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[88th Cong., 1st Sess.]

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Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 30—LICENSING OF BYPRODUCT MATERIAL

Interval for Testing Devices Possessed and Used Under General License and Reporting of Test Results

On December 19, 1963, the Commission published in the FEDERAL REGISTER (28 F.R. 13842) for public comment a notice of proposed rule making regarding the interval for testing devices possessed and used under the general license in § 30.21(c) and the reporting of test results. The proposed amendments would have (1) modified the requirement that a device be leak tested at no longer than six-month intervals by permitting a device to be leak tested and tested for proper operation of on-off mechanisms and indicators during the period between the third and sixth month following installation of the device and thereafter at intervals of six months to three years, depending upon the design features and performance experience of the device, (2) established the design features and performance experience which the Commission would consider in approving test intervals, and (3) required that the results of all tests be furnished to the Commission.

Numerous comments were submitted by users of devices under the general license as well as by suppliers and other interested persons. The Commission also sponsored an industry conference for suppliers of the devices at which additional comments were obtained. The Commission has carefully considered the comments. The amendments set forth below modify the proposed amendments in the following respects:

(1) The report of transfer of a device as required by § 30.21(c)(4)(i) of the proposed amendments is to be furnished to the Director of the appropriate AEC Regional Compliance Office rather than to AEC Headquarters, as in the proposed amendments.

(2) The initial tests are required to be performed at the time of installation of the device or replacement of the byproduct material on the premises of the general licensee rather than during the period between the third and sixth months following the installation of the device.

(3) Instead of the proposed requirement that the general licensee report results of all tests to the Commission, the amendments require a report of failure of or damage to the shielding or the on-off mechanism or indicator of a device or upon the detection of 0.005 microcuries or more of removable radioactive material.

Provision of the reports specified in (1) and (3) is the responsibility of the general licensee, but he may meet this requirement by determining that such reports have been filed in his behalf by the manufacturer of the device or other person.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, the following amendments of 10 CFR Part 30 "Licensing of Byproduct Material" are published as a document subject to codification to be effective thirty (30) days after publication in the FEDERAL REGISTER.

1. Section 30.21(c)(4) (i), (iii) and (v) are revised to read:

§ 30.21 General licenses.

* * * * *

(c) * * *

(4) * * *

(i) Shall not transfer, abandon or dispose of the device except by transfer to a person authorized by a specific license from the Commission or an agreement State to receive such device and shall furnish to the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix "D" of Part 20 of this chapter, "Standards for Protection Against Radiation", within 30 days after any transfer, a report containing the name of the manufacturer of the device, the type of device, the manufacturer's serial number of the device, and the name and address of the person receiving the device;

* * * * *

(iii) Shall have the device tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at the time of installation of the device or replacement of the byproduct material on the premises of the general licensee and thereafter at no longer than six-month intervals or at such longer intervals not to exceed three years as are specified in the label required by subparagraph (3) of this paragraph: *Provided*, That devices containing only krypton need not be tested for leakage, and devices containing only tritium need not be tested for any purpose;

* * * * *

(v) Shall, within 30 days after the occurrence of a failure of or damage to the shielding of the radioactive material or the on-off mechanism or indicator or upon the detection of 0.005 microcuries or more of removable radioactive material, furnish to the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix "D" of Part 20 of this chapter, "Standards for Protection Against Radiation", a report containing the name of the manufacturer of the device, the type of device, the manufacturer's serial number of the device and a brief description of the event and the remedial action taken; and shall maintain records of all tests performed on the devices as required under this section, including the dates and results of the tests and the names of the persons conducting the tests;

* * * * *

2. A new subparagraph (4) is added to paragraph (f) of § 30.24 to read as follows:

§ 30.24 Special requirements for issuance of specific licenses.

* * * * *

(f) * * *

(4) In the event the applicant desires that the device be tested for proper operation of the on-off mechanism and indicator, if any, and for leakage of radioactive material, subsequent to the initial tests required by § 30.21(c)(4)(iii), at intervals longer than six months but not exceeding three years, he shall include in his application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices, and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device. In determining the acceptable interval for test of leakage of radioactive material, the Commission will consider information on particulars which include, but are not necessarily limited to:

(i) Primary containment (source capsule);

(ii) Protection of primary containment;

(iii) Method of sealing containment;

(iv) Containment construction materials;

(v) Form of contained radioactive material;

(vi) Maximum temperature withstood during prototype tests;

(vii) Maximum pressure withstood during prototype tests;

(viii) Maximum quantity of contained radioactive material;

(ix) Radiotoxicity of contained radioactive material; and

(x) Operating experience with identical devices or similarly designed and constructed devices.

* * * * *

(Sec. 81, 68 Stat. 935; 42 U.S.C. 2111; § 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 21st day of December 1964.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary to the Commission.

[F.R. Doc. 65-119; Filed, Jan. 6, 1965; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket Nos. 3059, 5033, 5036, 5094, 6161, 6258; Amdt. 1-7]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Correction

In F.R. Doc. 64-13424, appearing at page 19186 of the issue for Thursday, December 31, 1964, paragraphs (e) through (g) of § 121.173 and all of § 121.175 were omitted inadvertently. The omitted matter should appear immediately after § 121.173(d), and should read as follows:

(e) No person may take off a reciprocating engine powered transport category airplane at a weight that is more than the allowable weight for the runway being used (determined under the runway takeoff limitations of the transport category operating rules of this Part) after taking into account the temperature operating correction factors in § 4a.749a-T or 4b.117 of the Civil Air Regulations as in effect on January 31, 1965, and set forth in the applicable Airplane Flight Manual.

(f) The Administrator may authorize in the operations specifications deviations from the requirements in the subpart if special circumstances make a literal observance of a requirement unnecessary for safety.

(g) The ten-mile width specified in §§ 121.179 through 121.183 may be reduced to five miles, for not more than 20 miles, when operating VFR or where navigation facilities furnish reliable and accurate identification of high ground and obstructions located outside of five miles, but within ten miles, on each side of the intended track.

§ 121.175 Transport category airplanes: reciprocating engine powered: weight limitations.

(a) No person may take off a reciprocating engine powered transport category airplane from an airport located at an elevation outside of the range for which maximum takeoff weights have been determined for that airplane.

(b) No person may take off a reciprocating engine powered transport category airplane for an airport of intended destination that is located at an elevation outside of the range for which maximum landing weights have been determined for that airplane.

(c) No person may specify, or have specified, an alternate airport that is located at an elevation outside of the range for which maximum landing weights have been determined for the reciprocating engine powered transport category airplane concerned.

(d) No person may take off a reciprocating engine powered transport category airplane at a weight more than the maximum authorized takeoff weight for the elevation of the airport.

(e) No person may take off a reciprocating engine powered transport category airplane if its weight on arrival at the airport of destination will be more than the maximum authorized landing weight for the elevation of that airport, allowing for normal consumption of fuel and oil en route.

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 13—EMPLOYEE STOCK OPTION AND STOCK PURCHASE PLANS

Scope and Application

This amendment issued under authority of R.S. 324, et seq., as amended, 12 U.S.C. 1, et seq., permits national banks, desiring to do so, to adopt employee stock option or stock purchase plans which do not qualify for special tax treatment under the Internal Revenue Act. Since the amendment relieves restriction, notice and public procedure are found to be unnecessary and contrary to the public interest. Accordingly, this amendment will become effective on publication.

Part 13, Chapter I, Title 12 of the Code of Federal Regulations of the United States of America is amended by revising § 13.1 to read as follows:

§ 13.1 Scope and application.

Any national bank may grant options to purchase, sell, or enter into agreements to sell, shares of its capital stock to its employees, whether or not such transactions qualify for special tax treatment under the Internal Revenue Code of 1954, as amended, and regulations promulgated thereunder, provided that the following conditions are met:

(a) Application for approval shall be made to the Comptroller of the Currency, Washington, D.C., 20220, in the form of a letter accompanied by the following information:

(1) A description of all material provisions of the plan.

(2) Proposed notice of shareholders' meeting, proxy and proxy statement.

(3) Number of shares of authorized but unissued stock to be allocated to the plan.

(4) Proposed amendments to articles of association creating authorized but unissued stock and eliminating preemptive rights as to the shares reserved under the plan;

(b) The plan is administered by a committee, none of whose members may participate in the plan;

(c) The number of shares allocable to any person under the plan is reasonable in relation to the purpose of the plan and the needs of the bank; and

(d) In the case of a stock option plan, the number of shares subject to the plan is not unreasonable in relation to the bank's capital structure and anticipated growth.

Dated: December 31, 1964.

[SEAL] JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 65-122; Filed, Jan. 6, 1965; 8:45 a.m.]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 18,719]

PART 545—OPERATIONS

Distribution of Earnings

DECEMBER 31, 1964.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amending § 545.1-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.1-1) by an amendment as hereinafter set forth, and for the purpose of effecting such amendment, hereby amends said section as follows, effective upon publication in the FEDERAL REGISTER:

§ 545.1-1 [Amended]

Section 545.1-1, aforesaid, is hereby amended by striking out the language "March 31, 1965" at each of the following places and inserting in lieu thereof at each such place the language "July 1, 1966": (1) In the proviso of paragraph (b); (2) in the last proviso of paragraph (c); and (3) in the proviso of the first sentence of paragraph (d).

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

Resolved further that, as the foregoing amendment does not necessitate any change in operations of Federal savings and loan associations which are now being carried on in accordance with the provisions of said § 545.1-1 but merely extends for fifteen months the temporary period during which, under the provisions of said section, certain distributions of earnings by such associations are subject to certain prohibitions already contained in said section and now in effect, the Board hereby finds that notice and public procedure on said amendment are unnecessary under § 508.12 of the general regulations of the Federal Home Loan Bank Board (12 CFR 508.12) or section 4(a) of the Administrative Procedure Act, and the Board hereby finds that, for the same reason, publication of said amendment for the period specified in section 4(c) of said act and § 508.14 of the general regulations of the Federal Home Loan Bank Board (12 CFR 508.14) prior to the effective date of said amendment is unnecessary.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 65-173; Filed, Jan. 6, 1965; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RELATED PRODUCTS

Flour, Durum Flour, Whole Wheat Flour; Confirmation of Effective Date of Order Amending Identity Standards

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471), notice is given that no objections, within the meaning of section 701(e)(2) of the act, were filed to the order published in the FEDERAL REGISTER of October 27, 1964 (29 F.R. 14623), amending the standards for flour and whole wheat flour, to provide for increases in the malted barley flour content, and flour and durum flour, to permit coarser granulation and prescribe testing methods.

One firm submitted a letter protesting the amendment in regards to the granulation specification, but this letter does not meet with the requirements of section 701(e)(2) of the act. Accordingly, this letter does not justify a stay of the granulation provision in the order or the scheduling of a public hearing.

The amendments promulgated by the above-identified order became effective December 26, 1964.

(Secs. 401, 701, 52 Stat. 1046, 1055; as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: December 31, 1964.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 65-168; Filed, Jan. 6, 1965; 8:48 a.m.]

PART 51—CANNED VEGETABLES

Canned Vegetables Other Than Those Specifically Regulated; Identity; Label Statement of Optional Ingredients

In the matter of amending the standards of identity for canned vegetables listed in § 51.990:

1. To permit the optional use of the seasonings corn sirup or glucose sirup or dried forms thereof in all vegetables listed; and

2. To list "French fry cuts" as an optional form of canned potatoes and to permit higher calcium levels in all forms of canned potatoes.

A notice of proposed rule making in the matter identified in paragraph 1 was published in the FEDERAL REGISTER April 17, 1963 (28 F.R. 3728), on the basis of a petition filed by Corn Industries Research Foundation, Inc., 1001 Connecticut Avenue NW., Washington, D.C., proposing that the standards of identity for canned vegetables other than those specifically regulated be amended by including corn sirup, corn sirup solids, glucose sirup, and glucose sirup solids in the list of optional seasoning ingredients permitted for use in these canned vegetables. The petition did not propose that these seasoning ingredients be designated for label declaration.

A notice in the matter identified in paragraph 2 was published in the FEDERAL REGISTER December 14, 1961 (26 F.R. 11988), based on a petition filed by Idaho Canning Co., Payette, Idaho, which proposed amendments of the food standard applicable to canned potatoes to give recognition to an additional optional form by the name "French fry cuts" and to permit the use of higher levels of calcium salts to improve the firmness of the canned potatoes.

The comments filed with reference to the matter identified in paragraph 1 were not supported by substantiating evidence.

No comments were received on the proposal for listing "French fry cuts" as an optional form. Two adverse comments were received on the proposed amendment to raise the level for calcium salts. One person, commenting as a consumer, complained that increased usage of calcium salts would degrade the texture and eating quality of canned potatoes. No data were furnished in support of this assertion. The other adverse comment pointed out that the petition proposed to increase the permissible level for calcium to not more than 0.2 percent. On the assumption that canned potatoes, containing added calcium salts at this maximum level, may be consumed in large amounts, this comment pointed out that a person might receive from canned potatoes an intake of calcium in excess of twice the adult daily allowance recommended by the National Research Council. The analytical data submitted with the petition proposing the amendment have been re-evaluated. None of the samples was reported as containing more than 0.098 percent of calcium. It is concluded that, in order to avoid having calcium salts added to canned potatoes in unnecessarily high amounts, the amendment should prescribe the maximum limit at not more than 0.1 percent of calcium.

On the basis of relevant information available and giving consideration to the comments filed, it is concluded that it will promote honesty and fair dealing in the interest of consumers to adopt the amendments proposed, with the limit for calcium modified as stated, and in doing so to make minor editorial changes in the standard. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 2.90; 29 F.R. 471): *It is ordered*, That, § 51.990 *Canned vegetables other than those specifically regulated; identity; label statement of optional ingredients* be amended in the following respects:

§ 51.990 [Amended]

1. Paragraph (b) is amended by changing the item "Potatoes" in the table to read:

(b) * * *

I Name or synonym of canned vegetable	II Source	III Optional forms of vegetable ingredients
* * *	* * *	* * *
Potatoes	Tuber of the potato plant	Whole; slices or sliced; dice or diced; pieces; shoestring or French style or julienne; French fry cut.
* * *	* * *	* * *

2. Paragraph (c) is amended as follows:

By changing the calcium limitation in subparagraph (3)(i) from 0.051 percent to 0.1 percent; by changing the introduction to subparagraph (6) and by adding to subparagraph (6) a new subdivision (v) to provide for the use of additional seasoning ingredients; by deleting subparagraph (9); by amending subparagraph (8) and by redesignating subparagraphs (10), (11), and (12) as (9), (10), and (11) respectively; and by inserting after (11) a closing sentence in the paragraph. As amended, the affected portions of this paragraph read as follows:

(c) * * *

(3)(i) In the case of potatoes, purified calcium chloride, calcium sulfate, calcium citrate, monocalcium phosphate, or any mixture of two or more such calcium salts, in a quantity reasonably necessary to firm the potatoes, but in no case in a quantity such that the calcium contained in any such salt or mixture is more than 0.1 percent of the weight of the finished food.

* * * * *

(6) In the case of all vegetables (except canned mushrooms and except canned mashed sweetpotatoes as regards the seasonings listed in subdivision (v) of this subparagraph) one or more of the following optional seasoning ingredients may be added in a quantity sufficient to season the food:

* * * * *

(v) Corn sirup, dried corn sirup, glucose sirup, dried glucose sirup.

* * * * *

(8) In the case of all vegetables, monosodium glutamate may be added in a quantity sufficient to season the food.

(9) In the case of canned asparagus packed in glass containers, stannous chloride may be added in a quantity not to exceed 15 parts per million calculated as tin (Sn).

(10) In the case of canned black-eye peas, disodium EDTA may be added in a

quantity not to exceed 145 parts per million.

(11) In the case of potatoes, calcium disodium EDTA may be added in a quantity not to exceed 110 parts per million.

The food is sealed in a container and so processed by heat as to prevent spoilage.

* * * * *

3. Paragraph (f) (9), (10), and (11) is amended by changing citations therein to correspond to the amendments made in paragraph (c). As amended these subparagraphs read as follows:

(f) * * *

(9) If the optional ingredient specified in paragraph (c)(9) of this section is present, the label shall bear the statement "stannous chloride added as a preservative," "stannous chloride added to preserve color," or "stannous chloride added to retain color."

(10) If the optional ingredient specified in paragraph (c)(10) of this section is present, the label shall bear the statement "disodium EDTA added as a preservative" or "disodium EDTA added to preserve color."

(11) If the optional ingredient specified in paragraph (c)(11) of this section is present, the label shall bear the statement "calcium disodium EDTA added as a preservative" or "calcium disodium EDTA added to preserve color."

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days following the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 948; 21 U.S.C. 341, 371)

Dated: December 31, 1964.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 65-169; Filed, Jan. 6, 1965; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

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

PART 1500—GENERAL PROCEDURAL PROVISIONS

Complaint Procedures; Nondiscrimination in Low-Rent Public Housing

Effective January 3, 1965, Chapter III, Public Housing Administration, is amended by adding a new § 1500.7 *Complaint procedure—nondiscrimination in low-rent public housing*, as follows:

§ 1500.7 Complaint procedure; nondiscrimination in low-rent public housing.

(a) *Introduction.* This section is issued under the authority of title VI of the Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 252, 42 U.S.C. 2000d-1; the regulations of the Housing and Home Finance Agency effectuating title VI of the Civil Rights Act of 1964, 24 CFR, Subtitle A, Part 1, § 1.1 et seq. of this title (herein referred to as "the HHFA regulations"); and section 502(b) of the Housing Act of 1948, 42 U.S.C. section 1404a. Notwithstanding the provisions of § 1500.6, *Complaint procedures—equal opportunity in housing*, the procedure prescribed in the HHFA regulations, as implemented by the Public Housing Administration in this § 1500.7, shall apply with respect to any complaint of discrimination on the ground of race, color or national origin in the low-rent housing program under the United States Housing Act of 1937, as amended, 42 U.S.C. 1401 et seq. The procedure prescribed in § 1500.6 shall apply only to complaints of discrimination on the basis of creed.

(b) *Definitions.* As used in this section:

(1) "Local Authority" means a "public housing agency" as defined in section 2(11) of the United States Housing Act of 1937, 42 U.S.C. 1402(11), which is a "recipient" of or an "applicant" for Federal financial assistance under that Act as defined in section 1.2 of this title (HHFA regulations). With respect to any federally owned or operated low-rent housing project, the housing project manager shall be deemed to be a "Local Authority" for purposes of this section.

(2) "Discrimination" means any action or practice of a local Authority of the kind prohibited by section 601 of the Civil Rights Act of 1964 or by § 1.4 (a) and (b) of this title (HHFA regulations), and, in the case of a project covered by a contract clause for equal opportunity in housing pursuant to section 101 of Executive Order 11063 (see § 1500.6(b)(2)), any action or practice prohibited by such clause relative to race, color, or national origin.

(3) "Project" means a low-rent housing project assisted under the United States Housing Act of 1937, including any low-rent housing project owned or operated by the Federal Government pursuant to said Act.

(4) "Commissioner" means the Public Housing Commissioner.

(c) *Complaints*—(1) *Filing.* Complaints of discrimination on the part of a Local Authority shall be filed with the appropriate Regional Director of the Public Housing Administration. A list of PHA Regional Offices with their addresses and areas of jurisdiction appears as Appendix A to this section. Regional Directors are authorized to extend the time for filing a complaint beyond the period specified in § 1.7(b) of this title (HHFA regulations).

(2) *Content.* A complaint shall be signed by the complainant or his representative and shall, insofar as known to complainant, name the Local Authority and the project involved, state the time, place, and nature of the alleged discrimination, set forth factual information known to the complainant supporting the allegation of discrimination, and state the complainant's interest in or relationship to the alleged discrimination.

(3) *Acknowledgment.* Upon receipt of a complaint, the Regional Director shall promptly and in writing acknowledge its receipt.

(4) *Further notice to complainant.* The complainant will be advised in writing when investigation of the complaint indicates discrimination and the matter is resolved by informal means. In all other respects, the procedure prescribed in the HHFA regulations will apply.

(d) *Effective date.* This section shall be effective January 3, 1965.

Approved: December 30, 1964.

MARIE C. MCGUIRE,
Commissioner.

APPENDIX A

LIST OF PHA REGIONAL OFFICES AND AREAS OF JURISDICTION

Regional office	*Areas of jurisdiction*
Atlanta: Room 737, Peachtree Building, Atlanta, Ga., 30323.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Chicago: Room 2201, 185 North Wabash Avenue, Chicago, Ill., 60601.	Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.
Fort Worth: Room 2072, 300 West Vickery Boulevard, Fort Worth, Tex., 76104.	Arkansas, Colorado, Kansas, Louisiana, Missouri, Oklahoma, New Mexico, Texas.
New York: 346 Broadway, New York, N.Y., 10013.	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont.

LIST OF PHA REGIONAL OFFICES AND AREAS OF JURISDICTION—continued

Regional office	Areas of jurisdiction
Philadelphia: Room 1102, Widener Building, Chestnut and Juniper Streets, Philadelphia, Pa., 19107.	Delaware, Maryland, Pennsylvania, West Virginia, Virginia, District of Columbia.
Puerto Rico: Post Office Box 9197, Santurce, Puerto Rico, 00908.	Puerto Rico, Virgin Islands.
San Francisco: 450 Golden Gate Avenue, Box 36027, San Francisco, Calif., 94102.	Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming.

NOTE: Any changes in this listing of PHA Regional Offices or their areas of jurisdiction will be published in the Notices section of the FEDERAL REGISTER under the heading "Housing and Home Finance Agency, Public Housing Administration, Description of Agency and Programs," or may be obtained by writing to the Public Housing Administration, Washington, D.C., 20413, or to any PHA Regional Office, or by inquiring at any Local Authority office.

[F.R. Doc. 65-142; Filed, Jan. 6, 1965; 8:46 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER A—REGULATIONS

PART 612—NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

Wage Rates

Correction

In F.R. Doc. 65-46 appearing in the issue of Tuesday, January 5, 1965, at page 33, immediately following paragraph (f)(2) of § 612.2 insert the following paragraph:

(g) *New coverage classification.* (1) The minimum wage for this classification is $1.15 an hour between January 21, 1965 and September 2, 1965 and $1.25 an hour thereafter.

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.109(a), subparagraph (1) is amended to read as follows:

§ 3.109 Time limit.

(a) *Notice of time limit for filing evidence.* (1) If a claimant's application is incomplete, the claimant will be notified of the evidence necessary to complete the application. If the evidence is not received within 1 year from the date of such notification, pension, compensation, or dependency and indemnity compensation may not be paid by reason of that application (38 U.S.C. 3003(a)). Information concerning the whereabouts of a person who has filed claim is not considered evidence.

* * * * *

2. In § 3.150, paragraph (d) is revoked:

§ 3.150 Forms to be furnished.

* * * * *

(d) [Revoked]

3. In § 3.152(c), subparagraph (1) is amended and subparagraph (4) is added so that the amended and added material reads as follows:

§ 3.152 Claims for death benefits.

* * * * *

(c)(1) Where a child's entitlement to dependency and indemnity compensation arises by reason of termination of a widow's right to dependency and indemnity compensation or by reason of attaining the age of 18 years, a claim will be required (38 U.S.C. 3010(e)). See subparagraph (4). Where the award to the widow is terminated by reason of her death, a claim for the child will be considered a claim for any accrued benefits which may be payable.

* * * * *

(4) Where payments of pension, compensation or dependency and indemnity compensation to a widow have been discontinued because of remarriage or death, or a child becomes eligible for dependency and indemnity compensation by reason of attaining the age of 18 years, and any necessary evidence is submitted within 1 year from date of request, an award for the child or children named in the widow's claim will be made on the basis of the widow's claim having been converted to a claim on behalf of the child. Otherwise, payments may not be made for any period prior to the date of receipt of a new claim.

4. In § 3.651, paragraph (a) is amended to read as follows:

§ 3.651 Change in status of dependents.

Except as otherwise provided:

(a) A payee who becomes entitled to pension, compensation, or dependency and indemnity compensation or to a greater rate because payment of that benefit to another payee has been reduced or discontinued will be awarded the benefit or increased benefit without the filing of a new claim.

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective the date of approval.

Approved: December 31, 1964.

By direction of the Administrator.

[SEAL] W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 65-148; Filed, Jan. 6, 1965; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Subtitle A—Department of Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER Q—CIVIL RIGHTS

PART 300—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF DEFENSE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Correction

In F.R. Doc. 64-13519, appearing at page 19291 of the issue for Thursday, December 31, 1964, the reference to "§ 300.11" in the first sentence of § 300.10(a) should read "§ 300.9".

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 18—National Aeronautics and Space Administration

PART 18-54—CONTRACT APPEAL PROCEDURE

Procurement Regulations

1. Sections 18-54.000, 18-54.101, 18-54.102, 18-54.103, 18-54.111, 18-54.116, 18-54.120, and 18-54.122 revised in their entirety as follows:

§ 18-54.000 Scope of part.

This part establishes procedures for the adjudication of appeals arising from NASA contracts.

§ 18-54.101 Authority.

Under provisions of NASA Management Instruction 2-4-1A, January 1, 1965, the Board of Contract Appeals is authorized to act for the Administrator in hearing, considering and deciding appeals by NASA contractors from the findings of fact and final decisions of NASA contracting officers or their authorized representatives pursuant to the "Disputes" clause of a NASA contract.

§ 18-54.102 Notice of appeal.

An appeal from the findings of fact and final decision of a NASA contracting officer (or his representative if such representative has been authorized by the contracting officer to make final decisions pursuant to the "Disputes" clause) shall be made by submitting a notice in writing, addressed to the Board of Con-

tract Appeals (hereinafter referred to as the Board), National Aeronautics and Space Administration, Washington, D.C., 20546. Such notice shall be filed within 30 days from the date of receipt of the written decision of the contracting officer of his authorized representative, unless otherwise provided in the contract. The original notice, together with two copies thereof, shall be mailed to or filed with the contracting officer from whose final decision the appeal is taken. The notice of appeal shall indicate that an appeal is thereby intended, and shall identify the contract (by number), the contracting officer, and specify the portion of the findings of fact and final decision from which the appeal is taken; however, an appeal shall not be deemed invalid if the notice expresses a desire for a review of a final adverse decision. The notice shall be signed by the contractor or his representative. A suggested form of notice of appeal is set forth in § 18-54.123.

§ 18-54.103 Action by contracting officer.

When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing or the date of receipt if otherwise filed, and shall forward such notice immediately to the Chairman of the Board for docketing. Within ten days from the date of receipt of the notice of appeal, the contracting officer shall transmit one copy of the notice of appeal to the General Counsel for use of Government counsel and one copy to the Board. The Board's copy shall be accompanied by a file consisting of:

(a) The findings of fact and the final decision from which the appeal is taken;

(b) All documents relied upon in making the findings and final decision;

(c) A copy of the contract and specifications, pertinent plans, amendments, and change orders;

(d) All correspondence between the parties relating to the dispute;

(e) Transcripts of any testimony taken in connection with the dispute and any affidavits or statements of any witnesses that were made prior to the notice of appeal; and

(f) Such additional information as the contracting officer may consider material.

True copies may be substituted for originals in this file.

* * * * *

§ 18-54.111 Motions to dismiss for lack of jurisdiction.

Defenses which go to the jurisdiction of the Board shall be raised by motion. However, the Board shall be deemed to have jurisdiction over any appeal, if timely filed, arising from the findings of fact and final decision of a NASA contracting officer or his authorized representative pursuant to the "Disputes" clause of a NASA contract. Filing of motions to dismiss for lack of jurisdiction shall not be unreasonably delayed. Motions to dismiss for lack of jurisdiction shall, upon application of either party, be heard and determined before oral hearing on the merits. The Board, however, has the right at any time to recognize its lack of jurisdiction to proceed in a particular case.

* * * * *

§ 18-54.116 Settlement.

A dispute may be settled at any time by the contractor's filing written notice withdrawing his appeal or by written stipulation between the contractor and the Government counsel filed with the Board settling either the entire dispute or any part thereof. If only part of the dispute is settled, the appeal shall continue as to any issues remaining in dispute.

* * * * *

§ 18-54.120 Decisions.

Decisions of the Board shall be made in writing and shall reflect the opinion of a majority of the members deciding the appeal. Copies of the decision shall be forwarded simultaneously to both parties. All final orders and decisions (except those required for good cause to be held confidential) shall be available for public inspection at the offices of the Board of Contract Appeals, National Aeronautics and Space Administration, Washington, D.C.

* * * * *

§ 18-54.122 [Reserved]

* * * * *

(42 U.S.C. 2473(b)(1))

Effective date. The provisions of §§ 18-54.000, 18-54.101, 18-54.102, 18-54.103, 18-54.111, 18-54.116, 18-54.120, and 18-54.122 are effective January 1, 1965.

HERBERT L. BREWER,
Acting Director of Procurement, National Aeronautics and Space Administration.

[F.R. Doc. 65-146; Filed, Jan. 6, 1965; 8:46 a.m.]

Title 45—PUBLIC WELFARE

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

PART 143—GUIDANCE AND COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS—STATE PROGRAMS

Part 143 of Title 45 of the Code of Federal Regulations, dealing with regulations for the administration of sections 501-504(a), inclusive, of Title V of the National Defense Education Act of 1958, 72 Stat. 1580, as amended (20 U.S.C. Ch. 17), is revised to read as set forth below.

Grants made pursuant to the regulations set forth below are subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of Section 601 of the Civil Rights Act of 1964 (P.L. 88-352).

Subpart A—Definitions

Sec.
143.1 Definitions.

Subpart B—State Plan—General Provisions

143.2 State plan.
143.3 State agency for administration.
143.4 Authority of State agency.
143.5 Custody of funds.
143.6 State fiscal procedures.
143.7 Duties and qualifications of State personel in professional positions.
143.8 State agency program activities.
143.9 Reports.
143.10 Continuing review of State administration.
143.11 Fiscal audits.

Subpart C—Federal Financial Participation

143.12 Effective date of plan.
143.13 Federal participation in general.
143.14 Proration of costs.
143.15 Accounting basis for expenditures.
143.16 Use of State rule in determining the fiscal year's allotment to which an expenditure is chargeable.
143.17 Transfer of funds to local agencies.
143.18 Disposal of records.
143.19 Adjustments.

Subpart D—Federal Payment Procedures

143.20 Estimates and financial reports.
143.21 Federal payments.
143.22 Effect of Federal payments and reallotment.
143.23 Certifying payments.
143.24 Interest on Federal grants.

Subpart E—State Supervisory Services and Administration

143.25 Programs for supervisory services and administration.
143.26 Studies, investigations, and demonstrations.
143.27 Professional personnel.
143.28 Conduct of supervisory or related services.

Subpart F—Program for Testing Aptitudes and Ability

143.29 Purposes of testing program.
143.30 Testing defined.
143.31 Conduct of testing program.
143.32 Plan requirements for testing programs.

Subpart G—Guidance and Counseling Programs

143.33 Scope and purposes.
143.34 Categories of expenditures applicable to approved local guidance and counseling programs.
143.35 Plan requirements applicable to guidance and counseling programs.
143.36 Transition provisions.

AUTHORITY: The provisions of this Part 143 issued under sections 501-504, 1001, 72 Stat. 1592-1593, 1602, as amended, 20 U.S.C. 481-484, 581.

Subpart A—Definitions

§ 143.1 Definitions.

As used in this part:

(a) "Act" means the National Defense Education Act of 1958, as amended, 20 U.S.C. Ch. 17.

(b) "Commissioner" means the United States Commissioner of Education, Department of Health, Education, and Welfare.

(c) "Department" means the Department of Health, Education, and Welfare.

(d) "Elementary school" means a school which provides elementary education, as determined under State law.

(e) "Fiscal year," as used with respect to reporting and accounting require-

ments, means the period beginning on the first day of July and ending on the following June 30. (The calendar year of the ending date is used to designate the fiscal year.)

(f) "Junior college" means an institution of higher education which (1) is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree; (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (3) is legally authorized within the State to provide a program of education beyond secondary education; (4) is a public or other nonprofit institution; (5) is accredited as a junior college by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and (6), if a branch of an institution of higher education offering four or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

(g) "Local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision in a State, or any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(h) "Public," as applied to any school or institution, includes a school or institution of any agency of the United States, except that no such school or institution shall be eligible to receive any grant, loan, or other payment under the Act.

(i) "Secondary school" means a school which provides a secondary education, as determined under State law.

(j) "State" means a State of the Union, Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, or the Virgin Islands.

(k) "State educational agency" or "State agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the governor or by State law.

(l) "Technical institute" means an institution of higher education which (1) is organized and administered principally to provide a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (3) is legally authorized within the State to provide a program of education beyond secondary education; (4) is a public or other nonprofit institution; (5) is accredited as a technical institute by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and (6), if a branch of an institution of higher education offering four or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

Subpart B—State Plan—General Provisions

§ 143.2 State plan.

(a) *Purpose.* A basic condition for the payment of Federal funds to a State under sections 501–504 of the Act is a State plan meeting the requirements of sections 503(a) and 1004(a) of the Act by providing (1) a program for testing students, as specified in subpart F of these regulations, in the public elementary and secondary schools or in the public junior colleges and technical institutes of such State, and, to the extent authorized by law in other elementary and secondary schools and in other junior colleges and technical institutes in such State; (2) a program of guidance and counseling, as specified in subpart G of these regulations, in the public elementary and secondary schools or public junior colleges and technical institutes of such State; (3) that the State agency will be the sole agency for administering the plan; (4) that the State agency will make such reports as the Commissioner deems necessary; and (5) for fiscal control and fund accounting procedures as specified in these regulations.

(b) *Effect of State plan.* The plan, when approved by the Commissioner, shall constitute the basis on which Federal grants will be made, as well as a basis for determining the propriety of State and local expenditures in which Federal participation is requested.

(c) *Submission.* The State plan and all amendments thereto shall be submitted to the Commissioner by a duly authorized officer of the State educational agency. The plan shall indicate the official or officials authorized to submit plan material.

(d) *Amendments.* The administration of the programs shall be kept in conformity with the approved State plan. Whenever there is any material change in the content or administration of a program, or when there has been a change in pertinent State law or in the organization, policies, or operations of the State educational agency affecting a program under the plan, the State plan shall be appropriately amended.

(e) *Certificate of the State educational agency.* The State plan and all amendments thereto shall include as an attachment a certificate of the officer of the State educational agency authorized to submit the State plan to the effect that the plan or amendment has been adopted by the State agency and that the plan, or plan as amended, will constitute the basis for operation and administration of the program in which Federal participation under sections 501–504(a), inclusive, will be requested.

(f) *Certificate of the State Attorney General or other appropriate State legal officer.* The State plan shall also include, as an attachment, a certificate by the appropriate State legal officer to the effect that the State agency named in the plan is the "State educational agency" as defined in § 143.1(k) which has authority under State law to submit the State plan and to carry out the programs described therein as the sole State agency responsible for administering the plan, and that all of the plan provisions are consistent with State law.

§ 143.3 State agency for administration.

(a) *Designation.* The State plan shall give the official name of the agency which will be the sole agency for administering the plan. Such agency shall meet the criteria set forth in § 143.1(k) defining "State educational agency."

(b) *Organization.* The State plan shall describe, by chart or otherwise, the organization of the State staff for the administration of the programs set forth in the plan. The lines of authority within the administrative unit or units responsible for the programs under the plan shall be shown, together with the administrative relationships of such unit or units to the rest of the State educational agency and to other related agencies.

§ 143.4 Authority of State agency.

The State plan shall set forth the authority of the State educational agency under State law to submit the State plan and to administer and supervise the programs set forth therein, including a description of the functional relationship between the State agency and (a) local educational agencies, and (b) junior colleges and technical institutes. Citations to, or copies of, all directly pertinent statutes and interpretations of law by appropriate State officials, whether by regulation, policy statement, opinion of the appropriate State legal officer, or court decision, shall be furnished as part of the plan. All copies shall be certified as correct by an appropriate official. If the agency is not authorized under State law to expend funds for testing students in any one or more elementary or secondary schools, or junior colleges or technical institutes, in the State, the authorized officer of the agency shall so certify, indicating the institutions or types of institutions thus excluded and giving the legal basis for his conclusion. In such cases, the Commissioner will arrange for testing such students under the authority contained in section 504(b) of the Act.

§ 143.5 Custody of funds.

The State plan shall designate the officer who will receive and provide for the custody of all funds to be expended under applicable State laws and regulations on requisition or order of the State agency.

§ 143.6 State fiscal procedures.

(a) *State administration.* The State plan shall provide for the fiscal administration of the plan by describing such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under the plan, inculding such funds paid by the State to the local and other participating educational agencies. Such administration shall be conducted in accordance with applicable State laws, policies, and procedures, which shall be identified in the plan or set forth in an appendix. Accounts and supporting documents relating to any program involving Federal participation shall be adequate to permit an accurate and expeditious audit of the program.

(b) *Audit of local and other participating educational agencies.* All expenditures claimed for Federal participation shall be audited either by the State or by appropriate auditors at the local level. The State plan shall indicate how the accounts of local educational agencies and other agencies participating in the State plan will be audited; and, when the audit is to be carried out at the local level, how the State agency will secure information necessary to assure proper use of funds expended under sections 503 and 504(a) of the Act by such educational agencies.

§ 143.7 Duties and qualifications of State personnel in professional positions.

(a) *Staff.* The State plan shall describe the duties of State administrative and supervisory positions under the plan. The State plan shall also set forth the minimum experience, education and other related qualifications required of all State personnel to be engaged in professional administration and supervision of guidance and counseling, and testing, programs. If State statutes or regulations establish such positions and give such information, the plan shall include citation to such statutes, or set forth in an appendix copies of pertinent regulations.

(b) *Advisory committee.* If a State advisory committee on guidance and counseling, or testing, is established, the plan shall describe the general composition and method of establishment of the committee and its duties.

§ 143.8 State agency program activities.

The plan shall set forth the program of the State agency for the administration and supervision of all plan programs, including standards and procedures for the initial and succeeding State approvals of local programs of guidance and counseling, and testing. Program reviews should be conducted by the State agency at least annually for the purpose of appraising the status of plan programs and their administration in terms of plan provisions and program objectives, which shall be stated in the plan.

§ 143.9 Reports.

The State plan shall provide that the State agency will participate in such periodic consultations and will make such reports to the Commissioner at such time, in such form, and containing such information as the Commissioner may consider reasonably necessary to enable him to perform his duties under Part A, Title V, of the Act and will keep such records and afford such access thereto, and will comply with such other requirements, as the Commissioner may find necessary to assure the correctness and verification of such reports.

§ 143.10 Continuing review of State administration.

In order to assist the State educational agency in adhering to statutory requirements and to the substantive legal and administrative provisions of its approved State plan, the Commissioner will conduct periodic reviews of the administration of programs under Title V-A of the Act.

§ 143.11 Fiscal Audits.

The State educational agency's program expenditure records are to be audited by the Department to determine whether the State agency has properly accounted for Federal funds.

Subpart C—Federal Financial Participation

§ 143.12 Effective date of plan.

Since the Federal Government participates only in amounts expended under the State plan, there can be no Federal participation in any expenditure made before the plan or applicable amendment thereto is in effect. For the purposes of this part, the earliest date on which the plan or applicable amendment thereto may be considered in effect is the date on which it is received in substantially approvable form by the Commissioner.

§ 143.13 Federal participation in general.

(a) *Nature.* The Federal Government will pay from each State's allotment, as reduced by expenditures required pursuant to section 504(b) of the Act, one-half of the total amount expended under the approved State plan: (1) By the State and local agencies in the establishment, maintenance, or extension of guidance and counseling, and testing, programs approved under the State plan; (2) for State agency supervisory or related services in the fields of guidance and counseling, and testing; and (3) for administration of the State plan. There can be no Federal financial participation in the expenditures made by local agencies for a guidance and counseling, or testing, program if the program has not been approved by the State agency prior to the incurrence of the obligation.

(b) *Equipment from a Communist country.* Annual appropriation acts for the Department of Health, Education, and Welfare have provided that no part of the funds appropriated for "Defense Educational Activities" shall be available for the purchase of teaching equipment or equipment suitable for use for teaching, in certain subjects, which can be identified as originating in or having been exported from a Communist country, unless such equipment is unavailable from any other source. Such a prohibition applies to expenditures with respect to which Federal participation is requested from allotments under section 502 or section 1008 of the Act.

(c) *Public nature of funds.* The expenditures to be considered in computing Federal financial participation must be made from public funds. Public funds do not include contributions by private organizations or individuals unless such contributions are deposited in accordance with State law to the account of a unit or agency of State or local government without such conditions or restrictions as would negate their public character.

§ 143.14 Proration of costs.

Federal financial participation is available only with respect to that portion of any expenditure which is attributable to an activity under the State plan. The State plan shall specify the basis for identifying and the method to be used in prorating State level expenditures to include only those attributable solely to State plan activities. The State educational agency shall include in its annual description of projected activities submitted to the Commissioner for each fiscal year its estimated prorated expenditures for salaries attributable to State plan activities. The State educational agency must also maintain records (documented on a before- and after-the-fact basis) to substantiate the proration of expenditures for applicable items such as salaries, travel, rent and equipment.

§ 143.15 Accounting basis for expenditures.

Subject to the provisions and limitations of the Act and this part, Federal financial participation will be available only for expenditures made under the plan in accordance with applicable State laws, rules, regulations, and standards governing expenditures of State and local funds. Each State shall use the accounting basis (cash, accrual or obligation) applicable to its State or local accounting. The State plan shall specify for State and for local level expenditures the particular accounting basis to be so used and shall set forth or incorporate by reference the applicable State laws, rules, and regulations which constitute the basis for defining and establishing how and when transactions made by the State and other participating agencies are considered to be expenditures. If the State or other participating agencies utilize other than a cash accounting basis, the State plan shall indicate the time period or other factors governing the liquidation of obligations.

§ 143.16 Use of State rule in determining the fiscal year's allotment to which an expenditure is chargeable.

Each allotment to a State under section 502 or 1008 of the Act is made with

respect to a fiscal year commencing on July 1 and ending the following June 30. State and local laws and regulations shall be followed in determining to which fiscal year an expenditure by the State or local agency is chargeable for the purpose of earning the allotment.

§ 143.17 **Transfer of funds to local agencies.**

State plans shall set forth the policies and procedures to be used in the payment of funds to local agencies or other school authorities pursuant to an approved plan program, either (a) as a reimbursement for actual expenditures or (b) as an advance prior to expenditures. Advances shall not be eligible for inclusion as expenditures for the purposes of earning Federal financial participation until adequate evidence of actual expenditures for approved programs has been received and verified by the State educational agency. (See §§ 143.13 and 143.15.) Reimbursement or payment need not be uniform to all local agencies (i.e., the State plan may provide a method by which the ratio of reimbursement to total expenditures may be adjusted on an individual basis to meet local needs).

§ 143.18 **Disposal of records.**

(a) *General rule.* The State educational agency shall provide for keeping accessible and intact all records supporting claims for Federal grants or relating to the accountability of the grantee agency for expenditure of such grants and relating to the expenditure of matching funds: (1) For three years after the close of the fiscal year in which the expenditure was made; (2) until the State agency is notified that such records are not needed for program administration review; or (3) until the State agency is notified of the completion of the Department's fiscal audit, whichever is later.

(b) *Questioned expenditure.* The records involved in any claim or expenditure which has been questioned shall be maintained until necessary adjustments have been reviewed and cleared by the Department.

(c) *Records of equipment.* Where nonconsumable equipment which costs $50 or more per unit is purchased with Federal financial participation, inventories and other records supporting accountability shall be maintained until the State agency is notified of the completion of the Department's review and audit covering the disposition of such equipment.

§ 143.19 **Adjustments.**

The State educational agency in its maintenance of program expenditure accounts, records, and reports shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from Federal or State administrative reviews and audits. Such adjustments shall be set forth in the State's financial reports filed with the Commissioner.

Subpart D—Federal Payment Procedures

§ 143.20 **Estimates and financial reports.**

(a) *Reports.* The State agency shall submit, in accordance with procedures established by the Commissioner:

(1) A description of the activities to be carried on under the plan during the fiscal year;

(2) Reports of estimated total expenditures for activities under the plan during the fiscal year, and the amount of funds available to pay the non-Federal share of such expenditures;

(3) Following the end of the fiscal year, a report of the total expenditures made under the plan during the fiscal year; and

(4) Such other estimates and reports as are periodically needed to account properly for funds.

(b) *Effect of estimates.* Expenditures will not be precluded from Federal financial participation because of minor deviations from the information submitted pursuant to paragraph (a) of this section if they are otherwise made in accordance with the approved plan and the regulations.

§ 143.21 **Federal payments.**

Payments will be made in advance to States with approved plans on the basis of estimates and reports referred to in §§ 143.20 and 143.22(c), with appropriate adjustments for underpayments or overpayments for any prior period. In settling accounts upon the termination of Title V–A of the Act, or the termination of the State plan, the State shall refund to the Commissioner any overpayment which might have been made under section 504(a) of the Act.

§ 143.22 **Effect of Federal payments and reallotment.**

(a) *No waiver.* Neither the approval of the State plan nor any payment to the State pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure of the State to observe, before or after such administrative action, any Federal requirements.

(b) *Settlement of accounts.* The final amount to which the State is entitled for any period is determined on the basis of expenditures under the State plan with respect to which Federal financial participation is authorized.

(c) *Reallotment.* In order to provide a basis for reallotments by the Commissioner under section 502(b) of the Act, each State agency shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement showing the anticipated need during the current fiscal year for the amount previously allotted, or any amount needed to be added thereto. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements. No allotment (or reallotment) of funds may be carried over for use during a subsequent fiscal year.

§ 143.23 **Certifying payments.**

Payments will be certified periodically after: (a) The State has on file in the Office of Education a plan approved by the Commission; (b) the pertinent estimates and reports required by §§ 143.20 and 143.22(c) have been reviewed; and (c) the Commissioner is satisfied that the State needs the funds and will be able to carry out the plan during the current fiscal year.

§ 143.24 **Interest on Federal grants.**

Interest earned on Federal grants shall be credited to the United States. The State agency shall submit as a part of each annual financial report a statement showing the amount of interest earned on Federal funds during that period. Ordinarily such interest earnings will be considered in the adjustment of the Federal-State account; but for the last year of the program, payment of interest shall be made by the State to the Commissioner.

Subpart E—State Supervisory Services and Administration

§ 143.25 **Programs for supervisory services and administration.**

The State plan shall describe the programs of the State agency for supervisory and related services in public elementary and secondary schools in the fields of guidance and counseling, and testing; and administration of all plan operations. There may be Federal participation in State agency expenditures for such programs to the extent that they are directly related to the establishment, maintenance, and improvement of guidance and counseling, and testing, programs developed under the plan.

(a) *Categories of activities.* Such programs may include the following activities: (1) The organization, general direction and coordination of the guidance and counseling, and testing, programs established under the plan; (2) planning State programs and assisting in the planning of local programs; (3) assisting local guidance personnel in establishing, maintaining, or improving programs; (4) planning and preparation of materials and information for State and local programs; (5) demonstrating through pilot programs, or otherwise, guidance and counseling, and testing, procedures and techniques; (6) evaluating the results of guidance and counseling, and testing, programs; and (7) such other related activities as may be necessary for the organization, maintenance, and improvement of programs established under the plan.

(b) *Categories of expense.* The cost of administration and of supervisory and related services, in guidance and counseling, and testing, programs in which Federal participation may be claimed includes such categories of expense as the following, to the extent that the items of cost are attributable to the programs approved under the State plan: (1) Salaries of the staff, both clerical and professional; (2) consultants' fees; (3) expenses of committees, workshops and conferences, including the travel of

those representing the State agency or acting in an advisory capacity to it; (4) contractual services consistent with State laws and regulations and the State plan, provided such services do not result in the relinquishing by the State agency of any part of its responsibility for supervisory and related services; (5) office equipment and equipment necessary for State programs of guidance and counseling, and testing; (6) communication; (7) supplies, printing, and printed materials, including reference books; (8) purchase or rental of tests, answer sheets, profile sheets, cumulative record forms, and such other materials as may be necessary under the plan; (9) rental of equipment for scoring, processing, and reporting the results of tests administered under the plan or, if such equipment is owned by State or local agencies, the pro rata share of the cost of maintaining and operating such equipment; (10) rental of office space as provided in paragraph (c) of this section; (11) employer's contributions to retirement, workmen's compensation, and other welfare funds maintained for one or more general classes of employees of the State agency; (12) machine processing of administrative and program data; and (13) travel expenses of staff and consultants.

(c) *Office space.* Federal financial participation will be available for expenditures for office space (including the cost of utilities and janitorial services) in privately or publicly owned buildings if: (1) The expenditures for the space are necessary, reasonable, and properly related to the efficient administration of the plan programs of guidance and counseling, and testing, or for supervisory or related services; (2) the State agency will receive benefits during the period of occupancy commensurate with such expenditures; (3) the amounts paid by the State agency are not in excess of comparable rental in the particular locality; (4) the expenditures represent an actual cost to the State agency; and (5) in the case of publicly owned buildings, like charges are made to other agencies occupying similar space.

§ 143.26 Studies, investigations, and demonstrations.

Expenditures may be made under the plan to determine, evaluate, and demonstrate: (a) Local or State guidance and counseling, and testing, needs; (b) the effectiveness of procedures in guidance and counseling, and testing; and (c) the results of program operations. Expenditures for such services are allowable expenses to the extent that they fall within the categories of allowable expenses specified in § 143.25(b).

§ 143.27 Professional personnel.

The Federal Government will participate, with respect to those categories of expense that are set forth in § 143.25(b), in the cost of supervisors, consultants, or instructors used by the State agency in the conduct of professional activities, including conferences and workshops: (a) To develop, improve and strengthen the conduct and quality of guidance and counseling, and testing, programs; and (b) to develop materials, procedures, and techniques to improve the quality and conduct of guidance and counseling, and testing, programs.

§ 143.28 Conduct of supervisory or related services.

The State educational agency may set forth provisions in the plan, which are not inconsistent with its supervisory responsibilities, to conduct, in part, professional supervisory and related services in public elementary or secondary schools by: (a) Utilizing local educational agencies or other public agencies to conduct certain of the activities specified in § 143.25(a), § 143.26, § 143.27; and (b) providing for the establishment of cooperative arrangements among units of the State agency, or between the agency and other public agencies or private agencies or organizations, which will provide maximum opportunity for the utilization of all available resources to improve the quality of guidance and counseling, and testing, programs under the plan.

Subpart F—Program for Testing Aptitudes and Ability

§ 143.29 Purposes of testing program.

The State plan shall provide for a testing program to identify students with outstanding aptitudes and abilities in public elementary and secondary schools, including at least one test not above grade 12, and may extend it to students in public junior colleges and technical institutes, which program shall, if authorized by law, also be extended to students in other elementary and secondary schools and other junior colleges and technical institutes. Such a program shall: (a) Provide such information about the aptitudes and abilities of students as may be needed in connection with the counseling and guidance program under the plan (see § 143.33); and (b) provide such information as may be needed to assist other educational or training institutions and prospective employers in assessing the educational and occupational potential of students seeking admission to educational or training institutions or employment.

§ 143.30 Testing defined.

"Testing," as used in section 503(a)(1) of the Act, means the use of tests which measure abilities from which aptitudes for the individual's educational or career development validly may be inferred.

§ 143.31 Conduct of testing program.

(a) *Utilizing other agencies.* In administering the testing program, the State educational agency may: (1) Utilize local agencies to conduct the testing program under State supervision; (2) provide for a testing program to be planned and administered by a local agency under the plan; and (3) contract with public or private institutions or agencies, or with individuals for services (e.g., machine scoring of tests and reporting of test results) which are not inconsistent with its responsibilities.

(b) *Expenditures of local agencies.* If the State agency conducts a testing program under the provisions of subparagraph (1) or (2) of paragraph (a) of this section, expenditures otherwise appropriate are subject to Federal participation when made by the local agency for (1) the purchase or rental of tests, answer sheets, profile sheets, cumulative record forms, and such other materials as may be necessary under the plan; (2) the rental of equipment for scoring, processing, and reporting the results of tests administered under the plan or, if owned by State or local agencies, the pro-rata share of the cost of maintaining and operating such equipment; or (3) contractual services, not inconsistent with State and local responsibilities, for machine scoring of tests and reporting of test results.

§ 143.32 Plan requirements for testing programs.

The plan shall describe the primary objectives of the program, including procedures for providing each local educational agency, nonpublic elementary or secondary school, junior college, and technical institute (to the extent that they enroll students in the grade levels covered by the plan testing program and are not excluded from participation pursuant to § 143.4) with an opportunity to participate, and shall provide for annual reviews by the State agency of progress toward meeting such objectives. The plan shall describe the provisions for carrying out the program, including: (a) The types of tests to be utilized for the measurement of aptitudes and abilities; (b) the grade level of students to be tested; and (c) the procedures to be utilized in the selection and administration of tests with the view of obtaining optimum benefits from such tests. The plan shall provide that the program will be made available to all students in the specified grades in the schools of the participating local educational agencies and in the other participating schools, junior colleges and technical institutes.

Subpart G—Guidance and Counseling Programs

§ 143.33 Scope and purposes.

(a) Guidance and counseling programs which are established, maintained or extended under the plan shall serve (1) to advise students, in public elementary and secondary schools or public junior colleges and technical institutes, regarding courses of study best suited to their ability, aptitudes, and skills; (2) to advise students relative to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields; and (3) to encourage students with outstanding aptitudes and ability to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions.

(b) Such programs shall provide assistance, appropriate to the educational levels of the students, by (1) assessing the abilities, aptitudes, interests, and educational needs of each student; (2) developing understandings of educational and career opportunities and requirements; (3) helping students, directly and through their parents and

teachers, to achieve educational and career development commensurate with their abilities, aptitudes, interests and opportunities; and (4) interpreting student needs for expanded or modified educational activities.

(c) Such programs shall include the following guidance and counseling activities to the extent that they are carried out by utilizing procedures and techniques appropriate to the educational levels of the students and are directed toward the achievement of the foregoing purposes:

(1) Collecting, organizing, and interpreting such information as may be appropriate to the understanding of the student's abilities, aptitudes, interests, and other personal assets and liabilities related to educational readiness and progress and to career planning and development;

(2) Making available to the student and his parents such educational and career information as may be essential for them to understand the educational process and the various educational and career opportunities and requirements related to the choice of an educational program and a career;

(3) Providing individual counseling (i) to help the student and his parents develop a better understanding of the student's educational and occupational strengths and weaknesses; (ii) to help the student and his parents relate his abilities and aptitudes to educational and career opportunities and requirements; (iii) to help the student, with the assistance of his parents, make appropriate educational plans, including the choice of courses and the choice of an institution of higher education; (iv) to stimulate desires in the student to utilize his abilities in attaining appropriate educational and career goals; and (v) to provide the student, directly or through arrangements with other appropriate resources, with such assistance as may be needed for the development of his aptitudes and the full utilization of his abilities;

(4) Providing services to encourage and assist students in making educational transitions, such as placement in the next educational level, and in securing appropriate employment during and upon completion of the educational program;

(5) Providing such group activities as may be necessary to orient students and their parents to the (i) school program including its offerings, services, and requirements; (ii) educational opportunities and requirements at the next level; and (iii) career opportunities and requirements;

(6) Providing to teachers and school administrators such assistance and information about indiivdual students or groups of students as may be necessary to enable them to plan and implement curricular and instructional programs and services which will afford students maximum and equal opportunity for educational development, and which will be consistent with the manpower needs of the State and the Nation; and

(7) Collecting and analyzing such information as may be needed to evaluate the guidance and counseling program and to provide such guidance information as may be available and needed to evaluate the school's program in terms of the educational needs of the students and of the State and the Nation.

§ 143.34 Categories of expenditures applicable to approved local guidance and counseling programs.

Categories of allowable expenditures for the supervision and operation of local guidance and counseling programs approved by the State educational agency under the standards and procedures established pursuant to § 143.35(a) in public elementary and secondary schools or public junior colleges and technical institutes include the following:

(a) Salaries and necessary travel expenses of local school guidance personnel to the extent that they are engaged specifically in activities under the plan and within the scope of the activities listed in § 143.33 or in accordance with State plan provisions authorized by § 143.28. The employer's contribution to retirement, workmen's compensation, or other welfare funds maintained for one or more general classes of employees of the local agency may be included.

(b) Salaries of clerical personnel assisting local guidance personnel engaged in the operation of a local guidance and counseling program under the plan.

(c) The purchase and maintenance of office equipment necessary to meet the plan requirements with respect to professional guidance and counseling activities.

(d) The purchase of such materials (including library source materials) and supplies as may be necessary to fulfill the functions of the guidance and counseling program under the plan.

(e) Necessary travel expenses for local guidance personnel engaged in plan activities to participate in such professional activities, including conferences and workshops, as may be approved under the plan by the State educational agency.

§ 143.35 Plan requirements applicable to guidance and counseling programs.

(a) The plan shall set forth a program for guidance and counseling in public elementary and secondary schools, and may provide for such a program in public junior colleges and technical institutes, and shall include the following items, differentiated with respect to such types of schools or institutions where appropriate:

(1) Procedures to be employed by the State educational agency in the initial and succeeding approvals of local guidance and counseling programs for participation under the plan, and the methods to be used in the conduct of the professional reviews of such programs pursuant to § 143.8.

(2) Minimum professional standards to be employed by the State educational agency for approval of local guidance and counseling programs with respect to (i) a testing program which fulfills the purposes established in § 143.29; (ii) the guidance and counseling activities to be provided and the grade levels of students who are to be the participants in such activities; (iii) the duties of and qualifications for local guidance and counseling positions; (iv) the ratio of students to each full-time local guidance and counseling position or its equivalent filled by a person performing the duties and meeting the qualifications called for by subdivision (iii) of this subparagraph; and (v) the physical facilities, equipment, and materials to be available for the conduct of guidance and counseling activities under the plan.

(3) Professional standards recommended by the State agency for local guidance and counseling programs, in the areas of minimum standards established under subparagraph (2) of this paragraph, with a description of such steps as may be required to meet such recommended professional standards.

(4) Supervisory methods and procedures to be employed in local guidance and counseling programs under the plan.

(5) Coordination methods and procedures to provide assurance of appropriate relationships between the local guidance and counseling program under the plan, and other related services available to students.

(6) Categories of expenditures in local guidance and counseling programs (§ 143.34) to be included by the State educational agency as a part of the total amount expended to earn its allotment under section 502(a) of the Act.

(b) The State plan may also provide for the establishment of guidance and counseling programs designed to meet special needs of students or unusual circumstances in the community in which the local agency is located, such as cultural differences, economic deprivation, dropouts, and youth unemployment. The plan shall provide that any such special programs be consistent with §§ 143.26 and 143.33, and describe the conditions under which the State will establish such programs including provisions for State supervision, evaluation, and reports to the Commissioner.

§ 143.36 Transition provisions.

State plan. A State plan approved prior to the promulgation of these revised regulations remains in effect through June 30, 1965, unless prior to June 30, 1965, the State plan is revised to be in accord with these revised regulations. After June 30, 1965, in order for a State to receive payments under Title V-A of the Act, the State plan must have been revised to be in conformity with the revised regulations.

These revised regulations are effective immediately.

[SEAL] FRANCIS KEPPEL,
U.S. Commissioner of Education.

Approved: December 31, 1964.

ANTHONY J. CELEBREZZE,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 65-171; Filed, Jan. 6, 1965; 8:48 a.m.]

Chapter IV—Vocational Rehabilitation Administration, Department of Health, Education, and Welfare

PART 401—THE VOCATIONAL REHABILITATION PROGRAM

Subpart B—State Plans and Grants for Vocational Rehabilitation

FEDERAL MATCHING OF CONTRIBUTIONS TO STATE VOCATIONAL REHABILITATION PROGRAMS FROM PRIVATE SOURCES

The purpose of this amendment is to extend the definition of State funds which can be matched by Federal funds (granted under section 2 or section 3 of the Vocational Rehabilitation Act) to include contributions to State vocational rehabilitation agencies by private organizations and individuals (1) for types of administrative activity, and (2) for establishing a particular workshop or rehabilitation facility.

1. Section 401.49 is revised to read as follows:

§ 401.49 State and local funds.

In order to receive the Federal share of expenditures under the State plan, expenditures from State or local funds under such plan equal to the State's share must be made. The State's share shall be the difference between the Federal share (see §§ 401.51 and 401.64) and 100 per centum.

(a) For the purposes of this section, "State or local funds" means (1) funds made available by appropriation directly to the State or local rehabilitation agency, funds made available by allotment or transfer from a general departmental appropriation, or funds otherwise made available to the State or local rehabilitation agency by any unit of State or local government; (2) contributions by private organizations or individuals, which are deposited in the account of the State or local rehabilitation agency in accordance with State law, for expenditure by, and at the sole discretion of, the State or local rehabilitation agency: *Provided, however*, That such contributions earmarked for meeting the State's share for providing particular services, for serving certain types of disabilities, for providing services for special groups which are identified on the basis of criteria which would be acceptable for the earmarking of public funds, or for carrying on types of administrative activities so identified, may be deemed to be State funds, if permissible under State law; or (3) contributions by private organizations or individuals, deposited in the account of the State or local rehabilitation agency in accordance with State law, which are earmarked, under a condition imposed by the contributor, for meeting (in whole or in part) the State's share for establishing a particular workshop or rehabilitation facility, if permissible under State law.

(b) To the extent that the State or local funds are of the type described in paragraph (a)(3) of this section, Federal financial participation shall be available in expenditures by a State after August 3, 1954, if, with respect to expenditures prior to July 1, 1965, the Commissioner has included the amount of such expenditure in computing a Federal grant certified prior to July 1, 1965, for payment, and if, with respect to expenditures after June 30, 1964, the Commissioner finds that such expenditures will serve a useful program purpose and that Federal funds are available in the light of other program needs.

2. *Effective date.* This revision shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 7(b) of the Vocational Rehabilitation Act, 68 Stat. 659; 29 U.S.C. 37(b). Interprets and applies Department of Health, Education, and Welfare Appropriation Act, 1965, Public Law 88-605, Title II, 78 Stat. 967; Vocational Rehabilitation Act, Secs. 2, 3, 68 Stat. 652-4, 29 U.S.C. 32, 33)

Dated: December 30, 1964.

[SEAL] ANTHONY J. CELEBREZZE,
Secretary.

[F.R. Doc. 65-172; Filed, Jan. 6, 1965; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 121—SEPARATION OF OPERATING EXPENSES BETWEEN FREIGHT AND PASSENGER SERVICES [1]

Miscellaneous Amendments

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 18th day of December A.D. 1964.

The matter of revision of rules governing the separation of railway operating expenses, taxes, equipment rents, and joint facility rents between freight service and passenger service on Class I railroad companies, including switching and terminal companies, being under consideration and;

It appearing, that revisions made in the Uniform System of Accounts, 49 CFR Part 10, and Quarterly Reports of Operating Statistics, 49 CFR 122.3, require changing the rules governing the separation of operating expenses, taxes, equipment rents, and joint facility rents between freight and passenger services;

It further appearing, that due to technological changes within the railroad industry, changes in the terminology of some items are desirable; and

It further appearing, that as the changes to be made herein are of a technical nature to conform to changes already made in accounting rules and quarterly reporting requirements of the Commission, and will result in simplification and reduction of reporting requirements, rule-making procedures under section 4 of the Administrative Procedure Act, 5 U.S.C. 1003, are unnecessary:

[1] The accounts mentioned in this part refer to and agree with Part 10 of this chapter.

It is ordered, That the paragraphs with numbers corresponding to those set out below, as they may have been entered in the orders of November 18, 1952 in Steam Railroads—Separation of Operating Expenses, Taxes, Equipment Rents, and Joint Facility Rents Between Freight Service and Passenger Service, or of July 6, 1954, or December 3, 1954, in Separation of Operating Expenses, Taxes, Equipment Rents and Joint Facility Rents Between Freight and Passenger Service, be, and they are hereby, modified and amended to read as set out in the respectively numbered sections below, and that the sections numbered §§ 121.35 and 121.58 entered in the described orders of November 18, 1952 and December 3, 1954, be vacated and set aside; and

It is further ordered, That 49 CFR Part 121, be, and it is hereby, modified and amended by changing the sections or parts thereof, numbered 121.0, 121.01, 121.02, 121.04, 121.1, 121.2, 121.9, 121.10, 121.13, 121.17, 121.18, 121.20, 121.24, 121.33, 121.34, 121.36, 121.37, 121.42, 121.43, 121.44, 121.45, 121.46, 121.49, 121.51, 121.54, 121.56, 121.59, 121.65, and 121.66, to read as set out below, and that 49 CFR 121.35 and 121.58 be deleted.

§ 121.0 Separation of operating expenses.

Effective as to annual or quarterly reports for the year 1964 or for any portion thereof, as the case might be, and thereafter until further order, all Class I railroad companies, including switching and terminal companies of Class I (49 U.S.C. 126.1) subject to the provisions of section 20 of the Interstate Commerce Act as amended:

* * * * *

GENERAL

§ 121.01 Expenses directly assigned.

Carriers shall first assign to freight service or to passenger service, including allied services, the expenses, taxes, equipment rents and joint facility rents incurred solely for the benefit of such services, respectively.

§ 121.02 Methods.

The methods indicated under the various accounts are for apportioning common expenses, taxes, equipment rents and joint facility rents to the specific service when not incurred solely for the benefit of such service.

* * * * *

§ 121.04 Special test.

When the separation of expenses between freight and passenger services is based upon a special test or service unit factor, such test should be made at sufficiently frequent intervals to represent actual operating conditions. The service unit factors used should be those of the reporting period.

* * * * *

OPERATING EXPENSES

MAINTENANCE OF WAY AND STRUCTURES

§ 121.1 Superintendence (account 201).

Assign directly as per § 121.01. Apportion common expenses according to proportions of accounts 202 and 265, in-

clusive, 269 to 277, inclusive, and 281 and 282, excluding common expenses in accounts 247, and 274 to 277, inclusive, and 282.

§ 121.2 Roadway maintenance; tunnels and subways; bridges, trestles and culverts; elevated structures; ties; rails; other track material; ballast; track laying and surfacing; and fences, snowsheds and signs (accounts 202–221).

* * * * *

(b) * * *

(1) *Yard switching tracks.* Expenses for exclusively freight or passenger yards shall be directly assigned. Expenses for yards used in common by freight and passenger services shall be apportioned on the basis of the respective switching locomotive unit-hours in the common yards.

* * * * *

§ 121.9 Communication systems (account 247).

Assign directly as per § 121.01. Apportion common expenses on basis of accounts 201, 301, 351, 371, and 372 taken together.

NOTE: As accounts 451 and 452 are apportioned on the basis of proportions established for accounts 201 to 449, inclusive, they are not included here as bases for apportioning account 247.

§ 121.10 Signals and interlockers (account 249).

Assign directly as per § 121.01. Apportion common expenses on the basis of the total train-hours (including train-switching hours) and yard-switching hours.

* * * * *

§ 121.13 Road property—depreciation; retirements-road, etc. (accounts 266–267).

Assign directly as per § 121.01. Apportion common expenses according to the proportions of charges under the appropriate maintenance of way and structures accounts.

* * * * *

§ 121.17 Injuries to persons; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 274–277 and 282).

When not determined by the particulars in individual instances, these expenses shall be apportioned according to the percentages used to divide common expenses of account 201.

§ 121.18 Maintaining joint tracks, etc. (accounts 278–279).

Joint facility debits shall be separated according to use made of the facilities by the debtor carrier regardless of the use by the other carriers. The creditor carrier shall apportion the credits on the basis of accounts 202 to 277, inclusive, and 281 and 282, excluding common expenses in account 247.

* * * * *

MAINTENANCE OF EQUIPMENT

§ 121.20 Superintendence (account 301).

Assign directly as per § 121.01. Apportion common expenses according to the proportions of accounts 302, 304, 306 to 329, inclusive, and 332 to 335, inclusive, and 339, excluding common expenses in accounts 328, and 332 to 335, inclusive, and 339.

* * * * *

§ 121.24 Steam locomotives—repairs (account 308).

(a) *Where the carrier maintains records of the repairs by individual locomotive units or classes of locomotive units.* When the individual locomotive units or classes of locomotive units are used exclusively in road-freight, road-passenger, yard-freight or yard-passenger services, the separation shall be actual. When the individual locomotive unit or classes of locomotive units are used interchangeably in road-freight (including train-switching), road-passenger, yard-freight or yard-passenger services, distribute the heavy shop repairs between these services on the basis of run-out miles of the individual locomotive units or classes of locomotive units since the previous shopping; and distribute the cost of running repairs between such services on the basis of the miles run by the individual locomotive unit or class of locomotive unit in each service during the accounting period for which the separation is being made.

(b) *Where the cost of heavy shop repairs is kept by individual locomotive units or classes of locomotive units, but the cost of running repairs is not kept either by individual locomotive units or classes of locomotive units*—The heavy shop repairs should be distributed as indicated in paragraph (a) of this section. The cost of running repairs shall be apportioned among road-freight (including train-switching), road-passenger, yard-freight and yard-passenger services on the basis of locomotive ton-miles or locomotive unit miles for the accounting period for which the separation is being made.

(c) *Where record is not kept of either heavy shop repairs or running repairs by individual locomotive units or classes of locomotive units.* The expenses shall be distributed among road-freight service (including train-switching), road-passenger service, yard-freight, and yard-passenger, on the basis of locomotive ton-miles or locomotive unit-miles for the accounting period for which the separation is being made.

* * * * *

§ 121.33 Injuries to persons; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 332–335, and 339).

When not determined by the particulars in individual instances, these expenses shall be apportioned according to the percentages used to divide common expenses of account 301.

§ 121.34 Joint maintenance of equipment expenses, etc. (accounts 336–337).

Joint equipment charges shall be treated on appropriate basis according to the use made of the equipment by the debtor carrier, regardless of the use by other carriers. Creditor carrier should apportion the credits on the basis of accounts 302 to 335, inclusive, and 339.

§ 121.35 Deferred maintenance-equipment, etc.

[Deleted.]

TRAFFIC

§ 121.36 Superintendence; outside agencies; advertising; traffic associations; fast freight lines; industrial and immigration bureaus; insurance; stationery and printing; employees health and welfare benefits; and other expenses (accounts 351–360).

Assign directly as per § 121.01. Apportion the unassigned remainder on the basis of the directly assigned expenses in this general account, other than advertising expense.

TRANSPORTATION; RAIL LINE

§ 121.37 Superintendence (account 371).

Assign directly as per § 121.01. Apportion common expenses according to the proportions of accounts 372 to 420, inclusive, excluding the total expenses in accounts 390, 391, 412, and 413, and common expenses in accounts 407, 409, 410, and 411.

* * * * *

§ 121.42 Yardmasters and yard clerks; yard conductors and brakemen; yard switch and signal tenders; and yard enginemen (accounts 377–380).

Expenses for exclusively freight or passenger yards shall be assigned directly. Apportion the expenses of common yards on the basis of the total yard-switching hours in those yards.

§ 121.43 Yard switching fuel (account 382).

Expenses for exclusively freight and passenger yards shall be assigned directly. Apportion the common expenses of each kind of fuel on the basis of the switching locomotive unit-hours of the locomotives using that kind of fuel in those yards.

§ 121.44 Yard switching power produced; and purchased (accounts 383–384).

Expenses for exclusively freight and passenger yards shall be assigned directly. Apportion the expenses of the common yards on the basis of the switching locomotive unit-hours of the locomotives in the common yards using the power produced or purchased.

§ 121.45 Water for yard locomotives (account 385).

Expenses for exclusively freight and passenger yards shall be assigned directly. Apportion the expenses of common yards on the basis of account 382, yard-switching fuel.

§ 121.46 Lubricants, and other supplies for yard locomotives; enginehouse expenses—yard; and yard supplies and expenses (accounts 386–389).

Expenses for exclusively freight or passenger yards shall be assigned directly. Apportion the expenses of common yards

on the basis of the total switching locomotive unit-hours in those yards.

* * * * *

§ 121.49 Water for train locomotives (account 397).

Assign directly as per § 121.01. Apportion common expenses on the basis of the expense of fuel consumed by locomotive units in freight-train and passenger-train services, respectively.

* * * * *

§ 121.51 Enginehouse expenses—train (account 400).

Assign directly as per § 121.01. Common expenses at each enginehouse shall be divided according to the number of locomotive units handled for each service.

* * * * *

§ 121.54 Signal and interlocker operation; and crossing protection (accounts 404–405).

Assign directly as per § 121.01. Apportion common expenses on the basis of the total train-hours (including train-switching hours), and yard-switching hours.

* * * * *

§ 121.56 Communication system operation (account 407).

Assign directly as per § 121.01. Apportion common expenses on the basis of the sum of the charges (assigned or apportioned) to accounts 201, 301, 351, 371, and 372.

NOTE: As accounts 451 and 452 are apportioned on the basis of proportions established for accounts 201 to 449, inclusive, they are not included here as bases for apportioning this account.

* * * * *

§ 121.58 Stationery and printing (account 410).

[Deleted]

§ 121.59 Employees health and welfare benefits; stationery and printing; and other expenses (accounts 409–411).

When not determined by the particulars in individual instances, these expenses shall be apportioned according to the percentages used to divide common expenses of account 371.

* * * * *

MISCELLANEOUS OPERATIONS

§ 121.65 Dining and buffet service; hotels and restaurants; grain elevators; producing power sold; other miscellaneous operations; operating joint miscellaneous facilities and employees health and welfare benefits (accounts 441–449).

Assign directly as per § 121.01. Apportion remainder on appropriate units according to local conditions.

GENERAL EXPENSES

§ 121.66 Salaries and expenses of general officers; salaries and expenses of clerks and attendants; general office supplies and expenses; law expenses; insurance; employees health and welfare benefits; pensions; stationery and printing; other expenses; and general joint facilities (accounts 451–462).

Assign directly as per § 121.01. Apportion the remainder according to proportions of accounts 201 to 449, inclusive.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interpret or apply sec. 20, 24 Stat. 386, as amended, 49 U.S.C. 20)

And it is further ordered, That copies of this order shall be served on all class I railroads, including switching and terminal companies, subject to the provisions of section 20 of the Interstate Commerce Act, as amended, and upon every receiver, trustee, executor, administrator or assignee of any such railroad, and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Division 2.

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

[F.R. Doc. 65-161; Filed, Jan. 6, 1965; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Investment Credit Provisions

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C., 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 38(b) of the Internal Revenue Code of 1954 (76 Stat. 963; 26 U.S.C. 38) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] BERTRAND M. HARDING,
Acting Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 38, 46, 47 and 48 of the Internal Revenue Code of 1954 to certain provisions of section 2 of the Revenue Act of 1962 (76 Stat. 962), such regulations are amended as follows:

PARAGRAPH 1(a). There is inserted immediately after § 1.38 the following new section:

§ 1.38–1 Investment in certain depreciable property.

Sections 1.46–1 through 1.48–7, inclusive, are prescribed under the authority granted the Secretary or his delegate by section 38(b) of the Code to prescribe such regulations as may be necessary to carry out the purposes of section 38 and subpart B, part IV, subchapter A, chapter 1 of the Code.

(b). Section 1.46–1 is amended by revising paragraph (a) to read as follows:

§ 1.46–1 Determination of amount.

(a) *In general.* Except as otherwise provided in this section and in § 1.46–2, the amount of the credit allowed by section 38 for the taxable year is equal to 7 percent of the taxpayer's qualified investment for such year (as determined under § 1.46–3). The amount equal to 7 percent of qualified investment shall be referred to in this section and §§ 1.46–2 through 1.48–7 as the "credit earned".

* * * * *

PAR. 2. Section 1.46–2 is amended by revising subparagraph (1) of paragraph (a) to read as follows:

§ 1.46–2 Carryback and carryover of unused credit.

(a) *Allowance of unused credit as carryback or carryover.* (1) Section 46 (b)(1) provides for a 3-year carryback and a 5-year carryover of any unused credit. An unused credit is the excess of the credit earned for the taxable year (as defined in paragraph (a) of § 1.46–1) over the limitation based on amount of tax for such taxable year (as determined under paragraph (b) of § 1.46–1). Subject to the limitation contained in paragraph (b) of this section, an unused credit shall be added to the amount allowable as a credit under section 38 for the years to which the unused credit can be carried. The year with respect to which an unused credit arises shall be referred to in this section as the "unused credit year". See § 1.47–1 for rules relating to reduction of an unused credit as a result of the application of section 47 (relating to certain dispositions, etc., of section 38 property).

* * * * *

PAR. 3. Section 1.46–3 is amended by revising subparagraph (2) of paragraph (a), by revising subparagraph (3) of paragraph (c), and by inserting in lieu of "(h) [Reserved]" a new paragraph (h). These revised and added provisions read as follows:

§ 1.46–3 Qualified investment.

(a) *In general.* * * *

(2) The basis (or cost) of section 38 property placed in service during a taxable year shall not be taken into account in determining qualified investment for such year if such property is disposed of or otherwise ceases to be section 38 property during such year, except where § 1.47–3 applies. Thus, if individual A places in service during a taxable year section 38 property and later in the same year sells such property, the basis (or cost) of such property shall not be taken into account in determining A's qualified investment. On the other hand, if A places in service section 38 property during a taxable year and dies later in the same year, the basis (or cost) of such property would be taken into account in computing qualified investment. Similarly, if section 38 property is destroyed by fire in the same year in which it is placed in service and paragraph (h) of this section applies to reduce the basis (or cost) or replacement property, the basis (or cost) of the destroyed property would be taken into account in computing qualified investment. In order to determine whether section 38 property is disposed of or otherwise ceases to be section 38 property see § 1.47–2.

* * * * *

(c) *Basis or cost.* * * *

(3) For reduction in the basis (or cost) of certain property which replaces other property which was destroyed or damaged by fire, storm, shipwreck, or other casualty, or which was stolen, see paragraph (h) of this section.

* * * * *

(h) *Certain replacement property.* (1) If section 38 property is placed in service by the taxpayer to replace property (whether or not section 38 property) similar or related in service or use which was destroyed or damaged by fire, storm, shipwreck, or other casualty, or stolen, then for purposes of paragraph (a) of this section the basis (or cost) of the replacement section 38 property otherwise determined under paragraph (c) of this section shall be reduced by an amount equal to the lesser of—

(i) The amount of money, or the fair market value of other property, received as compensation, by insurance or otherwise, for the property which was destroyed, damaged, or stolen, or

(ii) The adjusted basis of such destroyed, damaged, or stolen property (immediately before such destruction, damage, or theft).

For purposes of the preceding sentence, section 38 property placed in service after the due date (including extensions of time thereof) for filing the taxpayer's income tax return for the taxable year in which the other property was destroyed, damaged, or stolen shall not be considered as replacement section 38 property.

(2) Subparagraph (1) of this paragraph shall not apply to replacement property if the reduction, under such subparagraph (1), in the basis (or cost) of such replacement property is less than the excess of—

(i) The qualified investment with respect to the destroyed, damaged, or stolen property, over

(ii) The recomputed qualified investment with respect to such property (determined under the principles of paragraph (a) of § 1.47–1).

(3) This paragraph may be illustrated by the following examples:

Examples (1). (i) A acquired and placed in service on January 1, 1962, machine No. 1, which qualified as section 38 property, with a basis of $30,000 and an estimated useful life of 6 years. The amount of qualified investment with respect to such machine was $20,000. On January 2, 1963, machine No. 1 is completely destroyed by fire. On January 1, 1963, the adjusted basis of such machine in A's hands is $24,500. On November 1, 1963, A receives $23,000 in in-

surance proceeds as compensation for the destroyed machine, and on December 15, 1963, A acquires and places in service machine No. 2, which qualifies as section 38 property, with a basis of $41,000 and an estimated useful life of 6 years to replace machine No. 1.

(ii) Under subparagraph (1) of this paragraph, the $41,000 basis of machine No. 2 is reduced, for purposes of paragraph (a) of this section, by $23,000 (that is, the $23,000 insurance proceeds since such amount is less than the $24,500 adjusted basis of machine No. 1 immediately before it was destroyed) to $18,000 since such reduction (that is, $23,000) is greater than the $20,000 reduction in qualified investment which would be made if paragraph (a) of § 1.47–1 were to apply to machine No. 1 ($20,000 qualified investment less zero recomputed qualified investment).

Example (2). (i) The facts are the same as in example (1) except that on November 1, 1963, A receives only $19,000 in insurance proceeds as compensation for the destroyed machine.

(ii) The $41,000 basis of machine No. 2 is not reduced, for purposes of paragraph (a) of this section, under this paragraph since the $19,000 reduction which would have been made under this paragraph had it applied (that is, the $19,000 insurance proceeds since such amount is less than the $24,500 adjusted basis of machine No. 1 immediately before it was destroyed) is less than the $20,000 reduction in qualified investment which is made since paragraph (a) of § 1.47–1 applies to machine No. 1 ($20,000 qualified investment less zero recomputed qualified investment).

PAR. 4. There are inserted in lieu of "§ 1.47–1 [Reserved]" the following new sections:

§ 1.47–1 Recomputation of credit allowed by section 38.

(a) *General rule*—(1) *In general.*—(i) If during the taxable year any section 38 property the basis (or cost) of which was taken into account, under paragraph (a) of § 1.46–3, in computing the taxpayer's qualified investment is disposed of, or otherwise ceases to be section 38 property or becomes public utility property (as defined in paragraph (g) of § 1.46–3) with respect to the taxpayer, before the close of the estimated useful life (as determined under subparagraph (2)(i) of this paragraph) which was taken into account in computing such qualified investment, then the credit earned for the credit year (as defined in subdivision (ii) (*a*) of this subparagraph) shall be recomputed under the principles of paragraph (a) of § 1.46–1 and paragraph (a) of § 1.46–3 substituting, in lieu of the estimated useful life of the property that was taken into account originally in computing qualified investment, the actual useful life of the property as determined under subparagraph (2)(ii) of this paragraph. There shall also be recomputed under the principles of §§ 1.46–1 and 1.46–2 the credit allowed for the credit year and for any other taxable year affected by reason of the reduction in credit earned for the credit year, giving effect to such reduction in the computation of carryovers or carrybacks of unused credit. If the recomputation described in the preceding sentence results in the aggregate in a decrease (taking into account any recomputations under this paragraph in respect of prior recapture years, as defined in subdivision (ii)(*b*) of this subparagraph) in the credits allowed for the credit year and for any other taxable year affected by the reduction in credit earned for the credit year, then the income tax for the recapture year shall be increased by the amount of such decrease in credits allowed. For treatment of such increase in tax, see paragraph (b) of this section. For rules relating to "disposition" and "cessation", see § 1.47–2. For rules relating to certain exceptions to the application of this section, see § 1.47–3. For special rules in the case of an electing small business corporation (as defined in section 1371(b)), an estate or trust, or a partnership, see respectively, § 1.47–4, 1.47–5, or 1.47–6.

(ii) For purposes of this section and §§ 1.47–2 through 1.47–6—

(*a*) The term "credit year" means the taxable year in which section 38 property is placed in service.

(*b*) The term "recapture year" means the taxable year in which section 38 property the basis (or cost) of which was taken into account in computing a taxpayer's qualified investment is disposed of, or otherwise ceases to be section 38 property or becomes public utility property with respect to the taxpayer, before the close of the estimated useful life which was taken into account in computing such qualified investment.

(*c*) The term "recapture determination" means a recomputation made under this paragraph.

(2) *Rules for applying subparagraph (1)*. For purposes of subparagraph (1) of this paragraph—

(i) In determining whether section 38 property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the estimated useful life which was taken into account in computing the taxpayer's qualified investment, the term "estimated useful life" means the shortest life of the useful life category within which falls the estimated useful life which was assigned to such property under paragraph (e) of § 1.46–3. Thus, section 38 property which is assigned, under paragraph (e) of § 1.46–3, an estimated useful life of 7 years shall not be treated, for purposes of subparagraph (1) of this paragraph, as having been disposed of before the close of its estimated useful life if such property is sold 6 years (that is, the shortest life of the 6 years or more but less than 8 years useful life category) after the date on which it was placed in service. Likewise, section 38 property with an estimated useful life of 15 years which is placed in service on January 1, 1962, shall not be treated as having been disposed of before the close of its estimated useful life if such property is sold at any time after January 1, 1970 (that is, 8 years or more after the date on which it was placed in service).

(ii) In determining the recomputed qualified investment with respect to property which is disposed of or otherwise ceases to be section 38 property the term "actual useful life" means, except as otherwise provided in this section and §§ 1.47–2 through 1.47–6, the period beginning with the date on which the property was placed in service by the taxpayer and ending with the date of such disposition or cessation. See paragraph (c) of this section.

(b) *Increase in income tax and reduction of investment credit carryover*—(1) *Increase in tax.* Except as provided in subparagraph (2) of this paragraph, any increase in income tax under this section shall be treated as income tax imposed on the taxpayer by chapter 1 of the Code for the recapture year notwithstanding that without regard to such increase the taxpayer has no income tax liability, has a net operating loss for such taxable year, or no income tax return was otherwise required for such taxable year.

(2) *Special rule.* Any increase in income tax under this section shall not be treated as income tax imposed on the taxpayer by chapter 1 of the Code for purposes of determining the amount of the credits allowable to such taxpayer under—

(i) Section 33 (relating to taxes of foreign countries and possessions of United States),

(ii) Section 34 (relating to dividends received by individuals before January 1, 1965),

(iii) Section 35 (relating to partially tax-exempt interest received by individuals),

(iv) Section 37 (relating to retirement income), and

(v) Section 38 (relating to investment in certain depreciable property).

(3) *Reduction in credit allowed as a result of a net operating loss carryback.* (i) If a net operating loss carryback from the recapture year or from any taxable year subsequent to the recapture year reduces the amount allowed as a credit under section 38 for any taxable year up to and including the recapture year, then there shall be a new recapture determination under paragraph (a) of this section for each recapture year affected, taking into account the reduced amount of credit allowed after application of the net operating loss carryback.

(ii) Subdivision (i) of this subparagraph may be illustrated by the following example:

Example. (*a*) X Corporation, which makes its returns on the basis of a calendar year, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of $10,000 and an estimated useful life of 8 years. The amount of qualified investment with respect to such asset was $10,000. For the taxable year 1962, X Corporation's credit earned of $700 (7 percent of $10,000) was allowed under section 38 as a credit against its liability for tax of $700. In 1963 and 1964 X Corporation had no liability for tax and placed in service no section 38 property. On January 3, 1963, such item of section 38 property was sold to Y Corporation. Since the actual useful life of such item was only one year, there was a recapture determination under paragraph (a) of this section. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1963 was increased by the $700 decrease in its credit earned for the taxable year 1962 (that is, $700 the original credit earned minus zero recomputed credit earned).

(*b*) For the taxable year 1965, X Corporation has a net operating loss which is carried back to the taxable year 1962 and reduces its liability for tax, as defined in paragraph (c) of § 1.46–1, for such taxable year to $200. As

a result of such net operating loss carryback X Corporation's credit allowed under section 38 for the taxable year 1962 is limited to $200 and the excess of $500 ($700 credit earned minus $200 limitation based on amount of tax) is an investment credit carryover to the taxable year 1963.

(c) For 1965, there is a recapture determination under subdivision (i) of this subparagraph for the 1963 recapture year. The $700 increase in the income tax imposed on X Corporation for the taxable year 1963 is redetermined to be $200 (that is, the $200 credit allowed after taking into account the 1965 net operating loss minus zero credit which would have been allowed taking into account the 1963 recapture determination). In addition, X Corporation's $500 investment credit carryover to the taxable year 1963 is reduced by $500 ($700 minus $200) to zero and X Corporation is entitled to a $500 refund of the tax paid as a result of the 1963 recapture determination.

(4) *Statement of recomputation.* The taxpayer shall attach to his income tax return for the recapture year a separate statement showing in detail the computation of the increase in income tax imposed on such taxpayer by chapter 1 of the Code and the reduction in any investment credit carryovers.

(c) *Date placed in service and date of disposition or cessation*—(1) *General rule.* For purposes of this section and §§ 1.47-2 through 1.47-6, in determining the actual useful life of section 38 property—

(i) Such property shall be treated as placed in service on the first day of the month in which such property is placed in service. The month in which property is placed in service shall be determined under the principles of paragraph (d) of § 1.46-3.

(ii) If during the taxable year such property ceases to be section 38 property with respect to the taxpayer—

(*a*) As a result of the occurrence of an event on a specific date (for example, a sale, transfer, retirement or other disposition), such cessation shall be treated as having occurred on the actual date of such event.

(*b*) For any reason other than the occurrence of an event on a specific date (for example, because such property is used predominantly in connection with the furnishing of lodging during such taxable year), such cessation shall be treated as having occurred on the first day of such taxable year.

(2) *Special rule.* Notwithstanding subparagraph (1) of this paragraph, if a taxpayer uses an averaging convention (see § 1.167 (a)-10) in computing depreciation with respect to section 38 property, then, for purposes of this section and §§ 1.47-2 through 1.47-6, he may use the assumed dates of additions and retirements in determining the actual useful life of such property provided such assumed dates are used consistently for purposes of subpart B of part IV of subchapter A of chapter 1 of the Code with respect to all section 38 property for which such convention is used for purposes of depreciation. This subparagraph shall not apply in any case where from all the facts and circumstances it appears that the use of such assumed dates results in a substantial distortion of the investment credit allowed by section 38. Thus, for example, if the taxpayer computes depreciation under a convention under which the average of the beginning and ending balances of the asset account for the taxable year are taken into account, he may use July 1 as the assumed date of all additions and retirements to such account. Similarly, if the taxpayer computes depreciation under a convention under which the average of the beginning and ending balances of the asset account for each month is taken into account, he may use the date determined by reference to the weighted average of the monthly averages as the assumed date of all additions and retirements to such account.

(3) *Example.* This paragraph may be illustrated by the following example:

Example. Assume that section 38 property is placed in service (within the meaning of paragraph (d) of § 1.46-3) on December 1, 1965 (thus, the credit is treated as being earned in 1965) but under the taxpayer's depreciation practice the period for depreciation with respect to such property begins on January 1, 1966, and that the property is actually retired on December 2, 1970. Under the general rule of subparagraph (1) of this paragraph, the property is treated as placed in service on December 1, 1965, and as ceasing to be section 38 property with respect to the taxpayer on December 2, 1970, even though under the taxpayer's depreciation practice the period for depreciation with respect to such property begins on January 1, 1966, and terminates on January 1, 1971. However, under the special rule of subparagraph (2) of this paragraph the taxpayer may determine the actual useful life of the property by reference to the assumed dates of January 1, 1966, and January 1, 1971.

(d) *Examples.* Paragraphs (a) through (c) of this section may be illustrated by the following examples:

Example (1). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on January 1, 1962, three items of section 38 property each with a basis of $12,000 and an estimated useful life of 15 years. The amount of qualified investment with respect to each such asset was $12,000. For the taxable year 1962, X Corporation's credit earned of $2,520 was allowed under section 38 as a credit against its liability for tax of $4,000. On December 2, 1965, one of the items of section 38 property is sold to Y Corporation.

(ii) The actual useful life of the item of property which is sold on December 2, 1965, is three years and eleven months. The recomputed qualified investment with respect to such item of property is zero ($12,000 basis multiplied by zero applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is $1,680 (7 percent of $24,000). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1965 is increased by the $840 decrease in its credit earned for the taxable year 1962 (that is, $2,520 original credit earned minus $1,680 recomputed credit earned).

Example (2). (i) The facts are the same as in example (1) and in addition on December 1, 1966, a second item of section 38 property placed in service in the taxable year 1962 is sold to Y Corporation.

(ii) The actual useful life of the item of property which is sold on December 2, 1966, is four years and eleven months. The recomputed qualified investment with respect to such item of property is $4,000 ($12,000 basis multiplied by 33⅓ percent applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is $1,120 (7 percent of $16,000). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1966 is increased by $560 (that is, $1,400 ($2,520 original credit earned minus $1,120 recomputed credit earned) reduced by the $840 increase in tax for 1965).

Example (3). (i) The facts are the same as in example (1) except that for the taxable year 1962 X Corporation's liability for tax under section 46(a)(3) is only $1,520. Therefore, for such taxable year X Corporation's credit allowed under section 38 is limited to $1,520 and the excess of $1,000 ($2,520 credit earned minus $1,520 limitation based on amount of tax) is an unused credit. Of such $1,000 unused credit, $100 is allowed as a credit under section 38 for the taxable year 1963, $100 is allowed for 1964, and $800 is carried to the taxable year 1965.

(ii) The actual useful life of the item of property which is sold on December 2, 1965, is three years and eleven months. The recomputed qualified investment with respect to such item of property is zero ($12,000 basis multiplied by zero applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is $1,680 (7 percent of $24,000). If such $1,680 recomputed credit earned had been taken into account in place of the $2,520 original credit earned, X's credit allowed for 1962 would have been $1,520, and of the $160 unused credit from 1962 $100 would have been allowed as a credit under section 38 for 1963, and $60 would have been allowed for 1964. X Corporation's $800 investment credit carryover to the taxable year 1965 is reduced by $800 to zero. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1965 is increased by $40 (that is, the aggregate reduction in the credits allowed by section 38 for 1962, 1963, and 1964).

Example (4). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on November 1, 1962, an item of section 38 property with a basis of $12,000 and an estimated useful life of 10 years. The amount of qualified investment with respect to such property was $12,000. For the taxable year 1962, X Corporation's credit earned of $840 was allowed under section 38 as a credit against its liability for tax of $840. For each of the taxable years 1963 and 1964 X Corporation's liability for tax was zero and its credit earned was $400; therefore, for each of such years its unused credit was $400. For the taxable year 1965 its liability for tax was $200 and its credit earned was zero; therefore, $200 of the $400 unused credit from 1963 was allowed as credit for 1965 and $600 ($200 from 1963 and $400 from 1964) is an investment credit carryover to 1966. On February 2, 1966, such item of section 38 property is sold to Y Corporation.

(ii) The actual useful life of such item of property is three years and three months. The recomputed qualified investment with respect to such property is zero ($12,000 basis multiplied by zero) and X Corporation's recomputed credit earned for the taxable year 1962 is zero. If such zero recomputed credit earned had been taken into account in place of the $840 original credit earned, the entire $400 unused credit from 1963 (including the $200 portion which was originally allowed as a credit for 1965) and the $400 unused credit from 1964 would have been allowed as investment credit carrybacks against X Corporation's liability for tax of $840 for 1962. (See § 1.46-2 for rules relating to the carryback of unused credits.)

(iii) Therefore, the $600 carryover from 1963 and 1964 to 1966 is eliminated and the income tax imposed by chapter 1 of the Code on X Corporation for the taxable year

1966 is increased by the $240 aggregate reduction in the credits allowed by section 38 for the taxable years 1962 and 1965 (that is, $1,040 credit allowed minus $800 which would have been allowed).

Example (5). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on November 1, 1962, an item of section 38 property with a basis of $10,000 and an estimated useful life of 8 years. The amount of qualified investment with respect to such asset was $10,000. For the taxable year 1962, X Corporation's credit earned of $700 was allowed as a credit against its liability for tax. For each of the taxable years 1963, 1964, and 1965 X had no taxable income. On July 3, 1966, the item of section 38 property is sold to Y Corporation. For the taxable year 1966 X Corporation has a net operating loss of $3,000.

(ii) The actual useful life of the item of property is three years and eight months. The recomputed qualified investment with respect to such item of property is zero and X Corporation's recomputed credit earned for the taxable year 1962 is zero. Notwithstanding the $3,000 net operating loss for the taxable year 1966, the income tax imposed by chapter 1 of the Code on X Corporation for such year is $700 (that is, the decrease in its credit earned for the taxable year 1962).

(e) *Identification of property*—(1) *General rule*—(i) *Record requirements*. In general, the taxpayer must maintain records from which he can establish, with respect to each item of section 38 property, the following facts:

(*a*) The date the property is disposed of or otherwise ceases to be section 38 property,

(*b*) The estimated useful life which was assigned to the property under paragraph (e) of § 1.46–3,

(*c*) The month and the taxable year in which the property was placed in service, and

(*d*) The basis (or cost), actually or reasonably determined, of the property.

(ii) *Recapture determination*. For purposes of determining whether section 38 property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of its estimated useful life, and for purposes of determining recomputed qualified investment, the taxpayer must establish from his records the facts required by subdivision (i) of this subparagraph.

(2) *Mass accounts*. (i) If, in the case of mass assets (as defined in subparagraph (4) of this paragraph) it is impracticable for the taxpayer to maintain records from which he can establish with respect to each item of section 38 property the facts required by subparagraph (1) of this paragraph, and if he adopts other reasonable recordkeeping practices, consonant with good accounting and engineering practices, and consistent with his prior recordkeeping practices, then he may substitute data from an appropriate mortality dispersion table. An appropriate mortality dispersion table must be based on an acceptable sampling of the taxpayer's actual experience or on other acceptable statistical or engineering techniques. If the taxpayer's total basis in all mass assets is less than $1 million he may, in lieu of such mortality dispersion table, use a standard mortality dispersion table prescribed by the Commissioner. If the taxpayer uses such standard mortality dispersion table for any taxable year, it must be used for all subsequent taxable years unless the taxpayer obtains the consent of the Commissioner to change or unless the total basis in all mass assets is $1 million or more.

(ii) Subdivision (i) of this subparagraph shall not apply with respect to any asset placed in service after January 1, 1965, unless the estimated useful life which was assigned to such asset for purposes of determining qualified investment—

(*a*) Was a separate life based on the estimated range of years taken into account in establishing the average useful life of assets similar in kind under paragraph (e)(3)(ii) of § 1.46–3, and

(*b*) Was determined by use of a mortality dispersion table (including a standard mortality dispersion table).

(3) *Special rules*. (i) Taxpayers who properly use a mortality dispersion table (including a standard mortality dispersion table) with respect to any section 38 assets and taxpayers who, for purposes of determining qualified investment assign, under paragraph (e)(3)(ii) of § 1.46–3, to any section 38 assets separate lives based on an estimated range of years taken into account in establishing the average useful life of such assets, may treat such assets as having been disposed of or having ceased to be section 38 assets in order of the estimated useful lives that were assigned to such assets. Thus, the asset that is first disposed of or first ceases to be section 38 property may be treated as the asset to which there was assigned the shortest estimated useful life; the next asset disposed of or ceasing to be section 38 property may be treated as the asset to which there was assigned the second shortest life, etc. Thus, except as provided in subdivision (ii) of this subparagraph, if the dispersion shown by the mortality dispersion table effective for a taxable year subsequent to the credit year is the same as the dispersion shown by the mortality table that was effective for the credit year (for example, if the standard mortality dispersion table was effective for both such years), no recapture determination is required for such subsequent taxable year.

(ii) For purposes of this paragraph, notwithstanding the use of a mortality dispersion table (including a standard mortality dispersion table), any abnormal retirement of any section 38 property of substantial value shall be taken into account separately. For definition of abnormal retirement, see paragraph (b) of § 1.167(a)–8.

(4) *Definition of "mass assets"*. For purposes of this paragraph, the term "mass assets" means a mass or group of individual items of property, not necessarily homogeneous, each of which is relatively minor in value, which are numerous in quantity and are usually accounted for only on a total dollar or quantity basis, and with respect to which separate identification is impracticable. The term includes such items as minor items of office, plant, and store furniture and fixtures, railroad ties, overhead conductors, hardware, and textile spindles; and returnable containers and other items which are considered subsidiary assets for purposes of computing the allowance for depreciation.

(5) *Example*. This paragraph may be illustrated by the following example:

Example. (i) Taxpayer A uses numerous small returnable containers in his business. It is impracticable for A to keep individual detailed records with respect to such containers which are mass assets. In 1965, A places in service 10 million containers purchased for $1 million, and reasonably determines that each of such containers has a basis of 10 cents. A places such containers in a multiple asset account to which is assigned a 5-year average useful life for purposes of computing depreciation. A has conducted an appropriate mortality study which shows that the containers have the following estimated useful lives:

Percent of assets	*Useful life (years)*
10	3
20	4
40	5
20	6
10	7

A assigns separate lives to such assets based on the estimated range of years taken into account in establishing the average useful life of such containers. The qualified investment with respect to such containers is $400,000 computed as follows:

Useful life	Basis	Applicable percentage	Qualified investment
4	$200,000	33⅓	$66,666
5	400,000	33⅓	133,334
6	200,000	66⅔	133,334
7	100,000	66⅔	66,666
			400,000

A's credit earned for 1965 of $28,000 (7 percent times $400,000) is allowed as a credit under section 38 against A's liability for tax of $2 million. (For purposes of this example the computations of investment credit and recapture with respect to containers placed in service in years other than 1965 are omitted.) The mortality studies effective for 1966 and 1967 show that none of the containers placed in service in 1965 was retired.

(ii) A's mortality study effective with respect to 1968 shows that the containers are being retired as follows:

Percent of assets	*Useful life (years)*
30	3
20	4
30	5
10	6
10	7

Thus, the 1968 study shows that 30 percent of the 10 million containers placed in service in 1965 were retired in 1968. Under the rule of subparagraph (3)(i) of this paragraph, the 3 million containers are treated as consisting of the 1 million containers to which was assigned a 3-year useful life and the 2 million containers to which was assigned a 4-year useful life. Taking into account only the fact that 30 percent of the containers placed in service in 1965 had an actual life of less than 4 years, A's recomputed qualified investment for 1965 is $333,333 and his recomputed credit earned is $23,333. A's income tax for 1968 is increased by $4,667 ($28,000 original credit earned minus $23,333 recomputed credit earned).

(iii) The mortality study effective for 1969 shows the same results as the mortality study effective for 1968. Thus, it shows that 2 million containers were retired in 1969 (an actual life of 4 years). Under the rule of

subparagraph (3) (i) of this paragraph such 2 million containers are treated as having been among 4,000,000 containers to which were assigned a 5-year useful life. Therefore, no recapture determination is required for 1969.

(iv) The mortality study effective for 1970 shows the same results as the mortality study effective for 1968. Thus, it shows that 3 million containers were retired in 1970 (an actual life of 5 years). Under the rule of subparagraph (3) (i) of this paragraph, the 3 million are treated as having been assigned useful lives as follows: 2 million as having been assigned a useful life of 5 years, and 1 million as having been assigned a useful life of 6 years. Taking into account only the fact that 10 percent of the containers placed in service in 1965 had an actual life of 5 years rather than the 6 years estimated useful life assigned to them, A's recomputed qualified investment is $300,000 and A's credit earned for 1965 is $21,000. Thus, taking into account the 1968 recapture determination, A's income tax for 1970 is increased by $2,333.

(f) *Public utility property*—(1) *Recomputed qualified investment.* In recomputing qualified investment with respect to section 38 property which becomes public utility property (as defined in paragraph (g) of § 1.46–3)—

(i) If such property becomes public utility property less than 4 years from the date on which it was placed in service, then such property shall be treated as public utility property for its entire useful life.

(ii) If such property becomes public utility property 4 years or more but less than 6 years from the date on which it was placed in service, then such property shall be treated as section 38 property which is not public utility property for the first 4 years of its estimated useful life and as public utility property for the remaining period of its estimated useful life.

(iii) If such property becomes public utility property 6 years or more but less than 8 years from the date on which it was placed in service, then such property shall be treated as section 38 property which is not public utility property for the first 6 years of its estimated useful life and as public utility property for the remaining period of its estimated useful life.

(2) *Examples.* Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of $12,000 and an estimated useful life of 8 years. The amount of qualified investment with respect to such property was $12,000. For the taxable year 1962, X Corporation's credit earned was $840 (7 percent of $12,000) and for such taxable year X Corporation was allowed under section 38 a credit of $840 against its liability for tax. During the taxable year 1967 such property becomes public utility property (as defined in paragraph (g) of § 1.46–3) with respect to X Corporation.

(ii) Such item of section 38 property is treated as section 38 property which is not public utility property for the first four years of its eight year estimated useful life and is treated as public utility property for the remaining four years. The recomputed qualified investment with respect to such item of section 38 property is $7,428, computed as follows:

$12,000 basis x 33⅓ percent applicable percentage	$4,000
$12,000 basis x 3/7 x 66⅔ percent applicable percentage	3,428
Total recomputed qualified investment	7,428

X Corporation's recomputed credit earned for the taxable year 1962 is $520 (7 percent of $7,428). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1967 is increased by the $320 decrease in its credit earned for the taxable year 1962 (that is, $840 original credit earned minus $520 recomputed credit earned).

Example (2). (i) The facts are the same as in example (1) and in addition the item of section 38 property which became public utility property in 1967 is sold to Y Corporation on January 2, 1968.

(ii) The actual useful life of such item of property is six years. For the first four years of its eight year estimated useful life such item is treated as section 38 property which is not public utility property and for the remaining two years is treated as public utility property. The recomputed qualified investment with respect to such item of property is $5,714, computed as follows:

$12,000 basis x 33⅓ percent applicable percentage	$4,000
$12,000 basis x 3/7 x 33⅓ percent applicable percentage	1,714
Total recomputed qualified investment	5,714

X Corporation's recomputed credit earned for the taxable year 1962 is $400 (7 percent of $5,714). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1968 is increased by $120 (that is, $440 ($840 original credit earned minus $400 recomputed credit earned) minus $320 increase in tax for 1967).

§ 1.47–2 "Disposition" and "cessation".

(a) *General rule*—(1) *"Disposition".* For purposes of this section and § 1.47–1 and §§ 1.47–3 through 1.47–6, the term "disposition" includes a sale in a sale-and-leaseback transaction, a transfer upon the foreclosure of a security interest and a gift, but such term does not include a mere transfer of title to a creditor upon creation of a security interest. See paragraph (g) of § 1.47–3 for treatment of certain sale-and-leaseback transactions.

(2) *"Cessation".* (i) A determination of whether section 38 property ceases to be section 38 property with respect to the taxpayer must be made for each taxable year subsequent to the credit year. Thus, in each such taxable year the taxpayer must determine, as if such property were placed in service in such taxable year, whether such property would qualify as section 38 property (within the meaning of § 1.48–1) in the hands of the taxpayer for such taxable year.

(ii) Section 38 property does not cease to be section 38 property with respect to the taxpayer in any taxable year subsequent to the credit year merely because under the taxpayer's depreciation practice no deduction for depreciation with respect to such property is allowable to the taxpayer for the taxable year, provided that the property continues to be used in the taxpayer's trade or business (or in the production of income) and otherwise qualifies as section 38 property with respect to the taxpayer.

(iii) This subparagraph may be illustrated by the following examples:

Example (1). A, an individual who makes his returns on the basis of the calendar year, on January 1, 1962, acquired and placed in service in his trade or business an item of section 38 property with an estimated useful life of eight years. On January 1, 1965, A removes the item of section 38 property from use in his trade or business by converting such item to personal use. Therefore no deduction for depreciation with respect to such item of property is allowable to A for the taxable year 1965. On January 1, 1965, such item of property ceases to be section 38 property with respect to A.

Example (2). On January 1, 1962, A placed in service an item of section 38 property with a basis of $10,000 and an estimated useful life of 4 years. A depreciates such item, which has a salvage value of $3,000, on the declining balance method at a rate of 50 percent (that is, twice the straight line rate of 25 percent). With respect to such item, A is allowed deductions for depreciation of $5,000 for 1962, $2,500 for 1963, and $500 for 1964. A is not allowed a deduction for depreciation for 1965 although he continues to use such item in his trade or business. Such item does not cease to be section 38 property with respect to A in 1965.

(b) *Leased property*—(1) *In general.* For purposes of paragraph (a) of § 1.47–1, generally the mere leasing of section 38 property by a lessor who took the basis of such property into account in computing his qualified investment for the credit year shall not be considered to be a disposition. However, in a case where a lease is treated as a sale for income tax purposes such transaction is considered to be a disposition. Leased section 38 property ceases to be section 38 property with respect to the lessor if, in any taxable year subsequent to the credit year, such property would not qualify as section 38 property (as defined in § 1.48–1) in the hands of the lessor, the lessee, or any sublessee. Thus, if, in a taxable year subsequent to the credit year, a lessee uses the property predominantly outside the United States, such property shall be considered to have ceased to be section 38 property with respect to the lessor.

(2) *Where lessor elects to treat lessee as purchaser.* For purposes of paragraph (a) of § 1.47–1, if, under § 1.48–4, the lessor of new section 38 property made a valid election to treat the lessee as having purchased such property for purposes of the credit allowed by section 38, the following rules apply in determining whether such property is disposed of, or otherwise ceases to be section 38 property with respect to the lessee:

(i) Generally, a mere disposition by the lessor of property subject to a lease shall not be considered to be a disposition by the lessee.

(ii) If the lessor makes a disposition of property subject to a lease to a person who may not, under § 1.48–4, make a valid election to treat the lessee as having purchased such property for purposes of the credit allowed by section 38 (such as a person described in paragraph (a) (5) of § 1.48–4), such property shall be considered to have ceased to be section 38 property with respect to the lessee on the date of such disposition.

(iii) If a lease is terminated and the property is transferred by the lessee to the lessor or to any other person, such transfer shall be considered to be a disposition by the lessee.

(iv) If the lessee in a taxable year subsequent to the credit year actually purchases such property, such purchase shall not be considered to be a disposition.

(v) The property ceases to be section 38 property with respect to the lessee if in any taxable year subsequent to the credit year such property would not qualify as section 38 property (as defined in § 1.48-1) in the hands of the lessor, the lessee, or any sublessee. Thus, for example, if, in a taxable year subsequent to the credit year, a sublessee uses the property predominantly outside the United States, the property ceases to be section 38 property with respect to the lessee.

(c) *Reduction in basis of section 38 property*—(1) *General rule.* If, in any taxable year subsequent to the credit year, the basis (or cost) of section 38 property is reduced, for example, as a result of a refund of part of the cost of the property, then such section 38 property shall be treated as having ceased to be section 38 property with respect to the taxpayer to the extent of the amount of such reduction in basis (or cost) on the date the refund which results in such reduction in basis (or cost) is received or accrued.

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

Example. (i) On January 1, 1962, A, a cash basis taxpayer, acquired from X Cooperative an item of section 38 property with a basis of $100 and an estimated useful life of 10 years which he placed in service on such date. The amount of qualified investment with respect to such asset was $100. For the taxable year 1962 A was allowed under section 38 a credit of $7 against his liability for tax. On June 1, 1963, A receives a $10 patronage dividend from X Cooperative with respect to such asset. Under paragraph (c)(2)(i) of § 1.1385-1, the basis of the asset in A's hands is reduced by $10.

(ii) Under subparagraph (1) of this paragraph, on June 1, 1963, the item of section 38 property ceases to be section 38 property with respect to A to the extent of $10 of the original $100 basis.

(d) *Retirements.* A retirement of section 38 property, including a normal retirement (as defined in paragraph (b) of § 1.167(a)-8, relating to definition of normal and abnormal retirements), and an abandonment are dispositions for purposes of paragraph (a) of § 1.47-1.

(e) *Conversion of section 38 property to personal use.* (1) If, for any taxable year subsequent to the credit year—

(i) A deduction for depreciation is allowable to the taxpayer with respect to only a part of section 38 property because such property is partially devoted to personal use, and

(ii) The part of the property (expressed as a percentage of its total basis (or cost)) with respect to which a deduction for depreciation is allowable for such taxable year is less than the part of the property with respect to which a deduction for depreciation was allowable in the credit year,

then such property shall be considered as having ceased to be section 38 property with respect to the taxpayer to such extent. Further, property ceases to be section 38 property with respect to the taxpayer to the extent that a deduction for depreciation thereon is disallowed under section 274 (relating to disallowance of certain entertainment, etc., expenses).

(2) *Examples.* Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) A, a calendar-year taxpayer, acquired and placed in service on January 1, 1962, an automobile with a basis of $2,400 and an estimated useful life of four years. In the taxable year 1962 the automobile was used by A 80 percent of the time in his trade or business and was used 20 percent of the time for personal purposes. Thus, for the taxable year 1962 only 80 percent of the basis of the automobile qualified as section 38 property since a deduction for depreciation was allowable to A only with respect to 80 percent of the basis of the automobile. In the taxable year 1963 the automobile is used by A only 60 percent of the time in his trade or business. Thus, for the taxable year 1963 a deduction for depreciation is allowable to A only with respect to 60 percent of the basis of the automobile.

(ii) Under subparagraph (1) of this paragraph, on January 1, 1963, the automobile ceases to be section 38 property with respect to A to the extent of 20 percent (80 percent minus 60 percent) of the $2,400 basis of the automobile.

Example (2). (i) The facts are the same as in example (1) and in addition for the taxable year 1964 a deduction for depreciation is allowable to A only with respect to 40 percent of the basis of the property.

(ii) Under subparagraph (1) of this paragraph, on January 1, 1964, the automobile ceases to be section 38 property with respect to A to the extent of 20 percent (60 percent minus 40 percent) of the $2,400 basis of the automobile.

§ 1.47-3 Exceptions to the application of § 1.47-1.

(a) *In general.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation," paragraph (a) of § 1.47-1 shall not apply if paragraph (b) (relating to transfers by reason of death), paragraph (c) (relating to property destroyed by casualty), paragraph (d) (relating to reselection of used section 38 property), paragraph (e) (relating to transactions to which section 381 (a) applies), paragraph (f) (relating to mere change in form of conducting a trade or business), or paragraph (g) (relating to sale-and-leaseback transactions) of this section applies with respect to such disposition or cessation.

(b) *Transfers by reason of death*—(1) *General rule.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a) of § 1.47-1 shall not apply to a transfer of section 38 property by reason of the death of the taxpayer. Thus, for example, with respect to section 38 property held in joint tenancy, paragraph (a) of § 1.47-1 shall not apply to the transfer of the deceased taxpayer's interest to the surviving joint tenant. If, under § 1.48-4, the lessor of new section 38 property made a valid election to treat the lessee as having purchased such property for purposes of the credit allowed by section 38, paragraph (a) of § 1.47-1 does not apply if, by reason of the death of the lessee, there is a termination of the lease and transfer of the leased property to the lessor, or there is an assignment of the lease and transfer of the leased property to another person. Moreover, paragraph (a) of § 1.47-1 does not apply to the transfer of a partner's interest in a partnership, a beneficiary's interest in an estate or trust, or shares of stock of a shareholder of an electing small business corporation (as defined in section 1371(b)) by reason of the death of such partner, beneficiary, or shareholder. Paragraph (a) of § 1.47-1 applies to a gift by a taxpayer prior to his death even if the value of such gift is included in his gross estate for estate tax purposes (such as, a gift in contemplation of death under section 2035). The effect of this subparagraph is that any section 38 property held by a taxpayer at the time of his death is deemed to have been held by him for its entire estimated useful life.

(2) *Examples.* Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) A, an individual, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of $10,000 and an estimated useful life of eight years. On April 28, 1963, A dies and, as a result of A's death, his interest in such item of section 38 property is transferred to a testamentary trust pursuant to A's will, and on February 1, 1967, the trust is terminated and the item of section 38 property is transferred to the beneficiaries of the trust.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the transfer, as a result of A's death, of his interest in such item of section 38 property to the testamentary trust. Moreover, paragraph (a) of § 1.47-1 does not apply to the February 1, 1967, transfer of such item of section 38 property by the trust to its beneficiaries.

Example (2). (i) X Corporation, an electing small business corporation (as defined in section 1371(b)) which makes its returns on the basis of a calendar year, acquired and placed in service during 1962 an item of section 38 property. On December 31, 1962, X Corporation had 10 shares of stock outstanding which were owned as follows: A owned eight shares and B owned two shares. On December 31, 1962, 80 percent of the basis of the item of section 38 property was apportioned to A and 20 percent to B. On June 1, 1964, A dies and, as a result of A's death, his eight shares of stock in X Corporation are transferred to his wife. On July 10, 1965, X Corporation sells the item of section 38 property to Y Corporation.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the transfer, as a result of A's death, of his eight shares of stock in X Corporation to his wife. Moreover, with respect to the July 10, 1965, sale paragraph (a) of § 1.47-1 applies only to the 20 percent of the basis of the item of section 38 property which was apportioned to B.

(c) *Property destroyed by casualty*—(1) *General rule.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a)

of § 1.47-1 shall not apply to property which is disposed of or otherwise ceases to be section 38 property with respect to the taxpayer on account of its destruction or damage by fire, storm, shipwreck or other casualty, or by reason of its theft if—

(i) Section 38 property is placed in service by the taxpayer to replace (within the meaning of paragraph (h) of § 1.46-3) such destroyed, damaged, or stolen property, and

(ii) The basis (or cost) of the section 38 property which is placed in service by the taxpayer to replace the destroyed, damaged, or stolen property is reduced under paragraph (h) of § 1.46-3.

(2) *Examples.* Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) A acquired and placed in service on January 1, 1962, machine No. 1 which qualified as section 38 property with a basis of $30,000 and an estimated useful life of 6 years. The amount of qualified investment with respect to such machine was $20,000. For the taxable year 1962 A's credit earned of $1,400 was allowed under section 38 as a credit against its liability for tax. On January 1, 1963, machine No. 1 is completely destroyed by fire. On January 1, 1963, the adjusted basis of machine No. 1 in A's hands is $24,500. A receives $23,000 in insurance proceeds as compensation for the destroyed machine, and on February 15, 1964, A acquires and places in service machine No. 2, which qualifies as section 38 property, with a basis of $41,000 and an estimated useful life of six years to replace machine No. 1.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply with respect to machine No. 1 since machine No. 2 is placed in service to replace machine No. 1 and the $41,000 basis of machine No. 2 is reduced, under paragraph (h) of § 1.46-3, by $23,000. (See example (1) of paragraph (h)(3) of § 1.46-3.)

Example (2). (i) The facts are the same as in example (1) except that A receives only $19,000 in insurance proceeds as compensation for the destroyed machine.

(ii) Although machine No. 2 is placed in service to replace machine No. 1, subparagraph (1) of this paragraph does not apply with respect to machine No. 1 since the basis of machine No. 2 is not reduced under paragraph (h) of § 1.46-3. Paragraph (a) of § 1.47-1 applies with respect to the January 1, 1963, destruction of machine No. 1. The actual useful life of machine No. 1 is one year. The recomputed qualified investment with respect to such machine is zero ($30,000 basis multiplied by zero applicable percentage) and A's recomputed credit earned for the taxable year 1962 is zero. The income tax imposed by chapter 1 of the Code on A for the taxable year 1963 is increased by $1,400.

(d) *Reselection of used section 38 property*—(1) *Reselection.* If—

(i) Used section 38 property (as defined in § 1.48-3) the cost of which was taken into account in computing the taxpayer's qualified investment is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the estimated useful life which was taken into account in computing such qualified investment, and

(ii) For the taxable year in which the property described in subdivision (i) of this subparagraph was placed in service, the sum of (*a*) the cost of used section 38 property placed in service by the taxpayer, and (*b*) the cost of used section 38 property apportioned to such taxpayer exceeded $50,000,

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then such taxpayer may treat the cost of any used section 38 property (regardless of its estimated useful life) which was not originally selected, under paragraph (c)(4) of § 1.48-3, to be taken into account in computing qualified investment for such taxable year (or previously reselected under this subparagraph) as having been selected (in accordance with the principles of paragraph (c)(4)(ii) of § 1.48-3) in place of the cost of the used section 38 property described in subdivision (i) of this subparagraph. Hereinafter such reselected property is referred to as "newly selected used section 38 property". For purposes of this subparagraph, the cost of used section 38 property apportioned to a taxpayer means the sum of the cost of used section 38 property apportioned to him by a trust, estate, or electing small business corporation (as defined in section 1371 (b)), and his share of the cost of partnership used section 38 property, with respect to the taxable year of such trust, estate, corporation or partnership ending with or within such taxpayer's taxable year. In the cast of a taxpayer to whom paragraph (c)(2) of § 1.48-3 applied for the taxable year in which the property described in subdivision (i) of this subparagraph was placed in service, a $25,000 amount shall be substituted for the $50,000 amount referred to in subdivision (ii)(*b*) of this subparagraph, and in the case of a member of an affiliated group (as defined in subparagraph (6) of § 1.48-3(e)) the amount apportioned to such member under paragraph (e) of § 1.48-3 shall be substituted for such $50,000 amount.

(2) *Application of paragraph (a) of § 1.47-1.* (i) If a taxpayer treats, under subparagraph (1) of this paragraph, the cost of any used section 38 property which was not originally selected as having been selected in place of the cost of used section 38 property described in subparagraph (1)(i) of this paragraph, then, notwithstanding the provisions of § 1.47-2 (relating to "disposition" and "cessation"), paragraph (a) of § 1.47-1 shall not apply to the property described in subparagraph (1)(i) of this paragraph to the extent of the cost of the newly selected used section 38 property.

(ii) If the cost of the used section 38 property described in subparagraph (1)(i) of this paragraph exceeds the cost of the newly selected used section 38 property, then the property described in subparagraph (1)(i) of this paragraph shall cease to be section 38 property with respect to the taxpayer to the extent of such excess.

(iii) If the newly selected used section 38 property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the estimated useful life of the property described in subparagraph (1)(i) of this paragraph, then, unless he reselects other used section 38 property, paragraph (a) of § 1.47-1 shall apply with respect to such newly selected used section 38 property. For purposes of recomputing qualified investment with respect to such newly selected used section 38 property the actual useful life shall be deemed to be the period beginning with the date on which the property described in subparagraph (1)(i) of this paragraph was placed in service by the taxpayer and ending with the date of the disposition or cessation with respect to such newly selected used section 38 property. See paragraph (c) of § 1.47-1, relating to date placed in service and date of disposition or cessation.

(3) *Information requirement.* (i) If in any taxable year this paragraph applies to a taxpayer, such taxpayer shall attach to his income tax return for such taxable year a statement containing the information required by subdivision (ii) of this subparagraph.

(ii) The statement referred to in subdivision (i) of this subparagraph shall contain the following information:

(*a*) The taxpayer's name, address and taxpayer account number; and

(*b*) With respect to the originally selected used section 38 property and the newly selected used section 38 property, the month and year placed in service, cost, and estimated useful life.

(4) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation purchased and placed in service on January 1, 1962, machines No. 1 and No. 2, which qualified as used section 38 property, each with a cost of $50,000 and an estimated useful life of eight years. The aggregate cost of used section 38 property taken into account by X Corporation in computing its qualified investment for the taxable year 1962 could not exceed $50,000; therefore, under paragraph (c)(4) of § 1.48-3, X selected the $50,000 cost of machine No. 1 to be taken into account in computing its qualified investment for the taxable year 1962. The qualified investment with respect to machine No. 1 was $50,000. For the taxable year 1962 X's credit earned of $3,500 was allowed under section 38 as a credit against its liability for tax. On January 2, 1965, X Corporation sells machine No. 1 to Y Corporation.

(ii) Under subparagraph (1) of this paragraph, X Corporation treats the $50,000 cost of machine No. 2 as having been selected to be taken into account in computing its qualified investment for the taxable year 1962 in place of the $50,000 cost of machine No. 1. Therefore, under subparagraph (2)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the January 2, 1965, disposition of machine No. 1.

Example (2). (i) The facts are the same as in example (1) and in addition X Corporation, on December 2, 1966, sells machine No. 2 to Z Corporation.

(ii) Under subparagraph (2)(iii) of this paragraph, paragraph (a) of § 1.47-1 applies with respect to the December 2, 1966, disposition of machine No. 2. The actual useful life of machine No. 2 is four years and eleven months (that is, the period beginning on January 1, 1962, and ending on December 2, 1966). The recomputed qualified investment with respect to machine No. 2 is $16,667 ($50,000 cost multiplied by 33⅓ percent applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is $1,167. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1966 is increased by the $2,333 decrease in its credit earned for the taxable year 1962 (that is, $3,500 original credit earned minus $1,167 recomputed credit earned).

Example (3). (i) The facts are the same as in example (1) except that machine No. 2 had a cost of $30,000.

(ii) Under subparagraph (1) of this paragraph, X Corporation treats the $30,000 cost of machine No. 2 as having been selected to be taken into account in computing its qualified investment for the taxable year 1962 in place of the $50,000 cost of machine No. 1. Therefore, under subparagraph (2)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the January 2, 1965, disposition of machine No. 1 to the extent of $30,000 of the $50,000 cost of machine No. 1. However, under subparagraph (2)(ii) of this paragraph, paragraph (a) of § 1.47-1 applies to the January 2, 1965, disposition of machine No. 1 to the extent of $20,000 (that is, $50,000 cost of machine No. 1 minus $30,000 cost of machine No. 2). The actual useful life of such $20,000 portion of machine No. 1 is three years (that is, the period beginning on January 1, 1962, and ending on January 2, 1965). The recomputed qualified investment with respect to the $20,000 portion of the cost of machine No. 1 is zero ($20,000 portion of the cost multiplied by zero applicable percentage) and X Corporation's recomputed credit earned for the taxable year 1962 is $2,100 (7 percent of $30,000). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1965 is increased by the $1,400 decrease in its credit earned for the taxable year 1962 (that is, $3,500 original credit earned minus $2,100 recomputed credit earned).

(e) *Transactions to which section 381 (a) applies*—(1) *General rule.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a) of § 1.47-1 shall not apply to a disposition of section 38 property in a transaction to which section 381(a) (relating to carryovers in certain corporate acquisitions) applies. If the section 38 property described in the preceding sentence is disposed of, or otherwise ceases to be section 38 property with respect to the acquiring corporation, before the close of the estimated useful life which was taken into account in computing the transferor corporation's qualified investment, then paragraph (a) of § 1.47-1 shall apply to the acquiring corporation with respect to such section 38 property. For purposes of recomputing qualified investment with respect to such property its actual useful life shall be the period beginning with the date on which it was placed in service by the transferor corporation and ending with the date of the disposition by, or cessation with respect to, the acquiring corporation.

(2) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation, a wholly owned subsidiary of Y Corporation, acquired and placed in service on January 1, 1962, an item of section 38 property with a basis of $12,000 and an estimated useful life of eight years. Both X and Y make their returns on the basis of a calendar year. The qualified investment with respect to such item was $12,000. For the taxable year 1962 X Corporation's credit earned of $840 was allowed under section 38 as a credit against its liability for tax. On January 15, 1967, X Corporation is liquidated under section 332 and all of its properties, including the item of section 38 property, are transferred to Y Corporation. The bases of the properties in the hands of Y Corporation are determined under section 334(b)(1).

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the January 15, 1967, transfer to Y Corporation.

Example (2). (i) The facts are the same as in example (1) and in addition on February 2, 1968, Y Corporation sells the item of section 38 property to Z Corporation.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the January 15, 1967, transfer to Y Corporation. However, paragraph (a) of § 1.47 applies to the February 2, 1968, sale of the property by Y Corporation. The actual useful life of the property is six years and one month (that is, the period beginning on January 1, 1962, and ending on February 2, 1968).

(f) *Mere change in form of conducting a trade or business*—(1) *General rule.* (i) Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a) of § 1.47-1 shall not apply to section 38 property which is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the estimated useful life which was taken into account in computing the taxpayer's qualified investment by reason of a mere change in the form of conducting the trade or business in which such section 38 property is used provided that the conditions set forth in subdivision (ii) of this subparagraph are satisfied.

(ii) The conditions referred to in subdivision (i) of this subparagraph are as follows:

(*a*) The section 38 property described in subdivision (i) of this subparagraph is retained as section 38 property in the same trade or business,

(*b*) The transferor of such section 38 property retains a substantial interest in such trade or business,

(*c*) Substantially all the properties (whether or not section 38 property) used in such trade or business are transferred to the transferee to whom such section 38 property is transferred, and

(*d*) The basis of such section 38 property in the hands of the transferee is determined in whole or in part by reference to the basis of such section 38 property in the hands of the transferor.

This subparagraph shall not apply to the transfer of section 38 property if paragraph (e) of this section, relating to transactions to which section 381 applies, applies with respect to such transfer.

(2) *Substantial interest.* For purposes of this paragraph, a transferor shall be considered as having retained a substantial interest in the trade or business only if, after the change in form, his interest in such trade or business—

(i) Is substantial in relation to the total interest of all persons, or

(ii) Is equal to or greater than his interest prior to the change in form. Thus, where a taxpayer owns a 5-percent interest in a partnership, and, after the incorporation of that partnership, the taxpayer retains at least a 5-percent interest in the corporation, the taxpayer will be considered as having retained a substantial interest in the trade or business as of the date of the change in form.

(3) *Property held for the production of income.* Subparagraph (1)(i) of this paragraph applies to section 38 property held for the production of income (within the meaning of section 167(a)(2)) as well as to section 38 property used in a trade or business.

(4) *Leased property.* In a case where a lessor of new section 38 property made a valid election, under § 1.48-4, to treat the lessee as having purchased such property for purposes of the credit allowed by section 38, in determining whether subparagraph (1)(i) of this paragraph applies to an assignment of the lease and transfer of possession of such property, the condition contained in subparagraph (1)(ii)(*d*) of this paragraph is not applicable.

(5) *Disposition or cessation.* (i) If section 38 property described in subparagraph (1)(i) of this paragraph is disposed of by the transferee, or otherwise ceases to be section 38 property with respect to the transferee, before the close of the estimated useful life which was taken into account in computing the transferor's (or a partner's, beneficiary's, or shareholder's) qualified investment, then, under paragraph (a) of § 1.47-1, such property ceases to be section 38 property with respect to the transferor and the transferor shall make a recapture determination. For purposes of recomputing qualified investment with respect to such property, its actual useful life shall be the period beginning with the date on which it was placed in service by the transferor and ending with the date of the disposition by, or cessation with respect to, the transferee.

(ii) If in any taxable year the transferor (or in a case where the transferor is a partnership, estate, trust, or electing small business corporation, the partner, beneficiary, or shareholder) of the section 38 property described in subparagraph (1)(i) of this paragraph does not retain a substantial interest in the trade or business, then, under paragraph (a) of § 1.47-1, such property ceases to be section 38 property with respect to the transferor and he (or the partner, beneficiary, or shareholder) shall make a recapture determination. For purposes of recomputing qualified investment with respect to such property, its actual useful life shall be the period beginning with the date on which it was placed in service by the transferor and ending with the first date on which the transferor (or the partner, beneficiary, or shareholder) does not retain a substantial interest in the trade or business.

(iii) In making a recapture determination under this subparagraph there shall be taken into acount any prior recapture determinations with respect to the transferor in connection with the same property.

(iv) Notwithstanding subparagraph (1) of this paragraph and subdivision (ii) of this subparagraph in the case of a mere change in the form of a trade or business, if the interest of a taxpayer in the trade or business is reduced but such taxpayer has retained a substantial interest in such trade or business, paragraph (a)(2) of § 1.47-4 (relating to electing small business corporations), paragraph (a)(2) of § 1.47-5 (relating to estates or trusts) or paragraph (a)(2) of § 1.47-6 (relating to partnerships) shall apply, as the case may be.

(6) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) On January 1, 1962, A, an individual, acquired and placed in service in his sole proprietorship an item of section 38 property with a basis of $12,000 and an estimated useful life of eight years. The qualified investment with respect to such item was $12,000. For the taxable year 1962 A's credit earned of $840 was allowed under section 38 as a credit against his liability for tax. On March 15, 1963, A transfers all of the assets used in his sole proprietorship to X Corporation, a newly formed corporation, in exchange for 45 percent of the stock of X Corporation.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the March 15, 1963, transfer to X Corporation.

Example (2). (i) The facts are the same as in example (1) and in addition on February 2, 1964, X Corporation sells the item of section 38 property to Y Corporation.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the March 15, 1963, transfer to X Corporation. However, under subparagraph (5)(i) of this paragraph, paragraph (a) of § 1.47-1 applies to the February 2, 1964, sale of the item of section 38 property by X Corporation to Y Corporation. The actual useful life of the property is two years and one month (that is, the period beginning on January 1, 1962, and ending on February 2, 1964). The recomputed qualified investment with respect to such property is zero ($12,000 basis multiplied by zero applicable percentage) and A's recomputed credit earned for the taxable year 1962 is zero. The income tax imposed by chapter 1 of the Code on A for 1964 is increased by the $840 decrease in his credit earned for the taxable year 1962 (that is, $840 credit earned minus zero recomputed credit earned).

Example (3). (i) On January 1, 1962, partnership ABC, which makes its returns on the basis of a calendar year, acquired and placed in service on item of section 38 property with a basis of $20,000 and an estimated useful life of eight years. Partnership ABC has 10 partners who make their returns on the basis of a calendar year and share partnership profits equally. Each partner's share of the basis of such item of section 38 property is 10 percent, that is, $2,000. On March 15, 1963, partnership ABC transfers all of the assets used in its trade or business to the X Corporation, a newly formed corporation, in exchange for all of the stock of X Corporation and immediately thereafter transfers 10 percent of such stock to each of the 10 partners.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.47-1 does not apply to the March 15, 1963 transfer by the ABC Partnership to X Corporation.

Example (4). (i) The facts are the same as in example (3) except that partnership ABC transfers 10 percent of the stock in X Corporation to each of 8 partners, 20 percent to partner A, and cash to partner B.

(ii) Under subparagraph (1)(i) of this paragraph, with respect to all of the partners (including partner A) except partner B, paragraph (a) of § 1.47-1 does not apply to the March 15, 1963, transfer by the ABC Partnership to X Corporation. Paragraph (a) of § 1.47-1 applies with respect to partner B's $2,000 share of the item of section 38 property. See paragraph (a)(1) of § 1.47-6.

(g) *Sale-and-leaseback transactions.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a) of § 1.47-1 shall not apply where section 38 property is disposed of and as part of the same transaction is leased back to the vendor even though gain or loss is recognized to the vendor-lessee and the property ceases to be subject to depreciation in his hands. If paragraph (a) of § 1.47-1 applies with respect to such property subsequent to the transaction, the actual useful life shall begin with the date on which such property was first placed in service by the vendor-lessee as owner.

§ 1.47-4 Electing small business corporations.

(a) *In general*—(1) *Disposition or cessation in hands of corporation.* If an electing small business corporation (as defined in section 1371(b)) disposes of any section 38 property (or if any section 38 property otherwise ceases to be section 38 property in the hands of the corporation) before the close of the estimated useful life which was taken into account in computing qualified investment with respect to such property, a recapture determination shall be made with respect to each shareholder who is treated, under § 1.48-5, as a taxpayer with respect to such property. Each such recapture determination shall be made with respect to the pro rata share of the basis (or cost) of such property taken into account by such shareholder in computing his qualified investment. For purposes of each such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the electing small business corporation and ending with the date of the disposition or cessation. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determinations made with respect to the shareholder in connection with the same property. For definition of "recapture determination" see paragraph (a)(1) of § 1.47-1.

(2) *Disposition of shareholder's interest*—(i) If—

(*a*) The basis (or cost) of section 38 property is apportioned, under § 1.48-5, to a shareholder of an electing small business corporation who takes such basis (or cost) into account in computing his qualified investment, and

(*b*) After the end of shareholder's taxable year in which such apportionment was taken into account and before the close of the estimated useful life of the property, such shareholder's proportionate stock interest in such corporation is reduced (for example, by a sale or redemption, or by the issuance of additional shares) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction such section 38 property ceases to be section 38 property with respect to such shareholder to the extent of the actual reduction in such shareholder's proportionate stock interest. (For example, if $100 of the basis of section 38 property was apportioned to a shareholder and if his proportionate stock interest is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then such property shall be treated as having ceased to be section 38 property to the extent of $50.) Accordingly, a recapture determination shall be made with respect to such shareholder. For purposes of such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the electing small business corporation and ending with the date on which it is treated as having ceased to be section 38 property with respect to the shareholder. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determination made with respect to the shareholder in connection with the same property.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the shareholder's proportionate stock interest in the corporation on the date of the apportionment under § 1.48-5. However, once property has been treated under this subparagraph as having ceased to be section 38 property to any extent the percentage referred to shall be 33⅓ percent of the shareholder's proportionate stock interest in the corporation on the date of the apportionment under § 1.48-5.

(b) *Election of a small business corporation under section 1372*—(1) *General rule.* If a corporation makes a valid election under section 1372 to be an electing small business corporation (as defined in section 1371(b)), then on the last day of the taxable year immediately preceding the first taxable year for which such election is effective, any section 38 property the basis (or cost) of which was taken into account in computing the corporation's qualified investment shall be considered as having ceased to be section 38 property with respect to such corporation and § 1.47-1 shall apply. However, if all of the shareholders of the corporation on the first day of the first taxable year for which the election under section 1372 is to be effective, or on the date of such election, whichever is later, execute the consent specified in subparagraph (2) of this paragraph, such cessation shall be treated as a mere change in the form of conducting the trade or business in which such section 38 property is used by such consenting shareholders and § 1.47-1 shall not apply.

(2) *Shareholder's consent.* The consent referred to in subparagraph (1) of this paragraph shall be in writing and of shall recite that the signers thereof consent to be treated, for all purposes of subpart B of part IV of subchapter A of chapter 1 of the Code, as if the corporation were an electing small business corporation which had on the date of such consent apportioned to them, under § 1.48-5, the basis (or cost) of all section 38 property taken into account by the corporation in computing its qualified investment for any taxable year prior to the first taxable year for which the election is effective. Such consent shall apply only with respect to property which has not been disposed of by, or has not otherwise ceased to be section 38 property with respect to, the corporation prior to such first day and, if made, shall be effective as of such first day. Such consent shall be filed with the income tax return of the corporation for

its taxable year immediately preceding the first taxable year for which the election under section 1372 is effective.

(c) *Examples*. This section may be illustrated by the following examples in each of which it is assumed that X Corporation, an electing small business corporation which makes its returns on the basis of the calendar year, acquired and placed in service on June 1, 1962, three items of section 38 property. The basis and estimated useful life of each item of section 38 property are as follows:

Asset No.	Basis	Estimated useful life
		Years
1	$30,000	4
2	30,000	6
3	30,000	8

On December 31, 1962, X Corporation had 20 shares of stock outstanding which were owned equally by A and B who make their returns on the basis of a calendar year. Under § 1.48-5, the total bases of section 38 properties was apportioned to the shareholders of X Corporation as follows:

	Useful life category		
	4 to 6 years	6 to 8 years	8 years or more
Total bases	$30,000	$30,000	$30,000
Shareholder A (10/20)	15,000	15,000	15,000
Shareholder B (10/20)	15,000	15,000	15,000

Assuming that during 1962 shareholders A and B did not place in service any section 38 property and that they did not own any interests in other electing small business corporations, partnerships, estates, or trusts, the qualified investment of each shareholder is $30,000, computed as follows:

Basis	Applicable percentage	Qualified investment
$15,000	33⅓	$5,000
$15,000	66⅔	10,000
$15,000	100	15,000
		30,000

For the taxable year 1962, each shareholder's credit earned of $2,100 (7 percent of $30,000) was allowed under section 38 as a credit against his liability for tax.

Example (1). (i) On December 2, 1965, X Corporation sells asset No. 3 to Y Corporation.

(ii) The actual useful life of asset No. 3 is three years and six months. The recomputed qualified investment with respect to each shareholder's share of the basis of asset No. 3 is zero ($15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962 each shareholder's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on each of the shareholders for the taxable year 1965 is increased by the $1,050 decrease in his credit earned for the taxable year 1962 (that is, $2,100 original credit earned minus $1,050 recomputed credit earned).

Example (2). (i) On December 3, 1964, shareholder A sells 5 of his 10 shares of stock in X Corporation to C, and on December 3, 1965, A sells his remaining 5 shares of stock to D. In addition, on January 2, 1966, X Corporation sells asset No. 3 to Y Corporation.

(ii) Under paragraph (a)(2) of this section, on December 3, 1964, 50 percent of the share of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to shareholder A since immediately after the December 3, 1964, sale A's proportionated stock interest in X Corporation is reduced to 50 percent of the proportionate stock interest in X Corporation which he held on December 31, 1962. The actual useful life of the share of the bases of the section 38 properties which cease to be section 38 property with respect to A is two years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1964). A's recomputed qualified investment with respect to such properties is $15,000, computed as follows:

Basis	Applicable percentage	Recomputed qualified investment
$7,500	33⅓	$2,500
$7,500	66⅔	5,000
$7,500	100	7,500
		15,000

For the taxable year 1962 shareholder A's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on shareholder A for the taxable year 1964 is increased by the $1,050 decrease in his credit earned for the taxable year 1962 (that is, $2,100 original credit earned minus $1,050 recomputed credit earned).

(iii) Under paragraph (a)(2) of this section, on December 3, 1965, the remaining 50 percent of the share of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to shareholder A since immediately after the December 3, 1965, sale A's proportionate stock interest in X Corporation is reduced to zero. The actual useful life of the share of the bases of the section 38 properties which cease to be section 38 property with respect to A is three years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1965). A's recomputed qualified investment with respect to such properties is zero. For the taxable year 1962 shareholder A's recomputed credit earned is zero. The income tax imposed by chapter 1 of the Code on shareholder A for the taxable year 1965 is increased by $1,050 (that is, $2,520 ($2,520 original credit earned minus zero recomputed credit earned) reduced by the $1,050 increase in tax for 1964).

(iv) The actual useful life of asset No. 3 which was sold on January 2, 1966, is three years and seven months. The recomputed qualified investment with respect to B's share of the basis of asset No. 3 is zero ($15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, B's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on shareholder B for the taxable year 1966 is increased by the $1,050 decrease in his credit earned for the taxable year 1962 ($2,100 original credit earned minus $1,050 recomputed credit earned). The sale of asset No. 3 on January 2, 1966, by X Corporation has no effect on A.

§ 1.47-5 Estates and trusts.

(a) *In general*—(1) *Disposition or cessation in hands of estate or trust*. If an estate or trust disposes of any section 38 property (or if any section 38 property otherwise ceases to be section 38 property in the hands of the estate or trust) before the close of the estimated useful life which was taken into account in computing qualified investment with respect to such property, a recapture determination shall be made with respect to the estate or trust, and each beneficiary who is treated, under § 1.48-6, as a taxpayer with respect to such property. Each such recapture determination shall be made with respect to the share of the basis (or cost) of such property taken into account by such estate or trust and such beneficiary in computing its or his qualified investment. For purposes of each such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the estate or trust and ending with the date of the disposition or cessation. In making a recapture determination under this subparagraph with respect to a taxpayer there shall be taken into account any prior recapture determinations made with respect to such taxpayer in connection with the same property. For definition of "recapture determination" see paragraph (a)(1) of § 1.47-1.

(2) *Disposition of beneficiary's interest*—(i) If—

(*a*) The basis (or cost) of section 38 property is apportioned, under § 1.48-6, to a beneficiary of an estate or trust who takes such basis (or cost) into account in computing his qualified investment, and

(*b*) After the date on which such section 38 property was placed in service by the estate or trust and before the close of the estimated useful life of the property, such beneficiary's proportionate interest in the income of the estate or trust is reduced (for example, by a sale, or by the terms of the estate or trust instrument) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction such section 38 property ceases to be section 38 property with respect to such beneficiary to the extent of the actual reduction in such beneficiary's proportionate interest in the income of the estate or trust. (For example, if $100 of the basis of section 38 property was apportioned to a beneficiary and if his proportionate interest in the income of the estate or trust is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then, such property shall be treated as having ceased to be section 38 property to the extent of $50.) Accordingly, a recapture determination shall be made with respect to such beneficiary. For purposes of such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the estate or trust and ending with the date on which it is treated as having ceased to be section 38 property with respect to the beneficiary. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determination made with respect to the beneficiary in connection with the same property.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the beneficiary's proportionate interest in the income of the estate or trust for the taxable year of the apportionment under § 1.48-6. However, once property has been treated under this subparagraph as having

ceased to be section 38 property to any extent the percentage referred to shall be 33⅓ percent of the beneficiary's proportionate interest in the income of the estate or trust for the taxable year of the apportionment under § 1.48-6.

(b) *Examples.* Paragraph (a) of this section may be illustrated by the following examples in each of which it is assumed that XYZ Trust, which makes its returns on the basis of the calendar year, acquired and placed in service on June 1, 1962, three items of section 38 property. The basis and estimated useful life of each item of section 38 property are as follows:

Asset No.	Basis	Estimated useful life
		Years
1	$30,000	4
2	30,000	6
3	30,000	8

For the taxable year 1962 the income of XYZ Trust is $20,000, which is allocable equally to XYZ Trust and beneficiary A. Beneficiary A makes his returns on the basis of a calendar year. Under § 1.48-6, the total bases of the section 38 properties was apportioned to XYZ Trust and beneficiary A as follows:

	Useful life category		
	4 to 6 years	6 to 8 years	8 years or more
Total bases	$30,000	$30,000	$30,000
XYZ Trust ($10,000)/($20,000)	15,000	15,000	15,000
Beneficiary A ($10,000)/($20,000)	15,000	15,000	15,000

Assuming that during 1962 beneficiary A did not place in service any section 38 property and that he did not own any interests in other estates, trusts, electing small business corporations, or partnerships, the qualified investment of XYZ Trust and of beneficiary A is $30,000 each, computed as follows:

Basis	Applicable percentage	Qualified investment
$15,000	33⅓	$5,000
$15,000	66⅔	10,000
$15,000	100	15,000
		30,000

For the taxable year 1962, XYZ Trust and beneficiary A each had a credit earned of $2,100 (7 percent of $30,000). Each such credit earned was allowed under section 38 as a credit against the liability for tax.

Example (1). (i) On December 2, 1965, XYZ Trust sells asset No. 3 to X Corporation.

(ii) The actual useful life of asset No. 3 is three years and six months. The recomputed qualified investment with respect to XYZ Trust's and beneficiary A's share of the basis of asset No. 3 is zero ($15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, XYZ Trust's and beneficiary A's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on XYZ Trust and on beneficiary A for the taxable year 1965 is increased by the $1,050 decrease in his credit earned for the taxable year 1962 (that is, $2,100 original credit earned minus $1,050 recomputed credit earned).

Example (2). (i) On December 3, 1964, beneficiary A sells 50 percent of his interest in the income of XYZ Trust to B, and on December 3, 1965, A sells his remaining 50 percent interest to C. In addition, on January 2, 1966, XYZ Trust sells asset No. 3 to Y Corporation.

(ii) Under paragraph (a)(2) of this section, on December 3, 1964, 50 percent of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to beneficiary A since immediately after the December 3, 1964, sale A's proportionate interest in the income of XYZ Trust is reduced to 50 percent of his proportionate interest in the income of XYZ Trust for the taxable year 1962. The actual useful life of the share of the bases of the section 38 properties which cease to be section 38 property with respect to A is two years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1964). Beneficiary A's recomputed qualified investment with respect to such properties is $15,000, computed as follows:

Basis	Applicable percentage	Qualified investment
$7,500	33⅓	$2,500
$7,500	66⅔	5,000
$7,500	100	7,500
		15,000

For the taxable year 1962 beneficiary A's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on beneficiary A for the taxable year 1964 is increased by the $1,050 decrease in his credit earned for the taxable year 1962 (that is, $2,100 original credit earned minus $1,050 recomputed credit earned).

(iii) Under paragraph (a)(2) of this section, on December 3, 1965, the remaining 50 percent of the share of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to beneficiary A since immediately after the December 3, 1965, sale A's proportionate interest in the income of XYZ Trust is reduced to zero. The actual useful life of the share of the basis of the section 38 properties which cease to be section 38 property with respect to A is three years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1965). A's recomputed qualified investment with respect to such properties is zero. For the taxable year 1962 beneficiary A's recomputed credit earned is zero. The income tax imposed by chapter 1 of the Code on beneficiary A for the taxable year 1965 is increased by $1,050 (that is, $2,520 ($2,520 original credit earned minus zero recomputed credit earned) reduced by the $1,050 increase in tax for 1964).

(iv) The actual useful life of asset No. 3 which was sold on January 2, 1966, is three years and seven months. The recomputed qualified investment with respect to XYZ Trust's share of the basis of asset No. 3 is zero ($15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, XYZ Trust's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on XYZ Trust for the taxable year 1966 is increased by the $1,050 decrease in its credit earned for the taxable year 1962 ($2,100 original credit earned minus $1,050 recomputed credit earned). The sale of asset No. 3 on January 2, 1966, has no effect on A.

§ 1.47-6 Partnerships.

(a) *In general*—(1) *Disposition or cessation in hands of partnership.* If a partnership disposes of any partnership section 38 property (or if any partnership section 38 property otherwise ceases to be section 38 property in the hands of the partnership) before the close of the estimated useful life which was taken into account in computing qualified investment with respect to such property, a recapture determination shall be made with respect to each partner who is treated, under paragraph (f) of § 1.46-3, as a taxpayer with respect to such property. Each such recapture determination shall be made with respect to the share of the basis (or cost) of such property taken into account by such partner in computing his qualified investment. For purposes of each such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the partnership and ending with the date of the disposition or cessation. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determinations made with respect to the partner in connection with the same property. For definition of "recapture determination" see paragraph (a)(1) of § 1.47-1.

(2) *Disposition of partner's interest.* (i) If—

(*a*) The basis (or cost) of partnership section 38 property is taken into account by a partner in computing his qualified investment, and

(*b*) After the date on which such partnership section 38 property was placed in service by the partnership and before the close of the estimated useful life of the property, such partner's proportionate interest in the general profits of the partnership (or in the particular item of property) is reduced (for example, by a sale, by a change in the partnership agreement, or by the admission of a new partner) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction such partnership section 38 property ceases to be section 38 property with respect to such partner to the extent of the actual reduction in such partner's proportionate interest in the general profits of the partnership (or in the particular item of property). (For example, if $100 of the basis of section 38 property was taken into account by a partner and if his proportionate interest in the general profits of the partnership is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then such property shall be treated as having ceased to be section 38 property to the extent of $50.) Accordingly, a recapture determination shall be made with respect to such partner. For purposes of such recapture determination the actual useful life of such property shall be the period beginning with the date on which it was placed in service by the partnership and ending with the date on which it is treated as having ceased to be section 38 property with respect to the partner. In making a recapture determination under this subparagraph there shall be taken into account any prior recapture determination made with respect to the partner in connection with the same property.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the partner's proportionate interest in the general profits of the partnership (or in the particular item of property) for the year in which such property was placed in service. However, once property has been treated under this subparagraph as having ceased to be section 38 property to any extent the percentage referred to shall be 33⅓ percent of the partner's proportionate interest in the general profits of the partnership (or in the particular item of property) for the year in which such property was placed in service.

(b) *Examples.* Paragraph (a) of this section may be illustrated by the following examples in each of which it is assumed that ABC Partnership, which makes its returns on the basis of the calendar year, acquired and placed in service on June 1, 1962, three items of section 38 property. The basis and estimated useful life of each item of section 38 property are as follows:

Asset No.	Basis	Estimated useful life
		Years
1	$30,000	4
2	30,000	6
3	30,000	8

Partners A and B, who make their returns on the basis of a calendar year, share the profits and losses of ABC Partnership equally. Under paragraph (f)(2) of § 1.46-3, each partner's share of the basis of the partnership section 38 property is as follows:

Asset No.	Estimated useful life	Basis	Partners share of basis	
			A 50 percent	B 50 percent
	Years			
1	4	$30,000	$15,000	$15,000
2	6	30,000	15,000	15,000
3	8	30,000	15,000	15,000

Assuming that during 1962 partners A and B did not place in service any section 38 property and that they did not own any interests in other partnerships, electing small business corporations, estates, or trusts, the qualified investment of each partner is $30,000, computed as follows:

Partnership asset number	Share of basis	Applicable percentage	Qualified investment
1	$15,000	33⅓	$5,000
2	15,000	66⅔	10,000
3	15,000	100	15,000
			30,000

For the taxable year 1962, each partner's credit earned of $2,100 (7 percent of $30,000) was allowed under section 38 as a credit against his liability for tax.

Example (1). (i) On December 2, 1965, ABC Partnership sells asset No. 3 to X Corporation.

(ii) The actual useful life of asset No. 3 is three years and six months. The recomputed qualified investment with respect to each partner's share of the basis of asset No. 3 is zero ($15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, each partner's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on each of the partners for the taxable year 1965 is increased by the $1,050 decrease in his credit earned for the taxable year 1962 (that is, $2,100 original credit earned minus $1,050 recomputed credit earned).

Example (2). (i) On December 3, 1964, partner A sells one-half of his 50 percent interest in ABC Partnership to C, and on December 3, 1965, A sells the remaining one-half of his interest to D. In addition, on January 2, 1966, ABC Partnership sells asset No. 3 to X Corporation.

(ii) Under paragraph (a)(2) of this section, on December 3, 1964, 50 percent of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to partner A since immediately after the December 3, 1964, sale A's proportionate interest in the general profits of ABC Partnership is reduced to 50 percent of his proportionate interest in the general profits of ABC Partnership for 1962. The actual useful life of the share of the basis of each of the section 38 properties which cease to be section 38 property with respect to A is two years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, (1964). Partner A's recomputed qualified investment with respect to such properties is $15,000, computed as follows:

Partnership asset No.	Share of basis	Applicable percentage	Qualified investment
1	$7,500	33⅓	$2,500
2	7,500	66⅔	5,000
3	7,500	100	7,500
			15,000

For the taxable year 1962 partner A's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on partner A for the taxable year 1964 is increased by the $1,050 decrease in his credit earned for the taxable year 1962 (that is, $2,100 original credit earned minus $1,050 recomputed credit earned).

(iii) Under paragraph (a)(2) of this section, on December 3, 1965, the remaining 50 percent of the share of the basis of each of the three items of section 38 property ceases to be section 38 property with respect to partner A since immediately after the December 3, 1965, sale A's proportionate interest in the general profits of ABC Partnership is reduced to zero. The actual useful life of the share of the bases of the section 38 properties which cease to be section 38 property with respect to A is three years and six months (that is, the period beginning with June 1, 1962, and ending with December 3, 1965). A's recomputed qualified investment with respect to such properties is zero. For the taxable year 1962 partner A's recomputed credit earned is zero. The income tax imposed by chapter 1 of the Code on partner A for the taxable year 1965 is increased by $1,050 (that is, $2,520 ($2,520 original credit earned minus zero recomputed credit earned) reduced by the $1,050 increase in tax for 1964).

(iv) The actual useful life of asset No. 3 which was sold on January 2, 1966, is three years and seven months. The recomputed qualified investment with respect to partner B's share of the basis of asset No. 3 is zero ($15,000 share of basis multiplied by zero applicable percentage) and for the taxable year 1962, partner B's recomputed credit earned is $1,050 (7 percent of $15,000). The income tax imposed by chapter 1 of the Code on partner B for the taxable year 1966 is increased by the $1,050 decrease in his credit earned for the taxable year 1962 ($2,100 original credit earned minus $1,050 recomputed credit earned). The sale of asset No. 3 on January 2, 1966, has no effect on A.

PAR. 5. Section 1.48-5 is amended by revising subparagraph (3) of paragraph (a) to read as follows:

§ 1.48-5 Electing small business corporations.

(a) *In general.* * * *

(3) A shareholder to whom the basis (or cost) of section 38 property is apportioned shall, for purposes of the credit allowed by section 38, be treated as the taxpayer with respect to such property. Thus, the total cost of used section 38 property apportioned to him by the electing small business corporation must be taken into account as cost of used section 38 property in determining whether the $50,000 limitation on the cost of used section 38 property which may be taken into account by the shareholder in computing qualified investment for any taxable year is exceeded. If a shareholder takes into account in determining his qualified investment any portion of the basis (or cost) of section 38 property placed in service by an electing small business corporation and if such property subsequently is disposed of or otherwise ceases to be section 38 property in the hands of the corporation, such shareholder shall be subject to the provisions of section 47. See § 1.47-4.

* * * * *

PAR. 6. Section 1.48-6 is amended by revising subparagraph (3) of paragraph (a) and by adding a new subparagraph (5) at the end thereof. These revised and added provisions read as follows:

§ 1.48-6 Estates and trusts.

(a) *In general.* * * *

(3) A beneficiary to whom the basis (or cost) of section 38 property is apportioned shall, for purposes of the credit allowed by section 38, be treated as the taxpayer with respect to such property. Thus, the total cost of used section 38 property apportioned to him by the estate or trust must be taken into account as cost of used section 38 property in determining whether the $50,000 limitation on the cost of used property which may be taken into account by the beneficiary in computing qualified investment for any taxable year is exceeded. If a beneficiary takes into account in determining his qualified investment any portion of the basis (or cost) of section 38 property placed in service by an estate or trust and if such property subsequently is disposed of or otherwise ceases to be section 38 property in the hands of estate or trust, such beneficiary shall be subject to the provisions of section 47. See § 1.47-5.

* * * * *

(5) If during the taxable year of an estate or trust a beneficiary's interest in the income of such estate or trust terminates, the basis (or cost) of section 38 property placed in service by such estate or trust after such termination shall not be apportioned to such beneficiary.

* * * * *

PAR. 7. Section 1.48-7 is amended by revising subparagraph (2)(iv) of paragraph (a) to read as follows:

§ 1.48-7 **Adjustment to basis.**

(a) *Reduction of basis; general.* * * *

(2) *Special rules.* * * *

(iv) The basis of section 38 property, which is disposed of or otherwise ceases to be section 38 property in the taxable year in which it is placed in service (except where § 1.47-3 applies), shall not be reduced. See paragraph (a)(2) of § 1.46-3.

* * * * *

[F.R. Doc. 65-104; Filed, Jan. 6, 1965; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 21]

[Docket No. 15694]

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

Allocation of Facilities; Extension of Time for Filing Comments

In the matter of amendment of §§ 21.503 and 21.504(a) of the Commission's rules concerning the authorization of facilities in the 35-44 Mc/s, 152-162 Mc/s and 450-460 Mc/s bands allocated to the Domestic Public Land Mobile Radio Service, Docket No. 15694.

Order. The Commission, by the Chief, Common Carrier Bureau, having under consideration a petition for extension of time within which to file comments in the above-entitled proceeding, filed by the National Mobile Radio System (NMRS) on December 22, 1964; and

It appearing, that the time for filing comments in this proceeding expired on December 22, 1964 and that the time for filing reply comments expires on January 22, 1965; and

It further appearing, that the NMRS in support of its request states that "some work has been accomplished in studying the Commission's proposal. Additional work will be necessary, however, before the NMRS position concerning this important matter can be formulated. Moreover, NMRS would appreciate the opportunity to review this entire matter at its next Board of Directors meeting, which will be held one month from now on January 22, 1965."; and

It further appearing, that the public interest will be served if the Commission has available to it all relevant information before it reaches a decision in this matter and that good cause has been shown for extending the time as requested;

It is ordered, This 29th day of December 1964, pursuant to sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.303(c) of the Commission's rules that the time for filing comments in this proceeding is extended to February 24, 1965, and that the time for filing reply comments is extended from January 22, 1965 to March 22, 1965.

Released: January 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-163; Filed, Jan. 6, 1965; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

STANDARDS FOR GRADES OF SOUTHERN PEAS FOR PROCESSING [1]

Notice of Proposed Rule Making

Notice is hereby given that the United States Department of Agriculture is considering the issuance of United States Standards for Southern Peas for Processing pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

All persons who desire to submit written data, views or arguments for consideration in connection with the proposal should file the same in duplicate, not later than February 1, 1965, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, where they will be available for public inspection during official hours of business (paragraph (b) of § 1.27, as amended at 29 F.R. 7311).

Statement of considerations leading to the proposed issuance of the grade standards. Large quantities of southern peas are processed each year into canned or frozen products. The raw product is purchased by processors from growers. In many cases, the prices paid to growers are based upon the quality of the peas in the load as determined by some system of evaluation agreed upon by grower and buyer. Contract specifications have varied widely between processors, and there appears to have been a lack of sufficient incentive for growers to deliver high quality peas.

Some time ago, a large processor requested the Department of Agriculture to establish U.S. standards for grades of southern peas intended for processing. The company thought that such standards would facilitate and simplify contracting with growers, and would provide a definite incentive for delivering good quality to the plant. The standards also would provide a basis for more equitable payments.

The proposed standards presented below have been prepared on the basis of observations made and information obtained at processing plants in Georgia and Tennessee, and recommendations from Texas. They are designed to apply to both canning and freezing operations. The most important differences between the requirements for each of the three grades proposed are those dealing with maturity. No. 1 grade requires a much younger stage of maturity than No. 3 grade, with No. 2 grade requirements in between. This range in stage of maturity requirements should be adequate to accommodate the needs and tolerances of all processors, while at the same time establishing a basis for a sliding scale of prices.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

GENERAL

Sec.
51.3585 Application.
51.3586 Method of inspection.

GRADES

51.3587 U.S. No. 1.
51.3588 U.S. No. 2.
51.3589 U.S. No. 3.

OFF GRADE

51.3590 Off grade.

TOLERANCES

51.3591 Tolerances.

DEFINITIONS

51.3592 Extraneous material.
51.3593 Fairly well matured.
51.3594 Excessively mature.
51.3595 Fairly fresh.
51.3596 Decay.
51.3597 Similar varietal characteristics.
51.3598 Insects.
51.3599 Damage.
51.3600 Tinge of green.
51.3601 Serious defects.

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GENERAL

§ 51.3585 **Application.**

These standards are intended to apply only to the seed pods of plants of the species Vigna sinensis, generally known as "southern peas" or "field peas" which are to be used for processing into frozen or canned products. The standards will serve as a basis for grading the quality of loads of peas delivered to processing plants, and thus establish a basis for a more equitable pricing structure. Pricing, for example, could be either one of two bases: (a) A stated price per pound gross weight for loads meeting U.S. No. 1 grade, another price for loads meeting U.S. No. 2 grade, etc. (b) A stated price per pound for the recoverable seeds in loads grading U.S. No. 1, another price for seeds of loads grading U.S. No. 2, etc. Under this system the recoverable percentage of seeds would be determined from the inspection sample by use of a sample sheller.

§ 51.3586 **Method of inspection.**

In determining the grade of a load of peas, a composite sample should be obtained by drawing small amounts from numerous locations in the load. The sample should be thoroughly mixed, and

an even-weighted portion of it inspected and analyzed for quality. Percentages of pod defects shall be calculated on the basis of the weight of the sample analyzed. Percentages of defective peas shall be calculated on the basis of the weight of recoverable peas shelled out of the sample.

GRADES

§ 51.3587 U.S. No. 1.

"U.S. No. 1" consists of southern peas which are free from extraneous material. The pods are at least fairly well matured but not excessively mature, and are fairly fresh and free from decay. The seeds are of similar varietal characteristics, free from sting scars, insects, insect eggs and decay, and free from damage caused by discoloration, splits, cracked skins or other means. Fifty percent or more, by weight, of the seeds of this grade have at least a tinge of green (see § 51.3591).

§ 51.3588 U.S. No. 2.

"U.S. No. 2" consists of southern peas which meet the requirements of U.S. No. 1 grade except for the percentage of seeds having a tinge of green, and except for the increased tolerances for defects. Twenty percent or more, by weight, of the seeds in this grade have at least a tinge of green (see § 51.3591).

§ 51.3589 U.S. No. 3.

"U.S. No. 3" consists of southern peas which meet the requirements of U.S. No. 1 grade except that there is no requirement for seeds having a tinge of green, and except for the increased tolerances for defects (see § 51.3591).

OFF GRADE

§ 51.3590 Off grade.

"Off grade" consists of lots of southern peas which fail to meet the requirements of any of the foregoing grades.

TOLERANCES

§ 51.3591 Tolerances.

In order to allow for variations incident to proper harvesting and handling in each of the foregoing grades, the following tolerances, by weight, are provided as specified in the following table:

TOLERANCES FOR GRADE DEFECTS

Grade	Extraneous material	External (pod) defects	Internal (seed) defects	Seed color
U.S. No. 1..	2 percent..	5 percent not fairly well matured. 5 percent excessively mature. 1 percent decay.	5 percent for seeds of dissimilar variety. 5 percent total for other defects, including therein not more than 2 percent for serious defects, but not more than one-half of the latter amount or 1 percent for decay. No tolerance for seeds containing insects or insect eggs.	No tolerance to reduce the required 50 percent of seeds having a tinge of green.
U.S. No. 2..	...do......	15 percent excessively mature or not fairly well matured, including therein not more than one-third of this amount or 5 percent not fairly well matured. 1 percent decay.	Same as for U.S. No. 1 above......	Do.
U.S. No. 3..	5 percent..	25 percent excessively mature or not fairly well matured, including therein not more than two-fifths of this amount or 10 percent not fairly well matured. 3 percent decay.	5 percent for seeds of dissimilar variety. 8 percent total for other defects, including therein not more than 4 percent for serious defects, but not more than one-half of the latter amount or 2 percent for decay. No tolerance for seeds containing insects or insect eggs.	No requirements.

DEFINITIONS

§ 51.3592 Extraneous material.

"Extraneous material" means all substances other than southern peas in pods and loose peas. Included are pieces of vine, leaves, dirt, sticks, stones and other foreign material.

§ 51.3593 Fairly well matured.

"Fairly well matured" means that the pea has reached the stage of development at which the seeds generally separate cleanly from the lining of the pods as they are shelled.

§ 51.3594 Excessively mature.

"Excessively mature" means that the pea has reached an advanced stage of maturity at which the pod is dry or almost dry and the seeds are shrunken and doughy to hard in texture.

§ 51.3595 Fairly fresh.

"Fairly fresh" means that the lot as a whole is not materially heated and the pods are not becoming mushy.

§ 51.3596 Decay.

"Decay" means that the pod or the seed is affected by decomposition or rot.

§ 51.3597 Similar varietal characteristics.

"Similar varietal characteristics" means that the seeds in any lot of peas are of one variety, or are of two or more varieties having seeds of similar size and color.

§ 51.3598 Insects.

(a) "Insects" means insects or insect larvae inside the seed.

(b) "Sting scars" means scars on the seed caused by insect punctures of the seed coat.

(c) "Insect eggs" means eggs embedded in the seed.

§ 51.3599 Damage.

"Damage" means any specific defect mentioned in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the processing quality of the individual seed or of the seeds in the lot as a whole. The following specific defects shall be considered as damage:

(a) Discoloration when the seed coat is so stained or discolored that it will be conspicuously noticeable after blanching;

(b) Splits when the two halves of the seed separate in the usual shelling operation; and,

(c) Cracked skins when the seed coat is split open exposing the inner portion of the seed.

§ 51.3600 Tinge of green.

"Tinge of green" means that the seed retains at least a faintly greenish cast over part or all of the surface.

§ 51.3601 Serious defects.

"Serious defects" means seeds affected by decay, insects, sting scars, insect eggs or dark brown or black discoloration.

Dated: December 31, 1964.

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

[F.R. Doc. 65-114; Filed, Jan. 6, 1965; 8:45 a.m.]

[7 CFR Part 910]

HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

Proposed Expenses and Fixing of Rate of Assessment for 1964-65 Fiscal Year

Consideration is being given to the following proposals submitted by the Lemon Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provision thereof: (1) That expenses not to exceed $241,926.34 will be necessarily incurred during the fiscal year ending October 31, 1965, for the maintenance and functioning of the committee established under the aforesaid amended marketing agreement and order, and (2) that there be fixed, as the pro rata share of such expenses which each handler who first handles lemons shall pay in accordance with the aforesaid amended marketing agreement and order during the aforesaid fiscal year, the rate of assessment at one and three quarters cents ($0.0175) per carton of lemons, or an equivalent quantity of

lemons, handled by him as the first handler thereof during said fiscal year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: January 4, 1965.

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

[F.R. Doc. 65-176; Filed, Jan. 6, 1965; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 249]

[Release 34-7493]

REGISTRATION STATEMENTS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration certain proposed amendments to Form 10 (17 CFR 249.210, as set forth in full at 29 F.R. 12693) under the Securities Exchange Act of 1934. This form is a general form for registration on a national securities exchange of securities for which no other form is prescribed. The chief purpose of the proposed amendments is to make the form available for registration of securities pursuant to the recently enacted section 12(g) of the Act.

The general instructions to the form would be revised to make appropriate references to registration under the new section 12(g). The revised instructions would be placed at the beginning of the form, instead of following the facing sheet, in order to set them forth more prominently and to avoid interrupting the continuity of the form proper.

In the form the term "registration statement" is used to refer both to an application for registration of securities on a national securities exchange and to a registration statement filed pursuant to section 12(g) of the Act. It is proposed to include in the general rules and regulations (Part 240 of this title) a definition of the quoted term which will make its applicability clear.

The facing sheet of this form asks for the registrant's I.R.S. number. This information is requested solely for purposes of identification in connection with the Commission's proposed automatic data processing program.

General Instructions E and F (Subparagraphs 5 and 6 of paragraph (b)) of the existing Form 10 provide that issuers which report to certain other Federal agencies may register on Form 10 by filing copies of their reports to those agencies. It is proposed to delete these general instructions from the form and to publish for comment a new Form 12 which would be an optional form for use by all such companies, including any which would be required to register under the new section 12(g) of the Act. This would simplify Form 10 and also provide for such issuers a form adapted to their particular circumstances. It would, in effect, reinstate the previous Form 12.

Eight copies of the registration statement would be required to be filed with the Commission. Four copies would be kept in the Commission's principal office for the use of the staff and for public inspection. It is proposed that the additional copies would be placed in the principal regional offices of the Commission and in the regional office for the region in which the registrant has its principal office. This would make the information contained in the registration statement more readily available to interested persons, in line with recommendations of the Special Study of Securities Markets.

Item 1 would be amended to delete the requirements that the State or other jurisdiction in which the registrant was incorporated or organized be stated, since this information would be set forth on the facing page of the registration statement.

Instruction 2 to Item 4 would be amended to clarify the language of that instruction and to change a reference from "the prospectus" to "the registration statement."

Item 9 which calls for the remuneration of officers and directors of the registrant would be amended to clarify the item in certain respects and to provide that the remuneration of individual directors and officers need not be given with respect to persons who cease to be officers and directors prior to the filing of the initial registration statement. The amended item would also require that in stating the aggregate remuneration of all directors and officers as a group, the number of persons in the group shall also be stated.

Item 12 calls for the approximate number of holders of record of each class of stock of the registrant. It is proposed to amend this item to require the information with respect to the approximate number of holders of record of each class of equity securities of the registrant. The amount of each such class known by the registrant to be held in street names would also be required to be stated. The instructions also specify the date as of which the information is to be given.

It is proposed to amend Item 13, which calls for information regarding the interest of management and others in certain transactions, to conform the item and the instructions thereto to the proposed revision of Item 7(f) of Schedule 14A of the Commission's proxy rules, published December 7, 1964 in Securities Exchange Act Release No. 7481 (29 F.R. 18386). However, whereas Item 7(f) would require the information for only approximately one year, Item 13 would require it for the three-year period now specified in the item.

The facing sheet and certain other portions of the form proper would be amended to contain appropriate references to registration under section 12(g) of the Act and to certain rules under the Act.

The Instructions as to Exhibits would be amended to require the filing of material contracts and material patents in accordance with the amended provisions of the Act. The requirements with respect to such contracts and patents would be substantially the same as those contained in Form S-1 (17 CFR 239.11) under the Securities Act of 1933.

The text of the proposed amendments is set forth below. Provisions not referred to would remain unchanged.

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

(a) *General instructions*—(1) *Rule as to use of Form 10.* Form 10 shall be used for registration pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934 of classes of securities of issuers for which no other form is prescribed.

(2) *Application of general rules and regulations.* (i) The general rules and regulations under the Act contain certain general requirements which are applicable to registration on any form. These general requirements should be carefully read and observed in the preparation and filing of registration statements on this form.

(ii) Particular attention is directed to Regulation 12B (§ 240.12b-1 to 240.12b-36 of this chapter) which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the registration statement, the information to be given whenever the title of securities is required to be stated, and the filing of the registration statement. The definitions contained in Rule 12b-2 (§ 240.12b-2 of this chapter) should be especially noted.

(3) *Preparation of registration statement.* (i) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the registration statement on paper meeting the requirements of Rule 12b-12 (§ 240.12b-12 of this chapter). The registration statement shall contain the item numbers and captions, but the text of the items may be omitted provided the answers thereto are prepared in the manner specified in Rule 12b-13 (§ 240.12b-13 of this chapter).

(ii) Unless otherwise stated, the information required shall be given as of a date reasonably close to the date of filing the registration statement.

(4) *Signature and filing of registration statements.* Eight complete copies of the registration statement on this form, including exhibits and all papers and documents filed as a part thereof, shall be filed with the Commission. At least one complete copy of each statement shall be filed with each exchange on which registration is applied for. At least one of the copies of each statement filed with the Commission and one copy filed with each such exchange shall be

manually signed. Unsigned copies shall be conformed.

(5) *Disclosure with respect to foreign subsidiaries.* Information required by any item or other requirement of this form with respect to any foreign subsidiary may be omitted to the extent that the required disclosure would be detrimental to the registrant, provided a statement is made that such information has been omitted. In such case, a statement of the names of the subsidiaries omitted shall be separately furnished. The Commission may, in its discretion, call for justification that the required disclosure would be detrimental.

(6) *Incorporation of information contained in a prospectus.* Any registrant which has filed with the Commission pursuant to Rule 424 (§ 230.424 of this chapter) under the Securities Act of 1933 copies of a prospectus meeting the requirements of section 10(a) of that act after the effective date of the registration statement under that act may incorporate by reference in a registration statement on this form any information, including financial statements, contained in the prospectus, provided a copy of the prospectus is filed as an exhibit to the registration statement on this form.

(b) *Cover sheet of registration statement.*

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10

GENERAL FORM FOR REGISTRATION OF SECURITIES

PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

(Exact name of registrant as specified in its charter)

(State or incorporation or organization)

(IRS tax number)

(Address of principal executive offices)

(Zip Code)

SECURITIES TO BE REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT

Title of each class to be so registered

Name of each exchange on which each class is to be registered

SECURITIES TO BE REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT

(Title of class)

(Title of class)

(c) *Information required in registration statement.*

Item (1): General information. State the year in which the registrant was organized and its form of organization (such as "A corporation," "An unincorporated association" or other appropriate statement.

* * * * *

Item (4): Description of Property. * * *
Instructions: * * *

2. In the case of an extractive enterprise, material information shall be given as to production, reserves, locations, development and the nature of the registrant's interest. Where individual properties are of major significance to the enterprise (i) more detailed information concerning these matters shall be furnished, including the results of development and significant geological structures and formations, where appropriate, and (ii) appropriate maps shall be used to disclose location data of significant properties, except where numerous maps would be required. Where the report of an engineer or other expert is referred to in the registration statement, a copy of the full report shall be furnished as supplemental information but not as a part of the registration statement.

* * * * *

Item (9): Remuneration of directors and officers. (a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the registrant and its subsidiaries during the registrant's last fiscal year to the following persons for services in all capacities:

(1) Each director of the registrant whose aggregate direct remuneration exceeded $30,000, and each of the three highest paid officers of the registrant whose aggregate direct remuneration exceeded that amount, naming each such person.

(2) All directors and officers of the registrant as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group	(B) Capacities in which remuneration was received	(C) Aggregate direct remuneration

Instructions. 1. Except as provided in Instruction 2, paragraph (a)(1) of this item applies to any person who was a director or officer of the registrant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer of the registrant.

2. In the first registration statement filed on this form for the registration of a class of securities of an issuer pursuant to section 12 of the Act, this item does not apply to any person who is not a director or officer of the issuer at the time the statement is filed, provided the same information is not otherwise required to be disclosed in any other material filed with the Commission.

(Existing Instructions 2-5 would be appropriately renumbered.)

* * * * *

Item (12): Number of equity security holders. State in the tabular form indicated below, as of a specified date, the approximate number of holders of record of each class of equity securities of the registrant. As to each such class which is registered or to be registered pursuant to section 12, state in Column (C) the number of shares or other units known by the registrant held for the account of customers in "street names," i.e., in the names of brokers, dealers and their nominees.

(A) Title of class	(B) Number of record holders	(C) Amount held in "street names"

Instructions. 1. Attention is directed to the definition of the term "equity security" in section 3(a)(11) of the Act.

2. The information shall be given as of the end of the last fiscal year or as of any subsequent date, except that if the latest determination of the number of record holders of any class of equity securities was made for some other purpose within 90 days prior to the end of the last fiscal year, the information with respect to such class may be given as of the date of such determination.

Item (13): Interest of management and others in certain transactions. Describe briefly any transactions during the last three years, or any proposed transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the registrant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(a) Any director officer of the registrant;

(b) Any security holder named in answer to Item 11(a) or

(c) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant.

Instructions. 1. This item applies to any person who held any of the positions or relationships specified at any time during the period specified. However, information need not be given for any portion of the period during which such person did not hold any such position or relationship.

2. No information need be given in answer to this item as to any remuneration or other transaction reported in response to Item 9 or 10.

3. No information need be given in answer to this item as to any transaction where—

(i) The rates or charges involved in the transaction are fixed by law or determined by competitive bids;

(ii) The transaction involves services as a bank depositary of funds, transfer agent, registrar, trustee under a trust indenture, or similar services;

(iii) The amount involved in the transaction, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $30,000.

(iv) The transaction involves only the purchase of products or services from the registrant or its subsidiaries in the ordinary course of business on terms not more favorable than those available to persons other than those specified in subparagraphs (a) through (c), above and the aggregate amount of such purchases during the registrant's last fiscal year did not exceed 15 percent of the total sales of the particular class of products or services by the registrant and its subsidiaries during such fiscal year; or

(v) The interest of the specified person arises solely from the ownership of securities of the registrant, the specified person receives no extra or special benefit not shared on a pro rata basis by all holders of securities of the class, and not more than 25% of the outstanding securities of such class is owned beneficially, in the aggregate by all of the persons specified in subparagraph (a) through (c) of this item.

4. It should be noted, that this item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the registrant or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this item where—

(i) The interest arises only (A) from such person's position as a director of another corporation which is a party to the trans-

action, or (B) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (a) through (c) above, in the aggregate, of less than a 10 percent interest in another person which is a party to the transaction, or (C) from both such position and ownership, or

(ii) The interest of such person arises solely from an interest in another person which is a party to the transaction with the registrant or any of its subsidiaries and the transaction is not material to such other person.

5. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

* * * * *

(d) *Signatures.* Pursuant to the requirements of section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant)

By ------------------------
(Signature)[1]

(Date)

(f) *Instructions as to exhibits.* Subject to Rule 12b-32 regarding the incorporation of exhibits by reference, the following exhibits shall be filed as a part of the registration statement. Such exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may be referred to by the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for under Item 18. * * *

[1] Print the name and title of the signing officer under his signature.

(9)(i) Copies of every material contract not made in the ordinary course of business which is to be performed in whole or in part at or after the filing of the registration statement or which was made not more than two years before such filing. Only contracts need be filed as to which the registrant or a subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment, or in which the registrant or such subsidiary has a beneficial interest.

(ii) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(*a*) Directors, officers, promoters, voting trustees, or security holders named in answer to Item 11(a) are parties thereto except where the contract merely involves purchase or sale of current assets having a determinable market price, at such price;

(*b*) It is of such materiality as to call for specific reference to it in answer to Item 3, 4, or 13;

(*c*) The registrant's business is substantially dependent upon it, as in the case of continuing contracts to sell the major part of registrant's production in the case of a manufacturing enterprise or to purchase the major part of registrant's requirements of goods in the case of a distribution enterprise, or licenses to use a patent or formula upon which registrant's business depends to a material extent;

(*d*) It calls for the acquisition or sale of fixed assets for a consideration exceeding 10 percent of all fixed assets of the registrant and its subsidiaries;

(*e*) It is a lease under which a significant part of the property described under Item 4 is held by the registrant, or

(*f*) The amount of the contract, or its importance to the business of the registrant and its subsidiaries, are material, and the terms and conditions are of a nature of which investors reasonably should be informed.

(iii) Any management contract or bonus or profit-sharing plan, contract or arrangement (or if not set forth in any formal document, a written description thereof), except the following, shall be deemed material and shall be filed:

(*a*) Ordinary purchase and sales agency agreements.

(*b*) Agreements with managers of stores in a chain organization or similar organization.

(*c*) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(10) Copies of each material foreign patent for an invention not covered by a United States patent.

(Sec. 12, 48 Stat. 892, as amended, 15 U.S.C. 781)

All interested persons are invited to submit their views and comments on the proposed amendments, in writing, to the Securities and Exchange Commission, Washington, D.C., 20549, on or before February 1, 1965. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission.

December 30, 1964.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-127; Filed, Jan. 6, 1965; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order No. 99]

DIRECTOR, INTERNAL REVENUE SERVICE CENTER, CHAMBLEE, GA.

Delegation of Authority Regarding Filing of Returns With Internal Revenue Service Centers

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 1.6091-4, the authority (for all purposes except venue) to receive Forms 1040 and 1040A is delegated to the Director, Internal Revenue Service Center, Chamblee, Georgia.

Issued: December 31, 1964.

Effective date: January 4, 1965.

[SEAL] DONALD W. BACON, *Acting Commissioner.*

[F.R. Doc. 65-143; Filed, Jan. 6, 1965; 8:46 a.m.]

Office of the Secretary

[Dept. Circular, Public Debt Series—No. 13-64]

4 PERCENT TREASURY BONDS OF 1970

Offering of Bonds

DECEMBER 31, 1964.

I. Offering of bonds. 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 4 percent Treasury Bonds of 1970:

(1) At 99.40 percent of their face value in exchange for 2⅝ percent Treasury Bonds of 1965, dated June 15, 1958, due February 15, 1965;

(2) At 99.55 percent of their face value in exchange for 3½ percent Treasury Notes of Series B–1965, dated November 15, 1962, due November 15, 1965;

(3) At 99.10 percent of their face value in exchange for 4 percent Treasury Notes of Series E–1965, dated May 15, 1964, due November 15, 1965;

(4) At 99.60 percent of their face value in exchange for 3⅝ percent Treasury Notes of Series B–1966, dated May 15, 1962, due February 15, 1966;

(5) At 99.30 percent of their face value in exchange for 3⅞ percent Treasury Notes of Series C–1966, dated August 15, 1964, due February 15, 1966;

(6) At 99.50 percent of their face value in exchange for 3¾ percent Treasury Bonds of 1966, dated November 15, 1960, due May 15, 1966;

(7) At 99.95 percent of their face value in exchange for 3¾ percent Treasury Notes of Series A–1967, dated September 15, 1962, due August 15, 1967; or

(8) At 100.30 percent of their face value in exchange for 3⅝ percent Treasury Bonds of 1967, dated March 15, 1961, due November 15, 1967.

Interest adjustments as of January 15, 1965, and the cash payments on account of the issue prices of the new bonds will be made as set forth in section IV hereof. The amount of the offering under this circular will be limited to the amount of eligible securities tendered in exchange and accepted. Delivery of the new bonds will be made on January 19, 1965. The books will be open only on January 4 through January 8, 1965, for the receipt of subscriptions for this issue.

2. In addition to the offering under this circular, holders of securities of the issues enumerated in paragraph 1 of this section are offered the privilege of exchanging all or any part of such securities for 4⅛ percent Treasury Bonds of 1974, or 4¼ percent Treasury Bonds of 1987–92, which offerings are set forth in Department Circulars, Public Debt Series—Nos. 14–64 and 15–64, issued simultaneously with this circular.

3. *Nonrecognition of gain or loss for Federal income tax purposes.*[1] Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86–346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the

3½ percent Treasury Notes of Series B–1965
4 percent Treasury Notes of Series E–1965
3⅝ percent Treasury Notes of Series B–1966
3⅞ percent Treasury Notes of Series C–1966
3¾ percent Treasury Bonds of 1966
3¾ percent Treasury Notes of Series A–1967
3⅝ percent Treasury Bonds of 1967

solely for the 4 percent Treasury Bonds of 1970. Section 1031(b) of the Code, however, requires recognition of any gain realized on the exchange to the extent that money is received by the security holder in connection with the exchange. To the extent not recognized at the time of the exchange, gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. Description of bonds. 1. The bonds will be dated January 15, 1965, and will bear interest from that date at the rate of 4 percent per annum, payable on a semiannual basis on August 15, 1965, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature February 15, 1970, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. Subscription and allotment. 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washintgon, D.C., 20220. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. All subscribers requesting registered bonds will be required to furnish appropriate identifying numbers as required on tax returns and other documents submitted to the Internal Revenue Service, i.e., an individual's social security number or any employer identification number.

3. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. Payment. 1. Payment for the face amount of bonds allotted hereunder must be made on or before January 19, 1965, or on later allotment, and may be made only in a like face amount of securities of the eight issues enumerated in paragraph 1 of section I hereof, which should accompany the subscription. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number, as required by paragraph 2 of section III hereof, has not been furnished; provided, however, if a subscriber has applied for but is unable to furnish the identifying number by the payment date only because it has not been issued, he may elect to receive, pending the furnishing of the identify-

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[1] Gain or loss, if any, upon the exchange of the securities of the first issue listed in paragraph 1 of this section, must be fully recognized under the Code.

ing number, interim receipts and in this case payment will be deemed to have been completed. Cash payments due to subscribers will be made in the case of bearer securities following their acceptance and in the case of registered securities following discharge of registration. In the case of registered securities, the payment will be made by check drawn in accordance with the assignments on the securities surrendered or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District.

2. *2⅝ percent bonds of 1965.* Coupons dated February 15, 1965, must be attached to the bonds in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($10.91372 per $1,000) plus the payment ($6.00 per $1,000) due on account of the issue price of the new bonds will be paid to subscribers.

3. *3½ percent notes of Series B-1965.* Coupons dated May 15 and November 15, 1965, must be attached to the notes in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($5.89779 per $1,000) plus the payment ($4.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

4. *4 percent notes of Series E-1965.* Coupons dated May 15 and November 15, 1965, must be attached to the notes in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.74033 per $1,000) plus the payment ($9.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

5. *3⅝ percent notes of Series B-1966.* Coupons dated February 15, 1965, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($15.07133 per $1,000) plus the payment ($4.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

6. *3⅞ percent notes of Series C-1966.* Coupons dated February 15, 1965, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($16.11073 per $1,000) plus the payment ($7.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

7. *3¾ percent bonds of 1966.* Coupons dated May 15, 1965, and all subsequent coupons, must be attached to the bonds in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.31906 per $1,000) plus the payment ($5.00 per $1,000) due on account of the issue price of the new bonds will be paid to subscribers.

8. *3¾ percent notes of Series A-1967.* Coupons dated February 15, 1965, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($15.59103 per $1,000) plus the payment ($0.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

9. *3⅝ percent bonds of 1967.* Coupons dated May 15, 1965, and all subsequent coupons, must be attached to the bonds in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.10843 per $1,000) will be credited, the payment ($3.00 per $1,000) due the United States on account of the issue price of the new bonds will be charged and the difference will be paid to subscribers.

V. Assignment of registered securities. 1. Eligible Treasury securities in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C., 20220. The securities must be delivered at the expense and risk of the holder. If the new bonds are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1970"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1970 in the name of ----------"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 4 percent Treasury Bonds of 1970 in coupon form to be delivered to ----------".

VI. General provisions. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] G. D'ANDELOT BELIN,
Acting Secretary of the Treasury.

[F.R. Doc. 65-158; Filed, Jan. 6, 1965; 8:47 a.m.]

[Dept. Circular Public Debt Series—No. 14-64]

4⅛ PERCENT TREASURY BONDS OF 1974

Offering of Bonds

DECEMBER 31, 1964.

I. Offering of bonds. 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 4⅛ percent Treasury Bonds of 1974:

(1) At 99.35 percent of their face value in exchange for 2⅝ percent Treasury Bonds of 1965, dated June 15, 1958, due February 15, 1965;

(2) At 99.50 percent of their face value in exchange for 3½ percent Treasury Notes of Series B-1965, dated November 15, 1962, due November 15, 1965;

(3) At 99.05 percent of their face value in exchange for 4 percent Treasury Notes of Series E-1965, dated May 15, 1964, due November 15, 1965;

(4) At 99.55 percent of their face value in exchange for 3⅝ percent Treasury Notes of Series B-1966, dated May 15, 1962, due February 15, 1966;

(5) At 99.25 percent of their face value in exchange for 3⅞ percent Treasury Notes of Series C-1966, dated August 15, 1964, due February 15, 1966;

(6) At 99.45 percent of their face value in exchange for 3¾ percent Treasury Bonds of 1966, dated November 15, 1960, due May 15, 1966;

(7) At 99.90 percent of their face value in exchange for 3¾ percent Treasury Notes of Series A-1967, dated September 15, 1962, due August 15, 1967; or

(8) At 100.25 percent of their face value in exchange for 3⅝ percent Treasury Bonds of 1967, dated March 15, 1961, due November 15, 1967.

Interest adjustments as of January 15, 1965, and the cash payments on account of the issue prices of the new bonds will be made as set forth in section IV hereof. The amount of the offering under this circular will be limited to the amount of eligible securities tendered in exchange and accepted. Delivery of the new bonds will be made on January 19, 1965. The books will be open only on January 4 through January 8, 1965, for the receipt of subscriptions for this issue.

2. In addition to the offering under this circular, holders of securities of the issues enumerated in paragraph 1 of this section are offered the privilege of exchanging all or any part of such securities for 4 percent Treasury Bonds of 1970 or 4¼ percent Treasury Bonds of 1987-92, which offerings are set forth in Department Circulars, Public Debt Series Nos. 13-64 and 15-64, issued simultaneously with this circular.

3. *Nonrecognition of gain or loss for Federal income tax purposes.*[1] Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86-346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the

3½ percent Treasury Notes of Series B-1965
4 percent Treasury Notes of Series E-1965
3⅝ percent Treasury Notes of Series B-1966
3⅞ percent Treasury Notes of Series C-1966
3¾ percent Treasury Bonds of 1966
3¾ percent Treasury Notes of Series A-1967
3⅝ percent Treasury Bonds of 1967

[1] Gain or loss, if any, upon the exchange of the securities of the first issue listed in paragraph 1 of this section, must be fully recognized under the Code.

solely for the 4⅛ percent Treasury Bonds of 1974. Section 1031(b) of the Code, however, requires recognition of any gain realized on the exchange to the extent that money is received by the security holder in connection with the exchange. To the extent not recognized at the time of the exchange, gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. Description of bonds. 1. The bonds will be dated January 15, 1965, and will bear interest from that date at the rate of 4⅛ percent per annum, payable on a semiannual basis on August 15, 1965, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature February 15, 1974, and will not be subject to call for redemption prior to maturity.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. Any bonds issued hereunder which are owned by a decedent at the time of his death and thereupon constitute a part of his estate will be redeemed at par and accrued interest prior to maturity, provided the Secretary of the Treasury is authorized by the representative of the estate to apply the entire proceeds of redemption to payment of the decedent's Federal estate taxes.

6. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. Subscription and allotment. 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C., 20220. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. All subscribers requesting registered bonds will be required to furnish appropriate identifying numbers as required on tax returns and other documents submitted to the Internal Revenue Service, i.e., an individual's social security number or an employer identification number.

3. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. Payment. 1. Payment for the face amount of bonds allotted hereunder must be made on or before January 19, 1965, or on later allotment, and may be made only in a like face amount of securities of the eight issues enumerated in paragraph 1 of section I hereof, which should accompany the subscription. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number, as required by paragraph 2 of section III hereof, has not been furnished; provided, however, if a subscriber has applied for but is unable to furnish the identifying number by the payment date only because it has not been issued, he may elect to receive, pending the furnishing of the identifying number, interim receipts and in this case payment will be deemed to have been completed. Cash payments due to subscribers will be made in the case of bearer securities following their acceptance and in the case of registered securities following discharge of registration. In the case of registered securities, the payment will be made by check drawn in accordance with the assignments on the securities surrendered or by credit in any account maintained by a banking institution with the Federal Reserve Bank of its District.

2. *2⅝ percent bonds of 1965.* Coupons dated February 15, 1965, must be attached to the bonds in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($10.91372 per $1,000) plus the payment ($6.50 per $1,000) due on account of the issue price of the new bonds will be paid to subscribers.

3. *3½ percent notes of Series B–1965.* Coupons dated May 15 and November 15, 1965, must be attached to the notes in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($5.89779 per $1,000) plus the payment ($5.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

4. *4 percent notes of Series E–1965.* Coupons dated May 15 and November 15, 1965, must be attached to the notes in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.74033 per $1,000) plus the payment ($9.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

5. *3⅝ percent notes of Series B–1966.* Coupons dated February 15, 1965, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($15.07133 per $1,000) plus the payment ($4.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

6. *3⅞ percent notes of Series C–1966.* Coupons dated February 15, 1965, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($16.11073 per $1,000) plus the payment ($7.50 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

7. *3¾ percent bonds of 1966.* Coupons dated May 15, 1965, and all subsequent coupons, must be attached to the bonds in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.31906 per $1,000) plus the payment ($5.50 per $1,000) due on account of the issue price of the new bonds will be paid to subscribers.

8. *3¾ percent notes of Series A–1967.* Coupons dated February 15, 1965, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($15.59103 per $1,000) plus the payment ($1.00 per $1,000) due on account of the issue price of the bonds will be paid to subscribers.

9. *3⅝ percent bonds of 1967.* Coupons dated May 15, 1965 and all subsequent coupons, must be attached to the bonds in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.10843 per $1,000) will be credited, the payment ($2.50 per $1,000) due the United States on account of the issue price of the new bonds will be charged and the difference will be paid to subscribers.

V. Assignment of registered securities. 1. Eligible Treasury securities in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C., 20220. The securities must be delivered at the expense and risk of the holder. If the new bonds are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for exchange for 4⅛ percent Treasury Bonds of 1974"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 4⅛ percent Treasury Bonds of 1974 in the name of __________"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 4⅛ percent Treasury Bonds of 1974 in coupon form to be delivered to __________".

VI. General provisions. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules

and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] G. D'ANDELOT BELIN,
Acting Secretary of the Treasury.

[F.R. Doc. 65-159; Filed, Jan. 6, 1965; 8:47 a.m.]

[Dept. Circular Public Debt Series—No. 15-64]

4¼ PERCENT TREASURY BONDS OF 1987-92

Offering of Bonds; Redeemable at Option of U.S. at Par and Accrued Interest on and After August 15, 1987

DECEMBER 31, 1964.

I. Offering of bonds. 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for bonds of the United States, designated 4¼ percent Treasury Bonds of 1987-92:

(1) At 100.25 percent of their face value in exchange for 2⅝ percent Treasury Bonds of 1965, dated June 15, 1958, due February 15, 1965;

(2) At 100.40 percent of their face value in exchange for 3½ percent Treasury Notes of Series B-1965, dated November 15, 1962, due November 15, 1965;

(3) At 99.95 percent of their face value in exchange for 4 percent Treasury Notes of Series E-1965, dated May 15, 1964, due November 15, 1965;

(4) At 100.45 percent of their face value in exchange for 3⅝ percent Treasury Notes of Series B-1966, dated May 15, 1962, due February 15, 1966;

(5) At 100.15 percent of their face value in exchange for 3⅞ percent Treasury Notes of Series C-1966, dated August 15, 1964, due February 15, 1966;

(6) At 100.35 percent of their face value in exchange for 3¾ percent Treasury Bonds of 1966, dated November 15, 1960, due May 15, 1966;

(7) At 100.80 percent of their face value in exchange for 3¾ percent Treasury Notes of Series A-1967, dated September 15, 1962, due August 15, 1967; or

(8) At 101.15 percent of their face value in exchange for 3⅝ percent Treasury Bonds of 1967, dated March 15, 1961, due November 15, 1967.

Interest adjustments as of January 15, 1965, and the cash payments on account of the issue prices of the new bonds will be made as set forth in section IV hereof. The amount of the offering under this circular will be limited to the amount of eligible securities tendered in exchange and accepted. Delivery of the new bonds will be made on January 19, 1965. The books will be open only on January 4 through January 8, 1965, for the receipt of subscriptions for this issue.

2. In addition to the offering under this circular, holders of securities of the issues enumerated in paragraph 1 of this section are offered the privilege of exchanging all or any part of such securities for 4 percent Treasury Bonds of 1970, or 4⅛ percent Treasury Bonds of 1974, which offerings are set forth in Department Circulars, Public Debt Series Nos. 13-64 and 14-64, issued simultaneously with this circular.

3. Nonrecognition of gain or loss for Federal income tax purposes.[1] Pursuant to the provisions of section 1037(a) of the Internal Revenue Code of 1954 as added by Public Law 86-346 (approved September 22, 1959), the Secretary of the Treasury hereby declares that no gain or loss shall be recognized for Federal income tax purposes upon the exchange with the United States of the

3½ percent Treasury Notes of Series B-1965
4 percent Treasury Notes of Series E-1965
3⅝ percent Treasury Notes of Series B-1966
3⅞ percent Treasury Notes of Series C-1966
3¾ percent Treasury Bonds of 1966
3¾ percent Treasury Notes of Series A-1967
3⅝ percent Treasury Bonds of 1967

solely for the 4¼ percent Treasury Bonds of 1987-92. Section 1031(b) of the Code, however, requires recognition of any gain realized on the exchange to the extent that money is received by the security holder in connection with the exchange. To the extent not recognized at the time of the exchange, gain or loss, if any, upon the obligations surrendered in exchange will be taken into account upon the disposition or redemption of the new obligations.

II. Description of bonds. 1. The bonds now offered will be identical in all respects with the 4¼ percent Treasury Bonds of 1987-92 issued pursuant to Department Circulars, Public Debt Series Nos. 14-62 and 10-64, dated July 30, 1962, and July 9, 1964, respectively, except that interest will accrue from January 15, 1965. With this exception the bonds are described in the following quotation from Department Circular No. 14-62:

1. The bonds will be dated August 15, 1962, and will bear interest from that date at the rate of 4¼ percent per annum, payable semiannually on February 15 and August 15 in each year until the principal amount becomes payable. They will mature August 15, 1992, but may be redeemed at the option of the United States on and after August 15, 1987, in whole or in part, at par and accrued interest, on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. Any bonds issued hereunder which upon the death of the owner constitute part of his estate, will be redeemed at the option of the duly constituted representatives of the deceased owner's estate, at par and accrued interest to date of payment:[1] *Provided*,

(a) That the bonds were actually owned by the decedent at the time of his death; and

(b) That the Secretary of the Treasury be authorized to apply the entire proceeds of redemption to the payment of Federal estate taxes.

Registered bonds submitted for redemption hereunder must be duly assigned to "The Secretary of the Treasury for redemption, the proceeds to be paid to the District Director of Internal Revenue at ---------- for credit on Federal estate taxes due from estate of ----------." Owing to the periodic closing of the transfer books and the impossibility of stopping payment of interest to the registered owner during the closed period, registered bonds received after the closing of the books for payment during such closed period will be paid only at par with a deduction of interest from the date of payment to the next interest payment date;[2] bonds received during the closed period for payment at a date after the books reopen will be paid at par plus accrued interest from the reopening of the books to the date of payment. In either case checks for the full six months' interest due on the last day of the closed period will be forwarded to the owner in due course. All bonds submitted must be accompanied by Form PD 1782,[3] properly completed, signed and certified, and by proof of the representatives' authority in the form of a court certificate or a certified copy of the representatives' letters of appointment issued by the court. The certificate, or the certification to the letters, must be under the seal of the court, and except in the case of a corporate representative, must contain a statement that the appointment is in full force and be dated within six months prior to the submission of the bonds, unless the certificate or letters show that the appointment was made within one year immediately prior to such submission. Upon payment of the bonds appropriate memorandum receipt will be forwarded to the representatives, which will be followed in due course by formal receipt from the District Director of Internal Revenue.

6. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. Subscription and allotment. 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C., 20220. Banking institutions generally may submit subscriptions for account of cus-

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[1] Gain or loss, if any, upon the exchange of the securities of the first issue listed in paragraph 1 of this section, must be fully recognized under the Code.

[1] An exact half-year's interest is computed for each full half-year period irrespective of the actual number of days in the half year. For a fractional part of any half year, computation is on the basis of the actual number of days in such half year.

[2] The transfer books are closed from January 16 through February 15, and from July 16 through August 15 (both dates inclusive) in each year.

[3] Copies of Form PD 1782 may be obtained from any Federal Reserve Bank or from the Treasury Department, Washington, D.C., 20226.

tomers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. All subscribers requesting registered bonds will be required to furnish appropriate identifying numbers as required on tax returns and other documents submitted to the Internal Revenue Service, i.e., an individual's social security number or an employer identification number.

3. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of bonds applied for; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. Payment. 1. Payment for the face amount of bonds alloted hereunder must be made on or before January 19, 1965, or on later allotment, and may be made only in a like face amount of securities of the eight issues enumerated in paragraph 1 of section I hereof, which should accompany the subscription. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number, as required by paragraph 2 of section III hereof, has not been furnished; provided, however, if a subscriber has applied for but is unable to furnish the identifying number by the payment date only because it has not been issued, he may elect to receive, pending the furnishing of the identifying number, interim receipts and in this case payment will be deemed to have been completed. Cash payments due from subscribers should accompany the subscription.

2. *2⅝ percent bonds of 1965.* Coupons dated February 15, 1965, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($10.91372 per $1,000) will be credited, accrued interest from August 15, 1964, to January 15, 1965 ($17.66984 per $1,000) on the bonds to be issued plus the payment ($2.50 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($9.25612 per $1,000) must be paid by subscribers.

3. *3½ percent notes of Series B–1965.* Coupons dated May 15 and November 15, 1965, must be attached to the notes in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($5.89779 per $1,000) will be credited, accrued interest from August 15, 1964, to January 15, 1965 ($17.-66984 per $1,000) on the bonds to be issued plus the payment ($4.00 per $1,000) due the United States on account of the issue price of the bonds will be charged, and the difference ($15.77205 per $1,000) must be paid by subscribers.

4. *4 percent notes of Series E–1965.* Coupons dated May 15 and November 15, 1965, must be attached to the notes in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.74033 per $1,000) plus the payment ($.50 per $1,000) due to the subscriber on account of the issue price of the bonds will be credited, accrued interest from August 15, 1964, to January 15, 1965 ($17.66984 per $1,000) on the bonds to be issued will be charged, and the difference ($10.42951 per $1,000) must be paid by subscribers.

5. *3⅝ percent notes of Series B–1966.* Coupons dated February 15, 1965, and all subsequent coupons must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($15.07133 per $1,000) will be credited, accrued interest from August 15, 1964, to January 15, 1965 ($17.66984 per $1,000) on the bonds to be issued plus the payment ($4.50 per $1,000) due the United States on account of the issue price of the bonds will be charged, and the difference ($7.09851 per $1,000) must be paid by subscribers.

6. *3⅞ percent notes of Series C–1966.* Coupons dated February 15, 1965, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($16.11073 per $1,000) will be credited, accrued interest from August 15, 1964, to January 15, 1965 ($17.66984 per $1,000) on the bonds to be issued plus the payment $1.50 per $1,000) due the United States on account of the issue price of the bonds will be charged, and the difference ($3.05911 per $1,000) must be paid by subscribers.

7. *3¾ percent bonds of 1966.* Coupons dated May 15, 1965, and all subsequent coupons, must be attached to the bonds in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.31906 per $1,000) will be credited, accrued interest from August 15, 1964, to January 15, 1965 ($17.66984 per $1,000) on the bonds to be issued plus the payment ($3.50 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($14.85078 per $1,000) must be paid by subscribers.

8. *3¾ percent notes of Series A–1967.* Coupons dated February 15, 1965, and all subsequent coupons, must be attached to the notes in bearer form when surrendered. Accrued interest from August 15, 1964, to January 15, 1965 ($15.59103 per $1,000) will be credited, accrued interest from August 15, 1964, to January 15, 1965 ($17.66984 per $1,000) on the bonds to be issued plus the payment ($8.00 per $1,000) due the United States on account of the issue price of the bonds will be charged, and the difference ($10.07881 per $1,000) must be paid by subscribers.

9. *3⅝ percent bonds of 1967.* Coupons dated May 15, 1965, and all subsequent coupons, must be attached to the bonds in bearer form when surrendered. Accrued interest from November 15, 1964, to January 15, 1965 ($6.10843 per $1,000) will be credited, accrued interest from August 15, 1964, to January 15, 1965 ($17.66984 per $1,000) on the bonds to be issued plus the payment ($11.50 per $1,000) due the United States on account of the issue price of the new bonds will be charged, and the difference ($23.06141 per $1,000) must be paid by subscribers.

V. Assignment of registered securities. 1. Eligible Treasury securities in registered form tendered in payment for bonds offered hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, in one of the forms hereafter set forth, and thereafter should be surrendered with the subscription to a Federal Reserve Bank or Branch or to the Office of the Treasurer of the United States, Washington, D.C., 20220. The securities must be delivered at the expense and risk of the holder. If the new bonds are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for exchange for 4¼ percent Treasury Bonds of 1987–92"; if the new bonds are desired registered in another name, the assignment should be to "The Secretary of the Treasury for exchange for 4¼ percent Treasury Bonds of 1987–92 in the name of ----------"; if new bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for exchange for 4¼ percent Treasury Bonds of 1987–92 in coupon form to be delivered to ----------".

VI. General provisions. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] G. D'ANDELOT BELIN,
Acting Secretary of the Treasury.

[F.R. Doc. 65-160; Filed, Jan. 6, 1965; 8:47 a.m.]

POST OFFICE DEPARTMENT

U.S. STAMPED ENVELOPE AGENT, WILLIAMSBURG, PA., AND U.S. POSTAL AGENT, WASHINGTON, D.C.

Delegations of Authority

The following is the text of Order No. P–65–38 of the Director, Procurement Division, Bureau of Facilities, dated December 23, 1964:

Pursuant to the authority delegated in Postmaster General Order No. 55583, dated March 2, 1954 (19 F.R. 2376), I do hereby redelegate to the U.S. Stamped Envelope Agent, Williamsburg, Pennsylvania, and to the U.S. Postal Agent, Washington, D.C., the authority to sign each in his own name as contracting officer, contracts, correspondence, and official documents in connection with the award and administration of contracts covering individual obligations not in excess of $500 for:

(a) Services, supplies and equipment required in the operation of the installation under his jurisdiction.

(b) Other items as specifically directed by the Procurement Division, Bureau of Facilities.

Standard Form 147, June 1964 Edition, Order for supplies or Services, is to be used for procurements authorized in this Order, with payment to be made by the respective Director, Postal Data Center.

This order is effective January 4, 1965.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 309, 501)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 65-152; Filed, Jan. 6, 1965; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEVADA

Notice of Filing of Plat of Survey and Order Providing for Opening of Lands

DECEMBER 29, 1964.

1. The Plat of survey of lands described below will be officially filed at the Nevada Land Office, Reno, Nevada, effective 10:00 a.m. on February 1, 1965.

MOUNT DIABLO MERIDIAN

T. 23 N., R. 55 E. (Group 419),
Sec. 23, lots 1, 2, 3, 4, W½NW¼, W½SW¼;
Sec. 26, lots 1, 2, 3, 4, W½NW¼, W½SW¼;
Sec. 35, lots 1, 2, 3, 4, 5, 6, 7, 8.

2. The area described above aggregates 956.02 acres. The plat was accepted October 6, 1964. Available data indicates the lands included in this plat varies from level to gently rolling to heavily rolling mountainous with sandy and gravelly desert soils.

3. Subject to any existing valid rights and the requirements of applicable law, the above-described lands are hereby opened to filing applications, selections, and location, except for applications under the Small Tract and Desert Land Laws, in accordance with the following: Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of the 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: 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. All valid applications and selections under the nonmineral public land laws presented prior to 10:00 a.m., February 1, 1965, 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.

No. 4——6

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

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Post Office Box 1551, Reno, Nev.

DONALD I. BAILEY,
Acting Manager,
Nevada Land Office.

[F.R. Doc. 65-147; Filed Jan. 6, 1965; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

CALIFORNIA AND OREGON

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of California and Oregon natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

CALIFORNIA

Mendocino.	Tehama.

OREGON

Baker.	Morrow.
Crook.	Sherman.
Deschutes.	Union.
Gilliam.	Umatilla.
Grant.	Wallowa.
Harney.	Wasco.
Jefferson.	Wheeler.
Malheur.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named California and Oregon counties after December 31, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 31st day of December 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-150; Filed, Jan. 6, 1965; 8:46 a.m.]

GEORGIA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Georgia a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

GEORGIA

Bryan.	Jenkins.
Bulloch.	Tattnall.
Candler.	Toombs.
Evans.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after December 31, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 31st day of December 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-151; Filed, Jan. 6, 1965; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

STATEMENT OF ORGANIZATION AND DELEGATIONS OF AUTHORITY

Miscellaneous Amendments

The Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare (22 F.R. 1045) as amended, is hereby amended as follows:

1. Part 6 entitled "Office of Education" is amended to add a new subparagraph (39) to paragraph (a) of section 6.20 to read as follows:

(39) (i) Of the authorities delegated to the Secretary of Health, Education, and Welfare by the Director, Office of Economic Opportunity, under the Economic Opportunity Act of 1964 (78 Stat. 508, Public Law 88-452) (hereinafter referred to as the Act), pursuant to the Delegation of Authorities from the Director, Office of Economic Opportunity, dated October 23, 1964, the following are hereby redelegated to the Commissioner of Education:

(*a*) The authority delegated to the Secretary under Title I, Part C (Work-Study Programs).

(*b*) The authority delegated to the Secretary under Title II, Part B (Adult Basic Education Programs).

(*c*) The authority delegated to the Secretary contained in section 602, to the extent the Commissioner may deem such authority to be necessary or appropriate for carrying out his functions in exercise of the authorities indicated in (i) (*a*) and (*b*) above.

(ii) The authorities hereby delegated are subject to the following reservations:

(*a*) The authorities indicated in (i) (*a*) and (*b*) above shall be exercised pursuant to policies, standards, criteria,

and procedures set forth in rules and regulations prescribed in accordance with (ii) (*b*) below.

(*b*) Rules and regulations authorized by section 602(n) of the Act for the exercise of the authorities indicated in (i) (*a*) and (*b*) above shall be issued by the Commissioner subject to the provisions of Paragraph 6 of the Delegation of Authorities from the Director, Office of Economic Opportunity, dated October 23, 1964 ("Rules and regulations for the exercise of the powers hereby delegated shall be prescribed jointly by the Director and * * * [the Secretary]").

(*c*) In the exercise of the authorities indicated in (i) (*a*) and (*b*) above, preference shall, to the extent feasible, be given to programs and projects which are components of a community action program approved pursuant to Title II, Part A, of the Act.

(*d*) The authorities indicated in (i) (*a*) and (*b*) above shall be exercised subject to the reporting and coordination provisions of section 611 of the Act.

(*e*) No State plan or modification thereof under section 214 of the Act shall be finally disapproved without the Commissioner's prior consultation and discussion with the Secretary.

(*f*) No payments to States shall be withheld under section 217 of the Act without the Commissioner's prior consultation and discussion with the Secretary.

(*g*) No termination of or refusal to grant or to continue Federal financial assistance under section 602 of the Civil Rights Act of 1964 (Public Law 88-352) shall be made without the approval of the Secretary.

2. Part 9 entitled "Welfare Administration" is amended to add a new subparagraph (9) to paragraph (a) of section 9.20 to read as follows:

(9) (i) Of the authorities delegated to the Secretary of Health, Education, and Welfare by the Director, Office of Economic Opportunity, under the Economic Opportunity Act of 1964 (78 Stat. 508, Public Law 88-452) (hereinafter referred to as the Act), pursuant to the Delegation of Authorities from the Director, Office of Economic Opportunity, dated October 23, 1964, the following are hereby redelegated to the Commissioner of Welfare:

(*a*) The authority delegated to the Secretary under Title V, (Work Experience Programs).

(*b*) The authority delegated to the Secretary contained in section 602, to the extent the Commissioner may deem such authority to be necessary or appropriate for carrying out his functions in exercise of the authorities indicated in (i) (*a*) above.

(ii) The authorities hereby delegated are subject to the following limitations:

(*a*) The authorities indicated in (i) (*a*) above shall be exercised pursuant to policies, standards, criteria, and procedures jointly prescribed by the Director, Office of Economic Opportunity, and the Commissioner.

(*b*) In the exercise of the authorities indicated in (i) (*a*) above, preference shall, to the extent feasible, be given to programs and projects which are components of a community action program pursuant to Title II, Part A, of the Act.

(*c*) The authorities indicated in (i) (*a*) above shall be exercised subject to the reporting and coordination provisions of section 611 of the Act.

(*d*) No termination of or refusal to grant or to continue Federal financial assistance under section 602 of the Civil Rights Act of 1964 (Public Law 88-352) shall be made without the approval of the Secretary.

Approved: December 22, 1964.

[SEAL] ANTHONY J. CELEBREZZE,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 65-170; Filed, Jan. 6, 1965; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-160]

GEORGIA INSTITUTE OF TECHNOLOGY

Notice of Issuance of Facility License

Please take notice that no request for a formal hearing having been filed following publication of the notice of proposed action in the FEDERAL REGISTER, the Atomic Energy Commission has issued Facility License No. R-97 to Georgia Institute of Technology authorizing operation of its tank-type nuclear reactor at a maximum steady state power level of one (1) megawatt (thermal) on Georgia Tech's campus in Atlanta, Ga.

The Commission has found that the reactor has been constructed in conformity with Construction Permit No. CPRR-57 and will operate in conformity with the application, as amended, and in conformity with the Atomic Energy Act of 1954, as amended, and the rules and regulations of the Commission.

The license, as issued, is as set forth in the Notice of Proposed Issuance of Facility License published in the FEDERAL REGISTER on December 12, 1964, 29 F.R. 17050.

Dated at Bethesda, Md., this 29th day of December 1964.

For the Atomic Energy Commission.

ROGER S. BOYD,
Chief, Research and Power Reactor Safety Branch, Division of Reactor Licensing.

[F.R. Doc. 65-120; Filed, Jan. 6, 1965; 8:45 a.m.]

COMMISSION ON CIVIL RIGHTS

NOTICE OF MISSISSIPPI HEARING

Notice is hereby given, pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that the United States Commission on Civil Rights will hold a hearing commencing at ten o'clock in the forenoon, February 10, 1965, in the fourth floor courtroom of the United States Post Office and Court House Building, Jackson, Miss., on the following subjects:

(1) Denials in Mississippi to citizens of the United States of their right to vote and have that vote counted by reason of their color or race.

(2) Denials in Mississippi of equal protection of the laws under the Constitution because of race or color or in the administration of justice.

Further notice is hereby given that in the event the said courtroom later becomes required for Federal court business, the hearing will continue at Recreation Hall, Veterans Administration Center, 1500 East Woodrow Wilson Drive, Jackson, Miss.

Dated at Washington, D.C., January 5, 1965.

JOHN A. HANNAH,
Chairman, United States Commission on Civil Rights.

[F.R. Doc. 65-241; Filed, Jan. 6, 1965; 8:49 a.m.]

DELAWARE RIVER BASIN COMMISSION

WATER SUPPLY POLICY

Notice of Hearing

Notice is hereby given that the Delaware River Basin Commission will hold public hearings on Wednesday, January 13, 1965 (not on January 8 as previously announced). The hearings will be on the following four subjects:

1. A proposal to amend the Comprehensive Plan by the addition thereto of a section X containing a statement of policy relating to water quality. The text of this statement (No. 64-14) is attached to this notice. A staff paper providing background to this proposed amendment is available for distribution to interested parties upon request.

2. A proposal to amend section VI of the Comprehensive Plan so as to change the basis of scheduling the construction of certain projects contained therein. The text of this proposal, entitled "Project Scheduling Amendment", is attached to this notice. A staff paper providing background to this proposed amendment is available for distribution to interested parties upon request.

3. A proposal to amend section IX of the Comprehensive Plan by the addition thereto of five proposed public water supply and sewage projects. A brief description of these projects is attached to this notice, and detailed information about them may be examined at the office of the Commission.

4. The draft of the Commission's second annual Water Resources Program which was released for public review on October 20, 1964. The purposes of the Program, and the requirement of its annual adoption by the Commission, are specified in § 13.2 of the Delaware River Basin Compact. A limited number of copies of the draft of Program are available for distribution to interested parties upon request.

The hearings will be held in Room 1306 of the Pennsylvania State Office Building, Broad and Spring Garden Streets in Philadelphia, beginning at 10 a.m.

All persons or organizations wishing to testify are requested to register in advance with the Secretary to the Commission.

W. BRINTON WHITALL,
Secretary.

DECEMBER 30, 1964.

[F.R. Doc. 65-123; Filed, Jan. 6, 1965; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15767, 15768; FCC 64-1197]

BIRMINGHAM BROADCASTING CO. AND DORSEY EUGENE NEWMAN

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Birmingham Broadcasting Co., Irondale, Ala., Docket No. 15767, File No. BP-16260, Requests: 1480 kc, 5 kw, Day, Class III; Dorsey Eugene Newman, Irondale, Ala., Docket No. 15768, File No. BP-16388, Requests: 1480 kc, 5 kw, Day, Class III; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 23d day of December 1964;

The Commission having under consideration the above-captioned and described applications:

It appearing, that, except as indicated by the issues specified below, each of the applicants is legally, technically and otherwise qualified to construct and operate as proposed; Birmingham Broadcasting Co. is financially qualified, but Dorsey Eugene Newman may not be financially qualified; and

It further appearing, that the following matters are to be considered in connection with the aforementioned issues specified below:

1. The above applications are mutually exclusive.

2. The application of Dorsey Eugene Newman shows that funds of approximately $12,000 will be needed to acquire the physical facilities and to operate the station for a reasonable period of time without working capital. To raise the required funds the applicant plans to use existing capital, profits from present operations and, if necessary, sell his non-liquid assets. His balance sheet, however, does not appear to show any cash and/or liquid assets available over and above those needed to meet current expenditures. No information has been furnished showing the marketability of the non-liquid assets, and anticipated profits cannot be used to establish financial ability to operate the station for a reasonable time without revenues.

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the 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 whether Dorsey Eugene Newman is financially qualified to construct and operate his proposed station.

2. To determine, on a comparative basis, which of the proposals would better serve the public interest, convenience, and necessity in light of the evidence adduced pursuant to the foregoing issues and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate its proposed station.

(b) The proposals of each of the applicants with respect to the management and operation of the proposed station.

(c) The programming service proposed in each of the said 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, in the comparative consideration of the Birmingham Broadcasting Co. and the Dorsey Eugene Newman applications, no effect whatsoever shall be given to any expenditure of funds by the former pursuant to grant of temporary authorization to operate Station WIXI nor shall any preference redound to the Birmingham Broadcasting Co. by virtue of its temporary operation of that station.

It is further ordered, That, in the event of a grant of either application, the construction permit shall contain the following condition: Pending a final decision in Docket No. 14419 with respect to pre-sunrise operation with daytime facilities, the present provisions of § 73.87 of the Commission rules are not extended to this authorization, and such operation is precluded.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

It is further ordered, That, the issues in the above-captioned 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 the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: January 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-164; Filed, Jan. 6, 1965; 8:47 a.m.]

[Docket Nos. 15767, 15768; FCC 64M-1296]

BIRMINGHAM BROADCASTING CO. AND DORSEY EUGENE NEWMAN

Order Scheduling Hearing

In re applications of Birmingham Broadcasting Co., Irondale, Ala., Docket No. 15767, File No. BP-16260; Dorsey Eugene Newman, Irondale, Ala., Docket No. 15768, File No. BP-16388; for construction permits.

It is ordered, This 28th day of December 1964, that Thomas H. Donahue shall serve as the presiding officer in the above-entitled proceeding; that the hearings therein shall commence at 10:00 a.m. on February 23, 1965; and that a prehearing conference shall be convened at 9:00 a.m. on January 27, 1965; and, *It is further ordered*, That all proceedings shall be held in the Offices of the Commission, Washington, D.C.

Released: January 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-165; Filed, Jan. 6, 1965; 8:47 a.m.]

[Docket Nos. 15593, 15594; FCC 64M-1297]

ST. ALBANS-NITRO BROADCASTING CO. AND WCHS-AM-TV CORP.

Order Regarding Procedural Dates

In re applications of St. Albans-Nitro Broadcasting Co., St. Albans, W. Va., Docket No. 15593, File No. BPH-4146; WCHS-AM-TV Corp., Charleston, W. Va., Docket No. 15594, File No. BPH-4332; for construction permits.

The Hearing Examiner having before him a letter from counsel for WCHS-AM-TV Corp., dated December 29, 1964, requesting extension of time to March 4, 1965, for exchange of exhibits and the extension of 60 days to other procedural dates set forth in Examiner's hearing order of November 2, 1964; and

It appearing that the Commission may take action in early January 1965 on a pending petition for rule-making seeking assignment of a new channel to St. Albans, W. Va., and if the petition is

acted upon favorably hearing in this matter might not be required; and

It further appearing that counsel for the Broadcast Bureau, the only other party to the proceeding, has consented to grant of the request:

It is ordered, This 31st day of December 1964, that the above-described request for extension of time is granted; and the schedule of future steps in this proceeding is changed in the following respects:

Preliminary exchange of Engineering showings extended from January 4, 1965, to March 4, 1965;

Engineering Conference extended from January 25, 1965, to March 26, 1965;

Engineering showings exchanged in final form extended from February 2, 1965, to April 5, 1965;

Further prehearing conference extended from February 4, 1965, to April 7, 1965.

Direct presentation of non-engineering showings exchange extended from March 8, 1965, to May 7, 1965.

Released: January 4, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-166; Filed, Jan. 6, 1965; 8:47 a.m.]

[Docket Nos. 15751-15766; FCC 64-1195]

KFOX, INC. (KFOX) ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of KFOX, Inc. (KFOX), Long Beach, Calif., Docket No. 15751, File No. BP-16149, Has: 1280 kc 1 kw, Day, Class III, Long Beach, Calif., Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class III; Charles W. Jobbins, Costa Mesa-Newport Beach, Calif., Docket No. 15752, File No. BP-16157, Requests: 1110 kc, 1 kw, Day, Class II; Radio Southern California, Inc., Pasadena, Calif., Docket No. 15753, File No. BP-16158, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; Goodson-Todman Broadcasting, Inc., Pasadena, Calif., Docket No. 15754, File No. BP-16159, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; Orange Radio, Inc., Fullerton, Calif., Docket No. 15755, File No. BP-16160, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; Pacific Fine Music, Inc., Whittier, Calif., Docket No. 15756, File No. BP-16161, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; The Bible Institute of Los Angeles, Inc., Pasadena, Calif., Docket No. 15757, File No. BP-16162, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; C. D. Funk and George A. Baron, a partnership d.b.a. Topanga Malibu Broadcasting Co., Topanga, Calif., Docket No. 15758, File No. BP-16164, Requests: 1110 kc, 500 w, DA-2, U, Class II; California Regional Broadcasting Corp., Pasadena, Calif., Docket No. 15759, File No. BP-16165, Requests: 1110 kc, 50 kw, DA-2, U, Class II; Storer Broadcasting Co. (KGBS), Los Angeles, Calif., Docket No. 15760, File No. BP-16166, Has: 1020 kc, 50 kw, DA-1, L-KDKA, Class II, Los Angeles, Calif., Requests: 1110 kc, 50 kw, DA-2, U, Class II, Pasadena, Calif.; Mitchell B. Howe, Peter Davis, Edwin M. Dillhoefer, and C. Hunter Shelden, d.b.a. Pasadena Civic Broadcasting Co., Pasadena, Calif., Docket No. 15761, File No. BP-16167, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; Robert S. Morton, Arthur Hanisch, Macdonald Carey, Ben F. Smith, Donald C. McBain, Robert Breckner, Louis R. Vincenti, Robert C. Mardian, James B. Boyle, Robert M. Vaillancourt, and Edwin Earl, d.b.a. Crown City Broadcasting Co., Pasadena, Calif., Docket No. 15762, File No. BP-16168, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; Pasadena Community Station, Inc., Pasadena, Calif., Docket No. 15763, File No. BP-16170, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; Voice of Pasadena, Inc., Pasadena, Calif., Docket No. 15764, File No. BP-16172, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; Western Broadcasting Corp., Pasadena, Calif., Docket No. 15765, File No. BP-16173, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; Pasadena, Broadcasting Co., Pasadena, Calif., Docket No. 15766, File No. BP-16174, Requests: 1110 kc, 10 kw, 50 kw-LS, DA-2, U, Class II; for construction permits.

1. The Commission has before it for consideration (a) the remaining above-captioned applications accepted for filing by and for the purposes listed in the Commission's action of July 29, 1964 (FCC 64-743); (b) the "Petition for Reconsideration and Revision of Hearing Procedure" filed on September 8, 1964, by Western Broadcasting Corp.; (c) statements and comments filed in support of the petition for reconsideration by Goodson-Todman Broadcasting, Inc., by Storer Broadcasting Co., licensee of Station KGBS, Los Angeles, Calif., and by California Regional Broadcasting Corp.; (d) a timely filed opposition by C. D. Funk and George A. Baron, d.b.a. Topanga Malibu Broadcasting Co.; (e) a timely reply to the opposition filed by Western Broadcasting Corp.; (f) a late-filed opposition to the petition for reconsideration filed on October 20, 1964 by Charles W. Jobbins and a statement by Western Broadcasting Corp. concerning the opposition by Jobbins.

2. The Commission also has before it for consideration (a) the "Petition for Extension of Procedural Dates" filed on October 16, 1964, by Voice of Pasadena, Inc. and (b) the oppositions to the petition for extension of procedural dates filed by Topanga Malibu Broadcasting Co., Goodson-Todman Broadcasting, Inc., and by Storer Broadcasting Co., licensee of Station KGBS, Los Angeles, Calif.

3. The thrust of the pleadings set forth in paragraph 1 above deal primarily with paragraph 9 of the Commission's Opinion and Order of July 29, 1964, Charles W. Jobbins (FCC 64-743). Paragraph 9, in substance, stated that with respect to those applications tendered for filing on 1110kc in the Southern California area, the "AM freeze" would be waived to the extent necessary to permit consideration of the applications on the question of which of the tendered proposals would, in the light of section 307(b) of the Act, best provide a fair, efficient and equitable distribution of radio service. The pleadings set forth in paragraph 2 above are directed to paragraph 8 of the Jobbins opinion supra. Paragraph 8 of the Jobbins opinion permitted those applicants that incorporated, by reference, the engineering data on file for the existing operation of Station KRLA, to file current engineering data to avoid specification of technical issues based on obsolete or incomplete data. The final date for the filing of this engineering data was October 5, 1964.

4. The petition for reconsideration filed by Western requests that the Commission revise its hearing procedure to the extent that, even though the section 307(b) question must be decided prior to any comparative considerations, the initial hearing should not be limited to consideration of the section 307(b) question (plus issues of absolute qualifications). It is contended by Western that this so-called limited hearing could prolong rather than shorten the hearing because the Hearing Examiner's action on the section 307(b) question would have to proceed through the full hearing process including possible appeals, and should the 307(b) question not prove decisionally significant, a comparative hearing would then have to be initiated. Western, in short, requests the addition of a contingent comparative issue. Western cites the case of Rockland Broadcasting Company, 23 R.R. 789 (1962) in support of its contention that the comparative issue should be included in the order of designation for hearing.

5. In support of its request that a contingent comparative issue be included, Western sets forth two propositions: Viz (1) that 307(b) considerations would be clearly undeterminative insofar as the mutually exclusive applicants specifying a station location of Pasadena or a nearby community, and (2) that the applicants specifying locations somewhat removed from the Pasadena area are either not technically qualified or their proposals are so inefficient that there is no certainty that 307(b) considerations would be determinative. As a corollary proposition, Western suggests that the "white area" problems of the communities somewhat removed from the Pasadena area may possibly be more easily solved through the use of FM facilities or an improvement in their existing AM facilities. In conclusion, Western alludes to the fact that an additional 307(b) consideration is presented as to the removal of a long established service from the Los Angeles area.

6. Goodson-Todman, Inc. filed a statement fully supporting the Western petition for reconsideration. Storer Broadcasting Co. contends that the Commission's Order of July 29, 1964 (FCC 64-743) was for the purpose of giving all applications full comparative consideration, and, if such was not the import of the Order, the Western petition should be granted. California Regional Broadcasting Corp. filed a comment in support of the Western petition, but raises the claims that the "freeze" problem need not be considered since the

new rules have now been adopted and that certain actions taken following the "limited purpose" hearing could result in a denial of due process to an applicant. California Regional also raises the question as to whether a further waiver of the Commission's rules would be required if certain Pasadena area applicants are successful under the section 307(b) determination, and what disposition will be made of the unsuccessful applications. For the foregoing reasons, California Regional supports Western's request that the acceptance be unqualified and not limited to only the 307(b) question.

7. The opposition of Topanga Malibu supports the Commission's action in limiting the hearing to a 307(b) determination at this time. It disputes Western's contention that inclusion of the contingent comparative issue would have the effect of shortening the hearing. Topanga Malibu claims that the shortest route to final determination is limitation of the hearing to the 307(b) issue plus issues of absolute qualification. Topanga Malibu contends that the Western petition attempts to deprecate the merits of the non-Los Angeles area applicants and that this is improper at this juncture. Topanga Malibu also contends that Western is attempting to, through the section 307(b) issue, get the Commission to weigh the removal of service from Pasadena against the institution of service in those communities outside the Los Angeles area.

8. In reply, Western reiterates the contentions that the Commission should follow the Rockland case, supra and not limit the Hearing Examiner to taking evidence only on the section 307(b) issue. Western denies that it is attempting to get the Commission to pre-judge the merits of any of the non-Los Angeles area applicants and contends that all that is requested is that a hearing be held and that section 307(b) considerations may not be dispositive and therefore the contingent comparative issue should be included in the original designating order. Western, in the reply, contests the claim that the Topanga Malibu area is without service and states that KDHI has an FM facility to serve its nighttime white area. Finally, Western reiterates its claim that all it seeks is a hearing with the inclusion of the contingent comparative issue and that the Hearing Examiner not be prohibited from taking evidence on the comparative issue if it is necessary to properly dispose of the proceeding.

9. Charles W. Jobbins filed an opposition to the Western petition approximately two weeks late. No questions, other than those raised by the aforementioned oppositions have been raised in the Jobbins opposition. Western filed a statement in response to the Jobbins opposition. Western took the position that the Jobbins opposition would be subject to a motion to strike for late filing, but does not request that it be stricken, but does state that Jobbins' apparent unfamiliarity with the Commission's Rules and policy should not be permitted to continue during the prosecution of his application. Since no additional material has been submitted in Jobbins pleading and in view of our action on Western's petition for reconsideration, the Jobbins pleading will also be dismissed as moot.

10. Originally 19 applications were filed pursuant to the Commission's Public Notice of February 20, 1964 (FCC 64-142). The 19 applications included proposals to change frequency by existing stations in Arroyo Grande, Calif. and Twenty-Nine Palms, Calif. The communities of Arroyo Grande and Twenty-Nine Palms are located approximately 150 and 120 miles, respectively, from Pasadena, and in addition, those two proposals were the only ones that met the "freeze criteria" as promulgated in the Note to § 1.571 of the rules (as then in force). Because of this factual situation, the Commission, in its order accepting the applications (FCC 64-743), and on its own motion, waived, the provisions of the "freeze" to the extent necessary to permit consideration of the applications, that did not meet the "freeze criteria", on the question of which of the tendered proposals would, in the light of section 307(b) of the Act, best provide a fair, efficient and equitable distribution of radio service. Since the acceptance of the 19 applications, 3 have either dismissed their proposals or have amended them to specify a different frequency resulting in their dropping-out of this proceeding. One of the dismissed proposals specified Pasadena, as its location. The two proposals specifying Arroyo Grande and Twenty-Nine Palms, (the proposals that met the "freeze criteria") have been amended to specify a different frequency. Since these two proposals have been deleted from the proceeding, the remaining applications are located within a radius of 40 miles from Pasadena, Calif. Based on these changed circumstances, two questions must be considered. The first one is whether a complete waiver of the "freeze"[1] criteria is warranted and the second question is whether (should the first question be decided in the affirmative), in the light of recent decisions, a contingent comparative issue should be specified in the proceeding.

11. With respect to the question as to whether circumstances are present that would permit complete acceptance of the applications, the Commission has considered the requests for waiver of the "freeze" and is of the opinion that the unusual circumstances present in this case require that the applications remaining in this proceeding be considered on the merits. With respect to the applicants for Pasadena, we think that the fact that a station has operated on this frequency in Pasadena over many years as the only full-time local English language station is ample justification for waiver of our rules to permit consideration of the applications for Pasadena. The applications for communities other than Pasadena, represent applications for a first local AM station in each of such communities and in addition, must be considered under the doctrine of Kessler v. F.C.C. 1 R.R. 2d 2061 (1963) because they are mutually exclusive and timely filed with the Pasadena applicants. It is again emphasized that this waiver of the "freeze" to permit consideration of these applications on their merits, does not constitute a pre-judgment on their merits of any of the issues specified as to any of the applications. The merits of each proposal will be judged in the hearing which is being designated at this time. Accordingly, the above-captioned applications will be accepted for filing without qualification and to that extent, our acceptance of July 29, 1964 is modified.

12. The next question is whether a contingent comparative issue should be specified in this proceeding. Before the amendments to the Arroyo Grande and Twenty-Nine Palms proposals, it was very likely that a choice could be made solely on section 307(b) determinations due to the substantial geographic distance between certain of the proposals. Now that the remaining applications all specify station designations located within a 40 mile radius, based on Commission precedents,[2] the proceeding would likely be decided on comparative, rather than section 307(b) considerations. Based on the changed circumstances, and the precedents applicable to this proceeding, the Commission will on its own motion specify the contingent comparative issue in addition to the section 307(b) issue. Our action in waiving the "freeze" and specifying a contingent comparative issue renders moot the requests contained in the petition for reconsideration filed by Western Broadcasting Corporation and, accordingly, it will be dismissed.

13. Voice of Pasadena filed a petition for extension of procedural dates requesting, in effect, that the Commission's Order of July 29, 1964 (FCC 64-743) be modified to permit engineering amendments to all the applications. Voice of Pasadena contends that our July 29, 1964 Order required applicants who incorporated, by reference, the KRLA engineering data on file, to amend their engineering proposals. A reading of paragraph 8 of the Order clearly indicates that the applicants who incorporated the KRLA data would be permitted, but not required, to amend the engineering sections of their applications within 60 days from the release date of the Order. The Commission's Public Notice (FCC 64-744) dated August 6, 1964 fully supports this interpretation. To grant Voice of Pasadena's request would amount to permitting applicants to submit, in effect, new applications through major amendments to their existing applications without being subject to the

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[1] Note to § 1.571 of the Commission's rules as in force prior to July 1, 1964.

[2] Kent-Ravenna Broadcasting Company, 22 R.R. 605 (1961); Rockland Broadcasting Company, 23 R.R. 789 (1962); see also Huntington Broadcasting Company, 6 R.R. 567 (1960), affirmed sub nom. Hunting Broadcasting Company v. F.C.C. 192 F. 2d 33, 7 R.R. 2030 (1951); Radio Crawfordsville, Inc. 25 R.R. 533; Speidel Broadcasting Corporation of Ohio 25 R.R. 723, 1 R.R. 2d 726 (1963), affirmed sub nom. Speidel Broadcasting Corporation of Ohio v. F.C.C.—F. 2d—, 1 R.R. 2d 2094 (1964).

"major change" provisions of § 1.571(j)(1) of the rules. The oppositions filed by Goodson-Todman, Topanga Malibu and Storer correctly point out that the so-called "grace period" of 60 days" to file engineering is not available to Voice of Pasadena. Accordingly the request for extension of time filed by Voice of Pasadena will be denied.

14. On November 6, 1964, Voice of Pasadena, Inc. filed an amendment to increase nighttime power accompanied by a "Petition for Waiver of rule 1.571(j)(1) and Acceptance of Amendment" in which it requested a waiver of said rule and the acceptance of a "major change" amendment to the engineering portion of its application without assignment of a new file number. The amendment, which involves an increase of nighttime power from 10 kilowatts to 25 kilowatts, is specifically within the purview of § 1.571(j)(1) of the rules which requires that a new file number be assigned to an application when it is amended to increase power. Oppositions to this petition were filed by Topanga Malibu Broadcasting Co., Storer Broadcasting Co., California Regional Broadcasting Corp., Goodson-Todman Broadcasting, Inc., and Pasadena Broadcasting Co. Voice of Pasadena filed a reply to the oppositions reiterating its contentions contained in the petition for waiver. Voice of Pasadena contends that acceptance of its proposal would provide a more efficient use of the channel with increased power. Voice of Pasadena, Inc., was afforded ample time and had the same opportunity as the other applicants within which to prepare its application. The Commission's Public Notice (FCC 64-142), released February 20, 1964, stated that, in order to receive comparative consideration, the 1110 kc applications must be substantially complete and tendered for filing by the close of business on March 31, 1964. The proposed "major change" amendment is not timely filed for consideration in this proceeding. If the amendment were to be accepted a new file number would have to be assigned to the application pursuant to § 1.571(j)(1) of the rules and under the rules applicable to this proceeding, the amended application would be dismissed. The Commission is of the opinion that the contentions of Voice of Pasadena set forth in support of its request for waiver are not sufficient to warrant a waiver of § 1.571(j)(1) to permit acceptance of the amendment without the assignment of a new file number. Voice of Pasadena requests the Commission to return its amendment in the event that its request for waiver is not granted to permit acceptance of the amendment without the assignment of a new file number. The Commission's Rules prohibit the conditional tender of applications, amendments and pleadings. However, in view of our finding that Voice of Pasadena has not made the showing necessary to justify a waiver of § 1.571(j)(1) of the rules, the conditional request is moot. In view of the foregoing, the petition filed by Voice of Pasadena will be denied and the tendered amendment will not be accepted for filing. The Voice of Pasadena, Inc. application will be considered as previously accepted for filing.

15. In addition to the petition for reconsideration and the other pleadings and tendered amendments, the following additional matters are to be considered in connection with the issues specified below:

I. ENGINEERING CONSIDERATIONS

A. KFOX, Inc. (BP-16149), Radio Southern California, Inc. (BP-16158), Goodson-Todman Broadcasting, Inc. (BP-16159), The Bible Institute of Los Angeles, Inc. (BP-16162), Pasadena Civic Broadcasting Co. (BP-16167), Crown City Broadcasting Co. (BP-16168), Pasadena Community Station, Inc. (BP-16170), and Pasadena Broadcasting Co. (BP-16174) have each applied for essentially the same facilities as formerly authorized to Eleven-Ten Broadcasting Corp., the former licensee of Station KRLA, Pasadena, Calif. The deficiencies and findings that are common to the herein listed eight (8) applications will be listed in the following paragraphs (1) through (5).

(1) The aforementioned 8 applicants have an RSS nighttime limitation of 7.0 mv/m from Class I-B Station KFAB, Omaha, Nebr., and the normally protected nighttime contour of the proposed Class II stations is 2.5 mv/m. It appears that each of the 8 proposals would receive interference that would result in a loss in excess of 10 percent of the nighttime population in violation of § 73.28(d)(3) of the Commission's rules (10 percent rule).

(2) Concerning the KRLA difficulties experienced in adjusting and maintaining its present directional antenna system, the following is pertinent to the specification of certain issues. Prior to November 12, 1958, KRLA was licensed to operate on 1110kc (10 kw, DA-2, U). On November 12, 1958, the Commission granted KRLA a construction permit authorizing a daytime power increase to 50 kilowatts with a change in its directional antenna system. One of the conditions of this grant was as follows:

> Before program tests are authorized, the permittee shall submit new common point impedance measurements and sufficient field intensity measurement data to clearly show that the new tower construction and adjustment of the daytime array has not adversely affected the operation of the nighttime directional array.

Subsequent to the construction of the new antenna system for the 50 kilowatt operation, a power company constructed tall metal towers for high tension electrical lines in the vicinity of the KRLA antenna system. Because of these transmission line installations and other technical problems, KRLA, while operating pursuant to program test authority with the new facilities, was unable to secure satisfactory measurement data so as to show compliance with the above condition due to re-radiation and other technical difficulties. Accordingly, the 50 kilowatt authorization was never licensed to operate with increased daytime power. Study of all the site photographs and of the topographic maps indicate that man-made objects and terrain irregularities exist in the vicinity of the proposed sites which may result in signal scatter and re-radiation which raises a substantial question as to whether the proposed antenna systems can be adjusted and maintained and, whether in fact, adequate nighttime protection will be afforded Station KFAB and other stations. Accordingly, an issue will be specified below with respect to the suitability of the proposed antenna sites and feasibility of adjusting and maintaining the proposed directional antenna system.

(3) A number of the above-mentioned eight applicants have not indicated any nighttime MEOV toward Station KBND, Bend, Oreg., resulting in a theoretical showing of no increase in interference to KBND, while others have indicated an MEOV toward Station KBND. In light of the fact that an issue is to be raised with respect to the feasibility of each of the antenna systems, it appears that a question of protection afforded to Station KBND should be raised with respect to each of the applications. Accordingly, Central Oregon Broadcasting Company, licensee of Station KBND, will be made a party respondent to the hearing proceedings. The aforementioned eight applicants would increase the RSS nighttime limitation of the proposed operation of Donnelly C. Reeves for a new standard broadcast station at Roseville, Calif. (File No. BP-12555). Accordingly, Donnelly C. Reeves will also be made a party respondent to the hearing proceedings and an appropriate issue specified.

(4) KFAB Broadcasting Co., licensee of Station KFAB, Omaha, Nebr., pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, filed on September 8, 1964, a "Petition to Designate for Hearing and To Make KFAB a Party Thereto." KFAB contends that several of the applicants, particularly those who have specified the site from which Eleven-Ten Broadcasting Corp. operated Station KRLA, will cause interference to KFAB's normally protected contour during nighttime hours and also to the daytime protected contour during critical hours. Goodson-Todman (BP-16159) filed a motion to strike the KFAB petition on September 17, 1964, and Storer Broadcasting Co. (BP-16166) filed an opposition to the petition on September 21, 1964. Each of the applicants, except Goodson-Todman Broadcasting, Inc., has either shown or indicated that the proposed 0.025 mv/m-10 percent contour would not overlap the KFAB 0.5 mv/m-50 percent contour. The Goodson-Todman proposal indicates a slight overlap of those contours. In view of the Commission's analysis of the engineering data submitted by Goodson-Todman and in the light of the difficulties experienced by Station KRLA in adjusting and maintaining its antenna system the Commission finds that a substantial question exists as to whether adequate protection will be afforded to the nighttime operation of Station KFAB. The Commission finds that no question of daytime interference to KFAB is present even during critical hours. Accordingly, KFAB's petition will be granted, in part, and appropriate issues will be specified covering this over-

lap of contours question. KFAB Broadcasting Co. will be made a party to the hearing, to the extent indicated hereafter.

(5) Gordon Broadcasting of San Diego, Inc., the licensee of Station KSDO, San Diego, California, pursuant to section 309(d)(1) of the Act filed a "Petition to Deny" on April 21, 1964. KDSO requests that the applications be denied or, in the alternative, that the applications be designated for hearing and that Gordon Broadcasting of San Diego, Inc. be named a party to said hearing claiming that its 2.0 mv/m contour overlaps the 25 mv/m contour of the above-noted eight proposals, in violation of § 73.37 of the Commission's rules. The Commission agrees with the contentions of KSDO and the petition will be granted, and an issue will be specified concerning the overlap of contours. KSDO will be made a party respondent to the proceeding.

B. The deficiencies and findings, in addition to those set out in Paragraph A, that apply to the individual applications are listed in the following paragraphs (1) through (8). These applications specify essentially the same facilities that were formerly authorized to Eleven-Ten Corporation in its operation of Station KRLA.

(1) *KFOX, Inc. (BP-16149)*. There are no additional engineering deficiencies in the KFOX proposal. KFOX proposes to change station location from Long Beach to Pasadena, thereby reducing the number of AM services licensed to Long Beach. A 307(b) question as to the broadcast needs of the two cities will be specified.

(2) *Radio Southern California, Inc. (BP-16158)*. Applicant has requested waivers of §§ 73.37, 73.28(d), 73.24(e) and 73.188 of the Commission's rules. In view of our findings in Paragraphs 14(A)(1) and 14(A)(5), concerning compliance with §§ 73.28(d) (10 percent rule) and 73.37 (2 and 25 mv/m overlap), further findings are not necessary. As to these sections and as to the coverage requirements as set forth in §§ 73.188 and 73.24(e) of the rules, the Commission is of the opinion that in view of the fact that over 99 percent of the population and area receive adequate coverage and that 62 percent of the small area not receiving primary service consists of orchards and reservoirs, there is substantial compliance with §§ 73.188 and 73.24(e), and accordingly, the provisions of these sections will be waived.

The applicant erred in his distance computation toward the proposed operation of Donnelly C. Reeves in Roseville, California (BP-12555) which resulted in a showing of no nighttime interference to BP-12555. The finding concerning the interference caused to the Roseville proposal as set forth in Paragraph 14(A)(3), is applicable to the Radio Southern California proposal because the proposed operation would further limit the nighttime operation of the Roseville proposal.

The applicant proposes the use of a General Radio Type 19-38 modulation monitor which has not been type accepted pursuant to the provisions of § 73.50 of the rules. Since it is not type-accepted, in the event of a grant, the construction permit will be appropriately conditioned requiring installation of approved type modulation monitor.

(3) *Goodson-Todman Broadcasting, Inc. (BP-16159)*. Waivers of the following rules are requested: §§ 73.37 and 73.28(d) and a further general request for waiver of the restrictions of such other rules or requirements as might be presented in the proposal. All engineering considerations concerning the Goodson-Todman proposal are set forth in Paragraph 14(A).

(4) *The Bible Institute of Los Angeles, Inc. (BP-16162)*. The applicant requests a waiver of §§ 73.37 and 73.28(d) of the rules. As previously noted in the findings concerning Goodson-Todman, no additional engineering findings are required as to this proposal.

(5) *Pasadena Civic Broadcasting Co. (BP-16167)*. All necessary engineering findings in respect to this application are set forth in Paragraph 14(A).

(6) *Crown City Broadcasting Co. (BP-16168)*. The applicant indicates that this application is for essentially the same facilities formerly authorized to KRLA. However, the applicant sets forth the following exceptions and variations from the former KRLA operation: (a) The daytime directional antenna parameters are altered slightly which would result in a general increase in theoretical radiation, but the MEOV will be less than that of the former KRLA operation; however, no MEOV are specified for this daytime pattern; (b) The nighttime MEOV are slightly less than those specified in the KRLA authorization; (c) No overlap of proposed 25 mv/m contour with the KSDO 2.0 mv/m contour is shown, but they are indicated to be tangent; and (d) It is indicated that less than 10 percent of the population would be lost due to nighttime interference received from other stations.

In light of our findings pertaining to the suitability of the proposed antenna site and the feasibility of adjusting and maintaining the proposed antenna systems of all the applications specifying the facilities formerly authorized to KRLA as set forth in Paragraph 14(A)(2), substantial questions exist with respect to the claims of Crown City as set forth in exceptions (a), (b), and (c) noted above and issues will be specified as to these deficiencies. With respect to Crown City's contentions that it does not violate the § 73.28(d)(10 percent rule) of the rules, the Commission is of the opinion that the finding concerning violation of the 10 percent rule as set forth in Paragraph 14(A)(1) is applicable to the Crown City proposal and 10 percent issue will be included.

(7) *Pasadena Community Station, Inc. (BP-16170)*. The applicant, as Radio Southern California has done, also proposes the use of a General Radio Type 19-38 modulation monitor which has not been type accepted pursuant to the provisions of § 73.50 of the Commission's rules. Waivers of the following rules are requested: §§ 73.37, 73.28(d), 73.24(e), and 73.188 of the Commission's rules. Waiver of these sections were also requested by Radio Southern California and our discussion and findings as set forth in Paragraph 14(B)(2), are equally applicable to the Pasadena Community proposal.

(8) *Pasadena Broadcasting Co. (BP-16174)*. The applicant proposes a site approximately 2.3 miles north of the KRLA site with slight changes in the directional antenna system from that formerly authorized to KRLA. However, the general pattern shapes are essentially the same as that formerly authorized to KRLA and the general radiation characteristics would remain essentially the same as that of the former KRLA operation.

The applicant indicates that the proposal would not involve 2 and 25 mv/m overlap with Station KSDO and that adequate protection would be afforded the nighttime operation of KFAB. However, the Commission finds that, because of substantial questions concerning the suitability of the proposed site, and the feasibility of adjusting and maintaining the proposed antenna system, the findings set forth in paragraph 14(A)(2), (4), and (5) are also applicable to this proposal.

The applicant requests a waiver of § 73.28(d)(3) of the Commission's rules. Our findings set forth in Paragraph 14 (A)(1) dispose of this requested waiver.

C. The engineering deficiencies and findings that apply to the nine (9) remaining applications which involve either a change in site or radiation characteristics, even though four of the applicants specify Pasadena, Calif. as the station location, are listed below. Appropriate issues and conditions will be specified in the Order based on these findings.

(1) *Charles W. Jobbins (BP-16157)*. It appears that an overlap of the 2 and 25 mv/m contours will exist between this proposal and Station KSDO, San Diego, Calif., in contravention of § 73.37 of the Commission's rules.

The proposed RCA transmitter type is not identified by the applicant, and therefore, the Commission is unable to make a determination as to whether an approved transmitter has been specified.

The applicant's site photographs are not sufficiently clear and, accordingly, the Commission is unable to make a determination as to whether the site is reasonably free of structures which would result in electrical interaction. Therefore, a substantial question exists as to the suitability of the antenna site.

Charles W. Jobbins has specified a dual-city station location designation, but has not supported the request with showing required by § 73.30(b) that it would place an unreasonable burden on the station if were licensed to serve only one city, town, political subdivision or community.

(2) *Orange Radio, Inc. (BP-16160)*. The applicant indicates that the Orange 25 mv/m contour is approximately tangent to the 2 mv/m contour of Station KSDO, San Diego, Calif., in an area southwest of Fullerton. Some measurement data on KSDO is available in connection with KSDO's proof of performance. However, these measurements are not sufficient to definitely establish the extent of KSDO's 2 mv/m contour.

Therefore, additional field intensity measurements made on KSDO and from the proposed site will be required to insure that no overlap of these contours will occur in contravention of § 73.37 of the Commission's rules.

The applicant proposes to operate with a power of 10 kilowatts during nighttime hours, utilizing a directional antenna to suppress the radiation to values of approximately 11 mv/m (MEOV) over an arc of approximately 70 degrees towards the 0.5 mv/m 50 percent secondary service area of Class I-B Station KFAB, Omaha, Neb. A study of the applicant's site photographs and topographic maps indicates that man-made objects and terrain irregularities may exist in the vicinity of the proposed site which may result in signal scatter and re-radiation. Accordingly, a substantial question exists as to whether the antenna system can be adjusted and maintained as proposed and whether, in fact, adequate nighttime protection will be afforded KFAB and other existing stations. There is also a question as to the suitability of the proposed antenna site.

(3) *Pacific Fine Music, Inc. (BP-16161)*. The proposed 0.025 mv/m—10 percent skywave contour would involve interference within the 0.5 mv/m—50 percent skywave service area of KFAB, Omaha, Nebr. The applicant proposes to operate with a power of 10 kilowatts during nighttime hours, utilizing a directional antenna to suppress the radiation to a value as low as 15.3 mv/m (MEOV) over an arc of approximately 100 degrees toward the 0.5 mv/m 50 percent secondary service area of KFAB. A study of the applicant's site photographs and topographic maps indicates that man-made objects and terrain irregularities exist in the vicinity of the proposed site which may result in signal scatter and re-radiation. Accordingly, a substantial question exists as to whether the antenna system can be adjusted and maintained as proposed and, whether in fact adequate nighttime protection will be afforded KFAB and other existing stations. There is also a question of the suitability of the proposed antenna site.

(4) *C. D. Funk and George A. Baron d.b.a. Topanga Malibu Broadcasting Company (BP-16164)*. The proposed 0.025 mv/m—10 percent skywave contour would involve interference within the 0.5 mv/m—50 percent skywave contour of Station KFAB, Omaha, Nebr. during nighttime hours of operation.

The proposed operation of Topanga Malibu appears to involve overlap of the 2 and 25 mv/m contours with Station KSDO, San Diego, Calif.

The proposal would cause nighttime interference to the pending application of Donnelly C. Reeves for Roseville, Calif. (BP-12555).

The site photographs are not sufficiently clear to adequately show that the proposed site is reasonably free of structures with which electrical interaction could occur, and therefore a question exists as to the suitability of the proposed site and the feasibility of maintaining and adjusting the proposed directional antenna system.

The RMS of the array may not be satisfactory and the antenna parameters do not accurately depict the applicant's proposed radiation pattern.

(5) *California Regional Broadcasting Corp. (BP-16165)*. According to the applicants showing, the proposed 25 mv/m contour is separated from the 2 mv/m contour of KSDO by approximately 2 miles. It appears that some measurement data is available on KSDO in connection with KSDO's proof of performance. However, these measurements are not sufficient to definitely establish the extent of KSDO's 2 mv/m contour. Accordingly, additional field intensity measurements made on KSDO and from the proposed site is required to insure that no overlap of these contours would occur in contravention of § 73.37 of the rules.

The applicant proposes to operate with a power of 50 kilowatts nighttime hours, utilizing a directional antenna to suppress the radiation to very low values (less than 1 mv/m calculated along some azimuths) over an arc of approximately 150 degrees. No clear showing of proposed MEOVS are indicated within this arc. A study of the applicants' site photographs and topographic maps indicate that man-made objects and terrain irregularities may exist in the vicinity of the proposed site which may result in signal scatter and re-radiation. Accordingly, a substantial question exists as to whether or not the antenna system can be adjusted and maintained as proposed and whether, in fact, adequate nighttime protection will be afforded KFAB and other existing stations. There is also a question as to the suitability of the proposed antenna site.

The proposal involves nighttime interference with the pending application of Donnelly C. Reeves for Roseville, Calif. (BP-12555).

(6) *Storer Broadcasting Co. (BP-16166)*. According to the applicant's showing the proposed 25 mv/m contour is separated from the 2 mv/m contour of KSDO by approximately 1 mile. As previously noted, the measurements data available on KSDO is not sufficient to definitely establish the extent of KSDO's 2 mv/m contour. Accordingly additional field intensity measurements data on KSDO and the proposed site is required in order to insure that no overlap of these contours will occur in contravention of § 73.37 of the rules.

The applicant proposes to operate with a power of 50 kilowatts during nighttime hours, utilizing a directional antenna to suppress the radiation to values of 47 mv/m (MEOV) over an arc of approximately 100 degrees toward the secondary service area of Class I-B Station KFAB, Omaha, Nebr. A study of the applicant's site photographs and topographic maps indicates that man-made objects and terrain irregularities may exist in the vicinity of the proposed antenna site which may result in signal scatter and re-radiation. Accordingly, a substantial question exists as to whether the antenna system can be adjusted and maintained as proposed and whether, in fact, adequate nighttime protection will be afforded KFAB and other existing stations. There is also a question as to the suitability of the proposed antenna site.

The proposal will result in nighttime interference with the pending application of Donnelly C. Reeves for Roseville, Calif. (BP-12555).

(7) *Voice of Pasadena, Inc. (BP-16172)*. The applicant has indicated that the proposal will involve an overlap of the proposed 25 mv/m contour with the 2 mv/m contour of KSDO's in contravention of § 73.37 of the rules.

The proposal will cause interference to the nighttime operation of Station KBND, Bend, Oreg.

The proposal will cause interference to the pending application of Donnelly C. Reeves for Roseville, Calif. (BP-12555).

The applicant proposes to operate with a power of 10kw during nighttime hours utilizing a directional antenna to suppress the radiation to as low as 15 mv/m (MEOV) over an arc of approximately 80 degrees toward the secondary service area of KFAB. A study of the applicant's site photographs and topographic maps indicates that man-made objects and terrain irregularities may exist in the vicinity of the proposed site which may result in signal scatter and re-radiation. Accordingly, a substantial question exists as to whether the antenna system can be adjusted and maintained as proposed and whether, in fact, adequate nighttime protection will be afforded KFAB and other existing stations. There is also a question as to the suitability of the proposed antenna site.

The directional antenna parameters for the proposed daytime operation indicates that the antenna parameters do not depict the proposed daytime radiation pattern.

The RSS Limitation of 7.18 mv/m to this proposal is a result of the single limit from Class I-B Station KFAB, Omaha, Nebr. This application is for operation as a Class II-B station, the normally protected nighttime contour of which is 2.5 mv/m. According to the applicant's study, based on a nighttime limitation of 8.0 mv/m, the proposed nighttime operation will suffer a 25 percent population loss with a corresponding area loss of 47.4 percent in contravention of § 73.28(d)(3) of the rules.

(8) *Western Broadcasting Corp. (BP-16173)*. The proposal will cause nighttime interference to the pending application of Donnelly C. Reeves for Roseville, Calif. (BP-12555).

The RSS Limitation of 7.08 mv/m to this application is a result of the single limitation from Class I-B Station KFAB, Omaha, Nebr. This application is for operation as a Class II-B station, the normally protected contour of which is 2.5 mv/m. According to the applicant's study, based on a nighttime limitation of 7.41 mv/m, the proposed nighttime operation will suffer a 12.44 percent population loss with a corresponding area loss of 38.4 percent in contravention of § 73.28(d)(3) of the Commission's rules.

The applicant proposes to operate with a power of 10kw during nighttime hours, utilizing a directional antenna to sup-

press the radiation to a value as low as 14 mv/m (MEOV) over an arc of approximately 90 degrees toward the 0.5 mv/m—50 percent secondary service area of Class I-B Station KFAB, Omaha, Nebr. A study of the applicant's site photographs and topographic maps indicates that man-made objects and terrain irregularities may exist in the vicinity of the proposed antenna site which may result in signal scatter and re-radiation. Accordingly, a substantial question exists as to whether the antenna system can be adjusted and maintained as proposed and whether, in fact, adequate nighttime protection will be afforded KFAB and other existing stations. There is also a question as to the suitability of the proposed antenna site.

The directional antenna parameters for the proposed daytime operation indicate that the antenna parameters do not accurately depict the proposed daytime radiation pattern.

The applicant failed to submit a study with respect to compliance with § 73.187 of the rules during the critical hours of operation. Therefore it has not been determined whether or not the proposed operation would comply with § 73.187 of the Commission's rules regarding the maximum permissible radiation toward the 0.1 mv/m contour of Class I-B Station KFAB during critical hours of operations.

II. FINANCIAL CONSIDERATIONS

Each of the applicants, with the exception of those listed below, are financially qualified to construct and operate as proposed. The Commission is unable to make a finding that the applicants listed below are financially qualified and therefore, appropriate issues will be specified. The deficiencies and findings that apply to the following applications are listed below.

(1) *KFOX, Inc. (BP-16149)*. Based on the information contained in the application, KFOX has not shown that it has sufficient cash and current assets to meet the costs of construction and initial operation of the proposed station. However the applicant states that affiliated persons and companies will provide whatever cash is necessary. In view thereof, the applicant has not furnished sufficient and definite information to support the financial plan to construct and operate as proposed.

(2) *Charles W. Jobbins (BP-16157)*. Based on the information contained in the application, it appears that cash in the amount of approximately $57,067 will be required to meet initial expenditures. An analysis of the balance sheet submitted does not show cash or other current assets in an amount sufficient to construct and operate as proposed.

(3) *Crown City Broadcasting Co. (BP-16168)*. Based on the information contained in the application, it appears that funds of approximately $1,426,784 will be required for the construction and initial operation of the proposed station. The applicant's plan for financing is based upon capital of $50,000 furnished by the eleven partners, and a proposed loan of $1,000,000 from the Bank of America, Pasadena, Calif. (loan for a 3 year period which is to be personally guaranteed by the partners and/or stockholders). However, no agreements from the endorsers have been furnished in support of the statement. The applicant plans to assign the construction permit to Crown City Broadcasting Co., a corporation, and the applicant states that this corporation will have additional capital in the sum of $450,000 plus further capital in the sum of $500,000. However, no information has been furnished showing agreements as to the availability and source of the additional funds. It also appears that the applicant has entered into negotiations concerning the purchase of the present KRLA equipment and other assets but no definite arrangements have been made to date. On the basis of the incomplete information submitted, the Commission cannot determine that the applicant has sufficient cash and current assets to meet the cost of construction and operation as proposed.

(4) *Pasadena Community Station, Inc. (BP-16170)*. As of May 15, 1964, the applicants balance sheet shows that 74½ shares of capital stock have been issued and 12 shares committed for the sum of $54,000. Stockholders James M. Wood and Seymour M. Lazar have agreed to lend $300,000 and $100,000 respectively to the applicant. These two individuals have furnished balance sheets showing total assets in an amount sufficient to cover the loan commitments, but they have not shown cash and/or current assets definitely available and specifically obligated to cover the loan commitment. It also appears that the applicant is negotiating with Broadcast Equipment Corp. for acquisition or use of the realty and tangible assets which Eleven-Ten Broadcasting Corp. had been using in the operation of Station KRLA. However, no definite arrangements have been made concerning this purchase or lease. On the basis of the information contained in the application, it cannot be determined that the applicant has sufficient cash and current assets to construct and operate as proposed.

(5) *Pasadena Broadcasting Co. (BP-16174)*. Based on the information contained in the application, it appears that funds in the amount of approximately $559,000 will be required to cover the down payment on the equipment, land, building, miscellaneous expense and working capital for a reasonable time. The applicant's plan for financing is to secure funds through the sale of capital stock, a bank loan and the purchase of equipment on deferred credit. 300 shares ($300,000) of capital stock has been subscribed for by fifteen subscribers. The subscribers have furnished undated balance sheets showing total assets in considerable amounts, but have not shown cash or other assets specifically obligated to the subscription commitments. However, only four of them (Frank J. Burke, Charles E. McClung, Paul Titus and the Tribune Publishing Co.) appear to show cash and/or liquid assets available in the amount required to cover their subscription commitments. Manufacturer's credit of $240,000 is available with a twenty-five percent downpayment and the balance payable over a 48 month period. The commitment from the Bank of California for $200,000 fails to show the terms of repayment and security for the loan. On the basis of the information submitted, the Commission cannot make a determination that the applicant has sufficient cash and current assets to construct and operate as proposed.

Except as indicated by the issues specified below, the applicants are legally, technically, financially and otherwise qualified to construct and operate as proposed. However, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

It is ordered, That the requests for waiver of the note to § 1.571 of the Commission's rules by the above-captioned applicants are granted, and their applications are accepted for filing.

It is further ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the 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 the proposals, with the exception of the proposals of Station KGBS, Los Angeles, Calif. (BP-16166) and Station KFOX, Long Beach, Calif. (BP-16149), and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operations of Station KGBS, Los Angeles, Calif. (BP-16166) and Station KFOX, Long Beach, Calif. (BP-16149) and the availability of other primary service to such areas and populations.

3. To determine whether the proposals (with the exception of the proposal of Charles W. Jobbins (BP-16157) would cause objectionable nighttime interference to Station KFAB, Omaha, Nebr., or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine whether the proposals listed below would cause objectionable nighttime interference to Station KBND, Bend, Oreg., or any other existing standard broadcast stations, 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:

File No.	*Applicant*
BP-16149	KFOX, Inc.
BP-16158	Radio Southern California, Inc.
BP-16159	Goodson-Todman Broadcasting, Inc.
BP-16162	The Bible Institute of Los Angeles, Inc.
BP-16167	Pasadena Civic Broadcasting Co.

File No.	Applicant
BP-16168	Crown City Broadcasting Co.
BP-16170	Pasadena Community Station, Inc.
BP-16172	Voice of Pasadena, Inc.
BP-16174	Pasadena Broadcasting Co.

5. To determine whether the proposals listed below would cause objectionable nighttime interference to the pending application of Donnelly C. Reeves for a new standard broadcast station at Roseville, Calif. (BP-12555) or any other existing standard broadcast stations, 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:

File No.	Applicant
BP-16149	KFOX, Inc.
BP-16158	Radio Southern California, Inc.
BP-16159	Goodson-Todman Broadcasting, Inc.
BP-16162	The Bible Institute of Los Angeles, Inc.
BP-16164	Topanga Malibu Broadcasting Co.
BP-16165	California Regional Broadcasting Corp.
BP-16166	Storer Broadcasting Co.
BP-16167	Pasadena Civic Broadcasting Co.
BP-16168	Crown City Broadcasting Co.
BP-16170	Pasadena Community Station, Inc.
BP-16172	Voice of Pasadena, Inc.
BP-16173	Western Broadcasting Corp.
BP-16174	Pasadena Broadcasting Co.

6. To determine whether interference received from Station KFAB, Omaha, Nebraska, would affect more than ten percent of the population within the normally protected primary service area of the proposed operation of the applicants listed below in contravention of § 73.28 (d) (3) of the Commission's rules, and, if so, whether circumstances exist which would warrant a waiver of said Section.

File No.	Applicant
BP-16149	KFOX, Inc.
BP-16158	Radio Southern California, Inc.
BP-16159	Goodson-Todman Broadcasting, Inc.
BP-16162	The Bible Institute of Los Angeles, Inc.
BP-16167	Pasadena Civic Broadcasting Co.
BP-16168	Crown City Broadcasting Co.
BP-16170	Pasadena Community Station, Inc.
BP-16172	Voice of Pasadena, Inc.
BP-16173	Western Broadcasting Corp.
BP-16174	Pasadena Broadcasting Co.

7. To determine whether the proposal of Charles W. Jobbins (BP-16157) is consistent with the requirements of § 73.30 (b) of the Commission's rules, to warrant an authorization for dual-city operation.

8. To determine whether each of the applicants, with the exception of the proposal of Charles W. Jobbins (BP-16157), will be able to adjust and maintain the directional antenna systems as proposed in their applications.

9. To determine whether the transmitter site proposed by each of the applicants is satisfactory with particular regard to any conditions that may exist in the vicinity of the antenna system which would distort the proposed antenna radiation pattern.

10. To determine whether the proposed directional antenna parameters accurately depict the proposed radiation pattern of Topanga Malibu Broadcasting Co. (BP-16164). Voice of Pasadena, Inc. (BP-16172); and Western Broadcasting Corp. (BP-16173).

11. To determine whether the radiation proposed by Western Broadcasting Corp. (BP-16173) toward Station KFAB, Omaha, Nebr., is excessive pursuant to the provisions of § 73.187 of the Commission's rules.

12. To determine the comparative needs of the areas now served by Station KFOX including the city of Long Beach, Calif. and the areas to be served by Station KFOX operating as proposed including Pasadena, Calif., for broadcast service and, in view thereof, whether a grant of the KFOX appliction would be in accordance with section 307(b) of the Communications Act of 1934, as amended.

13. To determine whether overlap of the 2 and 25 mv/m contours would occur between any of the proposals listed below and existing Station KSDO, San Diego, Calif., in contravention of § 73.37 of the Commission's rules, and, if so, whether circumstances exist which would warrant a waiver of said section:

File No.	Applicant
BP-16149	KFOX, Inc.
BP-16157	Charles W. Jobbins.
BP-16158	Radio Southern California, Inc.
BP-16159	Goodson-Todman Broadcasting, Inc.
BP-16160	Orange Radio, Inc.
BP-16162	The Bible Institute of Los Angeles, Inc.
BP-16164	Topanga Malibu Broadcasting Co.
BP-16165	California Regional Broadcasting Corp.
BP-16166	Storer Broadcasting Co.
BP-16167	Pasadena Civic Broadcasting Co.
BP-16168	Crown City Broadcasting Co.
BP-16170	Pasadena Community Station, Inc.
BP-16172	Voice of Pasadena, Inc.
BP-16174	Pasadena Broadcasting Co.

14. To determine whether there is a reasonable possibility that the tower height and location proposed by the applicants listed below would cause a menace to air navigation.

File No.	Applicant
BP-16157	Charles W. Jobbins.
BP-16164	Topanga Malibu Broadcasting Co.

15. To determine whether the applicants listed below are financially qualified to construct and operate their proposed station.

File No.	Applicant
BP-16149	KFOX, Inc.
BP-16157	Charles W. Jobbins.
BP-16168	Crown City Broadcasting Co.
BP-16170	Pasadena Community Station, Inc.
BP-16174	Pasadena Broadcasting Co.

16. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

17. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations proposed in the above-captioned applications would better serve the public interest, in light of the evidence adduced pursuant to the foregoing issues and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate the proposed standard broadcast station.

(b) The proposals of each of the applicants with respect to the management and operation of the proposed stations.

(c) The programming services proposed in each of the applications.

18. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

It is further ordered, That, KFAB Broadcasting Co., Central Oregon Broadcasting Co., and Gordon Broadcasting of San Diego, Inc., licensee of Stations KFAB, Omaha, Nebr., KBND, Bend, Oreg., and KSDO, San Diego, Calif., respectively, are made parties to the proceeding.

It is further ordered, That, Donnelly C. Reeves, applicant for a standard broadcasting station in Roseville, Calif. (BP-12555) is made a party to the proceeding.

It is further ordered, That, in the event of a grant of any of the applications, the construction permit shall contain the following condition: Pending a final decision Docket No. 14419 with respect to presunrise operation with daytime facilities, the present provisions of § 73.87 of the Commission rules are not extended to this authorization, and such operation is precluded.

It is further ordered, That, in the event of a grant of the application of Radio Southern California, Inc. (BP-16158), or Pasadena Community Station, Inc. (BP-16170), the construction permit shall contain the following condition: Permittee shall install an approved type of frequency monitor.

It is further ordered, That, in the event of a grant of the application of Charles W. Jobbins (BP-16157), the construction permit shall contain the following condition: Permittee shall install an approved type transmitter.

It is further ordered, That, in the event of a grant of the application of Orange Radio, Inc. (BP-16160), California Regional Broadcasting Corp. (BP-16165), or Standard Broadcasting Co. (BP-16166), the construction permit shall contain the following condition: In the event of interference to the Commission's monitoring operations at the Santa Ana monitoring station from harmonic or other spurious emissions the licensee will take prompt corrective action necessary to eliminate the interference.

It is further ordered, That, in the event of a grant of the application of Pasadena Broadcasting Co. (BP-16174), the construction permit shall contain the following condition: Before program tests are authorized permittee shall submit antenna current distribution measurements to establish that the antenna towers exhibit the electrical characteristics of essentially 89.3 degree towers.

It is further ordered, That the provisions of §§ 73.188 and 73.24(e) of the Commission's rules concerning required

coverage of the City of Pasadena are waived, as to the applications specifying the facilities formerly authorized to Eleven Ten Broadcasting Corp., licensee of Station KRLA.

It is further ordered, That the participation of the KFAB Broadcasting Co., Central Oregon Broadcasting Co., and Gordon Broadcasting of San Diego, Inc., licensees of Stations KFAB, Omaha, Nebr., KBND, Bend, Oreg. and KSDO, San Diego, Calif., respectively, and Donnelly C. Reeves, applicant for a new station at Roseville, Calif. (BP-12555) in the proceeding ordered herein shall be limited to the issues affecting its proposal.

It is further ordered, That, in the event of a grant of the application of Goodson-Todman Broadcasting, Inc. (BP-16159), the construction permit shall contain a condition that program tests will not be authorized until the permittee has shown that Robert H. Foward has divested all interest in, and severed all connection with Metromedia, Inc., licensee of Station KLAC, Los Angeles, Calif.

It is further ordered, That, in the event of a grant to either KFOX, Inc., licensee of Station KFOX, Long Beach, Calif. (BP-16149) and Storer Broadcasting Co., licensee of Station KGBS, Los Angeles, Calif. (BP-16166), the construction permit shall contain the following condition: Program tests will not be authorized until the permittee relinquishes its present license to the Commission for cancellation.

It is further ordered, That the information filed by Goodson-Todman Broadcasting, Inc., California Regional Broadcasting Corp. and Crown City Broadcasting Co. that is contained in Dockets No. 15445, 15446, and 15447 respectively, which is applicable to and necessary for consideration for their respective applications for construction permits (BP-16159), (BP-16165), and (BP-16168) in this proceeding is consolidated into the Docket Numbers assigned to the respective applications by this Order.

It is further ordered, That the petition for reconsideration filed by Western Broadcasting is dismissed as moot.

It is further ordered, That the late-filed opposition to the petition for reconsideration filed by Charles W. Jobbins is dismissed as moot.

It is further ordered, That the petitions of KFAB Broadcasting Co. and Gordon Broadcasting of San Diego, Inc. are granted to the extent indicated herein.

It is further ordered, That the petition of Voice of Pasadena, Inc. filed on October 16, 1964 requesting an extension of procedural dates, is denied.

It is further ordered, That the petition of Voice of Pasadena, Inc. requesting a waiver of the Commission's rules and acceptance of a tendered amendment, filed on November 6, 1964 is denied; and that the amendment tendered for filing by Voice of Pasadena, Inc. on November 6, 1964 is hereby returned.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

It is further ordered, That, except as to the applicants against whom a financial issue has been specified (Issue 15.), the issues in the above-captioned 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 the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Adopted: December 23, 1964.

Released: December 31, 1964.

FEDERAL COMMUNICATIONS COMMISSION,[8]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-167; Filed, Jan. 6, 1965; 8:47 a.m.]

[8] Commissioners Bartley and Ford not participating.

FEDERAL POWER COMMISSION

[Docket No. E-7200]

DAYTON POWER AND LIGHT CO.

Notice of Application

DECEMBER 31, 1964.

Take notice that on December 30, 1964, an application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by the Dayton Power and Light Co. (Dayton), requesting authority to acquire the entire electric facilities of the City of Bellefontaine, Ohio (Bellefontaine).

Dayton is incorporated under the laws of Ohio and doing business in the State of Ohio with its principal business office at Dayton, Ohio. Dayton is engaged in the production, transmission, distribution and sale of electric energy in 24 counties in southwestern Ohio. It supplies electric energy at wholesale to 19 municipal systems and five rural cooperative systems, and is also interconnected with Cincinnati Gas and Electric, Columbus and Southern Ohio Electric Co., Ohio Edison Co., and Ohio Power Co.

Bellefontaine, a municipal corporation in the State of Ohio, owns and operates electric facilities which supply electric service to approximately 4,717 customers. These customers include an estimated 4,027 residential, 593 commercial and 24 industrial consumers and 73 governmental accounts. Bellefontaine also sells some energy at wholesale to Logan County Cooperative Power and Light Association.

Applicant represents that the electric facilities of Bellefontaine, as well as its gas facilities, were offered for sale through a public bid procedure prescribed by Ohio law. Dayton's bid was the highest and best submitted and was arrived at by appraisal. According to Dayton the consideration for the electric facilities is $3,574,949, plus an amount representing the net additions to such facilities from December 15, 1964, to the date of transfer payable in cash in full at the time of transfer.

Dayton represents that all of the electric facilities of Bellefontaine will be considered with the property of Dayton at the time of acquisition. According to the application said property includes the electric utility facilities of the electric system of Bellefontaine located both within and without the corporate limits of the City together with certain lands, vehicles, tools and work equipment and all contracts, licenses, grants, immunities, leases, rights of way and easements, permits, privileges and rights and all other property of the system.

According to the application the acquisition by Dayton of Bellefontaine's facilities will permit their consolidation into one integrated system with resultant economies and increased reliability. Applicant represents that Bellefontaine will be afforded improved service resulting from Dayton's improvement of the existing facilities. Dayton further represents that the rates for electric service which will be placed in effect in Bellefontaine will be Dayton's standard electric rates in effect in other communities served by Dayton. In addition Dayton states that it will also place into effect in Bellefontaine the existing electric rates of Bellefontaine and any existing customer, who would not receive a reduction in rates as a result of the application of Dayton's standard electric rates, and remain on Bellefontaine's existing rate for the term of the first rate ordinance which would be for five years.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1965, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-128; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-64]

EASTERN SHORE NATURAL GAS CO.

Notice of Application

DECEMBER 28, 1964.

Take notice that on December 18, 1964, Eastern Shore Natural Gas Co. (Appli-

cant), Salisbury, Md., filed in Docket No. CP65-64 an application to amend the order of the Commission issued in said docket November 23, 1964, which order authorized, among other things, the construction and operation of 30.25 miles of 4-inch and 6-inch pipeline from Bridgeville, Delaware to Cambridge, Md.

By the instant application to amend, Applicant seeks authorization to substitute 6-inch pipe in lieu of the presently authorized 4-inch pipe on an 8.47 mile segment of pipeline from East New Market, Md. to Cambridge, Md.

The application states that the proposed substitution will result in a reduction in estimated construction costs from the originally estimated $351,900 to the presently estimated $347,239, a savings of $4,661.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 28, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the amendment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-129; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP63-292]

INDIANA NATURAL GAS CORP.

Notice of Application

DECEMBER 31, 1964.

Take notice that on December 23, 1964, Indiana Natural Gas Corp. (Applicant) filed in Docket No. CP63-292 an application to amend the order of the Commission issued July 29, 1964, which order directed Texas Eastern Transmission Corp. (Texas Eastern) to establish physical connection with Applicant's proposed facilities, and required Texas Eastern to sell and deliver to Applicant a maximum of 2,173 Mcf of natural gas per day for resale and distribution in the towns of French Lick and West Baden Springs, Ind. and vicinity. The order was conditioned upon Applicant's filing with the Commission a contract between it and the French Lick Sheraton Hotel (Sheraton), one of Applicant's prospective customers.

By the instant application, Applicant requests that the Commission order issued July 29, 1964, in Docket No. CP63-292 be amended to delete the requirement appearing in finding paragraph (3) and ordering paragraph (A) that Applicant file a contract between it and Sheraton, since no agreement has been reached. Applicant seeks further amendment of said order by requesting the volume of gas specified in findings paragraph (3) and ordering paragraph (A) be reduced from 2,173 Mcf to 737 Mcf per day. This reduction in volume is requested due to Applicant's inability to reach agreement with Sheraton, and to the closing of West Baden College, another prospective customer of Applicant.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 1, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the amendment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-130; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-176]

KASKASKIA GAS CO.

Notice of Application

DECEMBER 28, 1964.

Take notice that on December 15, 1964, Kaskaskia Gas Co. (Applicant), Salem, Ill., filed in Docket No. CP65-176 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Mississippi River Transmission Corp. (Mississippi) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver natural gas to Applicant for resale and distribution in the community of Iuka, Ill. (Iuka), and environs, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct a natural gas distribution system in Iuka, approximately 0.85 mile of 2-inch lateral transmission line, and necessary regulating, odorizing and heating facilities. Applicant proposes to receive deliveries of gas for Iuka at a point on Mississippi's main transmission line in Marion County, Ill., approximately 0.85 mile due south of Iuka. The total estimated volumes of natural gas involved to meet Applicant's annual and peak day requirements for Iuka in the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	9,600	13,800	[illegible]
Peak day (Mcf)	106	155	[illegible]

The estimated cost of Applicant's proposed construction is $58,000, and will be financed by the issuance of common stock and by a loan from the First National Bank of Springfield, Ill.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 28, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that an order is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-131; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-170]

MISSOURI POWER & LIGHT CO.

Notice of Application

DECEMBER 28, 1964.

Take notice that on December 14, 1964, Missouri Power & Light Co. (Applicant), 106 West High Street, Jefferson City, Mo., filed in Docket No. CP65-170 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipe Line Co. (Panhandle) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver natural gas to Applicant for resale and distribution in various communities in central Missouri, all as more fully set forth in the application on file

with the Commission and open to public inspection.

Specifically, Applicant seeks natural gas for resale to Prairie Home, Auxvasse, Center, Clark, Rocheport, Renick, Elston-St. Martins, Centertown, Russellville, Lohman, Cedar City, Holts Summit, and New Bloomfield, all in the State of Missouri. The application states that in order to provide service to these communities, eight initial connections with Panhandle are required. Separate connections are required for Prairie Home, Auxvasse, Center, Clark, Rocheport, and Renick; one for Elston-St. Martins; and one for Centertown, Russellville and Lohman. The communities of Cedar City, Holts Summit and New Bloomfield will be served from an extension of the Jefferson City, Mo., distribution system of Applicant.

The estimated volumes of natural gas necessary to meet annual and maximum day requirements for the first three years of operation are 254,698 Mcf and 2,762 Mcf respectively.

The total estimated cost of Applicant's proposed distribution system and lateral transmission lines is $1,626,660, which will be financed with treasury cash and proceeds from unsecured short-term bank loans.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 28, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that an order is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-132; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-184]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

DECEMBER 31, 1964.

Take notice that on December 22, 1964, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill., filed in Docket No. CP65-184 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of additional volumes of natural gas to an existing customer, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to sell and deliver an additional Daily Contract Quantity of 3,157 Mcf to Northern Indiana Public Service Co. (Northern Indiana), for use by Northern Indiana in meeting, in part, the request of an existing customer, Inland Steel Co., for an immediate increase in firm service.

The application states that the volume for which authorization is sought represents Applicant's remaining unallocated capacity. The application further states that no additional facilities will be required to render the proposed service.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 1, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certficate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-133; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-177]

TENNESSEE GAS TRANSMISSION CO.

Notice of Application

DECEMBER 28, 1964.

Take notice that on December 17, 1964, Tennessee Gas Transmission Co. (Applicant), Tennessee Building, Houston, Tex., filed in Docket No. CP65-177 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of additional natural gas to one of its existing General Service Customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Lowell Gas Co., Lowell, Mass., has requested an additional 1,224 Mcf of peak day requirements in order to meet unanticipated natural gas requirements on their system commencing with the immediate winter heating season. The application further states that the proposed additional service can be rendered by Applicant through the utilization of a portion of the remaining unallocated annual average day capacity authorized in Docket No. CP64-165 by Commission order issued July 13, 1964, and that no additional facilities will be required by Applicant.

Applicant proposes to render the additional service pursuant to the provisions of existing rate schedules which are part of its FPC Gas Tariff, Eighth Revised Volume 1.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 28, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-134; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-185]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

DECEMBER 31, 1964.

Take notice that on December 22, 1964, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky., filed in Docket No. CP65-185 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon natural gas service to Lawrenceburg Gas Co. (Lawrenceburg Gas), Lawrenceburg, Ind., and for a certificate of public convenience and necessity authorizing Applicant to render firm natural gas service to Lawrenceburg Gas Transmission Corp. (Lawrenceburg Transmission), Lawrenceburg, Ind., all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant requests authority to render firm natural gas service to Lawrenceburg Transmission with a Contract Demand of 10,500 Mcf per

day until November 1, 1965, and 11,000 Mcf per day thereafter, and concurrently, to abandon natural gas service to Lawrenceburg Gas. Lawrenceburg Gas proposes to transfer the gas supply presently available to it from Applicant to Lawrenceburg Transmission.

The application states that, utilizing the gas supply from Applicant, Lawrenceburg Transmission will render firm natural gas service to Lawrenceburg Gas in the volumes noted above, for use by the latter in its existing authorized service area and for sale to the city of Aurora, Ind., for resale.

The application further states that Lawrenceburg Transmission will also sell, on an interruptible basis, a portion of the gas supply presently available to Lawrenceburg Gas from Applicant to Cincinnati Gas & Electric Co. (Cincinnati) for resale in its authorized service area. The application also states that no increase in the authorized maximum daily delivery obligation of Applicant to Lawrenceburg Gas is involved in this application, and that no new facilities are required by Applicant under the proposal.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 1, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-135; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-181]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

DECEMBER 30, 1964.

Take notice that on December 21, 1964, Transcontinental Gas Pipe Line Corp. (Applicant), Houston, Tex., filed in Docket No. CP65-181 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation and operation of pipeline and compressor facilities, gathering and sales meter stations and appurtenant facilities; and additional pipeline service of 136,755 Mcf per day and additional storage service of 107,050 Mcf per day to 33 existing and two new resale customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct facilities which will give it a system with total peak day sales and transportation allocations of 1,925,736 Mcf exclusive of storage, and peak day system allocation including storage and liquefied natural gas service of 2,879,627 Mcf. These proposed facilities consist of approximately 3.54 miles of 6-inch pipeline; 11.30 miles of 10-inch pipeline; 7.38 miles of 12-inch pipeline; 28 miles of 16-inch pipeline; 11.09 miles of 20-inch pipeline; 74.81 miles of 24-inch pipeline; 22.10 miles of 30-inch pipeline; 175.85 miles of 36-inch pipeline and 11.18 miles of 42-inch pipeline, to be located on portions of Applicant's system in Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Virginia, Pennsylvania, and New Jersey. In addition, Applicant seeks authorization to install a total of 15,300 horsepower of compressor facilities, to be located at Applicant's Compressor Station Nos. 63, 120, 165, 170, 505 and 520, in St. James Parish, La., Henry County, Ga., Pittsylvania County, Va., Appomattox County, Va., Somerset County, N.J., and Lycoming County, Pa., respectively.

Applicant seeks further authorization to construct and operate two gathering stations to be located in Terrebonne Parish, La., and eight sales meter stations, to be located in Spartanburg County, S.C. (two), Forsyth County, N.C., Polk County, N.C., Louisa County, Va., Fairfax County, Va., Montgomery County, Md., and Bucks County, Pa.

The estimated cost of Applicant's proposed construction is $63,600,000, and will be financed by short-term bank loans, cash on hand, and the issuance of first mortgage pipeline bonds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 1, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-136; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-182]

TRANSCONTINENTAL GAS PIPE LINE CORP., ET AL.

Notice of Application

DECEMBER 31, 1964.

Take notice that on December 21, 1964, Transcontinental Gas Pipe Line Corp. (Transco), Houston, Tex., United Natural Gas Co. (United), Oil City, Pa., and North Penn Gas Co. (North Penn), Port Alleghany, Pa., filed in Docket No. CP65-182 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the additional development and operation of the Oriskany Horizon of the Wharton Field in Potter and Cameron Counties, Pa., as a storage pool; and the construction and operation by Transco of an additional 4,500 horsepower of compression at existing Station No. 535 in the Wharton Field, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants propose to complete the field development under a Full Development Program. Under such program it is estimated that the storage pool will have a capacity to hold efficiently in storage 24,000,000 Mcf of active gas and that the pool will have the ability to deliver active gas from the Wharton Compressor Station No. 535 at a rate of not less than 300,000 Mcf per day until 85 percent of the active gas has been withdrawn. Transco's assigned storage capacity will be 18,000,000 Mcf, which is a quantity equal to 75 percent of the rated storage capacity and United's assigned storage capacity will be 6,000,000 Mcf, which is a quantity equal to 25 percent of the rated storage capacity. United's assigned delivery capacity will be 50,000 Mcf per day, which is a quantity equal to 1/120 of its assigned storage capacity, and Transco's assigned delivery capacity will be not less than 250,000 Mcf per day, being the balance of the rated delivery capacity.

North Penn, the owner of certain properties and rights in the field, will be entitled to not more than 1,000,000 Mcf of top storage capacity and 10,000 Mcf per day of deliverability under the Full Development Program.

The application states that Transco will utilize its share of the top storage capacity of the Wharton Pool to assist it in meeting the peak day requirements of its wholesale customers. United and North Penn require their portions of the top storage capacity to meet the requirements of the wholesale and retail, residential, commercial and industrial customers which they serve.

The estimated overall capital cost of the proposed additional development program is approximately $7,261,000, which will be financed by Transco through short term bank loans, cash on hand, and the issuance of first mortgage bonds.

The proposed development of the Wharton Storage Pool is part of Transco's 1965 expansion program, as set forth in its application in Docket No. CP65-181.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 1, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-137; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP65-180]

TRANSWESTERN PIPELINE CO.

Notice of Application

DECEMBER 28, 1964.

Take notice that on December 18, 1964, Transwestern Pipeline Co. (Applicant), First City National Bank Building, Houston, Tex., filed in Docket No. CP65-180 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and install, during calendar year 1965, and operate certain routine field facilities to enable it to make alterations in and additions to its existing facilities and to permit the connection of wells from existing and new sources of supply. The application states that the gas acquired by means of such facilities will be used in satisfying Applicant's existing system-wide requirements, and that no new additional sales are contemplated or proposed.

The estimated total cost of Applicant's proposed construction is not to exceed $1,200,000, with no single project to exceed $300,000, and will be financed with funds made available from company operations.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 28, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-138; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket No. CP64-164]

UNITED FUEL GAS CO.

Notice of Application

DECEMBER 28, 1964.

Take notice that on January 24, 1964, United Fuel Gas Co. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va., filed in Docket No. CP64-164 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas underground storage and compressor facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant seeks permission and approval to abandon its Storage Field X-19, located in Smithfield District, Roane County, W. Va., and its 600 horsepower Epling compressor station at the same location.

The application states that the proposed abandonment is requested since the field has low-pressure, low-capacity characteristics inconsistent with Applicant's emphasis on higher pressure transmission operations; and that due to operating conditions in the field, accelerated withdrawal of the stored gas was undertaken and has been completed.

The application further states that the net debit to retirement on account of the abandonment and retirement of Storage Field X-19 and the associated 600 horsepower compressor station is estimated to be $647,259, in addition to net gas stored inventory amortization of $266,702. The reduction in operating expense related to the abandonment is estimated to be $58,300 annually.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 28, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-139; Filed, Jan. 6, 1965; 8:45 a.m.]

[Docket Nos. G-5943, etc.]

PEMCO GAS, INC., ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

DECEMBER 31, 1964.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 26, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandon-

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

ment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-5943, E 11-24-64	Pemco Gas, Inc. (successor to Louis F. Silhol, Trustee).	Equitable Gas Co., Grant District, Wetzel County, W. Va.	20.0	14.73
G-6632, C 11-24-64	Sun Oil Co. (Southwest Division).	Tennessee Gas Transmission Co., Brayton Field, Nueces County, Tex.	[1] 14.6	14.65
G-7160, 11-24-64 [2]	Gulf Oil Corp. (Operator), et al.	Northern Natural Gas Co., Eumont, Jalmat, Blinebry, and Langlie-Mattix Pools, Lea County, N. Mex.	[3] 11.2243	14.65
G-14611, E 12-21-64	American Petrofina Co. of Texas (successor to John F. Merrick (Operator), et al.).	Texas Eastern Transmission Corp., Mayo Field, Jackson County, Tex.	12.2	14.65
G-16367, C 12-18-64, D 12-18-64 [4]	Socony Mobil Oil Co., Inc.	Transwestern Pipeline Co., Feldman-Tonkawa Field, Hemphill and Lipscomb Counties, Tex.	17.0	14.65
G-18235, C 12-22-64	Cities Service Oil Co.	Transwestern Pipeline Co., West Feldman Field, Hemphill County, Tex.	17.0	14.65
CI60-128, C 12-21-64	Pan American Petroleum Corp.	Southern Natural Gas Co., Hub Field, Marion County, Miss.	[5] 22.8	15.025
CI61-516, C 12-23-64	do	Michigan Wisconsin Pipe Line Co., Woodward Area, Major and Woodward Counties, Okla.	[6] 21.545	14.65
CI63-20, D 12-23-64	Humble Oil & Refining Co.	Arkansas Louisiana Gas Co., Arkoma Area, Latimer County, Okla.	Assigned	
CI63-286, C 12-21-64 [7]	Pan American Petroleum Corp.	Michigan Wisconsin Pipe Line Co., Woodward Gas Area, Woodward County, Okla.	[6] 21.545	14.65
CI63-337, C 12-21-64 [8]	do	Michigan Wisconsin Pipe Line Co., Woodward Gas Area, Major County, Okla.	[6] 21.545	14.65
CI65-358, A 10-5-64	D. Clayton Arnold	Hugoton Plains Gas and Oil Co., Hugoton Field, Texas County, Okla.	[9] 14.6334	14.65
CI65-443, A 11-9-64 [10], 12-14-64 [11]	White Sands Oil and Gas Corp.	El Paso Natural Gas Co., Kutz Field, San Juan County, N. Mex.	12.0	15.025
CI65-572, A 12-15-64	D. W. Stiles & B. H. Keyes	El Paso Natural Gas Co., Aztec Pictured Cliffs Field, San Juan County, N. Mex.	11.0	15.025
CI65-573, A 12-18-64	F. R. Kincaid	Equitable Gas Co., Murphy District, Ritchie County, W. Va.	25.0	15.325
CI65-574, F 12-21-64	Frank J. Hall, Operator (successor to Otis C. Coles, Jr., et al.).	United Gas Pipe Line Co., Sibley Field, Webster Parish, La.	[12] 11.7752	15.025
CI65-575, A 12-21-64	Austral Oil Co. Incorporated	Florida Gas Transmission Co., acreage in Vermilion Parish, La.	19.25	15.025
CI65-576, A 12-21-64	Thos. H. Allan, et al.	Northern Natural Gas Co., acreage in Pawnee County, Kans.	16.0	14.65
CI65-577, A 12-18-64	Robert N. Enfield (Operator), et al.	Natural Gas Pipeline Company of America, Indian Basin Area, Eddy County, N. Mex.	[13] 16.608	14.65
CI65-578, A 12-22-64	Warren Petroleum Corp.	El Paso Natural Gas Co., Caliche Plant, Lea County, N. Mex.	16.0	14.65
CI65-579, A 12-22-64	J. K. Ryan, et al.	United Gas Pipe Line Co., Agua Dulce Field, Nueces County, Tex.	14.0	14.65
CI65-580, A 12-22-64	Cabot Corp.	Colorado Interstate Gas Co., Laverne Field, Harper County, Okla.	[14] 16.0	14.65
CI65-581, A 12-22-64	Delta Drilling Co. (Operator), et al.	Northern Natural Gas Co., Eldorado Canyon Area, Schleicher County, Tex.	16.0	14.65
CI65-582, A 12-22-64	Humble Oil & Refining Co.	Montana-Dakota Utilities Co., Poison Creek Field, Fremont County, Wyo.	15.384	15.025
CI65-583, A 12-21-64	Sun Oil Co. (Southwest Division).	Natural Gas Pipeline Company of America, Indian Basin Area, Eddy County, N. Mex.	[13] 16.0	14.65
CI65-584, A 12-21-64	Pan American Petroleum Corp.	Florida Gas Transmission Co., acreage in Vermilion Parish, La.	19.25	15.025
CI65-585, A 12-21-64	George T. Abell	El Paso Natural Gas Co., Red Hills Area, Lea County, N. Mex.	16.0	14.65
CI65-586, A-12-22-64	Hanagan Petroleum Corp. (Operator), et al.	Natural Gas Pipeline Company of America, Indian Basin Field, Eddy County, N. Mex.	[13] 16.608	14.65
CI65-587, A 12-21-64	Sinclair Oil & Gas Co.	Northern Natural Gas Co., Addie Clayton Lease, Crockett County, Tex.	16.0	14.65
CI65-588, B 12-21-64	Phillips Petroleum Co.	Arkansas Louisiana Gas Co., Rodessa Field, Marion County, Tex.	Depleted	
CI65-589, A 12-23-64	Texaco Inc.	Natural Gas Pipeline Company of America, Indian Basin Area, Eddy County, N. Mex.	[14] 16.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] Subject to 0.21931 cent per Mcf deduction for dehydration.
[2] Amendment to certificate filed to cover interest of co-owner.
[3] Rate effective subject to refund in Docket No. RI64-322.
[4] Deletes nonproductive leases.
[5] Includes 1.3 cents per Mcf tax reimbursement.
[6] Includes 1.0 cent per Mcf adjustment for B.t.u. content and 1.045 cents per Mcf tax reimbursement.
[7] Adds acreage acquired from Sun Oil Co. in Docket No. CI61-1102.
[8] Adds acreage acquired from Shell Oil Co. in Docket No. CI61-524.
[9] Less a 1.0 cent per Mcf deduction for compression by the buyer and subject to a downward B.t.u. adjustment.
[10] Application previously noticed Nov. 17, 1964 in Docket Nos. G-7978, et al.
[11] Amendment to application filed proposing a rate of 12.0 cents per Mcf plus 1.0 cent per Mcf minimum guarantee for liquids in lieu of the original proposed rate of 13.0 cents per Mcf plus 1.0 cent per Mcf minimum guarantee for liquids.
[12] Includes 1.5 cents per Mcf tax reimbursement.
[13] Includes 0.608 cent per Mcf estimated B.t.u. adjustment.
[14] Subject to B.t.u. adjustment.
[15] Under stated conditions, Buyer may treat gas to meet quality specifications and be reimbursed for his cost up to 25 percent of the then current price.

[F.R. Doc. 65-141; Filed, Jan. 6, 1965; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

FIRST VIRGINIA CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(2)), by The First Virginia Corp., a registered bank holding company located in Arlington, Va., for the Board's prior approval of the acquisition by the Applicant of 80 percent or more of the voting shares of Bank of Chesapeake, Chesapeake, Va.

In determining whether to approve an application submitted pursuant to section 3(a)(2) of the Bank Holding Company Act, the Board is required by that Act to take into consideration the following factors: (1) The financial history and condition of the company and the bank concerned; (2) their prospects; (3) the character of their management; (4) the convenience, needs, and welfare of the communities and the area concerned; and (5) whether or not the effect of such acquisition would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest, and the preservation of competition in the field of banking.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary,

Board of Governors of the Federal Reserve System, Washington, D.C., 20551.

Dated at Washington, D.C., this 30th day of December 1964.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 65-121; Filed, Jan. 6, 1965; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 497]

CALIFORNIA AND OREGON

Declaration of Disaster Area

Whereas, it has been reported that during the month of December 1964, because of the effects of certain disasters, damage resulted to residences and business property located in the States of California and Oregon;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Executive Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Offices below indicated from persons or firms whose property situated in the aforesaid States and areas adjacent thereto, suffered damage or destruction resulting from floods and accompanying conditions occurring on or about December 21, 1964.

OFFICES

Small Business Administration Regional Office, 312 West Fifth Street, Los Angeles, Calif., 90013.

Small Business Administration Branch Office, 450 Golden Gate Avenue, Post Office Box 36044, San Francisco, Calif., 94102.

Small Business Administration Regional Office, 506 Second Avenue, Seattle, Wash., 98104.

Small Business Administration Branch Office, 921 SW. Washington Street, Portland, Oreg., 97205.

2. Temporary offices will be established as need is indicated and addresses will be announced locally.

3. Application for disaster loans under the authority of this Declaration will not be accepted subsequent to June 30, 1965.

Dated: December 23, 1964.

ROSS D. DAVIS,
Executive Administrator.

[F.R. Doc. 65-124; Filed, Jan. 6, 1965; 8:45 a.m.]

[Declaration of Disaster Area 498]

WASHINGTON AND IDAHO

Declaration of Disaster Area

Whereas, it has been reported that during the month of December 1964, because of the effects of certain disasters, damage resulted to residences and business property located in the States of Washington and Idaho;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Executive Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid States and areas adjacent thereto, suffered damage or destruction resulting from floods and accompanying conditions occurring on or about December 21, 1964.

OFFICES

Small Business Administration Regional Office, 506 Second Avenue, Seattle, Wash., 98104.

Small Business Administration Branch Office, North 108 Washington Street, Spokane, Wash., 99201.

Small Business Administration Branch Office, 216 North Eighth Street, Boise, Idaho, 83702.

2. Temporary offices will be established as need is indicated and addresses will be announced locally.

3. Application for disaster loans under the authority of this Declaration will not be accepted subsequent to June 30, 1965.

Dated: December 24, 1964.

ROSS D. DAVIS,
Executive Administrator.

[F.R. Doc. 65-125; Filed, Jan. 6, 1965; 8:45 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

CERTIFICATION OF STATE UNEMPLOYMENT COMPENSATION LAWS TO THE SECRETARY OF THE TREASURY

The unemployment compensation laws of the States listed below, having been certified pursuant to paragraph (3) of section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(3)) and each of the States so listed having been certified by me to the Secretary of the Treasury for the taxable year 1964 as provided in section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304), are hereby certified, pursuant to paragraph (1) of section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(1)), to the Secretary of the Treasury for the taxable year 1964.

Alabama.
Alaska.
Arizona.
Arkansas.
California.
Colorado.
Connecticut.
Delaware.
District of Columbia.
Florida.
Georgia.
Hawaii.
Idaho.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Louisiana.
Maine.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Mississippi.
Missouri.
Montana.
Nebraska.
Nevada.[1]
New Hampshire.
New Jersey.
New Mexico.
New York.
North Carolina.
North Dakota.
Ohio.
Oklahoma.
Oregon.
Pennsylvania.
Rhode Island.[1]
South Carolina.
South Dakota.
Tennessee.
Texas.
Utah.
Vermont.
Virginia.
Washington.[1]
West Virginia.
Wisconsin.
Wyoming.[1]

W. WILLARD WIRTZ,
Secretary of Labor.

DECEMBER 31, 1964.

[F.R. Doc. 65-144; Filed, Jan. 6, 1965; 8:46 a.m.]

CERTIFICATION OF STATES TO THE SECRETARY OF THE TREASURY

Pursuant to section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)) the unemployment compensation laws of the following States have heretofore been approved:

Alabama.
Alaska.
Arizona.
Arkansas.
California.
Colorado.
Connecticut.
Delaware.
District of Columbia.
Florida.
Georgia.
Hawaii.
Idaho.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Louisiana.
Maine.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Mississippi.
Missouri.
Montana.
Nebraska.
Nevada.
New Hampshire.
New Jersey.
New Mexico.
New York.
North Carolina.
North Dakota.
Ohio.
Oklahoma.
Oregon.
Pennsylvania.
Puerto Rico.
Rhode Island.
South Carolina.
South Dakota.
Tennessee.
Texas.
Utah.
Vermont.
Virginia.
Washington.
West Virginia.
Wisconsin.
Wyoming.

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)), I hereby certify the foregoing States to the

[1] No reduced rates were allowed to employers for taxable year 1964 under the unemployment compensation laws of these States.

Secretary of the Treasury for the taxable year 1964.

W. WILLARD WIRTZ,
Secretary of Labor.

DECEMBER 31, 1964.

[F.R. Doc. 65-145; Filed, Jan. 6, 1965; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Disaster Order No. 8; Amdt. 1 (Corrected)]

NORTH DAKOTA

Reduced Rail Rates on Hay for Disaster Areas

In the matter of relief under section 22 of the Interstate Commerce Act.

Present: Charles A. Webb, Vice Chairman, to whom the above-entitled matter has been assigned for action thereon.

Upon further consideration of Disaster Order No. 8, and upon consideration of requests by the Secretary of Agriculture dated December 29 and 30, 1964, to extend authority under section 22 of the Interstate Commerce Act to permit the establishment of reduced rail rates on hay to the disaster areas in North Dakota hereinafter described:

It is ordered, That Disaster Order No. 8 of December 24, 1964, be, and it is hereby, amended to provide that the authority therein granted to establish and maintain until May 31, 1965, reduced rates on hay to the disaster areas in Montana described in said order, shall also apply, subject to the same terms and conditions, to establish and maintain until May 31, 1965, reduced rail rates on hay to destinations in the counties named below:

NORTH DAKOTA

(14 counties, viz.)

Adams.	McKenzie.
Billings.	Mercer.
Bowman.	Morton.
Dunn.	Oliver.
Golden Valley.	Sioux.
Grant.	Slope.
Hettinger.	Stark.

It is further ordered, That in all other respects Disaster Order No. 8 shall remain in full force and effect.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y., the Chairman of the Southern Freight Association, Atlanta, Ga., the Chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, Ill., the Traffic Vice-President of the Association of American Railroads, Washington, D.C., and to the President of the American Short Line Railroad Association, Washington, D.C.

Dated at Washington, D.C., this 30th day of December A.D. 1964.

By the Commission, Vice Chairman Webb.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 65-162; Filed, Jan. 6, 1965; 8:47 a.m.]

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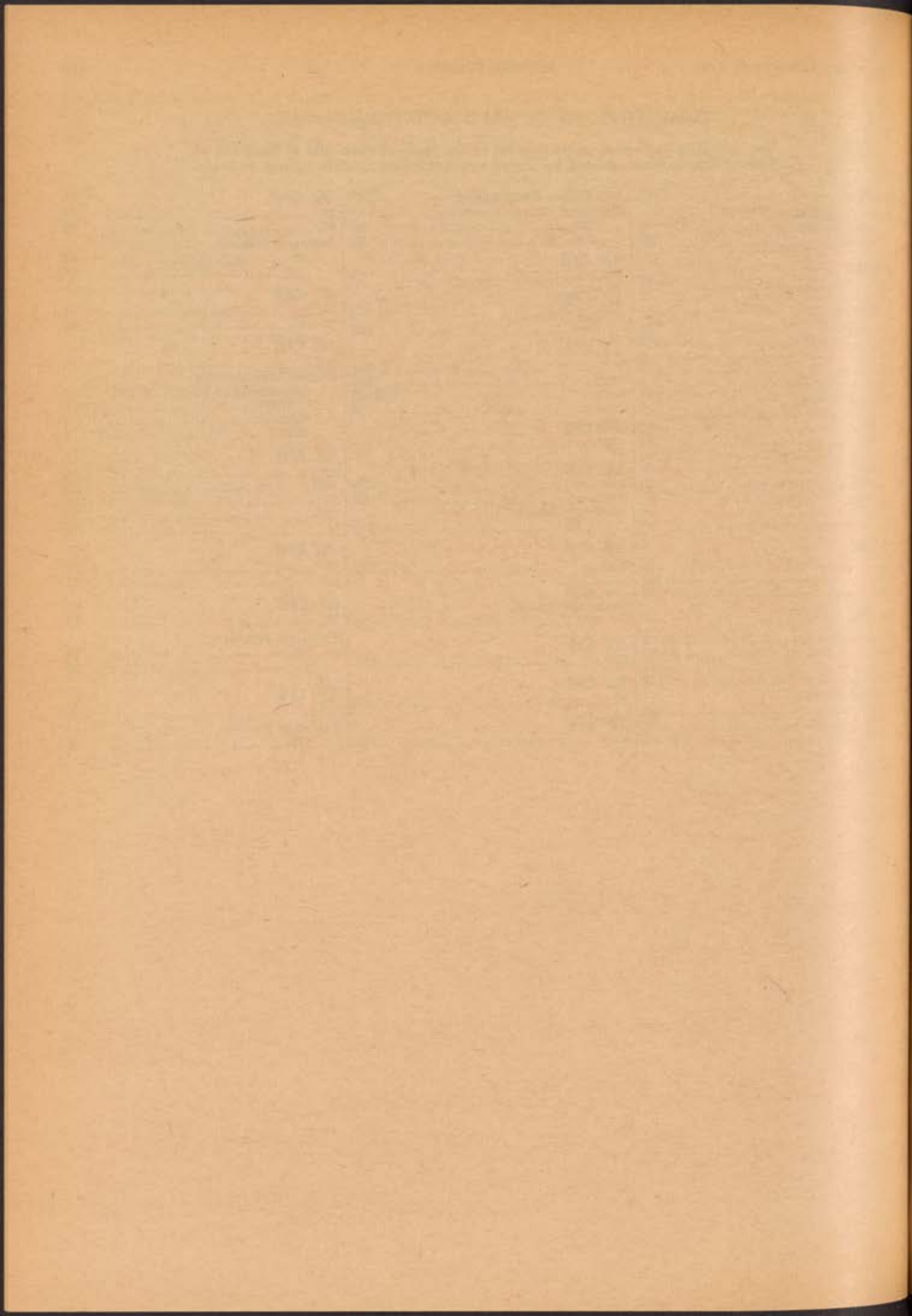

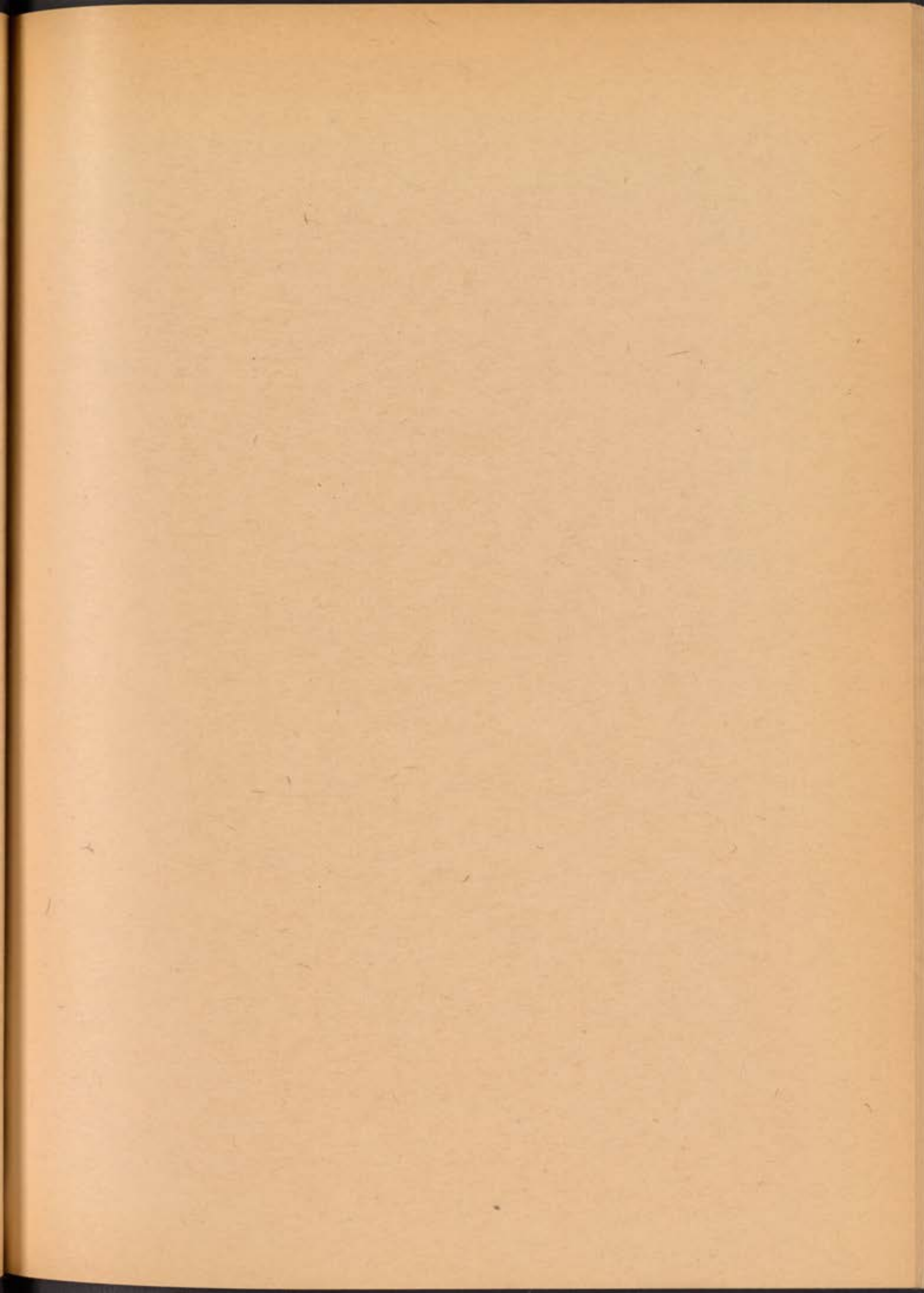

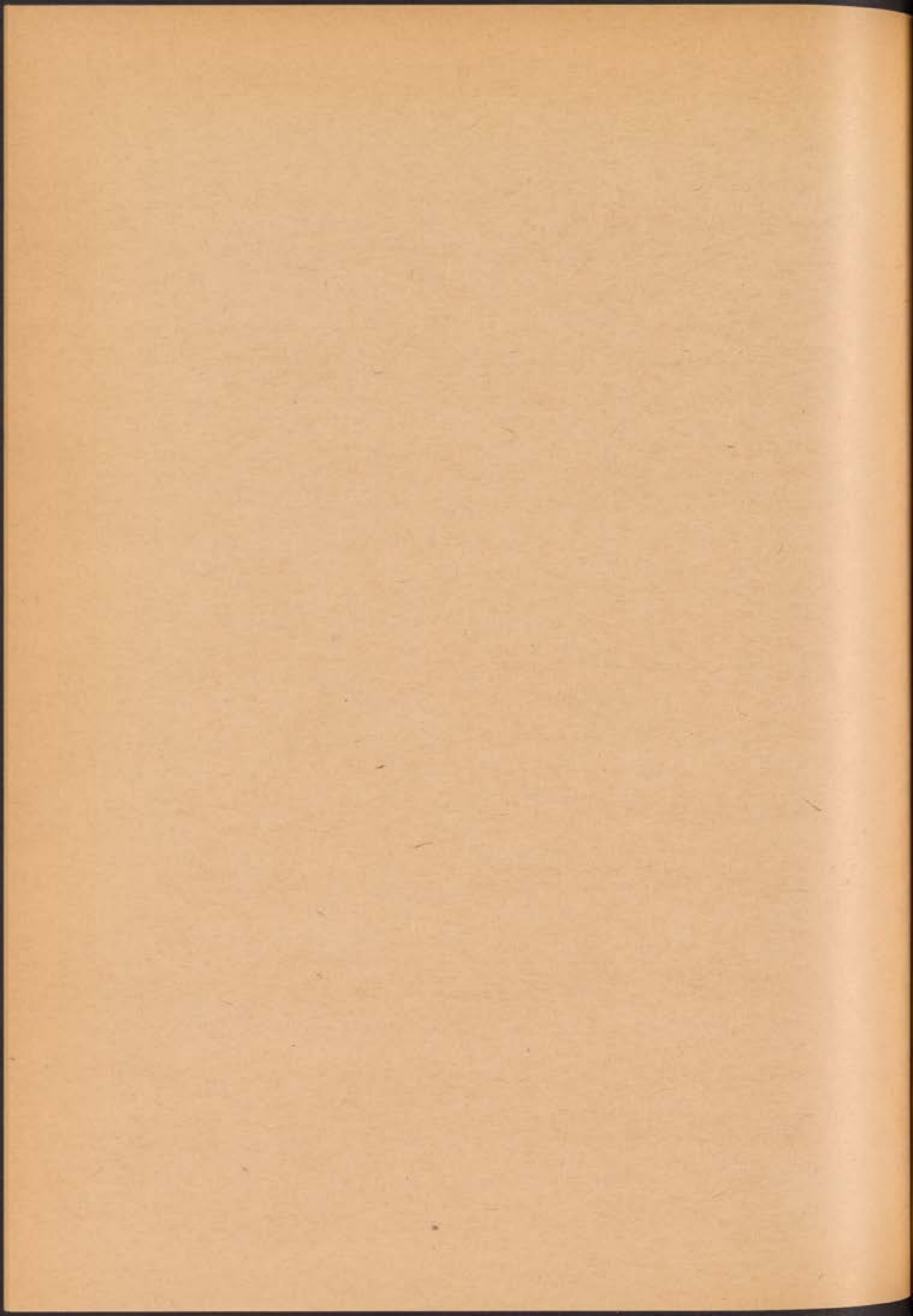

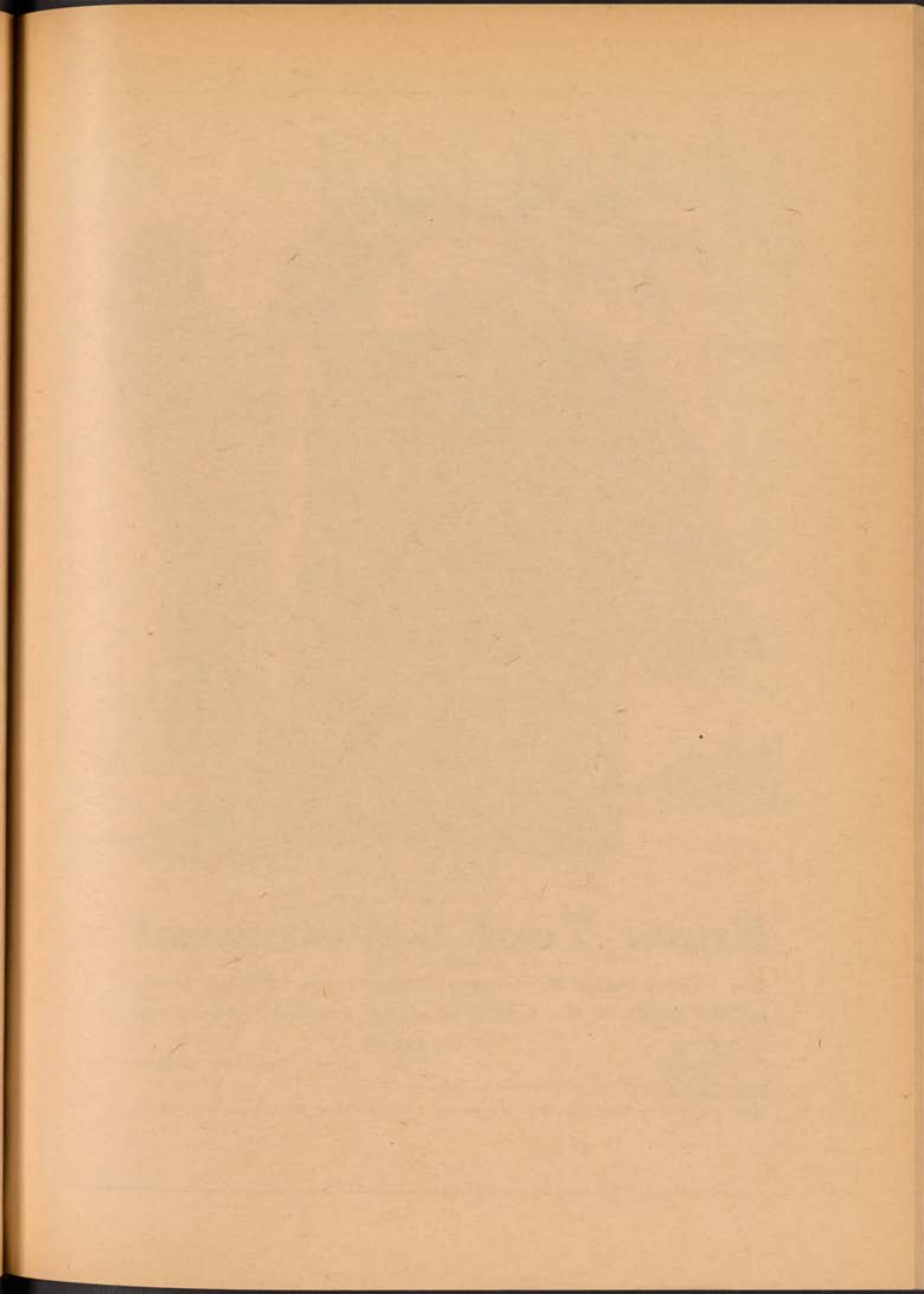

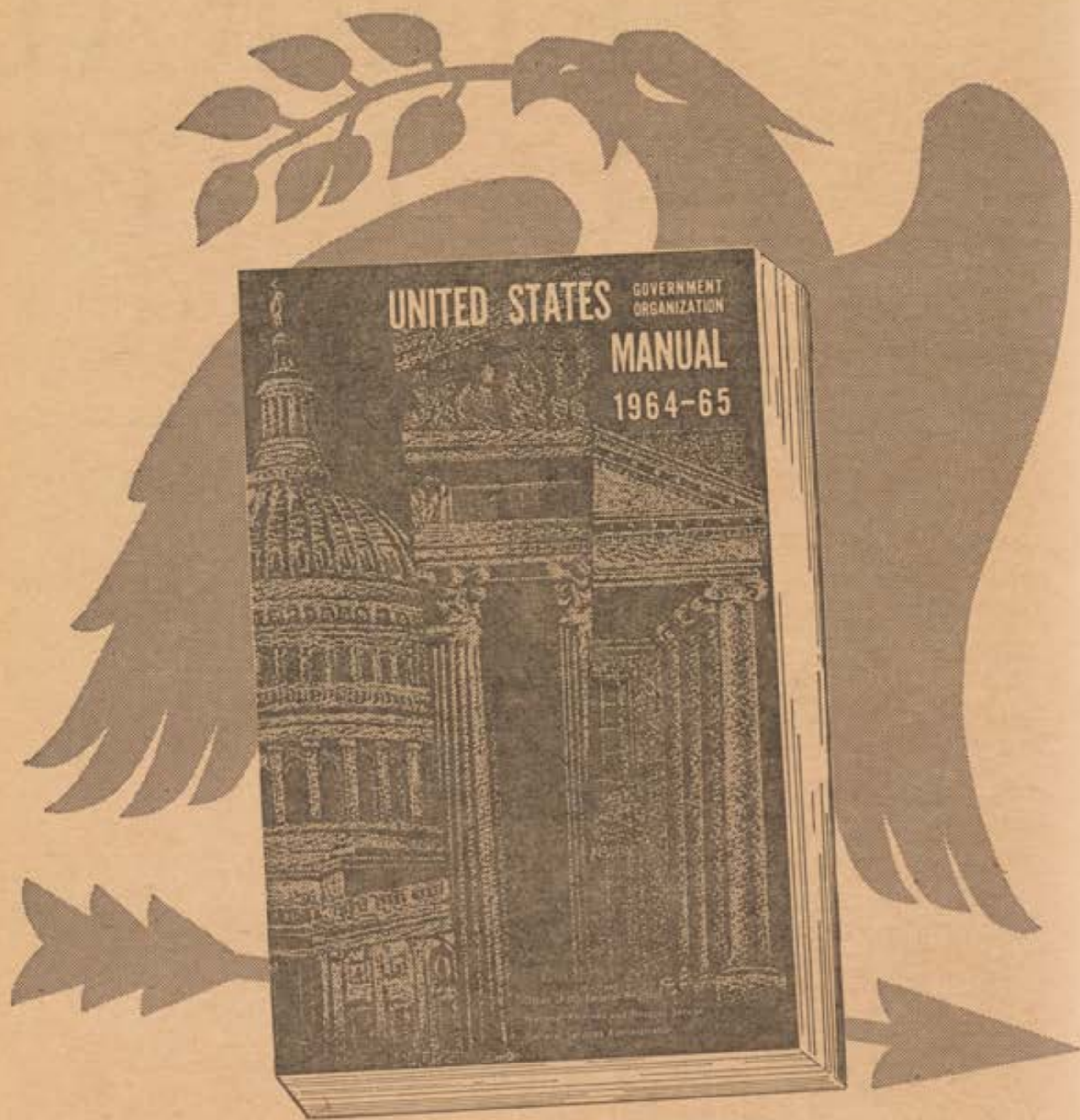

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