and extending along U. S. Highway 42 to Delaware, Ohio, thence along U. S. Highway 23 to the Ohio-Kentucky State line, points in Maryland on and west of U. S. Highway 11, and points in West Virginia. *Empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application and *refused and rejected shipments* of the above-described commodities on return. Applicant is authorized to conduct operations in Delaware, Illinois, Indiana, Kentucky, Maryland, Ohio, Pennsylvania, New Jersey, New York, Virginia, West Virginia and the District of Columbia.

NOTE: A proceeding has been instituted under section 212 (c) assigned Docket No. MC 78062 (Sub No. 30), to determine whether applicant's status is that of a contract or common carrier.

HEARING: October 10, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Isadore Freidson.

No. MC 90274 (Sub No. 2), filed July 30, 1958. Applicant: JOHN J. BRADY (WILLIAM F. BRADY AND FRANK H. BRADY, ADMINISTRATORS), JOHN J. BRADY, JR., AND WILLIAM F. BRADY, a partnership doing business as J. J. BRADY & SONS, Rear 29 West Street, Beverly Farms, Mass. Applicant's attorney: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses* (other than ordinary livestock), and *equipment* and *paraphernalia* incidental to the transportation and display of such horses, between points in Maine, Vermont, Pennsylvania, West Virginia, North Carolina, Georgia, the District of Columbia, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, Louisiana, Tennessee, South Carolina, and Florida. Applicant is authorized to conduct similar operations in Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, Tennessee, South Carolina, Florida, and Louisiana.

NOTE: Applicant states it seeks the above territorial authority except between points which it is authorized to transport horses and incidental equipment.

HEARING: October 13, 1958, at the New Post Office & Court House Building, Boston, Mass., before Examiner James I. Carr.

No. MC 92983 (Sub No. 307), filed July 28, 1958. Applicant: ELDON MILLER, INC., 330 E. Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals*, in bulk, between Memphis, Tenn., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Louisiana, and Mississippi. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: October 16, 1958, at the Peabody Hotel, Memphis, Tenn., before Examiner Alton R. Smith.

No. MC 92983 (Sub No. 310), filed August 25, 1958. Applicant: ELDON MILLER, INC., 330 E. Washington Street, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals*, in bulk, from Kansas City, Mo., to points in Delaware,

Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: October 27, 1958, at the New Hotel Pickwick, Kansas City, Mo., before Examiner David Waters.

No. MC 101271 (Sub No. 16), filed June 28, 1958. Applicant: HERMAN BIRD AND J. P. CUTSHAW, doing business as BIRD AND CUTSHAW, Myers Street, Greeneville, Tenn. Applicant's attorney: N. R. Coleman, Jr., Greeneville, Tenn. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, poultry feed*, and *livestock feed*, in bulk and in bags, from Cincinnati, Ohio to points in Kentucky, Virginia, West Virginia, Tennessee, North Carolina and South Carolina, and *fertilizer*, in bulk and in bags, from points in Washington County, Va., to points in Washington, Greene and Jefferson Counties, Tenn. Applicant is authorized to conduct operations in Arkansas, Georgia, Kentucky, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, and Virginia. A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 101271 (Sub No. 15).

HEARING: October 13, 1958, at the Kentucky Hotel, Louisville, Ky., before Examiner Alton R. Smith.

No. MC 102682 (Sub No. 239), filed August 26, 1958. Applicant: HUGHES TRANSPORTATION, INC., Meeting Street Road, P. O. Box 851, Charleston, S. C. Applicant's attorney: Drew L. Carraway, 618 Perpetual Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Class A and B explosives, component parts thereof* (not including ingredients), *ammunition not classified as a dangerous or less dangerous explosive, empty ammunition containers, oxidizing materials*, and *dangerous materials including atomic wastes*, (1) Between points in Camden County, Ga.; and (2) Between points in Camden County, Ga., on the one hand, and, on the other, points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. Applicant is authorized to conduct similar operations in Alabama, Arkansas, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

HEARING: October 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Leo A. Riegel.

No. MC 103051 (Sub No. 49), filed July 1, 1958. Applicant: WALKER HAULING CO., INC., 624 Penn Avenue NE., Atlanta 8, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from points in Decatur County, Ga., to points in Alabama, Florida and Georgia. Applicant is authorized to conduct operations in Georgia, Alabama, Tennessee, Delaware, Kentucky, Maryland, North Carolina, Virginia and South Carolina.

HEARING: October 24, 1958, at 680 West Peachtree Street, NW., Atlanta, Ga., before Joint Board No. 99, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 103051 (Sub No. 52), filed July 31, 1958. Applicant: WALKER HAULING CO., INC., 624 Penn Avenue NE., Atlanta 8, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens & Southern National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Doraville, Ga., to points in Hamilton County, Tenn., and Etowah County, Ala. Applicant is authorized to conduct operations in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Texas and Virginia.

HEARING: October 24, 1958, at 680 West Peachtree Street, NW., Atlanta, Ga., before Joint Board No. 239, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 106049 (Sub No. 31) (AMENDMENT), filed March 10, 1958. Applicant: ATLANTA-NEW ORLEANS MOTOR FREIGHT CO., 260 University Avenue, SW. Atlanta 15, Ga. Applicant's attorney: Allan Watkins, 214-216 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, including those of unusual value*, but excluding Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; (1) between Pensacola, Fla., and Panama City, Fla., over U. S. Highway 98, serving all intermediate points; (2) serving the plant sites of the American Cyanamid Company and the Escambia Chemical Corporation located at or near Pace, Fla., as off-route points in connection with applicant's authorized regular route operations between Flomaton, Ala., and Pensacola, Fla., over U. S. Highway 29. Applicant is authorized to conduct operations in Georgia, Alabama, Louisiana, and Florida.

CONTINUED HEARING: October 7, 1958, at the Battle House, Mobile, Ala., before Examiner Allan F. Borroughs.

No. MC 107002 (Sub No. 128), filed July 17, 1958. Applicant: W. M. CHAMBERS TRUCK LINE, INC., 920 Louisiana Blvd., P. O. Box 547, Kenner, La. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, ester gum, liquid glue, paint and paint materials, paint oil, paint thinners, resin compound surface coating, synthetic resin, varnish, plastic materials, solvents* and *vegetable oils*, in bulk, in tank vehicles, from points in Alabama, Arkansas, Florida, Georgia, Louisiana, Kentucky, Missisippi, North Carolina, Oklahoma, South Carolina, Texas and Tennessee to Mobile, Ala., (except vegetable oil between Mobile, Ala., and points in Alabama, Florida, Georgia, Louisiana, Mississippi and Tennessee). Applicant is authorized to conduct operations in Louisiana, Mississippi, Tennessee, Arkansas, Missouri, Alabama, Georgia, Florida, Texas, West Virginia, Wisconsin, Illinois, Kansas, Kentucky, North Carolina, Oklahoma, South Carolina, Maryland, Michigan, Minnesota, New Jersey, New York, Pennsylvania, Ohio, Maine, Connecticut, Massachusetts, Rhode Island, Virginia and the District of Columbia.

HEARING: October 13, 1958, at the Battle House, Mobile, Ala., before Examiner Allan F. Borroughs.

No. MC 107403 (Sub No. 269), filed August 25, 1958. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Philadelphia 4, Pa. Applicant's attorney: Paul F. Barnes, 811-819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals*, in bulk, in tank vehicles, between points in Marshall, Pleasants, and Wetzel Counties, W. Va., on the one hand, and, on the other, points in Delaware, Indiana, Illinois, Iowa, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Virginia. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE: Duplication with present authority to be eliminated.

HEARING: September 25, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner William R. Tyers.

No. MC 107515 (Sub No. 290), filed July 2, 1958. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Allan Watkins, 214-216 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, from Atlanta, Ga., to points in Florida. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas,

Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia and Wisconsin.

HEARING: October 28, 1958, at 680 West Peachtree Street, NW., Atlanta, Ga., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 107515 (Sub No. 293), filed July 31, 1958. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Allan Watkins, 214–216 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from Chickasha, Okla., to points in Alabama, Florida, Georgia, Tennessee, North Carolina, South Carolina, and New Orleans, La., (except shipments to New Orleans, La., are restricted to shipments to New Orleans for partial unloading and subsequent delivery to destinations into either Alabama, Georgia, or Florida). Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

HEARING: October 28, 1958, at 680 West Peachtree Street, NW., Atlanta, Ga., before Examiner Allan F. Borroughs.

No. MC 107622 (Sub No. 19), filed July 9, 1958. Applicant: GULF & SOUTHERN TRANSPORTATION COMPANY, INC., P. O. Box 133, Flomaton, Ala. Applicant's attorney: J. Haden Alldredge, Hill Building, Montgomery 1, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber or timbers*, rough or dressed, *moulding*, *poles*, *posts*, and *piling*, whether or not creosoted, or otherwise chemically treated, (1) From points in Baldwin, Escambia, Mobile, and Monroe Counties, Ala., to port of Mobile, Ala., for export and points in Florida, and those in Georgia on and south of U. S. Highway 78; and (2) From points in Florida west of the Apalachicola River to ports of Jacksonville, Miami, Pensacola, Tampa, and Palm Beach, Fla., for export, and points in Alabama on and south of U. S. Highway 80, and those in Georgia on and south of U. S. Highway 78. Applicant is authorized to conduct operations in Alabama and Florida.

HEARING: October 17, 1958, at the U. S. Court Rooms, Montgomery, Ala., before Joint Board No. 99, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 110525 (Sub No. 361), filed July 1, 1958. Applicant: CHEMICAL TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. Applicant's attorneys: Gerald L. Phelps and Leonard A. Jaskiewicz, Munsey Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Wurtland, Ky., to points in Ohio and West Virginia. Applicant is authorized to conduct operations in New Jersey, New York, Maryland, Pennsylvania, Kentucky, West Virginia, Ohio, Delaware, Virginia, North Carolina, Tennessee, Kansas, Michigan, Illinois, Connecticut, Massachusetts, Indiana, Rhode Island, Minnesota,, Missouri, Wisconsin, Georgia, and Alabama.

HEARING: October 14, 1958, at the Kentucky Hotel, Louisville, Ky., before Joint Board No. 62, or, of the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 110525 (Sub No. 367), filed August 22, 1958. Applicant: CHEMICAL TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. Applicant's attorneys: Leonard A. Jaskiewicz and Gerald L. Phelps, Munsey Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals*, in bulk, in tank vehicles, between points in Marshall, Pleasants, and Wetzel Counties, W. Va., on the one hand, and, on the other, points in Delaware, Indiana, Illinois, Iowa, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Virginia and Pennsylvania. Applicant is authorized to conduct operations in Maryland, New Jersey, Kentucky, Delaware, Maryland, West Virginia, New York, Ohio, Pennsylvania, Illinois, Indiana, Michigan, North Carolina, Virginia, Tennessee, Connecticut, Massachusetts, Rhode Island, District of Columbia, Missouri, Iowa, and Wisconsin.

HEARING: September 25, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner William R. Tyers.

No. MC 111159 (Sub No. 59), filed July 14, 1958. Applicant: MILLER TRANSPORTERS, LTD., Highway 80 West, P. O. Box 1123, Jackson, Miss. Applicant's attorney: Phineas Stevens, Suite 900, Milner Building, P. O. Box 141, Jackson, Miss. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen solutions*, in bulk, from Memphis, Tenn., to points in Florida, Illinois and Indiana. Applicant is authorized to conduct operations in Mississippi, Louisiana, Alabama, Georgia, Tennessee, Arkansas, Florida, Kentucky, Missouri, Oklahoma and Illinois.

HEARING: October 16, 1958, at the Peabody Hotel, Memphis, Tenn., before Examiner Alton R. Smith.

No. MC 111401 (Sub No. 97), filed August 18, 1958. Applicant: GROENDYKE TRANSPORT, INC., 2204 North Grand, Enid, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, and empty containers or other such incidental facilities (not specified) used in transporting the commodities specified in this application, between points in Texas, Oklahoma, and Kansas, on the one hand, and, on the other, points in Nebraska. Applicant is authorized to conduct operations in Arizona, Arkansas, California, Colorado, Iowa, Kansas, Louisiana, Mississipi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, Texas, Utah, and Wyoming.

HEARING: October 20, 1958, at the New Hotel Pickwick, Kansas City, Mo., before Examiner David Waters.

No. MC 112617 (Sub No. 45), filed June 30, 1958. Applicant: LIQUID TRANSPORTERS, INC., P. O. Box 5135, Cherokee Station, Louisville 5, Ky. Applicant's attorney: Joseph J. Leary, McClure Building, Frankfort, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Butler County, Ohio, to points in Kentucky, Indiana and West Virginia. Applicant is authorized to conduct operations in Ohio, Indiana, Kentucky, Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, West Virginia, Pennsylvania, Michigan, Illinois, Tennessee, Missouri, Wisconsin, Texas, Florida, Iowa, Minnesota, Nebraska, Kansas and Oklahoma.

HEARING: October 13, 1958, at the Kentucky Hotel, Louisville, Ky., before Examiner Alton R. Smith.

No. MC 112696 (Sub No. 10), filed August 19, 1958. Applicant: HARTMANS, INCORPORATED, P. O. Box 466, Harrisonburg, Va. Applicant's attorney: Francis W. McInerny, Commonwealth Building, 1625 K Street NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Leather*, (1) from Luray, Va., to Winchester, Va., (2) from Luray, Va., to Worcester, Lynn, Haverhill, Marlboro, Brockton, Whitman and North Abington, Mass. *Shoes, leather, rubber heels* and *soles*, and *supplies* and *equipment* used in a shoe factory, (1) between Harrisonburg, Va., and Boston, Mass. (2) between Winchester, Va., Hagerstown, Md., and Gettysburg, Lancaster, York and Littlestown, Pa., on the one hand, and, on the other, Harrisonburg, Va., and Boston, Mass. (3) from Harrisonburg, Va., and Boston, Mass., to Worcester, Malden and Athol, Mass., New York, N. Y., Baltimore, Md., and Lynchburg, Va. *Brooders* and *brooder supplies* and *air conditioning equipment*, from Harrisonburg, Va., to Brookline, Mass., and points on U. S. Highway 1 between Philadelphia, Pa., and New Haven, Conn. (not including Philadelphia), points on U. S. Highway 5 between New Haven, Conn., and Springfield, Mass., and points on U. S. Highway 20 from Springfield, Mass., to junction U. S. Highways 20 and 9 and those on U. S. Highway 9 from junction U. S. Highways 9 and 20 to Brookline, Mass. Applicant is authorized to conduct regular route operations in Maryland, Massachusetts, New Jersey, New York, Pennsylvania and Virginia, and irregular route operations in Alabama, Arkansas, Connecticut, Delaware, Georgia, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE: Applicant states that no new authority is requested in this application; that applicant seeks to convert certain portions of its presently-held operating authority from regular route to irregular route authority, and that conversion from regular to irregular route authority is requested because the operations authorized under portions of applicant's certificate are irregular rather than regular route in nature.

HEARING: October 15, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Gerald F. Colfer.

No. MC 112696 (Sub No. 11), filed August 19, 1958. Applicant: HARTMANS, INCORPORATED, P. O. Box 468, Harrisonburg, Va. Applicant's attorney: Francis W. McInerny, Commonwealth Building, 1625 K Street NW., Washington 6, D. C., Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry growers equipment*, from Harrisonburg, Va., to points in Louisiana, Texas, Maine, Florida, Alabama and Mississippi. Applicant is authorized to conduct regular route operations in Maryland, Massachusetts, Mississippi, New York, Pennsylvania and Virginia, and irregular route operations in Alabama, Arkansas, Connecticut, Delaware, Georgia, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia.

HEARING: October 10, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner William R. Tyers.

No. MC 113524 (Sub No. 14), filed August 25, 1958. Applicant: JAMES F. BLACK, doing business as PARKVILLE TRUCKING COMPANY, 3618 Pulaski Highway, Baltimore, Md. Applicant's attorney: Dale C. Dillon, 1825 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt cake*, in bulk, in hopper type vehicles, from Painesville, Ohio, to Jersey City, N. J. Applicant is authorized to conduct operations in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia and the District of Columbia.

HEARING: October 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Reece Harrison.

No. MC 113528 (Sub No. 5), filed June 17, 1958. Applicant: MERCURY FREIGHT LINES, INC., 715 North Joachim, Mobile, Ala. Applicant's attorney: Drew L. Carraway, 1111 E Street NW, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, 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, (A) Route 1, between Monroeville, Ala., and junction Alabama Highway 89 and Alabama Highway 41: from Monroeville over Alabama Highway 21 to junction Alabama Highway 89, and thence over Alabama Highway 89 to junction Alabama Highway 41, and return over the same route, serving no intermediate points; Route 2, (a) between Birmingham, Ala., and junction Alabama Highway 191 and Alabama Highway 22: from Birmingham over U. S. Highway 31 to junction Alabama Highway 191, thence over Alabama Highway 191 to junction Alabama Highway 22 near Maplesville, Ala., and return over the same route serving no intermediate points; (b) between junction U. S. Highway 31 and Alabama Highway 191, and Clanton, Ala.: from junction Alabama Highway 191 and U. S. Highway 31 at or near Jemison, Ala., over U. S. Highway 31 to Clanton, and return over the same route, serving no intermediate points, as alternate routes for operating convenience only in connection with applicant's authorized regular route operations between Birmingham, Ala. and Mobile, Ala., and points intermediate, and between Birmingham, Ala. and Pensacola, Fla. and points intermediate. (B) serving Bay Minette, Ala., as an intermediate point in connection with applicant's authorized operations between Mobile, Ala., and Stockton, Ala., from Mobile over U. S. Highway 31 to Bay Minette, Ala., and thence over Alabama Highway 59 to Stockton and return over the same route. (C) between Stockton, Ala., and junction Alabama Highway 59 and Alabama Highway 21: from Stockton over Alabama Highway 59 to junction Alabama Highway 59 and Alabama Highway 21 at or near Uriah, Ala., and return over the same route, serving no intermediate points. (D) between Mobile, Ala., and Pensacola, Fla.: from Mobile over U. S. Highway 90 to Pensacola, and return over the same route, serving no intermediate points. RESTRICTION: Shipments shall not be transported over Route (D) which (a) originate at Mobile, Ala., and which are either destined to Pensacola, Fla. and points within a 15-mile radius of Pensacola, or for interchange to other carriers at Pensacola, or (b) which originate at Pensacola, Fla. or at points within 15 miles of Pensacola and which are either destined to Mobile, Ala., or, for interchange to other carriers at Mobile; and (E) between Mobile, Ala., and Dauphin Island, Ala. (located across Mississippi Sound): from Mobile over Alabama Highway 163 to Cedar Point, Ala., thence across Mississippi Sound via bridge or causeway, to Dauphin Island, and return, serving no intermediate points but serving all points on Dauphin Island. Applicant is authorized to conduct operations in Alabama and Florida.

NOTE: In connection with A. above (alternate routes 1 and 2), applicant requests the right to tack, join or combine the proposed routes with its authorized routes and thereafter perform through service irrespective of whether the points of joinder are authorized service points.

HEARING: October 15, 1958, at the Battle House, Mobile, Ala., before Joint Board No. 98, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 114015 (Sub No. 9), filed August 25, 1958. Applicant: HUSS, INCORPORATED, Chase City, Va. Applicant's attorney: Jno. C. Goddin, State-Planters Bank Building, Richmond 19, Va. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Box shooks* and *excelsior*, from Chase City and Keysville, Va., to points in Indiana, Ohio, Maryland and the District of Columbia, and *damaged* and *refused shipments* of the above commodities on return. Applicant is authorized to conduct operations in Virginia, New York, New Jersey, Pennsylvania, Ohio and West Virginia.

HEARING: October 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Mack Myers.

No. MC 114569 (Sub No. 17), filed August 25, 1958. Applicant: SHAFFER TRUCKING, INC., Elizabethville, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* and *vinegar*, in containers, from Winchester, Timberville and Berryville, Va., Martinsburg and Inwood, W. Va., and points in Adams and Franklin Counties, Pa., to points in Texas, New Mexico and Arizona. Applicant is authorized to conduct operations in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE: Applicant states exempt commodities will be transported on return. Applicant is authorized to conduct contract carrier operations in Permit No. MC 55819 and Subs thereunder. A proceeding has been instituted under Section 212 (c) of the Interstate Commerce Act, assigned Docket No. MC 55813 (Sub 5), to determine whether applicant's status is that of a contract or common carrier.

HEARING: October 15, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Thomas F. Kilroy.

No. MC 114719 (Sub No. 3), filed August 4, 1958. Applicant: FRANK R. DEAN, JR., Beltline Highway, Lexington, Ky. Applicant's representative: Mooney and Turley, First National Federal Building, Lexington, Ky. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Louis, Mo., and Cincinnati, Ohio, to Lexington, Ky., and *empty containers or other such incidental facilities* (not specified) used in transporting malt beverages on return. Applicant is authorized to conduct operations in Illinois and Kentucky.

HEARING: October 14, 1958, at the Kentucky Hotel, Louisville, Ky., before Examiner Alton R. Smith.

No. MC 114890 (Sub No. 12), filed August 18, 1958. Applicant: C. E. REYNOLDS (FIRST NATIONAL BANK OF JOPLIN, EXECUTOR), 2209 Range Line, Joplin, Mo. Applicant's attorney: Stanley P. Clay, 514 First National Building, P. O. Box 578, Joplin, Mo. Authority sought to operate as a *common car-*

rier, by motor vehicle, over irregular routes, transporting: *Sulphuric phoephoric and nitric acids* and *nitrogen fertilizer solutions*, in bulk, in tank vehicles, between Atlas, Mo., and Monroe, La. Applicant is authorized to conduct common carrier operations in Kansas, Missouri, Oklahoma, Arkansas, Texas, Tennessee, Alabama, Florida, Illinois, Indiana, Kentucky, Louisiana, and Mississippi.

NOTE: Applicant is also authorized to conduct operations as a contract carrier in Permit No. MC 86928 and sub numbers thereunder; therefore, dual operations under section 210 may be involved. A proceeding has been instituted under section 212 (c) in No. MC 86928 Sub No. 29, to determine whether applicant's status is that of a contract or common carrier.

HEARING: October 27, 1958, at the New Hotel Pickwick, Kansas City, Mo., before Joint Board No. 302, or, if the Joint Board waives its right to participate, before Examiner David Waters.

No. MC 114965 (Sub No. 3), filed August 11, 1958. Applicant: L. R. CYRUS, doing business as CYRUS PETROLEUM TRUCK LINE, R. R. No. 1 (P. O. Box 327), Iola, Kans. Applicant's attorney: Howard M. Immel, Allen County State Bank Building, Iola, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty shipper-owned specially constructed, manifolded trailers*, (1) from the site of the Callery Chemical Company plant near Lawrence, Kans., to the site of the Phillips Petroleum Refinery, located one mile east and one mile north of Pasadena, Tex.; (2) from the site of the Callery Chemical Company plant near Lawrence, Kans., to the site of the Gulf Oil Company Refinery in West Port Arthur, Tex.; and to the site of the Spencer Chemical Company plant at or near Orange, Tex.; (3) from the site of the Callery Chemical Company plant near Lawrence, Kans., to the site of the Union Carbide Olefine Company plant in South Charleston, W. Va.; and *Loaded trailers, containing ethylene*, in bulk, from the above-described destination points to the site of the Callery Chemical Company plant near Lawrence, Kans.

NOTE: A proceeding has been instituted under section 212 (c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 66344 (Sub No. 15). Dual operations under section 210 may be involved.

HEARING: October 24, 1958, at the New Hotel Pickwick, Kansas City, Mo., before Examiner David Waters.

No. MC 115162 (Sub No. 40), filed May 29, 1958. Applicant: WALTER POOLE, doing business as POOLE TRUCK LINE, Evergreen, Ala. Applicant's attorney: Hugh R. Williams, 2284 West Fairview Avenue, P. O. Box 869, Montgomery, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poles*, treated and untreated, and *cross arms*, treated and untreated, from Pensacola, Fla., Mobile and Montgomery, Ala., to points in Louisiana, Mississippi, Florida, Georgia, Tennessee, Kentucky, Indiana, Ohio, Illinois, Iowa, Missouri and Michigan. Applicant is authorized to conduct operations throughout the United States.

HEARING: October 13, 1958, at the Battle House, Mobile, Ala., before Examiner Allan F. Borroughs.

No. MC 115162 (Sub No. 41), filed July 3, 1958. Applicant: WALTER POOLE, doing business as POOLE TRUCK LINE, Evergreen, Ala. Applicant's attorney: Hugh R. Williams, P. O. Box 869, 2284 West Fairview Avenue, Montgomery, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Mobile, Ala., to points in Florida on and west of U. S. Highway 319, and *damaged and refused shipments* of cement on return. Applicant is authorized to conduct operations throughout the United States.

HEARING: October 14, 1958, at the Battle House, Mobile, Ala., before Joint Board No. 98, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 115757 (Sub No. 3), filed August 20, 1958. Applicant: BULK MOTOR TRANSPORT, INC., 1400 Kansas Avenue, Kansas City 5, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in specialized equipment, (1) between points in the St. Louis, Mo.-East St. Louis, Ill. Commercial Zone and points in Illinois and Indiana, and (2) between points in Illinois, Indiana, Michigan, and Ohio.

NOTE: Applicant states common control by management may be involved; president of applicant is also president of Southwest Freight Lines, Inc. Applicant states full information concerning the management will be presented at the hearing for Commission approval if required.

HEARING: October 22, 1958, at the New Hotel Pickwick, Kansas City, Mo., before Examiner David Waters.

No. MC 115757 (Sub No. 4), filed August 20, 1958. Applicant: BULK MOTORS TRANSPORT, INC., 1400 Kansas Avenue, Kansas City 5, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in specialized equipment, between points in Kansas, Missouri, and Oklahoma.

NOTE: Applicant states common control by management may be involved; president of applicant is also president of Southwest Freight Lines, Inc. Issues concerning such common control, if involved, requested by applicant to be presented at a hearing in its application in No. MC 115757 (Sub No. 3).

HEARING: October 23, 1958, at the New Hotel Pickwick, Kansas, City, Mo., before Joint Board No. 180, or, if the Joint Board waives its right to participate, before Examiner David Waters.

No. MC 115841 (Sub No. 28), filed July 25, 1958. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, P. O. Box 2169, Birmingham, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products* and *meat by-products*, from Montgomery, Ala., to points in Connecticut, Massachusetts, New Jersey, New York and Rhode Island, and Knoxville, Tenn. Applicant is authorized to conduct operations in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: October 23, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Allan F. Borroughs.

No. MC 115841 (Sub No. 30), filed July 25, 1958. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, P. O. Box 2169, Birmingham, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy* and *confectionery*, in vehicles equipped with mechanical refrigeration units capable of protecting against heat and cold, between Atlanta, Ga., Chattanooga, Tenn., and points in Alabama, on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, Tennessee and Texas. Applicant is authorized to conduct operations in Maine, Massachusetts, Rhode Island, Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Connecticut, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, the District of Columbia, Delaware, Wisconsin, Arkansas, Texas and Oklahoma.

HEARING: October 21, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Allan F. Borroughs.

No. MC 115841 (Sub No. 31), filed July 25, 1958. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, P. O. Box 2169, Birmingham, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products*, and *meat by-products* (1) between Lake Charles, La., and Jackson, Miss., on the one hand, and, on the other, Humboldt and Jackson, Tenn.; (2) from Jackson and Humboldt, Tenn., to points in Delaware, Maryland, Virginia and the District of Columbia; and (3) from Lake Charles, La., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island and Virginia. Applicant is authorized to conduct operations in Maine, Massachusetts, Rhode Island, Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Connecticut, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, the District of Columbia, Delaware, Wisconsin, Arkansas, Texas and Oklahoma.

HEARING: October 15, 1958, at the Peabody Hotel, Memphis, Tenn., before Examiner Alton R. Smith.

No. MC 116405 (Sub No. 1), filed August 4, 1958. Applicant: J. C. POOLE,

JR., doing business as O. JIM POOLE, P. O. Box 148, Eutaw, Ala. Applicant's attorney: Maurice F. Bishop, 325–29 Frank Nelson Building, Birmingham 3, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from points in Bibb, Tuscaloosa, Greene, Elmore, Chilton, Jefferson, Coosa, and Autauga Counties, Ala., to points in Illinois, Indiana, Michigan, Wisconsin, Kentucky, and Ohio; (2) *Empty malt beverage containers*, from points in Escambia, Covington, Jefferson, Houston, Henry, Madison, Montgomery, Russell, Lee, Barbour, Pike, Bullock, Crenshaw, Lowndes, Mobile, Baldwin, and Colbert Counties, Ala., to St. Louis, Mo., Cincinnati, Ohio, Milwaukee, Wis., Belleville and Peoria, Ill., and Evansville and Terre Haute, Ind.; and (3) *Empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities, from the above-described destination points to the above-described origin points.

HEARING: October 20, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Allan F. Borroughs.

No. MC 117451, filed June 13, 1958. Applicant: ROBERT J. McCUEN, P. O. Box 40, Lafayette Hill, Pa. Applicant's representative: A. E. Enoch, Brodhead Block—556 Main St., Bethlehem, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material:* mineral wool (rock, slag or glass wool), in packages, from Bethlehem, Pa., to points in New Jersey, Delaware, Maryland, the District of Columbia, and Virginia, and *empty containers or other such incidential facilities* used in transporting the above-described commodities, on return.

HEARING: October 17, 1958, at the Penn Sherwood Hotel, 3900 Chestnut St., Philadelphia, Pa., before Examiner James C. Cheseldine.

No. MC 117524, filed July 17, 1958. Applicant: JOHN DENLEY TAYLOR, SR., doing business as PADUCAH TRUCK LINE, 932 Barton, P. O. Box 10102 McKellar Sta., Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over 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, between Memphis, Tenn., Paducah and Calvert City, Ky., and points in Kentucky and Tennessee, traversing Arkansas, Illinois and Missouri for operating convenience only.

NOTE: Applicant states that the authority sought above should be restricted as follows: This Certificate shall not be sold for any purpose in order to form a through route to any point other than those named in original application. Applicant further requests that the authority be restricted against the handling of any shipment moving between Memphis, Tenn., on the one hand, and, on the other, St. Louis, Mo., or Chicago, Ill.

HEARING: October 17, 1958, at the Peabody Hotel, Memphis, Tenn., before Examiner Alton R. Smith.

No. MC 117525 (Sub No. 1), filed August 21, 1958. Applicant: ORLO L. PRIOR, INC., Portersville, Pa. Applicant's attorney: Frederick L. Kiger, Grant Building, Pittsburgh, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cottage cheese*, in containers, from Farmdale, Ohio to Pittsburgh and Portersville, Pa., and *empty containers or other such incidental facilities* (not specified) used in transporting Cottage Cheese on return.

HEARING: October 14, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Leo W. Cunningham.

No. MC 117562 (Sub No. 1), filed August 7, 1958. Applicant: RAYMOND MERCHANT, Chamcook, Charlotte County, New Brunswick, Canada. Applicant's attorney: Francis E. Barrett, Jr., 7 Water Street, Boston 9, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from port of entry on the International Boundary line between the United States and Canada at or near Calais, Maine, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland, and *empty skids and/or pallets* used in the transportation of lumber on return.

HEARING: October 9, 1958, at the Federal Building, Portland, Maine, before Examiner James I. Carr.

No. MC 117574 (Sub No. 31), filed August 26, 1958. Applicant: DAILY EXPRESS, INC., Pitt and Penn Streets, Carlisle, Pa. Applicant's attorney: Edward G. Villalon, Perpetual Bldg, 1111 E Street, NW., Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sericite, microcite* and *ser-X* and *by-products thereof* and *minerals relating thereto*, from points in Adams County, Pa., to points in Delaware, New Jersey, Maryland, New York Ohio, Indiana, Illinois, Michigan, Pennsylvania and West Virginia, and *pallets* and *empty containers* used in transporting the above commodities on return.

HEARING: October 3, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner David Waters.

No. MC 117591, filed August 12, 1958. Applicant: MARJORIE SEYFRIED, 101 Bridge Street, West Catasauqua, Pa. Applicant's attorney: William J. Wilcox, 624 Commonwealth Building, 512 Hamilton Street, Allentown, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textile wastes, scrap materials* and *cuttings of cotton, wool, silk or synthetics*, between Allentown, Pa., on the one hand, and, on the other, points in New Jersey, Delaware, Maryland, New York, Virginia and West Virginia, excluding in New York all points north of Jefferson, Lewis, Herkimer, Fulton, Saratoga and Washington Counties, N. Y., and excluding in Virginia and West Virginia all points south and west of, but not those on, U. S. Highway 250 from the Pennsylvania-West Virginia State line to Richmond, Va., and U. S. Highway 60 from Richmond, Va., to Newport News, Va.

HEARING: October 10, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James C. Cheseldine.

MOTOR CARRIERS OF PASSENGERS

No. MC 745 (Sub No. 4), filed July 30, 1958. Applicant: GERALD S. HAGEY, Franconia, Pa. Applicant's attorney: John W. Frame, 603 North Front Street, Harrisburg, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip special operations, beginning and ending at Souderton, Pa., and points in Pennsylvania within 12 miles of Souderton, and extending to points in New Jersey, New York, Maryland, Virginia, District of Columbia, Connecticut, Delaware, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Rhode Island, Vermont and Indiana. Applicant is authorized to conduct charter operations in Pennsylvania, New Jersey, New York, Maryland, Virginia, District of Columbia, Connecticut, Delaware, Florida, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Rhode Island, Vermont and Indiana.

HEARING: October 15, 1958, at the Penn Sherwood Hotel, 3900 Chestnut St., Philadelphia, Pa., before Examiner James C. Cheseldine.

No. MC 102129 (Sub No. 3), filed July 7, 1958. Applicant: ARTHUR QUEEN AND JOHN QUEEN, a Partnership doing business as QUEEN BROTHERS, 111 Hollins Ferry Road, Glen Burnie, Md. Applicant's attorney: Albert E. May, 1625 K Street NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip charter operations, between points in Maryland within the area bounded by a line extending from Galesville, Md., along Maryland Highway 255 to junction Maryland Highway 2, thence along Maryland Highway 2 to junction Maryland Highway 4, thence along Maryland Highway 4 to the District of Columbia-Maryland State line, thence along said State line to junction U. S. Highway 29, thence along U. S. Highway 29 to junction Maryland Highway 97, thence along Maryland Highway 97 to junction U. S. Highway 40, thence along U. S. Highway 40 to junction Maryland Highway 151, thence along Maryland Highway 151 to the Chesapeake Bay, and thence southerly along Chesapeake Bay to point of beginning, including service at Baltimore, Md. and points on the highways specified, on the one hand, and, on the other, points in Pennsylvania, New York, Ohio, New Jersey, North Carolina, West Virginia and Virginia.

NOTE: Certificate No. MC 102129 dated May 18, 1956, issued in the name of Arthur Queen, individual, authorized similar operations between specified points in Maryland and points in Pennsylvania, Virginia, New York, Ohio, New Jersey, North Carolina, West Virginia and that part of Delaware and the District of Columbia within 100 miles of Annapolis.

Md. Applicant filed appropriate application in No. MC-FC 61410 for transfer of said authority from Arthur Queen, individual, to Queen Brothers, partnership, consummated August 13, 1958, effective August 29, 1958.

HEARING: October 14, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Harold W. Angle.

No. MC 117428, filed June 18, 1958. Applicant: ALLEGHENY LINES, INCORPORATED, 34 Pennsylvania Avenue, East, Warren, Pa. Applicant's attorney: Berl I. Bernhard, 2001 Massachusetts Avenue NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *newspapers, packages and express*, in the same vehicle with passengers, (a) between Erie, Pa., and Oil City, Pa., from the Greyhound Terminal on North Perry Square in Erie, over State Street, and 26th Street, to junction Pennsylvania Highway 505, thence over Pennsylvania Highway 505 to junction Pennsylvania Highway 97, thence over Pennsylvania Highway 97 through Waterford to Union City, thence over Pennsylvania Highway 8 through Tillotson to Page Corners, thence over County Highway 20084 to Linconville, thence over County Highway Application Route No. 6862 to junction Pennsylvania Highway 77, thence over Pennsylvania Highway 77 to junction Pennsylvania Highway 8, thence over Pennsylvania Highway 8 through Borough of Centerville, the Village of Five Points, the Borough of Hydetown, Titusville and Rouseville to Oil City, and return over the same route, serving all intermediate points. Applicant indicates the proposed service in paragraph (a) above is subject to the following RESTRICTIONS: 1. That no right, power or privilege is granted to transport persons locally within the municipal limits of Oil City. 2. That no right, power or privilege is granted to transport persons locally between Oil City and the Borough of Roseville. ALTERNATIVE ROUTE: Between Erie, Pa., and Waterford, Pa., from the Greyhound Terminal on North Perry Square in Erie over State Street, 12th Street, and Peach Street to junction Pennsylvania Highway 99, thence over Pennsylvania Highway 99 to Kearsarge, thence over Pennsylvania Highway 19 to junction Pennsylvania Highway 97 in the Borough of Waterford, and return over the same route, serving all intermediate points. (b) Between Erie, Pa., and Towanda, Pa., from Erie, Erie County, over U. S. Highway 19 through Kearsarge to Waterford, thence over Pennsylvania Highway 97 to Union City, thence over U. S. Highway 6 through Corry, Warren, Sheffield, Kane, Mt. Jewett and Smethport to Port Allegheny (alternative route from Warren over Pennsylvania Highway 59 to Marshburg, thence over Legislative County Highway Route No. 209 to Custer City, thence over U. S. Highway 219 to Bradford, thence over Pennsylvania Highway 46 to junction U. S. Highway 6, also alternative route from Custer City over U. S. Highway 219 to Degolia, thence over Legislative County Highway 499 to Aiken, thence over Pennsylvania Highway 646 to Smethport at the junction of U. S. Highways 46 and 6, thence over U. S. Highway 6 to Port Allegany), thence continuing over U. S. Highway 6 through Galeton, Wellsboro, Mansfield and Troy to Towanda, and return over the same routes, serving all intermediate points. ALTERNATIVE ROUTE: Between Erie, Pa., and Waterford, Pa., from the Greyhound Terminal at North Perry Square in Erie over State Street, and 26th Street to junction Pennsylvania Highway 505, thence over Pennsylvania Highway 505 to junction Pennsylvania Highway 97, thence over Pennsylvania Highway 97 to Waterford, and return over the same route, serving all intermediate points. Applicant indicates all of the above authorities as set forth in paragraphs (a) and (b) are subject to the following restriction: That no right, power or privilege is granted to transport persons locally within the municipal limits of the City of Erie.

HEARING: October 14, 1958, at the Pennsylvania Public Utility Commission, Harrisburg, Pa., before Joint Board No. 65, or, if the Joint Board waives its right to participate, before Examiner James C. Cheseldine.

APPLICATION FOR BROKERAGE LICENSE

No. MC 12684, filed August 5, 1958. Applicant: CLINTON WOODROW SIMS, doing business as WOODY SIMS EDUCATIONAL TOURS, 102 East 64th Street, Savannah, Ga. For a license (BMC 5) to engage in operations as a *broker* at Savannah, Ga., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, in round trip special and charter operations, beginning and ending at points in Virginia, South Carolina, North Carolina, Tennessee, Georgia, Alabama, Florida and Washington, D. C., and extending to points in the United States.

HEARING: October 27, 1958, at 680 West Peachtree Street, NW. Atlanta, Ga., before Joint Board No. 101, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 60580 (Sub No. 24), filed August 28, 1958. Applicant: HIGHWAY EXPRESS LINES, INC., 236 North 23rd Street, Philadelphia 3, Pa. Applicant's attorney: Robert H. Shertz, 811–819 Lewis Tower Building, 225 S. Fifteenth Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Motion picture film* and *articles* associated with the exhibition of motion pictures, as described in the report in Descriptions in Motor Carrier Certificates, 61 M. C. C. 766, between Philadelphia, Pa., and Pittsburgh, Pa., from Philadelphia over Schuylkill Expressway to junction Pennsylvania Turnpike, thence over Pennsylvania Turnpike to junction U. S. Highway 230, thence over U. S. Highway 230 to Harrisburg (also from Philadelphia over U. S. Highway 30 to junction U. S. Highway 230, thence over U. S. Highway 230 to Harrisburg) thence over U. S. Highway 15 to Pennsylvania Turnpike, thence over Pennsylvania Turnpike to junction U. S. Highway 30, thence over U. S. Highway 30 to Pittsburgh (also from Harrisburg over U. S. Highway 22 to Pittsburgh), and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia.

No. MC 113524 (Sub No. 15), filed August 26, 1958. Applicant: JAMES F. BLACK, doing business as PARKVILLE TRUCKING COMPANY, 3618 Pulaski Highway, Baltimore 5, Md. Applicant's attorney: Dale C. Dillon, 1825 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica gel catalyst*, in bulk, in covered-hopper vehicles, from Baltimore, Md., to Warren, Pa. Applicant is authorized to conduct operations in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia, and the District of Columbia.

No. MC 117547 (Sub No. 1), (AMENDMENT) filed July 17, 1958, published on page 5980, issue of FEDERAL REGISTER of August 6, 1958. Applicant: BELL TRANSPORTATION CO., INC., Wrightstown, N. J. Applicant's attorney: George H. Rosen, 291 Broadway, New York 7, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles* (privately owned), in driveaway service of individuals of the military departments (who are leaving McGuire Air Force Base for overseas), moving on commercial bills of lading at their own expense, from McGuire Air Force Base, N. J., to New York Port of Embarkation, Brooklyn, N. Y.

No. MC 117596, filed August 21, 1958. Applicant: ROBERT O. DALE, 1239 Rhine Street, Mankato, Minn., MAIL: P. O. Box 685, Mankato, Minn. Applicant's attorney: Hoyt Crooks, 842 Raymond Avenue, St. Paul 14, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral mixtures* for animal or poultry feeding, and *barn lime* (ground or pulverized limestone), in bags, barrels, drums, or in bulk, from Hannibal, Mo., to points in Iowa, Minnesota, North Dakota, and South Dakota, and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified, *rejected shipments* of the above-specified commodities and *exempt agricultural commodities* on return.

PETITION

No. MC 111320 (formerly MC 48846 Sub No. 20). Petitioner: CURTIS KEAL TRANSPORT COMPANY, INC., East 54th & Cleveland Shoreway, Cleveland, Ohio. Petitioner's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. A certificate of public convenience and necessity was issued under date of September 24, 1946, to W. Curtis Keal, doing business as Curtis Keal

Transport Company, Cleveland, Ohio, authorizing the transportation of: *Self-propelled road building equipment, mobile cranes* and *mobile shovels*, and *parts therefor*, by the drive-away and truck-away methods, over irregular routes, between Lorain, Ohio, on the one hand, and, on the other, points and places in the United States. The foregoing authority is now embraced in Certificate No. MC 111320, dated February 10, 1950. Petition dated August 26, 1958, seeks a modification of the authority described above which is a portion of petitioner's authorized operations in Certificate No. MC 111320 so that same would read: *Self-propelled road building equipment, mobile cranes* and *mobile shovels* and parts when moving with the unit to which they are to be installed or seperately from said equipment.

APPLICATIONS FOR CERTIFICATES AND PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5, GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

MOTOR CARRIERS OF PROPERTY

No. MC 2567 (Sub No. 4), filed August 27, 1958. Applicant: BELBEY TRANSFER COMPANY, 234 Poinier Street, Newark, N. J. Applicant's attorney: Morton E. Kiel, 140 Cedar Street, New York 6, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing materials, hardware, plumbing supplies* and *building materials*, between Kearny, Newark, Bound Brook, Millington and Metuchen, N. J., on the one hand, and, on the other, Hawleyville and Kent, Conn., New York, N. Y., Philadelphia, Pa., points in Nassau, Suffolk, Orange, Rockland, Putnam, Westchester, Sullivan and Dutchess Counties, N. Y., and those in that part of Connecticut south of a straight line beginning at Stratford, Conn., and extending northwest through Danbury, Conn., to the Connecticut-New York State line, including Danbury. Applicant is authorized to conduct operations in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania and Rhode Island. This application is directly related to MC-F 6994, published in this issue.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5 (a) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 6345 (BURLINGTON TRUCK LINES, INC.—PURCHASE—GEORGE R. PIRNIE AND JAMES PIRNIE), published in the July 25, 1956, issue of the FEDERAL REGISTER on page 5606. Application filed September 2, 1958, for temporary authority under section 210a (b).

No. MC-F 6945 (CONSOLIDATED COPPERSTATE LINES—MERGER—ALABAMA FREIGHT LINES), published in the July 9, 1958, issue of the FEDERAL REGISTER on page 5228. Supplemental application filed September 3, 1958, to show WALTER B. ALLEN, 117 West 9th Street, Los Angeles 15, Calif., and NELLA CORPORATION, Carson City, Nev., as additional parties in control of CONSOLIDATED COPPERSTATE LINES.

No. MC-F 6993. Authority sought for purchase by NATIONAL TRUCKING CO., INC., 234 Poinier Street, Newark 5, N. J., of a portion of the operating rights of POINIER TRUCKING CORPORATION, 234 Poinier Street, Newark 5, N. J., and for acquisition by JAMES V. IGOE, 67 South Munn Avenue, East Orange, N. J., of control of such rights through the purchase. Applicants' attorney: Bert Collins, 140 Cedar Street, New York 6, N. Y. Operating rights sought to be transferred: *Wire*, as a *contract carrier* over irregular routes, from Newark, N. J., to Baltimore, Md., and York, Pa.; *fence*, from Baltimore, Md., to Newark, N. J.; *wire cloth*, from York, Pa., to Newark, N. J. Vendee is authorized to operate as a *contract carrier* in New Jersey, New York, Connecticut and Pennsylvania. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6994. Authority sought for purchase by BELBEY TRANSFER COMPANY, 305 Bergen Street, Harrison, N. J., of a portion of the operating rights of POINIER TRUCKING CORPORATION, 234 Poinier Street, Newark, N. J., and for acquisition by JOHN T. BELBEY and JOSEPH E. BELBEY, JR., both of Harrison, of control of such rights through the purchase. Applicants' attorney: Bert Collins, 140 Cedar Street, New York 6, N. Y. Operating rights sought to be transferred: *Fencing materials, hardware, plumbing supplies*, and *building materials*, as a *contract carrier*, over irregular routes, between Kearny, Newark, Bound Brook, Millington and Metuchen, N. J., on the one hand, and, on the other, Philadelphia, Pa., certain points in Connecticut and certain points in New York. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, Massachusetts, Connecticut, Rhode Island and Pennsylvania. Application has not been filed for temporary authority under section 210a (b).

NOTE: No. MC 2567 Sub 4 is a matter directly related.

No. MC-F-6995. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS, INC., 2116 N. W. Savier Street, Portland, Oreg., of the operating rights and property of JOHN HENNEI CARTAGE, INC., 3126 North 13th Street, Milwaukee, Wis. Applicants' attorney: Glenn W. Stephens, 121 W. Doty Street, Madison 3, Wis. Operating rights sought to be transferred: Authority applied for by JOHN HENNEI CARTAGE, INC., covering the transportation of *general commodities* with certain exceptions including household goods and commodities in bulk, as a *common carrier*, over irregular routes between Milwaukee, Wis., on the one hand, and, on the other, West Milwaukee, West Allis, Wauwatosa, Shorewood, and Whitefish Bay, Wis., and points in the Towns of Milwaukee, Wauwatosa, Lake, Greenfield, and Granville, Milwaukee County, Wis. Vendee is authorized to operate as a *common carrier* in Oregon, Washington, California, Idaho, Utah, Nevada, Montana, North Dakota, Minnesota, Wisconsin, Illinois, Arizona, Michigan, Colorado, New Mexico, Pennsylvania, West Virginia, Kentucky, Missouri and Indiana. Application has not been filed for temporary authority under section 210a (b).

No. MC-F-6996. Authority sought for purchase by SMITH-HEYWOOD LINES, 901 W. Lincoln, Phoenix, Ariz., of the operating rights and property of BERT P. CRESTO, doing business as CRESTO TRANSFER, P. O. Box 190, Gallup, N. Mex. Applicants' attorney: Riney B. Salmon, Jennings, Strouss, Salmon & Trask, Sixth Floor, Title & Trust Bldg., Phoenix, Ariz. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes between Gallup, N. Mex., and Ganado, Ariz., and all intermediate and off-route points in Arizona within 50 miles of Ganado, and between junction unnumbered highways near Saint Michaels, Ariz., and Fort Defiance, Ariz., and all intermediate points; *motion picture studio materials, supplies, equipment, and properties*, over irregular routes, between points in New Mexico, Arizona and Colorado; *coal*, from Gallup, N. Mex., and mines within ten miles of Gallup to Civilian Conservation Corps camps in New Mexico and Arizona; *passengers and their baggage, and mail and express in the same vehicle with passengers*, over regular routes, between Gallup, N. Mex., and Chinle, Ariz., and between Defiance, Ariz., and Sawmill, Ariz., serving all intermediate points, *passengers and their baggage* in special or charter service over irregular routes between Gallup, N. Mex., and points in New Mexico and Arizona. Vendee is authorized to operate as a *common carrier* in Arizona and New Mexico. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6997. Authority sought by COOK MOTOR LINES, INC., 700 Carroll Street, P. O. Box 1391, Akron 9, Ohio, to control and merge the operating rights and property of PRUNTY MOTOR EXPRESS, INC., 526 31st Street, P. O. Box 1724, Parkersburg, W. Va., and to purchase the operating rights and property of J. WARREN, doing business as FLEET HIGHWAY FREIGHT LINES, P. O. Box 213, Belpre, Ohio, and for acquisition by H. L. COOK, also of Akron, of control of such rights and property through the transactions. Applicants' attorneys: S. Harrison Kahn, 726 Investment Building, Washington, D. C., and Noel F. George, 44 East Broad Street, Columbus 15, Ohio. Operating rights sought to be controlled and merged: *General commodities*, except livestock, Class A and B explosives, household goods as defined by the Commission and commodities requiring spe-

cial equipment, as a *common carrier* over irregular routes between points in Wood County, W. Va., on the one hand, and, on the other, points in Pennsylvania, Ohio, Maryland and the District of Columbia; *general commodities*, with certain exceptions including household goods and commodities in bulk, between points in Wood County, W. Va., on the one hand, and, on the other, certain points in Ohio. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between Parkersburg, W. Va., and Cincinnati, Ohio, between Chillicothe, Ohio, and Cincinnati, Ohio, between Mineral Wells, W. Va., and Huntington, W. Va., between Wheeling, W. Va., and Parkersburg, W. Va., and between Marietta, Ohio, and Huntington, W. Va., serving all intermediate and certain off-route points. COOK MOTOR LINES, INC., is authorized to operate as a *common carrier* in West Virginia and Ohio. Application has been filed for temporary authority under section 210a (b).

No. MC-F 6998. Authority sought for purchase by GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, S. E., Atlanta 15, Ga., of a portion of the operating rights of HOLLOWAY MOTOR EXPRESS, INC., P. O. Box 2337, East Gadsden, Ala. Applicants' attorneys: Harry Markstein, 818-821 Massey Building, Birmingham 3, Ala., Allen Post, 1220 First National Bank Building, Atlanta 3, Ga., and Robert C. Dryden, 2090 Jonesboro Road, S. E., Atlanta 15, Ga. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and excluding commodities in bulk, as a *common carrier* over regular routes, between Gadsden, Ala., and Cedartown, Ga., and between Austell, Ga., and Cedartown, Ga., serving certain intermediate points; *textile fabrics*, from Rockmart, Ga., to Cedartown, Ga., serving no intermediate points; *empty beams, cores, discs, and fabric covering*, from Cedartown, Ga., to Rockmart, Ga., serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Tennessee, Georgia and Alabama. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6999. Authority sought for purchase by EASTERN FREIGHTWAYS, INC., Eastern and Moonachie Avenues, Carlstadt, N. J., of the operating rights of ALLEN MOTOR LINES, INC. (PERRY GRAICERSTEIN, RECEIVER), 375 Thomaston Avenue, Waterbury, Conn., and for acquisition by LOUIS KLETTER, 101 Prospect Avenue, Hackensack, N. J., GEORGE KLETTER, 94 Campus Drive, Buffalo, N. Y., and JACK TEICHER, 114 Stony Ridge Drive, Hillsdale, N. J., of control of such rights through the purchase. Applicants' attorney: Samuel H. Moerman, Investment Building, Washington, D. C. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over regular routes, between New Haven, Conn., and New York, N. Y., between Hartford, Conn., and Norwalk and Bridgeport, Conn., and between Hartford, Conn., and New Haven, Conn., serving certain intermediate and off-route points. Vendee is authorized to operate as a *common carrier* in New York, Pennsylvania, New Jersey and Vermont. Application has been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-7341; Filed, Sept. 9, 1958; 8:52 a. m.]

BUREAU AND OFFICE ORGANIZATION

BUREAU OF FINANCE

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 14th day of August, A. D. 1958.

Upon consideration of section 17 of the Interstate Commerce Act as amended (49 U. S. C. 17), section 3 (a) (1) of the Administrative Procedure Act, and the provisions of the Transportation Act of 1958:

It is ordered, That the description of central and field organization of the Interstate Commerce Commission appearing in the order of April 7, 1958 (23 F. R. 2654), be, and it is hereby, amended to add to the Bureau of Finance a new section designated as *Section of Loans*, and to add to description of the Bureau and its *Section of Convenience and Necessity* certain new duties. As thus amended the description of the Bureau reads as follows:

SEC. 3. *Bureau and Office Organization.* * * *

(h) *Bureau of Finance.* Performs duties in connection with the Commission's proceedings involving rail carriers, motor carriers, water carriers, and freight forwarders, under the various sections of the Act, relative to: authority to construct, acquire, or abandon lines of a railroad or the operation thereof; proposed discontinuances or changes in the operation by railroads of trains or ferries; approval for motor carriers or water carriers to enter into contracts and agreements for the pooling or division of traffic and earnings; authority to consolidate, merge, transfer ownership, or acquire control of carriers, and when directly related to such authority the granting of certificates or permits to motor carriers in connection therewith; authority to issue securities or to assume obligation and liability with respect to securities of others; authority to sell securities without competitive bidding; authority to alter or modify outstanding securities and obligations; authority to hold position of officer or director of more than one railroad; the guaranty of loans to railroads in financing additions or betterments or other capital expenditures, or for the financing of expenditures for maintenance of property; and formal investigations concerning possible violations of the act relating to the foregoing subjects; and, under provisions of the Uniform Bankruptcy Act, the approval of plans of reorganization, the submission thereof to creditors and stockholders for acceptance or rejection, the recommendation of formulas for the segregation of earnings, the ratification of trustees, the fixing of maximum limits of allowances to trustees and other parties in interest, and the authorization of persons, including protective committees, to solicit and act under proxies, authorizations, or deposit agreements in connection with railroad reorganization or receivership proceedings. Hearing examiners assigned to this Bureau conduct hearings and prepare initial reports with respect to the proceedings handled by the Bureau and when not so engaged, perform other work not inconsistent with their duties as hearing examiners.

(1) *Section of Convenience and Necessity.* Handles the proceedings described above relating to rail carriers, water carriers, and freight forwarders, except those arising under the Uniform Bankruptcy Act, those relating to the guaranty of loans, and those involving authority to issue, sell, modify, or assume obligation respecting securities.

(2) *Section of Loans.* Handles the proceedings described above relating to the guaranty of loans to railroads in financing additions or betterments or other capital expenditures, or for the financing of expenditures for maintenance of property.

(3) *Section of Securities and Reorganizations.* Handles the proceedings arising under the Uniform Bankruptcy Act and those involving authority to issue, sell, modify, or assume obligation respecting securities.

(4) *Section of Motor Carrier Finance.* Handles the proceedings described above relating to motor carriers except those involving transfer of certificates and permits under section 212 (b) of the Act which have not involved the taking of testimony at a public hearing, and those involving the issue of securities or assumption of obligation with respect to securities.

(5) *The Transfer Board.* Pursuant to authority delegated under section 17 of the Act, makes determination, when the matter at issue is not reserved for action by the Commission, of applications filed under section 212 (b) of the Act relating to transfer of certificates or permits, which have not involved the taking of testimony at a public hearing.

[SEAL] HAROLD D. McCOY, *Secretary.*

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