THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES 1934

VOLUME 21 NUMBER 12

Washington, Thursday, January 19, 1956

TITLE 7—AGRICULTURE

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

PART 945—TOMATOES GROWN IN FLORIDA

SAFEGUARDS AND EXEMPTION PROCEDURES

Notice of proposed rule making regarding rules and regulations for the establishment of safeguards and exemption procedures, to be made effective under Marketing Agreement No. 125 and Order No. 45 (7 CFR Part 945; 20 F. R. 7357), regulating the handling of tomatoes grown in Florida, was published in the FEDERAL REGISTER (December 9, 1955; 20 F. R. 9162). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were adopted and submitted for approval by the Florida Tomato Committee, established pursuant to the aforesaid marketing agreement and order, the following rules and regulations are hereby approved:

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AUTHORITY: §§ 945.100 to 945.135 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

GENERAL

§ 945.100 *Communications.* Unless otherwise provided in the marketing agreement and order, or by specific direction of the committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed to the Florida Tomato Committee at its principal office.

DEFINITIONS

§ 945.110 *Order.* "Order" means Order No. 45 (§§ 945.1 to 945.92; 20 F. R. 7357) regulating the handling of tomatoes grown in Florida.

§ 945.111 *Marketing agreement.* "Marketing Agreement" means Marketing Agreement No. 125.

§ 945.112 *Terms.* Terms used in this subpart shall have the same meaning as when used in the marketing agreement and order.

§ 945.113 *Registered handler.* For purposes of this part, a registered handler is a person who has adequate facilities for grading tomatoes for market and who assumes initial responsibility for compliance with inspection, assessment, and other regulatory requirements on the handling of tomatoes grown in the production area. Any person who wishes to become a registered handler shall make application for registration with the committee on forms prescribed by and available at the principal office of the committee. If such applicant has facilities which are determined by the committee as adequate for grading tomatoes, he may be approved as a registered handler. Persons who make deliveries of ungraded tomatoes to such registered handlers are hereby determined to be exempt from otherwise applicable regulations pursuant to this part.

SAFEGUARDS

§ 945.120 *Application for Certificate of Privilege.* (a) Whenever handling is regulated pursuant to § 945.53, each handler desiring to make shipments of tomatoes for any of the following purposes shall, prior thereto, apply to the

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FEDERAL REGISTER

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

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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.

committee for and obtain a Certificate of Privilege permitting such shipment:

(1) For relief or charity; or

(2) For canning.

(b) Applications for Certificates of Privilege shall be made on forms furnished by the committee. Each application shall contain the name and address of the handler, and such other information as such committee may require, such as, but not limited, to the quantity (by grade, size, quality, and variety) of tomatoes to be shipped, the mode of transportation, consignee, destination, and other appropriate information or documents necessary to safeguard against the entry of such tomatoes into trade channels other than those for which the Certificate of Privilege is granted.

§ 945.121 *Issuance.* The committee, or its duly authorized agents, shall give prompt consideration to each application for a Certificate of Privilege and shall determine whether the application is approved. Approval of an application shall be evidenced by the issuance of a Certificate of Privilege authorizing the applicant named therein to ship tomatoes for a specified purpose for a specified period of time.

§ 945.122 *Reports.* Each handler handling tomatoes under and pursuant to a Certificate of Privilege shall supply the committee with a report thereon within the time specified on the application for such certificate showing the name and address of the shipper, car or truck identification, loading point, destination, consignee, and, when inspection is required, the Federal-State Inspection Certificate number.

§ 945.123 *Denial and appeal.* The committee may rescind a Certificate of Privilege issued to a handler, or deny a Certificate of Privilege to a handler, upon proof satisfactory to such committee, that such handler has shipped tomatoes contrary to the provisions of this part. Such committee action denying a Certificate of Privilege shall apply to and not exceed a reasonable period of time as determined by such committee. Any handler who has been denied a Certificate of Privilege, or who has had a Certificate of Privilege rescinded, may appeal to the committee for reconsideration. Such appeal shall be in writing.

EXEMPTION PROCEDURES

§ 945.130 *Application.* Any person applying for exemption from regulations issued pursuant to § 945.52 shall file such application with the committee, or its duly authorized agent for such purpose, on forms to be furnished by such committee. Each application shall state the name and address of the applicant, the grade, size, and quality regulations from which exemption is requested; and facts demonstrating that the tomatoes, for which exemption is requested, were adversely affected by acts beyond his control or by acts beyond the applicant's reasonable expectation. Each application for an exemption certificate must be accompanied by a Federal-State Inspection Certificate covering the specified quantity of tomatoes for which exemption is requested: *Provided*, That the committee may authorize the submission

of such Federal-State Inspection Certificate subsequent to the filing of the application for exemption and prior to consideration of such application. Applications shall set forth such additional information as the committee may find necessary in making determinations with respect thereto, including, without limitation thereto, the information required on producers' applications by paragraphs (a) and (b) of this section.

(a) The location of the farm on which tomatoes for which exemption is requested were produced, the location where such tomatoes are to be prepared for market, and the loading point from which such tomatoes are to be shipped if exemption is granted;

(b) Acreage and quantity (by grade, size, quality, and variety) of tomatoes harvested prior to the date of application and to be harvested, subsequent to such date, during the remainder of the season or specific portion thereof (as may be determined pursuant to this part); the quantity (by grade, size, quality, and variety) of tomatoes disposed of prior to the date of application and to be disposed of subsequent to such date; the location of the tomatoes to be disposed of, together with the place where such tomatoes will be handled; an estimate of the portion of such tomatoes which can be handled under regulation issued pursuant to § 945.52, during the remainder of the season; and the reasons why all of such tomatoes cannot be handled under such regulations.

§ 945.131 *Investigations.* The committee may authorize investigations of applications by its employees, Federal-State inspectors, and such other persons as may be necessary to procure adequate information to pass upon the merits of such applications.

§ 945.132 *Issuance.* (a) The committee, or its duly authorized agents, shall give prompt consideration to all statements and facts relating to each application for exemption, and, pursuant to applicable provisions of this part, a determination shall be made as to whether or not the application is approved. The determination, if approving the application, shall be evidenced by the issuance of a certificate of exemption pursuant to § 945.71: *Provided,* That more than one certificate may be issued, at the request of an applicant, where the applicant ships or causes to be shipped the total quantity of exempted tomatoes in more than one lot, in which case each certificate so issued shall be limited to the quantity of exempted tomatoes to be contained in the respective lots shipped and the total quantity of exempted tomatoes covered by such certificates shall not exceed the total quantity of such tomatoes which would be authorized if only one certificate were issued to such applicant.

(b) The applicant shall be notified in writing if his request for exemption is denied.

(c) Each exemption certificate issued pursuant to this subpart shall be on a form duly approved by the committee and signed by an authorized representative of such committee. At least one copy of each exemption certificate issued shall be retained in the committee records. Each such certificate shall contain the name and address of the recipient, the location of all tomatoes authorized to be shipped thereunder, the quantity (by grade, size, quality and variety) of tomatoes which will be permitted in the exempted shipments and such other information as may be deemed necessary by the committee to provide such committee, the recipient, or both, with adequate and specific information regarding such exempted tomatoes.

§ 945.133 *Disposition of certificates.* Each lot of tomatoes handled under an exemption certificate shall be accompanied by such certificate, or such appropriate identifying information with respect to such certificate, as the committee may require, to facilitate the administration of regulatory provisions applicable thereto.

§ 945.134 *Reports.* Persons handling tomatoes under exemption certificates shall, at such time as may be specified in such certificates, report thereon to the committee the names and addresses of the receivers of such tomatoes, the quantity shipped (by grade, size, quality, and variety), the inspection certificates issued with respect thereto, the dates of such shipments, and such other information as may be requested by such committee in order to administer the regulatory provisions applicable thereto.

§ 945.135 *Appeals.* If any applicant is dissatisfied with the determination of the committee regarding an application for an exemption certificate, or any duly issued exemption certificate an appeal by such applicant may be taken to such committee in accordance with § 945.74.

Done at Washington, D. C., this 16th day of January 1956, to become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] ROY W. LENNARTSON, *Deputy Administrator.*

[F. R. Doc. 56-436; Filed, Jan. 18, 1956; 8:53 a. m.]

TITLE 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Effective 30 days after publication in the FEDERAL REGISTER, Part 50, 10 CFR, "Control of Facilities for the Production of Fissionable Material," is hereby amended to read as follows:

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50.110 Violations.

AUTHORITY: §§ 50.1 to 50.110 issued under sec. 103, 68 Stat. 936, sec. 104, 68 Stat. 937, sec. 161, 68 Stat. 948, sec. 182, 68 Stat. 953, sec. 183, 68 Stat. 954; 42 U. S. C. 2133, 2134, 2201, 2232, 2233. For the purposes of sec. 223, 68 Stat. 958; 42 U. S. C. 2273, § 50.54 (i) issued

under sec. 161i, 68 Stat. 949; 42 U. S. C. 2201, and §§ 50.70 to 50.71 issued under sec. 161p., 68 Stat. 950; 42 U. S. C. 2201.

GENERAL PROVISIONS

§ 50.1 *Basis purpose, and procedures applicable.* The regulations in this part are promulgated by the Atomic Energy Commission, pursuant to the Atomic Energy Act of 1954 (68 Stat. 919), to provide for the licensing of production and utilization facilities.

§ 50.2 *Definitions.* As used in this part,

(a) "Production facility" means:

(1) Any nuclear reactor designed or used primarily for the formation of plutonium or uranium 233; or

(2) Any facility designed or used for the separation of the isotopes of uranium or the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(3) Any facility designed or used for the processing of irradiated materials containing special nuclear material, except laboratory scale facilities designed or used for experimental or analytical purposes only.

(b) "Utilization facility" means any nuclear reactor other than one designed or used primarily for the formation of plutonium or U–233.

NOTE: Pursuant to sections 11p and 11v., respectively, of the Act, the Commission may from time to time add to, or otherwise alter, the foregoing definitions of production and utilization facility. It may also include as a facility an important component part especially designed for a facility, but has not at this time included any component parts in the definitions.

(c) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(d) "Agreement for cooperation" means any agreement with another nation or regional defense organization, authorized or permitted by sections 54, 57, 64, 82, 103, 104, or 144 of the act, and made pursuant to section 123 of the act.

(e) "Atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(f) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(g) "By-product material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(h) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(i) "Common defense and security" means the common defense and security of the United States.

(j) "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(k) "Nuclear reactor" means an apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(l) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(m) "Produce," when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

(n) "Research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(o) "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the act.

(p) "Source material" means source material as defined in section 11s of the act and in the regulations contained in Part 40 of this chapter.

(q) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the act, determines to be special nuclear material, but does not include source material; or (2) any material artifically enriched by any of the foregoing, but does not include source material.

(r) "United States," when used in a geographical sense, includes all Territories and possessions of the United States, the Canal Zone, and Puerto Rico.

§ 50.3 *Interpretations.* Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

REQUIREMENT OF LICENSE, EXCEPTIONS

§ 50.10 *License required.* Except as provided in § 50.11, no person within the United States shall transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any production or utilization facility except as authorized by a license issued by the Commission.

§ 50.11 *Exceptions and exemptions from license.* Nothing in this part shall be deemed to require a license for:

(a) The manufacture, production, or acquisition by the Department of Defense of any utilization facility authorized pursuant to section 91 of the act, or the use of such facility by the Department of Defense or by a person under contract with and for the account of the Department of Defense;

(b) The processing, fabricating, or refining of special nuclear material, or the separation of special nuclear material, or the separation of special nuclear material from other substances, under contract with and for the account of the Commission;

(c) The construction or operation of production or utilization facilities under contract with and for the account of the Commission; or

(d) The transportation or possession of any production or utilization facility by a common or contract carrier or warehouseman in the regular course of carriage for another or storage incident thereto.

§ 50.12 *Specific exemptions.* The Commission may, upon application by any interested person, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

CLASSIFICATION AND DESCRIPTION OF LICENSES

§ 50.20 *Two classes of licenses.* Licenses will be issued to named persons applying to the Commission therefor, and will be either class 104 or class 103.

§ 50.21 *Class 104 licenses; for medical therapy and research and development facilities.* A class 104 license will be issued, to an applicant who qualifies, for any one or more of the following: to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation:

(a) A utilization facility for use in medical therapy; or

(b) A production or utilization facility involved in the conduct of research and development activities leading to the demonstration of the practical value of the facility for industrial or commercial purposes; or

(c) A production or utilization facility, which is useful in the conduct of research and development activities of the types specified in section 31 of the act, and which is not a facility of the type specified in subparagraph (b) of this section.

§ 50.22 *Class 103 licenses; for commercial and industrial facilities.* A class 103 license will be issued, to an applicant who qualifies, for any one or more of the following: to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation, a production or utilization facility which is of a type found in writing by the Commission, to have been sufficiently developed to be of practical value for industrial or commercial purposes.

§ 50.23 *Construction permits.* A construction permit for the construction of a production or utilization facility will be issued prior to the issuance of a license if the application is otherwise acceptable, and will be converted upon due completion of the facility and Commission action into a license as provided in § 50.56. A construction permit for the alteration of a production or utilization facility will be issued prior to the issuance of an amendment of a license, if the application for amendment is otherwise acceptable, as provided in § 50.91.

APPLICATIONS FOR LICENSES, FORM, CONTENTS, INELIGIBILITY OF CERTAIN APPLICANTS

§ 50.30 *Applications for licenses, oath or affirmation.* Each application for a license, including whenever appropriate a construction permit, should be filed in sextuplicate with the Commission at 1901 Constitution Avenue, Washington 25, D. C., Attention: Division of Civilian Application. Each application shall be signed by the applicant or duly authorized officer thereof under oath or affirmation.

§ 50.31 *Combining applications.* An applicant may combine in one his several applications for different kinds of licenses under the regulations in this chapter.

§ 50.32 *Elimination of repetition.* In his application, the applicant may incorporate by reference information contained in previous applications, statements or reports filed with the Commission: *Provided,* That such references are clear and specific.

§ 50.33 *Contents of applications; general information.* Each application shall state:

(a) Name of applicant;

(b) Address of applicant;

(c) Description of business or occupation of applicant;

(d) (1) If applicant is an individual, state citizenship.

(2) If applicant is a partnership, state name, citizenship and address of each partner and the principal location where the partnership does business.

(3) If applicant is a corporation or an unincorporated association, state:

(i) The state where it is incorporated or organized and the principal location where it does business;

(ii) The names, addresses and citizenship of its directors and of its principal officers;

(iii) Whether it is owned, controlled, or dominated by an alien, a foreign corporation, or foreign government, and if so, give details.

(4) If the applicant is acting as agent or representative of another person in filing the application, identify the principal and furnish information required under this paragraph with respect to such principal.

(e) The class of license applied for, the use to which the facility will be put, the period of time for which the license is sought, and a list of other licenses, except operator's licenses, issued or applied for in connection with the proposed facility.

(f) The financial qualifications of the applicant to engage in the proposed activities in accordance with the regulations in this chapter. If the application is also for special nuclear material license pursuant to the regulations in Part 70 of this chapter, information should be included with respect to the applicant's financial qualifications to assume responsibility for the payment of Commission charges for special nuclear material.

(g) The technical qualifications of the applicant to engage in the proposed activities in accordance with the regulations in this chapter.

(h) If the applicant proposes to construct or alter a production or utilization facility, the application shall state the earliest and latest dates for completion of the construction or alteration.

(i) If the proposed activity is the generation and distribution of electric energy under a class 103 license, a list of the names and addresses of such regulatory agencies as may have jurisdiction over the rates and services of the proposed activity, and of those municipalities, private utilities, public bodies, and cooperatives, which are within transmission distance and which are authorized to engage in the distribution of electric energy within the area.

(j) If the application contains Restricted Data or other defense information, it shall be prepared in such manner that all Restricted Data and other defense information are separated from the unclassified information.

§ 50.34 *Contents of applications; technical information hazards summary report.* Each application shall state the following technical information:

(a) A description of the chemical, physical, metallurgical, or nuclear process to be performed, and a statement of the kind and quantity of any radioactive effluent expected to result from the process. The description of the process should be sufficiently detailed to permit evaluation of the radioactive hazards involved. The magnitude of the proposed operation should be indicated in terms of the amount and radioactivity of source, special nuclear, or by-product material to be handled per unit of time, and thermal power to be generated if any.

(b) A description of the facility. The description should be based on the design criteria for the facility as a whole and for those major component parts which are essential to the safe operation of the facility, and should be presented in sufficient detail to allow an evaluation of the adequacy of the various means proposed to minimize the probability of danger from radioactivity to persons both on and off-site. The description should also cover any activities, other than those subject to license, proposed to be carried on in the building which will house the facility and on the balance of the site.

(c) A description of the site on which the facility is to be located. This should include a map of the area showing the location of the site and indicating the use to which the surrounding land is put, i. e., industrial, commercial, agricultural, residential; location of sources of potable or industrial water supply, watershed areas and public utilities; and a scale plot plan of the site showing the proposed location of the facility.

(d) A description of proposed procedures for: routine and non-routine operations, start-up and shut-down, maintenance, storage, training of employees, minimizing operational mishaps (such as locked controls, checklists, and close supervision), investigating unusual or unexpected incidents; and a description of such other details as may be useful in evaluating the existence and effectiveness of safeguards against the radioactive hazards in the operation of the facility.

(e) A description of plans or proposals in the event that acts or accidents occur which would create radioactive hazards. The description should relate the various operational procedures, the protective devices, and the pertinent features of the site, to such happenings as operational mistakes, equipment or instrument failure or malfunction, fire, electric power failure, flood, earthquake, storm, strike, and riot.

(f) Meterological, hydrological, geological, and seismological data necessary for evaluating the measures proposed for protecting the public against possible radioactive hazards.

(g) An evaluation of the proposed measures and devices to prevent acts or accidents which would create radioactive hazards or to protect against the consequences should such acts or accidents occur.

(h) A description of procedures for disposal of radioactive solid waste and the final disposal of liquid waste effluent.

(i) A description of means provided to sample atmosphere discharges through stacks where such stacks may emit by-product material or special nuclear material.

§ 50.35 *Extended time for providing technical information.* Where, because of the nature of a proposed project, an applicant is not in a position to supply initially all of the technical information otherwise required to complete the application, he shall indicate the reason, the items or kinds of information omitted, and the approximate times when such data will be produced. If the Commission is satisfied that it has information sufficient to provide reasonable assurance that a facility of the general type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public and that the omitted information will be supplied, it may process

the application and issue a construction permit on a provisional basis without the omitted information subject to its later production and an evaluation by the Commission that the final design provides reasonable assurance that the health and safety of the public will not be endangered.

§ 50.36 *Designation of technical specifications.* (a) The Commission will indicate, by notice to the applicant, which of the provisions of his hazards summary report or any supplement thereto will be deemed to be technical specifications that become part of the license or construction permit. In giving such notice, the Commission will afford the applicant reasonable opportunity to amend or revise the technical information supplied before proceeding further to process the application.

(b) The Commission may require the applicant to designate those provisions of his hazards summary report or any supplement thereto, which he proposes be incorporated as technical specifications in the construction permit or license.

§ 50.37 *Agreement limiting access to Restricted Data.* As part of his application and in any event prior to the receipt of Restricted Data or the issuance of a license or construction permit, the applicant shall agree in writing that he will not permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security. The agreement of the applicant in this regard shall be deemed part of the license or construction permit, whether so stated therein or not.

§ 50.38 *Ineligibility of certain applicants.* Any person who is a citizen, national, or agent of a foreign country, or any corporation, or other entity which the Commission knows or has reason to believe is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, shall be ineligible to apply for and obtain a license except a license authorizing export only pursuant to an agreement for cooperation.

§ 50.39 *Public inspection of applications.* Applications and documents submitted to the Commission in connection with applications may be made available for public inspection in accordance with the provisions of the regulations contained in Part 2 of this chapter.

STANDARDS FOR LICENSES AND CONSTRUCTION PERMITS

§ 50.40 *Common standards.* In determining that a license will be issued to an applicant, the Commission will be guided by the following considerations:

(a) The processes to be performed, the operating procedures, the facility and equipment, the use of the facility, and other technical specifications, or the proposals in regard to any of the foregoing collectively provide reasonable assurance that the applicant will comply with the regulations in this chapter, including the regulations in Part 20, and that the health and safety of the public will not be endangered.

(b) The applicant is technically and financially qualified to engage in the proposed activities in accordance with the regulations in this chapter.

(c) The issuance of a license to the applicant will not, in the opinion of the Commission, be inimical to the common defense and security or to the health and safety of the public.

§ 50.41 *Additional standards for class 104 licenses.* In determining that a class 104 license will be issued to an applicant, the Commission will, in addition to applying the standards set forth in § 50.40 be guided by the following considerations:

(a) The Commission will permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes.

(b) The Commission will permit the conduct of widespread and diverse research and development.

(c) In the event that applications for special nuclear material for use in activities licensed by the Commission pursuant to section 104b of the act exceed the amount of special nuclear material available the Commission will give priority to those activities which will, in the opinion of the Commission, lead to major advances in the application of atomic energy for industrial purposes.

NOTE: The Commission has determined, in accordance with section 104b of the Atomic Energy Act of 1954, that the regulations and terms of license applicable to a production or utilization facility in the conduct of research and development activities leading to the demonstration of practical value of such facility for industrial or commercial purposes are compatible with the regulations and terms of license which will apply in the event that a class 103 license were later to be issued for that type of facility.

§ 50.42 *Additional standards for class 103 licenses.* In determining whether a class 103 license will be issued to an applicant, the Commission will, in addition to applying the standards set forth in § 50.40, be guided by the following considerations:

(a) The proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized.

(b) Due account will be taken of the advice provided by the Attorney General, pursuant to subsection 105c of the act. For this purpose, before issuing the license, the Commission will notify the Attorney General of the proposed license, and the terms and conditions thereof, and request the advice of the Attorney General as to whether or not the proposed license would tend to create or maintain a situation inconsistent with the antitrust laws, as specified in subsection 105a of the act: *Provided*, That this requirement will not apply with respect to the types of class 103 licenses which the Commission, with the approval of the Attorney General, may determine would not significantly affect the applicant's activities under the antitrust laws. Upon receipt of the Attorney General's advice, the Commission will cause such advice to be published in the FEDERAL REGISTER.

§ 50.43 *Additional standards and provisions affecting class 103 licenses for commercial power.* In addition to applying the standards set forth in §§ 50.40 and 50.42, in the case of a class 103 license for a facility for the generation of commercial power:

(a) The Commission will give notice in writing of each application of such regulatory agency as may have jurisdiction over the rates and services of the proposed activity, and to municipalities, private utilities, public bodies, and cooperatives which are within transmission distance and which are authorized to engage in distribution of electric energy; and the Commission will publish notice of the application once each week for four consecutive weeks in the FEDERAL REGISTER. No license will be issued by the Commission prior to the giving of such notices and until four weeks after the last publication in the FEDERAL REGISTER.

(b) If there are conflicting applications for a limited opportunity for such license, the Commission will give preferred consideration in the following order: First, to applications submitted by public or cooperative bodies for facilities to be located in high cost power areas in the United States; second, to applications submitted by others for facilities to be located in such areas; third, to applications submitted by public or cooperative bodies for facilities to be located in other than high cost power areas, and, fourth, to all other applicants.

(c) The licensee who transmits electric energy in interstate commerce, or sells it at wholesale in interstate commerce, shall be subject to the regulatory provisions of the Federal Power Act.

(d) Nothing herein shall preclude any government agency, now or hereafter authorized by law to engage in the production, marketing, or distribution of electric energy, if otherwise qualified, from obtaining a license for the construction and operation of a utilization facility for the primary purpose of producing electric energy for disposition for ultimate public consumption.

§ 50.44 *Standards for licenses authorizing export only.* Where a license is sought solely to authorize the export of production or utilization facilities, the Commission will determine whether the issuance of the license to the applicant for the facility involved is within the scope of and consistent with the terms of an agreement for cooperation with the nation to which the facility is to be exported.

§ 50.45 *Standards for construction permits.* An applicant for a license or an amendment of a license who proposes to construct or alter a production or utilization facility will be initially granted a construction permit, if the application is in conformity with and acceptable under the criteria of §§ 50.31

through 50.38 and the standards of §§ 50.40 through 50.43.

ISSUANCE, LIMITATIONS, AND CONDITIONS OF LICENSES AND CONSTRUCTION PERMITS

§ 50.50 *Issuance of licenses and construction permits.* Upon determination that an application for a license meets the standards and requirements of the act and regulations, and that notifications, if any, to other agencies or bodies have been duly made, the Commission will issue a license, or if appropriate a construction permit, in such form and containing such conditions and limitations including technical specifications, as it deems appropriate and necessary.

§ 50.51 *Duration of license, renewal.* Each license will be issued for a fixed period of time to be specified in the license but in no case to exceed 40 years from the date of issuance. Where the operation of a facility is involved, the Commission will issue the license for the term requested by the applicant or for the estimated useful life of the facility if the Commission determines that the estimated useful life is less than the term requested. Where construction of a facility is involved, the Commission may specify in the construction permit the period for which the license will be issued if approved pursuant to § 50.56. Licenses may be renewed by the Commission upon the expiration of the period.

§ 50.52 *Combining licenses.* The Commission may combine in a single license the activities of an applicant which would otherwise be licensed severally.

§ 50.53 *Jurisdictional limitations.* No license under this part shall be deemed to have been issued for activities which are not under or within the jurisdiction of the United States except insofar as the export of production or utilization facilities is authorized.

§ 50.54 *Conditions of licenses.* Whether stated therein or not, the following shall be deemed conditions in every license issued:

(a) Title to all special nuclear material utilized or produced by facilites pursuant to the license shall at all times be in the United States.

(b) No right to the special nuclear material shall be conferred by the license except as may be defined by the license.

(c) Neither the license, nor any right thereunder, nor any right to utilize or produce special nuclear material shall be transferred, assigned, or disposed of in any manner, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the act and give its consent in writing.

(d) The license shall be subject to suspension and to the rights of recapture of the material or control of the facility reserved to the Commission under section 108 of the act in a state of war or national emergency declared by Congress.

(e) The license shall be subject to revocation, suspension, modification, or amendment for cause as provided in the act and regulations, in accordance with the procedures provided by the act and regulations.

(f) The licensee will at any time before expiration of the license, upon request of the Commission submit written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended or revoked.

(g) The issuance or existence of the license shall not be deemed to waive, or relieve the license from compliance with, the antitrust laws, as specified in subsection 105a of the act. In the event that the licensee should be found by a court of competent jurisdiction to have violated any provision of such antitrust laws in the conduct of the licensed activity, the Commission may suspend or revoke the license or take such other action with respect to it as shall be deemed necessary.

(h) The license shall be subject to the provisions of the act now or hereafter in effect and to all rules, regulations, and orders of the Commission. The terms and conditions of the license shall be subject to amendment, revision, or modification, by reason of amendments of the act or by reason of rules, regulations, and orders issued in accordance with the terms of the act.

(i) The licensee shall not permit the manipulation of the controls of any production or utilization facility by anyone who is not a licensed operator as provided in Part 55 of this chapter.

(j) The licensee shall not, except as authorized pursuant to a construction permit, make any alteration in the facility constituting a change from the technical specifications previously incorporated in a license or construction permit pursuant to § 50.36.

§ 50.55 *Conditions of construction permits.* Each construction permit shall be subject to the following terms and conditions:

(a) The permit shall state the earliest and latest dates for completion of the construction or modification. If the construction or modification is completed before the earliest date specified, the holder of the permit shall promptly notify the Commission for the purpose of accelerating final inspection and any scheduled delivery of materials from the Commission.

(b) If the proposed construction or modification of the facility is not completed by the latest completion date, the permit shall expire and all rights thereunder shall be forfeited: *Provided, however,* That upon good cause shown the Commission will extend the completion date for a reasonable period of time. The Commission will recognize, among other things, developmental problems attributable to the experimental nature of the facility or fire, flood, explosion, strike, sabotage, domestic violence, enemy action, an act of the elements, and other acts beyond the control of the permit holder, as a basis for extending the completion date.

(c) Except as modified by this section, the construction permit shall be subject to the same conditions to which a license is subject.

(d) At or about the time of completion of the construction or modification of the facility, the applicant will file any additional information needed to bring the original application for license up to date.

§ 50.56 *Conversion of construction permit to license; or amendment of license.* Upon completion of the construction or alteration of a facility, in compliance with the terms and conditions of the construction permit and subject to any necessary testing of the facility for health or safety purposes, the Commission will, in the absence of good cause shown to the contrary issue a license of the class for which the construction permit was issued or an appropriate amendment of the license, as the case may be.

ALLOCATION OF SPECIAL NUCLEAR MATERIAL

§ 50.60 *Allocation of special nuclear material.* (a) In construction permits and licenses issued to applicants proposing to operate production or utilization facilities, the Commission may incorporate provisions designating the quantities of special nuclear material available for use by each such facility. Such provisions will normally be in the form of a statement that the Commission has allocated to the applicant, for use in connection with the operation of the particular facility involved, a designated quantity (or quantities) of special nuclear material. The statement will include an estimated schedule for a reasonable period of time of special nuclear material transfers to the applicant and of special nuclear material returns to the Commission.

(b) The request for incorporation of such provisions may be made simultaneously with the submission of an application for construction permit or facility license or at any time thereafter. Such request should be accompanied by at least the following information:

(1) The applicant's financial qualifications to assume responsibility for payment of Commission charges for the materials, and to undertake and carry out the proposed use of special nuclear material for a reasonable period of time;

(2) The estimated date on which the applicant desires to receive the first shipment of special nuclear material and an estimated schedule, by years, for subsequent receipts;

(3) A schedule, by years, showing the estimated production, consumption and operating losses of special nuclear material; and

(4) An estimated schedule, by years, for the transfer of special nuclear material to the Commission or to other licenses.

Supporting data for the estimates required by subparagraphs (2), (3), and (4) of this paragraph shall be included.

(c) A request for the incorporation in a construction permit or license of provisions designating the amount of special material available for use by the facility will be approved by the Commission if:

(1) The quantities of special nuclear material are available for distribution under section 53 of the act; and

(2) The applicant appears to be financially qualified to assume responsibility for the payment of Commission charges for the material and to undertake and carry out the proposed use of special nuclear material for a reasonable period of time; and

(3) The estimated quantities and schedules submitted in response to paragraph (b) of this section are reasonable; and

(4) Approval of the request is consistent with the priority and preference provisions of the act, including sections 53f, 104b, and 182.

(d) The Commission may, in accordance with the procedures provided in Part 2 of this chapter, reduce the quantities of special nuclear material allocated to any permittee or licensee pursuant to this section, upon the ground that the quantities allocated exceed those reasonably required, or estimated to be required, for use by the facility involved. The expiration, revocation or other termination of a construction permit or license shall terminate all allocations incorporated in such permit or license.

NOTE: Quantities of special nuclear material allocated pursuant to the provisions of this section will not be distributed to the licensee until needed. At the time the allocation is made, however, the Commission will make appropriate entries in its special nuclear material inventory and accounting records to reflect such allocation.

INSPECTION, RECORDS, REPORTS

§ 50.70 *Inspections.* Each licensee and each holder of a construction permit shall permit inspection, by duly authorized representatives of the Commission, of his records, premises, activities, and of licensed materials in possession or use, related to the license or construction permit as may be necessary to effectuate the purposes of the act, including section 105 of the act.

§ 50.71 *Maintenance of records, making of reports.* Each licensee and each holder of a construction permit shall maintain such records and make such reports, in connection with the licensed activity, as may be required by the conditions of the license or permit or by the rules, regulations, and orders of the Commission in effectuating the purposes of the act, including section 105 of the act.

TRANSFER OF LICENSES-CREDITORS' RIGHTS; SURRENDER OF LICENSES

[Sections 50.80 to 50.89 reserved]

AMENDMENT OF LICENSE OR CONSTRUCTION PERMIT AT REQUEST OF HOLDER

§ 50.90 *Application for amendment of license or construction permit.* Whenever a holder of a license or construction permit desires to amend the license or permit, application for an amendment shall be filed with the Commission, fully describing the changes desired, and following as far as applicable the form prescribed for original applications.

§ 50.91 *Issuance of amendment.* In determining whether an amendment to a license or construction permit will be issued to the applicant, the Commission will be guided by the considerations which govern the issuance of initial licenses or construction permits, to the extent applicable and appropriate. If the application involves the material alteration of a licensed facility, a construction permit will be issued prior to the issuance of the amendment to the license.

REVOCATION, SUSPENSION, MODIFICATION, AMENDMENT OF LICENSES AND CONSTRUCTION PERMITS, EMERGENCY OPERATIONS BY THE COMMISSION

§ 50.100 *Revocation, suspension, modification of licenses and construction permits for cause.* A license or construction permit may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application for license or in the supplemental or other statement of fact required of the applicant; or because of conditions revealed by the application for license or statement of fact or any report, record, inspection, or other means, which would warrant the Commission to refuse to grant a license on an original application (other than those relating to §§ 50.51, 50.42 (a), and 50.43 (b)); or for failure to construct or operate a facility in accordance with the terms of the construction permit or license, provided that failure to make timely completion of the proposed construction or alteration of a facility under a construction permit shall be governed by the provisions of § 50.55 (b); or for violation of, or failure to observe, any of the terms and provisions of the act, regulations, license, permit, or order of the Commission.

§ 50.101 *Retaking possession of special nuclear material.* Upon revocation of a license, the Commission may immediately retake possession of all special nuclear material held by the licensee.

§ 50.102 *Commission operation after revocation.* Whenever the Commission finds that the public convenience and necessity, or the production program of the Commission, requires continued operation of a production or utilization facility, the license for which has been revoked, the Commission may, after consultation with the appropriate federal or state regulatory agency having jurisdiction, order that possession be taken of such facility and that it be operated for a period of time as, in the judgment of the Commission, the public convenience and necessity or the production program of the Commission may require, or until a license for operation of the facility shall become effective. Just compensation shall be paid for the use of the facility.

§ 50.103 *Suspension and operation in war or national emergency.* (a) Whenever Congress declares that a state of war or national emergency exists, the Commission, if it finds it necessary to the common defense and security, may,

(1) Suspend any license it has issued.

(2) Order the recapture of special nuclear material distributed.

(3) Order the operation of any licensed facility.

(4) Order entry into any plant or facility in order to recapture special nuclear material or to operate the facility.

(b) Just compensation shall be paid for any damages caused by recapture of special nuclear material or by operation of any facility, pursuant to this section.

ENFORCEMENT

§ 50.110 *Violations.* An injunction or other court order may be obtained prohibiting any violation of any provision of the act or any regulation or order issued thereunder. Any person who willfully violates any provision of the act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with The Federal Reports Act of 1942.

Dated at Washington, D. C., this 12th day of January 1956.

K. E. FIELDS,
General Manager.

[F. R. Doc. 56-417; Filed, Jan. 18, 1956; 8:49 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter III — Public Housing Administration, Housing and Home Finance Agency

PART 320—LOW-RENT HOUSING AND SLUM CLEARANCE PROGRAM

PART 330—RESETTLEMENT PROGRAM

REVOCATION OF PARTS

Chapter III—Public Housing Administration, is amended as follows: Sections 320.1 through 320.10 which constitute Part 320, Low-Rent Housing and Slum Clearance Program, and §§ 330.1 through 330.4 which constitute Part 330, Resettlement Program, are hereby revoked.

Date approved: January 13, 1956.

[SEAL] CHARLES E. SLUSSER,
Commissioner.

[F. R. Doc. 56-413; Filed, Jan. 18, 1956; 8:48 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11301; FCC 56-47]

[Rules Amdt. 3-5]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606, *Table of assignments*, rules governing Television Broadcast Stations (Springfield-Holyoke, Massachusetts).

1. The Commission has before it for consideration its Notice of Further Proposed Rule Making and Order to Show Cause issued on April 29, 1955 (FCC 55-517) and published in the FEDERAL REGISTER on May 4, 1955 (20 F. R. 2989).

The Notice advised that a proposal had been advanced for amending § 3.606, *Table of assignments*, of the Commission's rules and regulations so as to assign Channel 40 to Springfield-Holyoke, Massachusetts, in place of Channel 55. This channel shift can be accomplished by substituting Channel 57 for Channel 40 in Montpelier, Vermont.

2. No comments opposing the proposed amendment were filed. The Hampden-Hampshire Corporation supported the proposed amendment and stated that it will file an appropriate application requesting modification of its present instrument of authorization for operation of Station WHYN–TV on the new channel.

3. It has been the Commission's policy to amend the Table of Assignments in order that an operating UHF television station may be assigned a lower UHF frequency in those cases where the lower frequency could be obtained from a community not yet ready to proceed with television. It is believed that when the latter community is ready to establish its own television station, the temporary equipment problems now present in the operation on the higher UHF frequencies will be resolved. No applications have been filed for Channel 40 in Montpelier and no Montpelier parties have evidenced an interest in utilizing the frequency in the foreseeable future. In these circumstances, the Commission believes that the public interest would be served by shifting Channel 40 to Springfield-Holyoke where it can be employed by an operating station. If Channel 40 is assigned to Springfield-Holyoke, the present frequency of Station WHYN–TV, Channel 55 cannot also be used in that community. Accordingly, it is necessary to delete the present frequency of Station WHYN–TV pursuant to a Show Cause Order.

4. In view of the foregoing, the Commission is of the view that the public interest would be served by finalizing the proposed amendment and by shifting the frequency of WHYN–TV to Channel 40.

5. Authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), 307 (b) and 316 (a) of the Communications Act of 1943, as amended.

6. In view of the foregoing: *It is ordered*, That effective February 14, 1956, the Table of Assignments contained in § 3.606, Rules Governing Television Broadcast Stations, is amended, insofar as the cities named are concerned, as follows:

City:	Channel No.
Springfield-Holyoke, Mass	22, 40
Montpelier, Vt	57

7. *It is further ordered*, That effective February 14, 1956, the outstanding authorization of Station WHYN–TV, is modified, to specify operation on Channel 40 in Springfield, Massachusetts, instead of Channel 55, and an appropriate authorization will be issued to the Hampden-Hampshire Corporation. Data with respect to the proposed operation of WHYN–TV on Channel 40 in Springfield should be submitted to the Commission on FCC Form 301 within 30 days after the effective date of this Order.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1084, sec. 316, 66 Stat. 711; 47 U. S. C. 153, 301, 303, 307)

Adopted: January 11, 1956.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56–419; Filed, Jan. 18, 1956; 8:49 a. m.]

[FCC 56–37; Rules Amdts. 10–9, 11–15, 16–4]

PART 10—PUBLIC SAFETY RADIO SERVICES

PART 11—INDUSTRIAL RADIO SERVICES

PART 16—LAND TRANSPORTATION RADIO SERVICES

MISCELLANEOUS AMENDMENTS

In the matter of amendments of Parts 10, 11 and 16 of the Commission's rules to provide for a single application and authorization for two or more units of base or fixed stations at temporary locations.

At a session of the Federal Communications Commission held at its office in Washington, D. C., on the 11th day of January 1956;

Parts 10, 11 and 16 of the Commission's rules governing the Public Safety, Industrial, and Land Transportation Radio Services provide for separate applications and authorizations for each transmitter to be used as a base or fixed station at temporary locations. As a result, many applications and authorizations for such stations are identical except for the different call signs assigned each transmitter. The Commission desires to reduce the clerical burden on applicants and Commission staff by combining both applications and authorizations into single documents for each base or fixed system, rather than for each transmitter, and issue a single call sign for each system.

It must be clearly understood that the attached rule amendments contemplate only the consolidation of applications and authorizations, and do not mean that existing policies, which determine whether a grant of one or more transmitters at temporary locations will be in the public interest in individual cases or services, have been changed. No change in the Commission's requirements concerning identification, permissible communications, operator requirements, station records, notification of operation to Commission field offices, antenna structure marking, and other similar rules is intended, except where procedural changes have been necessary for clarification.

Provision has been made for attaching Transmitter Identification Cards to transmitters at temporary locations, and for the optional use of unit designators in addition to the required call sign used in common for identification by all units. Provision also has been made for the use of FCC Form 400–A, Request for Amendment of Radio Station Authorization, to delete units of such stations from outstanding authorizations, and to add transmitters which are included in the Commission's "List of Equipment Acceptable for Licensing" in these services.

These amendments are not substantive in nature but relate primarily to matters of internal practice and procedure and simplify the processing of applications. The persons affected require no time to conform their conduct to the changes herein adopted. Accordingly, general notice of proposed rule making is unnecessary and these amendments may be made effective immediately.

Accordingly; *It is ordered*, Pursuant to the provisions of section 303 of the Communications Act of 1934, as amended, that effective immediately Parts 10, 11 and 16 of the Commission's rules are amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

1. Amend § 10.53 (e) (1) to read:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county or counties, or a state or states.

2. Amend § 10.55 (a) (2) to read:

(2) New station authorizations for any required number of mobile units (including hand-carried or pack-carried units) or any required number of units of a base station or fixed station to be operated at temporary locations in the same service.

NOTE: An application for mobile units may be combined with an application for a single base station in those cases where the mobile units will operate with that base station in a single radio communication system.

3. Amend § 10.65 (b) (4) and (5) to read:

(4) A reduction in the overall number of transmitters authorized for mobile use, or for use at base or fixed stations authorized to be operated at temporary locations.

(5) An increase in the overall number of transmitters authorized for mobile use, or for use at base stations or fixed stations to be operated at temporary locations within the authorized area of operation. This form may be used only when adding transmitters which are included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Public Safety Radio Services.

4. Amend § 10.157 (a) to read:

§ 10.157 *Transmitter identification card and posting of station license.* (a)

The current authorization for each mobile station and each base or fixed station authorized to be operated at temporary locations shall be retained as a permanent part of the station record, but need not be posted. An executed Transmitter Identification Card (FCC Form 452–C) shall be affixed to each mobile transmitted or associated control equipment and each transmitter of a base station or a fixed station authorized to be used at temporary locations or associated control equipment. When the transmitter is not in view of and readily accessible to the operator, it is preferred that the Identification Card be affixed to the control equipment at the transmitter operating position. The following information shall be entered on the card by the permittee or licensee:

(1) Name of permittee or licensee;

(2) Station call signal assigned by the Commission;

(3) Exact location or locations of the transmitter records;

(4) Frequency or frequencies on which the transmitter to which attached is adjusted to operate; and

(5) Signature of the permittee or licensee, or a designated official thereof.

5. Amend § 10.157 to delete the text of paragraph (c) and insert in lieu thereof the word "Reserved."

6. Amend § 10.161 (c) to read:

(c) For all base and fixed stations except such stations which are authorized to be operated at temporary locations or for un-attended operation, the name or names of persons responsible for the operation of the transmitting equipment each day, together with the period of their duty. Each such person shall sign, not initial, the record both when coming on and when going off duty.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

7. Amend § 11.54 (e) to read:

(e) Applications involving operation at temporary locations:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county or counties, or a state or states. Sufficient data must be submitted to show the need for the proposed area of operation.

(2) When any unit or units of a base station or fixed station authorized to be operated at temporary locations actually remains or is intended to remain at the same location for a period of over a year, application for a separate authorization specifying the fixed location, shall be made as soon as possible but not later than 30 days after the expiration of the one year period.

8. Amend § 11.56 (a) (2) to read:

(2) New station authorizations for any required number of mobile units (including hand-carried or pack-carried units) or any required number of units of a base station or fixed station to be operated at temporary locations in the same service.

NOTE: An application for mobile units may be combined with an application for a single base station for such mobile units as will operate with that base station only.

9. Amend § 11.58 to add new paragraph (j) to read:

(j) Data required by the rules in connection with operation of base or fixed stations at temporary locations. See § 11.54 (e) (1).

10. Amend § 11.64 (b) (4) and (5) to read:

(4) A reduction in the overall number of transmitters authorized for mobile use, or for use at base or fixed stations authorized to be operated at temporary locations.

(5) An increase in the overall number of transmitters authorized for mobile use, or for use at base stations or fixed stations to be operated at temporary locations within the authorized area of operation. This form may be used only when adding transmitters which are included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Industrial Radio Services.

11. Amend § 11.152 to add new paragraph (e) to read:

(e) A unit designator may be used in addition to the station identification required by this section, to identify an individual unit or transmitter of a base station or a fixed station which is authorized to be operated at temporary locations.

12. Amend § 11.156 (a) and (b) to read:

§ 11.156 *Transmitter identification card and posting of station license.* (a) The current authorization for each mobile station and each base or fixed station authorized to be operated at temporary locations shall be retained as a permanent part of the station record, but need not be posted. An executed Transmitter Identification Card (FCC Form 452–C) shall be affixed to each mobile transmitter or associated control equipment and each transmitter of a base station or fixed station authorized to be used at temporary locations or associated control equipment. When the transmitter is not in view of and readily accessible to the operator, it is preferred that the Identification Card be affixed to the control equipment at the transmitter operating position. The following information shall be entered on the card by the permittee or licensee:

(1) Name of permittee or licensee;

(2) Station call signal assigned by the Commission;

(3) Exact location or locations of the transmitter records;

(4) Frequency or frequencies on which the transmitter to which attached is adjusted to operate; and

(5) Signature of the permittee or licensee, or a designated official thereof.

(b) The current authorization for each base or fixed station, except those authorized to be used at temporary locations, shall be posted at what the licensee considers to be the principal control position of that station. At all other control points listed on the station authorization, a photocopy of the authorization shall be posted. In addition, an executed Transmitter Identification Card (FCC Form 452–C, Revised) shall be affixed to each transmitter operated at a fixed location, when such transmitter is not in view of, and readily accessible to, the operator at the principal control position.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

13. Amend § 16.54 (e) to read:

(e) Applications involving operation at temporary locations:

(1) When one or more individual transmitters are intended to be operated as a base station or as a fixed station at unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations. An application for authority to operate a base station or a fixed station at temporary locations shall specify the general geographic area within which the operation will be confined. The area specified may be a city, a county or counties, or a state or states. Sufficient data must be submitted to show the need for the proposed area of operation.

(2) When any unit or units of a base station or fixed station authorized to operate at temporary locations actually remains or is intended to remain at the same location for a period of over a year, application for a separate authorization specifying the fixed location, shall be made as soon as possible but not later than 30 days after the expiration of the one year period.

14. Amend § 16.56 (a) (2) to read:

(2) New station authorizations for any required number of mobile units (including hand-carried or pack-carried units) or any required number of units of a base station or fixed station at temporary locations to be operated in the same service.

NOTE: An application for mobile units may be combined with an application for a single base station for such mobile units as will operate with that base station only.

15. Amend § 16.58 to add new paragraph (j) to read:

(j) Data required by the rules in connection with operation of base or fixed stations at temporary locations. See § 16.54 (e) (1).

16. Amend § 16.64 (b) (4) and (5) to read:

(4) A reduction in the overall number of transmitters authorized for mobile use, or for use at base or fixed stations authorized to be operated at temporary locations.

(5) An increase in the overall number of transmitters authorized for mobile use, or for use at base stations or fixed stations authorized to be operated at temporary locations within the authorized area of operation. This form may be used only when adding transmitters which are included in the Commission's "List of Equipment Acceptable for Licensing" and designated for use in the Land Transportation Radio Services.

17. Amend § 16.152 to add new paragraph (d) to read:

(d) A unit designator may be used in addition to the station identification required by this section, to identify an individual unit or transmitter of a base station or a fixed station which is authorized to be operated at temporary locations.

18. Amend § 16.156 (a) and (b) to read:

§ 16.156 *Transmitter identification card and posting of station license.* (a) The current authorization for each mobile station and each base or fixed station authorized to be operated at temporary locations shall be retained as a permanent part of the station record, but need not be posted. An executed Transmitter Identification Card (FCC Form 452–C, Revised) shall be affixed to each mobile transmitter or associated control equipment and each transmitter of a base station or fixed station authorized to be used at temporary locations or associated control equipment. When the transmitter is not in view from the control position or is not readily accessible for inspection, the Identification Card should be affixed to the control equipment at the transmitter operating position. The following information shall be entered on the card by the permittee or licensee:

(1) Name of permittee or licensee;

(2) Station call signal assigned by the Commission;

(3) Exact location or locations of the transmitter records;

(4) Frequency or frequencies on which the transmitter to which attached is adjusted to operate; and

(5) Signature of the permittee or licensee, or a designated official thereof.

(b) The current authorization for each base or fixed station, except those authorized to be used at temporary locations, shall be posted at what the licensee considers to be the principal control position of that station. At all other control ponts listed on the station authorization, a photocopy of the authorization shall be posted. In addition, an executed Transmitter Identification Card (FCC Form 452–C, Revised) shall be affixed to each transmitter operated at a fixed location, when such transmitter is not in view of, and readily accessible to, the operator at the principal control position.

(Sec. 4, 48 Stat. 1066; as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

[F. R. Doc. 56–420; Filed, Jan. 18, 1956; 8:49 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Docket No. 3666; Order 23]

PART 73—SHIPPERS

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 30th day of December 1955.

The matter of revision of certain regulations governing the transportation of explosives and other dangerous articles, formulated and published by the Commission, being under consideration, and

It appearing that a Notice No. 19 dated April 1, 1955, setting forth proposed amendments to the said regulations and the reasons therefor and stating that consideration was to be given thereto, was published in the FEDERAL REGISTER on April 9, 1955 (20 F. R. 2325–2338), pursuant to the provisions of section 4 of the Administrative Procedure Act; that pursuant to said notice interested parties were given an opportunity to be heard with respect to said proposed amendments; that certain of the proposed amendments, to which no objections were received, have been approved by an order entered June 2, 1955; that objections were received from the Port of New York Authority, the National Tank Truck Carriers, Inc., and the National Truck Tank and Trailer Institute with respect to certain other remaining proposed amendments; that a notice was issued on May 16, 1955, calling for an informal conference to discuss the said objections; that such a conference was held on July 13, 1955, at which substantial agreement was reached and a request made by the parties that the proposed amendments be incorporated in and set forth in an order without the circulation of a public notice; that revision of said proposed amendments to the extent found justified has been made; and that said amendments as so revised are deemed justified and necessary;

It is ordered, That the aforesaid regulations governing the transportation of explosives and other dangerous articles be, and they are hereby, amended as set forth below;

It is further ordered, That this order shall become effective March 28, 1956, and shall remain in effect until further order of the Commission;

It is further ordered, That compliance with the herein prescribed and amended regulations is hereby authorized on and after the date of service of this order;

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy thereof with the Director, Division of Federal Register.

(Sec. 204, 49 Stat. 546, as amended, 62 Stat. 738; 49 U. S. C. 304, 18 U. S. C. 831–835)

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY, *Secretary.*

SUBPART C—FLAMMABLE LIQUIDS; DEFINITION AND PREPARATION

1. Amend § 73.118, paragraphs (a) and (b) (16 F. R. 11777, Nov. 21, 1951) (15 F. R. 8298, Dec. 2, 1950) (49 CFR 1950 Rev., 1954 Supp., 73.118) to read as follows:

§ 73.118 *Exemptions for flammable liquids.* (a) Flammable liquids, except those enumerated in paragraph (c) of this section, in inside metal containers not over 1 quart capacity each, packed in strong outside containers, except as otherwise provided, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter. These exemptions do not apply to shipments offered for transportation by rail express.

(b) Flammable liquids, except those enumerated in paragraph (c) of this section, in inside containers having a capacity not over 1 pint or 16 ounces by weight each, packed in strong outside containers, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

2. Amend § 73.120, paragraphs (a) and (c) (19 F. R. 6267, 6268, Sept. 29, 1954) (18 F. R. 3135, June 2, 1953) (49 CFR 1950 Rev., 1954 Supp., 73.120) to read as follows:

§ 73.120 *Automobiles, motorcycles, tractors, or other self-propelled vehicles.* (a) Automobiles, motorcycles, tractors, or other self-propelled vehicles, equipped with gasoline or other fuel tanks, provided such tanks are securely closed are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter. When offered for transportation by carriers by rail freight or highway, drainage of fuel tanks is not required. When offered for transportation by rail express, fuel tanks must have been drained and securely closed.

* * * * *

(c) *Truck bodies or trailers on flat cars.* Truck bodies or trailers with automatic heating or refrigerating equipment of the flammable liquid type may be shipped with fuel tanks filled and equipment operating or inoperative, when used for the transportation of other freight and loaded on flat cars as part of a joint rail-highway movement, provided the equipment and fuel supply are of a type approved by the Bureau of Explosives. The heating or refrigerating units are exempt from specification

packaging, marking, and labeling requirements in this service and shall be considered as carriers equipment but not as shipments.

3. In § 73.128, amend the introductory text of paragraph (c) (20 F. R. 8101, Oct. 28, 1955) (49 CFR 1950 Rev., 1954 Supp., 73.128) to read as follows:

§ 73.128 *Paints and related materials.* * * *

(c) Paint, enamel, lacquer, stain, shellac, varnish, aluminum, bronze, gold, wood filler, liquid, and lacquer base liquid, and thinning, reducing and removing compounds therefor, and driers, liquid, therefor, in glass or earthenware containers of not over 1 quart capacity each, or metal containers of not over 5 gallons capacity each, packed in strong outside containers are exempt from specification packaging, marking, and labeling requirements when offered for transportation by rail freight, highway, or water except when offered for transportation by carrier by water, name of contents must be marked on outside container. Shipments for transportation by highway carriers are exempt also from Part 77, except § 77.817, and Part 197 of this chapter. When offered for transportation by rail express, such shipments are exempt from specification packaging, marking, and labeling requirements, except that packages having inside containers of over 1 quart capacity each must be marked with name of contents and bear the red label as prescribed in § 73.405. When fiberboard box is used for such shipments by rail freight, rail express, highway, or water, gross weight must not exceed 65 pounds.

* * * * *

4. Amend § 73.129, paragraph (b) (15 F. R. 8302, Dec. 2, 1950) (49 CFR 73.129, 1950 Rev.) to read as follows:

§ 73.129 *Polishes, metal, stove, furniture and wood, liquid.* * * *

(b) Polishes, metal, stove, furniture and wood, liquid, in glass or earthenware containers of not over 1 quart capacity each, or metal containers not over 5 gallons capacity each, packed in strong outside containers are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter. These exemptions do not apply to shipments offered for transportation by rail express. (See § 73.118 (b) for rail express exemptions.)

5. Amend § 73.130, paragraph (a) (15 F. R. 8302, Dec. 2, 1950) (49 CFR 73.130, 1950 Rev.) to read as follows:

§ 73.130 *Refrigerating machines.* (a) Refrigerating machines assembled for shipment and containing not over 15 pounds of a flammable liquid for their operation are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS

1. Amend § 73.153, paragraphs (a) and (b) (20 F. R. 8101, Oct. 28, 1955) (19 F. R. 3260, June 3, 1954) (49 CFR 1950 Rev., 1954 Supp., 73.153) to read as follows:

§ 73.153 *Exemptions for flammable solids and oxidizing materials.* (a) Flammable solids and oxidizing materials, except those as enumerated in paragraph (c) of this section, in inside containers not over 1 pound net weight each, in outside containers not exceeding 25 pounds net weight each are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter. (See paragraph (c) of this section for articles not exempted, § 73.182 for exemptions for nitrates, and paragraph (b) of this section for exemption for organic peroxides.)

(b) Liquid or solid organic peroxides, (see § 73.244 (a)), except acetyl benzoyl peroxide, solid, and benzoyl peroxide in strong outside containers having not over 1 pint or 1 pound net weight of the material in any one such package, having inside containers securely packed and cushioned with incombustible cushioning are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

2. Amend § 73.159, paragraph (c) (15 F. R. 8304, Dec. 2, 1950) (49 CFR 73.159, 1950 Rev.) to read as follows:

§ 73.159 *Burnt cotton.* * * *

(c) When burnt cotton is picked and baled the separated cotton is not classed as a dangerous article and is not subject to Parts 71–78 and 197 of this chapter.

3. In § 73.162, amend the introductory text of paragraph (a) (15 F. R. 8304, Dec. 2, 1950) (49 CFR 73.162, 1950 Rev.) to read as follows:

§ 73.162 *Charcoal.* (a) Charcoal as described in this paragraph is exempt from specification packaging, marking, and labeling requirements for transportation by rail freight, highway, or water except when for transportation by carrier by water, name of contents must be shown on outside container. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

* * * * *

4. Amend § 73.176, paragraph (g) (16 F. R. 9374, Sept. 15, 1951) (49 CFR 1950 Rev., 1954 Supp., 73.176) to read as follows:

§ 73.176 *Matches.* * * *

(g) Matches, strike-on-box, book and card, must be packed in outside fiberboard or wooden boxes. They may be packed in the same outside container with nonflammable articles when compactly packed in tightly closed inside containers or securely wrapped so as to prevent accidental ignition. When so packed, they are exempt from specification packaging, marking, and labeling requirements except when for transportation by carrier by water each outside container shall be marked "Book Matches", "Strike-on-Box Matches" or "Card Matches", as the case may be. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

5. Amend § 73.180, paragraph (b) (15 F. R. 8307, Dec. 2, 1950) (49 CFR 73.180, 1950 Rev.) to read as follows:

§ 73.180 *Motion-picture film, and X-ray film, unexposed.* * * *

(b) Motion-picture film and X-ray film, unexposed (nitrocellulose base), when offered for transportation by rail freight and highway are exempt from specification packaging, marking other than name of contents, and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

6. In § 73.181, amend the introductory text of paragraph (a) (15 F. R. 8307, Dec. 2, 1950) (49 CFR 73.181, 1950 Rev.) to read as follows:

§ 73.181 *Motion-picture film; exemptions.* (a) Motion-picture film as follows is exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

7. Amend § 73.182, paragraph (a) (1) (19 F. R. 8526, Dec. 14, 1954) (49 CFR 1950 Rev., 1954 Supp., 73.182) to read as follows:

§ 73.182 *Nitrates.* (a) * * *

(1) Wooden or fiberboard boxes with glass, metal, or other strong inside containers; in metal or fiber drums; in kegs or barrels; or in strong metal cans. When so packed they are exempt from specification packaging, marking other than name of contents, and labeling requirements when for transportation by rail or highway. Ammonium nitrate-carbonate mixtures and ammonium nitrate mixed fertilizers so packed are exempt from labeling requirements when for transportation by water carrier. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

8. In § 73.197, amend the introductory text of paragraph (a), and amend paragraph (b) (15 F. R. 8309, Dec. 2, 1950) to read as follows:

§ 73.197 *Pyroxylin plastics, in sheets, rolls, rods, or tubes.* (a) Pyroxylin plastics, in sheets, rolls, rods, or tubes containing nitrocellulose is not subject to Parts 71–78 and 197 of this chapter when offered for transportation by carriers by rail freight or highway but when offered for transportation by carriers by rail express or water must be packed in specification containers as follows and must bear the yellow label:

* * * * *

(b) Pyroxylin plastics in manufactured articles or articles made therefrom is not subject to Parts 71–78 and 197 of this chapter.

9. In § 73.201, amend the introductory text of paragraph (b) (19 F. R. 1278, Mar. 6, 1954) (49 CFR 1950 Rev., 1954 Supp., 73.201) to read as follows:

§ 73.201 *Rubber scrap, rubber buffings, reclaimed rubber, or regenerated rubber.* * * *

(b) Rubber scrap, reclaimed rubber, or regenerated rubber are not subject to Parts 71–78 and 197 of this chapter if shipped in the following forms:

* * * * *

10. Amend § 73.207, paragraphs (c), (d), and (e) (15 F. R. 8311, Dec. 2, 1950) (18 F. R. 3135, June 2, 1953) (49 CFR 1950 Rev., 1954 Supp., 73.207) to read as follows:

§ 73.207 *Sulfide of sodium or sulfide of potassium, fused or concentrated, when ground.* * * *

(c) Sulfide of potassium, crystallized, is not subject to Parts 71–78 and 197 of this chapter.

(d) Sodium sulfide when shipped fused in one solid mass in a metal barrel or drum and sodium sulfide, crystallized, are not subject to Parts 71–78 and 197 of this chapter.

(e) Sodium sulfide containing 35 percent or more combined water by weight, fused or concentrated but not ground (may be chipped, flaked, or broken), when packed in steel barrels or drums that are equipped with moisture-tight closures, is not subject to Parts 71–78 and 197 of this chapter.

11. Amend § 73.212, paragraph (a) (15 F. R. 8311, Dec. 2, 1950) (49 CFR 73.212, 1950 Rev.) to read as follows:

§ 73.212 *Trinitrobenzene and trinitrotoluene, wet.* (a) Trinitrobenzene and trinitrotoluene, wet with not less than 10 percent water, in quantity not exceeding 16 ounces in one outside package, may be shipped as drugs, medicines, or chemicals, when in glass bottles securely stoppered, each bottle inclosed in a strong fiber carton properly cushioned in the outside shipping case and are not subject to any other requirement of Parts 71–78 and 197 of this chapter.

12. Amend § 73.217, paragraph (b) (19 F. R. 1278, Mar. 6, 1954) (49 CFR 1950 Rev., 1954 Supp., 73.217) to read as follows:

§ 73.217 *Calcium hypochlorite compounds, dry, and lithium hypochlorite compounds, dry.* * * *

(b) Strong outside wooden or fiberboard packages containing inside containers of glass or metal not over five pounds capacity each, except that metal inside containers not over seven and one-half pounds capacity each are authorized for material in tablet form only, are exempt from specification packaging, marking, and labeling when offered for transportation by rail freight, rail express or highway. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter. When for transportation by water, strong wooden or fiberboard packages containing inside containers of metal not over five pounds capacity each are exempt from specification packaging only.

13. Amend § 73.220, paragraph (c) (19 F. R. 8527, Dec. 14, 1954) (49 CFR 1950 Rev., 1954 Supp., 73.220) to read as follows:

§ 73.220 *Magnesium scrap (borings, clippings, shavings, sheets, or turnings).* * * *

(c) Magnesium scrap consisting of clippings or scrap sheets in closed metal drums, wooden barrels, or wooden boxes is exempt from specification packaging, marking, and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

14. Amend § 73.223, paragraph (b) (16 F. R. 5325, June 6, 1951) (49 CFR 1950 Rev., 1954 Supp., 73.223) to read as follows:

§ 73.223 *Peracetic acid.* * * *

(b) Peracetic acid solutions not exceeding 40 percent strength packed in strong wooden or fiberboard boxes, with not more than one inside glass container not exceeding 1 pint or 1 pound capacity, cushioned with sterile absorbent cotton or other cushioning material which will not react with the contents to generate heat, and with such cushioning material in sufficient quantity to completely absorb the contents of the bottle are exempt from specification packaging, marking other than name of contents, and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

15. Amend § 73.226, paragraph (b) (18 F. R. 3135, June 2, 1953) (49 CFR 1950 Rev., 1954 Supp., 73.226) to read as follows:

§ 73.226 *Thorium metal, powdered.* * * *

(b) Thorium metal powder packed in tightly and securely closed metal cans, cushioned with incombustible material in strong outside wooden or fiberboard boxes, and not exceeding 4 ounces net weight in one outside shipping container, is exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

16. In § 73.229, amend the introductory text of paragraph (c); amend paragraph (d) (20 F. R. 8102, Oct. 28, 1955) (20 F. R. 951, Feb. 15, 1955) (49 CFR 73.229, 1950 Rev.) to read as follows:

§ 73.229 *Chlorate and borate mixtures or chlorate and magnesium chloride mixtures.* * * *

(c) Chlorate and borate mixtures or chlorate and magnesium chloride mixtures containing no other hazardous additives and containing less than 50 percent chlorate are exempt from specification packaging, marking, and labeling requirements when offered for transportation by rail freight or highway and packed in accordance with subparagraphs (1), (2), and (3) of this paragraph. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

* * * * *

(d) Chlorate and borate mixtures or chlorate and magnesium chloride mixtures containing 25 percent or less chlorate and no other hazardous additives are not subject to the regulations in Part 71–78 and 197 of this chapter.

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS; DEFINITION AND PREPARATION

1. Amend § 73.244, paragraph (a) (19 F. R. 1279, Mar. 6, 1954) (15 F. R. 8313, Dec. 2, 1950) (49 CFR 1950 Rev., 1954 Supp., 73.244) to read as follows:

§ 73.244 *Exemptions for acids and other corrosive liquids.* Acids and other corrosive liquids, except those enumerated in paragraph (c) of this section, in inside bottles having a capacity not over 1 pound or 16 ounces by volume each inclosed in a metal can in the outside container are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

* * * * *

2. Amend § 73.249, paragraph (c) (15 F. R. 8314, Dec. 2, 1950) (49 CFR 73.249, 1950 Rev.) to read as follows:

§ 73.249 *Alkaline corrosive liquids, n. o. s., alkaline caustic liquids, n. o. s., and alkaline battery fluids.* * * *

(c) Inside containers of not more than 8-fluid ounces capacity each, resistant to lading, packed in strong outside containers, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

3. In § 73.250, amend the introductory text of paragraph (a) (18 F. R. 803, Feb.

7, 1953) (49 CFR 1950 Rev., 1954 Supp., 73.250) to read as follows:

§ 73.250 *Automobiles or other self-propelled vehicles, engines or other mechanical apparatus.* (a) Automobiles and other self-propelled vehicles equipped with electric storage batteries, wet, or with electric storage batteries, wet, removed from vehicles; and electric storage batteries, wet when included in carload or truckload shipments of automobile parts or assembled material in accordance with subparagraphs (a) (1), (2), and (3) are exempt from specification packaging, marking, and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter. (See also § 73.257 (b).)

* * * * *

4. In § 73.257, amend the introductory text of paragraph (b) (19 F. R. 3260, June 3, 1954) (49 CFR 1950 Rev., 1954 Supp., 73.257) to read as follows:

§ 73.257 *Electrolyte (acid) or corrosive battery fluid.* * * *

(b) Shipments of electrolyte (acid) or corrosive battery fluid with vehicles offered for transportation by, for, or to the Departments of the Army, Navy, or Air Force of the United States Government are exempt from Parts 71–78 and 197 of this chapter when packed as follows:

* * * * *

5. Amend § 73.260, paragraph (d) (15 F. R. 8316, Dec. 2, 1950) (49 CFR 73.260, 1950 Rev.) to read as follows:

§ 73.260 *Electric storage batteries, wet.* * * *

(d) Electric storage batteries, containing electrolyte or corrosive battery fluid, of the nonspillable type, protected against short circuits and completely and securely boxed are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

* * * * *

6. In § 73.261, amend the introductory text of paragraph (b) (15 F. R. 8316, Dec. 2, 1950) (49 CFR 73.261, 1950 Rev.) to read as follows:

§ 73.261 *Fire-extinguisher charges.* * * *

(b) Fire-extinguisher charges as described in subparagraphs (1) to (3) of this paragraph are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

7. Amend § 73.263, paragraph (b) (2) (15 F. R. 8317, Dec. 2, 1950) (49 CFR 73.263, 1950 Rev.) to read as follows:

§ 73.263 *Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, and sodium chlorite solution.* * * *

(b) * * *

(2) Inside containers of not more than 8-fluid ounces capacity each, resistant to lading, packed in strong outside containers, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

8. Amend § 73.266, paragraph (e) (18 F. R. 5272, Sept. 1, 1953) (49 CFR 1950 Rev., 1954 Supp., 73.266) to read as follows:

§ 73.266 *Hydrogen peroxide solution in water.* * * *

(e) Hydrogen peroxide solution in water not exceeding 52 percent hydrogen peroxide by weight, when shipped in tank cars, tank motor vehicles, or portable tanks in carload or truckload quantities only, is not subject to any other requirement of Parts 71–78 and 197 of this chapter.

* * * * *

9. Amend § 73.272, paragraph (b) (15 F. R. 8321, Dec. 2, 1950) (49 CFR 73.272, 1950 Rev.), to read as follows:

§ 73.272 *Sulfuric acid.* * * *

(b) Sulfuric acid solutions of not over 25 percent concentrations, in inside containers of not more than 8 ounces capacity each, resistant to the lading, packed in strong outside containers and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in event of breakage, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

10. Amend § 73.277, paragraphs (d) and (e) (15 F. R. 8322, Dec. 2, 1950) (49 CFR 73.277, 1950 Rev.) to read as follows:

§ 73.277 *Hypochlorite solutions.* * * *

(d) Glass or earthenware containers of not more than 4-fluid ounces capacity each, packed in strong outside containers, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

(e) Shipments by tank motor vehicle are not subject to any other requirement of Parts 71–78 and 197 of this chapter.

11. Amend § 73.279, paragraph (b) (15 F. R. 8322, Dec. 2, 1950) (49 CFR 73.279, 1950 Rev.) to read as follows:

§ 73.279 *Anisoyl chloride.* * * *

(b) Inside containers of not more than 8-fluid ounces capacity each, resistant to lading, packed in strong outside containers, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

12. In § 73.286, amend the introductory text of paragraph (b) (15 F. R. 8323, Dec. 2, 1950) (49 CFR 73.286, 1950 Rev.) to read as follows:

§ 73.286 *Chemical kits.* * * *

(b) Chemical kits containing acids in inside containers not exceeding 6 fluid ounces capacity each and complying with all of the following requirements, are exempt from specification packaging, marking other than name of contents, and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

* * * * *

SUBPART F—COMPRESSED GASES; DEFINITION AND PREPARATION

1. In § 73.302, amend the introductory text of paragraph (a) (18 F. R. 3136, June 2, 1953) (49 CFR 1950 Rev., 1954 Supp., 73.302) to read as follows:

§ 73.302 *Exemptions for compressed gases.* (a) Compressed gases, except poisonous gases as defined by § 73.326 (a), when in accordance with either subparagraphs (1), (2), (3), (4), (5), or (6) of this paragraph, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

* * * * *

2. Amend § 73.303, paragraphs (a), and (b) (19 F. R. 6268, 6269, Sept. 29, 1954) (49 CFR 1950 Rev., 1954 Supp., 73.303) to read as follows:

§ 73.303 *Truck bodies or trailers on flat cars; automobiles, motorcycles, tractors, or other self-propelled vehicles.* (a) Truck bodies or trailers with automatic heating or refrigerating equipment of the gas burning type may be shipped with fuel tanks filled and equipment operating or inoperative, when used for the transportation of other freight and loaded on flat cars as part of a joint rail-highway movement, provided the equipment and fuel supply are of a type approved by the Bureau of Ex-

plosives. The heating or refrigerating units are exempt from specification packaging, marking, and labeling requirements in this service and shall be considered as carriers equipment but not as shipments.

(b) Automobiles, motorcycles, tractors, or other self-propelled vehicles, equipped with liquefied petroleum gas or other fuel tanks, provided such tanks are securely closed, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter. When offered for transportation by carriers by rail freight or highway, drainage of fuel tanks is not required. When offered for transportation by rail express, fuel tanks must have been emptied and securely closed.

3. In § 73.310, amend the introductory text of paragraph (a) (15 F. R. 8327, Dec. 2, 1950) (49 CFR 73.310, 1950 Rev.) to read as follows:

§ 73.310 *Fire extinguishers and component parts thereof.* (a) Fire extinguishers and component parts thereof containing nonliquefied gas for the purpose of expelling fire extinguishing contents, when shipped under the following conditions are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

4. In § 73.313, amend the introductory text of paragraph (a), and the introductory text of paragraph (b) (15 F. R. 8327, 8328, Dec. 2, 1950) (20 F. R. 951, 952, Feb. 15, 1955) (49 CFR 73.3.3, 1950 Rev.) to read as follows:

§ 73.313 *Refrigerating machines and hydraulic accumulators.* (a) Refrigerating machines of the self-contained type containing not over 50 pounds of gas in each pressure vessel and containing not more than two charged pressure vessels, refrigerating machines of the remote-control type consisting of separate units shipped separately and each containing not over 25 pounds weight of gas, or other similar apparatus assembled for shipment containing not over 15 pounds weight of gas or liquid for their operation, when shipped under the following conditions are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

(b) Hydraulic accumulators and component parts thereof containing nonliquefied gas for the purpose of operation when shipped under the following conditions are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

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SUBPART G—POISONOUS ARTICLES; DEFINITION AND PREPARATION

1. In § 73.345, amend the introductory text of paragraph (a) (19 F. R. 1280, Mar. 6, 1954) (49 CFR 1950 Rev., 1954 Supp., 73.345) to read as follows:

§ 73.345 *Exemptions for poisonous liquids, class B.* (a) Poisonous liquids, class B, as defined in § 73.343, except those as enumerated in paragraph (b) of this section, or as provided for in § 73.359 (c), in tightly closed inside containers, securely cushioned when necessary to prevent breakage and packed as follows, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

* * * * *

2. Amend § 73.359, paragraph (c) (17 F. R. 4295, May 10, 1952) (49 CFR 1950 Rev., 1954 Supp., 73.359) to read as follows:

§ 73.359 *Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, liquid.* * * *

(c) Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures (solutions, emulsions, or emulsifiable liquids) containing not more than 25 percent hexaethyl tetraphosphate, methyl parathion, parathion, tetraethyl dithio pyrophosphate, or tetraethyl pyrophosphate by weight, in inside metal containers not over 8-fluid ounces capacity each, packed in strong outside containers together with sufficient absorbent material to completely absorb the liquid in the event of leakage, are exempt from specification packaging, marking, and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

3. In § 73.364, amend the introductory text of paragraph (a) (19 F. R. 1280, 1281, Mar. 6, 1954) (49 CFR 1950 Rev. 1954 Supp., 73.364) to read as follows:

§ 73.364 *Exemptions for poisonous solids, class B.* (a) Poisonous solids, class B, except beryllium metal powder; cyanides, other than as specified in § 73.370 (b) and (d); hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, other than as specified in § 73.377 (e); in tightly closed inside containers, securely cushioned when necessary to prevent breakage and packed as follows, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, § 77.817, and Part 197 of this chapter.

* * * * *

4. In § 73.370, amend the introductory text of paragraphs (b) and (d) (18 F. R. 804, Feb. 7, 1953) (49 CFR 1950 Rev., 1954 Supp., 73.370) to read as follows:

§ 73.370 *Cyanides, or cyanide mixtures, except cyanide of calcium and mixtures thereof.* * * *

(b) *Cyanides, except cyanide of calcium and mixtures thereof; exemptions.* Cyanides, except cyanide of calcium and mixtures thereof (see paragraph (d) of this section), when packed and described as follows are exempt from specification packaging and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

(d) *Cyanide of calcium and mixtures thereof; exemptions.* Cyanide of calcium and mixtures thereof when packed and described as follows are exempt from specification packaging and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

* * * * *

5. Amend § 73.377, paragraph (e) (18 F. R. 5273, Sept. 1, 1953) (49 CFR 1950 Rev., 1954 Supp., 73.377) to read as follows:

§ 73.377 *Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, dry.* * * *

(e) Dry mixtures containing not more than 2 percent by weight of hexaethyl tetraphosphate, methyl parathion, parathion, tetraethyl dithio pyrophosphate, or tetraethyl pyrophosphate, and in which the liquid is absorbed in an inert material, are exempt from specification packaging, marking, and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

6. In § 73.392, amend the introductory text of paragraph (a), and entire paragraph (b) (15 F. R. 8339, Dec. 2, 1950) (20 F. R. 952, Feb. 15, 1955) (49 CFR 73.392, 1950 Rev.) to read as follows:

§ 73.392 *Exemptions for radioactive materials.* (a) Radioactive materials are exempt from prescribed packaging, marking, and labeling requirements provided they fulfill all of the conditions in subparagraphs (1), (2), and (3) of this paragraph. Shipments for transportation by highway carriers are exempt also

from Part 77 of this chapter, except § 77.817 and Part 197 of this chapter.

* * * * *

(b) Manufactured articles other than liquids, such as instrument or clock dials or electronic tubes and apparatus, of which radioactive materials are a component part, and luminous compounds, when securely packed in strong outside containers are exempt from specification packaging, marking, and labeling requirements provided the gamma radiation at any surface of the package is less than 10 milliroentgens in 24 hours. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

(1) Switchboard or similar apparatus containing electronic tubes, of which radioactive materials are a component part, are exempt from specification packaging, marking, and labeling requirements when shipped in carload or truckload lots or when transported by private motor carrier provided the gamma radiation at any readily accessible surface of the units when prepared for shipment does not exceed 50 milliroentgens in 24 hours. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

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[F. R. Doc. 56-415; Filed, Jan. 18, 1956; 8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 26]

BARLEY

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES

Notice is hereby given that the United States Department of Agriculture has under consideration a proposed revision of the official grain standards of the United States for barley (7 CFR 26.201 et seq.) promulgated under the authority of the United States Grain Standards Act, as amended (39 Stat. 482; 54 Stat. 765; 7 U. S. C. 71 et seq.).

Upon recommendation of a special committee appointed by its Directors, the Minneapolis Grain Exchange has requested that consideration be given to changes in the official grain standards of the United States for barley designed to emphasize malting quality. Other changes proposed for consideration would improve the quality represented by the grades for barley for other purposes by increasing the percentage of sound barley and limiting the allowable percentages of thin barley in each of the grades. No changes are proposed in the grade specifications for Western Barley and the requirements for the special grades for two-rowed barley and the other special grades. The class Black Barley would be eliminated.

It is proposed that the changes be incorporated in the official grain standards of the United States for barley by revising said standards to read essentially as follows:

§ 26.201 *Terms defined.* For the purposes of the official grain standards of the United States for barley:

(a) *Barley.* Barley shall be any grain, which, before the removal of dockage, consists of 50 percent or more of barley, and may contain not more than 25 percent of other grains for which standards have been established under the United States Grain Standards Act. The term "barley" as used in these standards shall not include hull-less barley.

(b) *Classes.* Barley shall be divided into the following three classes: Barley, Western Barley, and Mixed Barley.

(c) *Barley.* The class Barley shall be any white (glumes) barley grown east of the Rocky Mountains and may include not more than 10 percent of Black Barley or of barley of the class Western Barley, either singly or in any combination. This class shall be divided into the following three subclasses:

(1) *Malting Barley.* The subclass Malting Barley shall be six-rowed barley of the class Barley which has 90 percent or more of the kernels with white endosperms, which is not semi-steely in mass; which, after the removal of dockage, contains not more than 5 percent of two-rowed and/or other types or varieties of barley of unsuitable malting type such as Trebi, 4.0 percent damaged kernels, 10.0 percent skinned and broken kernels, 15 percent thin barley, 2.0 percent black barley, and 5.0 percent other grains; which has a minimum test weight per bushel of 43 pounds; which contains a minimum of 90 percent sound barley; which does not contain barley injured by frost, heat, or mold; and which is not smutty, garlicky, weevily, ergoty, or bleached; and which otherwise meets the requirements of grades Nos. 1 to 3 of the subclass Barley.

(2) *Blue Malting Barley.* The subclass Blue Malting Barley shall be six-rowed barley of the class Barley which has 90 percent or more of the kernels with blue endosperms, and which otherwise meets the requirements of the subclass Malting Barley.

(3) *Barley.* The subclass Barley shall be any barley of the class Barley which does not meet the requirements of the subclass Malting Barley, or Blue Malting Barley.

(d) *Western Barley.* The class Western Barley shall be any white (glumes) barley grown west of the Great Plains area of the United States and may include not more than 10 percent of Black Barley or of barley of the class Barley, either singly or in any combination.

(e) *Mixed Barley.* The class Mixed Barley shall be any mixture of barley which does not meet the requirements of the classes Barley or Western Barley. Black Barley shall be classified as Mixed Barley.

(f) *Grades.* Grades shall be the numerical grades, Sample grade, and special grades provided for in § 26.203.

(g) *Dockage.* Dockage shall be weed seeds, weed stems, chaff, straw, grain other than barley, sand, dirt, and any material other than barley which can be removed readily from the barley by the use of appropriate sieves and cleaning devices; also underdeveloped, shriveled, and small pieces of barley kernels removed in properly separating the material other than barley and which cannot be recovered by properly rescreening or recleaning.

(h) *Sound barley.* Sound barley shall be kernels and pieces of kernels of barley remaining after the removal of dockage, which are not damaged or materially discolored by blight and/or mold, which are not heat damaged, sprouted, malted, frosted, badly ground damaged, badly weather damaged, or otherwise materially damaged.

(i) *Damaged barley.* Damaged barley shall be kernels and pieces of kernels of barley which are damaged or materially discolored by blight and/or mold, or which are heat damaged, sprouted, malted, frosted, badly ground damaged, badly weather damaged, or otherwise materially damaged.

(j) *Heat-damaged kernels.* Heat-damaged kernels shall be kernels and pieces of kernels of barley, other grains, and wild oats, which have been materially discolored and damaged by external heat or as a result of heating caused by fermentation.

(k) *Foreign material.* Foreign material shall be all matter other than barley, other grains, and wild oats, which is not separated from the barley in the proper determination of dockage.

(l) *Other grains.* Other grains shall be wheat, rye, oats, corn, grain sorghums, hull-lease barley, flaxseed, emmer, spelt, einkorn, Polish wheat, poulard wheat, cultivated buckwheat, and soybeans.

(m) *Wild oats.* Wild oats shall be seeds of Avena fatua and A. sterilis.

(n) *Wild brome grasses.* Wild brome grasses shall be the seeds of any of the brome grasses which have harsh awns which are injurious when fed to livestock.

(o) *Broken kernels.* Broken kernels shall be pieces of barley kernels.

(p) *Skinned kernels.* Skinned kernels shall be any barley kernels from which one-third or more of the hull has been removed, or which has the hull loosened or removed over the germ.

(q) *Black barley.* Black barley shall be barley with black glumes.

(r) *Thin barley.* (1) Thin barley in the class barley shall be barley and other

matter that will pass readily through a 5/64 x 3/4 sieve.

(2) Thin barley in the class Western Barley shall be barley and other matter that will pass readily through a 5½/64 x 3/4 sieve.

(s) *Stones.* Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(t) *5/64 by 3/4 sieve.* A 5/64 by 3/4 sieve shall be a metal sieve 0.032 inch thick perforated with slotted perforations 0.0781 (5/64) by 0.750 (¾) inch with approximately 865 perforations per square foot.

(u) *9/64 by 3/4 sieve.* A 9/64 by 3/4 slotted sieve shall be a metal sieve 0.032 inch thick perforated with slotted perforations 0.1406 (9/64) inch by 0.750 (¾) inch with approximately 590 perforations per square foot.

(v) *5/64 triangular sieve.* A 5/64 triangular sieve shall be a metal sieve 0.032 inch thick with equilateral triangular perforations, the inscribed circles of which are 0.0781 (5/64) inch with approximately 2,845 perforations per square foot.

(w) *5½/64 by 3/4 sieve.* A 5½/64 x 3/4 sieve shall be a metal sieve 0.032 inch thick perforated with slotted perforations 0.0858 (5½/64) inch by 0.75 (¾) inch with approximately 856 perforations per square foot.

§ 26.202 *Principles governing the application of the standards.* The following principles shall apply in the determination of the classes and grades of barley:

(a) *Basis of determination.* Each determination of dockage, temperature, odor, garlic, live weevils or other insects injurious to stored grain, and distinctly low quality shall be upon the basis of the grain as a whole. Each determination of heat-damaged kernels and of white endosperms in Malting Barley and blue endosperms in Blue Malting Barley shall be upon the basis of the pearled dockage-free grain. All other determinations shall be upon the basis of the grain when free from dockage.

(b) *Percentages.* All percentages shall be upon the basis of weight.

(c) *Moisture.* Moisture shall be ascertained by the air-oven method prescribed by the United States Department of Agriculture, as described in Service and Regulatory Announcement No. 147, issued by the Agricultural Marketing Service, or ascertained by any method which gives equivalent results.

(d) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the United States Department of Agriculture, as described in Circular 921 issued June 1953, or as determined by any method which gives equivalent results.

§ 26.203 *Grades, grade requirements, and grade designations.* The following grades, grade requirements, and grade designations are applicable under these standards:

(a) Grades and grade requirements for the subclass Barley of the class Barley. (See also paragraph (g) of this section.)

Grade	Minimum limits of—		Maximum limits of—					
	Test weight per bushel	Sound barley	Total damaged	Heat damaged kernels (barley, other grains, and wild oats)	Foreign material	Broken kernels	Thin barley	Black barley
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
1	47	97	2.0	0.2	1.0	5	10	0.5
2	45	94	4.0	.3	2.0	10	15	1.0
3	43	90	6.0	.5	3.0	15	25	2.0
4[1]	40	80	8.0	1.0	4.0	20	50	5.0
5	36	70	10.0	3.0	6.0	30	100	10.0
Sample grade	Sample grade shall include barley of the class barley, which does not come within the grade requirements of any of the grades from No. 1 to No. 5, inclusive; or which contains more than 16.0 percent of moisture; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which is otherwise of distinctly low quality.							

[1] Barley that is badly stained or materially weathered, shall not be graded higher than No. 4.

(b) Grades and grade requirements for the subclass Malting barley and Blue Malting barley of the class Barley. (See also paragraph (g) of this section.)

Grade	Minimum limits of—		Maximum limits of—					
	Test weight per bushel	Sound barley	Damaged kernels	Foreign material	Skinned and broken kernels	Thin barley	Black barley	Other grains
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
1	47	97	2.0	1.0	4.0	7.0	0.5	2.0
2	45	94	3.0	2.0	7.0	10.0	1.0	3.0
3	43	90	4.0	3.0	10.0	15.0	2.0	5.0

NOTE: Barley of the class Barley which does not meet the requirements of any of the grades 1 to 3 for the subclass Malting barley and Blue Malting barley shall be classified and graded according to the grade requirements for the subclass Barley.

(c) Grades and grade requirements for Western barley. (See also paragraph (g) of this section.)

Grade	Minimum limits of sound barley	Maximum limits of—				
		Heat-damaged kernels (barley, other grains, and wild oats)	Wild Oats	Foreign material	Broken kernels	Black barley
	Percent	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
1	98	0.1	1	0.5	3	0.5
2	96	.2	2	1.0	6	1.0
3	93	.3	3	2.0	10	2.0
4	88	.5	5	3.0	15	5.0
5	80	1.0	10	4.0	25	10.0
Sample grade	Sample grade shall include barley of the class Western Barley which does not come within the grade requirements of any of the grades from No. 1 to No. 5, inclusive; or which contains more than 15 percent of moisture; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which contains the seeds of wild brome grasses of a character and a quantity sufficient to cause the grain to be of low quality for feeding purposes; or which is otherwise of distinctly low quality.					

(d) *Grades and grade requirements for the class Mixed Barley.* The class Mixed barley shall be graded according to the grade requirements of the class of barley which predominates in the mixture. If Black Barley predominates the grade requirements for the subclass Barley of the class Barley shall be used.

(e) *Grade designation.* The grade designation for barley shall include in the order named the number of the grade or the words "Sample grade," as the case may be; the name of the class or subclass; the name of each applicable special grade; and the word "dockage" together with the percentage thereof. In the case of the class Mixed Barley, the grade designation shall also include, following the name of the class, the approximate percentage of barley, Western Barley, or Black Barley in the mixture.

(f) *Dockage.* The quantity of dockage shall be calculated in terms of percentage based on the total weight of the grain including the dockage. Dockage shall be stated in terms of whole percent and any fraction of a percent shall be disregarded. The word "Dockage" together with the percentage thereof shall be added to the grade designation.

(g) *Special grades, special grade requirements and special grade designations for barley*—(1) *Test weight of Western Barley.* For barley of the class Western Barley, the test weight per bushel in terms of whole pounds shall be

added to, and made a part of, the grade designation, following the name of the class. A fraction of a pound shall be disregarded.

(2) *Tough barley*—(i) *Requirements.* Tough barley shall be (*a*) barley of the class Barley which contains more than 14.5 percent but not more than 16 percent of moisture and (*b*) barley of the class Western Barley which contains more than 13.5 percent but not more than 15 percent of moisture.

(ii) *Grade designation.* Tough barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not tough, and there shall be added to, and made a part of, the grade designation, the word "tough."

(3) *Two-rowed barley*—(i) *Requirements.* Two-rowed barley shall consist of two-rowed barley of the class barley, or of the class Western Barley, which does not meet the requirements for the special grades Choice Malting Two-rowed Western Barley and Malting Two-rowed Western Barley, and may contain not more than 10 percent of six-rowed barley.

(ii) *Grade designation.* Two-rowed barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not two-rowed, and there shall be added to, and made a part of, the grade designation, preceding the name of the class, the word "Two-rowed."

(4) *Choice malting Two-Rowed Western Barley*—(i) *Requirements.* Choice Malting Two-rowed Western Barley shall be Two-rowed Barley of the class Western Barley which consists of the Hannchen or Hanna varietal types; which contains not more than 3 percent of varietal types of barley other than Hannchen or Hanna; which meets the requirements for grade No. 1 except that the limitations on seeds of wild brome grasses shall be disregarded; which has a test weight per bushel of 52 pounds or more; which contains 90 percent or more of mellow kernels; which is not semi-steely in mass; which contains not more than 5 percent of barley and other matter that will pass readily through a sieve 0.032 inch thick with perforations 0.086 by 0.750 (5½/64 x ¾ inch); which contains not more than 5 percent of skinned and/or broken kernels; which does not contain barley injured by frost, by heat, or by mold; and shall not include barley of the special grades stained, smutty, garlicky, weevily, ergoty, or bleached.

(ii) *Grade designation.* Choice Malting Two-rowed Western Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not Choice Malting Two-rowed, and there shall be added to, and made a part of, the grade designation, preceding the name of the class, the words, "Choice Malting Two-Rowed."

(5) *Malting Two-Rowed Western Barley*—(i) *Requirements.* Malting Two-rowed Western Barley shall be Two-rowed Barley of the class Western Barley which consists of the Hannchen or Hanna varietal types; which contains not more than 5 percent of varietal types of barley other than Hannchen or Hanna; which meets the requirements for any of the grades No. 1 to No. 3, inclusive, except that the limitation on seeds of wild brome grasses shall be disregarded; which does not meet the requirements for the special grade Choice Malting Two-rowed Western Barley; which has a test weight per bushel of 50 pounds or more; which contains 70 percent or more of mellow kernels; which is not semi-steely in mass; which contains not more than 10 percent of barley and other matter that will pass readily through a sieve 0.032 inch thick with perforations 0.086 x 0.750 (5½/64 x ¾) inch; which contains not more than 10 percent of skinned and/or broken kernels; which does not contain barley injured by frost, by heat, or by mold; and shall not include barley of the special grades stained, blighted, smutty, garlicky, weevily, ergoty, or bleached: *Provided,* That Malting Two-rowed Western Barley of grade No. 1 shall contain not less than 80 percent of mellow kernels; and may contain not more than 3 percent of varietal types of barley other than Hannchen or Hanna, not more than 7 percent of barley and other matter that will pass readily through a sieve 0.032 inch thick with perforations 0.086 x 0.750 (5½/64 x ¾) inch, and not more than 7 percent of skinned and/or broken kernels.

(ii) *Grade designations.* Malting Two-rowed Western Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not Malting Two-rowed, and there shall be added to, and made a part of, the grade designation, preceding the name of the class, the gords "Malting Two-rowed."

(6) *Bright Western Barley*—(i) *Requirements.* Bright Western Barley shall be barley of the class Western Barley, except bleached barley, that is of good natural color.

(ii) *Grade designation.* Bright Western Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not bright, and there shall be added to, and made a part of, the grade designation, preceding the name of the class, the word "Bright."

(7) *Stained Western Barley*—(i) *Requirements.* Stained Western Barley shall be barley of the class Western Barley, except bleached barley, that is badly stained or weathered.

(ii) *Grade designation.* Stained Western Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not stained, and there shall be added to, and made a part of, the grade designation, the word "Stained."

(8) *Blighted Barley*—(i) *Requirements.* Blighted Barley shall be barley which contains not more than 4 percent of barley damaged or materially discolored by blight and/or mold.

(ii) *Grade designation.* Blighted Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not blighted, and there shall be added to, and made a part of, the grade designation, the word "Blighted."

(9) *Smutty Barley*—(i) *Requirements.* Smutty Barley shall be barley which has the kernels covered with smut spores, or which contains smut masses in excess of 0.2 percent.

(ii) *Grade designation.* Smutty Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not smutty, and there shall be added to, and made a part of, the grade designation, the word "Smutty."

(10) *Garlicky Barley*—(i) *Requirements.* Garlicky Barley shall be barley which contains 3 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 500 grams of barley.

(ii) *Grade designation.* Garlicky Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not garlicky, and there shall be added to, and made a part of, the grade designation, the word "Garlicky."

(11) *Weevily Barley*—(i) *Requirements.* Weevily Barley shall be barley which is infested with live weevils or other insects injurious to stored grain.

(ii) *Grade designation.* Weevily Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not weevily, and there shall be added to, and made a part of, the grade designation, the word "Weevily."

(12) *Ergoty Barley*—(i) *Requirements.* Ergoty Barley shall be barley which contains ergot in excess of 0.3 percent.

(ii) *Grade designation.* Ergoty Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not ergoty, and there shall be added to, and made a part of, the grade designation, the word "Ergoty."

(13) *Bleached Barley*—(i) *Requirements.* Bleached Barley shall be barley which, in whole or in part, has been treated by the use of sulphurous acid or any other bleaching agent.

(ii) *Grade designation.* Bleached Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not bleached, and there shall be added to, and made a part of, the grade designation, the word "Bleached."

The following alternate proposals will be given consideration:

Section 26.203 (a). Consideration will be given to the following alternate limits of grade factors for the subclass barley of the class barley, § 26.203 (a): Sound barley 85 percent and 75 percent in grades No. 4 and No. 5, respectively; heat damaged 0.2 percent, 0.5 percent, 1.0 percent, 3.0 percent, and 5.0 percent in grades Nos. 1, 2, 3, 4, and 5, respectively; and thin barley, 35 percent in grade No. 4 and 75 percent in grade No. 5. Consideration also will be given to changing the column heading, "Foreign Material" to read, "Foreign Material and Wild Oats" and with no change in the limits for the combined factors in each of the numerical grades.

Section 26.203 (b). Consideration will be given to an alternate proposal to fix limits of damaged kernels at 1.0 percent,

2.0 percent, and 3.0 percent in grades No. 1, No. 2, and No. 3, respectively; also to fix maximum limits of "Total Foreign Material and Wild Oats" at 1.0 percent, 2.0 percent, and 3.0 percent in grades Nos. 1, 2, and 3, respectively, with special limits of 0.5 percent, 0.7 percent, and 1.0 percent for "Inseparable weed seeds" within these totals, in lieu of the stated limits on Foreign material alone.

The United States Grain Standards Act requires that public notice be given of the modification of standards adopted under its provisions not less than 90 days in advance of the effective date of such modification. If revised standards for barley are promulgated, they should be effective July 1, 1956.

Pursuant to the provisions of section 4 of the Administrative Procedure Act (5 U. S. C. 1003), an informal public hearing will be held on February 23, 1956 at 2:00 p. m., in Room 100, Minneapolis Grain Exchange Building, Minneapolis, Minnesota, at which interested parties may submit their views and opinions orally or in writing with respect to the desirability of promulgating the proposed changes.

Written data, views, or arguments may also be submitted to the Director, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., to be received by him not later than March 10, 1956. Consideration will be given to all information obtained at the hearing, to written data, views, and arguments received by the Director not later than March 10, 1956, and to other information available in the United States Department of Agriculture before a decision is made as to what revisions, if any, shall be promulgated.

B. W. Whitlock, Grain Division, Agricultural Marketing Service, is hereby designated to conduct this hearing. In case this designee is unable to conduct the hearing, any other officer of the Department designated by the Director, Grain Division, Agricultural Marketing Service, is hereby authorized to conduct such hearing.

Issued this 16th day of January 1956.

[SEAL] ROY W. LENNARTSON, *Deputy Administrator.*

[F. R. Doc. 56-439; Filed, Jan. 18, 1956; 8:53 a. m.]

[7 CFR Part 952]

[Docket No. AO256-A2]

MILK IN AUSTIN-WACO TEXAS, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED, REGULATING HANDLING

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Commodore Perry Hotel, Austin, Texas, beginning at 10:00 a. m., February 2, 1956.

This public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk in the Austin-Waco, Texas, marketing area and to emergency conditions related to the proposal listed below or appropriate modifications thereof.

The amendments to the order (No. 52), as amended, were proposed by the Mid-Tex Milk Producers Association:

Amend Order No. 52 to provide that a cheese credit be added to the present order whenever needed, such cheese price to be arrived at by taking the difference between 8.50 times the Wisconsin primary cheese markets and the Class II price under the present order, such difference to be subtracted from the current Class II price.

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

Copies of this notice of hearing may be procured from the market administrator, 221 East 11th Street, Austin 1, Texas, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: January 16, 1956.

[SEAL] ROY W. LENNARTSON, *Deputy Administrator.*

[F. R. Doc. 56-437; Filed, Jan. 18, 1956; 8:53 a. m.]

[7 CFR Part 982]

[Docket No. AO 238-A5]

MILK IN CENTRAL WEST TEXAS MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED, REGULATING HANDLING

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Windsor Hotel, Abilene, Texas, beginning at 10:00 a. m., January 31, 1956.

This public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk in the Central West Texas marketing area and to emergency conditions related to the proposal listed below or appropriate modifications thereof.

The amendments to the order (No. 82), as amended, were proposed by the Central West Texas Producers Association:

Replace the period at the end of § 982.70 with a colon and add the following: "*And provided further*, That from the effective date hereof through August 1956, there shall be deducted for each hundred pounds of producer milk which was allocated to Class II pursuant to § 982.46 and which was either used in the production of Cheddar cheese or assigned to such product pursuant to § 982.44 the difference between the Class II price for milk containing four percent butterfat and the price obtained by multiplying by 8.2 the average of the daily prices paid per pound of cheese at Wisconsin Primary markets ('Cheddars' f. o. b. Wisconsin assembling points, cars or truckloads) as reported by the Department during the month."

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

Copies of this notice of hearing may be procured from the market administrator, 6619 Denton Drive, Dallas 19, Texas, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: January 16, 1956.

[SEAL] ROY W. LENNARTSON, *Deputy Administrator.*

[F. R. Doc. 56-438; Filed, Jan. 18, 1956; 8:53 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11280; FCC 56-45]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 *Table of assignments*, rules governing Television Broadcast Stations.

1. The Commission has before it for consideration its Notice of Further Rule Making and Orders to Show Cause issued in this proceeding on September 1, 1955 (FCC 55-893). By that Notice it was proposed to amend the television Table of Assignments so as to shift Channel 45 from New Castle, Pennsylvania, to Youngstown, Ohio, by one of three alternative methods, all of which would require other changes in the television Table of Assignments. The Notice was issued in response to a request by WKST, Inc., permittee of Station WKST-TV on Channel 45 in New Castle. Since there are outstanding authorizations for stations on three of the channels proposed to be changed, Show Cause Orders were issued to WKST, Inc. to show why its outstanding authorization for Station WKST-TV on Channel 45 in New Castle should not be modified to specify operation on Channel 45 in Youngstown; to Golden Triangle Television Corporation to show why its outstanding authorization for Station WTVQ on Channel 47 at Pittsburgh, Pennsylvania, should not be modified to specify operation on Channel 22 at Pittsburgh; and to Polan Industries to show why its outstanding authorization for Station WLTV on Channel 51 in Wheeling, West Virginia, should not be modified to specify operation on Channel 22 in Wheeling.

2. The initial subject of this proceeding involved a petition for rule making by WKST, Inc., requesting that Channels 45 and 73 be exchanged between New Castle and Youngstown and that it be directed to Show Cause why its authorization should not be modified to specify operation on Channel 45 at Youngstown

rather than New Castle. After consideration of the comments both in support and in opposition to the proposal filed in the proceeding, the Commission on April 21, 1955, issued a Report and Order (FCC 55-491) denying petitioner's request. On May 20, 1955, WKST, Inc. filed a Petition for Reconsideration offering three new alternative proposals for shifting Channel 45 from New Castle to Youngstown. These proposals, the subject of this further proceeding, are as follows:

PLAN I

City	Present	Proposed
Youngstown, Ohio	21−, 27, 73−	21−, 27, *45*−, 73−.
New Castle, Pa.	45−	*33*.
Pittsburgh, Pa.	2−, 11, 13*−, 16, 47−, 53+	2−, 11, 13*−, 16, *##*, 53+.
Clarksburg, W. Va.	12+, 22, 69−	12+, 69−, 79+.

PLAN II

Youngstown, Ohio	21−, 27, 73−	21−, 27, *45*−, 73−.
New Castle, Pa.	45−	51+.
Wheeling-Steubenville	7, 9+, 51+	7, 9, *##*.
Clarksburg, W. Va.	12+, 22, 69−	12+, 69−, 79+.
Meadville, Pa.	37	62+.[1]

PLAN III

Youngstown, Ohio	21−, 27, 73−	21−, 27, *45*−, 73−.
New Castle, Pa.	45−	*55*−.
Akron, Ohio	49+, 55*−, 61+	49+, 61*, *71*−.

[1] This plan would require a change in the offset carrier requirement for Frederick, Maryland, from Channel 62 plus to Channel 62 even.

3. Comments have been submitted by WKST, Inc., in support of its proposed amendment. The Greater New Castle Association, the Superintendent of the New Castle Public Schools and other persons in the Youngstown area filed letters in support of petitioner's request. Other letters supporting petitioner's proposal have been received from Congressman Frank M. Clark, Walter A. Kieler, Esq., Mayor Edward A. DeCarbo of New Castle; the New Castle Chamber of Commerce, and other parties. Comments opposing the proposed amendment have been filed by WKBN Broadcasting Corporation (WKBN-TV), Youngstown; The Vindicator Printing Company (WFMJ-TV), Youngstown; Community Telecasting Company, permittee of Channel 73 at Youngstown; and WHAR, Inc., (WHAR(AM)), Clarksburg, West Virginia. Letters opposing the proposed amendment were received from the Akron Broadcasting Corporation (WCUE (AM)), Akron; the Mahoning Valley Broadcasting Corporation (WBBW (AM)), Youngstown; the Youngstown Chamber of Commerce; Mayor Leo Berg of Akron; Congressman Michael J. Kirwin, Congressman Cleveland M. Bailey, Senator George H. Bender, the Meadville Broadcasting Service Inc. (WMGW(AM) and WMGW-FM), Meadville, the Chamber of Commerce of Meadville, and the Akron Chamber of Commerce. WKST, Inc. filed a Reply to the Order to Show Cause stating that it specifically waived the required 30-day notice period and consented to the modification of its outstanding authorization to specify operation on Channel 45 in Youngstown instead of New Castle. No replies to the Show Cause Orders were filed by the Golden Triangle Television Corporation nor Polan Industries. However, the latter organization on June 7, 1955, filed a statement to the effect that it had no objection to the modification of its outstanding authorization for Station WLTV on Channel 51 to specify operation on Channel 22 at Wheeling. Replies to comments were filed by WKST, Inc., the Vindicator Printing Company and the WKBN Broadcasting Corporation.

4. In support of its proposal, petitioner urges that each of the above three proposals for reassigning Channel 45 from New Castle to Youngstown meets the objections which the Commission had to its original proposal to exchange Channels 45 and 73 between the two cities. It points out that the substitution of either Chanel 33, 51 or 55 for Channel 45 in New Castle, as proposed, would give the area a channel equally or substantially as good and would provide New Castle with the opportunity of obtaining a local television station immediately to replace that of WKST-TV. Petitioner claims that the shifting of Channel 45 to Youngstown, while resulting in a fourth television assignment to that area, would not be contra to the Commission's assignment principles since none of the proposals would reduce the number of channels available to other communities; all of the mileage separation requirements in the rules would be complied with; and nine other cities in the United States smaller in population than Youngstown are assigned at least four television channels. In its Petition for Reconsideration, petitioner suggested that if four commercial UHF channels in Youngstown were deemed to be unwarranted, consideration should be given to reserving Channel 73 in Youngstown for educational use. Petitioner refers again to the various factors mentioned in its original petition and Petition for Reconsideration to which it attributes its inability to operate successfully at New Castle, i. e., the close proximity of New Castle to Youngstown and its relative size; its inability to compete effectively with the two Youngstown stations which are affiliated with all the networks and serve the New Castle area; its inability to obtain sufficient network programs and national and local advertising; and the fact that many New Castle viewers have adjusted their receivers to receive the Youngstown stations rather than WKST-TV because of more attractive network programs. Petitioner believes that if it could operate on Channel 45 in Youngstown, it could obtain a basic network affiliation agreement, attract more national and local business, and compete more effectively with the other stations in the area. It asserts that a substantial percentage of the new receivers being installed in the Youngstown area are without outside antennas and antenna rotators, and are incapable of receiving a signal from its New Castle station; but that if it is permitted to operate from Youngstown, as proposed, its station could be received upon such sets, by other receivers with outside antennas adjusted to receive the Youngstown stations, and by receivers in the area equipped with strip tuners to receive its signal from New Castle. Petitioner also points out that if Channel 45 is shifted to Youngstown and its authorization is modified to permit operation on Channel 45 in Youngstown, it could commence operation with its existing equipment, with the exception of the supporting structure for the transmitting antenna, with maximum speed and a minimum of cost. It maintains that if it were to use Channel 73 in Youngstown instead of Channel 45, considerable additional expenditure would be required amounting to $31,275 and that, in addition, Channel 73 has been recognized as inferior to Channel 45 from the standpoint of equipment. Petitioner urges that operating from Youngstown on Channel 45 it could provide a high quality technical service not only to Youngstown, Warren and Sharon, but over New Castle as well; that only a relatively small area of 40 square miles now within the Grade B contour of WKST-TV would be outside the Grade B contour of its proposed Youngstown station and that all of this area is receiving service from existing stations. The letters filed in support of the reassignment of Channel 45 to Youngstown and the modification of Station WKST's authorization to enable it to operate as a Youngstown station urge that it would afford a better television service to the New Castle area; that it would make possible a utilization of the UHF market developed in the New Castle area by Station WKST-TV, and that it will make available to the New Castle and Youngstown areas a wider selection of programs.

5. Petitioner states that the assignment of Channel 45 to Youngstown can be accomplished without disturbing the number of channels now available to other communities. It points out that in both Plans I and II, Channel 79 would be substituted for Channel 22 in Clarksburg, and that since no applications have been filed for Channel 22 or the other available UHF channel in Clarksburg, it does not appear that the community is now ready to proceed with UHF television. Petitioner therefore argues that the substitution of Channel 79 for 22 will offer Clarksburg the same opportunities for additional television facilities

and service in the future as are now available. While Plan I would also require modification of the authorization for Station WTVQ at Pittsburgh to specify Channel 22 in place of Channel 47, petitioner maintains that there is no reason for not making the modification since construction has not been commenced on Station WTVQ and Channel 22 is as good or better than Channel 47 from a propagation and equipment standpoint. With respect to other assignment changes involved in Plan II, petitioner submits that no applications have been filed for Channel 37 in Meadville, Pennsylvania, nor for Channel 62 in Frederick, Maryland, and that these communities are apparently not ready to proceed with television. It contends that the substitution of Channel 62 for 37 in Meadville will afford the community the same opportunity for local television service in the future as now provided. Plan II would also require modification of the authorization for Station WLTV in Wheeling to specify Channel 22 in place of 51. Petitioner claims that this presents no problem since the permittee, Polan Industries, has indicated that it consents to such modification. Petitioner points out that Plan III requires deletion of noncommercial educational Channel 55 from Akron, Ohio, and the assignment of Channel 71 to Akron. Petitioner states that since there are no applications pending for either Channel 55 or for Channel 61, which under Plan II would be reserved for noncommercial educational use in Akron, and since there is no indication that educational groups or others are ready to proceed with television on either Channel 55 or 61 in Akron, substitution of Channel 71 for Channel 55 and the reservation of Channel 61 for noncommercial use would offer Akron the same opportunity for noncommercial educational and commercial stations in the future as are now afforded.

6. The opposing parties urge that the assignment of a fourth television channel to Youngstown is unnecessary and unwarranted. They point out that the Youngstown metropolitan area now has a total of five channels (3 at Youngstown, 1 at Warren, Ohio, and 1 at Sharon, Pennsylvania) and that the assignment of an additional channel to the area would adversely affect the public interest by causing economic injury to existing television stations and causing the viewing public to suffer through degradation of program service. They state that two UHF stations are now operating on Channels 21 and 27 at Youngstown and that a third competing UHF station is anticipated in view of the fact that Community Telecasting Company had filed an application for Channel 73 at Youngstown. They argue that the Commission determined in the Sixth Report and Order that the assignment of 3 channels to Youngstown was warranted, but that there is nothing in the record of this proceeding to indicate that a fourth assignment is justified. They contend that the proposed assignment of Channel 45 to Youngstown is not based on public interest considerations but on the private and speculative belief of petitioner that it could operate more successfully in Youngstown on Channel 45. The opposing parties maintain that there is no basis for this assumption since the competitive situation in Youngstown is already difficult; will become more difficult with the establishment of a third station on Channel 73, and will worsen if a fourth assignment is made. They contend that both of the operating stations in Youngstown have incurred operating losses in spite of the fact that they are connected with established AM stations, have excellent technical facilities and are affiliated with the two major networks. WFMJ–TV states that its total operating loss exceeds $250,000; and Station WKBN–TV states that its operating loss exceeds $165,000. Community Telecasting Company asserts that the assignment of Channel 45 to Youngstown will mean the death of its proposed operation on Channel 73 and the use of Channel 73 in Youngstown for years to come.

7. The opposing parties further contend that each of the alternative plans proposed for shifting Channel 45 from New Castle to Youngstown is contrary to Commission policy and precedent, the public interest and, in addition, is technically objectionable and would result in the substitution of higher UHF channels for lower UHF channels in other communities. They urge that no showing has been made that the lower channels presently assigned to these communities will not be used in the foreseeable future and that the assignment of higher channels to Meadville, Clarksburg or New Castle would act as a further deterrent to the establishment of local UHF service in these communities. It is submitted that because of equipment problems and greater power requirements, the higher UHF frequencies are at present less desirable than the lower frequencies and that the communities of Meadville, Clarksburg and New Castle are smaller than Youngstown and therefore less able to withstand the additional cost of higher-band UHF operation. It is asserted that in spite of the fact that the permittees of Station WTVQ in Pittsburgh and Station WLTV in Wheeling raise no objections to shifting to other channels, as proposed in Plan I and II, it would be contrary to Commission policy to permit the proposed shifts. With respect to the changes in channel assignments proposed for Akron in Plan III, it is urged that Akron, which is substantially larger than Youngstown, has only two commercial UHF assignments, Channels 49 and 61; that Station WAKR-TV operates on Channel 49; that a second commercial UHF station operating on Channel 71, as proposed, rather than Channel 61, would be under a definite handicap; that the noncommercial educational station in Akron would encounter further difficulties and costs if it were required to operate on Channel 61, as proposed, instead of Channel 55, and that it would be discriminatory to make Akron's second commercial assignment a higher channel in order to make a fourth channel available to the smaller city of Youngstown. It is urged that the assignment of a fourth UHF channel to Youngstown for commercial use would contravene Commission policy of reserving one channel for noncommercial educational use in communities having three or more assignments and that petitioner's suggestion that Channel 73 in Youngstown might be reserved for noncommercial use has no merit since Community Telecasting Company has now applied for this frequency. Finally, it is urged that it would be contrary to the intent and purpose of section 316 of the Communications Act and the Commission's past decisions to employ the Show Cause Order procedure to enable petitioner to become a Youngstown station without following the usual procedure of filing an application and competing with all other parties desiring the channel. It is maintained that there is no reason why petitioner could not have filed a competitive application for use of Channel 73 if it desired to operate in Youngstown and that, if Channel 45 is assigned to Youngstown, there are no public interest factors involved which would warrant denying the applicant for channel 73 in Youngstown and other interested parties an opportunity also to apply for the channel.

8. In its Reply to the opposing comments, WKST, Inc., urges that assignment of Channel 45 to Youngstown and modification of its authorization to permit operation at Youngstown is warranted because of public interest factors apart from the relief which would accrue to it; that granting its request will permit restoration and expansion of a television service in the area with transmission facilities superior to those now authorized; that its station would be moved further away from VHF stations in Pittsburgh, Steubenville and Wheeling into an all-UHF area; that its proposal would provide an additional service to Youngstown; that it would provide a third network with a regular affiliate in the Youngstown area; and that it would give the public in the Youngstown and New Castle areas an opportunity to receive a more complete schedule of network programs, as well as a greater opportunity for local self-expression. Petitioner states that the effect of its proposed operation in Youngstown on the existing Youngstown stations cannot be predicated; but that, nevertheless, the ultimate question is not whether the Youngstown stations will suffer economic injury but whether its proposed operation at Youngstown would serve the public interest. Petitioner also contends that there is no merit to the argument that the assignment of Channel 45 to Youngstown would violate the Commission's assignment principles. It submits that assignments are made to cities and not Standard Metropolitan areas; that some nine cities smaller than Youngstown have been assigned four or more television channels and that two smaller Urbanized areas (El Paso and Salt Lake City, Utah) and one slightly larger Urbanized area (Omaha, Nebraska) have been assigned five channels for commercial use. In reply to the argument that its proposal contravenes the Commission's policy of reserving a channel for noncommercial educational use in com-

munities having a total of three or more assignments, it submits that this policy was not followed by the Commission in assigning a fourth commercial channel to Lexington, Kentucky. It further argues that the technical objections raised to its three proposed plans for assigning Channel 45 to Youngstown are without merit since the proposed assignments comply with the mileage requirements of the rules, and it urges that the argument that the substitution of higher UHF channels for lower channels would require increased power to provide equivalent UHF service should not be considered since differences between channels from the point of coverage are not recognized. WKST, Inc., asserts that the fact that the adoption of any of its three plans would require substitution of higher UHF channels in other communities is of no substantial significance inasmuch as the lower channels now assigned to Clarksburg, Meadville, and Akron have been available since 1952 and there has been no demand for their use. With respect to the changes required in outstanding authorizations, WKST, Inc., states that neither of the permittees of the stations affected in Wheeling and Pittsburgh filed any response to the Orders to Show Cause directed against them. Petitioner also urges that it would be unfair to it to afford the applicant for Channel 73 in Youngstown an opportunity to amend its application and compete with it for Channel 45 in Youngstown in view of the fact that its original and modified petitions for the assignment of Channel 45 to Youngstown have been pending before the Commission since December 27, 1954, and that Community Telecasting Company, with full knowledge and notice of its proposals, filed for Channel 73 on August 30, 1955.

9. The opposing parties urge in their Replies that no showing has been made that any of the three alternative plans for the assignment of Channel 45 to Youngstown would serve the public interest nor that any present public demand or need for a fourth commercial UHF assignment exists in Youngstown. It is submitted that while a number of comments in opposition to the assignment of Channel 45 to Youngstown were filed, only two comments—one a petition signed by 20 residents in the area and the other a letter from nine residents—were filed which in any way tend to support petitioner's request and that both of these petitions urge that a third television station is needed in the Youngstown area and make no reference to the need for a fourth service. It is contended that the establishment of a third station in Youngstown on Channel 73 will provide a third service to Youngstown and its environs, which will be more than ample to meet the need for network as well as for local television service. On the other hand, it is urged that if a fourth assignment is made to Youngstown, it will reduce substantially the possibility of a New Castle station ever being established because of the proximity of Youngstown to New Castle and the economic competition which the New Castle station would face from four Youngstown stations. It is also noted that parties in Clarksburg and Akron have filed comments in the proceeding expressing opposition to the frequency changes proposed for those communities by petitioner.

10. Upon our careful evaluation of all the comments and pleadings filed in this further proceeding, we are unable to conclude that the public interest would be served by shifting Channel 45 from New Castle to Youngstown by means of any of the three new alternative plans proposed by WKST, Inc. We reached this same conclusion with respect to WKST's original proposal for the shifting of Channel 45 to Youngstown by exchanging Channels 45 and 73 between New Castle and Youngstown primarily because it was not clear that other parties might not be ready and willing to undertake operation on Channel 45 in New Castle in the event that WKST failed to resume operation and the channel became available for use. We pointed out in our decision of April 20, 1955 that, although we had recognized in several cases that the temporary equipment problems associated with operation on the higher UHF channels warranted shifting a lower channel from a community which is not ready to proceed with television to a community which is prepared to proceed promptly with television service, this precedent was not applicable with respect to petitioner's proposal since such shifts had been authorized only when there was no present prospect that the channel to be shifted from one community to another would be used in the foreseeable future. In this further proceeding petitioner has attempted to satisfy our objections to its original proposal by urging in three alternative plans, the substitution of a channel closer to 45 (either 31, 51 or 55) in place of Channel 45 in New Castle. However, we now find that an even more serious objection exists with respect to the shifting of Channel 45 from New Castle to Youngstown in the manner proposed in the alternate plans.

11. In this further proceeding we have before us the question of whether Youngstown should be assigned a fourth television channel. This question was not before us when we considered and rejected petitioner's original proposal. That proposal would have only shifted Channels 45 and 73 between Youngstown and New Castle and would not have disturbed the number of assignments to Youngstown. However, each of the alternate proposals now before us would add Channel 45 as a fourth assignment to Youngstown. At the time of our prior decision, there were no applications for the use of Channel 73 in Youngstown. However, on August 30, 1955, Community Telecasting Company applied for Channel 73 in Youngstown, and its application (BPCT–2015) to construct a new station thereon was granted on November 2, 1955. It can be expected therefore that a third television facility will be established to provide an additional service to the Youngstown area in the near future. In view of the fact that Channel 73 is now authorized for commercial use and there appears to be no demand for a noncommercial educational reservation in Youngstown, we believe petitioner's suggestion that Channel 73 might be reserved for education is without merit.

12. The Commission determined in the Sixth Report and Order that the assignment of three channels to Youngstown represented a fair and equitable distribution in light of the need for facilities in other communities. We find nothing in the record of this proceeding which establishes a need for the assignment of a fourth channel to Youngstown at this time, particularly in view of the fact that the fourth assignment proposed could not be made without shifting assignments in other communities, substituting higher UHF channels for lower channels presently assigned to some communities and in two of the proposed plans, changing the frequencies of authorized stations. While the communities of Meadville, Clarksburg and Akron are apparently not ready to proceed immediately with the establishment of stations on the channels presently assigned to them, the interest shown by persons and organizations filing comments in this proceeding in the eventual establishment of stations on these channels, in our opinion, prevents a determination that the lower channels presently assigned will not be used in the foreseeable future. Under such circumstances, we are opposed to shifting the lower channels in these communities to the higher channels proposed in the alternate plans. Such changes in assignments at this time may further impede the establishment of a first or second local television service in these communities. Even though the UHF permittees in Wheeling and Pittsburgh have raised no objections to operating on the other frequencies proposed in Plans I and II, we likewise believe that these communities should not be assigned other channels in order to make a fourth assignment available to another community which, to all indications, has no present need for an additional assignment.

13. All of the public interest factors which petitioner and others urge in support of the assignment of Channel 45 to Youngstown bear on the need of that community for a third UHF service and not a fourth service. We anticipate that this need will soon be satisfied by the establishment of a new station on Channel 73 at Youngstown in view of the outstanding authorization recently granted for its use. Petitioner and all other parties interested in operating a television station at Youngstown have had ample and equal opportunity to apply for Channel 73 for a period of over three years. While petitioner believes that it would be able to operate more successfully on Channel 45 as a Youngstown station than as a New Castle station, we do not believe that petitioner's private interests are proper considerations which warrant the assignment changes proposed. In any event, in the absence of a showing that a need exists for a fourth assignment at Youngstown, we cannot con-

clude that the public interest would be served by the assignment of Channel 45 to Youngstown by any of the three alternate plans for the reasons stated above.

14. In view of the foregoing: *It is ordered*, That the petition of WKST, Inc. is denied, and this proceeding is terminated.

Adopted: January 11, 1956.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-422; Filed, Jan. 18, 1956; 8:50 a. m.]

[47 CFR Part 3]

[Docket No. 11612; FCC 56-46]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 *Table of assignments*, rules governing Television Broadcast Stations (Clarkston, Wash.).

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

2. The Commission has before it a petition filed on July 19, 1955, and amended October 21, 1955, by Orchards Community Television Association, Lewiston, Idaho, requesting amendment of the television Table of Assignments contained in section 3.606 of its Rules and Regulations, so as to assign Channels 34+ and 40+ to Clarkston, Washington, a community not now listed in the Table.

3. In support of the requested amendment, petitioner urges that the proposed assignments would conform to the Commission's rules. Petitioner states that in the event the assignments as proposed are adopted applications will be filed for new stations to be used for the purposes of retransmitting the programs of two of the Spokane, Washington stations.

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

5. Petitioner proposes to establish satellite stations in Clarkston to rebroadcast the programs of other stations. Station KLEW-TV was authorized to commence operation on Channel 3 in Lewiston, Idaho, in December 1955. Parties filing comments in this proceeding should direct their attention to whether the Clarkston-Lewiston area is sufficiently large to warrant the establishment of two additional channels.

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

[1] Commissioners Hyde and Doerfer dissenting.

7. Any interested party who is of the opinion that the amendment proposed by the petitioner should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before February 10, 1956, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments and briefs. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

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

Adopted: January 11, 1956.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-423; Filed, Jan. 18, 1956; 8:50 a. m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953; ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T: P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 72 (c) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 20, 917; 26 U. S. C. 72 (c), 7805).

[SEAL] HARRY J. TRAINOR,
Acting Commissioner of Internal Revenue.

The following regulations are prescribed under sections 72, 1021, and 1035 of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1953, and ending after August 16, 1954:

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1.1035-1 Certain exchanges of insurance policies.

§ 1.72 *Statutory provisions; annuities; certain proceeds of endowment and life insurance contracts.*

SEC. 72. *Annuities; certain proceeds of endowment and life insurance contracts*—(a) *General rule for annuities.* Except as otherwise provided in this chapter, gross income includes any amount received as an annuity (whether for a period certain or during one or more lives) under an annuity, endowment, or life insurance contract.

(b) *Exclusion ratio.* Gross income does not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract (as of the annuity starting date) bears to the expected return under the contract (as of such date). This subsection shall not apply to any amount to which subsection (d) (1) (relating to certain employee annuities) applies.

(c) *Definitions*—(1) *Investment in the contract.* For purposes of subsection (b), the investment in the contract as of the annuity starting date is—

(A) The aggregate amount of premiums or other consideration paid for the contract, minus

(B) The aggregate amount received under the contract before such date, to the extent that such amount was excludable from gross income under this subtitle or prior income tax laws.

(2) *Adjustment in investment where there is refund feature.* If—

(A) The expected return under the contract depends in whole or in part on the life expectancy of one or more individuals;

(B) The contract provides for payments to be made to a beneficiary (or to the estate

of an annuitant) on or after the death of the annuitant or annuitants; and

(C) Such payments are in the nature of a refund of the consideration paid,

then the value (computed without discount for interest) of such payments on the annuity starting date shall be subtracted from the amount determined under paragraph (1). Such value shall be computed in accordance with actuarial tables prescribed by the Secretary or his delegate. For purposes of this paragraph and of subsection (e) (2) (A), the term "refund of the consideration paid" includes amounts payable after the death of an annuitant by reason of a provision in the contract for a life annuity with minimum period of payments certain, but (if part of the consideration was contributed by an employer) does not include that part of any payment to a beneficiary (or to the estate of the annuitant) which is not attributable to the consideration paid by the employee for the contract as determined under paragraph (1) (A).

(3) *Expected return.* For purposes of subsection (b), the expected return under the contract shall be determined as follows:

(A) *Life expectancy.* If the expected return under the contract, for the period on and after the annuity starting date, depends in whole or in part on the life expectancy of one or more individuals, the expected return shall be computed with reference to actuarial tables prescribed by the Secretary or his delegate.

(B) *Installment payments.* If subparagraph (A) does not apply, the expected return is the aggregate of the amounts receivable under the contract as an annuity.

(4) *Annuity starting date.* For purposes of this section, the annuity starting date in the case of any contract is the first day of the first period for which an amount is received as an annuity under the contract; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954.

(d) *Employees' annuities*—(1) *Employee's contributions recoverable in 3 years.* Where—

(A) Part of the consideration for an annuity, endowment, or life insurance contract is contributed by the employer, and

(B) During the 3-year period beginning on the date (whether or not before January 1, 1954) on which an amount is first received under the contract as an annuity, the aggregate amount receivable by the employee under the terms of the contract is equal to or greater than the consideration for the contract contributed by the employee,

then all amounts received as an annuity under the contract shall be excluded from gross income until there has been so excluded (under this paragraph and prior income tax laws) an amount equal to the consideration for the contract contributed by the employee. Thereafter all amounts so received under the contract shall be included in gross income.

(2) *Special rules for application of paragraph (1).* For purposes of paragraph (1), if the employee died before any amount was received as an annuity under the contract, the words "receivable by the employee" shall be read as "receivable by a beneficiary of the employee".

(3) *Cross reference.* For certain rules for determining whether amounts contributed by employer are includible in the gross income of the employee, see part I of subchapter D (sec. 401 and following, relating to pension, profit-sharing, and stock bonus plans, etc.).

(e) *Amounts not received as annuities*—(1) *General rule.* If any amount is received under an annuity, endowment, or life insurance contract, if such amount is not received as an annuity, and if no other provision of this subtitle applies, then such amount—

(A) If received on or after the annuity starting date, shall be included in gross income; or

(B) If subparagraph (A) does not apply, shall be included in gross income, but only to the extent that it (when added to amounts previously received under the contract which were excludable from gross income under this subtitle or prior income tax laws) exceeds the aggregate premiums or other consideration paid.

For purposes of this section, any amount received which is in the nature of a dividend or similar distribution shall be treated as an amount not received as an annuity.

(2) *Special rules for application of paragraph (1).* For purposes of paragraph (1), the following shall be treated as amounts not received as an annuity:

(A) Any amount received, whether in a single sum or otherwise, under a contract in full discharge of the obligation under the contract which is in the nature of a refund of the consideration paid for the contract; and

(B) Any amount received under a contract on its surrender, redemption, or maturity.

In the case of any amount to which the preceding sentence applies, the rule of paragraph (1) (B) shall apply (and the rule of paragraph (1) (A) shall not apply).

(3) *Limit on tax attributable to receipt of lump sum.* If a lump sum is received under an annuity, endowment, or life insurance contract, and the part which is includible in gross income is determined under paragraph (1), then the tax attributable to the inclusion of such part in gross income for the taxable year shall not be greater than the aggregate of the taxes attributable to such part had it been included in the gross income of the taxpayer ratably over the taxable year in which received and the preceding 2 taxable years.

(f) *Special rules for computing employees' contributions.* In computing, for purposes of subsection (c) (1) (A), the aggregate amount of premiums or other consideration paid for the contract, for purposes of subsection (d) (1), the consideration for the contract contributed by the employee, and for purposes of subsection (e) (1) (B), the aggregate premiums or other consideration paid, amounts contributed by the employer shall be included, but only to the extent that—

(1) Such amounts were includible in the gross income of the employee under this subtitle or prior income tax laws; or

(2) If such amounts had been paid directly to the employee at the time they were contributed, they would not have been includible in the gross income of the employee under the law applicable at the time of such contribution.

(g) *Rules for transferee where transfer was for value.* Where any contract (or any interest therein) is transferred (by assignment or otherwise) for a valuable consideration, to the extent that the contract (or interest therein) does not, in the hands of the transferee, have a basis which is determined by reference to the basis in the hands of the transferor, then—

(1) For purposes of this section, only the actual value of such consideration, plus the amount of the premiums and other consideration paid by the transferee after the transfer, shall be taken into account in computing the aggregate amount of the premiums or other consideration paid for the contract;

(2) For purposes of subsection (c) (1) (B), there shall be taken into account only the aggregate amount received under the contract by the transferee before the annuity starting date, to the extent that such amount was excludable from gross income under this subtitle or prior income tax laws; and

(3) The annuity starting date is January 1, 1954, or the first day of the first period for which the transferee received an amount under the contract as an annuity, whichever is the later.

For purposes of this subsection, the term "transferee" includes a beneficiary of, or the estate of, the transferee.

(h) *Option to receive annuity in lieu of lump sum.* If—

(1) A contract provides for payment of a lump sum in full discharge of an obligation under the contract, subject to an option to receive an annuity in lieu of such lump sum;

(2) The option is exercised within 60 days after the day on which such lump sum first became payable; and

(3) Part or all of such lump sum would (but for this subsection) be includible in gross income by reason of subsection (e) (1),

then, for purposes of this subtitle, no part of such lump sum shall be considered as includible in gross income at the time such lump sum first became payable.

(i) *Joint and survivor annuities where first annuitant died in 1951, 1952, or 1953.* Where an annuitant died after December 31, 1950, and before January 1, 1954, and the basis of a surviving annuitant's interest in the joint and survivor annuity contract was determinable under section 113 (a) (5) of the Internal Revenue Code of 1939, then—

(1) Subsection (d) shall not apply with respect to such contract;

(2) For purposes of this section, the aggregate amount of premiums or other consideration paid for the contract is the basis of the contract determined under such section 113 (a) (5);

(3) For purposes of subsection (c) (1) (B), there shall be taken into account only the aggregate amount received by the surviving annuitant under the contract before the annuity starting date, to the extent that such amount was excludable from gross income under this subtitle or prior income tax laws; and

(4) The annuity starting date is January 1, 1954, or the first day of the first period for which the surviving annuitant received an amount under the contract as an annuity, whichever is the later.

(j) *Interest.* Notwithstanding any other provision of this section, if any amount is held under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(k) *Payments in discharge of alimony*—(1) *In general.* This section shall not apply to so much of any payment under an annuity, endowment, or life insurance contract (or any interest therein) as is includible in the gross income of the wife under section 71 or section 682 (relating to income of an estate or trust in case of divorce, etc.).

(2) *Cross reference.* For definition of "wife", see section 7701 (a) (17).

(l) *Face-amount certificates.* For purposes of this section, the term "endowment contract" includes a face-amount certificate, as defined in section 2 (a) (15) of the Investment Company Act of 1940 (15 U. S. C., sec. 80a–2), issued after December 31, 1954.

(m) *Cross reference.* For limitation on adjustments to basis of annuity contracts sold, see section 1021.

§ 1.72–1 *Introduction.* (a) Section 72 prescribes rules relating to the inclusion in gross income of amounts received under a life insurance, endowment, or annuity contract unless such amounts are specifically excluded from gross income under other provisions of chapter 1 of the Internal Revenue Code. In general, these rules provide that amounts subject to the provisions of section 72 are includible in the gross income of the recipient except to the extent that they are

considered to represent a reduction or return of premiums or other consideration paid.

(b) For the purpose of determining the extent to which amounts received represent a reduction or return of premiums or other consideration paid, the provisions of section 72 distinguish between "amounts received as an annuity" and "amounts not received as an annuity". In general, "amounts received as an annuity" are amounts which are payable at regular intervals over a period of not less than one full year from the date on which they are deemed to begin, provided the total of the amounts so payable or the period for which they are to be paid can be determined as of that date. See § 1.72–2 (b) (2) and (3). Any other amounts to which the provisions of section 72 apply are considered to be "amounts not received as an annuity". See § 1.72–11.

(c) (1) In the case of "amounts received as annuity" (other than certain employees' annuities described in section 72 (d) and in § 1.72–13), a proportionate part of each amount so received is considered to represent a return of premiums or other consideration paid. The proportionate part of each annuity payment which is thus excludable from gross income is determined by the ratio which the investment in the contract as of the date on which the annuity is deemed to begin bears to the expected return under the contract as of that date. See § 1.72–4.

(2) In the case of employees' annuities of the type described in section 72 (d), no amount received as an annuity in a taxable year to which the Internal Revenue Code of 1954 applies is includible in the gross income of a recipient until the aggregate of all amounts received thereunder and excluded from gross income under the applicable income tax law exceeds the consideration contributed (or deemed contributed) by the employee under § 1.72–8. Thereafter, all amounts so received are includible in the gross income of the recipient. See § 1.72–13.

(d) In the case of "amounts not received as an annuity", if such amounts are received after an annuity has begun and during its continuance, amounts so received are generally includible in the gross income of the recipient. Amounts not received as an annuity which are received at any other time are includible in the gross income of the recipient only to the extent that such amounts, when added to all amounts previously received under the contract which were excludable from the gross income of the recipient under the income tax law applicable at the time of receipt, exceed the premiums or other consideration paid. See § 1.72–11.

§ 1.72–2 *Applicability of section*—(a) *Contracts.* (1) The contracts under which amounts paid will be subject to the provisions of section 72 are life insurance, endowment, and annuity contracts as defined in section 1035 (b) of the Code. For the purposes of section 72, however, it is immaterial whether such contracts are entered into with an insurance company. The term "endowment contract" also includes the "face-amount certificates" described in section 72 (l). In addition, sections 402 and 403 of the Code provide that certain employees' trust and plan distributions are subject to the provisions of section 72, except section 72 (e) (3). In such cases the regulations under section 72 shall be applied with respect to each such trust or plan as though the trust or plan were a single contract to which section 72 applied. As used hereafter in these regulations the term "contract" shall be considered to include a "trust or plan" described in sections 402 and 403 to the extent that distributions thereunder are subject to the provisions of section 72.

(2) If two or more annuity obligations or elements to which section 72 applies are acquired for a single consideration (whether paid by one or more persons in equal or different amounts, and whether paid in a single sum or otherwise), such annuity elements shall be considered to comprise a single contract for the purpose of the application of section 72 and the regulations thereunder. For rules relating to the allocation of investment in the contract in the case of annuity elements payable to two or more persons, see § 1.72–6 (b).

(b) *Amounts.* (1) In general the amounts to which section 72 applies are any amounts received under the contracts described in paragraph (a) (1) unless such amounts are specifically excluded from gross income under other provisions of chapter 1 of the Internal Revenue Code. For example, section 72 does not apply to amounts received under a life insurance contract if such amounts are paid by reason of the death of the insured and are excludable from gross income under section 101 (a) of the Code. See also sections 101 (d), relating to proceeds of life insurance paid at a date later than death, and 104 (a) (4), relating to compensation for injuries or sickness. In addition, section 72 does not exclude from gross income any amounts received under an agreement to hold an amount and pay interest thereon. See § 1.72–14 (a). However, section 72 does apply to amounts received by a surviving annuitant under a joint and survivor annuity contract since such amounts are not considered to be paid by reason of the death of an insured. For a special deduction for the estate tax attributable to the inclusion of the value of the interest of a surviving annuitant under a joint and survivor annuity contract in the estate of the deceased primary annuitant, see section 691 (d) and the regulations thereunder.

(2) Amounts subject to section 72 in accordance with subparagraph (1) are considered "amounts received as an annuity" only in the event that all of the following tests are met:

(i) They must be received on or after the "annuity starting date" as that term is defined in § 1.72–4 (b);

(ii) They must be payable in periodic installments at regular intervals (whether annually, semiannually, quarterly, monthly, weekly, or otherwise) over a period of not less than one full year from the annuity starting date; and

(iii) Except as indicated in subparagraph (3), the total of the amounts payable must be determinable at the annuity starting date either directly from the terms of the contract or indirectly by the use of either mortality tables or compound interest computations, or both, in conjunction with such terms.

For the purpose of determining whether amounts subject to section 72 (d) and § 1.72–13 are "amounts received as an annuity", however, the provisions of subdivision (i) shall be disregarded. In addition, the term "amounts received as an annuity" does not include amounts received to which the provisions of § 1.72–11 (b) apply, relating to certain amounts received by a beneficiary in the nature of a refund.

(3) (i) Notwithstanding the requirement of subdivision (iii) of subparagraph (2), if amounts are to be received for a definite or determinable time (whether for a period certain or for a life or lives) under a contract which provides:

(*a*) That the amount of the periodic payments may vary in accordance with investment experience (as in certain profit-sharing plans), cost of living indices, or similar fluctuating criteria, or

(*b*) For specified payments the value of which may vary for income tax purposes, such as in the case of any annuity payable in foreign currency,

each such payment received shall be considered as an amount received as an annuity only to the extent that it does not exceed the amount computed by dividing the investment in the contract by the number of periodic payments anticipated during the time that the periodic payments are to be made. If payments are to be made more frequently than annually, the amount so computed shall be multiplied by the number of periodic payments to be made per year for the purpose of determining the total of the amounts which shall be considered to be received as an annuity during the taxable year. To this extent, the payments received shall be considered to represent a return of premiums or other consideration paid and shall be excludable from gross income in the taxable year in which received. See § 1.72–4 (d) (2). To the extent that the payments received exceed the total of the amounts thus considered to be received as an annuity, they shall be considered to be amounts not received as an annuity and shall be included in the gross income of the recipient to the extent prescribed in section 72 (e) and § 1.72–11.

(ii) For purposes of subdivision (i), the number of periodic payments anticipated during the time payments are to be made shall be determined by multiplying the number of payments to be made each year (*a*) by the number of years payments are to be made, or (*b*) if payments are to be made for a life or lives, by the appropriate multiple found under the tables contained in § 1.72–9, except that life expectancies expressed other than in a whole number of years shall be considered to be equal to the next lower whole number of years.

(iii) For an example of the computation to be made in accordance with this subparagraph and a special election which may be made in a taxable year subsequent to a taxable year in which the total payments received under a contract described in this subparagraph are

less than the total of the amounts excludable from gross income in such year under subdivision (i), see § 1.72–4 (b) (2) (iv).

§ 1.72–3 *Excludable amounts not income.* In general, amounts received under contracts described in § 1.72–2 (a) (1) are not to be included in the income of the recipient to the extent that such amounts are excludable from gross income as the result of the application of section 72 and the regulations thereunder.

§ 1.72–4 *Exclusion ratio*—(a) *General rule.* (1) (i) To determine the proportionate part of each amount received as an annuity which is excludable from the gross income of a recipient in the taxable year of receipt (other than amounts received under certain employee annuities described in section 72 (d) and § 1.72–13), an exclusion ratio is to be determined for each contract. In general, this ratio is determined by dividing the investment in the contract as found under § 1.72–6 by the expected return under such contract as found under § 1.72–5. Where a single consideration is given for a particular contract which provides for two or more annuity elements, an exclusion ratio shall be determined for the contract as a whole by dividing the investment in such contract by the aggregate of the expected returns under all the annuity elements provided thereunder. However, where the provisions of § 1.72–2 (b) (3) apply to payments received under such a contract, see § 1.72–6 (b) (3).

(ii) The exclusion ratio for the particular contract is then applied to the total amount received as an annuity during the taxable year by each recipient. See, however, § 1.72–5 (e) (3). Any excess of the total amount received as an annuity during the taxable year over the amount determined by the application of the exclusion ratio to such total amount shall be included in the gross income of the recipient for the taxable year of receipt.

(2) The principles of subparagraph (1) may be illustrated by the following example:

Example. Taxpayer A purchased an annuity contract providing for payments of $100 per month for a consideration of $12,650. Assuming that the expected return under this contract is $16,000, the exclusion ratio to be used by A is $\frac{\$12,650}{\$16,000}$, or 79.1 percent (79.06 rounded to the nearest tenth). The amount of each payment to be excluded from gross income is $79.10 (79.1 percent of $100). If 12 such monthly payments are received by A during his taxable year, the total amount he may exclude from his gross income in such year is $949.20 ($12 \times \$79.10$). The balance of $250.80 ($1,200 less $949.20) is the amount to be included in gross income.

For an example of the computation of the exclusion ratio in cases where two annuity elements are acquired for a single consideration, see § 1.72–6 (b) (1).

(3) The exclusion ratio shall be applied only to amounts received as an annuity within the meaning of that term under § 1.72–2 (b) (2) and (3). For the treatment of amounts not received as an annuity, see section 72 (e) and § 1.72–11.

(4) After an exclusion ratio has been determined for a particular contract, it shall be applied to any amounts received as an annuity thereunder unless or until one of the following occurs:

(i) The contract is assigned or transferred for a valuable consideration (see section 72 (g) and § 1.72–10 (a));

(ii) The contract matures or is surrendered, redeemed, or discharged in accordance with the provisions of § 1.72–11 (b) or (c);

(iii) The contract is exchanged (or is considered to have been exchanged) in a manner described in § 1.72–11 (d).

(b) *Annuity starting date.* (1) Except as provided in subparagraph (2) of this paragraph, the annuity starting date is the first day of the first period for which an amount is received as an annuity, except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954. The first day of the first period for which an amount is received as an annuity shall be whichever of the following is the later:

(i) The date upon which the obligations under the contract became fixed, or

(ii) The first day of the period (year, half-year, quarter, month, or otherwise, depending on whether payments are to be made annually, semiannually, quarterly, monthly, or otherwise) which ends on the date of the first annuity payment.

(2) Notwithstanding the provisions of subparagraph (1), the annuity starting date shall be determined in accordance with whichever of the following provisions is appropriate:

(i) In the case of a joint and survivor annuity contract described in section 72 (i) and § 1.72–5 (b) (3), the annuity starting date is January 1, 1954, or the first day of the first period for which an amount is received as an annuity by the surviving annuitant, whichever is the later;

(ii) In the case of the transfer of an annuity contract for a valuable consideration, as described in section 72 (g) and § 1.72–10 (a), the annuity starting date shall be January 1, 1954, or the first day of the first period for which the transferee received an amount as an annuity, whichever is the later;

(iii) If the provisions of § 1.72–11 (d) apply to an exchange of one contract for another, or to a transaction deemed to be such an exchange, the annuity starting date of the contract received (or deemed received) in exchange shall be January 1, 1954, or the first day of the first period for which an amount is received as an annuity under such contract, whichever is the later; and

(iv) (*a*) If the provisions of § 1.72–2 (b) (3) apply to payments received by the taxpayer and the aggregate of the payments so received in a taxable year is less than the total of the amounts excludable from gross income under such section during that year, the taxpayer may elect, in the first succeeding taxable year in which he receives a payment, to redetermine his annuity starting date, the investment in the contract, and the time during which payments will be received as an annuity. In such case—

(*1*) The annuity starting date shall be the first day of the first period for which a payment is received in a taxable year subsequent to the taxable year in which payments received aggregated less than the amounts excludable;

(*2*) The aggregate of premiums or other consideration paid shall be reduced by all amounts received prior to such annuity starting date to the extent such amounts were excludable from the gross income of the recipient; and

(*3*) The length of time for which payments are to be made shall be redetermined as of such annuity starting date.

The application of the principles of this subdivision may be illustrated by the following example:

Example. Taxpayer A, a 64-year-old male, files his return on a calendar year basis and has a life expectancy of 15.6 years on June 30, 1954, the annuity starting date of a contract to which § 1.72–2 (b) (3) applies and which he purchased for $20,000. The contract provides for variable annual payments for his life. He receives a payment of $1,000 on June 30, 1955, but receives no other payment until June 30, 1957. He excludes the $1,000 payment from his gross income for the year 1955 since this amount is less than $1,333.33, the amount determined by dividing his investment in the contract ($20,000) by his life expectancy expressed in the next lower whole number (15) as of the original annuity starting date. Taxpayer A may elect, in his return for the taxable year 1957, to treat July 1, 1956, as his annuity starting date. For the purpose of determining the extent to which amounts received in 1957 or thereafter shall be considered amounts received as an annuity, he shall reduce his investment in the contract ($20,000) by the $1,000 payment excludable from gross income in 1955 and divide the resulting amount ($19,000) by his life expectancy computed as of July 1, 1956, and expressed in the next lower whole number of years (14).

(*b*) If the taxpayer chooses to make the election described in subdivision (*a*) of this subdivision, he shall file with his return a statement that he elects to make a new start with respect to the annuity under the provisions of § 1.72–4 (b) (2) (iv). This statement shall also contain the following information:

(*1*) The date on which he last received a payment under the contract in a preceding taxable year,

(*2*) The aggregate of premiums or other consideration paid for the contract,

(*3*) The aggregate of all amounts received under such contract, up to and including the date indicated in (*1*), which were excludable from gross income under the applicable income tax law, and

(*4*) The number of whole years such annuity is expected to continue as of the annuity starting date determined under subdivision (*1*) of subdivision (*a*).

(c) *Fiscal year taxpayers.* Fiscal year taxpayers receiving amounts as annuities in a taxable year to which the Internal Revenue Code of 1954 applies shall determine the annuity starting date in accordance with section 72 (c) (4) and this section. The annuity starting date for fiscal year taxpayers receiving amounts as an annuity in a taxable year to which the Internal Revenue Code of 1939 applies shall be January 1, 1954, except where the first day of the first

period for which an amount is received by such a taxpayer as an annuity is subsequent thereto and before the end of a fiscal year to which the Internal Revenue Code of 1939 applied. In such case, the latter date shall be the annuity starting date. In all cases where a fiscal year taxpayer received an amount as an annuity in a taxable year to which the Internal Revenue Code of 1939 applied and subsequent to the annuity starting date determined in accordance with the provisions of this paragraph, such amount shall be disregarded for the purposes of section 72 and the regulations thereunder.

(d) *Exceptions to the use of the exclusion ratio.* (1) Where the provisions of section 72 would otherwise require an exclusion ratio to be determined, but the investment in the contract (determined under § 1.72–6) is an amount of zero or less, no exclusion ratio shall be determined and all amounts received under such a contract shall be includible in the gross income of the recipient for the purposes of section 72.

(2) Where the investment in the contract is equal to or greater than the total expected return under such contract found under § 1.72–5, the exclusion ratio shall be considered to be 100 percent and all amounts received as an annuity under such contract shall be excludable from the recipient's gross income. See, for example, § 1.72–5 (f) (1).

(e) *Exclusion ratio in the case of two or more annuity elements acquired for a single consideration.* (1) (i) Where two or more annuity elements are provided under a contract described in § 1.72–2 (a) (2), an exclusion ratio shall be determined for the contract as a whole and applied to all amounts received as an annuity under any of the annuity elements. To obtain this ratio, the investment in the contract determined in accordance with § 1.72–6 shall be divided by the aggregate of the expected returns found with respect to each of the annuity elements in accordance with § 1.72–5. For this purpose, it is immaterial that payments under one or more of the annuity elements involved have not commenced at the time when an amount is first received as an annuity under one or more of the other annuity elements.

(ii) The exclusion ratio found under subdivision (i) does not apply to—

(*a*) An annuity element payable to a surviving annuitant under a joint and survivor annuity contract to which section 72 (i) and § 1.72–5 (b) (3) and (e) (3) apply, or to

(*b*) A contract under which one or more of the constituent annuity elements provides for payments described in § 1.72–2 (b) (3).

For rules with respect to a contract providing for annuity elements described in (*b*), above, see subparagraph (2), below.

(2) If one or more of the annuity elements under a contract described in § 1.72–2 (a) (2) provides for payments to which § 1.72–2 (b) (3) applies—

(i) With respect to the annuity elements to which § 1.72–2 (b) (3) does not apply, an exclusion ratio shall be determined by dividing the portion of the investment in the entire contract which is properly allocable to all such elements by the aggregate of the expected returns thereunder and such ratio shall be applied in the manner described in subdivision (i) of subparagraph (1); and

(ii) With respect to the annuity elements to which § 1.72–2 (b) (3) does apply, the investment in the entire contract shall be reduced by the portion thereof found in subdivision (i) and the resulting amount shall be used to determine the extent to which the aggregate of the payments received during the taxable year under all such elements is excludable from gross income. The amount so excludable shall be allocated to each recipient under such elements in the same ratio that the total of the payments he receives each year bears to the total of the payments received by all such recipients during the year. The exclusion ratio with respect to the amounts so allocated shall be 100 percent. See §§ 1.72–5 (f) (2) and 1.72–6 (b) (3).

§ 1.72–5 *Expected return*—(a) *Expected return for but one life.* (1) If a contract to which section 72 applies provides that one annuitant is to receive a fixed monthly income for life, the expected return is determined by multiplying the total of the annuity payments to be received annually by the multiple shown in Table I of § 1.72–9 under the age (as of annuity starting date) and sex of the measuring life (usually the annuitant's). Thus, where a male purchases a contract providing for an immediate annuity of $100 per month for his life and, as of the annuity starting date (in this case the date of purchase), the annuitant's age at his nearest birthday is 66, the expected return is computed as follows:

Monthly payment of $100×12 months equals annual payment of	$1,200
Multiple shown in Table I, male, age 66	14.4
Expected return ($1,200×14.4)	$17,280

(2) If payments are to be made quarterly, semiannually, or annually, an adjustment of the applicable multiple shown in Table I may be required. A further adjustment may be required where the interval between the annuity starting date and the date of the first payment is less than the interval between future payments. Neither adjustment shall be made, however, if the payments are to be made more frequently than quarterly. The amount of the adjustment, if any, is to be found in accordance with the following table:

If the number of whole months from the annuity starting date to the first payment date is—	0–1	2	3	4	5	6	7	8	9	10	11	12
And payments under the contract are to be made:												
Annually	+0.5	+0.4	+0.3	+0.2	+0.1	0	0	−0.1	−0.2	−0.3	−0.4	−0.5
Semiannually	+.2	+.1	0	0	−.1	−.2	.....	.....	.....	.....	.....	.....
Quarterly	+.1	0	−.1	.....	.....	.....	.....	.....	.....	.....	.....	.....

Thus, for a male, age 66, the multiple found in Table I adjusted for quarterly payments the first of which is to be made one full month after the annuity starting date, is 14.5 (14.4+0.1); for semiannual payments the first of which is six full months from the annuity starting date, the adjusted multiple is 14.2 (14.4—0.2); for annual payments the first of which is one full month from the annuity starting date, the adjusted multiple is 14.9 (14.4+0.5). If the annuitant in the example shown in subparagraph (1) of this paragraph were to receive an annual payment of $1,200 commencing 12 full months after his annuity starting date, the amount of the expected return would be $16,680 ($1,200×13.9 [14.4—0.5]).

(3) If the contract provides for fixed payments to be made to an annuitant until death or until the expiration of a specified limited period, whichever occurs earlier, the expected return of such temporary life annuity is determined by multiplying the total of the annuity payments to be received annually by the multiple shown in Table IV of § 1.72–9 for the age (as of the annuity starting date) and sex of the annuitant and the nearest whole number of years in the specified period. For example, if a male annuitant, age 60 (at his nearest birthday), is to receive $60 per month for five years or until he dies, whichever is earlier, the expected return under such a contract is $3,456, computed as follows:

Monthly payments of $60×12 months equals annual payment of	$720
Multiple shown in Table IV for male, age 60, for term of 5 years	4.8
Expected return for 5 year temporary life annuity of $720 per year ($720×4.8)	$3,456

The adjustment provided by subparagraph (2) shall not be made with respect to the multiple found in Table IV.

(4) If the contract provides for payments to be made to an annuitant for his lifetime, but the amount of the annual payments is to be decreased after the expiration of a specified limited period, the expected return is computed by considering the contract as a combination of a whole life annuity for the smaller amount plus a temporary life annuity for an amount equal to the difference between the larger and the smaller amount. For example, if a male annuitant, age 60, is to receive $150 per month for five years or until his earlier death, and is to receive $90 per month for the remainder of his lifetime after such five years, the expected return is computed as if the annuitant's contract consisted of a whole life annuity for $90 per month plus a five year temporary life annuity of $60 per month. In such circum-

stances, the expected return is computed as follows:

Monthly payments of $90×12 months equals annual payment of	$1,080
Multiple shown in Table I for male, age 60	18.2
Expected return for whole life annuity of $1,080 per year	$19,656
Expected return for 5-year temporary life annuity of $720 per year (as found in subparagraph (3))	$3,456
Total expected return	$23,112

If, however, the payments in the above example were to be made quarterly, semiannually, or annually, an appropriate adjustment of the multiple found in Table I for the whole life annuity should be made in accordance with subparagraph (2).

(5) If the contract described in subparagraph (4) provided that the amount of the annual payments to the annuitant were to be increased (instead of decreased) after the expiration of a specified limited period, the expected return would be computed as if the annuitant's contract consisted of a whole life annuity for the larger amount minus a temporary life annuity for an amount equal to the difference between the larger and smaller amount. Thus, if the annuitant described in subparagraph (4) were to receive $90 per month for five years or until his earlier death, and to receive $150 per month for the remainder of his lifetime after such five years, the expected return would be computed by subtracting the expected return under a five year temporary life annuity of $60 per month from the expected return under a whole life annuity of $150 per month. In such circumstances, the expected return is computed as follows:

Monthly payments of $150×12 months equals annual payment of	$1,800
Multiple shown in Table I (male, age 60)	18.2
Expected return for annuity for whole life of $1,800 per year	$32,760
Less expected return for 5 year temporary life annuity of $720 per year (as found in subparagraph (3))	$3,456
Net expected return	$29,304

If, however, the payments in the above example were to be made quarterly, semiannually, or annually, an appropriate adjustment of the multiple found in Table I for the whole life annuity should be made in accordance with subparagraph (2).

(b) *Expected return under joint and survivor annuities.* (1) In the case of a joint and survivor annuity contract involving two annuitants which provides the first annuitant with a fixed monthly income for life and, after the death of the first annuitant, provides an identical monthly income for life to a second annuitant, the expected return shall be determined by multiplying the total amount of the payments to be received annually by the multiple obtained from Table II of § 1.72–9 under the ages (as of the annuity starting date) and sexes of the living annuitants. For example, a husband purchases a joint and survivor annuity contract providing for payments of $100 per month for life, and, after his death, for the same amount to his wife for the remainder of her life. As of the annuity starting date his age at his nearest birthday is 70 and that of his wife at her nearest birthday is 67. The expected return is computed as follows:

Monthly payments of $100×12 months equals annual payment of	$1,200
Multiple shown in Table II (male, age 70; female, age 67)	19.7
Expected return ($1,200×19.7)	$23,640

If, however, the payments in the above example were to be made quarterly, semiannually, or annually, an appropriate adjustment of the multiple found in Table II should be made in accordance with paragraph (a) (2).

(2) If a contract of the type described in subparagraph (1) provides that a different (rather than an identical) monthly income is payable to the second annuitant, the expected return is computed in the following manner. The applicable multiple in Table II is first found as in the example in subparagraph (1). The multiple applicable to the first annuitant is then found in Table I as though the contract were for a single life annuity. The multiple from Table I is then subtracted from the multiple obtained from Table II and the resulting multiple is applied to the total payments to be received annually under the contract by the second annuitant. The result is the expected return with respect to the second annuitant. The portion of the expected return with respect to payments to be made during the first annuitant's life is then computed by applying the multiple found in Table I to the total annual payments to be received by such annuitant under the contract. The expected returns with respect to each of the annuitants separately are then aggregated to obtain the expected return under the entire contract.

Example. A husband purchases a joint and survivor annuity providing for payments of $100 per month for his life and, after his death, payments to his wife of $50 per month for her life. As of the annuity starting date his age at his nearest birthday is 70 and that of his wife at her nearest birthday is 67.

Multiple from Table II (male, age 70; female, age 67)	19.7
Multiple from Table I (male, age 70)	12.1
Difference (multiple applicable to second annuitant)	7.6
Portion of expected return, second annuitant ($600×7.6)	$4,560
Portion of expected return, first annuitant ($1,200×12.1)	14,520
Expected return under the contract	19,080

The expected return thus found, $19,080, is to be used in computing the amount to be excluded from gross income. Thus, if the investment in the contract in this example is $14,310, the exclusion ratio is $\frac{\$14,310}{\$19,080}$, or 75 percent. The amount excludable from each monthly payment made to the husband is 75 percent of $100, or $75, and the remaining $25 of each payment received by him shall be included in his gross income. After the husband's death, the amount excludable by the second annuitant (the surviving wife) would be 75 percent of each monthly payment of $50, or $37.50, and the remaining $12.50 of each payment shall be included in her gross income.

If, however, the payments in the above example were to be made quarterly, semiannually, or annually, an appropriate adjustment of the multiples found in Tables I and II should be made in accordance with paragraph (a) (2).

(3) In the case of a joint and survivor annuity contract in respect of which the first annuitant died in 1951, 1952, or 1953, and the basis of the surviving annuitant's interest in the contract was determinable under section 113 (a) (5) of the Internal Revenue Code of 1939, such basis shall be considered the "aggregate of premiums or other consideration paid" by the surviving annuitant for the contract. (For rules governing this determination, see 26 CFR (1939) 39.22 (b) (2)–2 and 39.113 (a) (5)–1 [Regulations 118].) In determining such an annuitant's investment in the contract, such aggregate shall be reduced by any amounts received under the contract by the surviving annuitant before the annuity starting date, to the extent such amounts were excludable from his gross income at the time of receipt. The expected return of the surviving annuitant in such cases shall be determined in the manner prescribed in paragraph (a) of this section, as though the surviving annuitant alone were involved. For this purpose, the appropriate multiple for the survivor shall be obtained from Table I as of the annuity starting date determined in accordance with § 1.72–4 (b) (2) (i).

(4) If a contract provides for payments to be made to two persons for their joint lives (in other words, as long as both remain alive), the expected return under such contract shall be determined by multiplying the total of the annuity payments to be received annually under the contract by the multiple obtained from Table IIA of § 1.72–9 under the ages (as of the annuity starting date) and sexes of the annuitants. If, however, payments are to be made under the contract quarterly, semiannually, or annually, an appropriate adjustment of the multiple found in Table IIA should be made in accordance with paragraph (a) (2).

(5) If the contract provides that a specified amount shall be paid to two annuitants during their joint lives and a different specified amount shall be paid to the survivor upon the death of whichever of the annuitants is the first to die, the following preliminary computation shall be made in all cases preparatory to determining the expected return under the contract:

(i) From Table II, obtain the multiple under both of the annuitants' ages (as of the annuity starting date) and their appropriate sexes;

(ii) From Table IIA, obtain the multiple applicable to both annuitants' ages (as of the annuity starting date) and their appropriate sexes;

(iii) Apply the multiple found in (i) to the total of the amounts to be received annually after the death of the first to die; and

(iv) Apply the multiple found in (ii) to the difference between the total of the amounts to be received annually before and the total of the amounts to be received annually after the death of the first to die.

If the original annual payment is in excess of the annual payment to be made after the death of the first to die, the expected return is the sum of the amounts determined under subdivisions (iii) and (iv), above. This may be illustrated by the following example:

Example. A husband purchases a joint and survivor annuity providing for payments of $100 a month for as long as both he and his wife live, and, after the death of the first to die, payments to the survivor of $75 a month for life. As of the annuity starting date, his age at his nearest birthday is 70 and that of his wife at her nearest birthday is 67. The expected return under the contract is computed as follows:

Multiple from Table II (male, age 70; female, age 67)	19.7
Multiple from Table IIA (male, age 70; female, age 67)	9.3
Portion of expected return ($900 × 19.7—sum per year after first death)	$17,730
Portion of expected return ($300 × 9.3—amount of change in sum at first death)	$2,790
Expected return under the contract	$20,520

The total expected return in this example, $20,520, is to be used in computing the amount to be excluded from gross income. Thus, if the investment in the contract is $17,887, the exclusion ratio is $\frac{\$17,887}{\$20,520}$, or 87.2 percent. The amount excludable from each monthly payment made while both are alive is 87.2 percent of $100, or $87.20 and the remaining $12.80 of each payment shall be included in gross income. After the death of the first to die, the amount excludable by the survivor shall be 87.2 percent of each monthly payment of $75, or $65.40, and the remaining $9.60 of each payment shall be included in gross income.

If the original annual payment is less than the annual payment to be made after the death of the first to die, the expected return is the difference between the amounts determined under subdivisions (iii) and (iv), above. If, however, payments are to made quarterly, semiannually, or annually under the contract, the multiples obtained from both Tables II and IIA shall first be adjusted in a manner prescribed in paragraph (a) (2) of this section.

(6) If a contract provides for the payment of life annuities to two persons during their respective lives and, after the death of one (without regard to which one dies first), provides that the survivor shall receive for life both his own annuity payments and the payments made formerly to the deceased person, the expected return shall be determined in accordance with paragraph (e) (4), below.

(c) *Expected return for term certain.* In the case of a contract providing for specific periodic payments which are to be paid for a term certain such as a fixed number of months or years, without regard to life expectancy, the expected return is determined by multiplying the fixed number of years or months for which payments are to be made by the amount of the payment provided in the contract for each such period.

(d) *Expected return with respect to amount certain.* In the case of contracts involving no life or lives as a measurement of their duration, but under which a determinable total amount is to be paid in installments of lesser amounts paid at periodic intervals, the expected return shall be the total amount guaranteed.

(e) *Expected return where two or more annuity elements providing for fixed payments are acquired for a single consideration.* (1) In the case of a contract described in § 1.72–2 (a) (2), which provides for specified payments to be made under two or more annuity elements, the expected return shall be found for the contract as a whole by aggregating the expected returns found with respect to each annuity element. If individual life annuity elements are involved (including joint and survivor annuities where the primary annuitant died before January 1, 1954), expected return for each of them shall be determined in the manner prescribed in paragraph (a) of this section. If joint and survivor annuity elements are involved, the expected return for such elements shall be determined under the appropriate subparagraph of paragraph (b) of this section. If terms certain or amounts certain are involved, the expected returns for such elements shall be determined under paragraphs (c) or (d), respectively.

(2) The aggregate expected return found in accordance with the rules set forth in subparagraph (1) shall constitute the expected return for the contract as a whole. The investment in the contract shall be divided by the amount thus determined to obtain the exclusion ratio for the contract as a whole. This exclusion ratio shall be applied to all amounts received as an annuity under the contract by any recipient (in accordance with the provisions of § 1.72–4), except in the case of amounts received by a surviving annuitant under a joint and survivor annuity element to which the provisions of section 72 (i) and paragraph (b) (3) of this section would apply if it were a separate contract. See subparagraph (3) of this paragraph.

(3) In the case of a contract providing two or more annuity elements, one of which is a joint and survivor annuity element of the type described in section 72 (i) and paragraph (b) (3) of this section, the general exclusion ratio for the contract as a whole, for the purpose of computations with respect to all the other annuity elements, shall be determined in accordance with the principles of subparagraphs (1) and (2) of this paragraph. A special exclusion ratio shall thereafter be determined for the surviving annuitant receiving payments under the annuity element described in section 72 (i) and paragraph (b) (3) of this section by using the investment in the contract and the expected return determined in accordance with the provisions of paragraph (b) (3).

(4) In the case of a contract providing for payments to be made to two persons in the manner described in § 1.72–5 (b) (6), the expected return is to be computed as though there were two joint and survivor annuities under the same contract, in the following manner. First, the multiple appropriate to the ages (as of the annuity starting date) and sexes of the annuitants involved shall be found in Table II of § 1.72–9. Second, the multiple so found shall be applied to the sum of the payments to be made each year to both annuitants. The result is the expected return for the contract as a whole.

(5) For rules relating to expected return where two or more annuity elements are acquired for a single consideration and one or more of such elements does not specify a fixed payment for each period, see paragraph (f).

(f) *Expected return with respect to obligations providing for payments described in § 1.72–2 (b) (3).* (1) If a contract to which section 72 applies provides only for payments to be made in a manner described in § 1.72–2 (b) (3), the expected return for such contract as a whole shall be an amount equal to the investment in the contract found in accordance with section 72 (c) (1) and § 1.72–6, except that § 1.72–6 (c) (3) shall be disregarded.

(2) If a contract to which section 72 applies provides for annuity elements, one or more of which (but not all) provide for payments to be made in a manner described in § 1.72–2 (b) (3)—

(i) With respect to the portion of the contract providing for annuity elements to which § 1.72–2 (b) (3) does not apply, the expected return shall be the aggregate of the expected returns found for each of such elements in accordance with the appropriate paragraph of this section; and

(ii) With respect to all annuity elements to which § 1.72–2 (b) (3) does apply, the expected return for all such elements shall be an amount equal to the portion of the investment in the contract allocable to such elements in accordance with the provisions of §§ 1.72–4 (e) (2) (ii) and 1.72–6 (b) (3) (ii) (b).

§ 1.72–6 *Investment in the contract*—(a) *General rule.* (1) For the purpose of computing the "investment in the contract", it is first necessary to determine the "aggregate amount of premiums or other consideration paid" for such contract. See section 72 (c) (1). This determination is made as of the later of the annuity starting date of the contract or the date on which an amount is first received thereunder as an annuity. The amount so found is then reduced by the sum of the following amounts in order to find the investment in the contract:

(i) The total amount of any premium rebates or dividends received on or before the date on which the foregoing determination is made, and

(ii) The total of the amounts received on or before such date which were excludable from the gross income of the recipient under the income tax law applicable at the time of receipt.

Amounts to which subdivision (ii) applies shall include, for example, amounts considered to be return of premiums or

other consideration paid under section 22 (b) (2) of the Internal Revenue Code of 1939 and amounts considered to be an employer-provided death benefit under section 22 (b) (1) (B) of such Code. For rules relating to the extent to which an employee or his beneficiary may include employer contributions in the aggregate amount of premiums or other consideration paid, see § 1.72–8.

(2) For the purpose of subparagraph (1), amounts received subsequent to the receipt of an amount as an annuity or subsequent to the annuity starting date, whichever is the later, shall be disregarded. See, however, § 1.72–11.

(3) The application of this paragraph may be illustrated by the following examples:

Example (1). In 1950, B purchased an annuity contract for $10,000 which was to provide him with an annuity of $1,000 per year for life. He received $1,000 in each of the years 1950, 1951, 1952, and 1953, prior to the annuity starting date (January 1, 1954). Under the Internal Revenue Code of 1939, $300 of each of these payments (3 percent of $10,000) was includible in his gross income, and the remaining $700 was excludable therefrom during each of the taxable years mentioned. In computing B's investment in the contract as of January 1, 1954, the total amount excludable from his gross income during the years 1950 through 1953 ($2,800) must be subtracted from the consideration paid ($10,000). Accordingly, B's investment in the contract as of January 1, 1954, is $7,200 ($10,000 less $2,800).

Example (2). In 1945, C contracted for an annuity to be paid to him beginning December 31, 1960. In 1945 and in each successive year until 1960, he paid a premium of $5,000. Assuming he receives no payments of any kind under the contract until the date on which he receives the first payment as an annuity (December 31, 1960), his investment in the contract as of the annuity starting date (December 31, 1959) will be $75,000 ($5,000 paid each year for the 15 years from 1945 to 1959, inclusive).

Example (3). Assume the same facts as in example (2), except that prior to the annuity starting date C has already received from the insurer dividends of $1,000 each in 1949, 1954, and 1959, such dividends not being includible in his gross income in any of those years. C's investment in the contract, as of the annuity starting date, will then be $72,000 ($75,000−$3,000).

(b) *Allocation of the investment in the contract where two or more annuity elements are acquired for a single consideration.* (1) In the case of a contract described in § 1.72–2 (a) (2) which provides for the payment of fixed amounts to two or more persons, the investment in the contract determined under paragraph (a) shall be allocated to each of the annuity elements in the ratio that the expected return under each annuity element bears to the aggregate of the expected returns under all the annuity elements. This allocation shall be made by dividing the investment in the contract (after adjustment for the present value of any or all refund features) by the aggregate of the expected returns under all the annuity elements. The result is an exclusion ratio for the contract as a whole. Thus, if a contract provides for annuity payments of $1,000 per year for life (with no refund feature) to both A and B, a male and female, respectively, each 70 years of age as of the annuity starting date, and such contract is acquired for consideration of $19,575 (without regard to whether paid by A, B, or both), the investment in the contract shall be allocated by determining the exclusion ratio for the contract as a whole in the following manner:

Expectancy of A under Table I and § 1.72–5 (a) (2), 11.6 (12.1−0.5), multiplied by $1,000	$11,600
Expectancy of B computed in a similar manner ($1,000×14.5 [15.0−0.5])	14,500
Total expected return	26,100

The exclusion ratio for both A and B is then $\frac{\$19,575}{\$26,100}$, or 75 percent. A and B shall each exclude from gross income three-fourths ($750) of each $1,000 annual payment received and shall include the remaining one-fourth ($250) of each $1,000 annual payment received in gross income.

(2) In the case of a contract providing for specified annuity payments to be made to two persons during their joint lives and the payment of the aggregate of the two individual payments to the survivor for his life, the investment in the contract shall be allocated in accordance with the provisions of subparagraph (1). For this purpose, the investment in the contract (without regard to the fact that differing amounts may have been contributed by the two annuitants) shall be divided by the expected return determined in accordance with § 1.72–5 (e) (4). The resulting exclusion ratio shall then be applied to any amounts received as an annuity by either annuitant.

(3) In the case of a contract providing two or more annuity elements, one or more of which provides for payments to be made in a manner described in § 1.72–2 (b) (3), the investment in the contract shall be allocated to the various annuity elements in the following manner:

(i) If all the annuity elements provide for payments to be made in the manner described in § 1.72–2 (b) (3), the investment in the contract shall be allocated on the basis of the amounts received by each recipient by apportioning the amount determined to be excludable under that section to each recipient in the same ratio as the total of the amounts received by him in his taxable year bears to the total of the amounts received by all recipients during the same period; and

(ii) If one or more, but not all, of the annuity elements provide for payments to be made in a manner described in § 1.72–2 (b) (3)—

(*a*) With respect to all annuity elements to which that section does not apply, the investment in the contract for all such elements shall be the portion of the investment in the contract as a whole (found in accordance with the provisions of this section) which is properly allocable to all such elements; and

(*b*) With respect to all annuity elements to which § 1.72–2 (b) (3) does apply, the investment in the contract for all such elements shall be the investment in the contract as a whole (found in accordance with the provisions of this section) as reduced by the portion thereof determined under subdivision (*a*) of this subdivision.

(4) If the provisions of subparagraph (3) apply to a contract, no adjustment shall be made to the investment in such contract for any refund feature provided thereunder.

(c) *Special rules.* (1) For the special rule for determining the investment in the contract for a surviving annuitant in cases where the prior annuitant of a joint and survivor annuity contract died in 1951, 1952, or 1953, see § 1.72–5 (b) (3).

(2) For special rules relating to the determination of the investment in the contract where employer contributions are involved, see § 1.72–8.

(3) For the determination of an adjustment in investment in the contract in cases where a contract contains a refund feature, see § 1.72–7.

§ 1.72–7 *Adjustment in investment where a contract contains a refund feature*—(a) *Definition of a contract containing a refund feature.* A contract to which section 72 applies, contains a refund feature if:

(1) The expected return under such contract depends, in whole or in part, on the life expectancy of one or more persons,

(2) The contract provides for payments to be made to a beneficiary or the estate of an annuitant in the event that a specified amount or a stated number of payments has not been paid to the annuitant or annuitants prior to death, and

(3) Such payments are in the nature of a refund of the consideration paid.

(b) *Adjustment of investment for the refund feature in the case of a single life annuity.* Where a single life annuity contract to which section 72 applies contains a refund feature, the investment in the contract shall be adjusted in the following manner:

(1) Determine the number of years necessary for the guaranteed amount to be fully paid by dividing the maximum amount guaranteed as of the annuity starting date by the amount to be received annually under the contract. The number of years should be stated in terms of the nearest whole year, considering for this purpose a fraction of one-half or more as an additional whole year.

(2) Consult Table III of § 1.72–9 for the appropriate percentage under the whole number of years found in (1) and the age and sex of the annuitant at the annuity starting date.

(3) Multiply the percentage found in (2) by whichever of the following is the smaller: (i) the investment in the contract found in accordance with § 1.72–6 or (ii) the total amount guaranteed as of the annuity starting date.

(4) Subtract the amount found in (3) from the investment in the contract found in accordance with § 1.72–6.

The resulting amount is the investment in the contract adjusted for the present value of the refund feature without discount for interest and is to be used in determining the exclusion ratio to be applied to the payments received as an

annuity. The percentage found in Table III shall not be adjusted in a manner prescribed in § 1.72–5 (a) (2). These principles may be illustrated by the following example:

Example. On January 1, 1954, a husband, age 65, purchased for $21,053, an immediate installment refund annuity payable $100 per month for life. The contract provided that in the event the husband did not live long enough to recover the full purchase price, payments were to be made to his wife until the total payments under the contracts equaled the purchase price. The investment in the contract adjusted for the purpose of determining the exclusion ratio is computed in the following manner:

Cost of the annuity contract (investment in the contract, unadjusted)		$21,053
Amount to be received annually	$1,200	
Number of years for which payment guaranteed ($21,053 divided by $1,200)	17.5	
Rounded to nearest whole number of years	18	
Percentage located in Table III for age 65 (age of the annuitant as of the annuity starting date) and 18 (the number of whole years) (percent)	30	
Subtract value of the refund feature to the nearest dollar (30 percent of $21,053)		6,316
Investment in the contract adjusted for the present value of the refund feature without discount for interest		14,737

If, in the above example, the guaranteed amount had exceeded the investment in the contract, the percentage found in Table III should have been applied to the lesser of these amounts since any excess of the guaranteed amount over the investment in the contract (as found under § 1.72–6) would not have constituted a refund of premiums or other consideration paid.

(c) *Adjustment of investment for the refund feature in the case of a joint and survivor annuity.* Where a joint and survivor annuity contract described in § 1.72–5 (b) (1) or (6) contains a refund feature, the investment in the contract shall be adjusted in the following manner:

(1) Determine the number of years necessary for the guaranteed amount to be fully paid by dividing the maximum amount guaranteed as of the annuity starting date by the amount to be received annually under the contract. The number of years should be stated in terms of the nearest whole year, considering for this purpose a fraction of one-half or more as an additional whole year.

(2) Consult Table III of § 1.72–9 for the appropriate percentages under the whole number of years found in (1) and the age (as of the annuity starting date) and sex of each annuitant. If the annuitants are not of the same sex, substitute for the female annuitant a male annuitant 5 years younger, or for the male annuitant a female annuitant 5 years older, so that Table III will be entered in both cases with the ages of annuitants of the same sex.

(3) Find the sum of the two percentages found in accordance with subparagraph (2).

(4) To the age of the elder of the two annuitants (as determined under subparagraph (2)), add the number of years (indicated in the table below) opposite the number of years by which such annuitants' ages differ:

Number of years difference in age (2 male annuitants or 2 female annuitants)	Addition to older age in years
0 to 1, inclusive	9
2 to 3, inclusive	8
4 to 5, inclusive	7
6 to 8, inclusive	6
9 to 11, inclusive	5
12 to 15, inclusive	4
16 to 20, inclusive	3
21 to 27, inclusive	2
28 to 42, inclusive	1
Over 42	0

(5) Consult Table III for the appropriate percentage under the whole number of years found in subparagraph (1) and the sex and age of the elder annuitant as adjusted under subparagraph (4).

(6) Subtract the value obtained in subparagraph (5) from the sum of the percentages found under subparagraph (3).

(7) Multiply the percentage found in (6) by whichever of the following is the smaller: (i) the investment in the contract found in accordance with § 1.72–6 or (ii) the total amount guaranteed as of the annuity starting date.

(8) Subtract the amount found in (7) from the investment in the contract found in accordance with § 1.72–6.

(d) This section shall be disregarded in the case of any contract which provides for an annuity or an annuity element payable in the manner described in § 1.72–2 (b) (3). No adjustment of the investment in the contract with respect to the present value of a refund feature or features shall be made in such cases.

§ 1.72–8 *Effect of certain employer contributions with respect to premiums or other consideration paid or contributed by an employee*—(a) *Contributions in the nature of compensation.* (1) Section 72 (f) provides that, for the purposes of section 72 (c), (d), and (e), amounts contributed by an employer for the benefit of an employee or his beneficiaries shall constitute consideration paid or contributed by the employee to the extent that:

(i) Such amounts were includible in the gross income of the employee under this subtitle or prior income tax laws, or

(ii) Such amounts would not have been includible in the gross income of the employee at the time contributed had they been paid directly to the employee at that time.

Amounts to which subdivision (i) applies include, for example, contributions made by an employer under a plan which fails to qualify under the provisions of section 401 (a), provided that the employee's rights to such contributions or under the plan are nonforfeitable at the time the contributions are made. See sections 402 (b) and 403 (b) and the regulations thereunder. Amounts to which subdivision (ii) applies include, for example, contributions made by an employer on account of foreign services rendered by an employee during a period in which the employee qualified as a bona fide resident of a foreign country under section 911 (a) or under section 116 (a) of the Internal Revenue Code of 1939. In the latter example, it would be immaterial whether such contributions were made under a qualified plan or otherwise.

(2) Amounts contributed by an employer which were not includible in the gross income of the employee under this subtitle or prior income tax laws, but which would have been includible therein had they been paid directly to the employee, do not constitute consideration paid or contributed by the employee for the purposes of section 72. For example, contributions made by an employer under a qualified employees' trust or plan which would have been includible in the gross income of the employee had such contributions been paid to him directly as compensation do not constitute consideration paid or contributed by the employee. Accordingly, the aggregate amount of premiums or other consideration paid or contributed by an employee, insofar as compensatory employer contributions are concerned, consists solely of the (i) sum of all amounts actually contributed by the employee, plus (ii) contributions in the nature of compensation which are deemed to be paid or contributed by the employee under subparagraph (1).

(b) *Contributions in the nature of death benefits.* In the case of an employee's beneficiary, the aggregate amount of premiums or other consideration paid or deemed to be paid or contributed by the employee shall also include:

(i) Amounts (other than amounts paid as an annuity) to the extent such amounts are excludable from the beneficiary's gross income as a death benefit under section 101 (b), and

(ii) Any amount or amounts of death benefits which are treated as additional consideration contributed by the employee under section 101 (b) (2) (D) and the regulations thereunder, or which were excludable from the beneficiary's gross income as a death benefit under section 22 (b) (1) (B) of the Internal Revenue Code of 1939 and the regulations thereunder.

Accordingly, in the case of an employee's beneficiary, any such amount shall be added to any amount or amounts deemed paid or contributed by the employee under paragraph (a) (1) and to any amounts actually contributed by the employee for the purpose of finding the aggregate amount of premiums or other consideration paid or contributed by the employee.

§ 1.72–9 *Tables.* The following tables are to be used in connection with computations under section 72 and the regulations thereunder:

TABLE I—ORDINARY LIFE ANNUITIES—ONE LIFE—EXPECTED RETURN MULTIPLES

[Text of table same as in 26 CFR (1954), Temp. Rule 1, 19 F. R. 9896]

TABLE II—ORDINARY JOINT LIFE AND LAST SURVIVOR ANNUITIES—TWO LIVES—EXPECTED RETURN MULTIPLES

[Text of table same as in 26 CFR (1954), Temp. Rule 1, 19 F. R. 9896]

TABLE IIA—ANNUITIES FOR JOINT LIFE ONLY—TWO LIVES—EXPECTED RETURN MULTIPLES

[Text of table same as in 26 CFR (1954), Temp Rule 1, 19 F. R. 9896]

TABLE III—PERCENT VALUE OF REFUND FEATURE

[Text of table same as in 26 CFR (1954), Temp. Rule 1, 19 F. R. 9896]

TABLE IV—TEMPORARY LIFE ANNUITIES [1]—ONE LIFE—EXPECTED RETURN MULTIPLES

Ages		Temporary period—maximum duration of annuity									
		Years									
Male	Female	1	2	3	4	5	6	7	8	9	10
0 to 8	0 to 13	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
9	14	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
10	15	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
11	16	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
12	17	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
13	18	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
14	19	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
15	20	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
16	21	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
17	22	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
18	23	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
19	24	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
20	25	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
21	26	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
22	27	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
23	28	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.9	9.9
24	29	1.0	2.0	3.0	4.0	5.0	6.0	7.0	7.9	8.9	9.9
25	30	1.0	2.0	3.0	4.0	5.0	6.0	7.0	7.9	8.9	9.9
26	31	1.0	2.0	3.0	4.0	5.0	6.0	7.0	7.9	8.9	9.9
27	32	1.0	2.0	3.0	4.0	5.0	6.0	7.0	7.9	8.9	9.9
28	33	1.0	2.0	3.0	4.0	5.0	6.0	7.0	7.9	8.9	9.9
29	34	1.0	2.0	3.0	4.0	5.0	6.0	6.9	7.9	8.9	9.9
30	35	1.0	2.0	3.0	4.0	5.0	6.0	6.9	7.9	8.9	9.9
31	36	1.0	2.0	3.0	4.0	5.0	6.0	6.9	7.9	8.9	9.9
32	37	1.0	2.0	3.0	4.0	5.0	6.0	6.9	7.9	8.9	9.9
33	38	1.0	2.0	3.0	4.0	5.0	6.0	6.9	7.9	8.9	9.9
34	39	1.0	2.0	3.0	4.0	5.0	5.9	6.9	7.9	8.9	9.8
35	40	1.0	2.0	3.0	4.0	5.0	5.9	6.9	7.9	8.9	9.8
36	41	1.0	2.0	3.0	4.0	5.0	5.9	6.9	7.9	8.9	9.8
37	42	1.0	2.0	3.0	4.0	5.0	5.9	6.9	7.9	8.8	9.8
38	43	1.0	2.0	3.0	4.0	5.0	5.9	6.9	7.9	8.8	9.8
39	44	1.0	2.0	3.0	4.0	4.9	5.9	6.9	7.9	8.8	9.8
40	45	1.0	2.0	3.0	4.0	4.9	5.9	6.9	7.8	8.8	9.7
41	46	1.0	2.0	3.0	4.0	4.9	5.9	6.9	7.8	8.8	9.7
42	47	1.0	2.0	3.0	4.0	4.9	5.9	6.9	7.8	8.8	9.7
43	48	1.0	2.0	3.0	4.0	4.9	5.9	6.9	7.8	8.8	9.7
44	49	1.0	2.0	3.0	4.0	4.9	5.9	6.8	7.8	8.7	9.7
45	50	1.0	2.0	3.0	3.9	4.9	5.9	6.8	7.8	8.7	9.6
46	51	1.0	2.0	3.0	3.9	4.9	5.9	6.8	7.8	8.7	9.6
47	52	1.0	2.0	3.0	3.9	4.9	5.9	6.8	7.7	8.7	9.6
48	53	1.0	2.0	3.0	3.9	4.9	5.9	6.8	7.7	8.6	9.5
49	54	1.0	2.0	3.0	3.9	4.9	5.8	6.8	7.7	8.6	9.5
50	55	1.0	2.0	3.0	3.9	4.9	5.8	6.8	7.7	8.6	9.5
51	56	1.0	2.0	3.0	3.9	4.9	5.8	6.7	7.7	8.6	9.4
52	57	1.0	2.0	3.0	3.9	4.9	5.8	6.7	7.6	8.5	9.4
53	58	1.0	2.0	2.9	3.9	4.9	5.8	6.7	7.6	8.5	9.3
54	59	1.0	2.0	2.9	3.9	4.8	5.8	6.7	7.6	8.4	9.3
55	60	1.0	2.0	2.9	3.9	4.8	5.8	6.7	7.5	8.4	9.2
56	61	1.0	2.0	2.9	3.9	4.8	5.7	6.6	7.5	8.4	9.2
57	62	1.0	2.0	2.9	3.9	4.8	5.7	6.6	7.5	8.3	9.1
58	63	1.0	2.0	2.9	3.9	4.8	5.7	6.6	7.4	8.3	9.1
59	64	1.0	2.0	2.9	3.9	4.8	5.7	6.5	7.4	8.2	9.0
60	65	1.0	2.0	2.9	3.8	4.8	5.6	6.5	7.3	8.2	8.9
61	66	1.0	2.0	2.9	3.8	4.7	5.6	6.5	7.3	8.1	----
62	67	1.0	2.0	2.9	3.8	4.7	5.6	6.4	7.2	----	----
63	68	1.0	2.0	2.9	3.8	4.7	5.6	6.4	----	----	----
64	69	1.0	1.9	2.9	3.8	4.7	5.5	----	----	----	----
65	70	1.0	1.9	2.9	3.8	4.6	----	----	----	----	----
66	71	1.0	1.9	2.9	3.8	----	----	----	----	----	----
67	72	1.0	1.9	2.9	----	----	----	----	----	----	----
68	73	1.0	1.9	----	----	----	----	----	----	----	----
69	74	1.0	----	----	----	----	----	----	----	----	----

[1] The multiples in this table are not applicable to annuities for a term certain; for such cases see § 1.72-5 (c).

TABLE IV—TEMPORARY LIFE ANNUITIES [1]—ONE LIFE—EXPECTED RETURN MULTIPLES—Continued

Ages		Temporary period—maximum duration of annuity									
		Years									
Male	Female	11	12	13	14	15	16	17	18	19	20
0 to 8	0 to 13	10.9	11.9	12.9	13.9	14.9	15.8	16.8	17.8	18.8	19.7
9	14	10.9	11.9	12.9	13.9	14.9	15.8	16.8	17.8	18.8	19.7
10	15	10.9	11.9	12.9	13.9	14.9	15.8	16.8	17.8	18.8	19.7
11	16	10.9	11.9	12.9	13.9	14.9	15.8	16.8	17.8	18.8	19.7
12	17	10.9	11.9	12.9	13.9	14.9	15.8	16.8	17.8	18.8	19.7
13	18	10.9	11.9	12.9	13.9	14.9	15.8	16.8	17.8	18.8	19.7
14	19	10.9	11.9	12.9	13.9	14.9	15.8	16.8	17.8	18.8	19.7
15	20	10.9	11.9	12.9	13.9	14.9	15.8	16.8	17.8	18.7	19.7
16	21	10.9	11.9	12.9	13.9	14.8	15.8	16.8	17.8	18.7	19.7
17	22	10.9	11.9	12.9	13.9	14.8	15.8	16.8	17.8	18.7	19.7
18	23	10.9	11.9	12.9	13.9	14.8	15.8	16.8	17.8	18.7	19.7
19	24	10.9	11.9	12.9	13.9	14.8	15.8	16.8	17.7	18.7	19.7
20	25	10.9	11.9	12.9	13.9	14.8	15.8	16.8	17.7	18.7	19.7
21	26	10.9	11.9	12.9	13.8	14.8	15.8	16.8	17.7	18.7	19.6
22	27	10.9	11.9	12.9	13.8	14.8	15.8	16.7	17.7	18.7	19.6
23	28	10.9	11.9	12.9	13.8	14.8	15.8	16.7	17.7	18.7	19.6
24	29	10.9	11.9	12.9	13.8	14.8	15.8	16.7	17.7	18.6	19.6
25	30	10.9	11.9	12.8	13.8	14.8	15.7	16.7	17.7	18.6	19.6
26	31	10.9	11.9	12.8	13.8	14.8	15.7	16.7	17.6	18.6	19.5
27	32	10.9	11.9	12.8	13.8	14.8	15.7	16.7	17.6	18.6	19.5
28	33	10.9	11.8	12.8	13.8	14.7	15.7	16.6	17.6	18.5	19.5
29	34	10.9	11.8	12.8	13.8	14.7	15.7	16.6	17.6	18.5	19.4
30	35	10.9	11.8	12.8	13.7	14.7	15.6	16.6	17.5	18.4	19.4
31	36	10.8	11.8	12.8	13.7	14.7	15.6	16.5	17.5	18.4	19.3
32	37	10.8	11.8	12.7	13.7	14.6	15.6	16.5	17.4	18.4	19.3
33	38	10.8	11.8	12.7	13.7	14.6	15.6	16.5	17.4	18.3	19.2
34	39	10.8	11.8	12.7	13.6	14.6	15.5	16.4	17.4	18.3	19.2
35	40	10.8	11.7	12.7	13.6	14.6	15.5	16.4	17.3	18.2	19.1
36	41	10.8	11.7	12.7	13.6	14.5	15.4	16.3	17.2	18.1	19.0
37	42	10.8	11.7	12.6	13.6	14.5	15.4	16.3	17.2	18.1	18.9
38	43	10.7	11.7	12.6	13.5	14.4	15.3	16.2	17.1	18.0	18.9
39	44	10.7	11.6	12.6	13.5	14.4	15.3	16.2	17.1	17.9	18.8
40	45	10.7	11.6	12.5	13.5	14.4	15.2	16.1	17.0	17.8	18.7
41	46	10.7	11.6	12.5	13.4	14.3	15.2	16.1	16.9	17.8	18.6
42	47	10.6	11.6	12.5	13.4	14.3	15.1	16.0	16.8	17.7	18.5
43	48	10.6	11.5	12.4	13.3	14.2	15.1	15.9	16.7	17.6	18.4
44	49	10.6	11.5	12.4	13.3	14.1	15.0	15.8	16.7	17.5	18.3
45	50	10.5	11.4	12.3	13.2	14.1	14.9	15.7	16.6	17.4	18.1
46	51	10.5	11.4	12.3	13.2	14.0	14.8	15.7	16.5	17.2	18.0
47	52	10.5	11.4	12.2	13.1	13.9	14.7	15.6	16.3	17.1	17.8
48	53	10.4	11.3	12.2	13.0	13.8	14.7	15.4	16.2	17.0	17.7
49	54	10.4	11.3	12.1	12.9	13.8	14.6	15.3	16.1	16.8	17.5
50	55	10.3	11.2	12.0	12.9	13.7	14.5	15.2	16.0	16.7	17.4
51	56	10.3	11.1	12.0	12.8	13.6	14.3	15.1	15.8	16.5	----
52	57	10.2	11.1	11.9	12.7	13.5	14.2	14.9	15.6	----	----
53	58	10.2	11.0	11.8	12.6	13.4	14.1	14.8	----	----	----
54	59	10.1	10.9	11.7	12.5	13.2	14.0	----	----	----	----
55	60	10.1	10.9	11.6	12.4	13.1	----	----	----	----	----
56	61	10.0	10.8	11.5	12.3	----	----	----	----	----	----
57	62	9.9	10.7	11.4	----	----	----	----	----	----	----
58	63	9.8	10.6	----	----	----	----	----	----	----	----
59	64	9.8	----	----	----	----	----	----	----	----	----

TABLE IV—TEMPORARY LIFE ANNUITIES [1]—ONE LIFE—EXPECTED RETURN MULTIPLES—Continued

Ages		Temporary period—maximum duration of annuity									
		Years									
Male	Female	21	22	23	24	25	26	27	28	29	30
0 to 8	0 to 13	20.7	21.7	22.7	23.6	24.6	25.6	26.5	27.5	28.4	29.4
9	14	20.7	21.7	22.7	23.6	24.6	25.5	26.5	27.5	28.4	29.4
10	15	20.7	21.7	22.7	23.6	24.6	25.5	26.5	27.5	28.4	29.4
11	16	20.7	21.7	22.6	23.6	24.6	25.5	26.5	27.4	28.4	29.3
12	17	20.7	21.7	22.6	23.6	24.6	25.5	26.5	27.4	28.4	29.3
13	18	20.7	21.7	22.6	23.6	24.6	25.5	26.5	27.4	28.4	29.3
14	19	20.7	21.7	22.6	23.6	24.5	25.5	26.4	27.4	28.3	29.3
15	20	20.7	21.6	22.6	23.6	24.5	25.5	26.4	27.4	28.3	29.2
16	21	20.7	21.6	22.6	23.6	24.5	25.5	26.4	27.3	28.3	29.2
17	22	20.7	21.6	22.6	23.5	24.5	25.4	26.4	27.3	28.2	29.2
18	23	20.7	21.6	22.6	23.5	24.5	25.4	26.3	27.3	28.2	29.1
19	24	20.6	21.6	22.5	23.5	24.4	25.4	26.3	27.2	28.1	29.1
20	25	20.6	21.6	22.5	23.5	24.4	25.3	26.3	27.2	28.1	29.0
21	26	20.6	21.5	22.5	23.4	24.4	25.3	26.2	27.1	28.0	28.9
22	27	20.6	21.5	22.5	23.4	24.3	25.3	26.2	27.1	28.0	28.9
23	28	20.6	21.5	22.4	23.4	24.3	25.2	26.1	27.0	27.9	28.8
24	29	20.5	21.5	22.4	23.3	24.2	25.2	26.1	27.0	27.8	28.7
25	30	20.5	21.4	22.4	23.3	24.2	25.1	26.0	26.9	27.8	28.6
26	31	20.5	21.4	22.3	23.2	24.1	25.0	25.9	26.8	27.7	28.5
27	32	20.4	21.3	22.3	23.2	24.1	25.0	25.8	26.7	27.6	28.4
28	33	20.4	21.3	22.2	23.1	24.0	24.9	25.8	26.6	27.5	28.3
29	34	20.3	21.2	22.1	23.0	23.9	24.8	25.7	26.5	27.4	28.2
30	35	20.3	21.2	22.1	23.0	23.8	24.7	25.6	26.4	27.2	28.1
31	36	20.2	21.1	22.0	22.9	23.8	24.6	25.5	26.3	27.1	27.9
32	37	20.2	21.1	21.9	22.8	23.7	24.5	25.4	26.2	27.0	27.8
33	38	20.1	21.0	21.9	22.7	23.6	24.4	25.2	26.0	26.8	27.6
34	39	20.0	20.9	21.8	22.6	23.5	24.3	25.1	25.9	26.7	27.4
35	40	20.0	20.8	21.7	22.5	23.3	24.2	25.0	25.7	26.5	27.2
36	41	19.9	20.7	21.6	22.4	23.2	24.0	24.8	25.6	26.3	27.0
37	42	19.8	20.6	21.5	22.3	23.1	23.9	24.6	25.4	26.1	26.8
38	43	19.7	20.5	21.4	22.2	23.0	23.7	24.5	25.2	25.9	26.6
39	44	19.6	20.4	21.2	22.0	22.8	23.6	24.3	25.0	25.7	26.4
40	45	19.5	20.3	21.1	21.9	22.6	23.4	24.1	24.8	25.5	26.1
41	46	19.4	20.2	21.0	21.7	22.5	23.2	23.9	24.6	25.2	----
42	47	19.3	20.1	20.8	21.6	22.3	23.0	23.7	24.3	----	----
43	48	19.2	19.9	20.7	21.4	22.1	22.8	23.4	----	----	----
44	49	19.0	19.8	20.5	21.2	21.9	22.6	----	----	----	----
45	50	18.9	19.6	20.3	21.0	21.7	----	----	----	----	----
46	51	18.7	19.4	20.1	20.8	----	----	----	----	----	----
47	52	18.6	19.3	19.9	----	----	----	----	----	----	----
48	53	18.4	19.1	----	----	----	----	----	----	----	----
49	54	18.2	----	----	----	----	----	----	----	----	----

[1] The multiples in this table are not applicable to annuities for a term certain; for such cases see § 1.72-5 (c).

If the terms of the contract (a) involve a life or lives, (b) are such that the above tables cannot be correctly applied, and (c) the amounts received thereunder are "amounts received as an annuity" under a contract to which section 72 applies, the taxpayer may submit with his return an actuarial computation based upon the 1937 Standard Annuity Table with ages set back one year, showing the appropriate factors applied in his case, subject to the approval of the Commissioner upon examination of such return. Computations involving factors to compensate for the effects of contingencies other than mortality, such as marriage or remarriage, re-employment, recovery from disability, or the like, will not be approved.

§ 1.72-10 *Effect of transfer of contracts on investment in the contract.* (a) If a contract to which section 72 applies, or any interest therein, is transferred for a valuable consideration, by assignment or otherwise, only the actual value of the consideration given for such transfer and the amount of premiums or other consideration subsequently paid by the transferee shall be included in the transferee's aggregate of premiums or other consideration paid. In accordance with the provisions of section 72 (g) (3) and § 1.72-4 (b), an annuity starting date shall be determined for the transferee without regard to the annuity starting date, if any, of the transferor. In determining the transferee's investment in the contract, the aggregate amount of premiums or other consideration paid shall be reduced by all amounts received by the transferee before the receipt of an amount as an annuity or before the annuity starting date, whichever is the later, to the extent that such amounts were excludable from his gross income under the applicable income tax law at the time of receipt. For the treatment of amounts received by the transferee subsequent to both the annuity starting date and the date of receipt of a payment as an annuity, but not received as annuity payments, see § 1.72-11. For a limitation on adjustments to the basis of annuity contracts sold, see section 1021.

(b) In the case of a transfer of such a contract without valuable consideration, the annuity starting date and the expected return under the contract shall be determined as though no such transfer had taken place. See § 1.72-4 (b). The transferee shall include the aggregate of premiums or other consideration paid or deemed to have been paid by his transferor in the aggregate of premiums or other consideration as though paid by him. In determining the transferee's investment in the contract, the transferee's aggregate amount of premiums or other consideration paid (as so found) shall be reduced by all amounts either received or deemed to have been received by himself or his transferor before the annuity starting date, or before the date on which an amount is first received as an annuity, whichever is the later, to the extent that such amounts were excludable from the gross income of the actual recipient under the applicable income tax law at the time of receipt. For treatment of amounts received subsequent to both the above dates by such transferee, but not received as annuity payments, see § 1.72-11.

§ 1.72-11 *Amounts not received as annuities*—(a) *Amounts received in the nature of dividends or similar distributions.* (1) In the case of dividends or payments in the nature of dividends received under a contract to which section 72 applies, if such payments are received before the annuity starting date or before the date on which an amount is first received as an annuity, whichever is the later, such payments are includible in the gross income of the recipient only to the extent that they, taken together with all previous payments which were excludable from the gross income of the recipient under the applicable income tax law, exceed the aggregate of premiums or other consideration paid or deemed to have been paid by the recipient. In determining the recipient's investment in the contract, payments not includible in the recipient's gross income under the above rule shall be subtracted from the aggregate amount of premiums or other consideration paid or deemed to have been paid. Such payments shall also be subtracted from the consideration contributed by an employee for purposes of section 72 (d) and § 1.72-13, relating to employee contributions recoverable in three years.

(2) If dividends or payments in the nature of dividends are paid under a contract to which section 72 applies and such payments are received on or after the annuity starting date or the date on which an amount is first received as an annuity, whichever is later, such payments shall be fully includible in the gross income of the recipient. The receipt of such payments shall not affect the aggregate of premiums or other consideration paid nor the amounts contributed or deemed to have been contributed by an employee as otherwise calculated for purposes of section 72. Since the investment in the contract and the expected return are not affected by a payment which is fully includible in the gross income of the recipient under this rule, the exclusion ratio will not be affected by such payment and will continue to be applied to amounts received as annuity payments in the future as though such payment had not been made.

(b) *Amounts received in the nature of a refund of the consideration under a contract and in full discharge of the obligation thereof.* (1) Any amount received which is at least in part a refund of the consideration paid under a contract to which section 72 applies and which is in full discharge of an obligation to pay a fixed amount (whether in a lump sum or otherwise) shall be included in the gross income of the recipient only to the extent that it, when added to amounts previously received under the contract which were excludable from gross income under the law applicable at the time of receipt, exceeds the aggregate of premiums or other consideration paid. See section 72 (e) (2) (A). If the amounts received in discharge of the obligation constitute "amounts received as an annuity" as that term is de-

fined in § 1.72–2 (b), the rule prescribed in the preceding sentence shall only apply if the total of the amounts to be paid in discharge of the obligation cannot in any event exceed the fixed amount which would otherwise fully discharge the obligation. For rules to be applied in a case in which the total of the amounts to be paid as an annuity may exceed such fixed amount, see paragraph (d).

(2) The principles of subparagraph (1) may be illustrated by the following examples:

Example (1). A, a male employee, retired on December 31, 1954, at the age of 60. A life annuity of $75 per month was payable to him beginning January 31, 1955. The annuity contract guaranteed that if A did not live at least ten years, his beneficiary, B, would receive the monthly payments for any balance of the first ten years after A's retirement which remained at the date of A's death. Under section 72, A was deemed to have paid $3,600 toward the cost of the annuity. A lived for five years, receiving a total of $4,500 in annuity payments. After A's death, B began receiving the monthly payments of $75 beginning with the January 31, 1960, payment. B will exclude such payments from his gross income throughout 1960, 1961, and 1962, and will exclude $18 of the first payment in 1963 from his gross income for that year. Thereafter, B will include the entire amount of all such payments in his gross income for the taxable year of receipt. This result is determined as follows:

A's investment in the contract (unadjusted)	$3,600
Multiple from Table III of § 1.72–9 for male, age 60, where duration of guaranteed amount is 10 years (percent)	11
Subtract value of the refund feature to the nearest dollar (11 percent of $3,600)	396
Investment in the contract adjusted for the present value of the refund feature without discount for interest	3,204
Aggregate of premiums or other consideration paid	3,600
A's exclusion ratio ($3,204 ÷ [$900 × 18.2]) (percent)	19.6
Subtract amount excludable during five years A received payments (19.6 percent × $900 × 5)	882
Remainder of aggregate of premiums or other consideration paid excludable from gross income of B under section 72 (e)	2,718

As a result of the above computation, the number of payments to B which will exhaust the remainder of consideration paid which is excludable from gross income of the recipient is 36$^{6}/_{25}$ ($2,718 ÷ $75) and B will exclude the payments from his gross income for three years, then exclude $18 of the first payment for the fourth year from his gross income, and thereafter include the entire amount of all payments he receives in his gross income.

Example (2). The facts are the same as in example (1), except that B, the beneficiary, elects to receive $50 per month for his life in lieu of the payments guaranteed under the original contractual obligation. Since such amounts will be received as an annuity and may, because of the length of time B may live, exceed the amount guaranteed, they are not amounts to which this paragraph applies. See paragraph (d).

Example (3). The facts are the same as in example (1), except that B, the beneficiary, elects to receive the remaining guaranteed amount in installments which are larger or smaller than the $75 per month provided until the terms of the contract under the guaranteed amount is exhausted. The rule of subparagraph (1) and the computation illustrated in example (1) apply to such installments since the total of such installments will not exceed the original amount guaranteed to be paid at A's death in any event.

(3) For the purpose of applying the rule contained in subparagraph (1), it is immaterial whether the recipient of the amount received in full discharge of the obligation is the same person as the recipient of amounts previously received under the contract which were excludable from gross income, except in the case of a contract transferred for a valuable consideration, with respect to which see § 1.72–10 (a). For the limit on the tax attributable to the receipt of a lump sum to which this paragraph applies, see paragraph (e), below.

(c) *Amounts received upon the surrender, redemption, or maturity of a contract.* (1) Any amount received upon the surrender, redemption, or maturity of a contract to which section 72 applies, which is not received as an annuity under the rules of § 1.72–2 (b), shall be included in the gross income of the recipient to the extent that it, when added to amounts previously received under the contract and which were excludable from gross income of the recipient under the law applicable at the time of receipt, exceeds the aggregate of premiums or other consideration paid. See section 72 (e) (2) (B). If, however, the amounts received upon the surrender, redemption or maturity of such a contract are received as an annuity, the rule of paragraph (d) shall apply.

(2) For the purpose of applying the rule contained in subparagraph (1), it is immaterial whether the recipient of the amount received upon the surrender, redemption, or maturity of the contract is the same as the recipient of amounts previously received under the contract which were excludable from gross income, except in the case of a contract transferred for a valuable consideration, with respect to which see § 1.72–10 (a). For the limit on the amount of tax attributable to the receipt of a lump sum to which this paragraph applies, see paragraph (e), below.

(d) *Amounts received to which the provisions of paragraphs (a), (b), and (c) do not apply.* If paragraphs (b) and (c) do not apply to amounts received upon the redemption, maturity, surrender, or discharge of a contract to which section 72 applies, such amounts shall not be considered to be received under the particular contract which matured or was surrendered, redeemed, or discharged. However, such amounts received shall be considered to be received as an annuity under a contract exchanged for the contract whose redemption, maturity, surrender, or discharge was involved. For the purpose of determining the extent to which amounts so received are to be included in the gross income of the recipient, an exclusion ratio shall be determined for such contract as of the later of January 1, 1954, or the first day of the first period for which an amount is received as an annuity thereunder, whichever is the later. See § 1.72–4 (b).

(e) *Limit on tax attributable to the receipt of a lump sum.* If the entire amount of the proceeds received upon the redemption, maturity, surrender, or discharge of a contract to which section 72 applies is received in a lump sum and paragraph (b) or (c) of this section is applicable in determining the portion of such amount which is includible in gross income, the tax attributable to such portion shall not exceed the tax which would have been attributable thereto had such portion been received ratably in the taxable year in which received and the two preceding taxable years. The amount of tax attributable to the includible portion of the lump sum received shall be the lesser of:

(1) The difference between the amount of tax for the taxable year of receipt computed by including such portion in gross income and the amount of tax for such taxable year computed by excluding such portion from gross income; or

(2) The difference between the total amount of tax for the taxable year of receipt and the two preceding taxable years computed by including one-third of such portion in gross income for each of the three taxable years, and the total amount of the tax for the taxable year of receipt and the two preceding taxable years computed by entirely excluding such portion from the gross income of all three taxable years.

For the definition of "taxable year", see section 441 (b). This paragraph shall not apply to payments excepted from the application of section 72 (e) (3) under the provisions of section 402 or 403. See §§ 1.72–2 (a) and 1.72–14 (d).

(f) *Amounts deemed to be paid or received by a transferee.* Amounts deemed to have been paid or received by a transferee for the purposes of § 1.72–10 shall also be deemed to have been so paid or received by such transferee for the purposes of this section. Thus, if a donee is deemed to have paid the premiums or other consideration actually paid by his transferor for the purposes of section 72 (g) and § 1.72–10 (b), such consideration shall be deemed premiums or other consideration paid by the donee for the purposes of this section.

§ 1.72–12 *Effect of taking an annuity in lieu of a lump sum upon the maturity of a contract.* If a contract to which section 72 applies provides for the payment of a lump sum in full discharge of the obligation thereunder and the obligee entitled thereto, prior to receiving any portion of such lump sum and within 60 days after the date on which such lump sum first becomes payable, exercises an option or irrevocably agrees with the obligor to take, in lieu thereof, payments which will constitute "amounts received as an annuity", as that term is defined in § 1.72–2 (b), no part of such lump sum shall be deemed to have been received by the obligee at the time he was first entitled thereto merely because he would have been entitled to such amount

had he not exercised the option or made such an agreement with the obligor.

§ 1.72–13 *Special rule for employee contributions recoverable in three years*—(a) *Amounts received as an annuity.* (1) Section 72 (d) provides a special rule for the treatment of amounts received as an annuity by an employee (or by the beneficiary or beneficiaries of an employee) under a contract to which section 72 applies. This special rule is applicable only in the event that:

(i) Part, but not all, of the consideration paid for the contract is contributed by the employer, and

(ii) The aggregate amount receivable as an annuity under such contract by the employee (or by his beneficiary or beneficiaries if the employee died before any amount was received as an annuity under the contract) within the 3-year period beginning on the date (whether or not before January 1, 1954) on which an amount is first received as an annuity equals or exceeds the total consideration contributed (or deemed contributed) by the employee as of such date.

In such an event, section 72 (d) provides that all amounts received as an annuity under the contract during a taxable year to which the Internal Revenue Code of 1954 applies shall be excluded from gross income until the total of the amounts excluded under that section plus all amounts excluded under prior income tax laws equals or exceeds the consideration contributed (or deemed contributed) by the employee. The excess, if any, and all amounts received by any recipient thereafter (whether or not received as an annuity), shall be fully included in gross income. See paragraph (b), below.

(2) If the aggregate amount receivable as an annuity under the contract within three years from the date on which an amount is first received as an annuity thereunder will not exceed the consideration contributed (or deemed contributed) by the employee in accordance with the provisions of § 1.72–8, computed as of such date, the special rule of section 72 (d) shall not apply to amounts received as an annuity under the contract and the general rules of section 72 shall apply thereto.

(3) The aggregate of the amounts receivable as an annuity within the prescribed 3-year period shall be the total of all annuity payments anticipatable by an employee (or a beneficiary or beneficiaries of an employee, if the employee died before any amount was received as an annuity) under the contract as a whole as defined in § 1.72–2 (a).

(4) If subparagraph (1) of this paragraph applies to amounts received as an annuity under a contract, the rule prescribed therein shall apply to all amounts so received thereunder regardless of the fact that they may be payable (i) to more than one beneficiary, (ii) for the same or different intervals, (iii) in different sums, or (iv) for a different period certain, life, or lives.

(b) *Amounts not received as an annuity.* If the rule of paragraph (a) applies to a contract, and amounts are received other than as an annuity thereunder in a taxable year to which the Internal Revenue Code of 1954 applies, they shall be included in the gross income of the recipient in accordance with the provisions of § 1.72–11. Thus, if such amounts are received as a dividend after the date on which an amount is first received as an annuity under the contract, they shall be included in the gross income of the recipient in accordance with section 72 (e) (1) (A) and § 1.72–11 (a) (2). All other amounts not received as an annuity shall be included in the gross income of the recipient in accordance with the provisions of section 72 (e) (1) (B) and paragraphs (b) and (c) of § 1.72–11. See section 72 (e) (2).

(c) *Amounts received after the exhaustion of employee contributions.* (1) Amounts received under a contract to which the rule of paragraph (a) applies (whether or not such amounts are received as an annuity) shall be included in the gross income of the recipient if such amounts are received after the date on which the aggregate of all amounts excluded from gross income by the recipients under section 72 (d) and prior income tax laws equalled or exceeded the consideration contributed (or deemed contributed) by the employee.

(2) If the rule of paragraph (a) applies to amounts received by an employee (or his beneficiary or beneficiaries) under a joint and survivor annuity contract, payments made to a prior annuitant may entirely exhaust the amounts excludable from gross income. In such case, amounts paid to the surviving annuitant (or annuitants) shall be included in gross income by such recipients.

(d) *Inapplicability of section 72 (d) and this section.* Section 72 (d) and this section do not apply to amounts received as proceeds of a life insurance contract to which section 101 (a) applies, nor to amounts paid to a surviving annuitant under a joint and survivor annuity contract to which § 1.72–5 (b) (3) applies. See also § 1.72–14 (d).

§ 1.72–14 *Exceptions from application of principles of section 72*—(a) *Payments of interest.* If any amount is received under an agreement to pay interest on a sum or sums held by the obligor, such amount shall not be excludable from the gross income of the recipient under the provisions of section 72 to the extent that it is an actual interest payment. See section 72 (j). For example, an amount shall be considered to be held under an agreement to pay interest thereon if the amount payable after the term of the annuity (whether for a term certain or for a life or lives) is substantially equal to or larger than the aggregate amount of premiums or other consideration paid therefor.

(b) *Alimony payments.* To the extent that payments made to a wife are includible in her gross income by reason of either or both sections 71 and 682, they shall not be excluded from the wife's gross income under the principles of section 72 although made under a contract to which that section applies. However, section 72 shall apply in the case of amounts received under such a contract if a husband and wife are entitled to make and do make a single return jointly.

(c) *Certain "face-amount certificates."* The principles of section 72 do not apply to "face-amount certificates" described in section 72 (e) which were issued before January 1, 1955.

(d) *Employer plans.* The provisions of §§ 1.72–1 to 1.72–13, inclusive, shall be disregarded to the extent that they are inconsistent with the treatment of amounts received provided in section 402 (relating to the taxability of a beneficiary of an employees' trust), section 403 (relating to the taxation of employee annuities), or the regulations under either of such sections.

§ 1.1021 *Statutory provisions; sale of annuities.*

SEC. 1021. *Sale of annuities.* In case of the sale of an annuity contract, the adjusted basis shall in no case be less than zero.

§ 1.1021–1 *Sale of annuities.* In the case of a transfer for value of an annuity contract to which section 72 (g) and § 1.72–10 apply, the transferor shall adjust his basis in such contract as of the time immediately prior to such transfer by subtracting from the premiums or other consideration he has paid or is deemed to have paid for such contract all amounts he has received or is deemed to have received under such annuity contract to the extent that such amounts were not includible in the gross income of the transferor or other recipient under the applicable income tax law. In any case where the amounts which were not includible in the gross income of the recipient were received or deemed to have been received by such transferor exceed the amounts paid or deemed paid by him, the adjusted basis of the contract shall be zero. The income realized by the transferor on such a transfer shall not exceed the total of the amounts received as consideration for the transfer.

§ 1.1035 *Statutory provisions; certain exchanges of insurance policies.*

SEC. 1035. *Certain exchanges of insurance policies*—(a) *General rules.* No gain or loss shall be recognized on the exchange of—

(1) A contract of life insurance for another contract of life insurance or for an endowment or annuity contract; or

(2) A contract of endowment insurance—

(A) For another contract of endowment insurance which provides for regular payments beginning at a date not later than the date payments would have begun under the contract exchanged, or

(B) For an annuity contract; or

(3) An annuity contract for an annuity contract.

(b) *Definitions.* For the purpose of this section—

(1) *Endowment contract.* A contract of endowment insurance is a contract with a life insurance company as defined in section 801 which depends in part on the life expectancy of the insured, but which may be payable in full in a single payment during his life.

(2) *Annuity contract.* An annuity contract is a contract to which paragraph (1) applies but which may be payable during the life of the annuitant only in installments.

(3) *Life insurance contract.* A contract of life insurance is a contract to which para-

graph (1) applies but which is not ordinarily payable in full during the life of the insured.

(c) *Cross references.* (1) For rules relating to recognition of gain or loss where an exchange is not solely in kind, see subsections (b) and (c) of section 1031.

(2) For rules relating to the basis of property acquired in an exchange described in subsection (a), see subsection (d) of section 1031.

§ 1.1035–1 *Certain exchanges of insurance policies.* Under the provisions of section 1035 no gain or loss is recognized on the exchange of—

(a) A contract of life insurance for another contract of life insurance or for an endowment or annuity contract (section 1035 (a) (1));

(b) A contract of endowment insurance for another contract of endowment insurance providing for regular payments beginning at a date not later than the date payments would have begun under the contract exchanged, or an annuity contract (section 1035 (a) (2)); or

(c) An annuity contract for another annuity contract (section 1035 (a) (3)),

but section 1035 does not apply to such exchanges if the insured is not a party thereto. The exchange, without recognition of gain or loss, of an annuity contract for another annuity contract under section 1035 (a) (3) is limited to transactions to which the obligee of the annuity agreement is a party. This section and section 1035 do not apply to transactions involving the exchange of an endowment contract or annuity contract for a life insurance contract, nor an annuity contract for an endowment contract. In the case of such exchanges, any gain or loss shall be recognized. In the case of exchanges which would be governed by section 1035 except for the fact that the property received in exchange consists not only of property which could otherwise be received without the recognition of gain or loss, but also of other property or money, see section 1031 (b) and (c) and the regulations thereunder. Such an exchange does not come within the provisions of section 1035. Determination of the basis of property acquired in an exchange under section 1035 (a) shall be governed by section 1031 (d) and the regulations thereunder.

[F. R. Doc. 56–435; Filed, Jan. 18, 1956; 8:53 a. m.]

[26 CFR (1954) Part 1]

INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953; LIFE INSURANCE COMPANIES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that, pursuant to the Administrative Procedure Act, approved June 11, 1946, the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments, pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

The following regulations, relating to taxation of insurance companies, are hereby prescribed under subchapter L of chapter 1 of the Internal Revenue Code of 1954, and are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954:

INSURANCE COMPANIES

LIFE INSURANCE COMPANIES

Sec.
1.801 Statutory provisions; life insurance companies; definition of life insurance company.
1.801–1 Definitions.
1.802 Statutory provisions; life insurance companies; imposition of tax.
1.802–1 Tax on life insurance companies.
1.803 Statutory provisions; life insurance companies; other definitions and rules.
1.803–1 Life insurance reserves.
1.803–2 Adjusted reserves.
1.803–3 Interest paid or accrued.
1.803–4 Taxable income and deductions.
1.803–5 Real estate owned and occupied.
1.803–6 Amortization of premium and accrual of discount.
1.804 Statutory provisions; life insurance companies; reserve and other policy liability deduction.
1.804–1 Reserve and other policy liability deduction for life insurance company taxable income.
1.805 Statutory provisions; life insurance companies; life insurance company taxable income.
1.805–1 Tax on life insurance companies in the case of a taxable year beginning in 1954.
1.805–2 Reserve interest credit.
1.806 Statutory provisions; life insurance companies; adjustment for certain reserves.
1.806–1 Adjustment for certain reserves.
1.807 Statutory provisions; life insurance companies; foreign life insurance companies.
1.807–1 Foreign life insurance companies.

MUTUAL INSURANCE COMPANIES (OTHER THAN LIFE OR MARINE OR FIRE INSURANCE COMPANIES ISSUING PERPETUAL POLICIES)

1.821 Statutory provisions; tax on mutual insurance companies (other than life or marine or fire insurance companies issuing perpetual policies).
1.821–1 Tax on mutual insurance companies other than life or marine or fire insurance companies subject to the tax imposed by section 831.
1.822 Statutory provisions; determination of mutual insurance company taxable income.
1.822–1 Taxable income and deductions.
1.822–2 Real estate owned and occupied.
1.822–3 Amortization of premium and accrual of discount.
1.823 Statutory provisions; other definitions.
1.823–1 Net premiums.
1.823–2 Dividends to policyholders.

OTHER INSURANCE COMPANIES

Sec.
1.831 Statutory provisions; tax on insurance companies (other than life or mutual), mutual marine insurance companies, and mutual fire insurance companies issuing perpetual policies.
1.831–1 Tax on insurance companies (other than life or mutual), mutual marine insurance companies, and mutual fire insurance companies issuing perpetual policies.
1.832 Statutory provisions; insurance company taxable income.
1.832–1 Gross income.
1.832–2 Deductions.

PROVISIONS OF GENERAL APPLICATION

1.841 Statutory provisions; credit for foreign taxes.
1.842 Statutory provisions; computation of gross income.

INSURANCE COMPANIES

LIFE INSURANCE COMPANIES

§ 1.801 *Statutory provisions; life insurance companies; definition of life insurance company.*

SEC. 801. *Definition of life insurance company.* For purposes of this subtitle, the term "life insurance company" means an insurance company which is engaged in the business of issuing life insurance and annuity contracts (either separately or combined with health and accident insurance), or noncancellable contracts of health and accident insurance, if its life insurance reserves (as defined in section 803 (b)), plus unearned premiums and unpaid losses on noncancellable life, health, or accident policies not included in life insurance reserves, comprise more than 50 percent of its total reserves. For purposes of this section, the term "total reserves" means life insurance reserves, unearned premiums and unpaid losses not included in life insurance reserves, and all other insurance reserves required by law. A burial or funeral benefit insurance company engaged directly in the manufacture of funeral supplies or the performance of funeral services shall not be taxable under section 802 but shall be taxable under section 821 or section 831.

§ 1.801–1 *Definitions*—(a) *Life insurance company.* The term "life insurance company" as used in subtitle A is defined in section 801. For the purpose of determining whether a company is a "life insurance company" within the meaning of that term as used in section 801, it must first be determined whether the company is taxable as an insurance company under the Internal Revenue Code. For the definition of an "insurance company", see paragraph (b) of this section. In determining whether an insurance company is a life insurance company, the life insurance reserves (as defined in section 803 (b)) plus any unearned premiums and unpaid losses on noncancellable life, health, or accident policies, not included in "life insurance reserves" must comprise more than 50 percent of its total reserves (as defined in section 801). An insurance company writing only noncancellable life, health, or accident policies and having no "life insurance reserves" may qualify as a life insurance company if its unearned premiums and unpaid losses on such policies comprise more than 50 percent of its total reserves. A noncancellable insurance policy means a contract which

the insurance company is under an obligation to renew or continue at a specified premium and with respect to which a reserve in addition to the unearned premium must be carried to cover that obligation. A burial or funeral benefit insurance company qualifying as a life insurance company engaged directly in the manufacture of funeral supplies or the performance of funeral services will be taxable under section 821 or section 831 as an insurance company other than life.

(b) *Insurance companies.* (1) Insurance companies include both stock and mutual companies, as well as mutual benefit insurance companies. A voluntary unincorporated association of employees formed for the purpose of relieving sick and aged members and the dependents of deceased members is an insurance company, whether the fund for such purpose is created wholly by membership dues or partly by contributions from the employer. A corporation which merely sets aside a fund for the insurance of its employees is not required to file a separate return for such fund, but the income therefrom shall be included in the return of the corporation.

(2) Though its name, charter powers, and subjection to State insurance laws are significant in determining the business which a corporation is authorized and intends to carry on, the character of the business actually done in the taxable year determines whether it is taxable as an insurance company under the Internal Revenue Code. For example, during the year 1954 the M Corporation, incorporated under the insurance laws of the State of R, carried on the business of lending money in addition to guaranteeing the payment of principal and interest of mortgage loans. Of its total income for the year, one-third was derived from its insurance business of guaranteeing the payment of principal and interest of mortgage loans and two-thirds was derived from its noninsurance business of lending money. The M Corporation is not an insurance company for the year 1954 within the meaning of the Code and the regulations thereunder.

§ 1.802 *Statutory provisions; life insurance companies; imposition of tax.*

SEC. 802. *Imposition of tax*—(a) *In general.* Except as otherwise provided in subsection (b), there shall be imposed for each taxable year on the life insurance company taxable income of every life insurance company a tax consisting of a normal tax and a surtax computed as provided in section 11. For purposes of such tax, the term "life insurance company taxable income" means the taxable income (as defined in section 803 (g)) minus the reserve and other policy liability deduction provided in section 804 and plus the amount of the adjustment for certain reserves provided in section 806. For purposes of the surtax, such taxable income shall be computed without regard to the deduction provided in section 242 for partially tax-exempt interest.

(b) *Taxable years beginning in 1954.* In lieu of the tax imposed by subsection (a) there shall be imposed, for taxable years beginning in 1954, on the 1954 life insurance company taxable income (as defined in section 805) of every life insurance company a tax equal to the sum of the following:

(1) 3¾ percent of the amount thereof not in excess of $200,000, plus

(2) 6½ percent of the amount thereof in excess of $200,000.

§ 1.802–1 *Tax on life insurance companies.* (a) Except as otherwise provided in § 1.805–1 with respect to taxable years beginning in 1954, all life insurance companies (including a foreign life insurance company carrying on a life insurance business within the United States if with respect to its United States business it would qualify as a life insurance company under section 801) are subject to both normal tax and surtax. The tax is imposed on the life insurance company taxable income (as defined in section 802) at the rates provided in section 11.

(b) The taxable income of life insurance companies differs from the taxable income of other corporations. See section 803. Life insurance companies are entitled, in computing life insurance company taxable income, to the special deductions provided in part VIII of subchapter B (except section 248). The gross income, the deduction under section 803 (g) (1) for wholly tax-exempt interest, and the deduction under section 242 for partially tax-exempt interest, are decreased by the appropriate amortization of premium and increased by the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. See section 803 (1) and § 1.803–6. Such companies are not subject to the provisions of subchapter P (section 1201 and following, relating to capital gains and losses) nor to the provisions of section 171 (amortizable bond premium). For computation of the life insurance company taxable income for purposes of the normal tax and surtax, see §§ 1.804–1 and 1.806–1. For computation of the 1954 life insurance company taxable income, see § 1.805–1.

(c) All provisions of the Internal Revenue Code and of these regulations not inconsistent with the specific provisions of sections 801 to 807, inclusive, are applicable to the assessment and collection of the tax imposed by section 802, and life insurance companies are subject to the same penalties as are provided in the case of returns and payment of income tax by other corporations. The return shall be on Form 1120L.

(d) Foreign life insurance companies not carrying on an insurance business within the United States are not taxable under section 802, but are taxable as other foreign corporations. See section 881.

§ 1.803 *Statutory provisions; life insurance companies; other definitions and rules.*

SEC. 803. *Other definitions and rules*—(a) *Application of section; gross income*—(1) *Application.* The definitions and rules contained in this section shall apply only in the case of life insurance companies.

(2) *Gross income.* The term "gross income" means the gross amount of income received or accrued during the taxable year from interest, dividends, and rents.

(b) *Life insurance reserves.* The term "life insurance reserves" means amounts which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable health and accident insurance contracts (including life insurance or annuity contracts combined with noncancellable health and accident insurance) involving, at the time with respect to which the reserve is computed, life, health, or accident contingencies. Such life insurance reserves, except in the case of policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation and except as hereinafter provided in the case of assessment life insurance, must also be required by law. In the case of an assessment life insurance company or association, the term "life insurance reserves" includes sums actually deposited by such company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained, under the charter or articles of incorporation or association (or bylaws approved by a State insurance commissioner) of such company or association, exclusively for the payment of claims arising under certificates of membership or policies issued on the assessment plan and not subject to any other use.

(c) *Adjusted reserves.* The term "adjusted reserves" means life insurance reserves plus 7 percent of that portion of such reserves as are computed on a preliminary term basis.

(d) *Reserve earnings rate.* The term "reserve earnings rate" means a rate computed by adding 2.1125 percent (65 percent of 3¼ percent) to 35 percent of the average rate of interest assumed in computing life insurance reserves. Such average rate shall be calculated by multiplying each assumed rate of interest by the means of the amounts of the adjusted reserves computed at that rate at the beginning and end of the taxable year and dividing the sum of the products by the mean of the total adjusted reserves at the beginning and end of the taxable year.

(e) *Reserve for deferred dividends.* The term "reserve for deferred dividends" means sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period of not less than 5 years from the date of the policy contract.

(f) *Interest paid.* The term "interest paid" means—

(1) All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this chapter, and

(2) All amounts in the nature of interest, whether or not guaranteed, paid or accrued within the taxable year on insurance or annuity contracts (or contracts arising out of insurance or annuity contracts) which do not involve, at the time of payment or accrual, life, health, or accident contingencies.

(g) *Taxable income.* The term "taxable income" means the gross income less the following deductions:

(1) *Tax-free interest.* The amount of interest received or accrued during the taxable year which under section 103 is excluded from gross income.

(2) *Investment expenses.* Investment expenses paid or incurred during the taxable year. If any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed one-fourth of 1 percent of the mean of the book value of the invested assets held at the beginning and end of the taxable year plus one-fourth of the amount by which taxable income (computed without any deduction for investment

expenses allowed by this paragraph, for tax-free interest allowed by paragraph (1), or for partially tax-exempt interest and dividends received allowed by paragraph (5)) exceeds 3¾ percent of the book value of the mean of the invested assets held at the beginning and end of the taxable year.

(3) *Real estate expenses.* Taxes and other expenses paid or accrued during the taxable year exclusively on or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed on a shareholder of a company on his interest as shareholder, which are paid or accrued by the company without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shoreholder for the amount of such taxes.

(4) *Depreciation.* The depreciation deduction allowed by section 167.

(5) *Special deductions.* The special deductions allowed by part VIII of subchapter B (except section 248).

(h) *Rental value of real estate.* The deduction under subsection (g) (3) and (4) on account of any real estate owned and occupied in whole or in part by a life insurance company shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this subsection) as the rental value of the space not so occupied bears to the rental value of the entire property.

(i) *Amortization of premium and accrual of discount.* The gross income, the deduction provided in subsection (g) (1), and the deduction allowed by section 242 (relating to partially tax-exempt interest) shall each be decreased to reflect the appropriate amortization of premium and increased to reflect the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. Such amortization and accrual shall be determined—

(1) In accordance with the method regularly employed by such company, if such method is reasonable, and

(2) In all other cases, in accordance with regulations prescribed by the Secretary or his delegate.

(j) *Double deductions.* Nothing in this part shall permit the same item to be deducted more than once.

§ 1.803–1 *Life insurance reserves.* (a) The term "life insurance reserves" is defined in section 803 (b). Generally, such reserves, as in the case of level premium life insurance, are held to supplement the future premium receipts when the latter, alone, are insufficient to cover the increased risk in the later years. In the case of cancellable health and accident policies and similar cancellable contracts, the unearned premiums held to cover the risk for the unexpired period covered by the premiums are not included in life insurance reserves. Unpaid loss reserves for noncancellable health and accident policies are included in life insurance reserves if they are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest.

(b) In the case of an assessment life insurance company or association, life insurance reserves include sums actually deposited by such company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained under the charter or articles of incorporation or association of such company or association, or bylaws (approved by the State insurance commissioner) of such company or association, exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use.

(c) Life insurance reserves, except as otherwise provided in section 803 (b), must be required by law either by express statutory provisions or by rules and regulations of the insurance department of a State, Territory, or the District of Columbia when promulgated in the exercise of a power conferred by statute, but such requirement, without more, is not conclusive; for example, life insurance reserves do not include reserves required to be maintained to provide for the ordinary running expenses of a business which must be currently paid by every company from its income if its business is to continue, such as taxes, salaries, and unpaid brokerage; nor do they include the net value of risks reinsured in other solvent companies; liability for premiums paid in advance; liability for annual and deferred dividends declared or apportioned; liability for dividends left on deposit at interest; liability for accrued but unsettled policy claims whether known or unreported; liability for supplementary contracts not involving, at the time with respect to which the liability is computed, life, health, or accident contingencies.

(d) In any case where reserves are claimed, sufficient information must be filed with the return to enable the district director to determine the validity of the claim. Only reserves which are required by law or insurance department ruling, which are peculiar to insurance companies, and which are dependent upon interest earnings for their maintenance will, except as otherwise specifically provided in section 803 (b), be considered as life insurance reserves. A company is permitted to make use of the highest aggregate reserve required by any State or Territory or the District of Columbia in which it transacts business, but the reserve must have been actually held.

(e) In the case of life insurance companies issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, it is required that reserve funds thereon be based upon recognized mortality or morbidity tables covering disability benefits of the kind contained in policies issued by this particular class of companies but they need not be required by law.

§ 1.803–2 *Adjusted reserves.* For the purpose of determining the figure to be proclaimed by the Secretary under the formula set forth in section 804 (a), and also for the purpose of determining "required interest" for taxable years beginning in 1954, certain reserves computed on a preliminary term method are to be adjusted by increasing such reserves by 7 percent (see § 1.804–1). The reserves to be thus adjusted are reserves computed on preliminary term methods, such as the Illinois Standard, or the Select and Ultimate methods. Only reserves on policies in the modification period are to be so adjusted. Where reserves under a preliminary term method are the same as on the level premium method, and in the case of reserves for extended or paid-up insurance, no adjustment is to be made. The reserves as thus adjusted, and the rate of interest on which they are computed should be reported in Schedule A, Form 1120L.

§ 1.803–3 *Interest paid or accrued.* Interest paid or accrued is one of the elements to be used, together with adjusted reserves, reserve earnings rate, and reserve for deferred dividends, in arriving at the figure to be determined and proclaimed by the Secretary under the formula set forth in section 804 (a). See § 1.804–1. Interest paid or accrued is also one of the elements to be used in computing the amount of "required interest" for purposes of determining the reserve interest credit provided in section 805 in the case of taxable years beginning in 1954. See § 1.805–1. Interest paid or accrued consists of (a) interest paid or accrued on indebtedness (except indebtedness incurred or continued to purchase or carry tax-exempt securities as set forth in section 803 (f) (1)) and (b) amounts in the nature of interest paid or accrued on certain contracts, as provided in section 803 (f) (2). Interest on indebtedness includes interest on dividends held on deposit and surrendered during the taxable year but does not include interest paid or accrued on deferred dividends the reserve for which is used in determining the policy and other liability deduction provided in section 804. Life insurance reserves as defined in § 1.803–1 are not indebtedness. Dividends left with the company to accumulate at interest are a debt and not a reserve liability. Amounts in the nature of interest include so-called excess-interest dividends as well as guaranteed interest paid or accrued within the taxable year on insurance or annuity contracts (or contracts arising out of insurance or annuity contracts) which do not involve at the time of payment, life, health, or accident contingencies. It is immaterial whether the optional mode of settlement specified in the insurance or annuity contract arises from an option exercised by the insured during his or her lifetime or from an option exercised by a beneficiary after the policy has matured, frequently referred to as a supplementary contract not involving life contingencies; for example, a contract to pay the insurance benefit in 10 annual installments. No distinction is made based on the person choosing the method of payment and the full amount of the interest paid or accrued and not merely the guaranteed interest is considered as interest paid or accrued.

§ 1.803–4 *Taxable income and deductions*—(a) *In general.* The taxable income of a life insurance company is its gross amount of income received or accrued during the taxable year from interest, dividends, and rents, less the deductions provided in section 803 (g)

for wholly tax-exempt interest, investment expenses, real estate expenses, depreciation, and the special deductions provided in part VIII of subchapter B (except section 248). In addition to the limitations on deductions relating to real estate owned and occupied by a life insurance company provided in section 803 (h), the limitations on the adjustment for amortization of premium and accrual of discount provided in section 803 (i), and the limitation on the deduction for investment expenses where general expenses are allocated to investment income provided in section 803 (g) (2), life insurance companies are subject to the limitations on deductions relating to wholly tax-exempt income provided in section 265. Life insurance companies are not entitled to the net operating loss deduction provided in section 172.

(b) *Wholly tax-exempt interest.* Interest which in the case of other taxpayers is excluded from gross income by section 103 but included in the gross income of a life insurance company by section 803 (a) (2) is allowed as a deduction from gross income by section 803 (g) (1).

(c) *Investment expenses.* (1) As used in the Internal Revenue Code, the term "general expenses" means any expense paid or incurred for the benefit of more than one department of the company rather than for the benefit of a particular department thereof. Any assignment of such expense to the investment department of the company for which a deduction is claimed under section 803 (g) (2) subjects the entire deduction for investment expenses to the limitation provided in that section. The accounting procedure employed is not conclusive as to whether any assignment has in fact been made. Investment expenses do not include Federal income and excess profits taxes.

(2) If no general expenses are assigned to or included in investment expenses the deduction may consist of investment expenses paid or incurred during the taxable year in which case an itemized schedule of such expenses must be appended to the return.

(3) Invested assets for the purpose of section 803 (g) (2) and this section are those which are owned and used, and to the extent used, for the purpose of producing the income specified in section 803 (a) (2). They do not include real estate owned and occupied, and to the extent owned and occupied, by the company. If general expenses are assigned to or included in investment expenses, the maximum allowance will not be granted unless it is shown to the satisfaction of the district director that such allowance is justified by a reasonable assignment of actual expenses.

(d) *Taxes and expenses with respect to real estate.* The deduction for taxes and expenses under section 803 (g) (3) includes taxes and expenses paid or accrued during the taxable year exclusively upon or with respect to real estate owned by the company and any sum representing taxes imposed upon a shareholder of the company upon his interest as shareholder which is paid or accrued by the company without reimbursement from the shareholder. No deduction shall be allowed, however, for taxes, expenses, and depreciation upon or with respect to any real estate owned by the company except to the extent used for the purpose of producing investment income. See paragraph (c) of this section. As to real estate owned and occupied by the company, see § 1.803–5.

(e) *Depreciation.* The deduction allowed for depreciation is, except as provided in section 803 (h), identical with that allowed other corporations by section 167. The amount allowed by section 167 in the case of life insurance companies is limited to depreciation sustained on the property used, and to the extent used, for the purpose of producing the income specified in section 803 (a) (2).

§ 1.803–5 *Real estate owned and occupied.* The amount allowable as a deduction for taxes, expenses, and depreciation upon or with respect to any real estate owned and occupied in whole or in part by a life insurance company is limited to an amount which bears the same ratio to such deduction (computed without regard to this limitation) as the rental value of the space not so occupied bears to the rental value of the entire property. For example, if the rental value of the space not occupied by the company is equal to one-half of the rental value of the entire property, the deduction for taxes, expenses, and depreciation is one-half of the taxes, expenses, and depreciation on account of the entire property. Where a deduction is claimed as provided in this section, the parts of the property occupied and the parts not occupied by the company, together with the respective rental values thereof, must be shown in a statement accompanying the return.

§ 1.803–6 *Amortization of premium and accrual of discount.* (a) Section 803 (i) provides for certain adjustments on account of amortization of premium and accrual of discount on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. Such adjustments are limited to the amount of appropriate amortization or accrual attributable to the taxable year with respect to such securities which are not in default as to principal or interest and which are amply secured. The question of ample security will be resolved according to the rules laid down from time to time by the National Association of Insurance Commissioners. The adjustment for amortization of premium decreases, and for accrual of discount increases, (1) the gross income, (2) the deduction for wholly tax-exempt interest, and (3) the deduction for partially tax-exempt interest.

(b) The premium for any such security is the excess of its acquisition value over its maturity value and the discount is the excess of its maturity value over its acquisition value. The acquisition value of any such security is its cost (including buying commissions or brokerage but excluding any amounts paid for accrued interest) if purchased for cash, or if not purchased for cash, then its fair market value. The maturity value of any such security is the amount payable thereunder either at the maturity date or an earlier call date. The earlier call date of any such security may be the earliest call date specified therein as a day certain, the earliest interest payment date if it is callable or payable at such date, the earliest date at which it is callable at par, or such other call or payment date, prior to maturity, specified in the security as may be selected by the life insurance company. A life insurance company which adjusts amortization of premium or accrual of discount with reference to a particular call or payment date must make the adjustments with reference to the value on such date and may not, after selecting such date, use a different call or payment date, or value, in the calculation of such amortization or discount with respect to such security unless the security was not in fact called or paid on such selected date.

(c) The adjustments for amortization of premium and accrual of discount will be determined—

(1) According to the method regularly employed by the company, if such method is reasonable, or

(2) According to the method prescribed by this section.

A method of amortization of premium or accrual of discount will be deemed "regularly employed" by a life insurance company if the method was consistently followed in prior taxable years, or if, in the case of a company which has never before made such adjustments, the company initiates in the first taxable year for which the adjustments are made a reasonable method of amortization of premium or accrual of discount and consistently follows such method thereafter. Ordinarily, a company regularly employs a method in accordance with the statute of some State, Territory, or the District of Columbia, in which it operates.

(d) The method of amortization and accrual prescribed by this section is as follows:

(1) The premium (or discount) shall be determined in accordance with this section; and

(2) The appropriate amortization of premium (or accrual of discount) attributable to the taxable year shall be an amount which bears the same ratio to the premium (or discount) as the number of months in the taxable year during which the security was owned by the life insurance company bears to the number of months between the date of acquisition of the security and its maturity or earlier call date, determined in accordance with this section. For the purpose of this section, a fractional part of a month shall be disregarded unless it amounts to more than half a month, in which case it shall be considered as a month.

§ 1.804 *Statutory provisions; life insurance companies; reserve and other policy liability deduction.*

SEC. 804. *Reserve and other policy liability deduction*—(a) *In general.* For purposes of this subpart, the term "reserve and other policy liability deduction" means an amount computed by multiplying the taxable income by a figure, to be determined and proclaimed by the Secretary or his delegate for each taxable year. This figure shall be based on such data with respect to life insurance companies

for the preceding taxable year as the Secretary or his delegate considers representative and shall be computed in accordance with the following formula: The ratio which a numerator comprised of the aggregate of the sums of—

(1) 2 percent of the reserves for deferred dividends,

(2) Interest paid, and

(3) The product of—

(A) The mean of the adjusted reserves at the beginning and end of the taxable year and

(B) The reserve earnings rate,

bears to a denominator comprised of the aggregate of the excess of taxable incomes (computed without any deduction for tax-free interest, partially tax-exempt interest, or dividends received) over the adjustment for certain reserves provided in section 806.

(b) *Surtax computation.* In determining the life insurance company taxable income for purposes of the surtax, the taxable income to be multiplied by the figure determined and proclaimed under subsection (a) shall be computed without regard to the deduction provided in section 242 for partially tax-exempt interest.

§ 1.804–1 *Reserve and other policy liability deduction for life insurance company taxable income.* (a) Life insurance companies in computing life insurance company taxable income for purposes of the normal tax and surtax are allowed a "reserve and other policy liability deduction" in lieu of a deduction for the interest allowed on their reserves, for interest paid and for deferred dividends. This deduction is a flat percentage of taxable income. The figure is the same for all companies and is determined on the basis of the aggregate of the interest allowed on reserves, interest paid, and 2 percent of the reserves held for deferred dividends,, as provided in section 804 (a), for all companies. The figure for each taxable year is to be determined and proclaimed by the Secretary, based on such data with respect to life insurance companies for the preceding taxable year as the Secretary considers representative for such year. The taxable income for purposes of the surtax shall be computed without regard to the deduction provided in section 242 for partially tax-exempt interest.

(b) The application of the reserve and other policy liability deduction for the purpose of this section may be illustrated by the following examples:

Example (i). (i) The X Life Insurance Company for the calendar year has gross income, consisting of interest and rents, of $4,000,000, of which $700,000 consists of wholly tax-exempt interest. It has investment expenses of $100,000, real estate expenses of $80,000, and depreciation of $20,000. Its taxable income for purposes of the normal tax and surtax accordingly is $3,100,000 ($4,000,000 less investment expenses, real estate expenses, and depreciation, totaling $200,000, and wholly tax-exempt interest of $700,000).

(ii) If the Secretary determines and proclaims that for the taxable year the figure based on data for the preceding taxable year is 0.93, the X Life Insurance Company is entitled to a deduction of $2,883,000 ($3,100,000×0.93) and its taxable income for purposes of both the normal tax and surtax is $217,000 ($3,100,000−$2,883,000).

Example (2). If in example (1) $100,000 of the $4,000,000 gross income of the X Life Insurance Company for the calendar year consisted of partially tax-exempt interest, in addition to the $700,000 of wholly tax-exempt interest, its taxable income for purposes of the surtax would be the same as in the above example. Its taxable income for purposes of the normal tax, however, would be $3,000,000 ($4,000,000 less $200,000 less $700,000 less $100,000), its deduction would be $2,790,000 ($3,000,000×0.93) and its taxable income for purposes of the normal tax would be $210,000 ($3,000,000−$2,790,000).

§ 1.805 *Statutory provisions; life insurance companies; life insurance company taxable income.*

SEC. 805. *1954 life insurance company taxable income*—(a) *Definition.* For purposes of section 802 (b), the term "1954 life insurance company taxable income" means the taxable income (as defined in section 803 (g)), plus 8 times the amount of the adjustment for certain reserves provided in section 806, and minus the reserve interest credit, if any, provided in subsection (b) of this section.

(b) *Reserve interest credit.* For purposes of subsection (a), the reserve interest credit shall be an amount determined as follows:

(1) Divide the amount of the adjusted taxable income (as defined in subsection (c)) by the amount of the required interest (as defined in subsection (d)).

(2) If the quotient obtained in paragraph (1) is 1.05 or more, the reserve interest credit shall be zero.

(3) If the quotient obtained in paragraph (1) is 1.00 or less, the reserve interest credit shall be an amount equal to 50 percent of the taxable income.

(4) If the quotient obtained in paragraph (1) is more than 1.00 but less than 1.05, the reserve interest credit shall be the amount obtained by multiplying the taxable income by 10 times the difference between the figures 1.05 and such quotient.

(c) *Adjusted taxable income.* For purposes of subsection (b) (1), the term "adjusted taxable income" means the taxable income (computed without the deductions provided in section 803 (g) (1) or (5)) minus 50 percent of the amount of the adjustment for certain reserves provided in section 806.

(d) *Required interest.* For purposes of subsection (b) (1), the term "required interest" means the total of—

(1) The sum of the amounts obtained by multiplying—

(A) Each rate of interest assumed in computing the taxpayer's life insurance reserves by

(B) The means of the amounts of the taxpayer's adjusted reserves computed at that rate at the beginning and end of the taxable year,

(2) 2 percent of the reserve for deferred dividends, and

(3) Interest paid.

§ 1.805–1 *Tax on life insurance companies in the case of a taxable year beginning in 1954.* (a) In the case of a taxable year beginning in 1954, the tax imposed on a life insurance company for such year shall consist of a tax upon the 1954 life insurance company taxable income equal to 3¾ percent of the amount of such income not in excess of $200,000, plus 6½ percent of the amount of such income in excess of $200,000. The term "1954 life insurance company taxable income" means the taxable income (consisting of income computed as provided in § 1.803–4 less the deduction for partially tax-exempt interest allowed under section 242 and less the deduction for dividends received allowed under section 243) for the taxable year beginning in 1954 plus eight times the amount of the adjustment for certain reserves computed as provided in section 806 (see § 1.806–1), and minus the reserve interest credit, if any, provided in section 805 (b) (See § 1.805–2). The reserve and other policy liability deduction is not allowed for purposes of the computation of 1954 life insurance company taxable income.

(b) The tax imposed upon the 1954 life insurance company taxable income by section 802 (b) is in lieu of the tax otherwise imposed on life insurance company taxable income by section 802 (a).

§ 1.805–2 *Reserve interest credit.* (a) In computing 1954 life insurance company taxable income, a reserve interest credit is allowed where the "adjusted taxable income" of the company is less than 105 percent of its required interest. For the purpose of computing the reserve interest credit, the term "adjusted taxable income" means the taxable income of the company computed without the deductions provided in section 803 (g) (1) or (5), less 50 percent of the adjustment for certain reserves on contracts other than life insurance or annuity contracts provided in section 806.

(b) The required interest for which a credit may be allowed consists of the total of—

(1) The sum of amounts obtained by multiplying each rate of interest assumed in computing life insurance reserves (see section 803 (b) and § 1.803–1) by the means of the amounts of the adjusted reserves, as defined in section 803 (c), computed at that rate at the beginning and the end of the taxable year;

(2) Two percent of the reserve for deferred dividends; and

(3) Interest paid or accrued.

(c) To determine the amount of the reserve interest credit, it is necessary to divide the amount of the adjusted taxable income by the amount of the required interest. If the adjusted taxable income is 100 percent or less of the required interest, the reserve interest credit is an amount equal to 50 percent of the life insurance company taxable income. If the adjusted taxable income is 105 percent or more of the required interest, the reserve interest credit is zero. If the adjusted taxable income is more than 100 percent and less than 105 percent of the required interest, the reserve interest credit is computed by multiplying the life insurance company taxable income by ten times the difference between 105 percent and the percentage established. Thus, if the adjusted taxable income of a life insurance company for the calendar year 1954 is $103,000 and the required interest for such year is $100,000, the adjusted taxable income is 103 percent of the required interest and the reserve interest, accordingly, is the life insurance company taxable income multiplied by 20 percent (10 times 2 percent, the difference between 105 percent and 103 percent).

(d) In determining the percentage of the adjusted taxable income to required interest for purposes of determining the reserve interest credit, the figures shall be computed to at least the nearest one-tenth of a percentage point.

§ 1.806 *Statutory provisions; life insurance companies; adjustment for certain reserves.*

SEC. 806. *Adjustment for certain reserves.* In the case of a life insurance company writing contracts other than life insurance or annuity contracts (either separately or combined with noncancellable health and accident insurance), the term "adjustment for certain reserves" means an amount equal to 3¼ percent of the unearned premiums and unpaid losses on such other contracts which are not included in life insurance reserves (as defined in section 803 (b). For purposes of this section, such unearned premiums shall not be considered to be less than 25 percent of the net premiums written during the taxable year on such other contracts.

§ 1.806–1 *Adjustment for certain reserves.* (a) A life insurance company writing contracts other than life insurance or annuity contracts (either separately or combined with noncancellable health and accident insurance contracts) must add to its life insurance company taxable income, as an offset to its reserve and other policy liability deduction an amount equal to 3¼ percent of the mean of the unearned premiums and unpaid losses at the beginning and end of the taxable year on such other contracts as are not included in life insurance reserves. If such unearned premiums, however, are less than 25 percent of the net premiums written during the taxable year on such other contracts, then the amount to be added to life insurance company taxable income is 3¼ percent of 25 percent of the net premiums written during the taxable year on such other contracts plus 3¼ percent of the mean of the unpaid losses at the beginning and end of the taxable year on such other contracts. As used in this section, the term "unearned premiums" has the same meaning as in section 832 (b) (4) and § 1.832–1.

(b) For taxable years beginning in 1954, an amount equal to 8 times the amount of the applicable adjustment provided in paragraph (a) of this section, must be added to life insurance company taxable income for such year as a factor in determining 1954 adjusted taxable income.

§ 1.807 *Statutory provisions; life insurance companies; foreign life insurance companies.*

SEC. 807. *Foreign life insurance companies* (a) *Carrying on United States insurance business.* A foreign life insurance company carrying on a life insurance business within the United States, if with respect to its United States business it would qualify as a life insurance company under section 801, shall be taxable in the same manner as a domestic life insurance company; except that the determinations necessary for purposes of this subtitle shall be made on the basis of the income, disbursements, assets, and liabilities reported in the annual statement for the taxable year of the United States business of such company on the form approved for life insurance companies by the National Association of Insurance Commissioners.

(b) *No United States insurance business.* Foreign life insurance companies not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations.

§ 1.807–1 *Foreign life insurance companies.* A foreign life insurance company carrying on a life insurance business within the United States, if with respect to its United States business it would qualify as a life insurance company under section 801, is taxable on its income received during the taxable year from interest, dividends, and rents, from sources within and without the United States, pertaining to its United States business. Such a company is taxable in the same manner as a domestic life insurance company except that the determinations necessary for the purposes of subtitle A, such as gross income, the adjustment for certain reserves, deductions and limitations on deductions, amortization of premiums and accrual of discount, and the deductions allowed the company in part VIII of subchapter B, shall be made on the basis of the income, disbursements, assets, and liabilities reported in the annual statement for the taxable year of the United States business of such company on the form approved for life insurance companies by the National Association of Life Insurance Commissioners. This statement is presumed to reflect the income, disbursements, assets, and liabilities of the United States business of the company and insofar as it is not inconsistent with the provisions of the Internal Revenue Code will be recognized and used as a basis for that purpose.

MUTUAL INSURANCE COMPANIES (OTHER THAN LIFE OR MARINE OR FIRE INSURANCE COMPANIES ISSUING PERPETUAL POLICIES)

§ 1.821 *Statutory provisions; tax on mutual insurance companies (other than life or marine or fire insurance companies issuing perpetual policies).*

SEC. 821. *Tax on mutual insurance companies (other than life or marine or fire insurance companies issuing perpetual policies)*—(a) *Imposition of tax on mutual companies other than interinsurers.* There shall be imposed for each taxable year on the income of every mutual insurance company (other than a life or a marine insurance company or a fire insurance company subject to the tax imposed by section 831 and other than an interinsurer or reciprocal underwriter) a tax computed under paragraph (1) or paragraph (2), whichever is the greater:

(1) If the mutual insurance company taxable income (computed without regard to the deduction provided in section 242 for partially tax-exempt interest) is over $3,000, a tax computed as follows:

(A) *Normal tax*—(i) *Taxable years beginning before April 1, 1956.* In the case of taxable years beginning before April 1, 1956, a normal tax of 30 percent of the mutual insurance company taxable income, or 60 percent of the amount by which such taxable income exceeds $3,000, whichever is the lesser;

(ii) *Taxable years beginning after March 31, 1956.* In the case of taxable years beginning after March 31, 1956, a normal tax of 25 percent of the mutual insurance company taxable income, or 50 percent of the amount by which such taxable income exceeds $3,000, whichever is the lesser; plus

(B) *Surtax.* A surtax of 22 percent of the mutual insurance company taxable income (computed without regard to the deduction provided in section 242 for partially tax-exempt interest) in excess of $25,000.

(2) If for the taxable year the gross amount of income from interest, dividends, rents, and net premiums, minus dividends to policyholders, minus the interest which under section 103 is excluded from gross income, exceeds $75,000, a tax equal to 1 percent of the amount so computed, or 2 percent of the excess of the amount so computed over $75,000, whichever is the lesser.

(b) *Imposition of tax on interinsurers.* In the case of every mutual insurance company which is an interinsurer or reciprocal underwriter (other than a life or a marine insurance company or a fire insurance company subject to the tax imposed by section 831), if the mutual insurance company taxable income (computed as provided in subsection (a) (1)) is over $50,000, there shall be imposed for each taxable year on the mutual insurance company taxable income a tax computed as follows:

(1) *Normal tax*—(A) *Taxable years beginning before April 1, 1956.* In the case of taxable years beginning before April 1, 1956, a normal tax of 30 percent of the mutual insurance company taxable income, or 60 percent of the amount by which such taxable income exceeds $50,000, whichever is the lesser;

(B) *Taxable years beginning after March 31, 1956.* In the case of a taxable year beginning after March 31, 1956, a normal tax of 25 percent of the mutual insurance company taxable income, or 50 percent of the amount by which such taxable income exceeds $50,000, whichever is the lesser; plus

(2) *Surtax.* A surtax of 22 percent of the mutual insurance company taxable income (computed as provided in subsection (a) (1)) in excess of $25,000, or 33 percent of the amount by which such taxable income exceeds $50,000, whichever is the lesser.

(c) *Gross amount received, over $75,000 but less than $125,000.* If the gross amount received during the taxable year from interest, dividends, rents, and premiums (including deposits and assessments) is over $75,000 but less than $125,000, the tax imposed by subsection (a) or subsection (b), whichever applies, shall be reduced to an amount which bears the same proportion to the amount of the tax determined under such subsection as the excess over $75,000 of such gross amount received bears to $50,000.

(d) *No United States insurance business.* Foreign mutual insurance companies (other than a life or marine insurance company or a fire insurance company subject to the tax imposed by section 831) not carrying on an insurance business within the United States shall not be subject to this part but shall be taxable as other foreign corporations.

(e) *Alternative tax on capital gains.* For alternative tax in case of capital gains, see section 1201 (a).

[Sec. 821 as amended by sec. 2, Tax Rate Extension Act 1955]

§ 1.821–1 *Tax on mutual insurance companies other than life or marine or fire insurance companies subject to the tax imposed by section 831*—(a) *In general.* (1) All mutual insurance companies, including foreign insurance companies carrying on an insurance business within the United States, not taxable under section 801 or 831 and not specifically exempt under the provisions of section 501 (c) (15), are subject to the tax imposed by section 821 on their investment income or on their gross income, whichever tax is the greater, except interinsurers and reciprocal underwriters which are taxed only on their investment income. For the alternative tax, in lieu of the tax imposed by section 821 (a) or (b), where the net long-term capital gain for any taxable year exceeds the net short-term capital loss, see section 1201 (a) and the regulations thereunder.

(2) The taxable income of mutual insurance companies subject to the tax imposed by section 821 differs from the taxable income of other corporations.

See section 821 (a) (2) and section 822. Such companies are entitled, in computing mutual insurance company taxable income, to the deductions provided in part VIII of subchapter B (except section 248). The gross amount of income during the taxable year from interest, the deduction under section 822 (c) (1) for wholly tax-exempt interest, and the deduction under section 242 for partially tax-exempt interest, are decreased by the appropriate amortization of premium and increased by the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures or other evidences of indebtedness held by a mutual insurance company subject to the tax imposed by section 821. See section 822 (d) (2) and § 1.822-3.

(3) All provisions of the Internal Revenue Code and of the regulations in this part not inconsistent with the specific provisions of section 821 are applicable to the assessment and collection of the tax imposed by section 821 (a) or (b) and mutual insurance companies subject to the tax imposed by section 821 are subject to the same penalties as are provided in the case of returns and payment of income tax by other corporations. The return shall be on Form 1120M.

(4) Foreign mutual insurance companies not carrying on an insurance business within the United States are not taxable under section 821 (a) or (b), but are taxable as other foreign corporations. See section 881.

(5) Mutual insurance companies subject to the tax imposed by section 821, except interinsurers or reciprocal underwriters, with mutual insurance company taxable income (computed without regard to the deduction provided in section 242 for partially tax-exempt interest) of over $3,000 or with gross amounts of income from interest, dividends, rents, and net premiums (minus dividends to policyholders and wholly tax-exempt interest) in excess of $75,000, are subject to a tax computed under section 821 (a) (1) or section 821 (a) (2) whichever is the greater. Interinsurers and reciprocal underwriters with mutual insurance company taxable income (computed without regard to the deduction provided in section 242 for partially tax-exempt interest) of over $50,000 are subject to a tax computed under section 821 (b).

(b) *Rates of tax.* (1) The normal tax under section 821 (a) (1) (A) and 821 (b) (1), except as hereinafter indicated, is computed upon mutual insurance company taxable income for purposes of the normal tax at the following rates:

	Percent
(i) For taxable years beginning before April 1, 1956	30
(ii) For taxable years beginning after March 31, 1956	25

(2) The surtax under section 821 (a) (1) (B) and 821 (b) (2), except as hereinafter indicated, is computed on that portion of the mutual insurance company taxable income for purposes of the surtax in excess of $25,000 at the rate of 22 percent. The tax under section 821 (a) (2), except as hereinafter indicated, is 1 percent of the gross amount of income from interest, dividends, rents, and net premiums, minus dividends to policyholders and minus wholly tax-exempt interest.

(3) Under section 821 (a) (1) (A) companies with mutual insurance company taxable income for purposes of the normal tax of over $3,000 and not over $6,000 pay a normal tax, at a specified rate, on that portion of such income in excess of $3,000. The rates applicable in computing the normal tax of such companies are as follows:

	Percent
(i) For taxable years beginning before April 1, 1956	60
(ii) For taxable years beginning after March 31, 1956	50

Under section 821 (a) (2) companies with gross amounts of income from interest, dividends, rents, and net premiums, minus dividends to policyholders and minus wholly tax-exempt interest, of over $75,000 and not over $150,000 pay a tax equal to 2 percent of that portion in excess of $75,000.

(4) Under section 821 (b) (1) interinsurers and reciprocal underwriters with mutual insurance company taxable income for purposes of the normal tax of over $50,000 and not over $100,000 pay a normal tax computed on that portion of such income in excess of $50,000 at the following rates:

	Percent
(i) For taxable years beginning before April 1, 1956	60
(ii) For taxable years beginning after March 31, 1956	50

Under section 821 (b) (2) interinsurers and reciprocal underwriters with mutual insurance company taxable income for purposes of the surtax of over $50,000 and not over $100,000 pay a surtax, at the rate of 33 percent, on that portion of such income in excess of $50,000.

(5) Section 821 (c) provides for an adjustment of the amount computed under section 821 (a) (1), section 821 (a) (2), and section 821 (b) where the gross amount received during the taxable year from interest, dividends, rents, and premiums (including deposits and assessments) is over $75,000 and less than $125,000. The adjustment reduces the tax otherwise computed under those sections to an amount which bears the same proportion to such tax as the excess over $75,000 bears to $50,000.

(c) *Application.* The application of sections 821 (a) to (c) inclusive, may be illustrated by the following examples:

Example (1). The W Company, a mutual casualty insurance company, for the calendar year 1954, has mutual insurance company taxable income for purposes of the surtax of $5,500 and, due to partially tax-exempt interest of $800, has income for purposes of the normal tax of $4,700. The gross amount of income of the W Company from interest, dividends, rents and net premiums, minus dividends to policyholders and wholly tax-exempt interest, is $150,000. Its normal tax under section 821 (a) (1) for the calendar year 1954 is 60 percent of $1,700 ($4,700 minus $3,000) or $1,020, since its income subject to normal tax is not over $6,000. It is not liable for surtax for the calendar year 1954 as its mutual insurance company taxable income for purposes of the surtax does not exceed $25,000. It has no surtax and, therefore, its total tax under section 821 (a) (1) (A) is the normal tax of $1,020. The tax under section 821 (a) (2) is 2 percent of $75,000 ($150,000—$75,000), or $1,500. Since the tax under section 821 (a) (2) exceeds the tax under section 821 (a) (1), the tax under section 821 is $1,500, namely, that imposed by section 821 (a) (2).

Example (2). If in the above example the income for purposes of the normal tax were not over $3,000, the income for purposes of the surtax were not over $25,000, the gross amount received from interest, dividends, rents, and premiums (including deposits and assessments) were $90,000, and the gross amount of income from interest, dividends, rents, and net premiums, minus dividends to policyholders and wholly tax-exempt interest, were $70,000, the W Company would be required to file an income tax return but due to section 821 (a) no income tax would be imposed.

Example (3). The X Company, a mutual casualty insurance company, for the calendar year 1954 has mutual insurance company taxable income for surtax purposes of $28,000 and, due to partially tax-exempt interest of $5,000, has income for normal tax purposes of $23,000. The gross amount of income of the X Company from interest, dividends, rents, and net premiums, minus dividends to policyholders and wholly tax-exempt interest, is $1,200,000. Under section 821 (a) (1) its normal tax for the calendar year 1954 is 30 percent of $23,000, or $6,900, and the surtax is 22 percent of $3,000 ($28,000—$25,000), or $660. The combined tax under section 821 (a) (1) is $7,560 ($6,900 plus $660). The tax under section 821 (a) (2) is 1 percent of $1,200,000, or $12,000. Since the tax under section 821 (a) (2) exceeds the tax under section 821 (a) (1), the tax under section 821 (a) is $12,000, namely, that imposed by section 821 (a) (2).

Example (4). The Y Company, a mutual fire insurance company subject to the tax imposed by section 821 for the calendar year 1954, has mutual insurance company taxable income for purposes of the surtax of $35,000 and, due to partially tax-exempt interest of $5,000, has income for purposes of the normal tax of $30,000. The gross amount received from interest, dividends, rents and premiums (including deposits and assessments) is $120,000, and the gross amount of income from interest, dividends, rents, and net premiums, minus dividends to policyholders and wholly tax-exempt interest, is $100,000. Under section 821 (a) (1), without application of section 821 (c), the normal tax would be 30 percent of $30,000, or $9,000, since this is less than $16,200, 60 percent of $27,000 (excess of $30,000 over $3,000); and the surtax would be 22 percent of $10,000 (excess of $35,000 over $25,000), or $2,200. The combined tax of $11,200 ($9,000 plus $2,200) would then be reduced by applying section 821 (c), since the gross receipts are between $75,000 and $125,000. The tax under section 821 (a) (1), as thus adjusted, would be 90 percent of $11,200, or $10,080, since $45,000 (excess of $120,000 over $75,000) is 90 percent of $50,000. Under section 821 (a) (2), without reference to section 821 (c), the tax is 2 percent of $25,000 (excess of $100,000 over $75,000), or $500, since this is less than $1,000, 1 percent of $100,000. Applying section 821 (c) reduces this to $450, or 90 percent of $500. Since $10,080, the tax under section 821 (a) (1), as adjusted, exceeds $450, the tax under section 821 (a) (2), as adjusted, the tax under section 821 (a) (1), as adjusted, is applicable. The Y Company would accordingly pay a combined normal tax and surtax of $10,080.

Example (5). The Z Exchange, an interinsurer, for the calendar year 1954 has mutual insurance company taxable income for purposes of the surtax of $60,000 and, due to partially tax-exempt interest of $12,000, has income for purposes of the normal tax of $48,000. The gross amount received from interest, dividends, rents, and premiums (including deposits and assessments) is $2,700,-

000. The Z Exchange is not liable for normal tax under section 821 (b) (1) for the calendar year 1954 as its mutual insurance company taxable income for purposes of the normal tax does not exceed $50,000. Its surtax is 33 percent of $10,000 ($60,000 minus $50,000), or $3,300, since that amount is less than $7,700, 22 percent of $35,000 (excess of $60,000 over $25,000). Since the Z Exchange has no normal tax, is not subject to the tax imposed by section 821 (a) (2), and is not entitled to the adjustment provided in section 821 (c), its total tax under section 821 (a) is $3,300.

§ 1.822 *Statutory provisions; determination of mutual insurance company taxable income.*

SEC. 822. *Determination of mutual insurance company taxable income*—(a) *Definition.* For purposes of section 821, the term "mutual insurance company taxable income" means the gross investment income minus the deductions provided in subsection (c).

(b) *Gross investment income.* For purposes of subsection (a), the term "gross investment income" means the gross amount of income during the taxable year from interest, dividends, rents, and gains from sales or exchanges of capital assets to the extent provided in subchapter P (sec. 1201 and following, relating to capital gains and losses).

(c) *Deductions.* In computing mutual insurance company taxable income, the following deductions shall be allowed:

(1) *Tax-free interest.* The amount of interest which under section 103 is excluded for the taxable year from gross income.

(2) *Investment expenses.* Investment expenses paid or accrued during the taxable year. If any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed one-fourth of 1 percent of the mean of the book value of the invested assets held at the beginning and end of the taxable year plus one-fourth of the amount by which mutual insurance company taxable income (computed without any deduction for investment expenses allowed by this paragraph, for tax-free interest allowed by paragraph (1), or for partially tax-exempt interest and dividends received allowed by paragraph (7)), exceeds 3¾ percent of the book value of the mean of the invested assets held at the beginning and end of the taxable year.

(3) *Real estate expenses.* Taxes and other expenses paid or accrued during the taxable year exclusively on or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed on a shareholder of a company on his interest as shareholder, which are paid or accrued by the company without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes.

(4) *Depreciation.* The depreciation deduction allowed by section 167.

(5) *Interest paid or accrued.* All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest on which is wholly exempt from taxation under this subtitle.

(6) *Capital losses.* Capital losses to the extent provided in subchapter P (sec. 1201 and following) plus losses from capital assets sold or exchanged in order to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders. Capital assets shall be considered as sold or exchanged in order to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders to the extent that the gross receipts from their sale or exchange are not greater than the excess, if any, for the taxable year of the sum of dividends and similar distributions paid to policyholders, losses paid, and expenses paid over the sum of interest, dividends, rents, and net premiums received. In the application of section 1211 for purposes of this section, the net capital loss for the taxable year shall be the amount by which losses for such year from sales or exchanges of capital assets exceeds the sum of the gains from such sales or exchanges and whichever of the following amounts is the lesser;

(A) The mutual insurance company taxable income (computed without regard to gains or losses from sales or exchanges of capital assets or to the deduction provided in section 242 for partially tax-exempt interest); or

(B) Losses from the sale or exchange of capital assets sold or exchanged to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders.

(7) *Special deductions.* The special deductions allowed by part VIII (except section 248) of subchapter B (sec. 241 and following, relating to partially tax-exempt interest and to dividends received).

(d) *Other applicable rules*—(1) *Rental value of real estate.* The deduction under subsection (c) (3) or (4) on account of any real estate owned and occupied in whole or in part by a mutual insurance company subject to the tax imposed by section 821 shall be limited to an amount which bears the same ratio to such deductions (computed without regard to this paragraph) as the rental value of the space not so occupied bears to the rental value of the entire property.

(2) *Amortization of premium and accrual of discount.* The gross amount of income during the taxable year from interest, the deduction provided in subsection (c) (1), and the deduction allowed by section 242 (relating to partially tax-exempt interest) shall each be decreased to reflect the appropriate amortization of premium and increased to reflect the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a mutual insurance company subject to the tax imposed by section 821. Such amortization and accrual shall be determined—

(A) In accordance with the method regularly employed by such company, if such method is reasonable, and

(B) In all other cases, in accordance with regulations prescribed by the Secretary or his delegate.

(3) *Double deductions.* Nothing in this part shall permit the same item to be deducted more than once.

(e) *Foreign mutual insurance companies other than life or marine.* In the case of a foreign mutual insurance company (other than a life or marine insurance company or a fire insurance company subject to the tax imposed by section 831), the mutual insurance company taxable income shall be the taxable income from sources within the United States (computed without regard to the deductions allowed by subsection (c) (7)), and the gross amount of income from the interest, dividends, rents, and net premiums shall be the amount of such income from sources within the United States. In the case of a company to which the preceding sentence applies, the deductions allowed in this section shall be allowed to the extent provided in subpart B of part II of subchapter N (sec. 881 and following) in the case of a foreign corporation engaged in trade or business within the United States.

§ 1.822–1 *Taxable income and deductions*—(a) *In general.* The taxable income of a mutual insurance company subject to the tax imposed by section 821 is its gross investment income, namely, the gross amount of income during the taxable year from interest, dividends, rents, and gains from sales or exchanges of capital assets, less the deductions provided in section 822 (c) for wholly tax-exempt interest, investment expenses, real estate expenses, depreciation, interest paid or accrued, capital losses to the extent provided in subchapter P (sec. 1201 and following), and the special deductions provided in part VIII of subchapter B (except section 248). In addition to the limitations on deductions relating to real estate owned and occupied by a mutual insurance company subject to the tax imposed by section 821 provided in section 822 (d) (1), the adjustment for amortization of premium and accrual of discount provided in section 822 (d) (2), and the limitation on the deduction for investment expenses where general expenses are allocated to investment income provided in section 822 (c) (2), mutual insurance companies subject to the tax imposed by section 821 are subject to the limitation on deductions relating to wholly tax-exempt income provided in section 265. Such companies are not entitled to the net operating loss deduction provided in section 172.

(b) *Wholly tax-exempt interest.* Interest which in the case of other taxpayers is excluded from gross income by section 103 but included in the gross investment income by section 822 (b) is allowed as a deduction from gross investment income by section 822 (c) (1).

(c) *Investment expenses.* The deduction allowed by section 822 (c) (2) for investment expenses is the same as that allowed life insurance companies by section 803 (g) (2). See § 1.803–4 (c).

(d) *Taxes and expenses with respect to real estate.* The deduction allowed by section 822 (c) (3) for taxes and expenses with respect to real estate owned by the company is the same as that allowed life insurance companies by section 803 (g) (3). See § 1.803–4 (d).

(e) *Depreciation.* The deduction allowed by section 822 (c) (4) for depreciation is the same as that allowed life insurance companies by section 803 (g) (4). See § 1.803–4 (e).

(f) *Interest paid or accrued.* The deduction allowed by section 822 (c) (5) for interest on indebtedness is the same as that allowed other corporations by section 163. See § 1.163–1.

(g) *Capital losses.* (1) The deduction for capital losses under section 822 (c) (6) includes not only capital losses to the extent provided in subchapter P but in addition thereto losses from capital assets sold or exchanged to provide funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders. Losses in the latter case may be deducted from ordinary income while the deduction for losses under subchap-

ter P is limited to the gains. See section 1211.

(2) Capital assets are considered as sold or exchanged to provide for the funds or payments specified in section 822 (c) (6), to the extent that the gross receipts from the sale or exchange of such assets are not greater than the excess, if any, for the taxable year of the sum of dividends and similar distributions paid to policyholders, and losses and expense paid over the sum of interest, dividends, rents, and net premiums received. If, by reason of a particular sale or exchange of a capital asset, gross receipts are greater than such excess, the gross receipts and the resulting loss should be apportioned and the excess included in capital losses subject to the provisions of subchapter P. Capital losses actually used to reduce net income in any taxable year may not again be used in a succeeding taxable year as an offset against capital gains in that year and for that purpose a special rule is set forth for the application of section 1212.

(3) The application of section 822 (c) (6) may be illustrated by the following examples:

Example (1). The X Company, a mutual fire insurance company subject to the tax imposed by section 821, in the taxable year 1954 sells capital assets in order to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders. The gross receipts from the sale are $60,000, resulting in losses of $20,000. It pays dividends to policyholders of $150,000. It sustains losses of $25,000, and pays expenses of $25,000. It receives interest of $50,000, dividends of $5,000, rents of $4,000, and net premiums of $66,000. The excess of the sum of dividends, losses, and expenses paid ($200,000) over the sum of interest, dividends, rents, and net premiums received ($125,000) is $75,000. As the gross receipts from the sale of capital assets ($60,000) do not exceed such excess ($75,000), the losses of $20,000 are allowable as a deduction from gross investment income.

Example (2). If in the above example the gross receipts were $76,000 and the last capital asset sold, for the purpose therein specified, resulted in gross receipts of $2,000 and a loss of $500, the losses allowable as a deduction from gross investment income would be $19,750. The last sale made the gross receipts of $76,000 exceed by $1,000 the excess ($75,000) of the sum of dividends, losses, and expenses paid ($200,000) over the sum of interest, dividends, rents, and net premiums received ($125,000). The gross receipts and the resulting loss from the last sale are apportioned on the basis of the ratio of the excess of $1,000 to the gross receipts of $2,000, or 50 percent. Fifty percent of the loss of $500 is deducted from the total loss of $20,000. The remaining gross receipts of $1,000 and the proportionate loss of $250 should be reported as capital losses under subchapter P.

Example (3). If in example (1) the X Company had mutual insurance company taxable income for purposes of the surtax of $9,750 and, under the provisions of subchapter P, had capital losses of $18,000 and capital gains of $10,000, the net capital loss for the taxable year 1954, in applying section 1212 for the purposes of section 822 (c) (6), would be $8,000. This is determined by subtracting from total losses of $38,000 ($18,000 capital losses under subchapter P plus $20,000 other capital losses under section 822 (c) (6)) the sum of capital gains of $10,000 and losses from the sale or exchange of capital assets sold or exchanged to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders of $20,000. Such losses of $20,000 are added to capital gains of $10,000, since they are less than taxable income for purposes of the surtax, computed without regard to gains or losses from sales or exchanges of capital assets, of $29,750 ($9,750 taxable income for purposes of the surtax plus $20,000 other capital losses under section 822 (c) (6) plus the portion of capital losses allowable under subchapter P of $10,000 minus capital gains under subchapter P of $10,000).

(h) *Special deductions.* Section 822 (c) (7) allows a mutual insurance company the special deductions provided by part VIII (except section 248) of subchapter B (sec. 241 and following, relating to partially tax-exempt interest and to dividends received).

§ 1.822–2 *Real estate owned and occupied.* The limitation in section 822 (d) (1) on the amount allowable as a deduction for taxes, expenses, and depreciation upon or with respect to any real estate owned and occupied in whole or in part by a mutual insurance company subject to the tax imposed by section 821 is the same as that provided in the case of life insurance companies by section 803 (h). See § 1.803–5.

§ 1.822–3 *Amortization of premium and accrual of discount.* Section 822 (d) (2) makes provision for the appropriate amortization of premium and the appropriate accrual of discount, attributable to the taxable year, on bonds, notes, debentures or other evidences of indebtedness held by a mutual insurance company subject to the tax imposed by section 821. Such amortization and accrual is the same as that provided for life insurance companies by section 803 (i) and shall be determined in accordance with § 1.803–6, except that in determining the premium and discount of a mutual insurance company subject to the tax imposed by section 821 the basis provided in section 1012 shall be used in lieu of the acquisition value.

§ 1.823 *Statutory provisions; other definitions.*

SEC. 823. *Other definitions.* For purposes of this part—

(1) *Net premiums.* The term "net premiums" means gross premiums (including deposits and assessments) written or received on insurance contracts during the taxable year less return premiums and premiums paid or incurred for reinsurance. Amounts returned where the amount is not fixed in the insurance contract but depends on the experience of the company or the discretion of the management shall not be included in return premiums but shall be treated as dividends to policyholders under paragraph (2).

(2) *Dividends to policyholders.* The term "dividends to policyholders" means dividends and similar distributions paid or declared to policyholders. For purposes of the preceding sentence, the term "paid or declared" shall be construed according to the method regularly employed in keeping the books of the insurance company.

§ 1.823–1 *Net premiums.* Net premiums are one of the items used, together with interest, dividends, and rents, less dividends to policyholders and wholly tax-exempt interest, in determining tax liability under section 821 (a) (2). They are also used in section 822 (c) (6) in determining the limitation on certain capital losses and in the application of section 1212. The term "net premiums" is defined in section 823 (1) and includes deposits and assessments, but excludes amounts returned to policyholders which are treated as dividends under section 823 (2).

§ 1.823–2 *Dividends to policyholders.* (a) Dividends to policyholders is one of the deductions used, together with wholly tax-exempt interest, in determining tax liability under section 821 (a) (2). They are also used in section 822 (c) (6) in determining the limitation on certain capital losses and in the application of section 1212. The term "dividends to policyholders" is defined in section 823 (2) as dividends and similar distributions paid or declared to policyholders. It includes amounts returned to policyholders where the amount is not fixed in the insurance contract but depends upon the experience of the company or the discretion of the management. Such amounts are not to be treated as return premiums under section 823 (1). Similar distributions include such payments as the so-called unabsorbed premium deposits returned to policyholders by factory mutual fire insurance companies. The term "paid or declared" is to be construed according to the method of accounting regularly employed in keeping the books of the insurance company, and such method shall be consistently followed with respect to all deductions (including dividends and similar distributions to policyholders) and all items of income.

(b) If the method of accounting so employed is the cash receipts and disbursements method, the deduction is limited to the dividends and similar distributions actually paid to policyholders in the taxable year. If, on the other hand, the method of accounting so employed is the accrual method, the deduction, or a reasonably accurate estimate thereof, for dividends and similar distributions declared to policyholders for any taxable year will, in general, be computed as follows:

To dividends and similar distributions paid during the taxable year add the amount of dividends and similar distributions declared but unpaid at the end of the taxable year and deduct dividends and similar distributions declared but unpaid at the beginning of the taxable year.

If an insurance company using the accrual method does not compute the deduction for dividends and similar distributions declared to policyholders in the manner stated, it must submit with its return a full and complete explanation of the manner in which the deduction is computed. For the rule as to when dividends are considered paid, see the regulations under section 561.

OTHER INSURANCE COMPANIES

§ 1.831 *Statutory provisions; tax on insurance companies (other than life or mutual), mutual marine insurance companies, and mutual fire insurance companies issuing perpetual policies.*

SEC. 831. *Tax on insurance companies (other than life or mutual), mutual marine*

insurance companies, and mutual fire insurance companies issuing perpetual policies—(a) *Imposition of tax.* Taxes computed as provided in section 11 shall be imposed for each taxable year on the taxable income of every insurance company (other than a life or mutual insurance company), every mutual marine insurance company, and every mutual fire insurance company exclusively issuing either perpetual policies or policies for which the sole premium charged is a single deposit which (except for such deduction of underwriting costs as may be provided) is refundable on cancellation or expiration of the policy.

(b) *No United States insurance business.* Foreign insurance companies (other than a life or mutual insurance company), foreign mutual marine insurance companies, and foreign mutual fire insurance companies described in subsection (a), not carrying on an insurance business within the United States, shall not be subject to this part but shall be taxable as other foreign corporations.

(c) *Alternative tax on capital gains.* For alternative tax in case of capital gains, see section 1201 (a).

§ 1.831–1 *Tax on insurance companies (other than life or mutual), mutual marine insurance companies, and mutual fire insurance companies issuing perpetual policies.* (a) All insurance companies, other than life or mutual or foreign insurance companies not carrying on an insurance business within the United States, and all mutual marine insurance companies and mutual fire insurance companies exclusively issuing either perpetual policies, or policies for which the sole premium charged is a single deposit which, except for such deduction of underwriting costs as may be provided, is refundable upon cancellation or expiration of the policy, are subject to the tax imposed by section 831. As used in this section and §§ 1.832–1 and 1.832–2, the term "insurance companies" means only those companies which qualify as insurance companies under the definition provided by § 1.801–1 (b) and which are subject to the tax imposed by section 831.

(b) All provisions of the Internal Revenue Code and of these regulations not inconsistent with the specific provisions of section 831 are applicable to the assessment and collection of the tax imposed by section 831 (a), and insurance companies are subject to the same penalties as are provided in the case of returns and payment of income tax by other corporations.

(c) Since section 832 provides that the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners shall be the basis for computing gross income and since the annual statement is rendered on the calendar year basis, the returns under section 831 shall be made on the basis of the calendar year and shall be on Form 1120. Insurance companies are entitled, in computing insurance company taxable income, to the deductions provided in part VIII of subchapter B.

(d) Foreign insurance companies not carrying on an insurance business within the United States are not taxable under section 831 but are taxable as other foreign corporations. See section 881.

(e) Insurance companies are subject to both normal tax and surtax. The normal tax shall be computed as provided in section 11 (b) and the surtax shall be computed as provided in section 11 (c). For the circumstances under which the $25,000 exemption from surtax for certain taxable years may be disallowed in whole or in part, see section 1551. For alternative tax where the net long-term capital gain for any taxable year exceeds the net short-term capital loss, see section 1201 (a) and the regulations thereunder.

§ 1.832 *Statutory provisions; insurance company taxable income.*

SEC. 832. *Insurance company taxable income*—(a) *Definition of taxable income.* In the case of an insurance company subject to the tax imposed by section 831, the term "taxable income" means the gross income as defined in subsection (b) (1) less the deductions allowed by subsection (c).

(b) *Definitions.* In the case of an insurance company subject to the tax imposed by section 831—

(1) *Gross income.* The term "gross income" means the sum of—

(A) The combined gross amount earned during the taxable year, from investment income and from underwriting income as provided in this subsection, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners.

(B) Gain during the taxable year from the sale or other disposition of property, and

(C) All other items constituting gross income under subchapter B, except that, in the case of a mutual fire insurance company described in section 831 (a), the amount of single deposit premiums paid to such company shall not be included in gross income.

(2) *Investment income.* The term "investment income" means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows: To all interest, dividends, and rents received during the taxable year, add interest, dividends, and rents due and accrued at the end of the taxable year, and deduct all interest, dividends, and rents due and accrued at the end of the preceding taxable year.

(3) *Underwriting income.* The term "underwriting income" means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred.

(4) *Premiums earned.* The term "premiums earned on insurance contracts during the taxable year" means an amount computed as follows:

(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance.

(B) To the result so obtained, add unearned premiums on outstanding business at the end of the preceding taxable year and deduct unearned premiums on outstanding business at the end of the taxable year.

For purposes of this subsection, unearned premiums shall include life insurance reserves, as defined in section 806, pertaining to the life, burial, or funeral insurance, or annuity business of an insurance company subject to the tax imposed by section 831 and not qualifying as a life insurance company under section 801.

(5) *Losses incurred.* The term "losses incurred" means losses incurred during the taxable year on insurance contracts, computed as follows:

(A) To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year.

(B) To the result so obtained, add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year.

(6) *Expenses incurred.* The term "expenses incurred" means all expenses shown on the annual statement approved by the National Convention of Insurance Commissioners, and shall be computed as follows: To all expenses paid during the taxable year, add expenses unpaid at the end of the taxable year and deduct expenses unpaid at the end of the preceding taxable year. For the purpose of computing the taxable income subject to the tax imposed by section 831, there shall be deducted from the expenses incurred (as defined in this paragraph) all expenses incurred which are not allowed as deductions by subsection (c).

(c) *Deductions allowed.* In computing the taxable income of an insurance company subject to the tax imposed by section 831, there shall be allowed as deductions:

(1) All ordinary and necessary expenses incurred, as provided in section 162 (relating to trade or business expenses);

(2) All interest, as provided in section 163;

(3) Taxes, as provided in section 164;

(4) Losses incurred, as defined in subsection (b) (5) of this section;

(5) Capital losses to the extent provided in subchapter P (sec. 1201 and following, relating to capital gains and losses) plus losses from capital assets sold or exchanged in order to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders. Capital assets shall be considered as sold or exchanged in order to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders to the extent that the gross receipts from their sale or exchange are not greater than the excess, if any, for the taxable year of the sum of dividends and similar distributions paid to policyholders in their capacity as such, losses paid, and expenses paid over the sum of interest, dividends, rents, and net premiums received. In the application of section 1211 for purposes of this section, the net capital loss for the taxable year shall be the amount by which losses for such year from sales or exchanges of capital assets exceeds the sum of the gains from such sales or exchanges and whichever of the following amounts is the lesser:

(A) The taxable income (computed without regard to gains or losses from sales or exchanges of capital assets or to the deductions provided in section 242 for partially tax-exempt interest); or

(B) Losses from the sale or exchange of capital assets sold or exchanged to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders;

(6) Debts in the nature of agency balances and bills receivable which become worthless within the taxable year;

(7) The amount of interest earned during the taxable year which under section 103 is excluded from gross income;

(8) The depreciation deduction allowed by section 167;

(9) Charitable, etc., contributions, as provided in section 170;

(10) Deductions (other than those specified in this subsection) as provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions for individuals and corporations);

(11) Dividends and similar distributions paid or declared to policyholders in their capacity as such, except in the case of a mutual fire insurance company described in section 831 (a). For purposes of the preceding sentence, the term "paid or declared" shall be construed according to the method of ac-

counting regularly employed in keeping the books of the insurance company; and

(12) The special deductions allowed by part VIII of subchapter B (sec. 241 and following, relating to partially tax-exempt interest and to dividends received).

(d) *Taxable income of foreign insurance companies other than life or mutual and foreign mutual marine.* In the case of a foreign insurance company (other than a life or mutual insurance company), a foreign mutual marine insurance company, and a foreign mutual fire insurance company described in section 831 (a), the taxable income shall be the taxable income from sources within the United States. In the case of a company to which the preceding sentence applies, the deductions allowed in this section shall be allowed to the extent provided in subpart B of part II of subchapter N (sec. 881 and following) in the case of a foreign corporation engaged in trade or business within the United States.

(e) *Double deductions.* Nothing in this section shall permit the same item to be deducted more than once.

§ 1.832–1 *Gross income.* (a) Gross income as defined in section 832 (b) (1) means the gross amount of income earned during the taxable year from interest, dividends, rents, and premium income, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners, as well as the gain derived from the sale or other disposition of property, and all other items constituting gross income under section 61, except that in the case of a mutual fire insurance company described in § 1.831–1 the amount of single deposit premiums received, but not assessments, shall be excluded from gross income. Gross income does not include increase in liabilities during the year on account of reinsurance treaties, remittances from the home office of a foreign insurance company to the United States branch, borrowed money, or gross increase due to adjustments in book value of capital assets. The underwriting and investment exhibit is presumed to reflect the true net income of the company, and insofar as it is not inconsistent with the provisions of the Internal Revenue Code will be recognized and used as a basis for that purpose. All items of the exhibit, however, do not reflect an insurance company's income as defined in the Code. By reason of the definition of investment income, miscellaneous items which are intended to reflect surplus but do not properly enter into the computation of income, such as dividends declared to shareholders in their capacity as such, home office remittances and receipts, and special deposits, are ignored. Gain or loss from agency balances and bills receivable not admitted as assets on the underwriting and investment exhibit will be ignored, excepting only such agency balances and bills receivable as have been allowed as deductions for worthless debts or, having been previously so allowed, are recovered during the taxable year. In computing "premiums earned on insurance contracts during the taxable year" the amount of the unearned premiums shall include (1) life insurance reserves as defined in section 803 (b) and § 1.803–1 pertaining to the life, burial, or funeral insurance, or annuity business of an insurance company subject to the tax imposed by section 831 and not qualifying as a life insurance company under section 801, and (2) liability for return premiums under a rate credit or retrospective rating plan based on experience, such as the "War Department Insurance Rating Plan," and which return premiums are therefore not earned premiums. In computing "losses incurred" the determination of unpaid losses at the close of each year must represent actual unpaid losses as nearly as it is possible to ascertain them.

(b) Every insurance company to which this section applies must be prepared to establish to the satisfaction of the district director that the part of the deduction for "losses incurred" which represents unpaid losses at the close of the taxable year comprises only actual unpaid losses stated in amounts which, based upon the facts in each case and the company's experience with similar cases, can be said to represent a fair and reasonable estimate of the amount the company will be required to pay. Amounts included in, or added to, the estimates of such losses which, in the opinion of the district director are in excess of the actual liability determined as provided in the preceding sentence will be disallowed as a deduction. The district director may require any such insurance company to submit such detailed information with respect to its actual experience as is deemed necessary to establish the reasonableness of the deduction for "losses incurred."

(c) That part of the deduction for "losses incurred" which represents an adjustment to losses paid for salvage and reinsurance recoverable shall, except as hereinafter provided, include all salvage in course of liquidation, and all reinsurance in process of collection not otherwise taken into account as a reduction of losses paid, outstanding at the end of the taxable year. Salvage in course of liquidation includes all property (other than cash), real or personal, tangible or intangible, except that which may not be included by reason of express statutory provisions (or rules and regulations of an insurance department) of any State or Territory or the District of Columbia in which the company transacts business. Such salvage in course of liquidation shall be taken into account to the extent of the value thereof at the end of the taxable year as determined from a fair and reasonable estimate based upon either the facts in each case or the company's experience with similar cases. Cash received during the taxable year with respect to items of salvage or reinsurance shall be taken into account in computing losses paid during such taxable year.

§ 1.832–2 *Deductions.* (a) The deductions allowable are specified in section 832 (c) and by reason of the provisions of section 832 (c) (10) and (12) include in addition certain deductions provided in sections 161, 241 and following. The deductions, however, are subject to the limitation provided in section 265, relating to expenses and interest in respect of tax-exempt income. The net operating loss deduction is computed under section 172 and the regulations thereunder. For the purposes of section 172, relating to net operating loss deduction, "gross income" shall mean gross income as defined in section 832 (b) (1) and the allowable deductions shall be those allowed by section 832 (c) with the exceptions and limitations set forth in section 172 (d). In addition to the deduction for capital losses provided in subchapter P (section 1201 and following), insurance companies are allowed a deduction for losses from capital assets sold or exchanged in order to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders. A special rule is provided for the application of the 5-year capital loss carryover provisions of section 1212. The deduction is the same as that allowed mutual insurance ocmpanies subject to the tax imposed by section 821; see section 822 (c) (6) and the regulations thereunder. Insurance companies, other than mutual fire insurance companies described in § 1.831–1, are also allowed a deduction for dividends and similar distributions paid or declared to policyholders in their capacity as such. The deduction is otherwise the same as that allowed mutual insurance companies subject to the tax imposed by section 821; see section 823 (2) and the regulations thereunder.

(b) Among the items which may not be deducted are income and profits taxes imposed by the United States, income and profits taxes imposed by any foreign country or possession of the United States (in cases where the company chooses to claim to any extent a credit for such taxes), taxes assessed against local benefits, decrease during the year due to adjustments in the book value of capital assets, decrease in liabilities during the year on account of reinsurance treaties, dividends paid to shareholders in their capacity as such, remittances to the home office of a foreign insurance company by the United States branch, and borrowed money repaid.

(c) In computing taxable income of insurance companies, losses sustained during the taxable year from the sale or other disposition of property are deductible subject to the limitation contained in section 1211. Insurance companies are entitled to the alternative taxes provided in section 1201.

PROVISIONS OF GENERAL APPLICATION

§ 1.841 *Statutory provisions; credit for foreign taxes.*

SEC. 841. *Credit for foreign taxes.* The taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of a domestic insurance company subject to the tax imposed by section 802, 821, or 831, to the extent provided in the case of a domestic corporation in section 901 (relating to foreign tax credit). For purposes of the preceding sentence, the term "taxable income" as used in section 904 means—

(1) In the case of the tax imposed by section 802, the taxable income (as defined in section 803 (g)).

(2) In the case of the tax imposed by section 831, the taxable income (as defined in section 832 (a)).

§ 1.842 *Statutory provisions; computation of gross income.*

SEC. 842. *Computation of gross income.* The gross income of insurance companies subject to the tax imposed by section 802 or 831 shall not be determined in the manner provided in part I of subchapter N (relating to determination of sources of income).

[F. R. Doc. 56-434; Filed, Jan. 18, 1956; 8:53 a. m.]

[26 CFR (1954) Part 225]

WAREHOUSING OF DISTILLED SPIRITS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] PAUL K. WEBSTER,
Acting Commissioner of Internal Revenue.

In order to provide for the consolidation of packages of spirits distilled at 190 degrees of proof or more from the same class of materials by the same distiller at the same distillery and stored in the same kind of cooperage under approximately the same conditions and which are otherwise homogeneous, 26 CFR (1954) Part 225, is hereby amended as follows:

PARAGRAPH 1. Section 225.400 is amended by changing the semicolon at the end of paragraph (c) to a comma and adding the following, "or in consolidated packages filled in accordance with §§ 225.417a to 225.417g;".

PAR. 2. By inserting, immediately after § 225.417, the following new undesignated center head and sections:

CONSOLIDATION OF PACKAGES

§ 225.417a *Authorized consolidation.* Spirits distilled at 190 degrees of proof or more, whether or not such proof is subsequently reduced, from the same class of materials, by the same distiller at the same distillery, and differing in age (a) not more than 6 months in the case of spirits more than 2 years of age, (b) not more than 60 days in the case of spirits more than 1 year and not more than 2 years of age, or (c) not more than 30 days in the case of spirits 1 year of age or less, and stored in the same kind of cooperage under approximately the same conditions will be presumed to be homogeneous, and may, with the prior approval of the storekeeper-gauger in charge, be consolidated or combined in accordance with the provisions of this subpart. Such spirits may be repackaged in as many of the same packages or other packages of the same kind of cooperage as may be necessary.

§ 225.417b *Equipment for consolidation of packages.* The proprietor of an internal revenue bonded warehouse who desires to consolidate spirits must provide suitable space for the dumping of the packages containing the spirits to be consolidated, repackaging of such spirits, and the gauging of the consolidated packages. Tanks of adequate capacity, constructed in accordance with the provisions of § 225.111, shall be provided. If bulk gauging tanks or storage tanks have been provided, such tanks may be utilized in lieu of installing separate consolidation tanks. The facilities to be used must be so arranged and the work so performed that supervision by storekeeper-gaugers can be performed readily and expeditiously and unnecessary loss or wastage of spirits or unauthorized commingling will be prevented.

§ 225.417c *Application for consolidation of spirits.* When it is desired to consolidate spirits contained in packages, application for such consolidation must be made to the storekeeper-gauger in charge by the proprietor of the warehouse. The application must be submitted, in triplicate, and shall identify the serial numbers of the packages, the total tax gallons (original or last official gauge) for all such packages, kind of original cooperage, class of materials from which produced, name of the producing distiller, and registry number and location (city or town, and State) of the distillery, the dates on which it is desired to conduct such operations, and the purpose therefor. Each application shall be given a serial number, beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. In addition, where the warehouseman desires to subsequently taxpay the spirits on the original gauge of the consolidated packages he shall note on all copies of the application, "Taxpay on original gauge". Storekeeper-gaugers in charge will approve the application only where suitable space and equipment are available and internal revenue officers are available for necessary supervision. If the storekeeper-gauger approves the application he will return one copy marked "Approved" to the proprietor, and retain the remaining two copies.

§ 225.417d *Dumping and guaging.* Upon removal of the packages, authorized by the approved application, to that portion of the warehouse where the spirits are to be consolidated, the storekeeper-gauger will examine the packages. Any package bearing evidence of unusual loss that cannot be satisfactorily explained, or of tampering, shall be detained pending further investigation in accordance with the applicable provisions of §§ 225.480 to 225.495. Packages which do not bear such evidence will be promptly dumped. All packages must be thoroughly drained and if any of the packages are not to be refilled as consolidated packages such packages must be thoroughly rinsed and the rinse water poured on the ground or into the sewer or used in reducing the spirits in the tank. Immediately upon being emptied all marks and brands must be obliterated from the packages and the packages removed from the warehouse: *Provided*, That, if any such packages are to be used for containers for consolidated spirits, so many as are required for that purpose may be retained and the name, location, and registry number of the producing distiller; the designation of the kind of cooperage; the proof of distillation; the kind of spirits; and the date of original filling, if all the spirits mingled were entered for deposit on the same date, may be left intact thereon. Spirits in the consolidation tank shall be thoroughly agitated and adjusted to a whole degreee of proof by the proprietor: *Provided*, That such adjustment will not be required when the packages are to be regauged prior to taxpayment. Where the proof of spirits is not adjusted to a whole degree, the proof shall be determined to the nearest tenth but shall be rounded to a whole degree in accordance with Part 186 of this title and so recorded. The storekeeper-gauger shall then verify the proof, see that all openings in the tank are locked, determine (volume or weight) the quantity of spirits in the tank and report the details of the gauge on all copies of the application.

§ 225.417e *Filling and gauging consolidated packages.* When the spirits are to be drawn from the tank the storekeeper-gauger shall see that all valves and openings other than the necessary outlet valves are closed and locked. All spirits drawn into packages will be carefully gauged by the warehouseman, under the general supervision of the storekeeper-gauger, and the details thereof will be entered by the warehouseman on Form 1520, in triplicate: *Provided*, That where the warehouseman has indicated on his application that the consolidated packages are to be taxpaid on the original gauge the storekeeper-gauger shall make such gauge and report the details thereof on Form 1520, noting on Form 1520, "Taxpay on original gauge". There shall be noted on Form 1520 the date of the original entry for deposit of the oldest spirits mingled in the tank. The composite proof determined in the tank shall be used for the consolidated packages. Weights shall be determined in pounds and one-half pounds. Where the gauge of the packages is performed and reported by the warehouseman the storekeeper-gauger shall, from time to time, verify the tares, gross weights, and tax gallonages. Where the storekeeper-gauger finds significant discrepancies in the warehouseman's report of gauge, or the marks and brands required to be placed on any container, the warehouseman shall make such corrections as may be required by the storekeeper-gauger. Tanks must be completely emptied before the inlets thereto may be unlocked. Where a remnant package results because of insufficient spirits remaining in the tank to fill the last package, such package shall be gauged and marked in

the same manner as the other consolidated packages. Remnant packages may be consolidated in accordance with the provisions of § 225.417a. Losses of spirits resulting from the repackaging operation shall be reported by the storekeeper-gauger on the application by indicating the difference between the total quantity dumped in the tank and the total quantity repackaged. Upon completion of the gauging of the packages and the preparation of the gauge forms, one copy of the approved application and one copy of the Form 1520 covering the details of the repackaging will be forwarded to the assistant regional commissioner by the storekeeper-gauger, one copy of each will be retained by the proprietor, and one copy of each will be placed in the appropriate file in the Government office.

§ 225.417f *Numbering, marking and branding of consolidated packages.* All consolidated packages shall be serially numbered, separately from packages filled at the distillery, from storage tanks in the bonded warehouse, or from brandy-blending tanks in the bonded warehouse, beginning with the number "1," preceded by the letters "CP" (Consolidated Package) and the registry number and State identifiyng the warehouse, as CP–12–Ind.–1, etc. The symbol "CP" together with the registry number and State shall be considered a part of the serial number and must be shown on all official forms and records. The consolidated packages shall be marked and branded in accordance with the applicable provisions of § 225.409. The date of filling of the consolidated packages should be abbreviated, as "Con. 7–20–55". Where distilled spirits with different dates of original entry are consolidated, the date of the oldest spirits so mingled shall govern the entire lot and such date shall be marked on packages to indicate the date of original entry of the spirits for deposit.

§ 225.417g *Withdrawal of consolidated spirits.* When the proprietor desires to withdraw spirits which have been consolidated, application therefor will be prepared in the same manner as for the withdrawal of any other spirits, and the withdrawal will be made in accordance with the applicable provisions of this part. The date of consolidation will be noted on Form 1520, or, in the case of transfer in bond, on Form 1619.

PAR. 3. Section 225.731 is amended by striking from the second sentence the word "Spirits" and inserting in lieu thereof the phrase "Except as provided in §§ 225.417a to 225.417g, spirits".

PAR. 4. Section 225.754 is amended by inserting in the first sentence, immediately after the phrase "or in packages filled from warehouse storage tanks," the phrase "or in consolidated packages,".

PAR. 5. Section 225.1102 is amended as follows:

(1) By inserting in the first sentence, immediately after the phrase "Forms 1520 covering packages filled from brandy-blending tanks,", the phrase "Forms 1520 covering consolidated packages,".

(2) By inserting at the end of the sixth sentence, which begins "Separate files", the words "and for consolidated packages".

PAR. 6. Section 225.1103 is amended by inserting, immediately after the words "brandy-blending department", the words "or spirits contained in consolidated packages".

PAR. 7. Section 225.1104 is amended by inserting in the third sentence, which begins "The binders", immediately after the phrase "packages of blended brandy filled in the brandy-blending department,", the phrase "consolidated packages,".

PAR. 8. Section 225.1106 is amended by inserting immediately after the first sentence a new sentence reading, "Copies of applications for the consolidation of packages will be filed separately in numerical order."

PAR. 9. Section 225.1111 is amended by inserting, immediately after the second sentence, which begins "All information", the following two new sentences: "The quantity of distilled spirits contained in packages dumped for consolidation shall be included as 'withdrawn' in Form 1513 and the quantity of spirits drawn off from consolidation tanks into packages will be included as 'deposited'. The quantity of spirits lost during repackaging will not be shown in the account on Form 1513."

PAR. 10. Section 225.1140 is amended by inserting, immediately after the third sentence, which begins "In the case", the following new sentence: "In the case of consolidated packages where spirits with different dates of original entry were mingled the season and year of the oldest spirits so mingled shall be considered the season and year of the entire lot."

[F. R. Doc. 56–433; Filed, Jan. 18, 1956; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[426.843]

CERTAIN SELF-WINDING WATCH MOVEMENTS

NOTICE OF PROSPECTIVE TARIFF CLASSIFICATION

JANUARY 17, 1956.

In Treasury Decision 53753 of March 16, 1955, the Bureau held that certain watch movements specially prepared for upjeweling contain substitutes for jewels within the meaning of paragraph 367 (i), Tariff Act of 1930, in each position customarily occupied by a genuine or synthetic jewel but in which a metal cap, bearing, bushing, or bouchon has been placed at the time the movements were prepared for exportation to the United States.

It was pointed out in the Treasury Decision that the ruling is not limited to movements containing devices of the kind described therein, but applies to any movement which has been specially engineered, constructed, designed, or prepared to facilitate the placing of natural or synthetic jewels after importation in positions occupied by bearings of any other material.

Pursuant to this provision of the decision, the Bureau has recently ruled that bushings and metal end caps, as well as certain indentations tooled in a specially designed bridge and serving as bearings for conical pivots of pinions which rode in jewels on their other ends were substitutes for jewels within the meaning of paragraph 367 (i).

The question has been presented recently as to the tariff classification of certain self-winding movements and their status under Treasury Decision 53753.

In view of the fact that paragraph 367 (a) (5), Tariff Act of 1930, as modified, provides specifically for an additional duty of 50 cents on each watch movement "if a self-winding device may be incorporated therein," the Bureau is tentatively of the opinion that the fact that a movement has been engineered for the later addition or incorporation of a self-winding device, which could be imported in a separate shipment, does not, standing alone, result in a movement specially engineered, constructed, designed, or prepared to facilitate upjeweling within the meaning of Treasury Decision 53753.

The Bureau is tentatively of the opinion that such movements containing not more than 17 jewels (including any substitutes for jewels) which, when stem wound, will keep accurate time for at least 24 hours in their imported condition without the utilization of self-winding mechanisms, are classifiable as watch movements having not more than 17 jewels under paragraph 367 (a) (1) through (5), Tariff Act of 1930, as modified.

The Bureau is also tentatively of the opinion that the self-winding devices imported in separate shipments would be classifiable under paragraph 367 (c), Tariff Act of 1930, as modified, as subassemblies dutiable at 2 cents for each part and 9 cents per jewel (including any substitutes for jewels), but not less than 45 per centum ad valorem.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of this merchandise which are submitted in writing to the Bureau of Customs, Washington 25, D. C., not later than 30

days from the date of publication of this notice. No hearings will be held.

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F. R. Doc. 56-489; Filed, Jan. 18, 1956; 8:57 a. m.]

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1956 Supp. 120]

PEERLESS INSURANCE CO.

CORPORATIONS ACCEPTABLE AS SURETIES ON FEDERAL BONDS

JANUARY 16, 1956.

Effective as of 12:01 a. m. January 1, 1956, Peerless Casualty Company, Keene, New Hampshire, formally changed its name to "Peerless Insurance Company." A copy certified by the Secretary of the State of New Hampshire of an affidavit of amendment changing the name of Peerless Casualty Company to Peerless Insurance Company has been received and filed in the Treasury.

The change in the name of Peerless Casualty Company does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to its authority under the Act of Congress approved July 30, 1947 (6 U. S. C. secs. 6-13), to qualify as sole surety on such obligations.

Hereafter the name of the company will appear as Peerless Insurance Company on Treasury Form No. 356, which shows a list of the companies authorized to act as acceptable sureties on bonds in favor of the United States.

[SEAL] W. RANDOLPH BURGESS,
Acting Secretary of the Treasury.

[F. R. Doc. 56-432; Filed, Jan. 18, 1956; 8:52 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Document 89]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR-05909, for the withdrawal of the lands described below, from all forms of appropriation including the mining and Mineral leasing laws. The applicant desires the land for a source of road construction materials.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233-A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 2 S., R. 12 E.,
Sec. 22: NW¼SE¼SE¼, N½NE¼SW¼SE¼.

The area described totals 15 acres in the Tonto National Forest.

E. R. TRAGITT,
State Lands and Minerals Staff Officer.

[F. R. Doc. 56-396; Filed, Jan. 18, 1956; 8:45 a. m.]

[Document 90]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR-07747, for the withdrawal of the lands described below, from all forms of appropriation including the Mining and Mineral leasing laws. The applicant desires the land for a source of road construction material.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233-A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 18 S., R. 16 E.,
Sec. 22: SE¼NW¼SW¼, E½SW¼NW¼SW¼, E½NW¼SW¼SW¼, NE¼SW¼SW¼.

The area described totals 30 acres in the Coronado National Forest.

E. R. TRAGITT,
State Land and Minerals Staff Officer.

[F. R. Doc. 56-397; Filed, Jan. 18, 1956; 8:45 a. m.]

[Document 91]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR-05283, for the withdrawal of the lands described below, from all forms of appropriation including the Mining and Mineral leasing laws. The applicant desires the land for a source of road construction material.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233-A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 21 N., R. 8 E.,
Sec. 5: SE¼SE¼.

The area described totals 40 acres in the Coconino National Forest.

E. R. TRAGITT,
State Lands and Minerals Staff Officer.

[F. R. Doc. 56-398; Filed, Jan. 18, 1956; 8:45 a. m.]

[Document 92]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR-05274, for the withdrawal of the lands described below, from all forms of appropriation including the Mining and Mineral leasing laws. The applicant desires the land for a source of road construction material.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233-A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 5 N., R. 30 E.,
Sec. 3: N½NE¼NE¼.
T. 5 N., R. 31 E.,
Sec. 21: SW¼SE¼.
T. 7 N., R. 30 E.
Sec. 29: N½NW¼SW¼SE¼ (East of Highway),
Sec. 3: NE¼NE¼NW¼.

The area described totals 75 acres in the Apache National Forest.

E. R. TRAGITT,
State Lands and Minerals Staff Officer.

[F. R. Doc. 56-399; Filed, Jan. 18, 1956; 8:45 a. m.]

[Docket 93]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR–05223, for the withdrawal of the lands described below, from all forms of appropriation including the Mining and Mineral leasing laws. The applicant desires the land for a source of road construction material.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233–A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 21 N., R. 6 E.,
Sec. 15: SW¼NW¼NW¼, NW¼SW¼NW¼, NW¼SE¼NW¼, NE¼SW¼NW¼.

The area described totals 40 acres in the Coconino National Forest.

E. R. TRAGITT,
State Lands and Minerals Staff Officer.

[F. R. Doc. 56–400; Filed, Jan. 18, 1956; 8:45 a. m.]

[Document 94]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR–05272, for the withdrawal of the lands described below, from all forms of appropriation including the Mining and Mineral leasing laws. The applicant desires the land for a source of road construction material.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233–A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 21 N., R. 7 E.,
Sec. 11: SW¼NE¼, excluding H. E. Survey No. 86, Pat. 603558 10/11/17.

The area described totals approximately 20 acres in the Coconino National Forest.

E. R. TRAGITT,
State Lands and Minerals Staff Officer.

[F. R. Doc. 56–401; Filed, Jan. 18, 1956; 8:46 a. m.]

[Document 95]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR–05275, for the withdrawal of the lands described below, from all forms of appropriation including the Mining and Mineral leasing laws. The applicant desires the land for a source of road construction material.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233–A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 8 N., R. 26 E.,
Sec. 35: W½ Lot 1 and W½E½ Lot 1.

The area described totals approximately 29 acres in the Apache National Forest.

E. R. TRAGITT,
State Lands and Minerals Staff Officer.

[F. R. Doc. 56–402; Filed, Jan. 18, 1956; 8:46 a. m.]

[Document 96]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR–05225, for the withdrawal of the lands described below, from all forms of appropriation including the Mining and Mineral leasing laws. The applicant desires the land for a source of road construction material.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233–A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 21 N., R. 1 W.,
Sec. 10: E½SW¼NE¼, E½W½SW¼NE¼ All north of Hwy., SE¼NW¼NE¼, E½SW¼NW¼NE¼.
Sec. 7: N½NE¼SE¼ All south of Hwy.
Sec. 11: N½N½SE¼ All south of relocated Hwy.
T. 21 N., R. 2 W.,
Sec. 12: NE¼NE¼.
T. 21 N., R. 1 E.,
Sec. 5: S½SE¼SE¼SE¼, SE¼SW¼SE¼SE¼.
Sec. 8: E½NW¼NE¼NE¼, NE¼NE¼NE¼.
Sec. 10: E½SW¼SE¼NW¼, SE¼SE¼NW¼, SW¼SW¼NE¼, E½NW¼NE¼SW¼, NE¼NE¼SW¼, NW¼NW¼SE¼.
T. 22 N., R. 2 E.,
Sec. 32: S½NE¼SE¼NW¼, SE¼SE¼NW¼.
T. 22 N., R. 4 E.,
Sec. 21: S½SE¼SW¼SE¼.
Sec. 28: N½NE¼NW¼NE¼.

The area described totals 242.50 acres in the Kaibab National Forest.

E. R. TRAGITT,
State Lands and Minerals Staff Officer.

[F. R. Doc. 56–403; Filed, Jan. 18, 1956; 8:46 a. m.]

[Document 97]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 12, 1956.

Arizona Highway Department has filed an application, Serial No. AR–05270, for the withdrawal of the lands described below, from all forms of appropriation including the Mining and Mineral leasing laws. The applicant desires the land for a source of road construction materials.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 233–A Main Post Office Building, Phoenix, Arizona.

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:

GILA AND SALT RIVER MERIDIAN

T. 20 N., R. 10 E.,
Sec. 2: S½ Lot 5, SW¼NW¼;
Sec. 3: Lot 2, SE¼ Lot 8, E½SE¼NE¼.
T. 21 N., R. 8 E.,
Sec. 11: S½SW¼NW¼, NW¼NW¼SW¼, N½NE¼NW¼SW¼.
T. 21 N., R. 9 E.,
Sec. 14: S½NE¼SW¼SE¼, S½NW¼SE¼SE¼, SE¼SW¼SE¼, SW¼SE¼SE¼.
T. 21 N., R. 10 E.,
Sec. 19: SW¼ Lot 8, SE¼ Lot 9, E½ Lot 10, W½ Lot 11, (South of Highway);
Sec. 27: SW¼SW¼SW¼;

Sec. 28: NE¼SW¼NW¼, E½NW¼SW¼NW¼, SE¼SE¼SE¼:
Sec. 33: E½NE¼NE¼, N½NE¼SE¼NE¼:
Sec. 34: N½NW¼SW¼NW¼, W½NW¼NW¼, Lot 4:
Sec. 35: E½SW¼SW¼.

The area described totals 216.69 acres in the Coconino National Forest.

E. R. TRACITT,
State Lands and Minerals Staff Officer.

[F. R. Doc. 56-404; Filed, Jan. 18, 1956; 8:46 a. m.]

[Oregon 04822]

OREGON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

Bureau of Land Management, Department of the Interior, has filed an application, Serial No. Oregon 04822, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, general mining laws, and leasing under the mineral leasing laws.

The applicant desires the land for protection of the Bureau's Sand Dune Control Project (LM-35-P-2 Eugene).

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 1001 Lloyd Blvd., P. O. Box 3861, Portland 8, Oregon.

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:

WILLAMETTE MERIDIAN, OREGON

T. 18 S., R. 12 W., Lane County,
Sec. 21: Lots 5, 6, 7, 8, W½E½;
Sec. 28: Lots 5, 6, 7, 8, E½SW¼, W½SE¼;
Sec. 33: Lots 1, 2, 3, 4, E½W½, E½;
Sec. 34: Lot 5, SW¼NW¼, W½SW¼.

1,291.25 acres.

RUSSELL E. GETTY,
Acting State Supervisor.

JANUARY 12, 1956.

[F. R. Doc. 56-405; Filed, Jan. 18, 1956; 8:47 a. m.]

[Oregon 04847]

OREGON

ORDER PROVIDING FOR OPENING OF REVESTED OREGON AND CALIFORNIA RAILROAD LANDS

Pursuant to Determination DA-409, Oregon, of the Federal Power Commission and in accordance with Order No. 541, Section 2.6, of the Director, Bureau of Land Management, approved April 24, 1954 (19 F. R. 2473), it is ordered as follows:

1. The lands hereinafter described so far as they are withdrawn and reserved for power purposes in Power Site Reserve No. 661 created December 12, 1917, are hereby restored to disposition under appropriate public land laws, subject to the provisions of Section 24, of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818) as amended.

WILLAMETTE MERIDIAN, OREGON

T. 2 S., R. 3 E.,
Sec. 23, Lot 8.

4.20 acres.

2. The lands are located along the Clackamas River, in northwestern Clackamas County, Oregon. They are relatively level with some dirt cliffs, with a silty sandy soil subject to erosion from the annual flooding. The lands support a stand of underbrush with a few scattered Douglas fir and cottonwood trees. They have little potential use other than for the purposes of stream flow protection.

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

4. Any disposition of the lands described herein shall be subject to the stipulation that if and when the land is required in whole or in part for power development purposes, any structures or improvements placed thereon which may be found to obstruct or interfere with such development, shall without cost, expense or delay to United States, its licensees or permittees, be removed or related insofar as may be necessary to eliminate interference with such power development.

5. The lands described shall be subject to application by the State of Oregon for a period of 90 days from the date of this order for right of way for public highways or as a source of material for construction of such highways, in accordance with and subject to provisions of Section 24, of the Federal Power Act, as amended, and the special stipulation provided in the preceding paragraph.

6. Subject to any existing valid rights and the requirements of applicable laws, the lands described in Paragraph 1, subject to Paragraph 2, hereof, are hereby opened to filing of applications, selections and locations in accordance with the following:

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

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

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on February 16, 1956, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on May 17, 1956, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a. m. on May 17, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

7. Persons claiming veteran's preference rights under paragraph a (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

8. Inquiries concerning the above lands shall be addressed to Manager, Land Office, Bureau of Land Management, P. O. Box 3861, (1001 N. E. Lloyd Boulevard) Portland 8, Oregon.

RUSSELL E. GETTY,
Acting State Supervisor.

JANUARY 11, 1956.

[F. R. Doc. 56-407; Filed, Jan. 18, 1956; 8:47 a. m.]

WASHINGTON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 11, 1956.

Department of Agriculture, State of Washington, Olympia, Washington, has filed an application, Serial No. Washington 02212, for the withdrawal of the lands described below, from all forms of appropriation, including the mining and mineral leasing laws insofar as part of the lands are concerned and as indicated below. The applicant desires the land for use in connection with the Moxee Plant Introduction and Quarantine Station, on which to conduct experimental and research activities with fruit trees.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Room 209, Federal Building, Spokane 1, Washington.

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:

WASHINGTON—WILLAMETTE MERIDIAN

T. 12 N., R. 21 E. W. M.,
NE¼, Section 34.

The total area aggregates approximately 160 acres.

It is proposed to withdraw the NW¼ NE¼ of above land from all forms of appropriation, including the mining and mineral leasing laws.

FRED S. WEILER,
State Supervisor.

[F. R. Doc. 56-406; Filed, Jan. 18, 1956; 8:47 a. m.]

Bureau of Reclamation

MINIDOKA PROJECT, IDAHO

ORDER OF REVOCATION

JULY 26, 1954.

Pursuant to the authority delegated by Departmental Order No. 2515 of April 7, 1949 (14 F. R. 1937), I hereby revoke Departmental Orders of November 17, 1902, December 20, 1907, March 18, 1908 and February 18, 1910, in so far as said orders affect the following-described land: *Provided, however,* That such revocation shall not affect the withdrawal of any other lands by said orders or affect any other orders withdrawing or reserving the land hereinafter described:

BOISE MERIDIAN, IDAHO

T. 8 S., R. 25 E.,
Sec. 35, NW¼NW¼.
T. 9 S., R. 25 E.,
Sec. 11, SE¼SW¼ and W½SE¼;
Sec. 13, NE¼ and E½NW¼;
Sec. 21, NW¼SW¼;
Sec. 23, NW¼, NW¼NE¼SW¼, S½NE¼ SW¼, NW¼SW¼ and S½SW¼.

The above areas aggregate approximately 750 acres.

L. N. MCCLELLAN,
Acting Commissioner.

[67608]

JANUARY 13, 1956.

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

The NW¼NW¼, sec. 36, T. 8 S., R. 25 E., Boise Meridian, is located in Minidoka County about 9 miles northeast of Rupert, Idaho. Soil is sandy loam to fine sandy loam with some rock outcrop. Vegetative cover consists primarily of sagebrush, rabbitbrush, and cheatgrass. Portions of this tract have general suitability for cropping if provided with irrigation water. The tract is in Idaho Grazing District No. 5. The remaining lands are situated in Cassia County, about 9 miles east and northeast of Rupert. The land is within and adjoins a general area which has been classified as suitable for desert land development upon a showing as to the availability of ground water. Soil on each tract has some suitability for cropping under irrigation. It is mainly sandy loam with some rock outcrop and float rock. Vegetative cover is primarily cheatgrass with some scattered sagebrush. The land is within Idaho Grazing District No. 2.

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

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

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

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

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284 as amended), presented prior to 10:00 a. m. on February 18, 1956, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on May 19, 1956, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on May 19, 1956, will be considered as simultaneously filed at that hour. Rights, under such applications and selections filed after that hour will be governed by the time of filing.

(b) The NW¼NW¼, sec. 35, T. 8 S., R. 25 E., and the SE¼SW¼, W½SE¼, sec. 11, SW¼NW¼, sec. 13, T. 9 S., R. 25 E., have been open to location under the mining laws and to applications and offers under the mineral-leasing laws. The remaining lands have been open to applications and offers under the mineral-leasing laws. They will be open to location under the United States mining laws beginning at 10:00 a. m. on May 19, 1956.

Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

EDWARD WOOZLEY,
Director,
Bureau of Land Management.

[F. R. Doc. 56-408; Filed, Jan. 18, 1956; 8:47 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods for certificates issued under general learner regulations (§§ 522.1 to 522.12) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.20 to 522.24, as amended April 19, 1955, 20 F. R. 2304).

Belton Shirt Co., Inc., Belton, S. C., effective 1-4-56 to 1-3-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's sport shirts).

Donlin Sportswear, Inc., New Tazewell, Tenn., effective 1-4-56 to 1-3-57; 10 learners for normal labor turnover purposes (men's sport shirts).

Forest City Manufacturing Co., Virden, Ill., effective 1-19-56 to 1-18-57; 10 learners for normal labor turnover purposes (junior and women's dresses).

Forest City Manufacturing Co., Staunton, Ill., effective 1-19-56 to 1-18-57; 10 learners for normal labor turnover purposes (junior and women's dresses).

Jamestown Shirt Corp., Jamestown, Tenn., effective 1-3-56 to 7-2-56; 100 learners for

plant expansion purposes (men's and boys' sports shirts) (replacement certificate).

L & H Shirt Co., Cochran, Ga., effective 1-10-56 to 1-9-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (boys' sport and dress shirts).

Lurrie Pizer Co., 717 North Jeffers, North Platte, Nebr., effective 1-6-56 to 7-5-56; 10 learners for expansion purposes (children's dresses).

Salant and Salant, Inc., First Street, Lawrenceburg, Tenn., effective 1-20-56 to 1-19-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (cotton work shirts and work jackets).

The Salisbury Co., Salisbury, Mo., effective 1-12-56 to 1-11-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's and young men's dress trousers and slacks).

Smith Bros. Manufacturing Co., St. Joseph, Mo., effective 1-10-56 to 1-9-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (overalls, pants, one-piece suits, etc.).

Smith Bros. Manufacturing Co., Carthage, Mo., effective 1-11-56 to 1-10-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (overalls, jeans, jackets).

Smith Bros. Manufacturing Co., Webb City, Mo., effective 1-11-56 to 1-10-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (shirts).

Smith Bros. Manufacturing Co., Neosho, Mo., effective 1-11-56 to 1-10-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (pants, ladies' jeans).

Smith Bros. Manufacturing Co., Lamar, Mo., effective 1-11-56 to 1-10-57; 10 learners for normal labor turnover purposes (dungarees and cossack coats).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.43, as amended April 19, 1955, 20 F. R. 2304).

Spalding Knitting Mills, South Pittsburg, Tenn., effective 1-4-56 to 1-3-57; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Independent Telephone Industry Learner Regulations (29 CFR 522.70 to 522.74, as amended April 19, 1955, 20 F. R. 2304).

Mt. Pulaski Telephone and Electric Co., Mt. Pulaski, Ill., effective 1-21-56 to 1-20-57.

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 11th day of January 1956.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 56-409; Filed, Jan. 18, 1956; 8:48 a. m.]

[Administrative Order 455]

PUERTO RICO

APPOINTMENTS TO INVESTIGATE CONDITIONS AND RECOMMEND MINIMUM WAGES FOR CERTAIN INDUSTRIES; NOTICE OF HEARING

Pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U. S. C. and Sup. 201 et seq.), and Reorganization Plan No. 6 of 1950 (5 U. S. C. 611), I hereby appoint, convene, and give notice of the hearings of Industry Committee No. 20-A for the men's and boys' clothing and related products industry in Puerto Rico, Industry Committee No. 20-B for the hosiery industry in Puerto Rico, and Industry Committee No. 20-C for the artificial flower industry in Puerto Rico.

Industry Committee No. 20-A is composed of the following representatives:

For the public:

Russell Andrew Smith, Chairman, Ann Arbor, Michigan.
William E. Simkin, Philadelphia, Pennsylvania.
Jaime Benitez, Rio Piedras, Puerto Rico.

For the employers:

David B. Knapp, New York, New York.
Oscar Castro, Mayaguez, Puerto Rico.
Richard J. Broadman, Santurce, Puerto Rico.

For the employees:

Milton Fried, New York, New York.
Alexander McKeown, Philadelphia, Pennsylvania.
Hipolito Marcano, San Juan, Puerto Rico.

For the purpose of this order the men's and boys' clothing and related products industry in Puerto Rico is defined as follows:

The manufacture from any material of men's and boys' clothing and related products, including, but without limitation, suits, coats, overcoats, trousers, shirts, underwear, nightwear, work clothing, sportswear (including bathing suits, riding habits, and athletic uniforms), heavy outerwear, neckties, caps, hats (except hand-made straw hats), belts, robes, and dressing gowns, raincoats, suspenders, garters, academic caps and gowns, vestments, costumes, and other items of apparel and accessories (except gloves, handkerchiefs, sweaters, scarves and mufflers, hosiery, and shoes).

Industry Committee No. 20-B is composed of the following representatives:

For the public:

Russell Andrew Smith, Chairman, Ann Arbor, Michigan.
William E. Simkin, Philadelphia, Pennsylvania.
Jaime Benitez, Rio Piedras, Puerto Rico.

For the employers:

David B. Knapp, New York, New York.
Oscar Castro, Mayaguez, Puerto Rico.
Malcolm Gordon, Cayey, Puerto Rico.

For the employees:

Milton Fried, New York, New York.
Alexander McKeown, Philadelphia, Pennsylvania.
Hipolito Marcano, San Juan, Puerto Rico.

For the purpose of this order the Hosiery Industry in Puerto Rico is defined as follows:

The manufacture or processing of full-fashioned and seamless hosiery, including, among other processes, the knitting, dyeing, clocking, and all phases of finishing hosiery, but not including the manufacturing or processing of yarn or thread.

Industry Committee No. 20-C is composed of the following representatives:

For the public:

Russell Andrew Smith, Chairman, Ann Arbor, Michigan.
William E. Simkin, Philadelphia, Pennsylvania.
Jaime Benitez, Rio Piedras, Puerto Rico.

For the employers:

David B. Knapp, New York, New York.
Oscar Castro, Mayaguez, Puerto Rico.
Samuel S. Berger, Naranjito, Puerto Rico.

For the employees:

Milton Fried, New York, New York.
Alexander McKeown, Philadelphia Pennsylvania.
Hipolito Marcano, San Juan, Puerto Rico.

For the purpose of this order the artificial flower industry in Puerto Rico is defined as follows:

The manufacture and assembling of artificial flowers, buds, berries, foliage, leaves, fruits, plants, stems, and branches.

I hereby refer to each of the above mentioned industry committees the question of the minimum wage rates to be fixed under section 6 (c) of the Act for its industry. Each such industry committee shall investigate conditions in its industry, and the committee, or any authorized sub-committee thereof, shall hear such witnesses and receive such evidence as may be necesary or appropriate to enable the committee to perform its duties and functions under the Act.

The Industry Committees herein appointed and convened shall commence their hearings on February 20, 1956, at 2 P. M. in room 412, New York Department Store Building, Stop 16½, Ponce de Leon Avenue, Santurce, Puerto Rico, consecutively in alphabetical order.

Each committee will meet at the same place before its hearing to make its investigation and appropriate decisions concerning its hearing. Industry Committee No. 20-A will meet at 10 A. M. and Industry Committees No. 20-B and 20-C will meet at an hour to be designated by the committee chairman.

In order to reach as rapidly as is economically feasible the objective of the minimum wage prescribed in paragraph (1) of section 6 (a) of the Act (75 cents an hour prior to March 1, 1956, and $1.00 an hour on and after March 1, 1956) each industry committee shall recommend to the Administrator the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry and will not give any industry in Puerto Rico a competitive advantage over any industry in the United States outside of Puerto Rico. Where the industry committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the industry committee shall

recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set out here which will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classification within the industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (1) competitive conditions as affected by transportation, living and production costs; (2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (3) the wages paid for work of a like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

The Administrator shall prepare an economic report containing such data as he is able to assemble pertinent to the matters to be referred to a committee. Copies of these reports may be obtained at the National and Puerto Rican Offices of the Department of Labor as soon as they are completed and prior to the hearing. Each committee will take official notice of the facts stated in the economic report to the extent they are not refuted by evidence received at the hearing.

The procedure of these industry committees will be governed by Title 29 of the Code of Federal Regulations, Part 511, as revised, and published in the November 4, 1955 issue of the FEDERAL REGISTER (20 F. R. 8285), which requires, among other things, notice of intent and other data to be filed at specified times before the hearing by those who would participate either as witnesses or parties.

Signed at Washington, D. C., this 13th day of January 1956.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 56-431; Filed, Jan. 18, 1956; 8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11603]

NEW ENGLAND TELEPHONE AND TELEGRAPH CO.

ORDER ASSIGNING MATTER FOR HEARING

In the matter of the application of New England Telephone and Telegraph Company, Docket No. 11603, File No. P-C-3695; for a certificate under section 221 (a) of the Communications Act of 1934, as amended, to acquire certain telephone plant and properties of Earle C. Parker and Mabel E. Conant, a partnership, d/b as Oakham and Coldbrook Springs Telephone Company, in Oakham, Massachusetts.

The Commission, having under consideration an application filed by New England Telephone and Telegraph Company for a certificate under section 221 (a) of the Communications Act of 1934, as amended, that the proposed acquisition by New England Telephone and Telegraph Company of certain telephone plant and properties of Earle C. Parker and Mabel E. Conant, a partnership, d/b as Oakham and Coldbrook Springs Telephone Company furnishing telephone service in and around Oakham, Massachusetts, will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is ordered, This 11th day of January 1956, that pursuant to the provisions of section 221 (a) of the Communications Act of 1934, as amended, the above application is assigned for public hearing for the purpose of determining whether the proposed acquisition will be of advantage to the persons to whom service is to be rendered and in the public interest; and

It is further ordered, That the hearing upon said application be held at the offices of the Commission in Washington, D. C. beginning at 10:00 a. m. on the 14th day of February 1956, and that a copy of this order shall be served upon the Governor of the State of Massachusetts; the Massachusetts Department of Public Utilities; New England Telephone and Telegraph Company; Earle C. Parker and Mabel E. Conant, a partnership, d/b as Oakham and Coldbrook Springs Telephone Company; and the Postmaster of Oakham, Massachusetts; and

It is further ordered, That within ten days after the receipt from the Commission of a copy of this Order, the applicant herein shall cause a copy hereof to be published in a newspaper or newspapers having general circulation in Oakham, Massachusetts, and shall furnish proof of such publication at the hearing herein.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-424; Filed, Jan. 18, 1956; 8:50 a. m.]

[Docket No. 11604; FCC 56-36]

HILLTOP BROADCASTING CO. (WTVH)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Hilltop Broadcasting Company (WTVH), Peoria, Illinois, Docket No. 11604, File No. BMPCT-3492; for modification of construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 11th day of January, 1956;

The Commission having under consideration the above-entitled application requesting modification of construction permit (Channel 19, Peoria, Illinois) to increase the height of the antenna structure to 1,009 feet above ground and to reduce the effective radiated power; and

It appearing that on December 13, 1955, the Airspace Panel of the Air Coordinating Committee in Washington, D. C., recommended disapproval of the antenna structure proposed in the above-entitled application on the ground that said structure would, in substance, result in a "definite hazard" to air operations due to the excessive height; and

It further appearing that pursuant to the provisions of section 309 (b) of the Communications Act of 1934, as amended, the above-named applicant was advised by letter dated December 19, 1955, of all objections to the above application; that the Commission was unable to determine that a grant of said application would be in the public interest; and was afforded an opportunity to reply; and

It further appearing, that upon due consideration of the above-entitled application, the Commission's letter of December 19, 1955, and the applicant's reply thereto filed December 21, 1955, the Commission finds that the above-named applicant is legally and financially and otherwise qualified to construct the television station proposed in the above-entitled application and is technically qualified except as to the matters specified in issue "1" set forth below;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether there is a reasonable possibility that the antenna structure proposed in the above-entitled application may constitute a menace to air navigation.

2. To determine whether, on the basis of the evidence adduced with respect to the above issue, a grant of the above-entitled application would serve the public interest, convenience and necessity.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-425; Filed, Jan. 18, 1956; 8:50 a. m.]

[Dockets Nos. 11607, 11608; FCC 56-41]

NORTH CENTRAL BROADCASTING CO. AND MUNISING-ALGER BROADCASTING CO.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of North Central Broadcasting Company, Munising, Michigan, Docket No. 11607, File No. BP-10004; Charles A. Symon, Stanley L. Sadak and Richard E. Hunt d/b as Munising-Alger Broadcasting Company, Munising, Michigan, Docket No. 11608, File No. BP-10142; for construction permits.

At a session of the Federal Communications Commission held at its offices in

Washington, D. C., on the 11th day of January 1956;

The Commission having under consideration the above-entitled applications of the North Central Broadcasting Company and Charles A. Symon, Stanley L. Sadak, and Richard E. Hunt d/b as Munising-Alger Broadcasting Company, each for a construction permit for a new standard broadcast station to operate on 1400 kilocycles with a power of 250 watts, unlimited time, at Munising, Michigan;

It appearing that each of the applicants is legally, technically, financially, and otherwise qualified, except as may appear from the issues specified below, to operate its proposed station, but that the operation of both stations as proposed would result in mutually destructive interference; and

It further appearing that, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated November 22, 1955, of the aforementioned deficiency and that the Commission was unable to conclude that a grant of either application would serve the public interest; and

It further appearing that a timely reply was filed by each of the applicants; and

It further appearing that the Commission, after consideration of the replies, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the proposed operations, and the availability of other primary service to such areas and populations.

2. To determine which of the operations proposed in the above-entitled applications would better serve the public interest in the light of the evidence adduced under the foregoing issues and record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each of the above-named applicants to own and operate its proposed station.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed stations.

(c) The programming service proposed in each of the above-mentioned applications.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue:

To determine whether funds available to the applicant will give reasonable assurance that the proposal set forth in the application will be effectuated.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-426; Filed, Jan. 18, 1956; 8:50 a. m.]

[Docket No. 11609; FCC 56-42]

ANNA BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Pierce E. Lackey and F. E. Lackey d/b as Anna Broadcasting Company, Anna, Illinois, Docket No. 11609; File No. BP-10033; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 11th day of January 1956;

The Commission having under consideration the above-entitled application of Pierce E. Lackey and F. E. Lackey d/b as Anna Broadcasting Company, for a construction permit for a new standard broadcast station to operate on 1440 kilocycles with a power of 500 watts, daytime only, at Anna, Illinois;

It appearing that the applicant is legally, technically, financially and otherwise qualified to operate the stations as proposed, but that the application may involve interference to Station WINI, Murphysboro, Illinois (1420 kc, 500 w, daytime only), and that measurements are necessary to prove that no overlap of the 2 and 25 mv/m contours of the proposed operation and Station WINI would occur; and

It further appearing that, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated November 22, 1955, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that in a letter dated December 2, 1955, Station WINI opposed the grant of the subject application and requested that it be designated for hearing; and

It further appearing that the applicant submitted an amendment on December 12, 1955, which apparently was intended to show by field intensity measurements that no overlap of the 2 and 25 mv/m contours with WINI would occur; that no actual measurement data were submitted, however, but instead a sketch was included showing the 2 and 25 mv/m contours of WINI in the direction of the proposed site; that a statement is included in the amendment claiming that the 2 and 25 mv/m contours of WINI were measured and are as indicated on the sketch; that since the measurements were not made in accordance with the Commission's Standards of Good Engineering Practice they are not acceptable, and, therefore, the problem of 2 and 25 mv/m contour overlap with Station WINI still obtains; and

It further appearing that, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposed operation and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation would involve objectionable interference with Station WINI, Murphysboro, Illinois, or any other existing station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether the respective 2 and 25 mv/m contours of the proposed operation and Station WINI, Murphysboro, Illinois, would overlap.

4. To determine in the light of the evidence adduced pursuant to the foregoing issues if a grant of the subject application would serve the public interest.

It is further ordered, That Cecil W. Roberts and Jane A. Roberts, licensee of Station WINI, Murphysboro, Illinois, is made a party to the proceeding.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-427; Filed, Jan. 18, 1956; 8:50 a. m.]

[Docket No. 11610; FCC 56-43]

FRANKLIN COUNTY BROADCASTING CO. (WYES)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Clinton County Broadcasting Corp. d/b as Franklin County Broadcasting Co. (WYES), Chateaugay, New York, Docket No. 11610, File No. BP-9960; for construction permit for new standard broadcast station.

1. The Commission has before it for consideration a protest filed on December 15, 1955 by North Country Broadcasting Co., Inc., licensee of Station WICY, Malone, New York (1490 kc, 250 w, Unl.), pursuant to section 309 (c) of the Communications Act of 1934, as amended, and directed to the Commission's action of November 16, 1955, in granting without hearing the application of Clinton County Broadcasting Corp., d/b as Franklin County Broadcasting Co., for a construction permit for a new standard broadcast station (WYES) to operate on 1050 kilocycles with a power of 1 kilowatt, daytime only, at Chateaugay, New York, File No. BP-9960.

2. The protestant (hereinafter referred to as WICY) claims that it is a party in interest within the meaning of section 309 (c) of the act because it

is licensee of standard broadcast Station WICY in Malone, New York, which is located about twelve miles from Chateaugay, New York, where Station WYES proposes to operate; that both WICY and WYES provide primary service to both Chateaugay and Malone, New York, and are in competition for advertising revenue therefrom; that WICY gets "6 percent of its local-area accounts from Chateaugay advertisers" and "This business would be lost if the Chateaugay station went on the air"; that "the Chateaugay proposal involves depriving WICY of its Mutual [network] affiliation"; and that WICY would suffer economic injury from the foregoing.

3. In support of its protest, WICY alleges that the grantee is not financially qualified to construct and operate the proposed station because "the cost of construction [$23,894.57] is substantially understated" and should be increased "by at least $11,000"; because the capital claimed is not actually available since "the WIRY studio property in Plattsburg has a market value of no more than $20,000, instead of the $38,500 supposedly agreed to be paid therefor by Mr. McMartin" and that "the agreement between Mr. McMartin and grantee is contingent on the grant of both the Chateaugay and Lake Placid [File No. BP-9961] applications" [the Lake Placid application has not been granted]; because "Mr. Rogers, the subscriber for one $1000 share, made no showing regarding his financial ability to carry out his commitment"; because, on information and belief, Mr. Austin does not have the financial ability to meet his $5,000 commitment; because the availability of $5,000 from WIRY is dependent on the liquidity of its accounts receivable since its latest balance sheet shows cash on hand and in bank totals only $645.44 and grantee's amendment sworn to on September 24, 1955, showed that the cash in the bank had dropped to $291.97; because there is no showing to support the estimate of $45,000 revenues during the first year; and because "In view of the foregoing, the grantee has not shown the availability of enough funds even to meet its own estimate of what it will need—which was shown * * * to be itself too low."

4. WICY further alleges that "the grantee will not be able to effectuate its program proposal" because it proposes to operate the station 63 hours a week with a staff of only four persons "all of whom are now engaged full-time in the operation of WIRY in Plattsburg, New York. And, even more astonishing, these same four persons are the ones who, all by themselves, will operate the proposed Lake Placid, New York, station"; that "20 percent of the grantee's proposed programming is to come from the Mutual Broadcasting System" whereas WICY is now affiliated with Mutual and WYES would be able to carry Mutual programs only if WYES first took the Mutual affiliation away from WICY, whose Mutual affiliation runs to August 1, 1956. WICY further alleges that "the grant is not in the public interest" because "the proposed programming is indifferent to the needs and interests of Chateaugay" inasmuch as it is exactly the same as that proposed in the Lake Placid application, one a farm community, and the other a resort center; because "the grantee has not made a full disclosure to the Commission of its real plans and intentions" of making WYES a Malone, New York station and of using WIRY as the main station and Station WYES and the Lake Placid stations as, in effect, merely booster stations"; and because "the grant creates undue concentration of mass media and violates the multiple ownership rule" inasmuch as "the three 0.5 mv/m contours of WIRY, the Chateaugay grant, and the Lake Placid proposal all overlap" and "In view of the scarcity of newspapers and radio stations in the area, the creation of such a 3-station group under single ownership, especially when operated as a concentrated network, as proposed, in so small and so sparsely-populated an area is an undue concentration of control over mass media and is against the public interest." WICY requests that the application be set for hearing and that protestant be made a party thereto, and that the effective date of the grant be postponed pending a final determination of this protest.

5. In view of the facts that the protestant is licensee of standard broadcast station WICY, Malone, New York; that Malone is located approximately 12 miles from Chateaugay, New York, where WYES proposes to operate; that both WICY and WYES provide primary service to both Malone and Chateaugay and compete for advertising revenue therefrom; and that the protestant has alleged that it will suffer economic injury from the grant in question, we find the protestant to be a "party in interest" within the meaning of section 309 (c) of the Communications Act of 1934, as amended. T. E. Allen and Sons, Inc., 9 Pike and Fischer RR 197; Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 407 (9 Pike and Fischer RR 2008). We find further that the facts, matters and things relied upon by the protestant have been specified with sufficient particularity to warrant designating the above-entitled application for hearing.

6. In view of the foregoing: *It is ordered*, That pursuant to section 309 (c) of the Communications Act of 1934, as amended, effective immediately, the effective date of the grant of the above-entitled application is postponed pending a final determination by the Commission in the hearing described below with respect to the protest by North Country Broadcasting Co., Inc.; and that the above-entitled application is designated for hearing at the offices of the Commission in Washington, D. C., on the following issues specified by the protestant:

(a) To determine whether the grantee is financially qualified to construct and to operate the proposed station.

(b) To determine whether the grantee will be able to effectuate its program proposal.

(c) To determine whether the proposed programming is indifferent to the needs and interests of Chateaugay.

(d) To determine whether the grantee has in good faith fully disclosed its real plans and intentions regarding the Chateaugay station, in particular with respect to its financing, its programming and its operation.

(e) To determine whether the grant violates § 3.35 of the Commission's rules.

(f) To determine whether the grant creates an undue concentration of control over mass media in the Chateaugay-Malone-Plattsburg area.

(g) To determine whether, on the basis of the evidence adduced pursuant to the foregoing issues, the grant of the subject application should be set aside.

The burden of proof on each of the above issues shall be on the protestant.

It is further ordered, That North Country Broadcasting Co., Inc., licensee of Station WICY, Malone, New York, and the Chief, Broadcast Bureau are made parties to the above-ordered proceeding, and that

(a) The parties intending to participate in the hearing herein shall file their appearances not later than February 24, 1956.

(b) The hearing shall commence at 10 a. m. on March 12, 1956, before an examiner of the Commission.

(c) The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions.

Adopted: January 11, 1956.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-428; Filed, Jan. 18, 1956; 8:50 a. m.]

[Docket No. 11570; FCC 56M-38]

OREGON RADIO, INC. (KSLM-TV)

ORDER CONTINUING HEARING

In re application of Oregon Radio, Inc. (KSLM-TV), Salem, Oregon, Docket No. 11570, File No. BMPCT-1835; for modification of construction permit.

The Hearing Examiner having under consideration a Motion for Continuance filed on January 11, 1956, on behalf of the applicant herein, requesting that the date scheduled for a prehearing conference herein on January 13, 1956, and the date for hearing now scheduled for January 23, 1956, be continued;

It appearing that good and sufficient reason exists why said Motion for Continuance should be granted;

It further appearing that counsel for all parties to the proceeding have agreed to this Motion for Continuance and to a waiver of § 1.745 of the Commission's rules;

It is ordered, This 12th day of January 1956, that the above Motion for Continuance be, and it is hereby, granted; and said prehearing confer-

ence and hearing herein are continued to dates to be hereinafter determined.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-429; Filed, Jan. 18, 1956; 8:51 a. m.]

[Docket Nos. 6584, 6585; FCC 56 M-39]

ALBUQUERQUE BROADCASTING CO. (KOB)

ORDER CONTINUING CONFERENCE

In re applications of: Albuquerque Broadcasting Company (KOB), Albuquerque, New Mexico, Docket No. 6584, File No. BMP-1738; for modification of construction permit. Albuquerque Broadcasting Company (KOB), Albuquerque, New Mexico, Docket No. 6585, File No. BL-1799, BZ-1583; for license to cover construction permit as modified and authority to determine operating power by direct measurement.

The Hearing Examiner having under consideration the record of the hearing conference in the above-entitled proceeding, held on January 9, 1956, pursuant to a motion by Albuquerque Broadcasting Company (KOB), for the purpose of clarifying the requirement set forth in his Order of January 3, 1956, that a showing be made as a result of a joint investigation by the licensees of Stations KOB, WBZ, and WABC, that land could be legally optioned by those parties for so-called "representative" sites for possible directional operations of their stations on the frequencies 1030 kc and 770 kc, respectively; and

It appearing that counsel for Albuquerque Broadcasting Company (KOB), represented in the proceeding that if actual options of land are required to be obtained by the respective parties for the purpose of meeting the above provision in the Hearing Examiner's Order, such requirement would be unreasonable and impractical in that it would probably impose a prohibitive and unnecessary burden of expense upon the said parties due to (1) the unusually high cost of land in the areas surrounding New York and Boston, (2) the fact that the showing required to be made under Issues 9, 10, 11 and 12, specified by the Commission in its Memorandum Opinion and Order of May 26, 1955, may prove to be entirely theoretical in character insofar as it affects the ultimate disposition of the case and (3) the fact that no prediction can be made as to the length of time which may elapse before the said proceeding is finally terminated; and

It further appearing that counsel for Albuquerque Broadcasting Company (KOB), agreed, however, with the position taken by the Hearing Examiner that some reasonable showing should be made as to the availability of the land in question and suggested that this could be accomplished by agreements between the parties respecting general areas within certain radii which would be feasible for possible directional operations by their respective stations under Issues 9, 10, 11, and 12, supra, and a showing by the said parties that there are a number of possible sites within such areas the owners of which would be disposed to rent, sell, or option and, in this connection, by the presentation of statements in writing from such owners that they would consider the sale, option, or rental of the properties in question; or, in the alternative, that the parties should jointly retain the services of a well-known engineering expert, recognized to be experienced in investigating the availability of properties as sites for possible directional operations of broadcast stations, as well as an authority respecting the problems involved in obtaining CAA approval of such sites and clearance by zoning authorities therefor, and that such expert be directed to make a thorough investigation of these matters in the areas in question and on the basis thereof to present information and opinions concerning the availability of such possible sites; and

It further appearing, from a review of the entire proceeding held on January 9, 1956, that the provision of the Hearing Examiner's Order of January 3, 1955, indicating that legal options should be obtained by the parties affected thereby for the sites to be considered for possible directional operations by their respective stations, should be modified, in view of the soundness of the objections raised in opposition thereto; and

It further appearing that the above suggestions by counsel for Albuquerque Broadcasting Company (KOB), concerning the alternative types of showings which could be made by the parties respecting the availability of said sites are practical and reasonable and that either of such showings would substantially meet the above requirement of the Hearing Examiner's Order and would therefore be acceptable; and

It further appearing that at the said hearing conference January 31, 1956, was affirmed as the date for holding the next hearing conference but that subsequent thereto the Hearing Examiner was orally advised by counsel for the Broadcast Bureau that due to other commitments he would not be available on the said date and was requested by said counsel, with the consent of counsel for all of the other parties to the proceeding, to schedule the next hearing conference for February 7, 1956.

It is ordered, This 13th day of January 1956, that the Hearing Examiner's Ruling of January 9, 1956, modifying his Order of January 3, 1956, only to the extent and in the manner requested by Albuquerque Broadcasting Company (KOB), (Transcript 1200-1202), be, and it is hereby, affirmed.

It is further ordered, That the Hearing Examiner's Order of January 3, 1956, as modified on January 9, 1956, and as affirmed herein is made effective as of this date.

It is further ordered, That the next hearing conference in the above-entitled proceeding is scheduled to be held at 4:30 o'clock p. m., on Tuesday, February 7, 1956, in the offices of this Commission, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-430; Filed, Jan. 18, 1956; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-4117]

DELTA GULF DRILLING CO.

NOTICE OF RESUMPTION OF HEARING

JANUARY 13, 1956.

Notice is hereby given that the hearing in the above designated matter, which was recessed by the Presiding Examiner on February 23, 1955, is hereby scheduled to resume at 9:30 a. m., e. s. t., February 2, 1956, in the Commission's Hearing Room, 441 G Street NW., Washington, D. C.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-410; Filed, Jan. 18, 1956; 8:48 a. m.]

[Docket Nos. G-4650 etc.]

TEXAS CO. ET AL.

NOTICE OF FINDINGS AND ORDERS

JANUARY 12, 1956.

In the matters of The Texas Company, Docket Nos. G-4650 and G-4651; Union Pacific Railroad Company, Docket No. G-6213; Continental Oil Company, Docket Nos. G-6946, G-6949, G-6957, G-6958 and G-6959; H. M. Bennett Gas Company, Docket No. G-9114; The Texas Company, Docket No. G-9166; Grimm and Duffield, Docket No. G-9232; Standard Oil Company of Texas, Docket No. G-9274; Victor Hale and Grover Lowe, Docket No. G-9400; J. Robert Hornor, Docket No. G-9438.

Notice is hereby given that on January 4, 1956, the Federal Power Commission issued its findings and orders adopted December 29, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-411; Filed, Jan. 18, 1956; 8:48 a. m.]

[Docket Nos. G-6508, etc.]

TEXAS EASTERN TRANSMISSION CORP. ET AL.

NOTICE OF FINDINGS AND ORDERS

JANUARY 12, 1956.

In the matters of Texas Eastern Transmission Corporation and Trunkline Gas Company, Docket No. G-6508; Nueces Royalty Company, Docket No. G-6915; Holly Oil Company, Docket No. G-8807; Texas Eastern Transmission Corporation, Docket No. G-8901; Sun Oil Company

(Southwest Division), Docket No. G–8929; The Atlantic Refining Company, Docket No. G–8981; Phillips Petroleum Company, Docket No. G–9069; W. C. McBride, Inc., Docket No. G–9209; The Vickers Petroleum Co., Inc., Docket No. G–9239.

Notice is hereby given that on January 3, 1956, the Federal Power Commission issued its findings and orders adopted December 29, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 56–412; Filed, Jan. 18, 1956; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24D–1836]

U–H URANIUM CORP.

NOTICE OF AND ORDER FOR HEARING

JANUARY 12, 1956.

U–H Uranium Corporation, P. O. Box 535, Provo, Utah, having filed with the Commission on July 13, 1955 a notification on Form 1–A and an offering circular, and an amendment thereto on November 16, 1955, relating to a proposed public offering of 6,000,000 shares of its 5-cent par value nonassessable capital stock for the purpose of obtaining an exemption from the registration provisions of the Securiites Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder; and

The Commission, on December 16, 1955, having issued an order pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, temporarily suspending the conditional exemption under Regulation A and affording to any person having any interest therein an opportunity to request a hearing pursuant to said Rule 223, and a written request for a hearing having been received by the Commission on December 27, 1955, from the corporation, by its counsel, and counsel for the corporation having agreed orally to waive the twenty-day period specified in Rule 223 (b); and

The Commission deeming it necessary and appropriate to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption:

It is hereby ordered, That a hearing under the applicable provisions of the Securities Act of 1933 and the Rules of the Commission be held on February 6, 1956, at 10:00 a. m., m. s. t., at the Salt Lake City Branch Office of the Commission, at Room 420–A, Post Office Building, Salt Lake City, Utah, with respect to the following specified matters and questions, without prejudice, however, to the specification of additional issues which may be present in these proceedings:

A. Whether the terms and conditions of Regulation A have not been complied with in that

(1) An offering of the securities has been made by communications not filed with the Commission pursuant to Rule 221 under Regulation A and not in compliance with Rule 220 thereof;

(2) Either an offering circular has not been and is not being delivered to offerees and purchasers of the said stock as required by Rule 219 (a) or an offering circular not meeting the requirements of Rule 219 (c), as particularized in letters, dated August 18 and 23, 1955 from the Commission's staff, has been and is being so delivered;

(3) The offering has been and is being made by false and misleading statements of the issuer's Vice-President, Hansel Chang; and

(4) The offering was commenced and securities sold prior to the time permitted by Rule 219 (e); and

B. The failure to use an offering circular required by Rule 219 (a) and the use of the offering circular not meeting the requirements of Rule 219 (c) and the oral statements of the issuer's Vice-President in connection with the offering would, and did, operate as a fraud or deceit upon the purchasers.

C. Whether the order dated December 16, 1955 suspending the exemption under Regulation A with respect to U–H Uranium Corporation should be vacated or made permanent:

It is further ordered, That Edward C. Johnson, or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing, and any officer or officers so designated to preside at any such hearing is hereby authorized to exercise all of the powers granted to the Commission under sections 19 (b), 21 and 22 (c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice:

It is further ordered, That the Secretary of the Commission shall serve a copy of this order, by registered mail, on U–H Uranium Corporation, P. O. Box 535, Provo, Utah; Sandgren, Howard and Frazier, 290 North University Avenue, Provo, Utah, and Hansel Chang, in care of U–H Uranium Corporation, Honolulu, Hawaii, that notice of the entering of this order shall be given to all other persons by general release of the Commission, and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate in such hearing shall file with the Secretary of the Commission on or before February 2, 1956 a request relative thereto as provided in Rule XVII of the Commission's rules of practice.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 56–416; Filed, Jan. 18, 1956; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[Administrative Order 5215]

FLORIDA

LOAN ANNOUNCEMENT

DECEMBER 5, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Florida 33M Pasco	$100,000

[SEAL] FRED H. STRONG, *Acting Administrator.*

[F. R. Doc. 56–440; Filed, Jan. 18, 1956; 8:53 a. m.]

[Administrative Order 5216]

TEXAS

LOAN ANNOUNCEMENT

DECEMBER 5, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Texas 91S San Patricio	$820,000

[SEAL] FRED H. STRONG, *Acting Administrator.*

[F. R. Doc. 56–441; Filed, Jan. 18, 1956; 8:53 a. m.]

[Administrative Order 5217]

WYOMING

LOAN ANNOUNCEMENT

DECEMBER 5, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Wyoming 13F Washakie	$71,000

[SEAL] FRED H. STRONG, *Acting Administrator.*

[F. R. Doc. 56–442; Filed, Jan. 18, 1956; 8:53 a. m.]

[Administrative Order 5218]

GEORGIA

LOAN ANNOUNCEMENT

DECEMBER 7, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Georgia 39R Hart	$210,000

[SEAL] FRED H. STRONG, *Acting Administrator.*

[F. R. Doc. 56–443; Filed, Jan. 18, 1956; 8:53 a. m.]

[Administrative Order 5219]

OHIO

LOAN ANNOUNCEMENT

DECEMBER 7, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Ohio 50L Union	$310,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-444; Filed, Jan. 18, 1956; 8:53 a. m.]

[Administrative Order 5220]

MINNESOTA

LOAN ANNOUNCEMENT

DECEMBER 7, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Minnesota 92R South Itasca	$50,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-445; Filed, Jan. 18, 1956; 8:53 a. m.]

[Administrative Order 5221]

WISCONSIN

ALLOCATION OF FUNDS FOR LOANS

DECEMBER 7, 1955.

I hereby amend:

(a) Administrative Order No. 3504, dated October 25, 1951, by reducing the loan of $50,000 therein made for "Wisconsin 40T Barron" by $10,000 so that the reduced loan shall be $40,000.

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-446; Filed, Jan. 18, 1956; 8:54 a. m.]

[Administrative Order 5222]

IDAHO

LOAN ANNOUNCEMENT

DECEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Idaho 4AD Bonner	$150,000

[SEAL] R. G. ZOOK,
Acting Administrator.

[F. R. Doc. 56-447; Filed, Jan. 18, 1956; 8:54 a. m.]

[Administrative Order 5223]

NORTH CAROLINA

LOAN ANNOUNCEMENT

DECEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 35W Davidson	$325,000

[SEAL] R. G. ZOOK,
Acting Administrator.

[F. R. Doc. 56-448; Filed, Jan. 18, 1956; 8:54 a. m.]

[Administrative Order 5224]

NORTH CAROLINA

LOAN ANNOUNCEMENT

DECEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 48L Mecklenburg	$205,000

[SEAL] R. G. ZOOK,
Acting Administrator.

[F. R. Doc. 56-449; Filed, Jan. 18, 1956; 8:54 a. m.]

[Administrative Order 5225]

WISCONSIN

LOAN ANNOUNCEMENT

DECEMBER 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Wisconsin 37U Trempealeau	$500,000

[SEAL] R. G. ZOOK,
Acting Administrator.

[F. R. Doc. 56-450; Filed, Jan. 18, 1956; 8:54 a. m.]

[Administrative Order 5226]

WISCONSIN

LOAN ANNOUNCEMENT

DECEMBER 14, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Wisconsin 37V Trempealeau	$15,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-451; Filed, Jan. 18, 1956; 8:54 a. m.]

[Administrative Order 5227]

ALL STATES

ALLOCATION OF FUNDS FOR LOANS

DECEMBER 15, 1955.

Administrative Order No. 5160, dated September 29, 1955, is hereby amended to read as follows:

Pursuant to section 3 (c) of the Rural Electrification Act of 1936, as amended, and upon information and data in the files of the Rural Electrification Administration, I hereby determine that the number of farms not receiving central station electric service for each state and the number of such farms for the United States at the beginning of the current fiscal year are as set forth in the following schedule, and I hereby allot from the sum of $40,000,000, being twenty-five per centum of the total sum available for the current fiscal year, the respective sums for loans in the several States as hereinafter set forth.

	Farms without central station electric service July 1, 1955	Allotment for loans during the fiscal year ending June 30, 1956
United States	314,350	$40,000,000
Alabama	17,700	2,252,267
Arizona	1,250	159,058
Arkansas	10,400	1,323,366
California	5,000	636,234
Colorado	5,300	674,408
Connecticut	150	19,087
Delaware	300	38,174
Florida	6,900	878,002
Georgia	12,100	1,539,685
Idaho	1,200	152,696
Illinois	5,500	699,857
Indiana	3,550	451,726
Iowa	4,550	578,972
Kansas	11,200	1,425,163
Kentucky	16,700	2,125,020
Louisiana	7,200	916,176
Maine	1,400	178,145
Maryland	2,150	273,580
Massachusetts	300	38,174
Michigan	2,850	362,653
Minnesota	9,100	1,157,945
Mississippi	30,050	3,823,763
Missouri	10,550	1,342,453
Montana	5,050	642,596
Nebraska	7,450	947,988
Nevada	800	101,797
New Hampshire	250	31,812
New Jersey	200	25,449
New Mexico	4,100	521,711
New York	2,200	279,943
North Carolina	13,800	1,756,004
North Dakota	9,650	1,227,931
Ohio	5,050	642,596
Oklahoma	10,900	1,386,989
Oregon	1,500	190,870
Pennsylvania	4,500	572,610
Rhode Island	50	6,362
South Carolina	13,550	1,724,193
South Dakota	8,400	1,068,872
Tennessee	14,900	1,895,976
Texas	22,300	2,837,601
Utah	700	89,073
Vermont	400	50,899
Virginia	10,500	1,336,090
Washington	1,100	139,971
West Virginia	4,850	617,147
Wisconsin	5,000	636,234
Wyoming	1,750	222,682

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-452; Filed, Jan. 18, 1956; 8:54 a. m.]

[Administrative Order 5228]

ALABAMA

LOAN ANNOUNCEMENT

DECEMBER 19, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Alabama 30L Autauga	$950,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-453; Filed, Jan. 18, 1956; 8:55 a. m.]

[Administrative Order 5229]

PENNSYLVANIA

LOAN ANNOUNCEMENT

DECEMBER 19, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Pennsylvania 24L Bedford	$255,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-454; Filed, Jan. 18, 1956; 8:55 a. m.]

[Administrative Order 5230]

SOUTH CAROLINA

LOAN ANNOUNCEMENT

DECEMBER 21, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
South Carolina 25N Berkeley	$680,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-455; Filed, Jan. 18, 1956; 8:55 a. m.]

[Administrative Order 5231]

WISCONSIN

LOAN ANNOUNCEMENT

DECEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Wisconsin 16U Douglas	$400,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-456; Filed, Jan. 18, 1956; 8:55 a. m.]

[Administrative Order 5232]

IOWA

LOAN ANNOUNCEMENT

DECEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Iowa 39K Benton	$338,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-457; Filed, Jan. 18, 1956; 8:55 a .m.]

[Administrative Order 5233]

TEXAS

LOAN ANNOUNCEMENT

DECEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Texas 99R Jones	$890,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-458; Filed, Jan. 18, 1956; 8:55 a. m.]

[Administrative Order 5234]

TEXAS

LOAN ANNOUNCEMENT

DECEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Texas 83Y Fisher	$420,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-459; Filed, Jan. 18, 1956; 8:55 a. m.]

[Administrative Order 5235]

KENTUCKY

LOAN ANNOUNCEMENT

DECEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Kentucky 54AA Wayne	$790,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-460; Filed, Jan. 18, 1956; 8:55 a. m.]

[Administrative Order 5236]

NORTH CAROLINA

LOAN ANNOUNCEMENT

DECEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 63F Hyde	$25,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-461; Filed, Jan. 18, 1956; 8:56 a. m.]

[Administrative Order 5237]

MAINE

LOAN ANNOUNCEMENT

DECEMBER 22, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Maine 16G Swan's Island	$10,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-462; Filed, Jan. 18, 1956; 8:56 a. m.]

[Administrative Order 5238]

TEXAS

LOAN ANNOUNCEMENT

DECEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Texas 47V Deaf Smith	$690,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-463; Filed, Jan. 18, 1956; 8:56 a. m.]

[Administrative Order 5239]

WYOMING

LOAN ANNOUNCEMENT

DECEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Wyoming 10L Platte	$345,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-464; Filed, Jan. 18, 1956; 8:56 a. m.]

[Administrative Order 5240]

LOUISIANA

LOAN ANNOUNCEMENT

DECEMBER 29, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Louisiana 26 "E" L. R. E. C.	$1,565,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-465; Filed, Jan. 18, 1956; 8:56 a. m.]

[Administrative Order 5241]

NEW JERSEY

LOAN ANNOUNCEMENT

DECEMBER 30, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
New Jersey 6L Sussex	$245,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-466; Filed, Jan. 18, 1956; 8:56 a. m.]

[Administrative Order 5242]

OHIO

LOAN ANNOUNCEMENT

DECEMBER 30, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Ohio 74 S Butler	$250,000

[SEAL] ANCHER NELSEN,
Administrator.

[F. R. Doc. 56-467; Filed, Jan. 18, 1956; 8:56 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 16, 1956.

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. 31523: *Hoisting machinery between Twin Cities and Kansas City, Mo.* Filed by W. J. Prueter, agent, for interested rail carriers. Rates on hoisting machinery, carloads, between Minneapolis, Minnesota Transfer, and St. Paul, Minn., on the one hand, and Kansas City, Mo., on the other.

Grounds for relief: Circuitous routes.

Tariff: Supplement 54 to Agent Prueter's I. C. C. No. A-4038.

FSA No. 31524: *Grain and grain products in Western Trunk Line Territory.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on grain, grain products, seeds, and related articles, carloads from Kansas City, Mo.-Kans., Chicago, Peoria, and East St. Louis, Ill., and St. Louis, Mo., to points in Illinois, Indiana, and Missouri, including Kansas City, Mo.-Kans.

Grounds for relief: Circuitous routes.

Tariffs: Supplement 87 to Agent Prueter's I. C. C. No. A3866; Supplement 5 to Kansas City Southern Railway I. C. C. No. 5321.

FSA No. 31525: *Fertilizier solutions from South Point, Ohio, to Louisville, Ky.* Filed by Norfolk and Western Railway Company for itself and other carriers. Rates on nitrogen fertilizer solution and fertilizer ammoniating solution, tank-car loads from South Point, Ohio to Louisville, Ky.

Grounds for relief: Market competition and circuity.

Tariff: Supplement 22 to Norfolk and Western Railway Company I. C. C. No. 9548.

FSA No. 31526: *Vegetable oils from Mississippi points to Memphis, Tenn.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on vegetable oils, carloads from Greenville, Greenwood, Indianola, and Moorhead, Miss., to Memphis, Tenn.

Grounds for relief: Circuitous routes.

Tariff: Supplement 43 to Agent C. A. Spaninger's I. C. C. No. 1411.

FSA No. 31527: *Citrus pomace final syrup—Florida to the East.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on citrus pomace final syrup, carloads from Bradenton, Dellwood, Frostproof, Plymouth, Tampa, and Wauchula, Fla., to specified destinations in Connecticut, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania and West Virginia.

Grounds for relief: Short-line distance formula, grouping, and circuity.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 56-414; Filed, Jan. 18, 1956; 8:49 a. m.]