THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 22 NUMBER 217

Washington, Thursday, November 7, 1957

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 2]

PART 5—DETERMINATION OF PARITY PRICES

MISCELLANEOUS AMENDMENTS

The regulations of the Secretary of Agriculture with respect to the determination of parity prices (21 F. R. 761 as amended by 22 F. R. 693) are amended as hereinafter specified in order to designate peanuts, cottonseed, nectarines, alfalfa seed, Kentucky bluegrass seed, lespedeza seed, lupine seed, mustard seed, rapeseed, smooth bromegrass seed, red clover seed, timothy seed, and broccoli and escarole for fresh market as commodities for which marketing season average prices shall be used for the purpose of calculating adjusted base prices; to add nectarines, Kentucky bluegrass seed, smooth bromegrass seed, lupine seed, mustard seed, rapeseed, and broccoli and escarole for fresh market to the list of commodities for which parity prices shall be calculated; to delete maple sugar from the list of commodities for which parity prices shall be calculated; and to change the designation of the commodity "creeping red fescue" to "red fescue". These changes shall become effective January 1, 1958.

1. The paragraph of § 5.2 headed "Basic Commodities" is amended to read as follows:

BASIC COMMODITIES

Extra long staple cotton; peanuts; and the following types of tobacco: Flue-cured, types 11–14; fire-cured, types 21–24; burley, type 31; dark air-cured, types 35–36; sun-cured, type 37; Pennsylvania seedleaf, type 41; cigar filler and binder, types 42–44 and 53–55; Puerto Rican filler, type 46 (price refers to year of harvest); and cigar binder, types 51–52.

2. The paragraph of § 5.2 headed "Deciduous and Other Fruit" is amended by inserting "nectarines;" after "all grapes excluding raisins, dried;".

3. The paragraph of § 5.2 headed "Seed Crops" is amended to read as follows:

SEED CROPS

Alfalfa, alsike clover, Austrian winter peas, bentgrass, crested wheatgrass, crimson clover, Chewings fescue, red fescue, tall fescue, Kentucky bluegrass, Ladino clover, lespedeza, lupine, mustard, orchard grass, rapeseed, redtop, common ryegrass, perennial ryegrass, smooth bromegrass, Sudan grass, red clover, sweetclover, timothy, common vetch, hairy vetch, purple vetch, and white clover.

4. The paragraph of § 5.2 headed "Sugar Crops" is amended by deleting "maple sugar".

5. The paragraph of § 5.2 headed "Vegetables for Fresh Market" is amended by inserting "broccoli," after "beets," and inserting "escarole," after "eggplant,".

6. The paragraph of § 5.2 headed "Other Commodities" is amended to read as follows:

OTHER COMMODITIES

Beeswax; broomcorn; cottonseed; hops; peas, dry field; peppermint oil; popcorn; potatoes; spearmint oil; and tobacco, types 61 and 62. All other commodities for which monthly price data are not available.

7. The paragraph of § 5.4 headed "Deciduous and Other Fruit" is amended by inserting "nectarines;" after "all grapes excluding raisins, dried;".

8. The paragraph of § 5.4 headed "Seed Crops" is amended to read as follows:

SEED CROPS

Alfalfa, alsike clover, Austrian winter peas, bentgrass, crested wheatgrass, crimson clover, Chewings fescue, red fescue, tall fescue, Kentucky bluegrass, Ladino clover, lespedeza, lupine, mustard, orchard grass, rapeseed, redtop, comon ryegrass, perennial ryegrass, smooth bromegrass, Sudan grass, red clover, sweetclover, timothy, common vetch, hairy vetch, purple vetch, and white clover.

9. The paragraph § 5.4 headed "Sugar Crops" is amended by deleting "maple sugar".

10. The paragraph § 5.4 headed "Vegetables for Fresh Market" is amended by inserting "broccoli," after "beets," and inserting "escarole," after "eggplant,".

(Sec. 301, 52 Stat. 38, as amended; 7 U. S. C. 1301)

Done at Washington, D. C. this 1st day of November 1957.

[SEAL] DON PAARLBERG,
Assistant Secretary.

[F. R. Doc. 57-9253; Filed, Nov. 6, 1957; 8:49 a. m.]

CONTENTS

Agricultural Marketing Service Page
Notices:
Community Sale Yard; depositing of stockyard 8963
Peoria Union Stock Yards Co., Inc.; petition for modification of rate order 8963
Rector Auction Sale Barn et al.; posted stockyards 8963
Proposed rule making:
Shrimp; frozen, raw, breaded; U. S. standards for grades; additional time for filing data, views, or arguments 8961
Rules and regulations:
Expenses and rate of assessment for 1957–58 fiscal period for:
Grapefruit grown in Arizona; Imperial County, California; and that part of Riverside County, Calif., situated south and east of San Gorgonio Pass 8928
Oranges, grapefruit, and tangerines grown in Florida 8928
Onions grown in certain designated Counties in Idaho and Malheur County, Oreg.; limitation of shipments 8928

Agricultural Research Service
Rules and regulations:
Hog cholera, swine plague, and other communicable swine diseases; changes in areas quarantined 8929
Khapra beetle; domestic quarantine notice; regulated areas 8927

Agriculture Department
See also Agricultural Marketing Service; Agricultural Research Service.
Rules and regulations:
Agricultural Stabilization and Conservation Committees; eligibility requirements, removal from office or employment and leave; correction 8927
Determination of parity prices; miscellaneous amendments 8925

Army Department
See Engineers Corps.

FEDERAL REGISTER

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

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CONTENTS—Continued

Atomic Energy Commission Page
Notices:
American Radiator & Standard Sanitary Corp.; issuance of construction permit 8964
General Electric Co.; issuance of facility license 8965
Kellogg, M. W., Co.; proposed modification of temporary suspension order 8965

Civil Aeronautics Administration
Rules and regulations:
Canton and Wake Islands; medical and hospital expenses 8929
Standard instrument approach procedures; alterations 8930

Civil Aeronautics Board
Proposed rule making:
Flight engineer certificates 8958

CONTENTS—Continued

Civil Aeronautics Board—Con. Page
Proposed rule making—Con.
Pilots serving as Second in Command of flight crews of three or more pilots; periodic proficiency checks 8960

Commerce Department
See also Civil Aeronautics Administration; Federal Maritime Board.
Notices:
Lawrence, George E.; statement of changes in financial interests 8964

Customs Bureau
Rules and regulations:
Customs ports of Fall River, Mass., and Jacksonville, Fla.; extension of limits 8933

Defense Department
See Engineers Corps.

Defense Mobilization Office
Notices:
Appointees' statements of business interests:
Berkner, Lloyd V 8972
Botkin, Harold M 8972
Haskins, Caryl P 8972
Land, Edwin H 8972
Piore, E. R 8972

Engineers Corps
Rules and regulations:
Bridge, danger zone, navigation regulations; miscellaneous amendments 8957

Federal Communications Commission
Notices:
Canadian broadcast stations; change list 8968
Hearings, etc.:
Capitol Broadcasting Corp. (WCAW) 8969
Greenwood Broadcasting Co., Inc 8965
Greylock Broadcasting Co. (WBRK) 8968
KTAG Associates (KTAG–TV) et al 8968
Nelson, Wayne M., and Fred H. Whitley 8966
Network Study Committee 8965
Nevada Telecasting Corp 8965

Federal Maritime Board
Notices:
Agreements filed for approval:
Mitsubishi Shipping Co., Ltd., et al 8964
Pacific Coast/Caribbean Sea Ports Conference (member lines) 8964
Pacific Coast/River Plate Brazil Conference (member lines) 8964
Pacific Westbound Conference (member lines) 8964

Federal Power Commission
Notices:
Hearings, etc.:
Arkansas Louisiana Gas Co. and United Gas Pipe Line Co 8969

CONTENTS—Continued

Federal Power Commission—Continued Page
Notices—Continued
Hearings, etc.—Continued
Callery, F. A., Inc 8971
El Paso Natural Gas Co 8969
Hope Natural Gas Co 8970
Humble Oil & Refining Co 8970
Mecklenburg Electric Cooperative 8971
Pacific Northwest Pipeline Corp 8969
Trunkline Gas Co 8970

Housing and Home Finance Agency
See also Public Housing Administration.
Notices:
Director, Administrative Management (Chicago); redelegation of authority (2 documents) 8971

Interior Department
See also Land Management Bureau.
Rules and regulations:
Leases, permits, and easements for public works; correction 8956

Internal Revenue Service
Rules and regulations:
Honduras; residents, corporations and other entities; release of excess tax withheld and exemption from withholding tax at source 8953
Income tax; taxable years beginning after Dec. 31, 1953; gain or loss on disposition of property 8935

Land Management Bureau
Notices:
Arizona; order providing for opening of public lands 8962
Nevada; small tract classification (2 documents) 8961
Proposed withdrawal and reservation of lands:
Arizona 8962
Utah 8961

Public Housing Administration
Rules and regulations:
Low-rent housing program; correction 8935

Securities and Exchange Commission
Notices:
Bellanca Corp.; order summarily suspending trading 8972
Rules and regulations:
Investment Company Act; procedure with respect to applications and other matters 8933

State Department
Rules and regulations:
Visas; documentation of immigrants; Act of September 11, 1957 8934

CONTENTS—Continued

Treasury Department Page

See Customs Bureau; Internal Revenue Service.

Veterans Administration

Rules and regulations:
Persons discharged, released, or retired from active military or naval service; eligibility for hospital treatment or domiciliary care 8958

CODIFICATION GUIDE

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

Title 7	Page
Subtitle A:	
Part 5	8925
Part 7	8927
Chapter I:	
Part 52 (proposed)	8961
Chapter III:	
Part 301	8927
Chapter IX:	
Part 933	8928
Part 955	8928
Part 1017	8928
Title 9	
Chapter I:	
Part 76	8929
Title 14	
Chapter I:	
Part 35 (proposed)	8958
Part 41 (proposed)	8960
Chapter II:	
Part 577	8929
Part 609	8930
Title 17	
Chapter II:	
Part 270	8933
Title 19	
Chapter I:	
Part 1	8933
Title 22	
Chapter I:	
Part 44	8934
Title 24	
Chapter III:	
Part 320	8935
Title 26 (1954)	
Chapter I:	
Part 1	8935
Part 515	8953
Title 33	
Chapter II:	
Part 203	8957
Part 204	8957
Part 207	8957
Title 38	
Chapter I:	
Part 17	8958
Title 43	
Subtitle A:	
Part 9	8956

[Amdt. 2]

PART 7—AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES

SUBPART—SELECTION AND FUNCTIONS OF AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEES

ELIGIBILITY REQUIREMENTS, REMOVAL FROM OFFICE OR EMPLOYMENT, AND LEAVE

Correction

In Federal Register Document 57-9088, published at page 8802 in the issue for Friday, November 1, 1957, the reference in amendatory paragraph 2 to "§ 1.15" should read "§ 7.15".

Chapter III—Agricultural Research Service, Department of Agriculture

[P. P. C. 612, Sixth Revision]

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—KHAPRA BEETLE

REVISED ADMINISTRATIVE INSTRUCTIONS DESIGNATING PREMISES AS REGULATED AREAS

Pursuant to § 301.76–2 of the regulations supplemental to the Khapra Beetle Quarantine (7 CFR 301.76–2) under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), revised administrative instructions are hereby issued as follows, listing premises in which infestations of the khapra beetle have been determined to exist and designating such premises as regulated areas within the meaning of said quarantine and regulations.

§ 301.76–2a *Administrative instructions designating certain premises as regulated areas under the khapra beetle quarantine and regulations.* Infestations of the khapra beetle have been determined to exist in the premises listed in paragraphs (a) and (b) of this section. Accordingly, such premises are hereby designated as regulated areas within the meaning of the provisions in this subpart:

(a)

ARIZONA

Leo Ellsworth Feed Lot, P. O. Box 366, Queen Creek.

CALIFORNIA

C. C. Huff Farm, Route 2, Box 46, Imperial.
C. E. Kline Ranch, Route 2, Box 282, El Centro.
Penner & Firoved property, Arvin.
Raleigh Roberts Farm, Route 5, Box 2405, Oroville.

(b) The portion of each of the following premises in which live khapra beetles were found has received the approved fumigation treatment, but these premises must continue under frequent observation and inspection for a period of one year following fumigation before a determination can be made as to the adequacy of such treatment to eradicate the khapra beetle in and upon such premises. During this period regulated articles may be moved from the premises only in accordance with the regulations in this subpart.

ARIZONA

La Salvia Dairy, Box 116, Laveen Stage, Phoenix.

CALIFORNIA

John Binnell (chicken ranch), 1607 South Cucamonga Avenue, Ontario.

Cal-Fed Feed Yard, located 2 miles south of Orita, 1½ miles east on Oxalio Canal, Brawley.

Union Development Co. Warehouse, located approximately 100 yards south of intersection of County Roads No. 86 and West A, Niland.

NEW MEXICO

M. M. Martin Farm, located 11 miles south of Tolar.

Subsequent to the fifth revision, supplement 1, effective September 12, 1957, an infestation of the khapra beetle was discovered in the D. D. Dial Chicken Yard, Sandy Route, Kingman. Movement of regulated articles from this property was immediately stopped. Within a few days such infested premises had been fumigated and declared free of khapra beetle infestation. Accordingly, this property is not being included in this revision.

This revision specifies in one document the premises that were designated as khapra beetle regulated areas in administrative instructions contained in P. P. C. 612, Fifth Revision, effective August 10, 1957 (22 F. R. 6407), as amended September 12, 1957 (22 F. R. 7267); and that are still in that status. This revision supersedes the aforesaid administrative instructions and amendment thereto.

This revision has the effect of revoking the designation as regulated areas of certain permises in Arizona and California, it having been determined by the Director of the Plant Pest Control Division that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises. It also adds certain premises in Arizona and California to the list of premises in which khapra beetle infestations have been determined to exist, and designates such premises as regulated areas under the khapra beetle quarantine and regulations.

As an informative item, the revision also segregates certain regulated premises in Arizona, California, and New Mexico where the approved fumigation treatment has been applied to the portion of the premises in which live khapra beetles were found and which are consequently in a somewhat different category than untreated premises.

This revision shall be effective November 7, 1957.

These instructions, in part, impose restrictions supplementing khapra beetle quarantine regulations already effective. They also relieve restrictions insofar as they revoke the designation of certain regulated areas. They must be made effective promptly in order to carry out the purposes of the regulations and to be of maximum benefit in permitting the interstate movement, without restriction under the quarantine, of regulated products from the premises being removed

from designation as regulated areas. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the foregoing administrative instructions are impracticable and contrary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 9, 37 Stat. 318, 7 U. S. C. 162. Interprets or applies sec. 8, 37 Stat. 318, as amended, 7 U. S. C. 161)

Done at Washington, D. C., this 29th day of October 1957.

[SEAL] L. F. CURL,
Acting Director,
Plant Pest Control Division.

[F. R. Doc. 57-9251; Filed, Nov. 6, 1957; 8:49 a. m.]

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

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

APPROVAL OF EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1957–58 FISCAL PERIOD

On October 15, 1957, notice of proposed rule making was published in the FEDERAL REGISTER (22 F. R. 8152) regarding the expenses and the fixing of the rate of assessment for the 1957–58 fiscal period under Marketing Agreement No. 84, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida. This regulatory program is effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, which were submitted by the Growers Administrative Committee (established pursuant to the amended marketing agreement and order), it is hereby found and determined that:

§ 933.211 *Expenses and rate of assessment for the 1957–58 fiscal period.* (a) The expenses necessary to be incurred by the Growers Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for the maintenance and functioning, during the fiscal period beginning August 1, 1957, and ending July 31, 1958, both dates inclusive, of the Growers Administrative Committee and the Shippers Advisory Committee, established under the aforesaid amended marketing agreement and order, will amount to $192,500.00 and the rate of assessment to be paid by each handler shall be five and one-half mills ($0.0055) per standard packed box of fruit shipped by such handler during the said fiscal period; and such rate of assessment is hereby approved as each handler's pro rata share of the aforesaid expenses.

(b) As used herein, the terms "standard packed box," "handler," "shipped," and "fruit" shall have the same meaning as is given to each such term in said amended marketing agreement and order.

The provisions hereof shall become effective 30 days after publication in the FEDERAL REGISTER.

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

Dated: November 4, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Service.

[F. R. Doc. 57-9276; Filed, Nov. 6, 1957; 8:54 a. m.]

PART 955—GRAPEFRUIT GROWN IN ARIZONA; IMPERIAL COUNTY, CALIF.; AND THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF THE SAN GORGONIO PASS

EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1957–1958 FISCAL PERIOD

On October 15, 1957, notice of proposed rule making was published in the FEDERAL REGISTER (22 F. R. 8153) regarding the expenses and rate of assessment for the 1957–1958 fiscal period under Marketing Agreement No. 96, as amended, and Order No. 55, as amended (7 CFR Part 955), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of the San Gorgonio Pass. This regulatory program is effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Administrative Committee (established pursuant to the amended marketing agreement and order), it is hereby found and determined that:

§ 955.211 *Expenses and rate of assessment for the 1957–1958 fiscal period.* (a) The expenses necessary to be incurred by the Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for its maintenance and functioning during the fiscal period beginning August 1, 1957, will amount to $22,750.00; and the rate of assessment to be paid by each handler who first ships grapefruit shall be one and three-quarters cents ($0.0175) per standard box of fruit shipped by such handler as the first handler thereof during the said fiscal period. Such rate of assessment is hereby fixed as each such handler's pro rata share of the aforesaid expenses.

(b) As used in this section, "handler," "ship," "fruit," "fiscal period," and "standard box" shall each have the same meaning as is given to each such term in said amended marketing agreement and order.

The provisions hereof shall become effective 30 days after publication in the FEDERAL REGISTER.

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

Dated: November 4, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 57-9277; Filed, Nov. 6, 1957; 8:54 a. m.]

[1017.302 Amdt. 1]

PART 1017—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

LIMITATION OF SHIPMENTS

Findings. a. Pursuant to Marketing Agreement No. 130 and Order No. 117 (7 CFR Part 1017; 22 F. R. 26), regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Idaho-Eastern Oregon Onion Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

b. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) onions grown in the production area are now being shipped and are currently subject to certain size limitations (§ 1017.302; 22 F. R. 6862); (ii) more orderly marketing in the public interest than would otherwise prevail will be promoted by regulating, on and after the effective date of this amendment, the shipment of onions in the manner set forth below; (iii) information regarding the committee's recommendation has been made available to producers, handlers, and other interested parties which recommendation contained the same provisions as the amendment hereinafter set forth; (iv) this amendment should be made effective at the time herein specified, and notice thereof should be given as soon as practicable, so as to afford persons subject thereto the maximum time to prepare therefor and to adjust their operations accordingly; (v) compliance with this amendment will not require any special preparation on the part of such persons which cannot be completed by such effective time, and reasonable time is permitted, under the circumstances, for such preparation; and (vi) this amendment relieves restrictions on the handling of onions grown in the production area.

Order, as amended. The provisions of § 1017.302 (b) (FEDERAL REGISTER, August 24, 1957; 22 F. R. 6862) are hereby amended to read as follows:

(b) *Order.* During the period from November 8, 1957, through June 30, 1958:

(1) Except as otherwise provided in this section, no handler shall handle onions of the yellow or brown varieties unless such onions are of a size 2 inches in diameter, or larger (including, but not being limited to, onions that are "medium" in size and onions that are "jumbo" or "large" in size), including the tolerances for size as specified in the United States Standards for Northern Grown Onions (§§ 51.2830–51.2847 of this title).

(2) Each handler may make one shipment of less than one ton per day without regard to the inspection requirements of this part; and

(3) Yellow or brown varieties of onions may be handled for the following purposes without regard to the regulatory, assessment, and inspection requirements of this part: (i) Export; (ii) relief or charity; (iii) livestock feed; or (iv) planting.

(4) Except as otherwise provided in this section, terms used in this section shall have the same meaning as when used in Marketing Agreement No. 130 and Order No. 117 (§§ 1017.1 to 1017.88; 22 F. R. 26). The term "diameter" shall have the same meaning as set forth for such term in the United States Standards for Northern Grown Onions (§§ 51.2830–51.2847 of this title) and the terms "medium," "jumbo," and "large" shall each have the following meanings:

(i) "Medium" means, and relates to, onions that are within a diameter range of 2 inches to 3⅛ inches; and

(ii) "Jumbo" and "large" each mean, and relate to, onions that are 3 inches, or larger, in diameter.

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

Dated: November 4, 1957.

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

[F. R. Doc. 57-9278; Filed, Nov. 6, 1957; 8:54 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 383, Revised, Amdt. 95]

PART 76—HOG CHOLERA, SWINE PLAGUE, AND OTHER COMMUNICABLE SWINE DISEASES

SUBPART B—SWINE DISEASES SPREAD THROUGH RAW GARBAGE

CHANGES IN AREAS QUARANTINED

Pursuant to the provisions of sections 1 and 3 of the Act of March 3, 1905, as amended (21 U. S. C. 123, 125), sections 1 and 2 of the Act of February 2, 1903, as amended (21 U. S. C. 111–113, 120), and section 7 of the Act of May 29, 1884, as amended (21 U. S. C. 117), § 76.27, as amended, Subpart B, Part 76, Title 9, Code of Federal Regulations (22 F. R. 3005, 4377, 6753, 6910, 7223), which quarantines certain areas because of vesicular exanthema, a contagious, infectious, and communicable disease of swine, is hereby further amended in the following respects:

1. New subdivisions (xx), (xxi), (xxii), and (xxiii), are added to subparagraph (1) of paragraph (b), relating to Hartford County in Connecticut, to read:

(xx) That part of the Town of Glastonbury lying south of Forest Lane, west of Thompson Lane, north of New London Turnpike, and east of Manchester Road;

(xxi) That part of the Town of Southington lying south of State Route No. 10, west of Curtis Street, north of West Street, and east of Lazy Lane Road;

(xxii) That part of the Town of Windsor lying south of Dudleytown Road, west of Matianuck Avenue, north of Park Avenue, and east of Blue Hills Avenue; and

(xxiii) That part of the Town of Suffield lying south of State Route No. 190, west of Lake Congamond Road, north of Phelps Street, and east of Admiral Canaan Road.

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes certain areas in Connecticut from the areas heretofore quarantined because of vesicular exanthema. Hereafter, the restrictions pertaining to the interstate movement of swine, and carcasses, parts and offal of swine, from or through quarantined areas, contained in 9 CFR, 1956 Supp., Part 76, Subpart B, as amended, will not apply to such areas. However, the restrictions pertaining to such movement from nonquarantined areas, contained in said Subpart B, as amended, will apply thereto.

The amendment relieves certain restrictions presently imposed, and must be made effective immediately to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under Section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U. S. C. 111–113, 117, 120, 123, 125)

Done at Washington, D. C., this 1st day of November 1957.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 57-9252; Filed, Nov. 6, 1957; 8:49 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

PART 577—MEDICAL AND HOSPITAL SERVICES AT CANTON AND WAKE ISLANDS

Under section 10 (a) of the International Aviation Facilities Act, the Administrator of Civil Aeronautics is empowered and directed to do and perform all acts and things necessary or incident to the operation, protection, maintenance, improvement, and administration of airport property in territory outside the continental limits of the United States which he has acquired pursuant to the Act or any other provision of law. Among other things, section 10 (a) specifically authorizes the furnishing on a reimbursable basis facilities and services necessary or desirable for the operation and administration of such airport property.

Acting pursuant to the foregoing authority, and in accordance with section 3 (a) (3) of the Administrative Procedure Act, Part 577 is hereby adopted. A proprietary function of the Government is involved. Therefore, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Subpart A—Introduction

Sec.
577.1 Basis and purpose.
577.2 Definitions.

Subpart B—Provision of Services

577.3 Supervision.
577.4 Treatment in compensation cases.
577.5 Treatment in non-compensation cases.

Subpart C—Payment for Services

577.6 Charges for medical services.
577.7 Methods of payment.
577.8 Processing of payments.

Subpart D—General

577.9 Exceptions.

AUTHORITY: §§ 577.1 through 577.9 issued under sec. 10, 62 Stat. 453, as amended; 49 U. S. C. 1159. Interpret or apply 63 Stat. 907; 5 U. S. C. 596a.

SUBPART A—INTRODUCTION

§ 577.1 *Basis and purpose.* This part is based on section 10 of the International Aviation Facilities Act, and section 1 (a) of Public Law 390, 81st Congress. Its purpose is to prescribe the conditions under which the Administrator provides medical services, medical supplies and hospitalization at Canton and Wake Islands in the Pacific Ocean.

§ 577.2 *Definitions.* As used in this part:

(a) "Administrator" shall mean the Administrator of Civil Aeronautics.

(b) "CAA" shall mean the Civil Aeronautics Administration.

(c) "Dependent" shall mean a person who is a member of the immediate family of, and receives more than half of his support from, a Federal employee or a non-Federal employee.

(d) "Federal employee" shall mean a civilian employee of any agency of the United States Government or a member of the Armed Forces thereof, while serving on active duty.

(e) "Immediate family" shall mean an employee's spouse, children (including stepchildren and adopted children) unmarried and under 21 years of age or physically or mentally incapable of supporting themselves regardless of age, and dependent parents (but not a father-in-law or mother-in-law).

(f) "Island Manager" shall mean a designated official in charge of the Island and CAA activities thereon.

(g) "Island Medical Officer" shall mean a medical doctor designated by the CAA.

(h) "Non-Federal employee" shall mean any person at an Island location permanently or temporarily assigned by a non-Federal agency engaged in aeronautical activities.

(i) "Transient" shall mean a person not included within the definition of paragraphs (c), (d) and (h) of this section who, in connection with an aeronautical activity, transits the Island for a period of less than one month duration.

SUBPART B—PROVISION OF SERVICES

§ 577.3 *Supervision.* The medical services, medical supplies and hospitalization furnished by CAA at Canton and Wake Islands are provided under the administrative control of each Island Manager and the professional direction of each Island Medical Officer.

§ 577.4 *Treatment in compensation cases.* For Federal employees under the jurisdiction of the Bureau of Employee's Compensation, treatment is provided free for injuries sustained while in performance of duty and for diseases proximately caused by the conditions of employment. If medical, dental or surgical services or facilities on the Island are determined by the Island Medical Officer to be inadequate, transportation for CAA employees is provided to adequate services or facilities either in Honolulu, Hawaii, or the closest available location without cost to the employee. Transportation in such cases of persons other than CAA employees is the responsibility of the employing agency.

§ 577.5 *Treatment in non-compensation cases.* Subject to the charges provided under § 577.6, general treatment of all injuries and diseases will be provided to Federal employees, non-Federal employees and their dependents, and transients. If medical, dental or surgical services or facilities on the Island are determined by the Island Medical Officer to be inadequate, transportation for CAA employees and their dependents is provided to adequate services or faclities, either in Honolulu, Hawaii, or the closest available location, without cost to the employees or dependents. Transportation in such cases of persons other than CAA employees or their dependents is the responsibility of the employing agency or the patient if a transient.

SUBPART C—PAYMENT FOR SERVICES

§ 577.6 *Charges for medical services.* Medical services, medical supplies and hospitalization are available at Canton and Wake Island at the following rates:

(a) *Treatment, consultation and services*—(1) *Compensation cases.* No charge is made for cases handled under § 577.4.

(2) *Federal employees and dependents.* (i) For calls at the CAA dispensary during regular dispensary hours the charges for the services of the technician are fifty cents ($0.50) per call; for the services of the nurse, one dollar ($1.00) per call; and for the services of the doctor, three dollars ($3.00) per call,

(ii) For calls at the dispensary outside regular dispensary hours or at places other than the dispensary, the charges for the services of the technician are one dollar ($1.00) per call; for the services of the nurse, two dollars ($2.00) per call; and for the services of the doctor, five dollars ($5.00) per call.

(3) *Non-Federal employees and dependents.* Charges are based on an apportionment of all items of cost involved in the furnishing of services and supplies and are fixed in written agreements with the employing agencies.

(4) *Transients.* Charges are based on an apportionment of all items of cost involved in the furnishing of services and supplies.

(b) *Medication.* Except as provided in paragraphs (c) and (d) of this section, a fee, to be determined administratively but not to exceed three dollars ($3.00), shall be charged to all personnel for medications not administered by the medical staff.

(c) *Hospitalization.* Except as provided in subparagraph (1) of paragraph (d) of this section, a fee of seven dollars and fifty cents ($7.50) per calendar day or fraction thereof shall be charged to all personnel for hospital services not including meals, which will be otherwise provided and charged for, but including the services of the doctor and nurse, medical supplies, drugs, X-rays and any other medical and surgical services and supplies, available on the Island, which in the opinion of the doctor are necessary to the treatment of the hospitalized patient.

(d) *Miscellaneous*—(1) *Maternity cases.* A fee of one hundred twenty-five dollars ($125.00), which will include pre-natal, delivery and post-natal care and attendance and hospitalization, excluding meals, for a period not to exceed three days shall be charged in all maternity cases.

(2) *Immunization.* A fee not to exceed three dollars ($3.00) or the cost of the vaccine used if that cost is in excess of three dollars ($3.00) shall be charged to all personnel for any immunization not required in connection with Federal employment. Such charge shall cover the administration of the vaccine as well as the cost of the vaccine itself.

(3) *Laboratory services.* The following fees for laboratory services or specialized treatment shall be charged to all personnel:

Diathermy treatments	$1.00
X-ray	3.00
Complete blood count	3.00
Wassermann	3.00
Urinalysis	1.00

(4) *Physical examination.* A fee of ten dollars ($10.00) shall be charged to all personnel for each examination not required in connection with the individual's Federal employment.

(e) *Other services and treatment.* Services and treatment not specifically mentioned above will be provided at a rate determined by the Regional Administrator.

(f) *Posted charges.* A list of all charges specified under the authority of this part shall be prominently posted in the dispensary.

§ 577.7 *Methods of payment.* (a) Payment due from Federal employees and their dependents will be made as administratively determined, except that CAA payroll deductions will not be made.

(b) Payments due from non-Federal employees shall be made at the time the service is rendered unless the employing agency has made prior written arrangements with CAA for payment on a periodic basis or unless immediate payment is not practicable in a specific case.

(c) Payments due from transients will be collected at the time the service is rendered unless immediate payment is not practical in a specific case. In such a case the transient's home or business address should be secured prior to his leaving the Island to permit subsequent contract for collection of monies due the government.

§ 577.8 *Processing of payments.* All payments for medical and hospital services at Canton and Wake Islands shall only be due and collected as provided herein and shall be promptly transmitted to the Island Manager who will schedule and forward them to the Regional Office, Honolulu, T. H., in accordance with prescribed procedures.

SUBPART D—GENERAL

§ 577.9 *Exceptions.* The Island Manager is authorized to waive any of the requirements in this part where he determines a waiver is appropriate in emergency cases or is required for humanitarian reasons. He shall report annually to the Administrator through the Regional Office, Honolulu, Hawaii, on the waivers granted by him under this section during the preceding fiscal year.

This part shall become effective January 1, 1958.

[SEAL] WILLIAM B. DAVIS,
Acting Administrator of Civil Aeronautics.

OCTOBER 29, 1957.

[F. R. Doc. 57-9226; Filed, Nov. 6, 1957; 8:45 a. m.]

[Amdt. 42]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

PROCEDURE ALTERATIONS

The standard instrument approach procedures appearing hereinafter are adopted to become effective when indicated in order to promote safety. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 609 is amended as follows:

NOTE: Where the general classification (L/MFR, ADF, VOR, TerVOR, VOR/DME, ILS, or RADAR), location, and procedure number (if any) of any procedure in the amendments which follow, are identical with an existing procedure, that procedure is to be substituted for the existing one, as of the effective date given, to the extent that it differs from the existing procedure; where a procedure is cancelled, the existing procedure is revoked; new procedures are to be placed in appropriate alphabetical sequence within the section amended.

1. The low or medium frequency range procedures prescribed in § 609.100 (a) are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of Civil Aeronautics. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Mustang FM	OKC-LFR (Final)	Direct	2000	T-dn	300-1	300-1	200-½
Bethany Int	OKC-LFR	Direct	2500	C-dn	400-1	500-1	500-1½
Oklahoma City VOR	OKC-LFR	Direct	2500	A-dn	800-2	800-2	800-2

Radar transition altitudes within 20 mi of Will Rogers Field—0-90 3800′; 90-180 2700′; 180-360 2800′.
Procedure turn S side crs, 255 Outbnd, 075 Inbnd, 2500′ within 10 mi. Beyond 10 mi. NA.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 091—1.4.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.4 miles, climb to 2700′ on E crs of OKC LFR within 20 miles.

City, Oklahoma City; State, Oklahoma; Airport Name, Will Rogers; Elev., 1283′; Fac. Class, SBRAZ; Ident. OKC; Procedure No. 1, Amdt. 8; Eff. Date, 30 Nov. 57; Sup. Amdt. No. 7; Dated, 28 July 56

2. The automatic direction finding procedures prescribed in § 609.100 (b) are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of Civil Aeronautics. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Lake Charles VOR	LCH RBn	Direct	1300	T-dn	300-1	300-1	200-½
Radar vectoring position	LCH RBn (Final)	352-5.0	800	C-dn	500-1	500-1	500-1½
				A-dn	800-2	800-2	800-2

Radar terminal area transition altitude 1500′ within 25 mi. Radar may be used to position aircraft for final approach within 5 miles of LCH RBn with the elimination of a procedure turn.
Procedure turn East side of S crs, 172 Outbnd, 352 Inbnd, 1300′ within 10 mi. Beyond 10 mi. NA.
Minimum altitude over facility on final approach crs, 800′.
Crs and distance, facility to airport, 003—1.7.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.7 mi, climb to 1500′ on crs of 340° within 20 mi.

City, Lake Charles; State, La.; Airport Name, Lake Charles AFB; Elev., 19′; Fac. Class, MH; Ident., LCH; Procedure No. 2, Amdt. 2; Eff. Date, 30 Nov. 57; Sup. Amdt. No. 1; Dated, 12 Oct. 57

3. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of Civil Aeronautics. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
BTR-LFR	Creole Int#	Direct	1500	T-dn	300-1	300-1	200-½
BTR-VOR	Creole Int#	Direct	2000	C-dn	400-1	500-1	500-1½
Int SE crs ILS and BTR R-114	Amite Int*	Direct	1500	S-dn-31	400-1	400-1	400-1
Amite Int	Creole Int# (Final)	Direct	900	A-dn	800-2	800-2	800-2

Procedure turn E side SE crs, 126 outbnd, 306 inbnd, 1400′ within 10 mi of Creole Int. NA beyond 10 mi.
No glide slope.
Minimum altitude over Creole Int, 900′.
Crs and distance. Creole Int to airport, 396-4.8.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.8 mi after passing Creole Int, climb to 1300′ on NW crs ILS within 10 mi of LOM, or when directed by ATC, turn right, climb to 1600′ on R-040 within 20 mi, or turn left, climb to 1500′ to BTR VOR on R-064.
#Creole Int: Int. SE crs BTR ILS and 085 Rad. BTR VOR.
*Amite Int: Int SE crs BTR ILS and 095 rad. BTR VOR.

City, Baton Rouge; State, La.; Airport Name, Ryan; Elev., 70′; Fac. Class, ILS; Ident. IBTR; Procedure No. ILS-31, Amdt. 1; Eff. Date, 30 Nov. 57; Sup. Amdt. No. Orig.; Dated, 7 Sept. 57

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Evanston Int*	LOM	Direct	2500	T-dn	300–1	300–1	200–½
NBU-LFR	LOM	Direct	2500	C-dn	400–1	500–1	500–1½
Dundee Int via crs 056 (ILS only)	NW crs ILS (Final)	Direct	2500	S-dn-14R:			
Int E crs RFD LFR and NW crs ILS (ILS only).	LOM (Final)	Direct	2500	ILS	200–½	200–½	200–½
				ADF	400–1	400–1	400–1
Int R-338 API and NW crs ILS	LOM (Final)	Direct	2500	A-dn:			
Midway LOM	LOM	Direct	2500	ILS	600–2	600–2	600–2
Int R-270 OBK and NW crs ILS (ILS only).	LOM (Final)	Direct	2500	ADF	800–2	800–2	800–2
O'Hare VOR	LOM	Direct	2500				
Northbrook VOR	LOM	Direct	2500				

Radar transition to final approach course authorized. Aircraft will be released for final approach without procedure turn on inbound final approach course at least 3.0 miles from LOM. Refer to radar procedures for O'Hare if sector altitude information desired.

*Evanston Int: Int R-075 ORD and R-135 OBK.

Procedure turn West side of crs, 318 Outbnd, 138 Inbnd, 2500' within 10 miles.

Minimum altitude over LOM, 2500' ILS, 2000' ADF.

Distance, LOM to airport, 6.0 miles.

Altitude of G. S. and distance to approach end of runway at OM, 2466—6.07; at MM, 884—0.5.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make immediate left (north) turn, climb to 2500' or higher altitude specified by ATC and proceed to Northbrook VOR via O'Hare TVOR R-030 and Northbrook VOR R-135, or if directed by ATC (1) Make immediate left turn, climb to 3500', proceed to *Evanston Int via R-075 ORD TVOR; (2) Make immediate left turn, climb to 2500', proceed to NBU LFR via 030° crs and SE crs NBU LFR.

City, Chicago; State, Ill.; Airport Name, O'Hare Intl.; Elev., 657'; Fac. Class, ILS-IORD; Ident, LOM-OR; Procedure No. ILS-14R, Amdt., Orig.; Eff. Date, 30 Nov. 57 or date of commissioning of facility

Duncanville RBn	Hensley Int (Final)	Direct	1500	T-dn	300–1	300–1	200–½
Britton VOR	Hensley Int	Direct	3300	C-dn	400–1	500–1	500–1½
				S-dn-31	300–1	300–1	300–1
				A-dn	800–2	800–2	800–2

Radar transition altitude within 20 mi, 2000'. Radar control must provide 3 mi or 1000' vertical separation; or 3 to 5 mi and 500' vertical separation from radio towers 2340' msl 15 mi SSE, 1743' msl 12 mi WSW, and 1221' msl 6 mi N.

Procedure turn E side SE crs, 129 Outbnd, 309 Inbnd, 2000' within 10 mi of Hensley Int. Beyond 10 mi NA.

No glide slope. Final approach altitude over Hensley Int, 1500'; distance to approach end of Rnwy 31, 4.6 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 mi of Hensley Int, climb to 1900' on NW crs of ILS within 20 mi or, when directed by ATC, proceed to Ft Worth LFR via NW crs of ILS and E crs LFR, climbing to 2000'.

CAUTION: Radio tower located 4.3 mi ENE of outer marker.

City, Ft. Worth; State, Tex.; Airport Name, Amon Carter; Elev., 568'; Fac. Class, ILS; Ident., LACF; Procedure No. ILS-31, Amdt. 6; Eff. Date, 30 Nov. 57; Sup. Amdt. No. 5; Dated, 26 Sept. 57

Haslet RBn	North crs ILS	Direct	2000	T-dn	300–1	300–1	200–½
Ft. Worth LFR	OM	Direct	2000	C-dn	#500–1	600–1	600–1½
				S-dn-17#	300–¾	300–¾	300–¾
				A-dn	600–2	600–2	600–2

Radar Terminal Area Transition Altitude 2000' within 20 miles of Radar site. Radar control must provide 3 mi. or 1000' vertical separation; or 3 to 5 mi. and 500' vertical separation from radio towers 1743' msl 6 mi. SE; 1679' 7 mi. SE.

#500–¾ required when G. S. not utilized.

Procedure turn W side N crs, 354 Outbnd, 174 Inbnd, 2000' within 10 mi. Beyond 10 mi. NA.

Minimum altitude at G. S. int inbnd, 2000'.

Altitude of G. S. and distance to appr end of rny at OM 2000—3.5, at MM 950—0.6.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2000' on S crs ILS within 20 miles.

NOTE: Take-off on runways 9–27 and 13–31 NA with less than 300–1.

AIR CARRIER NOTE: Reduction in landing minima NA on cargo or ferry flights.

CAUTION: 956' bldg 2.1 mi S of OM. 1743' tower 4.8 mi E of ILS S crs.

City, Ft. Worth; State, Tex.; Airport Name, Meacham; Elev., 692'; Fac. Class, ILS; Ident., IFTW; Procedure No. ILS-17, Amdt. 10; Eff. Date, 30 Nov. 57; Sup. Amdt. No. 9; Dated, 10 Oct. 56

Russell Int	Rockwood FM (Final)	Direct	1-500	T-dn	300–1	300–1	200–½
Int 246° crs DAL-RBn and S crs ILS	Rockwood FM (Final)	Direct	1-500	C-dn	500–1	600–1	600–1½
				S-dn-35*	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Radar Terminal Area transition altitude 2000' within 20 mi of radar site. Radar Control must provide 3 mi or 1000' vertical separation: or 3 to 5 mi, and 500' vertical separation from radio towers 1743' msl 6 mi SE; 1679', 7 mi SE.

*660 FPM descent required at 110K.

Procedure turn W side S crs, 174 Outbnd, 354 Inbnd, 2000' within 10 mi. Rockwood FM#. Beyond 10 mi NA.

#Procedure turn non-standard due obstruction.

No Glide Slope. Final approach altitude and distance 1500' at Rockwood FM, 2.3 mi to appr end of rny 35.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.3 mi of Rockwood FM, climb to 2000' on N crs ILS within 20 mi.

NOTE: Take-off on Runways 9–27 and 13–31 NA with less than 300–1.

AIR CARRIER NOTE: Reduction in landing minima NA on cargo and ferry flights.

CAUTION: Tank 864' MSL located 1.3 mi W of crs between Rockwood FM and airport. TV Tower 1743' MSL located 4.8 mi E of S crs ILS.

City, Ft. Worth; State, Tex.; Airport Name, Meacham; Elev., 692'; Fac. Class, ILS; Ident., IFTW; Procedure No. ILS-35, Amdt. 7; Eff. Date, 30 Nov. 57; Sup Amdt. No. 6; Dated, 5 Sept. 57

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Ontario VOR	LOM	Direct	*3200	T-dn	300-1	300-1	200-½
Fontana FM	LOM	Direct	*5000	C-dn	600-1	600-1	600-1½
Riverside LFR	LOM	Direct	*4000	S-dn-ry 25:			
Downey RBN	LOM	Direct	#3200	ILS	300-¾	300-¾	300-¾
Riverside LFR	Colton RBn	Direct	%4000	ADF	600-1	600-1	600-1
Corona Int	ONT VOR	Direct	6700	A-dn	800-2	800-2	800-2
Colton RBn	LOM (Final)	Direct	**2700				

*Must be on top with tops not above 7000′ MSL for ADF approach.
#Must be on top with tops not above 7000′ MSL for either ILS or ADF approach.
%Must be on top with tops not above 5000′ for ADF approach.
**After intercepting glide slope, descent to cross LOM at 2120′ is authorized.
Procedure turn S side of crs, 075 Outbnd, 255 Inbnd, 3200′ within 10 mi of LOM. Beyond 10 mi NA (Nonstandard due to terrain).
Minimum altitude at glide slope int inbnd—2700′ ILS. Min. alt. over LOM inbnd final—2700′ ADF.
Altitude of glide slope and distance to approach end of runway at LOM, 2120—3.7; at MM, 1140—0.4.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 mi of LOM, ILS: Climb to 3000′ on W crs ILS not beyond Fairgrounds Int; ADF: Climb on 255° crs from LOM to Fairgrounds Int, then reverse crs to left, climb to on top on 075° crs to LOM.
CAUTION: High terrain North.
NOTE: Shuttle to 4000′ between LOM and Fairgrounds Int. All turns South.

City, Ontario; State, Calif.; Airport Name, International; Elev., 952′; Fac. Class, ILS-ONT; Ident., LOM-ON; Procedure No. ILS-25, Comb. ILS-ADF; Amdt. 6; Eff. Date, 30 Nov. 57; Sup. Amdt. No. 5; Dated, 12 Nov. 55

San Antonio VOR via R-143	Wetmore Int	Direct	2400	T-dn	300-1	300-1	200-½
San Antonio LFR via crs 084	Wetmore Int	Direct	2400	C-dn	400-1	500-1	500-1½
Bracken Int	Wetmore Int (Final)	Direct	1800	S-dn-21	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn W side NE crs, 031 Outbnd, 211 Inbnd, 2400′ within 10 mi of Wetmore Int. Beyond 10 mi NA.
Minimum altitude over Wetmore Int 1800′.
No Glide slope, no outer marker, distance Wetmore Int to rny 21, 3.1 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.1 mi after passing Wetmore Int, climb to 2200′ on S crs SAT LFR or R-174 SAT within 20 miles.

City, San Antonio; State, Tex.; Airport Name, International; Elev., 800′; Fac. Class, ILS-ISAT; Ident., NE crs ILS; Procedure No. ILS-21, Amdt. 5; Eff. Date, 30 Nov. 57; Sup. Amdt. No. 4; Dated, 10 Mar. 56

These procedures shall become effective on the dates indicated on the procedures.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

[SEAL]

WILLIAM B. DAVIS,
Acting Administrator of Civil Aeronautics.

OCTOBER 30, 1957.

[F. R. Doc. 57-9183; Filed, Nov. 6, 1957; 8:45 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 270—RULES AND REGULATIONS; INVESTMENT COMPANY ACT OF 1940

PROCEDURE WITH RESPECT TO APPLICATIONS AND OTHER MATTERS

The Securities and Exchange Commission announced today the adoption of a revision of § 270.0-5 (Rule N-5) under the Investment Company Act of 1940. This rule provides a simplified general procedure designed to expedite the disposition of proceedings, initiated by application or upon the Commission's own motion, pursuant to any section of the act or any rule or regulation thereunder, except in cases under specific sections where a different procedure is provided by a specific rule. Notice of the proposed revision was given on October 4, 1957 in Investment Company Act Release No. 2612.

As heretofore in effect paragraph (c) of the rule could have been interpreted to provide that the Commission would order a hearing on a matter upon the request of any interested person whether or not it appeared that a hearing was necessary or appropriate in the public interest or for the protection of investors.

Section 270.0-5 (Rule N-5) as revised herewith clearly provides that a hearing will be ordered upon the request of an interested person or upon the Commission's own motion only if it appears to the Commission that a hearing is necessary or appropriate in the public interest or for the protection of investors.

Statutory basis. This action is taken pursuant to the authority vested in the Commission by the Investment Company Act of 1940, particularly sections 38 (a) and 40 (a) thereof.

Paragraph (c) of § 270.0-5 (Rule N-5) is hereby amended to read as follows:

§ 270.0-5 *Procedure with respect to applications and other matters* * * *

(c) The Commission will order a hearing on the matter, if it appears that a hearing is necessary or appropriate in the public interest or for the protection of investors, (1) upon the request of any interested person or (2) upon its own motion.

(Sec. 38, 54 Stat. 841; 15 U. S. C. 80a-37)

Effective: October 25, 1957.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

OCTOBER 25, 1957.

[F. R. Doc. 57-9246; Filed, Nov. 6, 1957; 8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54476]

PART 1—CUSTOMS DISTRICTS, PORTS, AND STATIONS

EXTENSION OF LIMITS OF CUSTOMS PORTS OF ENTRY OF FALL RIVER, MASS., AND JACKSONVILLE, FLA.

OCTOBER 30, 1957.

By virtue of the authority vested in the President by section 1 of the act of August 1, 1914, 38 Stat. 623 (19 U. S. C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR, 1951 Supp., Ch. II), the following changes in the field organization of the Bureau of Customs are hereby made, effective upon the date of publication of this Treasury Decision in the FEDERAL REGISTER:

1. The limits of the customs port of entry of Fall River, Massachusetts, in Customs Collection District No. 4 (Massachusetts), comprising the territory within the corporate limits of that city, are extended to include the Township of Somerset, Massachusetts, and the waters and shores of the Taunton River immediately adjacent thereto.

2. The limits of the customs port of entry of Jacksonville, Florida, in Customs Collection District No. 18 (Florida), comprising the territory within the corporate limits of that city, are extended to include the territory bounded as follows:

Commencing at a point which is the intersection of North line of Township 1 South and the Atlantic Ocean thence in a Westerly direction along said Township line to a point which is the intersection of said line with the West line of Range 26 East; thence in a Southerly direction along the West line of Range 26 East to a point which is the intersection of said range line with the North line of Township 4 South (also boundary between Duval & Clay Co.); thence in an Easterly direction along the North line of Township 4 South to the center of the St. Johns River; thence in a Northerly direction following the meanders of the St. Johns River to the Southerly City Limit line of Jacksonville; thence along said City Limit line in an Easterly and Northeasterly direction to the center of the Mathews Bridge; thence due East to the Atlantic Ocean, and thence North along the shores of the Atlantic Ocean to the point or place of beginning.

Section 1.1 (c), Customs Regulations, is amended by inserting "(including territory described in T. D. 54476)" opposite "*Fall River" in the column headed "Ports of entry" in District No. 4 (Massachusetts); and by inserting "(including territory described in T. D. 54476)" opposite "*Jacksonville" in the column headed "Ports of entry" in District No. 18 (Florida).

(R. S. 161, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended; 5 U. S. C. 22, 19 U. S. C. 1, 2)

[SEAL] DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F R. Doc. 57-9260; Filed, Nov. 6, 1957; 8:51 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.342]

PART 44—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER SECTION 15 OF THE ACT OF SEPTEMBER 11, 1957

Chapter I, Title 22 of the Code of Federal Regulations, is amended by the addition of the following part:

Sec.
44.1 Definitions.
44.2 Classes of applicants under section 15 of the act of September 11, 1957.
44.3 Procedure in applying for visa.
44.4 Registration priority for issuance of visas.
44.5 Ineligibility to receive visas.
44.6 Procedure in issuing visas.

AUTHORITY: §§ 44.1 to 44.6 issued under sec. 104, 66 Stat. 174; 8 U. S. C. 1104. Interpret and apply sec. 15, 71 Stat. 639.

§ 44.1 *Definitions.* The following definitions, in addition to the pertinent definitions contained in section 15 of the act of September 11, 1957, section 101 of the Immigration and Nationality Act and Part 42 of this chapter, shall be applicable to this part:

(a) "Act" means the act of September 11, 1957 (Public Law 85-316, 71 Stat. 639).

(b) "Applicant" means an alien who seeks to enter the United States under the provisions of section 15 of the act of September 11, 1957.

(c) "Ethnic origin" as used in sections 2 (c) and 4 (a) (9) and (10) of the Refugee Relief Act of 1953, as amended, shall be determined on the basis of a combination of two or more of the following factors specified in subparagraphs (1) to (5), inclusive, of this paragraph, which combination shall include the factor specified in either subparagraph (1) or (2) of this paragraph:

(1) Applicant, other than a German expellee, emigrated from or is indigenous to the country of ethnic origin claimed;

(2) Antecedents emigrated from or were indigenous to the country of ethnic origin claimed;

(3) Uses the language or dialect of the country of ethnic origin claimed as the common language of the home or for social communication;

(4) Resided in the country of birth, if other than the country of ethnic origin, in an area predominantly populated by persons of ethnic stock or origin claimed who, as distinguished from the surrounding population, retained the social characteristics and group homogeneity attributable to such persons;

(5) Evidences common attributes or social characteristics of the ethnic group to which he ascribes his origin and with which he resided in the country of his birth, if other than the country of ethnic origin, such as educational institutions attended, church affiliation, social and political associations and affiliations, name, business or commercial practices and associates and secondary language or dialect.

(d) "Firmly resettled" means the status of an alien, who at any time after the occurrence of events which form the basis of his claim to a refugee status, has been reestablished in a home under circumstances which indicate his intention and assure him a reasonable opportunity of remaining permanently. Nothing in this paragraph shall be construed as an exclusive definition of the term "firmly resettled" inasmuch as the facts and circumstances in the individual case must necessarily determine the question of firm resettlement.

(e) "Has fled or shall flee" as used in section 15 (c) (1) of the act of September 11, 1957 shall be deemed to include cases of forceful removal when the alien concerned declines to return to the area from which he was removed because of persecution or fear of persecution. The persecution or fear of persecution which caused the alien to flee from his usual place of abode need not be the same persecution which causes his inability to return.

(f) "Refugee" means any person in a country or area which is neither Communist nor Communist-dominated, who because of persecution, fear of persecution, natural calamity or military operations is out of his usual place of abode and unable to return thereto, who has not been firmly resettled and who is in urgent need of assistance for the essentials of life or for transportation.

§ 44.2 *Classes of applicants under section 15 of the act of September 11, 1957*—(a) *German expellees.* This class shall consist of refugees of German ethnic origin who (1) were born in and were forcibly removed from or forced to flee from Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Rumania, Union of Soviet Socialist Republics, Yugoslavia, or areas provisionally under the administration or control or domination of any such countries, except the Soviet Zone of military occupation of Germany, and (2) are residing in the area of the German Federal Republic, western sectors of Berlin or in Austria at the time of application for a visa. Zone "B" of Trieste shall be considered an area provisionally under the administration of Yugoslavia. An immigrant visa issued to an alien within the class described in this paragraph shall be issued only in the German Federal Republic or in the western sector of Berlin or in Austria, and shall bear the symbol K-8 in the space provided for nonquota classification.

(b) *Netherlands refugees.* This class shall consist of refugees who: (1) Are of Dutch ethnic origin, and (2) resided on August 7, 1953 in continental Netherlands. An immigrant visa issued to an alien within the class described in this paragraph shall be issued only in continental Netherlands, and shall bear the symbol K-9 in the space provided for nonquota classification.

(c) *Netherlands relatives.* This class shall consist of persons who: (1) Are of Dutch ethnic origin, (2) resided on August 7, 1953 in continental Netherlands, and (3) qualify under any of the preferences specified in paragraph (2), (3), or (4) of section 203 (a) of the Immigration and Nationality Act. A prerequisite to qualification under any of such preferences shall be the approval by the Attorney General of a petition provided for in section 205 of the Immigration and Nationality Act. An immigrant visa issued to an alien within the class described in this paragraph shall be issued only in continental Netherlands, and shall bear the symbol K-9 in the space provided for nonquota classification.

(d) *Refugee-escapees.* This class shall consist of aliens who, because of persecution or fear of persecution on account of race, religion, or political opinion have fled or shall flee (1) from any Communist, Communist-dominated, or Communist-occupied area, or (2) from any country within the general area of the Middle East as defined in section 15 (c) (2) of the act, and who cannot return to such area, or to such country, on account of race, religion, or political opinion. An immigrant visa issued to an alien within the class described in this paragraph may be issued at any United States consular office which is authorized to issue immigrant visas, and shall bear the symbol K-10 in the space provided for nonquota classification.

(e) *Spouses and unmarried minor sons and daughters.* This class shall consist of the accompanying spouses and the accompanying unmarried sons or

daughters under twenty-one years of age, including stepsons or stepdaughters and sons or daughters adopted prior to July 1, 1957, of persons described in paragraphs (a) to (d), inclusive, of this section: *Provided*, That a quota number is not available to such alien at the time of his application for a visa. A spouse, son, or daughter shall be deemed to be accompanying the principal applicant if such spouse, son, or daughter is issued an immigrant visa within four months of the date of issuance of an immigrant visa to the principal applicant. An immigrant visa issued to an alien within the class described in this paragraph shall be issued only in the country or area in which the principal applicant is, or could be, issued an immigrant visa under the act, and shall bear the same symbol which is or was used in issuing an immigrant visa to the principal applicant, in the space provided for nonquota classification. In any case where the principal applicant precedes his family to the United States, or in which the family unit is not traveling together, the name of the principal applicant shall be inserted in the immigrant visa issued to the spouse, son, or daughter.

§ 44.3 *Procedure in applying for visa*—(a) *Applicants for refugee-escapee classification.* In support of an application for refugee-escapee classification the alien shall submit a statement furnishing biographic data and describing the circumstances of his flight, escape, departure, or forceful removal from a Communist-dominated, or Communist-occupied area or from the general area of the Middle East, the hardship and persecution suffered, and a summary of his educational attainments, professional or technical abilities, and any manual skills or vocational experience which would tend to make such applicant of maximum value to the United States. This statement may be submitted by the applicant directly to the consular officer or in the applicant's behalf by a representative of the United States Escapee Program or any reputable welfare or refugee agency, and shall be supported by character references from interested persons bearing upon the applicant's attachment to the principles of constitutional democratic government.

(b) *Form and place of application.* Every applicant for an immigrant visa under section 15 of the act shall make application therefor on Form FS–256 in accordance with the provisions of section 222 of the Immigration and Nationality Act and § 42.30 of this chapter except as otherwise provided in § 44.2 (a), (b), and (c) with respect to the place of application.

§ 44.4 *Registration priority for issuance of visas*—(a) *Registration priority of applicants other than refugee-escapees.* Applicants desiring to qualify under the provisions of § 44.2 (a), (b), or (c) who were previously registered on quota waiting lists, including the beneficiaries of approved petitions, shall have the burden of coming forward to claim the benefits of the act. The names of such applicants who have not previously been registered on a quota waiting list, or in whose cases an approved petition for preference status has not been received at the consular office, shall be entered on administrative waiting lists in the chronological order in which they apply for registration. Every applicant within the class described in § 44.2 (a), (b), or (c) shall be entitled to a registration priority as determined by (1) the date indicated by his registration on a quota waiting list for the purposes of the Immigration and Nationality Act, (2) the date on which a verified assurance of employment, housing, and against becoming a public charge was filed with the Department of State in his behalf under the Refugee Relief Act of 1953, as amended, (3) the date on which an approved petition was filed with the Attorney General in his behalf, or (4) the date he actually applied for registration under the act, whichever date is earliest.

(b) *Registration priority of refugee-escapees.* Applicants desiring to qualify as refugee-escapees under the provisions of § 44.2 (d) shall be accorded a registration priority as of the date of approval of their classification as a refugee-escapee by the Department.

§ 44.5 *Ineligibility to receive visas.* An applicant shall be considered ineligible to receive a special nonquota immigrant visa provided for in section 15 of the act on the following grounds:

(a) He is not classifiable within any of the classes described in § 44.2 (a), (b), (c), (d), or (e);

(b) He is ineligible to receive an immigrant visa under the applicable provisions of the Immigration and Nationality Act and the regulations contained in Part 42 of this chapter;

(c) A quota number is available at the time of his visa application for the issuance of a quota immigrant visa to such applicant.

§ 44.6 *Procedure in issuing visas.* The issuance of special nonquota immigrant visas under section 15 of the act shall be in accordance with the provisions of section 221 of the Immigration and Nationality Act and § 42.41 of this chapter. An immigrant visa issued under the act shall bear a number assigned by the Department for use in issuing such visa, and shall also bear the petition number and approval date of the petition in the case of an applicant eligible under § 44.2 (c).

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

Dated: October 30, 1957.

RODERIC L. O'CONNOR,
Administrator, Bureau of Security and Consular Affairs, Department of State.

[F. R. Doc. 57–9297; Filed, Nov. 6, 1957; 8:55 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

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

PART 320—LOW-RENT HOUSING PROGRAM

Correction

In Federal Register Document 57–9051, published at page 8812 in the issue for Friday, November 1, 1957, the following changes should be made:

1. In § 320.3, "FHA" should read "PHA" in both places.

2. In the listing under § 320.6, "Arvin-Shafter" and "Winters-Woodland", which appear under "California", should read "Arvin, Shafter" and "Winters, Woodland", respectively.

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income Tax

[T. D. 6265]

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

GAIN OR LOSS ON DISPOSITION OF PROPERTY

On January 3, 1957, a notice of proposed rule making regarding the regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954, under Parts I and II (except sections 1017, 1020, and 1021) of subchapter O of Chapter 1 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (22 F. R. 35). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published (except for § 1.1012–1 (c), relating to identification of stock sold) are hereby adopted, subject to the changes as set forth below. Further consideration will be given to § 1.1012–1 (c), which continues in effect under notice of proposed rule making, before final action is taken thereon.

PARAGRAPH 1. Paragraph (b) of § 1.1001–1 is revised as follows:

(A) By revising subparagraph (3).

(B) By revising example (3) under subparagraph (4).

PAR. 2. Paragraph (a) (3) of § 1.1014–4 is revised as follows:

By revising the third and fourth sentences thereunder to read as follows: "Thus, for example, if the trustee of a trust created by will transfers to a beneficiary, in satisfaction of a specific bequest of $10,000, securities which had a fair market value of $9,000 on the date of the decedent's death (the applicable valuation date) and $10,000 on the date of the transfer, the trust realizes a taxable gain of $1,000 and the basis of the securities in the hands of the beneficiary would be $10,000. As a further example, if the executor of an estate transfers to a trust property worth $200,000, which

had a fair market value of $175,000 on the date of the decedent's death (the applicable valuation date), in satisfaction of the decedent's bequest in trust for the benefit of his wife of cash or securities to be selected by the executor in an amount sufficient to utilize the marital deduction to the maximum extent authorized by law (after taking into consideration any other property qualifying for the marital deduction), capital gain in the amount of $25,000 would be realized by the estate and the basis of the property in the hands of the trustees would be $200,000."

PAR. 3. Paragraph (b) (3) (iii) of § 1.1014–6 is revised as follows:

(A) By revising the first sentence of (*a*) thereunder to read as follows: "In cases where the value of the life interest is not included in the decedent's gross estate, the amount of such allowance to the life tenant under section 167 (g) (or section 611 (b)) shall not exceed (or be less than) the amount which would have been allowable to the life tenant if no portion of the basis of the property was determined under section 1014 (a)."

(B) By revising the first sentence of (*b*) thereunder to read as follows: "Any remaining allowance (that is, the increase in the amount of depreciation, amortization, or depletion allowable resulting from any increase in the uniform basis of the property under section 1014 (a)) shall not be allowed to the life tenant."

PAR. 4. Paragraph (c) (2) of § 1.1014–6 is revised by deleting example (2) thereunder and by redesignating example (3) as example (2).

PAR. 5. Paragraph (a) of § 1.1014–8 is revised.

[SEAL] O. GORDON DELK,
Acting Commissioner.

Approved: November 4, 1957.

FRED C. SCRIBNER, JR.,
Acting Secretary of the Treasury.

The following regulations are hereby prescribed under parts I and II (except sections 1017, 1020, and 1021) of Subchapter O of Chapter 1 of the Internal Revenue Code of 1954, and are applicable to taxable years beginning after December 31, 1953, and ending after August 16, 1954. The regulations so prescribed do not reflect the amendment made to section 1016 by Public Law 629 (84th Congress), approved June 29, 1956. Regulations under that amendment will be published with a notice of proposed rule making at a later date.

GAIN OR LOSS ON DISPOSITION OF PROPERTY

DETERMINATION OF AMOUNT OF AND RECOGNITION OF GAIN OR LOSS

Sec.
1.1001 Statutory provisions; determination of amount of and recognition of gain or loss.
1.1001–1 Computation of gain or loss.
1.1002 Statutory provisions; recognition of gain or loss.
1.1002–1 Sales or exchanges.

BASIS RULES OF GENERAL APPLICATION

1.1011 Statutory provisions; adjusted basis for determining gain or loss.
Sec.
1.1011–1 Adjusted basis.
1.1012 Statutory provisions; basis of property—cost.
1.1012–1 Basis of property.
1.1012–2 Transfers in part a sale and in part a gift.
1.1013 Statutory provisions; basis of property included in inventory.
1.1013–1 Property included in inventory.
1.1014 Statutory provisions; basis of property acquired from a decedent.
1.1014–1 Basis of property acquired from a decedent.
1.1014–2 Property acquired from a deoedent.
1.1014–3 Other basis rules.
1.1014–4 Uniformity of basis; adjustment to basis.
1.1014–5 Gain or loss.
1.1014–6 Special rule for adjustments to basis where property is acquired from a decedent prior to his death.
1.1014–7 Example applying rules of §§ 1.1014–4 through 1.1014–6 to case involving multiple interests.
1.1014–8 Bequest, devise, or inheritance of a remainder interest.
1.1015 Statutory provisions; basis of property acquired by gifts and transfers in trust.
1.1015–1 Basis of property acquired by gift after December 31, 1920.
1.1015–2 Transfer of property in trust after December 31, 1920.
1.1015–3 Gift or transfer in trust before January 1, 1921.
1.1015–4 Transfers in part a gift and in part a sale.
1.1016 Statutory provisions; adjustments to basis.
1.1016–1 Adjustments to basis; scope of section.
1.1016–2 Items properly chargeable to capital account.
1.1016–3 Exhaustion, wear and tear, obsolescence, amortization and depletion for periods since February 28, 1913.
1.1016–4 Exhaustion, wear and tear, obsolescence, amortization, and depletion; periods during which income was not subject to tax.
1.1016–5 Miscellaneous adjustments to basis.
1.1016–6 Other applicable rules.
1.1016–7 Adjusted basis; cancellation of indebtedness under Bankruptcy Act.
1.1016–8 Adjusted basis; cancellation of indebtedness; special cases.
1.1016–9 Adjusted basis; mutual savings banks, building and loan associations, and cooperative banks.
1.1016–10 Substituted basis.
1.1018 Statutory provisions; adjustment of capital structure before September 22, 1938.
1.1018–1 Adjusted basis; exception to section 270 of the Bankruptcy Act, as amended.
1.1019 Statutory provisions; property on which lessee has made improvements.
1.1019–1 Property on which lessee has made improvements.
1.1022 Statutory provisions; cross references.

AUTHORITY: §§ 1.1001 to 1.1022 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

GAIN OR LOSS ON DISPOSITION OF PROPERTY

DETERMINATION OF AMOUNT OF AND RECOGNITION OF GAIN OR LOSS

§ 1.1001 *Statutory provisions; determination of amount of and recognition of gain or loss.*

SEC. 1001. *Determination of amount of and recognition of gain or loss*—(a) *Computation of gain or loss.* The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 1011 for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) *Amount realized.* The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received. In determining the amount realized—

(1) There shall not be taken into account any amount received as reimbursement for real property taxes which are treated under section 164 (d) as imposed on the purchaser, and

(2) There shall be taken into account amounts representing real property taxes which are treated under section 164 (d) as imposed on the taxpayer if such taxes are to be paid by the purchaser.

(c) *Recognition of gain or loss.* In the case of a sale or exchange of property, the extent to which the gain or loss determined under this section shall be recognized for purposes of this subtitle shall be determined under section 1002.

(d) *Installment sales.* Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

§ 1.1001–1 *Computation of gain or loss*—(a) *General rule.* Except as otherwise provided in subtitle A, the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent, is treated as income or as loss sustained. The amount realized from a sale or other disposition of property is the sum of any money received plus the fair market value of any property (other than money) received. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value. The general method of computing such gain or loss is prescribed by section 1001, which contemplates that from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to restore the adjusted basis prescribed by section 1011 and regulations thereunder (i. e., the cost or other basis adjusted for receipts, expenditures, losses, allowances, and other items chargeable against and applicable to such cost or other basis). The amount which remains after the adjusted basis has been restored to the taxpayer constitutes the realized gain. If the amount realized upon the sale or exchange is insufficient to restore to the taxpayer the adjusted basis of the property, a loss is sustained to the extent of the difference between such adjusted basis and the amount realized. The basis may be different depending upon whether gain or loss is being computed. For example, see section 1015 (a) and the regulations thereunder.

(b) *Real estate taxes as amounts received.* (1) Section 1001 (b) and section 1012 state rules applicable in making an adjustment upon a sale of real property

with respect to the real property taxes apportioned between seller and purchaser under section 164 (d). Thus, if the seller pays (or agrees to pay) real property taxes attributable to the real property tax year in which the sale occurs, he shall not take into account, in determining the amount realized from the sale under section 1001 (b), any amount received as reimbursement for taxes which are treated under section 164 (d) as imposed upon the purchaser. Similarly, in computing the cost of the property under section 1012, the purchaser shall not take into account any amount paid to the seller as reimbursement for real property taxes which are treated under section 164 (d) as imposed upon the purchaser. These rules apply whether or not the contract of sale calls for the purchaser to reimburse the seller for such real property taxes paid or to be paid by the seller.

(2) On the other hand, if the purchaser pays (or is to pay) an amount representing real property taxes which are treated under section 164 (d) as imposed upon the seller, that amount shall be taken into account both in determining the amount realized from the sale under section 1001 (b) and in computing the cost of the property under section 1012. It is immaterial whether or not the contract of sale specifies that the sale price has been reduced by, or is in any way intended to reflect, the taxes allocable to the seller. See also § 1.1012–1 (b).

(3) Subparagraph (1) of this paragraph shall not apply to a seller who, in a taxable year prior to the taxable year of sale, pays an amount representing real property taxes which are treated under section 164 (d) as imposed on the purchaser, if such seller has elected to capitalize such amount in accordance with section 266 and the regulations thereunder (relating to election to capitalize certain carrying charges and taxes).

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

Example (1). Assume that the contract price on the sale of a parcel of real estate is $50,000 and that real property taxes thereon in the amount of $1,000 for the real property tax year in which occurred the date of sale were previously paid by the seller. Assume further that $750 of the taxes are treated under section 164 (d) as imposed upon the purchaser and that he reimburses the seller in that amount in addition to the contract price. The amount realized by the seller is $50,000. Similarly, $50,000 is the purchaser's cost. If, in this example, the purchaser made no payment other than the contract price of $50,000, the amount realized by the seller would be $49,250, since the sales price would be deemed to include $750 paid to the seller in reimbursement for real property taxes imposed upon the purchaser. Similarly, $49,250 would be the purchaser's cost.

Example (2). Assume that the purchaser in example (1) above, paid all of the real property taxes. Assume further that $250 of the taxes are treated under section 164 (d) as imposed upon the seller. The amount realized by the seller is $50,250. Similarly, $50,250 is the purchaser's cost, regardless of the taxable year in which the purchaser makes actual payment of the taxes.

Example (3). Assume that the seller described in the first part of example (1), above, paid the real property taxes of $1,000 in the taxable year prior to the taxable year of sale and elected under section 266 to capitalize the $1,000 of taxes. In such a case, the amount realized is $50,750. Moreover, regardless of whether the seller elected to capitalize the real property taxes, the purchaser in that case could elect under section 266 to capitalize the $750 of taxes treated under section 164 (d) as imposed upon him, in which case his adjusted basis would be $50,750 (cost of $50,000 plus capitalized taxes of $570).

(c) *Other rules.* (1) Even though property is not sold or otherwise disposed of, gain is realized if the sum of all the amounts received which are required by section 1016 and other applicable provisions of subtitle A of the Internal Revenue Code of 1954 to be applied against the basis of the property exceeds such basis. Except as otherwise provided in section 301 (c) (3) (B) with respect to distributions out of increase in value of property accrued prior to March 1, 1913, such gain is includible in gross income under section 61 as "income from whatever source derived". On the other hand, a loss is not ordinarily sustained prior to the sale or other disposition of the property, for the reason that until such sale or other disposition occurs there remains the possibility that the taxpayer may recover or recoup the adjusted basis of the property. Until some identifiable event fixes the actual sustaining of a loss and the amount thereof, it is not taken into account.

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

Example. A, an individual on a calendar year basis, purchased certain shares of stock subsequent to February 28, 1913, for $10,000. On January 1, 1954, A's adjusted basis for the stock had been reduced to $1,000 by reason of receipts and distributions described in sections 1016 (a) (1) and 1016 (a) (4). He received in 1954 a further distribution of $5,000, being a distribution covered by section 1016 (a) (4), other than a distribution out of increase of value of property accrued prior to March 1, 1913. This distribution applied against the adjusted basis as required by section 1016 (a) (4) exceeds that basis by $4,000. The $4,000 excess is a gain realized by A in 1954 and is includible in gross income in his return for that calendar year. In computing gain from the stock, as in adjusting basis, no distinction is made between items of receipts or distributions described in section 1016. If A sells the stock in 1955 for $5,000, he realizes in 1955 a gain of $5,000, since the adjusted basis of the stock for the purpose of computing gain or loss from the sale is zero.

(d) *Installment sales.* In the case of property sold on the installment plan, special rules for the taxation of the gain are prescribed in section 453.

(e) *Transfers in part a sale and in part a gift.* (1) Where a transfer of property is in part a sale and in part a gift, the transferor has a gain to the extent that the amount realized by him exceeds his adjusted basis in the property. However, no loss is sustained on such a transfer if the amount realized is less than the adjusted basis. For determination of basis of the property in the hands of the transferee see § 1.1015–4.

(2) *Examples.* The provisions of subparagraph (1) may be illustrated by the following examples:

Example (1). A transfers property to his son for $60,000. Such property in the hands of A has an adjusted basis of $30,000 (and a fair market value of $90,000). A's gain is $30,000, the excess of $60,000, the amount realized, over the adjusted basis, $30,000. He has made a gift of $30,000, the excess of $90,000, the fair market value, over the amount realized, $60,000.

Example (2). A transfers property to his son for $30,000. Such property in the hands of A has an adjusted basis of $60,000 (and a fair market value of $90,000). A has no gain or loss, and has made a gift of $60,000, the excess of $90,000, the fair market value, over the amount realized, $30,000.

Example (3). A transfers property to his son for $30,000. Such property in A's hands has an adjusted basis of $30,000 (and a fair market value of $60,000). A has no gain and has made a gift of $30,000, the excess of $60,000, the fair market value, over the amount realized, $30,000.

Example (4). A transfers property to his son for $30,000. Such property in A's hands has an adjusted basis of $90,000 (and a fair market value of $60,000). A has sustained no loss, and has made a gift of $30,000, the excess of $60,000, the fair market value, over the amount realized, $30,000.

§ 1.1002 *Statutory provisions; recognition of gain or loss.*

SEC. 1002. *Recognition of gain or loss.* Except as otherwise provided in this subtitle, on the sale or exchange of property the entire amount of the gain or loss, determined under section 1001, shall be recognized.

§ 1.1002–1 *Sales or exchanges*—(a) *General rule.* The general rule with respect to gain or loss realized upon the sale or exchange of property as determined under section 1001 is that the entire amount of such gain or loss is recognized except in cases where specific provisions of subtitle A of the Internal Revenue Code of 1954 provide otherwise.

(b) *Strict construction of exceptions from general rule.* The exceptions from the general rule requiring the recognition of all gains and losses, like other exceptions from a rule of taxation of general and uniform application, are strictly construed and do not extend either beyond the words or the underlying assumptions and purposes of the exception. Nonrecognition is accorded by the Internal Revenue Code of 1954 only if the exchange is one which satisfies both (1) the specific description in the Code of an excepted exchange, and (2) the underlying purpose for which such exchange is excepted from the general rule. The exchange must be germane to, and a necessary incident of, the investment or enterprise in hand. The relationship of the exchange to the venture or enterprise is always material, and the surrounding facts and circumstances must be shown. As elsewhere, the taxpayer claiming the benefit of the exception must show himself within the exception.

(c) *Certain exceptions to general rule.* Exceptions to the general rule are made, for example, by sections 351 (a), 354, 361 (a), 371 (a) (1), 371 (b) (1), 721, 1031, 1035 and 1036. These sections describe certain specific exchanges of property in which at the time of the exchange particular differences exist between the property parted with and the

property acquired, but such differences are more formal than substantial. As to these, the Internal Revenue Code of 1954 provides that such differences shall not be deemed controlling, and that gain or loss shall not be recognized at the time of the exchange. The underlying assumption of these exceptions is that the new property is substantially a continuation of the old investment still unliquidated; and, in the case of reorganizations, that the new enterprise, the new corporate structure, and the new property are substantially continuations of the old still unliquidated.

(d) *Exchange.* Ordinarily, to constitute an exchange, the transaction must be a reciprocal transfer of property, as distinguished from a transfer of property for a money consideration only.

BASIS RULES OF GENERAL APPLICATION

§ 1.1011 *Statutory provisions; adjusted basis for determining gain or loss.*

SEC. 1011. *Adjusted basis for determining gain or loss.* The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis (determined under section 1012 or other applicable sections of this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses)), adjusted as provided in section 1016.

§ 1.1011–1 *Adjusted basis.* The adjusted basis for determining the gain or loss from the sale or other disposition of property is the cost or other basis prescribed in section 1012 or other applicable provisions of subtitle A of the Internal Revenue Code of 1954, adjusted to the extent provided in sections 1016, 1017, and 1018 or as otherwise specifically provided for under applicable provisions of internal revenue laws.

§ 1.1012 *Statutory provisions; basis of property—cost.*

SEC. 1012. *Basis of property—cost.* The basis of property shall be the cost of such property, except as otherwise provided in this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses). The cost of real property shall not include any amount in respect of real property taxes which are treated under section 164 (d) as imposed on the taxpayer.

§ 1.1012–1 *Basis of property—*(a) *General rule.* In general, the basis of property is the cost thereof. The cost is the amount paid for such property in cash or other property. This general rule is subject to exceptions stated in subchapter O (relating to gain or loss on the disposition of property), subchapter C (relating to corporate distributions and adjustments), subchapter K (relating to partners and partnerships), and subchapter P (relating to capital gains and losses) of chapter 1 of the Internal Revenue Code of 1954.

(b) *Real estate taxes as part of cost.* In computing the cost of real property, the purchaser shall not take into account any amount paid to the seller as reimbursement for real property taxes which are treated under section 164 (d) as imposed upon the purchaser. This rule applies whether or not the contract of sale calls for the purchaser to reimburse the seller for such real estate taxes paid or to be paid by the seller. On the other hand, where the purchaser pays (or assumes liability for) real estate taxes which are treated under section 164 (d) as imposed upon the seller, such taxes shall be considered part of the cost of the property. It is immaterial whether or not the contract of sale specifies that the sale price has been reduced by, or is in any way intended to reflect, real estate taxes allocable to the seller under section 164 (d). For illustrations of the application of this paragraph, see § 1.1001–1 (b).

(c) [Reserved.]

(d) *Special rules.* For special rules for determining the basis for gain or loss in the case of vessels acquired through the Maritime Commission (or its successor), see sections 510 and 511 of the Merchant Marine Act of 1936 (46 U. S. C. 1160, 1161). For special rules for determining the unadjusted basis of property recovered in respect of war losses, see section 1336. For special rules for determining the basis for gain or loss in the case of the disposition of a share of stock acquired pursuant to the timely exercise of a restricted stock option where the option price was between 85 percent and 95 percent of the fair market value of the stock at the time the option was granted, see section 421 (b). For special rules for determining the basis and adjusted basis of property acquired or improved with the proceeds of a grant or loan made to a taxpayer by the United States for the encouragement of exploration, development, or mining of critical and strategic minerals or metals, see section 621.

§ 1.1012–2 *Transfers in part a sale and in part a gift.* For rule relating to basis of property acquired in a transfer which is in part a gift and in part a sale, see § 1.1015–4.

§ 1.1013 *Statutory provisions; basis of property included in inventory.*

SEC. 1013. *Basis of property included in inventory.* If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

§ 1.1013–1 *Property included in inventory.* The basis of property required to be included in inventory is the last inventory value of such property in the hands of the taxpayer. The requirements with respect to the valuation of an inventory are stated in sections 471, 472, and the regulations thereunder.

§ 1.1014 *Statutory provisions; basis of property acquired from a decedent.*

SEC. 1014. *Basis of property acquired from a decedent—*(a) *In general.* Except as otherwise provided in this section, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be the fair market value of the property at the date of the decedent's death, or, in the case of an election under either section 2032 or section 811 (j) of the Internal Revenue Code of 1939 where the decedent died after October 21, 1942, its value at the applicable valuation date prescribed by those sections.

(b) *Property acquired from the decedent.* For purposes of subsection (a), the following property shall be considered to have been acquired from or to have passed from the decedent:

(1) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;

(2) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;

(3) In the case of decedents dying after December 31, 1951, property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

(4) Property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will;

(5) In the case of decedents dying after August 26, 1937, property acquired by bequest, devise, or inheritance or by the decedent's estate from the decedent, if the property consists of stock or securities of a foreign corporation, which with respect to its taxable year next preceding the date of the decedent's death was, under the law applicable to such year, a foreign personal holding company. In such case, the basis shall be the fair market value of such property at the date of the decedent's death or the basis in the hands of the decedent, whichever is lower;

(6) In the case of decedents dying after December 31, 1947, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any State, Territory, or possession of the United States or any foreign country, if at least one-half of the whole of the community interest in such property was includible in determining the value of the decedent's gross estate under chapter 11 of subtitle B (section 2001 and following, relating to estate tax) or section 811 of the Internal Revenue Code of 1939;

(7) In the case of decedents dying after October 21, 1942, and on or before December 31, 1947, such part of any property, representing the surviving spouse's one-half share of property held by a decedent and the surviving spouse under the community property laws of any State, Territory, or possession of the United States or any foreign country, as was included in determining the value of the gross estate of the decedent, if a tax under chapter 3 of the Internal Revenue Code of 1939 was payable on the transfer of the net estate of the decedent. In such case, nothing in this paragraph shall reduce the basis below that which would exist if the Revenue Act of 1948 had not been enacted;

(8) In the case of decedents dying after December 31, 1950, and before January 1, 1954, property which represents the survivor's interest in a joint and survivor's annuity if the value of any part of such interest was required to be included in determining the value of decedent's gross estate under section 811 of the Internal Revenue Code of 1939;

(9) In the case of decedents dying after December 31, 1953, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's gross estate under chapter 11 of subtitle B or under the Internal Revenue Code of 1939. In such case, if the property

is acquired before the death of the decedent, the basis shall be the amount determined under subsection (a) reduced by the amount allowed to the taxpayer as deductions in computing taxable income under this subtitle or prior income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent. Such basis shall be applicable to the property commencing on the death of the decedent. This parargaph shall not apply to—

(A) Annuities described in section 72;

(B) Property to which paragraph (5) would apply if the property had been acquired by bequest; and

(C) Property described in any other paragraph of this subsection.

(c) *Property representing income in respect of a decedent.* This section shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 691.

(d) *Employee stock options.* This section shall not apply to restricted stock options described in section 421 which the employee has not exercised at death.

§ 1.1014–1 *Basis of property acquired from a decedent*—(a) *General rule.* The purpose of section 1014 is, in general, to provide a basis for property acquired from a decedent which is equal to the value placed upon such property for purposes of the Federal estate tax. Accordingly, the general rule is that the basis of property acquired from a decedent is the fair market value of such property at the date of the decedent's death, or, if the decedent's executor so elects, at the alternate valuation date prescribed in section 2032, or in section 811 (j) of the Internal Revenue Code of 1939. Property acquired from a decedent includes, principally, property acquired by bequest, devise, or inheritance, and, in the case of decedents dying after December 31, 1953, property required to be included in determining the value of the decedent's gross estate under any provision of the Internal Revenue Code of 1954 or the Internal Revenue Code of 1939. The general rule governing basis of property acquired from a decedent, as well as other rules prescribed elsewhere in this section, shall have no application if the property is sold, exchanged, or otherwise disposed of before the decedent's death by the person who acquired the property from the decedent. For general rules on the applicable valuation date where the executor of a decedent's estate elects under section 2032, or under section 811 (j) of the Internal Revenue Code of 1939, to value the decedent's gross estate at the alternate valuation date prescribed in such sections, see § 1.1014–3 (e).

(b) *Scope and application.* With certain limitations, the general rule described in paragraph (a) of this section is applicable to the classes of property described in paragraphs (a) and (b) of § 1.1014–2. Special basis rules with respect to the basis of certain other property acquired from a decedent are set forth in § 1.1014–2 (c). These special rules concern certain stock or securities of a foreign personal holding company and the surviving spouse's one-half share of community property held with a decedent dying after October 21, 1942, and on or before December 31, 1947. In this section and §§ 1.1014–2 to 1.1014–6, inclusive, whenever the words "property acquired from a decedent" are used they shall also mean "property passed from a decedent" and the phrase "person who acquired it from the decedent" shall include the "person to whom it passed from the decedent."

(c) *Property to which section 1014 does not apply.* Section 1014 shall have no application to the following classes of property:

(1) Property which constitutes a right to receive an item of income in respect of a decedent under section 691; and

(2) Restricted stock options described in section 421 which the employee has not exercised at death, regardless of the date on which the employee died.

§ 1.1014–2 *Property acquired from a decedent*—(a) *In general.* The following property, except where otherwise indicated, is considered to have been acquired from a decedent and the basis thereof is determined in accordance with the general rule in § 1.1014–1:

(1) Without regard to the date of the decedent's death, property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, whether the property was acquired under the decedent's will or under the law governing the descent and distribution of the property of decedents. However, see paragraph (c) (1) of this section if the property was acquired by bequest or inheritance from a decedent dying after August 26, 1937, and if such property consists of stock or securities of a foreign personal holding company.

(2) Without regard to the date of the decedent's death, property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust.

(3) In the case of decedents dying after December 31, 1951, property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust.

(4) Without regard to the date of the decedent's death, property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will. (See section 2041 (b) for definition of general power of appointment.)

(5) In the case of decedents dying after December 31, 1947, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any State, Territory, or possession of the United States or any foreign country, if at least one-half of the whole of the community interest in that property was includible in determining the value of the decedent's gross estate under part III of chapter 11 (relating to the estate tax) or section 811 of the Internal Revenue Code of 1939. It is not necessary for the application of this subparagraph that an estate tax return be required to be filed for the estate of the decedent or that an estate tax be payable.

(6) In the case of decedents dying after December 31, 1950, and before January 1, 1954, property which represents the survivor's interest in a joint and survivor's annuity if the value of any part of that interest was required to be included in determining the value of the decedent's gross estate under section 811 of chapter 3 of the Internal Revenue Code of 1939. It is necessary only that the value of a part of the survivor's interest in the annuity be includible in the gross estate under section 811. It is not necessary for the application of this subparagraph that an estate tax return be required to be filed for the estate of the decedent or that an estate tax be payable.

(b) *Property acquired from a decedent dying after December 31, 1953*—(1) *In general.* In addition to the property described in paragraph (a) of this section, and except as otherwise provided in subparagraph (3) of this paragraph, in the case of a decedent dying after December 31, 1953, property shall also be considered to have been acquired from the decedent to the extent that both of the following conditions are met: (i) the property was acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), and (ii) the property is includible in the decedent's gross estate under the provisions of the Internal Revenue Code of 1954, or 1939, because of such acquisition. The basis of such property in the hands of the person who acquired it from the decedent shall be determined in accordance with the general rule in § 1.1014–1. See, however, § 1.1014–6 for special adjustments if such property is acquired before the death of the decedent. See also subparagraph (3) for a description of property not within the scope of this paragraph.

(2) *Rules for the application of subparagraph (1).* Except as provided in subparagraph (3), this paragraph generally includes all property acquired from a decedent, which is includible in the gross estate of the decedent if the decedent died after December 31, 1953. It is not necessary for the application of this paragraph that an estate tax return be required to be filed for the estate of the decedent or that an estate tax be payable. Property acquired prior to the death of a decedent which is includible in the decedent's gross estate, such as property transferred by a decedent in contemplation of death, and property held by a taxpayer and the decedent as joint tenants or as tenants by the entireties is within the scope of this paragraph. Also, this paragraph includes property acquired through the exercise or non-exercise of a power of appointment where such property is includible in the decedent's gross estate. It does not include property not includible in the decedent's gross estate such as property not situated in the United States acquired from a nonresident who is not a citizen of the United States.

(3) *Exceptions to application of paragraph (b).* The rules in paragraph (b) are not applicable to the following property:

(i) Annuities described in section 72;

(ii) Stock or securities of a foreign personal holding company as described in section 1014 (b) (5) (see paragraph (c) (1) of this section);

(iii) Property described in any paragraph other than paragraph (9) of section 1014 (b). See paragraphs (a) and (c) of this section.

In illustration of subdivision (ii), assume that A acquired by gift stock of a character described in paragraph (c) (1) of this section from a donor and upon the death of the donor the stock was includible in the donor's estate as being a gift in contemplation of death. A's basis in the stock would not be determined by reference to its fair market value at the donor's death under the general rule in section 1014 (a). Furthermore, the special basis rules prescribed in paragraph (c) (1) are not applicable to such property acquired by gift in contemplation of death. It will be necessary to refer to the rules in section 1015 (a) to determine the basis.

(c) *Special basis rules with respect to certain property acquired from a decedent*—(1) *Stock or securities of a foreign personal holding company.* The basis of certain stock or securities of a foreign corporation which was a foreign personal holding company with respect to its taxable year next preceding the date of the decedent's death is governed by a special rule. If such stock was acquired from a decedent dying after August 26, 1937, by bequest or inheritance, or by the decedent's estate from the decedent, the basis of the property in the hands of the person who so acquired it (notwithstanding any other provision of section 1014) shall be the fair market value of such property at the date of the decedent's death or the adjusted basis of the stock in the hands of the decedent, whichever is lower.

(2) *Spouse's interest in community property of decedent dying after October 21, 1942, and on or before December 31, 1947.* In the case of a decedent dying after October 21, 1942, and on or before December 31, 1947, a special rule is provided for determining the basis of such part of any property, representing the surviving spouse's one-half share of property held by the decedent and the surviving spouse under the community property laws of any State, Territory, or possession of the United States or any foreign country, as was included in determining the value of the decedent's gross estate, if a tax under chapter 3 of the Internal Revenue Code of 1939 was payable upon the decedent's net estate. In such case the basis shall be the fair market value of such part of the property at the date of death (or the optional valuation elected under section 811 (j) of the Internal Revenue Code of 1939) or the adjusted basis of the property determined without regard to this subparagraph, whichever is the higher.

§ 1.1014–3 *Other basis rules*—(a) *Fair market value.* For purposes of this section and § 1.1014–1, the value of property as of the date of the decedent's death as appraised for the purpose of the Federal estate tax or the alternate value as appraised for such purpose, whichever is applicable, shall be deemed to be its fair market value. If no estate tax return is required to be filed under section 6018 (or under section 821 or 864 of the Internal Revenue Code of 1939) the value of the property appraised as of the date of the decedent's death for the purpose of State inheritance or transmission taxes shall be deemed to be its fair market value and no alternate valuation date shall be applicable.

(b) *Property acquired from a decedent dying before March 1, 1913.* If the decedent died before March 1, 1913, the fair market value on that date is taken in lieu of the fair market value on the date of death, but only to the same extent and for the same purposes as the fair market value on March 1, 1913, is taken under section 1053.

(c) *Reinvestments by a fiduciary.* The basis of property acquired after the death of the decedent by a fiduciary as an investment is the cost or other basis of such property to the fiduciary, and not the fair market value of such property at the death of the decedent. For example, the executor of an estate purchases stock of X company at a price of $100 per share with the proceeds of the sale of property acquired from a decedent. At the date of the decedent's death the fair market value of such stock was $98 per share. The basis of such stock to the executor or to a legatee, assuming the stock is distributed, is $100 per share.

(d) *Reinvestments of property transferred during life.* Where property is transferred by a decedent during life and the property is sold, exchanged, or otherwise disposed of before the decedent's death by the person who acquired the property from the decedent, the general rule stated in § 1.1014–1 (a) shall not apply to such property. However, in such a case, the basis of any property acquired by such donee in exchange for the original property, or of any property acquired by the donee through reinvesting the proceeds of the sale of the original property, shall be the fair market value of the property thus acquired at the date of the decedent's death (or applicable alternate valuation date) if the property thus acquired is properly included in the decedent's gross estate for Federal estate tax purposes. These rules also apply to property acquired by the donee in any further exchanges or in further reinvestments. For example, on January 1, 1956, the decedent made a gift of real property to a trust for the benefit of his children, reserving to himself the power to revoke the trust at will. Prior to the decedent's death the trustee sold the real property and invested the proceeds in stock of the Y company at $50 per share. At the time of the decedent's death the value of such stock was $75 per share. The corpus of the trust was required to be included in the decedent's gross estate owing to his reservation of the power of revocation. The basis of the Y company stock following the decedent's death is $75 per share. Moreover, if the trustee sold the Y Company stock before the decedent's death for $65 a share and reinvested the proceeds in Z company stock which increased in value to $85 per share at the time of the decedent's death, the basis of the Z company stock following the decedent's death would be $85 per share.

(e) *Alternate valuation dates.* Section 1014 (a) provides a special rule applicable in determining the basis of property described in § 1.1014–2 where—

(1) The property is includible in the gross estate of a decedent who died after October 21, 1942, and

(2) The executor elects for estate tax purposes under section 2032, or section 811 (j) of the Internal Revenue Code of 1939, to value the decedent's gross estate at the alternate valuation date prescribed in such sections.

In those cases, the value applicable in determining the basis of the property is not the value at the date of the decedent's death but (with certain limitations) the value at the date one year after his death if not distributed, sold, exchanged, or otherwise disposed of in the meantime. If such property was distributed, sold, exchanged, or otherwise disposed of within one year after the date of the decedent's death by the person who acquired it from the decedent, the value applicable in determining the basis is its value as of the date of such distribution, sale, exchange, or other disposition. For illustrations of the operation of this paragraph, see the estate tax regulations under section 2032.

§ 1.1014–4 *Uniformity of basis; adjustment to basis*—(a) *In general.* (1) The basis of property acquired from a decedent, as determined under section 1014 (a), is uniform in the hands of every person having possession or enjoyment of the property at any time under the will or other instrument or under the laws of descent and distribution. The principle of uniform basis means that the basis of the property (to which proper adjustments must, of course, be made) will be the same, or uniform, whether the property is possessed or enjoyed by the executor or administrator, the heir, the legatee or devisee, or the trustee or beneficiary of a trust created by a will or an inter vivos trust. In determining the amount allowed or allowable to a taxpayer in computing taxable income as deductions for depreciation or depletion under section 1016 (a) (2), the uniform basis of the property shall at all times be used and adjusted. The sale, exchange, or other disposition by a life tenant or remainderman of his interest in property will, for purposes of this section, have no effect upon the uniform basis of the property in the hands of those who acquired it from the decedent. Thus, gain or loss on sale of trust assets by the trustee will be determined without regard to the prior sale of any interest in the property. Moreover, any adjustment for depreciation shall be made to the uniform basis of the property without regard to such prior sale, exchange, or other disposition.

(2) Under the law governing wills and the distribution of the property of decedents, all titles to property acquired by bequest, devise, or inheritance relate back to the death of the decedent, even though the interest of the person taking the title was, at the date of death of the decedent, legal, equitable, vested, contingent, general, specific, residual, conditional, executory, or otherwise. Accordingly, there is a common acquisition date for all titles to property acquired from a decedent within the meaning of section 1014, and, for this reason, a common or uniform basis for all such interests. For example, if distribution of personal property left by a decedent is not made until one year after his death, the basis of such property in the hands of the legatee is its fair market value at the time when the decedent died, and not when the legatee actually received the property. If the bequest is of the residue to trustees in trust, and the executors do not distribute the residue to such trustees until five years after the death of the decedent, the basis of each piece of property left by the decedent and thus received, in the hands of the trustees, is its fair market value at the time when the decedent dies. If the bequest is to trustees in trust to pay to A during his lifetime the income of the property bequeathed, and after his death to distribute such property to the survivors of a class, and upon A's death the property is distributed to the taxpayer as the sole survivor, the basis of such property, in the hands of the taxpayer, is its fair market value at the time when the decedent died. The purpose of the Internal Revenue Code in prescribing a general uniform basis rule for property acquired from a decedent is, on the one hand, to tax the gain, in respect of such property, to him who realizes it (without regard to the circumstance that at the death of the decedent it may have been quite uncertain whether the taxpayer would take or gain anything); and, on the other hand, not to recognize as gain any element of value resulting solely from the circumstance that the possession or enjoyment of the taxpayer was postponed. Such postponement may be, for example, until the administration of the decedent's estate is completed, until the period of the possession or enjoyment of another has terminated, or until an uncertain event has happened. It is the increase or decrease in the value of property reflected in a sale or other disposition which is recognized as the measure of gain or loss.

(3) The principles stated in subparagraphs (1) and (2) of this paragraph do not apply to property transferred by an executor, administrator or trustee, to an heir, legatee, devisee or beneficiary under circumstances such that the transfer constitutes a sale or exchange. In such a case, gain or loss must be recognized by the transferor to the extent required by the revenue laws, and the transferee acquires a basis equal to the fair market transfer. Thus, for example, if the trustee of a trust created by will transfers to a beneficiary, in satisfaction of a specific bequest of $10,000, securities which had a fair market value of $9,000 on the date of the decedent's death (the applicable valuation date) and $10,000 on the date of the transfer, the trust realizes a taxable gain of $1,000 and the basis of the securities in the hands of the beneficiary would be $10,000. As a further example, if the executor of an estate transfers to a trust property worth $200,000, which had a fair market value of $175,000 on the date of the decedent's death (the applicable valuation date), in satisfaction of the decedent's bequest in trust for the benefit of his wife of cash or securities to be selected by the executor in an amount sufficient to utilize the marital deduction to the maximum extent authorized by law (after taking into consideration any other property qualifying for the marital deduction), capital gain in the amount of $25,000 would be realized by the estate and the basis of the property in the hands of the trustees would be $200,000. If, on the other hand, the decedent bequeathed a fraction of his residuary estate to a trust for the benefit of his wife, which fraction will not change regardless of any fluctuations in value of property in the decedent's estate after his death, no gain or loss would be realized by the estate upon transfer of property to the trust, and the basis of the property in the hands of the trustee would be its fair market value on the date of the decedent's death or on the alternate valuation date.

(b) *Multiple interests.* Where more than one person has an interest in property acquired from a decedent, the basis of such property shall be determined and adjusted without regard to the multiple interests. The basis for computing gain or loss on the sale of any one of such multiple interests shall be determined under § 1.1014–5. Thus, the deductions for depreciation and for depletion allowed or allowable, under sections 167 and 611, to a legal life tenant as if the life tenant were the absolute owner of the property, constitute an adjustment to the basis of the property not only in the hands of the life tenant, but also in the hands of the remainderman and every other person to whom the same uniform basis is applicable. Similarly, the deductions allowed or allowable under sections 167 and 611, both to the trustee and to the trust beneficiaries, constitute an adjustment to the basis of the property not only in the hands of the trustee, but also in the hands of the trust beneficiaries and every other person to whom the uniform basis is applicable. See, however, section 262. Similarly, adjustments in respect of capital expenditures or losses, tax-free distributions, or other distributions applicable in reduction of basis, or other items for which the basis is adjustable are made without regard to which one of the persons to whom the same uniform basis is applicable makes the capital expenditures or sustains the capital losses, or to whom the tax-free or other distributions are made, or to whom the deductions are allowed or allowable. See § 1.1014–6 for adjustments in respect of property acquired from a decedent prior to his death.

(c) *Records.* The executor or other legal representative of the decedent, the fiduciary of a trust under a will, the life tenant and every other person to whom a uniform basis under this section is applicable, shall maintain records showing in detail all deductions, distributions, or other items for which adjustment to basis is required to be made by sections 1016 and 1017, and shall furnish to the district director such information with respect to those adjustments as he may require.

§ 1.1014–5 *Gain or loss*—(a) *Sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent.* (1) The gain or loss from a sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent is determined by comparing the amount of the proceeds with the amount of that part of the adjusted uniform basis which is assignable to the interest sold or otherwise disposed of. The adjusted uniform basis is the uniform basis of the entire property adjusted to the time of sale or other disposition of any such interest as required by sections 1016 and 1017. The uniform basis is the unadjusted basis of the entire property determined immediately after the decedent's death under the applicable sections of part II of subchapter O of chapter 1 of the Internal Revenue Code of 1954. The proper measure of gain or loss resulting from a sale or other disposition of an interest in property acquired from a decedent is so much of the increase or decrease in the value of the entire property as is reflected in such sale or other disposition. Hence, in ascertaining the basis of a life interest, remainder interest, or other interest which is sold or otherwise disposed of, the uniform basis rule contemplates that proper adjustments will be made to reflect the change in relative value of the interests on account of the passage of time. Where a remainder interest is subject to a life interest in one person only, the factors set forth in the table which appears at the end of this subparagraph shall be used in determining the basis of the life interest or the remainder interest in the property at the time such interest is sold. The basis of the life interest or the remainder interest is computed by multiplying the uniform basis (adjusted to the time of the sale) by the appropriate factor. In the case of the sale of a life interest or a remainder interest, the factor used is the factor which appears in the life interest or the remainder interest column of the table opposite the age (at the time of the sale) of the person at whose death the life interest will terminate.

TABLE OF FACTORS

These factors are taken from Table I of the Estate Tax Regulations. See Table I in § 20.2031–7 (f) of those regulations for remainder and life factors for ages not shown here.

Age of measuring life	Factor for life interest	Factor for remainder interest
21	0.78203	0.21797
22	.77576	.22424
23	.76930	.23070
24	.76266	.23734
25	.75582	.24418
26	.74880	.25120
27	.74157	25843
28	.73416	.26584
29	.72653	.27347
30	.71871	28129
31	.71068	.28932
32	.70245	.29755
33	.69401	.30599
34	.68536	.31464
35	.67650	.32350
36	.66743	.33257
37	.65815	.34185
38	.64867	.35133
39	.63898	.36102
40	.62908	.37092
41	.61899	.38101
42	.60869	.39131
43	.59820	.40180
44	.58751	.41249
45	.57664	.42336
46	.56559	.43441
47	.55436	.44564
48	.54297	.45703
49	.53141	.46859
50	.51970	.48030
51	.50785	.49215
52	.49587	.50413
53	.48377	.51623
54	.47157	.52843
55	.45926	.54074
56	.44688	.55312
57	.43442	.56558
58	.42191	.57809
59	.40936	.59064
60	.39679	.60321
61	.38422	.61578
62	.37165	.62835
63	.35911	.64089
64	.34663	.65337
65	.33420	.66580
66	.32186	.67814
67	.30962	.69038
68	.29750	.70250
69	.28552	.71448
70	.27370	.72630
71	.26205	.73795
72	.25059	.74941
73	.23934	.76066
74	.22831	.77169
75	.21752	.78248
76	.20698	.79302
77	.19670	.80330
78	.18671	.81329
79	.17700	.82300
80	.16759	.83241

In cases in which the value of an interest cannot be determined from the above table, for example, cases in which the interest to be valued is dependent upon the continuation or termination of more than one life, or there is a term-certain concurrent with one or more lives, the factor is to be computed upon the basis of the Makehamized mortality table and interest at the rate of 3½ percent a year, compounded annually. This table appears as Table 38 of United States Life Tables and Actuarial Tables 1939–1941, published by the United States Department of Commerce, Bureau of the Census. Many such factors may be found in, or readily computed with the use of the tables contained in a pamphlet entitled "Actuarial Values for Estate and Gift Tax," which may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington 25, D. C.; or a case requiring a special factor (provided the transaction is completed and not merely proposed or hypothetical) may be stated to the Commissioner who will furnish such factor. The request must be accompanied by a statement of the date of birth of each person, the duration of whose life may affect the value of the interest, and by copies of the relevant instruments.

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

Example. Improved realty having a fair market value of $20,000 at the date of the decedent's death on January 1, 1954, is devised to A for life, with remainder over to B. On January 1, 1958, A sells his life interest for $12,500. During each of the years 1954–57, inclusive, A was allowed a deduction of $300 for depreciation. Thus, the adjusted uniform basis of the property is $18,800 ($20,000 minus $1,200 depreciation). At the time of the sale, A was 39 years of age. The life factor to be used here is 0.63898. The portion of the uniform basis (adjusted to the time of the sale) assigned to A's life interest is $12,012.82 (0.63898×$18,800). A's gain on the sale is $487.18 ($12,500−12,012.82).

§ 1.1014–6 *Special rule for adjustments to basis where property is acquired from a decedent prior to his death*—(a) *In general.* (1) The basis of property described in section 1014 (b) (9) which is acquired from a decedent prior to his death shall be adjusted for depreciation, obsolescence, amortization, and depletion allowed the taxpayer on such property for the period prior to the decedent's death. Thus, in general, the adjusted basis of such property will be its fair market value at the decedent's death, or the applicable alternate valuation date, less the amount allowed (determined with regard to section 1016 (a) (2) (B)) to the taxpayer as deductions for exhaustion, wear and tear, obsolescence, amortization and depletion for the period held by the taxpayer prior to the decedent's death. The deduction allowed for a taxable year in which the decedent dies shall be an amount properly allocable to that part of the year prior to his death. For a discussion of the basis adjustment required by section 1014 (b) (9) where property is held in trust, see paragraph (c) of this section.

(2) Where property coming within the purview of subparagraph (1) of this paragraph was held by the decedent and his surviving spouse as tenants by the entirety or as joint tenants with right of survivorship, and joint income tax returns were filed by the decedent and the surviving spouse in which the deductions referred to in subparagraph (1) were taken, there shall be allocated to the surviving spouse's interest in the property that proportion of the deductions allowed for each period for which the joint returns were filed which her income from the property bears to the total income from the property. Each spouse's income from the property shall be determined in accordance with local law.

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

Example (1). The taxpayer acquired income-producing property by gift on January 1, 1954. The property had a fair market value of $50,000 on the date of the donor's death, January 1, 1956, and was included in his gross estate at that amount for estate tax purposes as a transfer in contemplation of death. Depreciation in the amount of $750 per year was allowable for each of the taxable years 1954 and 1955. However, the taxpayer claimed depreciation in the amount of $500 for each of these years (resulting in a reduction in his taxes) and his income tax returns were accepted as filed. The adjusted basis of the property as of the date of the decedent's death is $49,000 ($50,000, the fair market value at the decedent's death, less $1,000, the total of the amounts actually allowed as deductions).

Example (2). On July 1, 1952, H purchased for $30,000 income-producing property which he conveyed to himself and W, his wife, as tenants by the entirety. Under local law each spouse was entitled to one-half of the income therefrom. H died on January 1, 1955, at which time the fair market value of the property was $40,000. The entire value of the property was included in H's gross estate. H and W filed joint income tax returns for the years 1952, 1953, and 1954. The total depreciation allowance for the year 1952 was $500 and for each of the other years 1953 and 1954 was $1,000. One-half of the $2,500 depreciation will be allocated to W. The adjusted basis of the property in W's hands of January 1, 1955, was $38,750 ($40,000, value on the date of H's death, less $1,250, depreciation allocated to W for periods before H's death). However, if, under local law, all of the income from the property was allocable to H, no adjustment under this paragraph would be required and W's basis for the property as of the date of H's death would be $40,000.

(b) *Multiple interests in property described in section 1014 (b) (9) and acquired from a decedent prior to his death.* (1) Where more than one person has an interest in property described in section 1014 (b) (9) which was acquired from a decedent before his death, the basis of such property and of each of the several interests therein shall, in general, be determined and adjusted in accordance with the principles contained in §§ 1.1014–4 and 1.1014–5, relating to the uniformity of basis rule. Application of these principles to the determination of basis under section 1014 (b) (9) is shown in the remaining subparagraphs of this paragraph in connection with certain commonly encountered situations involving multiple interests in property acquired from a decedent before his death.

(2) Where property is acquired from a decedent before his death, and the entire property is subsequently included in the decedent's gross estate for estate tax purposes, the uniform basis of the property, as well as the basis of each of the several interests in the property, shall be determined by taking into account the basis adjustments required by section 1014 (a) owing to such inclusion of the entire property in the decedent's gross estate. For example, suppose that the decedent transfers property in trust, with a life estate to A, and the remainder to B or his estate. The transferred property consists of 100 shares of the common stock of X Corporation, with a basis of $10,000 at the time of the transfer. At the time of the decedent's death the value of the stock is $20,000. The transfer is held to have been made in contemplation of death and the entire value of the trust is included in the decedent's gross estate. Under section 1014 (a), the uniform basis of the property in the hands of the trustee, the life tenant, and the remainderman, is $20,000. If immediately prior to the decedent's death, A's share of the uniform basis of $10,000 was $6,000, and B's share was $4,000, then, immediately after the decedent's death, A's share of the uniform basis of $20,000 is $12,000, and B's share is $8,000.

(3) (i) In cases where, due to the operation of the estate tax, only a portion of property acquired from a decedent before his death is included in the decedent's gross estate, as in cases where the decedent retained a reversion to take effect upon the expiration of a life estate in another, the uniform basis of the entire property shall be determined by taking into account any basis adjustments required by section 1014 (a) owing to such inclusion of a portion of the property in the decedent's gross estate. In such cases the uniform basis is the adjusted basis of the entire property immediately prior to the decedent's death increased (or decreased) by an amount which bears the same relation to the total appreciation (or diminution) in value of the entire property (over the adjusted basis of the entire property immediately prior to the decedent's death) as the value of the property included in the decedent's gross estate bears to the value of the entire property. For example, assume that the decedent creates a trust to pay the income to A for life, remainder to B or his estate. The trust instrument further provides that if the decedent should survive A, the income shall be paid to the decedent for life. Assume that the decedent predeceases A, so that, due to the operation of the estate tax, only the present value of the remainder interest is included in the decedent's gross estate. The trust consists of 100 shares of the common stock of X Corporation with an adjusted basis immediately prior to the decedent's death of $10,000 (as determined under section 1015). At the time of the decedent's death the value of the stock is $20,000, and the value of the remainder interest in the hands of B is $8,000. The uniform basis of the entire property following the decedent's death is $14,000, computed as follows:

Uniform basis prior to decedent's death	$10,000
plus	
Increase in uniform basis (determined by the following formula)	4,000
Increase in uniform basis (to be determined) / $10,000 (total appreciation) = $8,000 (value of property included in gross estate) / $20,000 (value of entire property)	
Uniform basis under section 1014 (a)	14,000

(ii) In cases of the type described in subdivision (i) of this subparagraph, the basis of any interest which is included in the decedent's gross estate may be ascertained by adding to (or substracting from) the basis of such interest determined immediately prior to the decedent's death the increase (or decrease) in the uniform basis of the property attributable to the inclusion of the interest in the decedent's gross estate. Where the interest is sold or otherwise disposed of at any time after the decedent's death, proper adjustment must be made in order to reflect the change in value of the interest on account of the passage of time (see § 1.1014–5 (a) and the table included therein). For an illustration of the operation of this subdivision, see step 6 of the example in § 1.1014–7.

(iii) In cases of the type described in subdivision (i) (cases where, due to the operation of the estate tax, only a portion of the property is included in the decedent's gross estate), the basis for computing the depreciation, amortization, or depletion allowance shall be the uniform basis of the property determined under section 1014 (a). However, the manner of taking into account such allowance computed with respect to such uniform basis is subject to the following limitations:

(*a*) In cases where the value of the life interest is not included in the decedent's gross estate, the amount of such allowance to the life tenant under section 167 (g) (or section 611 (b)) shall not exceed (or be less than) the amount which would have been allowable to the life tenant if no portion of the basis of the property was determined under section 1014 (a). Proper adjustment shall be made for the amount allowable to the life tenant, as required by section 1016. Thus, an appropriate adjustment shall be made to the uniform basis of the property in the hands of the trustee, to the basis of the life interest in the hands of the life tenant, and to the basis of the remainder in the hands of the remainderman.

(*b*) Any remaining allowance (that is, the increase in the amount of depreciation, amortization, or depletion allowable resulting from any increase in the uniform basis of the property under section 1014 (a)) shall not be allowed to the life tenant. The remaining allowance shall, instead, be allowed to the trustee to the extent that the trustee both (*1*) is required or permitted, by the governing trust instrument (or under local law), to maintain a reserve for depreciation, amortization, or depletion, and (2) actually maintains such a reserve. If, in accordance with the preceding sentence, the trustee does maintain such a reserve, the remaining allowance shall be taken into account, under section 1016, in adjusting the uniform basis of the property in the hands of the trustee and in adjusting the basis of the remainder interest in the hands of the remainderman, but shall not be taken into account, under section 1016, in determining the basis of the life interest in the hands of the life tenant. For an example of the operation of this subdivision, see § 1.1014–7 (b).

(4) In cases where the basis of any interest in property is not determined under section 1014 (a), as where such interest (i) is not included in the decedent's gross estate, or (ii) is sold, exchanged or otherwise disposed of before the decedent's death, the basis of such interest shall be determined under other applicable provisions of the Internal Revenue Code. To illustrate, in the example shown in subdivision (i) of subparagraph (3) of this paragraph the basis of the life estate in the hands of A shall be determined under section 1015, relating to the basis of property acquired by gift. If, on the other hand, A had sold his life interest prior to the decedent's death, the basis of the life estate in the hands of A's transferee would be determined under section 1012.

(c) *Adjustments for deductions allowed prior to the decedent's death.* (1) As stated in paragraph (a), section 1014 (b) (9) requires a reduction in the uniform basis of property acquired from a decedent before his death for certain deductions allowed in respect of such property during the decedent's lifetime. In general, the amount of the reduction in basis required by section 1014 (b) (9) shall be the aggregate of the deductions allowed in respect of the property, but shall not include deductions allowed in respect of the property to the decedent himself. In cases where, owing to the operation of the estate tax, only a part of the value of the entire property is included in the decedent's gross estate, the amount of the reduction required by section 1014 (b) (9) shall be an amount which bears the same relation to the total of all deductions (described in paragraph (a) of this section) allowed in respect of the property as the value of the property included in the decedent's gross estate bears to the value of the entire property.

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

Example (*1*). The decedent creates a trust to pay the income to A for life, remainder to B or his estate. The property transferred in trust consists of an apartment building with a basis of $50,000 at the time of the transfer. The decedent dies 2 years after the transfer is made and the gift is held to have been made in contemplation of death. Depreciation on the property was allowed in the amount of $1,000 annually. At the time of the decedent's death the value of the property is $58,000. The uniform basis of the property in the hands of the trustee, the life tenant, and the remainderman, immediately after the decedent's death is $56,000 ($58,000, fair market value of the property immediately after the decedent's death, reduced by $2,000, deductions for depreciation allowed prior to the decedent's death).

Example (*2*). The decedent creates a trust to pay the income to A for life, remainder to B or his estate. The trust instrument provides that if the decedent should survive A, the income shall be paid to the decedent for life. The decedent predeceases A and the present value of the remainder interest is included in the decedent's gross estate for estate tax purposes. The property transferred consists of an apartment building with a basis of $110,000 at the time of the transfer. Following the creation of the trust and during the balance of the decedent's life, deductions for depreciation were allowed on the property in the amount of $10,000. At the time of decedent's death the value of the entire property is $150,000, and the value of the remainder interest is $100,000. Accordingly, the uniform basis of the property in the hands of the trustee, the life tenant, and the remainderman, as adjusted under section 1014 (b) (9), is $126,666, computed as follows:

Uniform basis prior to decedent's death	$100,000
plus	
Increase in uniform basis—before reduction (determined by the following formula)	33,333
Increase in uniform basis (to be determined) / $50,000 (total appreciation of property since time of transfer) = $100,000 (value of property included in gross estate) / $150,000 (value of entire property)	133,333
less	
Deductions allowed prior to decedent's death—taken into account under section 1014 (b) (9) (determined by the following formula)	6,667
Prior deductions taken into account (to be determined) / $10,000 (total deductions allowed prior to decedent's death) = $100,000 (value of property included in gross estate) / $150,000 (value of entire property)	
Uniform basis under section 1014	126,666

§ 1.1014–7 *Example applying rules of §§ 1.1014–4 through 1.1014–6 to case involving multiple interests.* (a) On January 1, 1950, the decedent creates a trust to pay the income to A for life, remainder to B or his estate. The trust instrument provides that if the decedent should survive A, the income shall be paid to the decedent for life. The decedent, who died on January 1, 1955, predeceases A, so that, due to the operation of the estate tax, only the present value of the remainder interest is included in the decedent's gross estate. The trust consists of an apartment building with a basis of $30,000 at the time of transfer. Under the trust instrument the trustee is required to maintain a reserve for depreciation. During the decedent's lifetime depreciation is allowed in the amount of $800 annually. At the time of the decedent's death the value of the apartment building is $45,000. A, the life tenant, is 43 years of age at the time of the decedent's death. Immediately after the decedent's death, the uniform basis of the entire property under section 1014 (a) is $32,027; A's basis for the life interest is $15,553; and B's basis for the remainder interest is $16,474, computed as follows:

Step 1. Uniform basis (adjusted) immediately prior to decedent's death:

Basis at time of transfer	$30,000
less	
Depreciation allowed under section 1016 before decedent's death ($800×5)	4,000
	26,000

Step 2. Value of property included in decedent's gross estate:

0.40180 (remainder factor, age 43) × $45,000 (value of entire property)	$18,081

Step 3. Uniform basis of property under section 1014 (a), before reduction required by section 1014 (b) (9):

Uniform basis (adjusted) prior to decedent's death	$26,000
Increase in uniform basis (determined by the following formula)	7,634
Increase in uniform basis (to be determined) / $19,000 (total appreciation, $45,000−$26,000) = $18,081 (value of property included in gross estate) / $45,000 (value of entire property)	
	33,634

Step 4. Uniform basis reduced as required by section 1014 (b) (9) for deductions allowed prior to death:

Uniform basis before reduction	$33,634
less	
Deductions allowed prior to decedent's death—taken into account under section 1014 (b) (9) (determined by the following formula)	1,607
Prior deductions taken into account (to be determined) / $4,000 (total deductions allowed prior to decedent's death) = $18,081 (value of property included in gross estate) / $45,000 (value of entire property)	
	32,027

Step 5. A's basis for the life interest at the time of the decedent's death, determined under section 1015:

0.59820 (life factor, age 43) × $26,000	$15,553

Step 6. B's basis for the remainder interest, determined under section 1014 (a):

Basis prior to the decedent's death:		
0.40180 (remainder factor, age 43) × $26,000		$10,447
plus		
Increase in uniform basis owing to decedent's death:		
Increase in uniform basis	$7,634	
Reduction required by section 1014 (b) (9)	1,607	
		6,027
		16,474

(b) Assume the same facts as in paragraph (a) of this section. Assume further, that following the decedents' death depreciation is allowed in the amount of $1,000 annually. As of January 1, 1964, when A's age is 52, the adjusted uniform basis of the entire property is $23,027; A's basis for the life interest is $9,323; and B's basis for the remainder interest is $13,704, computed as follows:

Step 7. Uniform basis (adjusted) as of January 1, 1964:

Uniform basis determined under section 1014 (a), reduced as required by section 1014 (b) (9)	$32,027
less	
Depreciation allowed since decedent's death ($1,000×9)	9,000
	23,027

Step 8. Allocable share of adjustment for depreciation allowable in the nine years since the decedent's death:

A's interest

0.49587 (life factor, age 52) × $7,200 (800, depreciation attributable to uniform basis before increase under section 1014 (a), ×9)	$3,570

B's interest

0.50413 (remainder factor, age 52) × $7,200 (800, depreciation attributable to uniform basis before increase under section 1014 (a), ×9)	3,630
plus	
$200 (annual depreciation attributable to increase in uniform basis under section 1014 (a)) ×9	1,800
	5,430

Step 9. Tentative bases of A's and B's interests as of January 1, 1964 (before adjustment for depreciation).

A's interest

0.49587 (life factor, age 52) × $26,000 (adjusted uniform basis immediately before decedent's death)	$12,893

B's interest

0.50413 (remainder factor, age 52) × $26,000 (adjusted uniform basis immediately before decedent's death)	$13,107
plus	
Increase in uniform basis owing to inclusion of remainder in decedent's gross estate	6,027
	19,134

Step 10. Bases of A's and B's interests as of January 1, 1964:

A

Tentative basis (Step 9)	$12,893
less	
Allocable depreciation (Step 8)	3,570
	9,323

B

Tentative basis (Step 9)	19,134
less	
Allocable depreciation (Step 8)	5,430
	13,704

§ 1.1014–8 *Bequest, devise, or inheritance of a remainder interest.* (a) (1) Where property is transferred for life, with remainder in fee, and the remainderman dies before the life tenant, no adjustment is made to the uniform basis of the property on the death of the remainderman (see § 1.1014–4 (a)). However, the basis of the remainderman's heir, legatee, or devisee for the remainder interest is determined by adding to (or subtracting from) the part of the adjusted uniform basis assigned to the remainder interest (determined in accordance with the principles set forth in §§ 1.1014–4 through 1.1014–6) the difference between—

(i) The value of the remainder interest included in the remainderman's estate, and

(ii) The basis of the remainder interest immediately prior to the remainderman's death.

(2) The basis of any property distributed to the heir, legatee, or devisee upon termination of a trust (or legal life estate) or at any other time (unless included in the gross income of the legatee or devisee) shall be determined by adding to (or subtracting from) the adjusted uniform basis of the property thus distributed the difference between—

(i) The value of the remainder interest in the property included in the remainderman's estate, and

(ii) The basis of the remainder interest in the property immediately prior to the remainderman's death.

(b) The provisions of paragraph (a) of this section are illustrated by the following examples:

Example (1). Assume that, under the will of a decedent, property consisting of common stock with a value of $1,000 at the time of the decedent's death is transferred in trust, to pay the income to A for life, remainder to B or to B's estate. B predeceases A and bequeaths the remainder interest to C. Assume that B dies on January 1, 1956, and that the value of the stock originally transferred is $1,600 at B's death. A's age at that time is 37. The value of the remainder interest included in B's estate is $547 (0.34185, remainder factor age 37, × $1,600), and hence $547 is C's basis for the remainder interest immediately after B's death. Assume that C sells the remainder interest on January 1, 1961, when A's age is 42. C's basis for the remainder interest at the time of such sale is $596, computed as follows:

Basis of remainder interest computed with respect to uniform basis of entire property (0.39131, remainder factor age 42, × $1,000, uniform basis of entire property)		$391
plus		
Value of remainder interest included in B's estate	$547	
less		
Basis of remainder interest immediately prior to B's death (0.34185, remainder factor age 37, × $1,000)	342	
		205
Basis of C's remainder interest at the time of sale		596

Example (2). Assume the same facts as in example (1), except that C does not sell the remainder interest. Upon A's death terminating the trust, C's basis for the stock distributed to him is computed as follows:

Uniform basis of the property, adjusted to date of termination of the trust		$1,000
plus		
Value of remainder interests in the property at the time of B's death	$547	
less		
B's share of uniform basis of the property at the time of his death	342	
		205
C's basis for the stock distributed to him upon the termination of the trust		1,205

Example (3). Assume the same facts as in example (2), except that the property transferred is depreciable. Assume further that $100 of depreciation was allowed prior to B's death and that $50 of depreciation is allowed between the time of B's death and the termination of the trust. Upon A's death terminating the trust, C's basis for the property distributed to him is computed as follows:

Uniform basis of the property, adjusted to date of termination of the trust:		
Uniform basis immediately after decedent's death	$1,000	
Depreciation allowed following decedent's death	150	
		$850
plus		
Value of remainder interest in the property at the time of B's death	547	
less		
B's share of uniform basis of the property at the time of his death (0.34185 × $900, uniform basis at B's death)	308	
		239
C's basis for the property distributed to him upon the termination of the trust		1,089

(c) The rules stated in paragraph (a) do not apply where the basis of the remainder interest in the hands of the remainderman's transferee is determined by reference to its cost to such transferee. See also, § 1.1014–4 (a). Thus, if, in example (*1*) of the preceding paragraph, B sold his remainder interest to C for $547 in cash, C's basis for the stock distributed to him upon the death of A terminating the trust is $547.

§ 1.1015 *Statutory provisions; basis of property acquired by gifts and transfers in trust.*

SEC. 1015. *Basis of property acquired by gifts and transfers in trust*—(a) *Gifts after December 31, 1920.* If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period before the date of the gift as provided in section 1016) is greater than the fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the Secretary or his delegate shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the Secretary or his delegate finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the Secretary or his delegate as of the date or approximate date at which, according to the best information that the Secretary or his delegate is able to obtain, such property was acquired by such donor or last preceding owner.

(b) *Transfer in trust after December 31, 1920.* If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest, or devise), the basis shall be the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor on such transfer under the law applicable to the year in which the transfer was made.

(c) *Gift or transfer in trust before January 1, 1921.* If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition.

§ 1.1015–1 *Basis of property acquired by gift after December 31, 1920*—(a)

General rule. (1) In the case of property acquired by gift after December 31, 1920 (whether by a transfer in trust or otherwise) the basis of the property for the purpose of determining gain is the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift. The same rule applies in determining loss unless the basis (adjusted for the period prior to the date of gift in accordance with sections 1016 and 1017) is greater than the fair market value of the property at the time of the gift. In such case the basis for determining loss is the fair market value at the time of the gift.

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

Example. A acquires by gift income-producing property which has an adjusted basis of $100,000 at the date of gift. The fair market value of the property at the date of gift is $90,000. A later sells the property for $95,000. In such case there is neither gain nor loss. The basis for determining loss is $90,000; therefore, there is no loss. Furthermore, there is no gain, since the basis for determining gain is $100,000.

(b) *Uniform basis; proportionate parts of.* Property acquired by gift has a single or uniform basis although more than one person may acquire an interest in such property. The uniform basis of the property remains fixed subject to proper adjustment for items under sections 1016 and 1017. However, the value of the proportionate parts of the uniform basis represented, for instance, by the respective interests of the life tenant and remainderman are adjustable to reflect the change in the relative values of such interest on account of the lapse of time. The portion of the basis attributable to an interest at the time of its sale or other disposition shall be determined under the rules provided in § 1.1014–5.

(c) *Time of acquisition.* The date that the donee acquires an interest in property by gift is when the donor relinquishes dominion over the property and not necessarily when title to the property is acquired by the donee. Thus, the date that the donee acquires an interest in property by gift where he is a successor in interest, such as in the case of a remainderman of a life estate or a beneficiary of the distribution of the corpus of a trust, is the date such interests are created by the donor and not the date the property is actually acquired.

(d) *Property acquired by gift from a decedent dying after December 31, 1953.* If an interest in property was acquired by the taxpayer by gift from a donor dying after December 31, 1953, under conditions which require the inclusion of the property in the donor's gross estate for estate tax purposes, and the property had not been sold, exchanged, or otherwise disposed of by the taxpayer before the donor's death, see the rules prescribed in section 1014 and the regulations thereunder.

(e) *Fair market value.* For the purposes of this section, the value of property as appraised for the purpose of the Federal gift tax, or, if the gift is not subject to such tax, its value as appraised for the purpose of a State gift tax, shall be deemed to be the fair market value of the property at the time of the gift.

(f) *Reinvestments by fiduciary.* If the property is an investment by the fiduciary under the terms of the gift (as, for example, in the case of a sale by the fiduciary of property transferred under the terms of the gift, and the reinvestment of the proceeds), the cost or other basis to the fiduciary is taken in lieu of the basis specified in paragraph (a) of this section.

(g) *Records.* To insure a fair and adequate determination of the proper basis under section 1015, persons making or receiving gifts of property should preserve and keep accessible a record of the facts necessary to determine the cost of the property and, if pertinent, its fair market value as of March 1, 1913, or its fair market value as of the date of the gift.

§ 1.1015–2 *Transfer of property in trust after December 31, 1920*—(a) *General rule.* (1) In the case of property acquired after December 31, 1920, by transfer in trust (other than by a transfer in trust by a gift, bequest, or devise) the basis of property so acquired is the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made. If the taxpayer acquired the property by a transfer in trust, this basis applies whether the property be in the hands of the trustee, or the beneficiary, and whether acquired prior to the termination of the trust and distribution of the property, or thereafter.

(2) The principles stated in § 1.1015–1 (b) concerning the uniform basis are applicable in determining the basis of property where more than one person acquires an interest in property by transfer in trust after December 31, 1920.

(b) *Reinvestment by fiduciary.* If the property is an investment made by the fiduciary (as, for example, in the case of a sale by the fiduciary of property transferred by the grantor, and the reinvestment of the proceeds), the cost or other basis to the fiduciary is taken in lieu of the basis specified in paragraph (a) of this section.

§ 1.1015–3 *Gift or transfer in trust before January 1, 1921.* (a) In the case of property acquired by gift or transfer in trust before January 1, 1921, the basis of such property is the fair market value thereof at the time of the gift or at the time of the transfer in trust.

(b) The principles stated in § 1.1015–1 (b) concerning the uniform basis are applicable in determining the basis of property where more than one person acquires an interest in property by gift or transfer in trust before January 1, 1921. In addition, if an interest in such property was acquired from a decedent and the property had not been sold, exchanged, or otherwise disposed of before the death of the donor, the rules prescribed in section 1014 and the regulations thereunder are applicable in determining the basis of such property in the hands of the taxpayer.

§ 1.1015–4 *Transfers in part a gift and in part a sale*—(a) *General rule.* Where a transfer of property is in part a sale and in part a gift, the unadjusted basis of the property in the hands of the transferee is the sum of (1) the amount paid by the transferee for the property, and (2) any excess of the transferor's adjusted basis over such amount. Thus, the unadjusted basis of the property in the hands of the transferee is the greater of (1) the amount paid for the property, or (2) the transferor's adjusted basis at the time of the transfer. For determining loss, the unadjusted basis of the property in the hands of the transferee shall not be greater than the fair market value of the property at the time of such transfer. For determination of gain or loss of the transferor see § 1.1001–1 (e).

(b) *Examples.* The rule of paragraph (a) is illustrated by the following examples:

Example (1). If A transfers property to his son for $30,000, and such property at the time of the transfer has an adjusted basis of $30,000 in A's hands (and a fair market value of $60,000), the unadjusted basis of the property in the hands of the son is $30,000.

Example (2). If A transfers property to his son for $60,000, and such property at the time of transfer has an adjusted basis of $30,000 in A's hands (and a fair market value of $90,000), the unadjusted basis of such property in the hands of the son is $60,000.

Example (3). If A transfers property to his son for $30,000, and such property at the time of transfer has an adjusted basis in A's hands of $60,000 (and a fair market value of $90,000), the unadjusted basis of such property in the hands of the son is $60,000.

Example (4). If A transfers property to his son for $30,000 and such property at the time of transfer has an adjusted basis of $90,000 in A's hands (and a fair market value of $60,000), the unadjusted basis of the property in the hands of the son is $90,000. However, since the adjusted basis of the property in A's hands at the time of the transfer was greater than the fair market value at that time, for the purpose of determining any loss on a later sale or other disposition of the property by the son its unadjusted basis in his hands is $60,000.

§ 1.1016 *Statutory provisions; adjustments to basis.*

SEC. 1016. *Adjustments to basis*—(a) *General rule.* Proper adjustment in respect of the property shall in all cases be made—

(1) For expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made—

(A) For taxes or other carrying charges described in section 266, or

(B) For expenditures described in section 173 (relating to circulation expenditures),

for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior taxable years;

(2) In respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent of the amount—

(A) Allowed as deductions in computing taxable income under this subtitle or prior income tax laws, and

(B) Resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under this subtitle (other than chapter 2, relating to tax on self-employment income), or prior income, war-profits, or excess-profits tax laws,

but not less than the amount allowable under this subtitle or prior income tax laws.

Where no method has been adopted under section 167 (relating to depreciation deduction), the amount allowable shall be determined under section 167 (b) (1). Subparagraph (B) of this paragraph shall not apply in respect of any period since February 28, 1913, and before January 1, 1952, unless an election has been made under section 1020. Where for any taxable year before the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall be based on the depletion which would have been allowable for such year if computed without reference to discovery value or a percentage of income;

(3) In respect of any period—

(A) Before March 1, 1913, and

(B) Since February 28, 1913, during which such property was held by a person or an organization not subject to income taxation under this chapter or prior income tax laws,

for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(4) In the case of stock (to the extent not provided for in the foregoing paragraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 (40 Stat. 1057), or the Revenue Act of 1921 (42 Stat. 227), out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921);

(5) In the case of any bond (as defined in section 171 (d)) the interest on which is wholly exempt from the tax imposed by this subtitle, to the extent of the amortizable bond premium disallowable as a deduction pursuant to section 171 (a) (2), and in the case of any other bond (as defined in section 171 (d)) to the extent of the deductions allowable pursuant to section 171 (a) (1) with respect thereto;

(6) In the case of any short-term municipal bond (as defined in section 75 (b)), to the extent provided in section 75 (a) (2);

(7) In the case of a residence the acquisition of which resulted, under section 1034, in the nonrecognition of any part of the gain realized on the sale, exchange, or involuntary conversion of another residence, to the extent provided in section 1034 (e);

(8) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to section 77, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability;

(9) For amounts allowed as deductions as deferred expenses under section 616 (b) (relating to certain expenditures in the development of mines) and resulting in a reduction of the taxpayer's taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years;

(10) For amounts allowed as deductions as deferred expenses under section 615 (b) (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's taxes under this subtitle but not less than the amounts allowable under such section for the taxable year and prior years;

(11) For deductions to the extent disallowed under section 268 (relating to sale of land with unharvested crops), notwithstanding the provisions of any other paragraph of this subsection;

(12) To the extent provided in section 28 (h) of the Internal Revenue Code of 1939 in the case of amounts specified in a shareholder's consent made under section 28 of such code;

(13) To the extent provided in section 551 (f) in the case of the stock of United States shareholders in a foreign personal holding company;

(14) For amounts allowed as deductions as deferred expenses under section 174 (b) (1) (relating to research and experimental expenditures) and resulting in a reduction of the taxpayers' taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years;

(15) For deductions to the extent disallowed under section 272 (relating to disposal of coal), notwithstanding the provisions of any other paragraph of this subsection.

(b) *Substituted basis.* Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in subsection (a) shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases. The term "substituted basis" as used in this section means a basis determined under any provision of this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses), or under any corresponding provision of a prior income tax law, providing that the basis shall be determined—

(1) By reference to the basis in the hands of a transferor, donor, or grantor, or

(2) By reference to other property held at any time by the person for whom the basis is to be determined.

(c) *Separate mineral interests treated as one property.* For treatment of separate mineral interests as one property, see section 614.

§ 1.1016–1 *Adjustments to basis; scope of section.* Section 1016 and §§ 1.1016–2 to 1016–10, inclusive, contain the rules relating to the adjustments to be made to the basis of property to determine the adjusted basis as defined in section 1011. However, if the property was acquired from a decedent before his death, see § 1.1014–6 for adjustments on account of certain deductions allowed the taxpayer for the period between the date of acquisition of the property and the date of death of the decedent.

§ 1.1016–2 *Items properly chargeable to capital account.* (a) The cost or other basis shall be properly adjusted for any expenditure, receipt, loss, or other item, properly chargeable to capital account, including the cost of improvements and betterments made to the property. No adjustment shall be made in respect of any item which, under any applicable provision of law or regulation, is treated as an item not properly chargeable to capital account but is allowable as a deduction in computing net or taxable income for the taxable year. For example, in the case of oil and gas wells no adjustment may be made in respect of any intangible drilling and development expense allowable as a deduction in computing net or taxable income. See the regulations under section 263 (c).

(b) The application of the foregoing provisions may be illustrated by the following example:

Example. A, who makes his returns on the calendar year basis, purchased property in 1941 for $10,000. He subsequently expended $6,000 for improvements. Disregarding, for the purpose of this example, the adjustments required for depreciation, the adjusted basis of the property is $16,000. If A sells the property in 1954 for $20,000, the amount of his gain will be $4,000.

(c) Adjustment to basis shall be made for carrying charges such as taxes and interest, with respect to property (whether real or personal, improved or unimproved, and whether productive or unproductive), which the taxpayer elects to treat as chargeable to capital account under section 266, rather than as an allowable deduction. The term "taxes" for this purpose includes duties and excise taxes but does not include income taxes.

(d) Expenditures described in section 173 to establish, maintain, or increase the circulation of a newspaper, magazine, or other periodical are chargeable to capital account only in accordance with and in the manner provided in the regulations under section 173.

§ 1.1016–3 *Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 28, 1913*—(a) *In general*—(1) *Adjustment where deduction is claimed.* (i) For taxable periods beginning on or after January 1, 1952, the cost or other basis of property shall be decreased for exhaustion, wear and tear, obsolescence, amortization, and depletion by the greater of the following two amounts: (*a*) the amount allowed as deductions in computing taxable income, to the extent resulting in a reduction of the taxpayer's income taxes, or (*b*) the amount allowable for the years involved. See paragraph (b) of this section. Where the taxpayer makes an appropriate election the above rule is applicable for periods since February 28, 1913, and before January 1, 1952. See paragraph (d) of this section. For rule for such periods where no election is made, see paragraph (c) of this section.

(ii) The determination of the amount properly allowable for exhaustion, wear and tear, obsolescence, amortization, and depletion shall be made on the basis of facts reasonably known to exist at the end of the taxable year. A taxpayer is not permitted to take advantage in a later year of his prior failure to take any such allowance or his taking an allowance plainly inadequate under the known facts in prior years. In the case of depreciation, if in prior years the taxpayer has consistently taken proper deductions under one method, the amount allowable for such prior years shall not be increased even though a greater amount would have been allowable under another proper method. For rules governing losses on retirement of depreciable property, including rules for determining basis, see § 1.167 (a)–8 of the regulations under section 167. This subdivision may be illustrated by the following example:

Example. An asset was purchased January 1, 1950, at a cost of $10,000. The useful life of the asset is 10 years. It has no salvage

value. Depreciation was deducted and allowed for 1950 to 1954 as follows:

1950	$500
1951	-----
1952	1,000
1953	1,000
1954	1,000
Total amount allowed	3,500

The correct reserve as of December 31, 1954, is computed as follows:

Dec. 31:	
1950 ($10,000÷10)	$1,000
1951 ($9,000÷9)	1,000
1952 ($8,000÷8)	1,000
1953 ($7,000÷7)	1,000
1954 ($6,000÷6)	1.000
Reserve Dec. 31, 1954	5,000

Depreciation for 1955 is computed as follows:

Cost	$10,000
Reserve as of December 31, 1954	5,000
Unrecovered cost	5,000
Depreciation allowable for 1955 ($5,000÷5)	1,000

(2) *Adjustment for amount allowable where no depreciation deduction claimed.* (i) If the taxpayer has not taken a depreciation deduction either in the taxable year or for any prior taxable year, adjustments to basis of the property for depreciation allowable shall be determined by using the straight-line method of depreciation. (See § 1.1016–4 for adjustments in the case of persons exempt from income taxation.)

(ii) For taxable years beginning after December 31, 1953, and ending after August 16, 1954, if the taxpayer with respect to any property has taken a deduction for depreciation properly under one of the methods provided in section 167 (b) for one or more years but has omitted the deduction in other years, the adjustment to basis for the depreciation allowable in such a case will be the deduction under the method which was used by the taxpayer with respect to that property. Thus, if A acquired property in 1954 on which he properly computed his depreciation deduction under the method described in section 167 (b) (2) (the declining-balance method) for the first year of its useful life but did not take a deduction in the second and third year of the asset's life, the adjustment to basis for depreciation allowable for the second and third year will be likewise computed under the declining-balance method.

(3) *Adjustment for depletion deductions with respect to taxable years before 1932.* Where for any taxable year before the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall not exceed a depletion deduction which would have been allowable for such year if computed without reference to discovery value or a percentage of income.

(b) *Adjustment for periods beginning on or after January 1, 1952.* The decrease required by paragraph (a) of this section for deductions in respect of any period beginning on or after January 1, 1952, shall be whichever is the greater of the following amounts:

(1) The amount allowed as deductions in computing taxable income under subtitle A of the Internal Revenue Code of 1954 or prior income tax laws and resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under subtitle A (other than chapter 2, relating to tax on self-employment income) or prior income, war-profits, or excess-profits tax laws; or

(2) The amount properly allowable as deductions in computing taxable income under subtitle A or prior income tax laws (whether or not the amount properly allowable would have caused a reduction for any taxable year of the taxpayer's taxes).

(c) *Adjustment for periods since February 28, 1913, and before January 1, 1952, where no election made.* If no election has been properly made under section 1020, or under section 113 (d) of the Internal Revenue Code of 1939 (see paragraph (d)), the decrease required by paragraph (a) for deductions in respect of any period since February 28, 1913, and before January 1, 1952, shall be whichever of the following amounts is the greater:

(1) The amount allowed as deductions in computing net income under chapter 1 of the Internal Revenue Code of 1939 or prior income tax laws;

(2) The amount properly allowable in computing net income under chapter 1 of the Internal Revenue Code of 1939 or prior income tax laws.

For the purpose of determining the decrease required by this paragraph, it is immaterial whether or not the amount under subparagraph (1) of this paragraph or the amount under subparagraph (2) of this paragraph would have resulted in a reduction for any taxable year of the taxpayer's taxes.

(d) *Adjustment for periods since February 28, 1913, and before January 1, 1952, where election made.* If an election has been properly made under section 1020, or under section 113 (d) of the Internal Revenue Code of 1939, the decrease required by paragraph (a) of this section for deductions in respect of any period since February 28, 1913, and before January 1, 1952, shall be whichever is the greater of the following amounts:

(1) The amount allowed as deductions in computing net income under chapter 1 of the Internal Revenue Code of 1939 or prior income tax laws and resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under such chapter 1 (other than subchapter E, relating to tax on self-employment income), subchapter E of chapter 2 of the Internal Revenue Code of 1939, or prior income, war-profits, or excess-profits tax laws;

(2) The amount properly allowable as deductions in computing net income under chapter 1 of the Internal Revenue Code of 1939 or prior income tax laws (whether or not the amount properly allowable would have caused a reduction for any taxable year of the taxpayer's taxes).

(e) *Determination of amount allowed which reduced taxpayer's taxes.* (1) As indicated in paragraphs (b) and (d) of this section, there are situations in which it is necessary to determine (for the purpose of ascertaining the basis adjustment required by paragraph (a) of this section) the extent to which the amount allowed as deductions resulted in a reduction for any taxable year of the taxpayer's taxes under subtitle A (other than chapter 2 relating to tax on self-employment income) of the Internal Revenue Code of 1954, or prior income, war-profits, or excess-profits tax laws. This amount (amount allowed which resulted in a reduction of the taxpayer's taxes) is hereinafter referred to as the "tax-benefit amount allowed." For the purpose of determining whether the tax-benefit amount allowed exceeded the amount allowable, a determination must be made of that portion of the excess of the amount allowed over the amount allowable which, if disallowed, would not have resulted in an increase in any such tax previously determined. If the entire excess of the amount allowed over the amount allowable could be disallowed without any such increase in tax, the tax-benefit amount allowed shall not be considered to have exceeded the amount allowable. In such a case (if paragraph (b) or (d) of this section is applicable) the reduction in basis required by paragraph (a) of this section would be the amount properly allowable as a deduction. If only part of such excess could be disallowed without any such increase in tax, the tax-benefit amount allowed shall be considered to exceed the amount allowable to the extent of the remainder of such excess. In such a case (if paragraph (b) or (d) of this section is applicable) the reduction in basis required by paragraph (a) of this section would be the amount of the tax-benefit amount allowed.

(2) For the purpose of determining the tax-benefit amount allowed the tax previously determined shall be determined under the principles of section 1314. The only adjustments made in determining whether there would be an increase in tax shall be those resulting from the disallowance of the amount allowed. The taxable years for which the determination is made shall be the taxable year for which the deduction was allowed and any other taxable year which would be affected by the disallowance of such deduction. Examples of such other taxable years are taxable years to which there was a carryover or carryback of a net operating loss from the taxable year for which the deduction was allowed, and taxable years for which a computation under section 111 or section 1333 was made by reference to the taxable year for which the deduction was allowed. In determining whether the disallowance of any part of the deduction would not have resulted in an increase in any tax previously determined, proper adjustment must be made for previous determinations under section 1311, or section 3801 of the Internal Revenue Code of 1939, and for any previous application of section 1016 (a) (2) (B), or section 113 (b) (1) (B) (ii) of the Internal Revenue Code of 1939.

(3) If a determination under section 1016 (a) (2) (B) must be made with respect to several properties for each of which the amount allowed for the taxable year exceeded the amount allow-

able, the tax-benefit amount allowed with respect to each of such properties shall be an allocated portion of the tax-benefit amount allowed determined by reference to the sum of the amounts allowed and the sum of the amounts allowable with respect to such several properties.

(4) In the case of property held by a partnership or trust, the computation of the tax-benefit amount allowed shall take into account the tax benefit of the partners or beneficiaries, as the case may be, from the deduction by the partnership or trust of the amount allowed to the partnership or the trust. For this purpose, the determination of the amount allowed which resulted in a tax benefit to the partners or beneficiaries shall be made in the same manner as that provided above with respect to the taxes of the person holding the property.

(5) A taxpayer seeking to limit the adjustment to basis to the tax-benefit amount allowed for any period, in lieu of the amount allowed, must establish the tax-benefit amount allowed. A failure of adequate proof as to the tax-benefit amount allowed with respect to one period does not preclude the taxpayer from limiting the adjustment to basis to the tax-benefit amount allowed with respect to another period for which adequate proof is available. For example, a corporate transferee may have available adequate records with respect to the tax effect of the deduction of erroneous depreciation for certain taxable years, but may not have available adequate records with respect to the deduction of excessive depreciation for other taxable years during which the property was held by its transferor. In such case the corporate transferee shall not be denied the right to apply this section with respect to the erroneous depreciation for the period for which adequate proof is available.

(f) *Determination of amount allowable in prior taxable years.* (1) One of the factors in determining the adjustment to basis as of any date is the amount of depreciation, depletion, etc., allowable for periods prior to such date. The amount allowable for such prior periods is determined under the law applicable to such prior periods; all adjustments required by the law applicable to such periods are made in determining the adjusted basis of the property for the purpose of determining the amount allowable. Provisions corresponding to the rules in section 1016 (a) (2) (B) described in paragraphs (d) and (e) of this section, which limit adjustments to the "tax-benefit amount allowed" where an election is properly exercised, were first enacted by Public Law 539 (82d Congress) approved July 14, 1952. That law provided that corresponding rules are deemed to be includible in all revenue laws applicable to taxable years ending after December 31, 1931. Accordingly, those rules shall be taken into account in determining the amount of depreciation, etc., allowable for any taxable year ending after December 31, 1931. For example, if the adjusted basis of property held by the taxpayer since January 1, 1930, is determined as of January 1, 1955, and if an election was properly made under section 1020, or section 113 (d) of the 1939 Code, then the amount allowable which is taken into account in computing the adjusted basis as of January 1, 1955, shall be determined by taking those rules into account for all taxable years ending after December 31, 1931. Public Law 539 made no change in the law applicable in determining the amount allowable for taxable years ending before January 1, 1932. If there was a final decision of a court prior to the enactment of Public Law 539, determining the amount allowable for a particular taxable year, such determination shall be adjusted. In such case the adjustment shall be made only for the purpose of taking the provision of that law into account and only to the extent made necessary by such provisions.

(2) Although Public Law 539 amended the law applicable to all taxable years ending after December 31, 1931, the amendment does not permit refund, credit, or assessment of a deficiency for any taxable year for which such refund, credit, or assessment was barred by any law or rule of law.

(g) *Property with transferred basis.* The following rules apply in the determination of the adjustments to basis of property in the hands of a transferee, donee, or grantee which are required by section 1016 (b), or section 113 (b) (2) of the Internal Revenue Code of 1939, with respect to the period the property was held by the transferor, donor, or grantor:

(1) An election or a revocation of an election under section 1020, or section 113 (d) of the Internal Revenue Code of 1939, by a transferor, donor, or grantor, which is made after the date of the transfer, gift, or grant of the property shall not affect the basis of such property in the hands of the transferee, donee, or grantee. An election or a revocation of an election made before the date of the transfer, gift, or grant of the property shall be taken into account in determining under section 1016 (b) the adjustments to basis of such property as of the date of the transfer, gift, or grant, whether or not an election or a revocation of an election under section 1020, or section 113 (d) of the Internal Revenue Code of 1939, was made by the transferee, donee, or grantee.

(2) An election by the transferee, donee, or grantee, or a revocation of such an election shall be applicable in determining the adjustments to basis for the period during which the property was held by the transferor, donor, or grantor, whether or not the transferor, donor, or grantor had made an election or a revocation of an election, provided that the property was held by the transferee, donee, or grantee at any time on or before the date on which the election or revocation was made.

(h) *Examples.* The application of section 1016 (a) (1) and (2) may be illustrated by the following examples:

Example (1). The case of Corporation A discloses the following facts:

(1) Year	(2) Amount allowed	(3) Amount allowed which reduced taxpayer's taxes	(4) Amount allowable	(5) Amount allowable but not less than amount allowed	(6) Amount allowable but not less than amount allowed which reduced taxpayer's taxes
1949	$6,000	$5,500	$5,000	$6,000	$5,500
1950	7,000	7,000	6,500	7,000	7,000
1951	5,000	4,000	6,500	6,500	6,500
Total, 1949–51				19,500	19,000
1952	6,500	6,500	6,000		6,500
1953	5,000	4,000	4,000		4,000
1954	4,500	4,500	6,000		6,000
Total, 1952–54					16,500

The cost or other basis is to be adjusted by $16,500 with respect to the years 1952–54, that is, by the amount allowable but not less than the amount allowed which reduced the taxpayer's taxes. An adjustment must also be made with respect to the years 1949–1951, the amount of such adjustment depending upon whether an election was properly made under section 1020, or section 113 (d) of the Internal Revenue Code of 1939. If no such election was made, the amount of the adjustment with respect to the years 1949–51 is $19,500, that is, the amount allowed but not less than the amount allowable. If an election was properly made, the amount of the adjustment with respect to the years 1949–51 is $19,000, that is, the amount allowable but not less than the amount allowed which reduced the taxpayer's taxes.

Example (2). Corporation A, which files its returns on the basis of a calendar year, purchased a building on January 1, 1950, at a cost of $100,000. On the basis of the facts reasonably known to exist at the end of 1950, a period of 50 years should have been used as the correct useful life of the building; nevertheless, depreciation was computed by Corporation A on the basis of a useful life of 25 years, and was allowed for 1950 through 1953 as a deduction in an annual amount of $4,000. The building was sold on January 1, 1954. Corporation A did not make an election under section 1020, or section 113 (d) of the Internal Revenue Code of 1939. No part of the amount allowed Corporation A for any of the years 1950 through 1953 resulted in a reduction of Corporation A's taxes. The adjusted basis of the building as of January 1, 1954, is $88,166, computed as follows:

Taxable year	Adjustments to basis as of beginning of taxable year	Adjusted basis on Jan. 1	Remaining life on Jan. 1	Depreciation allowable	Depreciation allowed
1950		$100,000	50	$2,000	$4,000
1951	$4,000	96,000	49	1,959	4,000
1952	8,000	92,000	48	1,917	4,000
1953	9,917	90,083	47	1,917	4,000
1954	11,834	88,166			

Example (3). The facts are the same as in example (2), except that Corporation A made a proper election under section 1020. In such case, the adjusted basis of the building as of January 1, 1954, is $92,000 computed as follows:

Taxable year	Adjustments to basis as of beginning of taxable year	Adjusted basis on Jan. 1	Remaining life on Jan. 1	Depreciation allowable	Depreciation allowed
1950		$100,000	50	$2,000	$4,000
1951	$2,000	98,000	49	2,000	4,000
1952	4,000	96,000	48	2,000	4,000
1953	6,000	94,000	47	2,000	4,000
1954	8,000	92,000			

Example (4). If it is assumed that in example (2), or in example (3), all of the deduction allowed Corporation A for 1953 had resulted in a reduction of A's taxes, the adjustment to the basis of the building for depreciation for 1953 would reflect the entire $4,000 deduction. In such case, the adjusted basis of the building as of January 1, 1954, would be $86,083 in example (2), and $90,000 in example (3).

Example (5). The facts are the same as in example (2) except that for the year 1950 all of the $4,000 amount allowed Corporation A as a deduction for depreciation for that year resulted in a reduction of A's taxes. In such case, the adjustments to the basis of the building remain the same as those set forth in example (2).

Example (6). The facts are the same as in example (3) except that for the year 1950 all of the $4,000 amount allowed Corporation A as a deduction for depreciation resulted in a reduction of A's taxes. In such case, the adjusted basis of the building as of January 1, 1954, is $90,123, computed as follows:

Taxable year	Adjustments to basis as of beginning of taxable year	Adjusted basis on Jan. 1	Remaining life on Jan. 1	Depreciation allowable	Depreciation allowed
1950		$100,000	50	$2,000	$4,000
1951	$4,000	96,000	49	1,959	4,000
1952	5,959	94,041	48	1,959	4,000
1953	7,918	92,082	47	1,959	4,000
1954	9,877	90,123			

§ 1.1016–4 *Exhaustion, wear and tear, obsolescence, amortization, and depletion; periods during which income was not subject to tax.* Adjustments to basis must be made for exhaustion, wear and tear, obsolescence, amortization, and depletion to the extent actually sustained in respect of:

(a) Any period before March 1, 1913, and

(b) Any period since February 28, 1913, during which the property was held by a person or an organization not subject to income taxation under chapter 1 of the Internal Revenue Code of 1954 or prior income tax laws.

The amount of the aforedescribed deductions actually sustained is that amount charged off on the books of the taxpayer where such amount is considered by the Commissioner to be reasonable. Otherwise the amount actually sustained will be the amount that would have been allowable as a deduction had the taxpayer been subject to income tax during such period. In the case of depreciation, such deduction will be determined by using the straight line method.

§ 1.1016–5 *Miscellaneous adjustments to basis*—(a) *Certain stock distributions.* (1) In the case of stock, the cost or other basis must be diminished by the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921). For adjustments to basis in the case of certain corporate distributions, see section 301 and the regulations thereunder.

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

Example. A, who makes his returns upon the calendar year basis, purchased stock in 1923 for $5,000. He received in 1924 a distribution of $2,000 paid out of earnings and profits of the corporation accumulated before March 1, 1913. The adjusted basis for determining the gain or loss from the sale or other disposition of the stock in 1954 is $5,000 less $2,000, or $3,000, and the amount of the gain or loss from the sale or other disposition of the stock is the difference between $3,000 and the amount realized from the sale or other disposition.

(b) *Amortizable bond premium.* In the case of a tax-exempt bond, basis shall be reduced by the amount of the amortizable bond premium disallowable as a deduction under section 171 (a) (2), or under section 125 (a) (2) of the Internal Revenue Code of 1939 and, in the case of any other bond (as defined in section 171 (d)), basis shall be reduced by the amount of the deductions allowable under section 171 (a) (1), or under section 125 (a) (1) of the Internal Revenue Code of 1939.

(c) *Short-term municipal bonds.* In the case of a short-term municipal bond (as defined in section 75 (b)), basis shall be adjusted to the extent provided in section 75 or as provided in section 22 (o) of the Internal Revenue Code of 1939, and the regulations thereunder.

(d) *Sale or exchange of residence.* Where the acquisition of a new residence results in the nonrecognition of any part of the gain on the sale, exchange, or involuntary conversion of the old residence, the basis of the new residence shall be reduced by the amount of the gain not so recognized pursuant to section 1034 (a), or section 112 (n) of the Internal Revenue Code of 1939, and regulations thereunder. See section 1034 (e) and regulations thereunder.

(e) *Loans from Commodity Credit Corporation.* In the case of property pledged to the Commodity Credit Corporation, the basis of such property shall be increased by the amount received as a loan from such corporation and treated by the taxpayer as income for the year in which received under section 77, or under section 123 of the Internal Revenue Code of 1939. The basis of such property shall be reduced to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability.

(f) *Deferred development and exploration expenses.* Expenditures for development and exploration of mines or mineral deposits treated as deferred expenses under sections 615 and 616, or under the corresponding provisions of prior income tax laws, are chargeable to capital account and shall be an adjustment to the basis of the property to which they relate. The basis so adjusted shall be reduced by the amount of such expenditures allowed as deductions which results in a reduction for any taxable year of the taxpayer's taxes under subtitle A (other than chapter 2 relating to tax on self-employment income) of the Internal Revenue Code of 1954, or prior income, war-profits, or excess-profits tax laws, but not less than the amounts allowable under such provisions for the taxable year and prior years. This amount is considered as the "tax-benefit amount allowed" and shall be determined in accordance with paragraph (e) of § 1.1016–3. For example, if a taxpayer purchases unexplored and undeveloped mining property for $1,000,000 and at the close of the development stage has incurred exploration and development costs of $9,000,000 treated as deferred expenses, the basis of such property at such time for computing gain or loss will be $10,000,000. Assuming that the taxpayer in this example has operated the mine for several years and has deducted allowable percentage depletion in the amount of $2,000,000 and has deducted allowable deferred exploration and development expenditures of $2,000,000, the basis of the property in the taxpayer's hands for purposes of determining gain or loss from a sale will be $6,000,000.

(g) *Sale of land with unharvested crop.* In the case of an unharvested crop which is sold, exchanged, or involuntarily converted with the land and which is considered as property used in the trade or business under section 1231, the basis of such crop shall be increased by the amount of the items which are attributable to the production of such crop and which are disallowed, under section 268, as deductions in computing taxable income. The basis of any other property shall be decreased by the amount of any such items which are attributable to such other property, notwithstanding any provisions of section 1016 or of this section to the contrary. For example, if the items attributable to the production of an unharvested crop consist only of fertilizer costing $100 and $50 depreciation on a tractor used only to cultivate such crop, and such items are disallowed under section 263, the adjustments to the basis of such crop shall include an increase of $150 for such items and the adjustments to the basis of the tractor shall include a reduction of $50 for depreciation.

(h) *Consent dividends.* (1) In the case of amounts specified in a shareholder's consent to which section 28 of the Internal Revenue Code of 1939 applies, the basis of the consent stock shall be increased to the extent provided in subsection (h) of such section.

(2) In the case of amounts specified in a shareholder's consent to be treated as a consent dividend to which section 565 applies, the basis of the consent stock shall be increased by the amount which, under section 565 (c) (2), is treated as contributed to the capital of the corporation.

(i) *Stock in foreign personal holding company.* In the case of the stock of a United States shareholder in a foreign personal holding company, basis shall be adjusted to the extent provided in section 551 (f) or corresponding provisions of prior income tax laws.

(j) *Research and experimental expenditures.* Research and experimental expenditures treated as deferred expenses under section 174 (b) are chargeable to capital account and shall be an adjustment to the basis of the property to which they relate. The basis so adjusted shall be reduced by the amount of such expenditures allowed as deductions which results in a reduction for any taxable year of the taxpayer's taxes under subtitle A (other than chapter 2 relating to tax on self-employment income) of the Internal Revenue Code of 1954, or prior income, war-profits, or excess-profits tax laws, but not less than the amounts allowable under such provisions for the taxable year and prior years. This amount is considered as the "tax-benefit amount allowed" and shall be determined in accordance with paragraph (e) of § 1.1016–3.

(k) *Deductions disallowed in connection with disposal of coal.* Basis shall be adjusted by the amount of the deductions disallowed under section 272 with respect to the disposal of coal covered by section 631.

(l) *Expenditures attributable to grants or loans covered by section 621.* In the case of expenditures attributable to a grant or loan made to a taxpayer by the United States for the encouragement of exploration for, or development or mining of, critical and strategic minerals or metals, basis shall be adjusted to the extent provided in section 621, or in section 22 (b) (15) of the Internal Revenue Code of 1939.

§ 1.1016–6 *Other applicable rules.* (a) Adjustments must always be made to eliminate double deductions or their equivalent. Thus, in the case of the stock of a subsidiary company, the basis thereof must be properly adjusted for the amount of the subsidiary company's losses for the years in which consolidated returns were made.

(b) In determining basis, and adjustments to basis, the principles of estoppel apply, as elsewhere under the Internal Revenue Code of 1954, and prior internal revenue laws.

§ 1.1016–7 *Adjusted basis; cancellation of indebtedness under Bankruptcy Act.* (a) In addition to the adjustments provided in section 1016, further adjustment is required in the case of a cancellation or reduction of indebtedness in any proceeding under chapters X, XI, or XII of the Bankruptcy Act (11 U. S. C. c. 10, 11, and 12) and under sections 12, 74, or 77B of the Bankruptcy Act of 1898 as amended. For exceptions to the above rule see sections 372, 373, 374, and 1018. Furthermore, no such further adjustment will be made in the case of a "wage earner" as that term is defined in section 606 (8) of the Bankruptcy Act (11 U. S. C. 1006 (8)). The further adjustments required by this section shall be made in the following manner and order:

(1) In the case of indebtedness incurred to purchase specific property (other than inventory or notes or accounts receivable) whether or not a lien is placed against such property securing the payment of all or part of such indebtedness, which indebtedness shall have been canceled or reduced in any such proceeding, the cost or other basis of such property shall be decreased (but not below its fair market value) by the amount by which the indebtedness so incurred with respect to such property shall have been canceled or reduced;

(2) In the case of specific property (other than inventory or notes or accounts receivable) against which, at the time of the cancellation or reduction of the indebtedness, there is a lien (other than a lien securing indebtedness incurred to purchase such property) the cost or other basis of such property shall be decreased (but not below its fair market value) by the amount by which the indebtedness secured by such lien shall have been canceled or reduced;

(3) Any excess of the total amount by which the indebtedness shall have been so canceled or reduced in such proceeding over the sum of the adjustments made under subparagraphs (1) and (2) of this paragraph shall next be applied to reduce the cost or other basis of the property of the debtor (other than inventory and notes and accounts receivable, but including property covered by such subparagraphs) as follows: the cost or other basis of each unit of property shall be decreased (but not below its fair market value) in an amount equal to such proportion of such excess as the adjusted basis (after adjustment under subparagraphs (1) and (2) of this paragraph) of each such unit of property bears to the sum of the adjusted bases (after adjustment under such subparagraphs) of all the property of the debtor other than inventory and notes and accounts receivable;

(4) Any excess of the total amount by which such indebtedness shall have been so canceled or reduced over the sum of the adjustments made under subparagraphs (1), (2), and (3), of this paragraph shall next be applied to reduce the cost or other basis of any units of property covered by such subparagraphs which have a remaining basis (after adjustment under such subparagraphs) greater than their fair market value, as follows: the cost or other basis of each such unit of property shall be decreased (but not below its fair market value) in an amount equal to such proportion of such excess as the remaining basis of each such unit bears to the sum of the remaining bases of such units. The process shall be repeated until the cost or other basis of each unit of the property covered by subparagraphs (1), (2), and (3) of this paragraph is reduced to its fair market value or the amount by which the indebtedness shall have been canceled or reduced is exhausted, taking into account in the successive steps only those units of property having, after the preceding adjustment, a remaining basis greater than their fair market value; and

(5) Any excess of the total amount by which the indebtedness shall have been so canceled or reduced over the sum of the adjustments made under subparagraphs (1), (2), (3), and (4) of this paragraph shall next be applied to reduce the cost or other basis of inventory and notes and accounts receivable as follows: the cost or other basis of inventory or notes or accounts receivable, as the case may be, shall be decreased (but not below its fair market value) in an amount equal to such proportion of such excess as the adjusted basis of inventory, notes receivable or accounts receivable, as the case may be, bears to the sum of the adjusted bases of such inventory and notes and accounts receivable. The process shall be repeated until the adjusted bases of inventory, notes receivable, and accounts receivable are reduced to their fair market value or the amount by which the indebtedness shall have been canceled or reduced is exhausted, taking into account in the successive steps only those units of property having, after the preceding adjustment, a remaining basis greater than their fair market value.

(b) For the purposes of this section:

(1) Basis shall be determined as of the dates of entry of the order confirming the plan, composition, or arrangement under which such indebtedness shall have been canceled or reduced;

(2) Except where the context otherwise requires, property means all of the debtor's property, other than money;

(3) No adjustment shall be made by virtue of the cancellation or reduction of any accrued interest unpaid which shall not have resulted in a tax benefit in any income tax return;

(4) The phrase "indebtedness incurred to purchase" includes (i) indebtedness for money borrowed and applied in the purchase of property and (ii) an existing indebtedness secured by a lien against the property which the debtor, as purchaser of such property, has assumed to pay; and

(5) The term "fair market value" has reference to such value as of the date of entry of the order confirming the plan, composition, or arrangement under which such indebtedness shall have been canceled or reduced.

(c) Any determination of value in a proceeding under the Bankruptcy Act (11 U. S. C. 1 et seq.), shall not constitute a determination of fair market value for the purpose of this section.

(d) The basis of any of the debtor's property which shall have been transferred to a person required to use the debtor's basis in whole or in part shall be determined in accordance with the provisions of this section.

§ 1.1016–8 *Adjusted basis; cancellation of indebtedness; special cases.* If the taxpayer and the Commissioner of Internal Revenue agree, the basis of the taxpayer's property may be adjusted in a manner different from that set forth in § 1.1016–7. Variations from such rule may, for example, involve adjusting the

basis of any part of the taxpayer's property or adjusting the basis of all the taxpayer's property, according to a fixed allocation. Agreement between the taxpayer and the Commissioner of Internal Revenue as to any variation from such general rule shall be effected only by a closing agreement entered into under the provisions of section 7121.

§ 1.1016–9 *Adjusted basis; mutual savings banks, building and loan associations, and cooperative banks.* (a) The adjustments to the cost or other basis of property provided in section 1016 and §§ 1.1016–1 to 1.1016–8, inclusive, are applicable in the case of a mutual savings bank not having capital stock represented by shares, a domestic building and loan association, and a cooperative bank without capital stock organized and operated for mutual purposes and without profit, although such institutions were exempt from tax for taxable years beginning before January 1, 1952. Proper adjustment must be made under section 1016 for the entire period since the acquisition of property. Thus, adjustment to basis must be made for depreciation sustained for all prior taxable years although such institution may have been exempt from tax during such years. Similarly, in the case of tax-exempt and partially taxable bonds purchased at a premium and subject to amortization under section 171, proper adjustment to basis must be made to reflect amortization with respect to such premium from the date of acquisition of the bond (or in the case of bonds not issued with interest coupons, or in registered form, from the date such bonds are subject to amortization under section 171).

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

Example. On January 1, 1954, Z, a mutual savings bank, which keeps its books on a calendar year basis, owns a tax-exempt $1,000 noncallable bond maturing on January 1, 1964. Such bond was acquired by Z on January 1, 1934, for $1,300. It was sold by Z on December 31, 1954, for $1,250. The yearly rate of amortization of the premium, determined by dividing the total premium of $300 by the life of the bond (30 years) is $10. Z realizes a gain of $80 from such sale computed as follows:

(1) Cost of bond		$1,300
(2) Amount of bond premium attributable to years 1942 through 1951, during which Z was exempt from tax ($10 times 10 years)	$100	
(3) Amount of bond premium amortized from Jan. 1, 1952, through Dec. 31, 1954 ($10 times 3 years)	30	
(4) Total amount of adjustments to basis (aggregate of (2) and (3))		130
(5) Adjusted basis of bond at close of 1954 ((1) reduced by (4))		1,170
(6) Gain realized upon sale—excess of sale price over adjusted basis ($1,250 minus $1,170)		80

The basis of a fully taxable bond purchased at a premium shall be adjusted from the date to which the election applies to amortize such premium in accordance with the provisions of section 171, except that no adjustment shall be allowable for such portion of the premium attributable to the period prior to the election.

(c) In the case of a mortgage (not within the definition of section 171 (d)) purchased, acquired, or originated at a premium, where the principal of such mortgage is payable in installments, adjustments to the basis of the premium must be made for all taxable years (whether or not the institution was exempt from tax during such years) in which installment payments are received. Such adjustments may be made on an individual mortgage basis or on a composite basis by reference to the average period of payments of the mortgage loans of such institution. For the purpose of this adjustment, the term "premium" includes the excess of the acquisition value of the mortgage over its maturity value. The acquisition value of the mortgage is the cost including buying commissions, attorneys' fees, or brokerage fees, but such value does not include amounts paid for accrued interest. For the method of amortization in the case of corporate mortgages purchased, acquired or originated at a premium see § 1.171–2 (e) of the regulations under section 171.

§ 1.1016–10 *Substituted basis.* (a) Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, as defined in section 1016 (b), the adjustments indicated in §§ 1.1016–1 to 1.1016–6, inclusive, shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. In addition, whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, as defined in section 1016 (b) (1), the adjustments indicated in §§ 1.1016–7 to 1.1016–9, inclusive, and in section 1017 shall also be made, whenever necessary, after first making in respect of such substituted basis a proper adjustment of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor. Similar rules shall also be applied in the case of a series of substituted bases.

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

Example. A, who makes his returns upon the calendar year basis, in 1935 purchased the X Building and subsequently gave it to his son B. B exchanged the X Building for the Y Building in a tax-free exchange, and then gave the Y Building to his wife C. C, in determining the gain from the sale or disposition of the Y Building in 1954, is required to reduce the basis of the building by deductions for depreciation which were successively allowed (but not less than the amount allowable) to A and B upon the X Building and to B upon the Y Building, in addition to the deductions for depreciation allowed (but not less than the amount allowable) to herself during her ownership of the Y Building.

§ 1.1018 *Statutory provisions; adjustment of capital structure before September 22, 1938.*

SEC. 1018. *Adjustment of capital structure before September 22, 1938.* Where a plan of reorganization of a corporation, approved by the court in a proceeding under section 77B of the National Bankruptcy Act, as amended (48 Stat. 912), is consummated by adjustment of the capital or debt structure of such corporation without the transfer of its assets to another corporation, and a final judgment or decree in such proceeding has been entered before September 22, 1938, then the provisions of section 270 of the Bankruptcy Act, as amended (54 Stat. 709; 11 U. S. C. 670), shall not apply in respect of the property of such corporation. For the purposes of this section, the term "reorganization" shall not be limited by the definition of such term in section 112 (g) of the Internal Revenue Code of 1939.

§ 1.1018–1 *Adjusted basis; exception to section 270 of the Bankruptcy Act, as amended.* The adjustment to basis provided by section 270 of the Bankruptcy Act, as amended (11 U. S. C. 670), and by §§ 1.1016–7 and 1.1016–8 shall not be made if, in a proceeding under section 77B of such Act, as amended (11 U. S. C. 207; 48 Stat. 912), indebtedness was canceled in pursuance of a plan of reorganization which was consummated by adjustment of the capital or debt structure of the insolvent corporation, and the final judgment or decree in such proceeding was entered before September 22, 1938. Section 1018 and this section do not apply if the plan of reorganization under such section 77B was consummated by the transfer of assets of the insolvent corporation to another corporation.

§ 1.1019 *Statutory provisions; property on which lessee has made improvements.*

SEC. 1019. *Property on which lessee has made improvements.* Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludable from gross income under section 109 (relating to improvements by lessee on lessor's property). If an amount representing any part of the value of the real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1942, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

§ 1.1019–1 *Property on which lessee has made improvements.* In any case in which a lessee of real property has erected buildings or made other improvements upon the leased property and the lease is terminated by forfeiture or otherwise resulting in the realization by such lessor of income which, were it not for the provisions of section 109, would be includible in gross income of the lessor, the amount so excluded from gross income shall not be taken into account in determining the basis or the adjusted basis of such property or any portion thereof in the hands of the lessor. If, however, in any taxable year beginning before January 1, 1942, there has been included in the gross income of the lessor an amount representing any part of the value of such property attributable to such buildings or improvements, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income. For example, A leased in 1930 to B for a

period of 25 years unimproved real property and in accordance with the terms of the lease B erected a building on the property. It was estimated that upon expiration of the lease the building would have a depreciated value of $50,000, which value the lessor elected to report (beginning in 1931) as income over the term of the lease. This method of reporting was used until 1942. In 1952 B forfeits the lease. The amount of $22,000 reported as income by A during the years 1931 to 1941, inclusive, shall be added to the basis of the property represented by the improvements in the hands of A. If in such case A did not report during the period of the lease any income attributable to the value of the building erected by the lessee and the lease was forfeited in 1940 when the building was worth $75,000, such amount, having been included in gross income under the law applicable to that year, is added to the basis of the property represented by the improvements in the hands of A. As to treatment of such property for the purposes of capital gains and losses, see subchapter P (sections 1201–1241, inclusive).

§ 1.1022 *Statutory provisions; cross references.*

SEC. 1022. *Cross references.* (1) For certain distributions by a corporation which are applied in reduction of basis of stock, see section 301 (c) (2).

(2) For basis of property in case of certain reorganizations and arrangements under the Bankruptcy Act, see sections 270, 396, and 522 of that Act, as amended (11 U. S. C. 670, 796, 922).

(3) For basis in case of construction of new vessels, see section 511 of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1161).

(4) For rules applicable in case of payments in violation of Defense Production Act of 1950, as amended, see section 405 of that Act.

[F. R. Doc. 57-9273; Filed, Nov. 6, 1957; 8:53 a. m.]

Subchapter G—Regulations Under Tax Conventions

[T. D. 6264]

PART 515—HONDURAS

Release of excess tax withheld and exemption from withholding of tax at source in the case of residents of Honduras and of Honduran corporations or other entities, as affected by the income tax convention between the United States and Honduras proclaimed by the President of the United States on February 13, 1957.

Sec.

515.1 Introductory.
515.2 Dividends.
515.3 Interest.
515.4 Patent and copyright royalties.
515.5 Private pensions and annuities.
515.6 Public pensions and annuities.
515.7 Beneficiaries of an estate or trust.
515.8 Release of excess tax withheld at source.
515.9 Information to be furnished in ordinary course.
515.10 Effective date.

AUTHORITY: §§ 515.1 to 515.10 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

§ 515.1 *Introductory*—(a) *Pertinent provisions.* The income tax convention between the United States and the Republic of Honduras, signed on June 25, 1956, hereinafter referred to as the convention, provides in part as follows, effective on and after January 1, 1957:

ARTICLE I

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

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

(b) In the case of Honduras: The income tax.

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

ARTICLE II

(1) As used in this Convention:

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

(b) The term "Honduras" means the Republic of Honduras and when used in a geographical sense means the territory of the Republic of Honduras.

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

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

(e) The term "enterprise" includes any type of enterprise whether carried on by an individual (in his individual capacity or as a member of a partnership), by a corporation, or by any other entity.

(f) The term "United States enterprise" means an industrial or commercial or agricultural enterprise or undertaking carried on by a resident of the United States (including an individual in his individual capacity or as a member of a partnership) or a fiduciary of the United States or by a United States corporation or other entity; the term "United States corporation or other entity" means a corporation or other entity created or organized in the United States or under the laws of the United States or of any State or Territory of the United States.

(g) The term "Honduran enterprise" means an industrial or commercial or agricultural enterprise or undertaking carried on by a resident of Honduras (including an individual in his individual capacity or as a member of a partnership) or a fiduciary of Honduras or by a Honduran corporation or other entity; the term "Honduran corporation or other entity" means a corporation or other entity formed or organized in Honduras or under the laws of Honduras.

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

(i) An individual temporarily present within one of the contracting States solely for one of the purposes specified in Article XIII or XV, shall not be considered a resident of such State merely because of such presence therein.

(j) The expression "competent authorities" means, in the case of the United States, the Secretary of the Treasury or his delegate and, in the case of Honduras, the Secretary of Economics and Finance or his delegate.

(k) For the purposes of Article XI and Article XIII, the term "United States dollars" shall be deemed to include the equivalent sum in lempiras as computed at the rate of exchange in effect at the time the money is paid.

(2) For purposes of application of the provisions of the present Convention by one of the contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under the laws of such State relating to the taxes which are the subject of the present Convention.

* * * * *

ARTICLE VII

(1) Dividends and interest paid by a corporation organized under the laws of Honduras shall be exempt from United States tax except where the recipient is a citizen or resident or corporation of the United States.

(2) Dividends and interest paid by a corporation organized under the laws of the United States shall be exempt from Honduran tax except where the recipient is a resident or corporation of Honduras.

ARTICLE VIII

Royalties and other amounts from sources within one of the contracting States received, as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trademarks and other like property (including rentals from motion picture films), by a resident, corporation or other entity of the other contracting State not having a permanent establishment within the former State at any time during the taxable year in which such royalties or other amounts are received, shall be exempt from tax by such former State.

ARTICLE IX

Interest on bonds, securities, notes or on any other form of indebtedness from sources within one of the contracting States received by a resident, corporation or other entity of the other contracting State not having a permanent establishment within the former State at any time during the taxable year in which such interest is received, shall be exempt from tax by such former State.

ARTICLE X

(1) (a) Salaries, wages, and similar compensation and pensions paid by the United States or by any of the political subdivisions thereof to a citizen of the United States for

services rendered to the United States or to any of its political subdivisions, in the discharge of governmental functions, shall be exempt from tax by Honduras.

(b) Salaries, wages and similar compensation and pensions paid by Honduras or by any of the political subdivisions thereof to a citizen of Honduras (other than an individual who has immigrant status in the United States) for services rendered to Honduras or to any of its political subdivisions, in the discharge of governmental functions, shall be exempt from tax by the United States.

(c) For the purposes of paragraph (1) of this Article the term "pensions" shall be deemed to include annuities paid to a retired civilian government employee.

(2) (a) Private pensions and annuities from sources within one of the contracting States paid to individuals who reside in the other contracting State shall be exempt from tax by the former State.

(b) Public pensions and annuities (whether representing employee or employer contributions or accretions thereto) from sources within one of the contracting States paid to individuals who reside in the other contracting State shall be exempt from tax by the former State to the extent that such payments are allocable to services the remuneration for which was exempt from tax by the former State.

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

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

* * * * *

ARTICLE XIV

(1) Organizations organized under the laws of Honduras and operated exclusively for religious, charitable, scientific, literary or educational purposes shall, to the extent and subject to the conditions provided in the United States Internal Revenue Code as in effect at the date of the signature of the present Convention, be exempt from tax of the United States.

* * * * *

ARTICLE XVII

For the purpose of the present Convention:

(a) Dividends paid by a corporation of one of the contracting States shall be treated as income from sources within such State.

(b) Interest paid by one of the contracting States including any local Government thereof or by an enterprise of one of the contracting States not having a permanent establishment in the other contracting State shall be treated as income from sources within the former State.

* * * * *

(e) Income from real property (including gains derived from the sale or exchange of such property, but not including interest from mortgages or bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources shall be treated as income derived from the country in which such real property, mines, quarries or other natural resources are situated.

* * * * *

(g) Royalties for using, or for the right to use, in one of the contracting States, patents, copyrights, designs, trademarks and like property shall be treated as income from sources within such State.

ARTICLE XVIII

(1) The competent authorities of both contracting States shall exchange such information available under the respective tax laws of both contracting States as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against tax avoidance in relation to the tax. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those, including a court, concerned with the assessment and collection of the tax or the determination of appeals in relation thereto. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(2) Each of the contracting States may collect the tax imposed by the other contracting State (as though such tax were the tax of the former State) as will ensure that the exemptions, reduced rates of tax or any other benefit granted under the present Convention by such other State shall not be enjoyed by persons not entitled to such benefits.

* * * * *

ARTICLE XX

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

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

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement; it being understood, however, that this provision shall not be construed to preclude the contracting States from settling by negotiation any dispute arising under the present Convention.

(4) The competent authorities of both contracting States may prescribe regulations necessary to interpret and carry out the provisions of the present Convention and may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention.

* * * * *

ARTICLE XXI

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

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

(b) *Meaning of terms.* As used in §§ 515.1 to 515.10, any term defined in the convention shall have the meaning so assigned to it; any term not so defind shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

§ 515.2 *Dividends.* Dividends paid on or after January 1, 1957, by a corporation organized under the laws of Honduras are exempt from United States tax under the provisions of Article VII (1) of the convention if the recipient is not a citizen, resident, or corporation of the United States. Accordingly, no withholding of United States tax is required in the case of dividends so exempt from United States tax.

§ 515.3 *Interest*—(a) *Paid by Honduran corporation.* Interest paid on or after January 1, 1957, by a corporation organized under the laws of Honduras is exempt from United States tax under the provisions of Article VII (1) of the convention if the recipient is not a citizen, resident, or corporation of the United States. Accordingly, no withholding of United States tax is required in the case of interest so exempt from United States tax.

(b) *Received from United States sources.* Interest on bonds, securities, notes, or on any other form of indebtedness, including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property, which is paid by a person other than a corporation organized under the laws of Honduras and which is received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Honduras, or by a Honduran corporation or other entity, is exempt from United States tax under the provisions of Article IX of the convention if such alien, corporation, or other entity at no time during the taxable year in which such interest is received has a permanent establishment in the United States.

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

(d) *Exemption from withholding of United States tax*—(1) *Coupon bond interest*—(i) *Form to use.* To avoid withholding of United States tax at source in the case of coupon bond interest to which paragraph (b) of this section applies, the nonresident alien individual who is a resident of Honduras, or the Honduran corporation or other entity, shall, for each issue of bonds, file Form 1001–H in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, or by his trustee or agent, and shall show the information required by § 1.1461–1 (d) of this chapter. It shall contain a statement that the owner

(a) is a resident of Honduras, or is a Honduran corporation or other entity, and (b) has no permanent establishment in the United States.

(ii) *Exemption applicable only to owner.* The exemption from United States tax contemplated by Article IX of the convention, in so far as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon, or on whose behalf it is presented, shall, for the purpose of the exemption from tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001–H, shall be executed.

(iii) *Disposition of form.* The original and duplicate of Form 1001–H shall be forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D. C., in accordance with § 1.1461–2 (b) (2) of this chapter.

(2) *Interest on noncoupon bonds*—(i) *Notification by letter.* To avoid withholding of United States tax at source in the case of interest (other than coupon bond interest) to which paragraph (b) of this section applies, the nonresident alien individual who is a resident of Honduras, or the Honduran corporation or other entity, shall notify the withholding agent by letter in duplicate that the interest is exempt from United States tax under the provisions of Article IX of the convention. The letter of notification shall be signed by the owner of the interest, or by his trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of the interest. It shall contain a statement (a) that the owner is neither a citizen nor a resident of the United States but is a resident of Honduras, or, in the case of a corporation or other entity, that the owner is a Honduran corporation or other entity, and (b) that the owner has at no time during the current taxable year had a permanent establishment in the United States.

(ii) *Use of letter for release of excess tax.* If the letter is also to be used as authorization for the release, pursuant to § 515.8 (a) (3), of excess tax withheld from such interest, it shall also contain a statement (a) that, at the time when the interest was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Honduras, or, in the case of a corporation or other entity, the owner was a Honduran corporation or other entity, and (b) that the owner at no time during the taxable year in which such interest was received had a permanent establishment in the United States.

(iii) *Manner of filing letter.* The letter of notification, which shall constitute authorization for the payment of the interest without withholding of United States tax at source, shall be filed with the withholding agent for each successive three-calendar-year period during which the interest is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which the interest is first paid on or after January 1, 1957. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter has been filed in respect of any three-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by Article IX of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(iv) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D. C.

§ 515.4 *Patent and copyright royalties*—(a) *Exemption from tax.* Royalties and other amounts received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Honduras or by a Honduran corporation or other entity, as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trademarks, and other like property (including rentals from motion picture films), are exempt from United States tax under the provisions of Article VIII of the convention if such alien, corporation, or other entity at no time during the taxable year in which such items are received has a permanent establishment in the United States.

(b) *Exemption from withholding of United States tax*—(1) *Notification by letter.* To avoid withholding of United States tax at source in the case of the items of income to which this section applies, the nonresident alien individual who is a resident of Honduras, or the Honduran corporation or other entity, shall notify the withholding agent by letter in duplicate that the income is exempt from United States tax under the provisions of Article VIII of the convention.

(2) *Manner of filing letter.* The provisions of § 515.3 (d) (2), relating to the execution, filing, effective period, and disposition of the letter of notification prescribed therein, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this section.

§ 515.5 *Private pensions and annuities*—(a) *Exemption from tax.* Private pensions and annuities which are from sources within the United States and are paid on or after January 1, 1957, to a nonresident alien individual who is a resident of Honduras are exempt from United States tax under the provisions of Article X (2) (a) of the convention.

(b) *Exemption from withholding of United States tax*—(1) *Notification by letter.* To avoid withholding of United States tax at source in the case of the items of income to which this section applies, the nonresident alien individual who is a resident of Honduras shall notify the withholding agent by letter in duplicate that the income is exempt from United States tax under the provisions of Article X (2) (a) of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Honduras.

(2) *Use of letter for release of tax.* If the letter is also to be used as authorization for the release, pursuant to § 515.8 (a) (3), of excess tax withheld from such items of income, it shall also contain a statement that the owner was, at the time when the income was paid from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Honduras.

(3) *Manner of filing letter.* The letter of notification shall constitute authorization for the payment of such items of income without withholding of United States tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax shall be withheld with respect to payments of such items of income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the exemption from United States tax granted by the convention in respect to such income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D. C.

(c) *Definitions.* As used in this section, the term "pensions" means periodic payments made in consideration for services rendered or by way of compensation for injuries received, and the term "annuities" means a fixed sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth. Neither term includes retired pay or pensions paid by the United

States or by any State or Territory of the United States.

§ 515.6 *Public pensions and annuities*—(a) *Exemption from tax.* Public pensions and annuities (whether representing employee or employer contributions or accretions thereto) which are from sources within the United States and are paid on or after January 1, 1957, to a nonresident alien individual who is a resident of Honduras are exempt from United States tax under the provisions of Article X (2) (b) of the convention to the extent that payments of such pensions and annuities are allocable to services the remuneration for which was exempt from tax by the United States.

(b) *Exemption from withholding of United States tax*—(1) *Notification by letter.* To avoid withholding of United States tax at source in the case of the items of income to which this section applies, the nonresident alien individual who is a resident of Honduras shall notify the withholding agent by letter in duplicate that the income is exempt from United States tax under the provisions of Article X (2) (b) of the convention.

(2) *Manner of filing letter.* The provisions of § 515.5 (b) relating to the execution, filing, effective period, and disposition of the letter of notification prescribed therein, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this section.

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

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

(b) *Withholding of United States tax.* In order to be entitled in such instance to the exemption from withholding of United States tax, the beneficiary must otherwise satisfy such requirements and shall, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate letter of notification prescribed in §§ 515.3 (d) (2) and 515.4 (b).

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

§ 515.8 *Release of excess tax withheld at source*—(a) *Amounts to be released*—(1) *Dividends and interest paid by a corporation organized under the laws of Honduras.* If United States tax at the statutory rate has been withheld on or after January 1, 1957, from dividends and interest paid by a corporation organized under the laws of Honduras to a recipient other than a citizen, resident, or corporation of the United States, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(2) *Coupon bond interest*—(i) *Substitute form.* In the case of every taxpayer who furnishes to the withholding agent Form 1001–H clearly marked "Substitute" and executed in accordance with § 515.3 (d) (1) (i), where United States tax has been withheld at the statutory rate on or after January 1, 1957, from coupon bond interest, the withholding agent shall release (except as provided in subparagraph (1) of this paragraph) and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld, if the taxpayer also attaches to such form a letter in duplicate, signed by the owner, or by his trustee or agent, and containing the following:

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

(*b*) The name and the address of the owner of the interest from which the excess tax was withheld;

(*c*) A statement that, at the time when the interest was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Honduras, or in the case of a corporation or other entity, the owner was a Honduran corporation or other entity; and

(*d*) A statement that the owner at no time during the taxable year in which the interest was received had a permanent establishment in the United States.

One such substitute form shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released.

(ii) *Disposition of form.* The original and duplicate of substitute Form 1001-H (and letter) shall be forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D. C., in accordance with § 1.1461–2 (b) of this chapter.

(3) *Interest on noncoupon bonds, royalties, pensions, and annuities.* If a taxpayer furnishes to the withholding agent the authorization of release prescribed in § 515.3 (d) (2) (ii), § 515.4 (b) (2), § 515.5 (b) (2), or § 515.6 (b) (2) and United States tax has been withheld at the statutory rate on or after January 1, 1957, from the interest, copyright royalties or other like amounts, pensions, or annuities in respect to which such authorization is prescribed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(b) *Amounts not to be released.* The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent to the Director of International Operations.

(c) *Statutory rate.* As used in this section, the term "statutory rate" means the rate prescribed by chapter ? of the Internal Revenue Code of 1954 and the regulations thereunder, as though the convention had not come into effect.

§ 515.9 *Information to be furnished in ordinary course.* For provisions relating to the exchange of information under Article XVIII of the convention, see § 1.1461–2 (d) of this chapter.

§ 515.10 *Effective date*—(a) *Payments on or after January 1, 1957.* In order to give the convention effective application at the earliest practicable date, the exemptions from withholding of United States tax at source granted by §§ 515.1 to 515.10 are hereby made effective beginning Januray 1, 1957, contingent upon compliance with the applicable provisions of §§ 515.1 to 515.10.

(b) *Taxable years beginning in 1956 and ending in 1957.* If, in the case of a taxable year beginning in 1956 and ending in 1957, a taxpayer has no permanent establishment in the United States at any time during that part of the taxable year which follows December 31, 1956, then he shall, for purposes of §§ 515.1 to 515.10, be deemed not to have had a permanent establishment in the United States at any time during the taxable year.

Because it is necessary to bring into effect at the earliest practicable date the rules of this Treasury decision respecting release of excess tax withheld, and exemption from withholding of tax, it is hereby found that it is impracticable to issue this Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of that act.

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

Approved: November 1, 1957.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 57-9261; Filed, Nov. 6, 1957; 8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

[Circular No. 1985]

PART 9—LEASES, PERMITS, AND EASEMENTS FOR PUBLIC WORKS

EDITORIAL NOTE: Federal Register Document 57-8781, which was published at

page 8421, October 25, 1957, under Chapter I of Title 43 of the Code of Federal Regulations, should have been published under Subtitle A of Title 43, as set forth above.

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

PART 207—NAVIGATION REGULATIONS

MISCELLANEOUS AMENDMENTS

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.95 (a) governing the operation of the New York, New Haven and Hartford Railroad Company bridge across Mystic River at Mystic, Connecticut, is hereby amended, as follows:

§ 203.95 *Mystic River at Mystic, Conn.*—(a) *The New York, New Haven and Hartford Railroad Company bridge.* (1) From April 1 to October 31, inclusive, at any time, day or night, the draw of this bridge shall be opened immediately upon receipt of the call signal for the passage of commercial vessels, vessels owned or operated by the United States Government, and vessels employed for police or fire protection by any town or municipality touching on the Mystic River, and as soon as practicable and in no case later than 20 minutes after receipt of the call signal for the passage of all other vessels which cannot pass the closed bridge: *Provided,* That the draw shall not be opened when an express passenger train, scheduled to pass beyond the bridge without stop, has entered the block in which the bridge is located, or when any other train which will entirely cross the bridge before stopping has reached the distance signal of the bridge, or when a passenger or mail train is actually ready to pass over it, but in any such case the opening of the bridge shall not be delayed more than eight minutes after the call signal is given.

(2) The call signal for opening the draw shall be one long blast and one short blast. When the draw is to be opened immediately the draw tender shall reply with one long blast. If the draw cannot be opened immediately the draw tender shall reply with three long blasts, and in addition a red flag or ball by day or a red light by night shall be conspicuously displayed on the bridge.

NOTE: As used in this section, the term "long blast" means a distinct blast of a whistle or horn of three seconds' duration, and the term "short blast" means a distinct blast of a whistle or horn of one second's duration.

(3) From November 1 to March 31, inclusive, at any time between the hours of 5:00 a. m. and 9:00 p. m. the draw of this bridge shall be opened immediately upon receipt of the above-described call signal and subject to all conditions contained in subparagraph (1) of this paragraph. From 9:00 p. m. to 5:00 a. m., the draw of the bridge shall not be required to be opened except on an 8-hour notice in advance of the time an opening is required.

(4) The 8-hour advance notice will not apply to vessels owned or operated by the United States, nor to vessels employed for police or fire protection, nor in an emergency by any vessel when danger to life and/or property is involved. For the type of vessel specified, and in emergencies by any vessel, the owners or agency operating the bridge shall, upon request, arrange for the opening of the drawspan as soon as practicable after receipt of the request.

(5) The owners or agency controlling the bridge shall keep conspicuously posted on both sides of the bridge, in a position where it can be easily read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative of the owner or agency may be reached.

[Regs., Oct. 16, 1957, 823.01 (Mystic River, Conn.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

2. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.190 (f) (5) is hereby amended to permit maintenance of the New York Central Railroad Company bridge across Peekskill (Annsville) Creek near Peekskill, New York, in a closed position, as follows:

§ 203.190 *Navigable waters in the State of New York and their tributaries; bridges where constant attendance of draw tenders is not required.* * * *

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

* * * * * *

(5) *Peekskill (Annsville) Creek; New York Central Railroad Company bridge near Peekskill, N. Y.* The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

[Regs., Oct. 11, 1957, 823.01 (Peekskill Creek, N. Y.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

3. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.466 is hereby prescribed to govern the operation of the Memorial Causeway across Clearwater Harbor, Florida, as follows:

§ 203.466 *Clearwater Harbor, Fla.; the City of Clearwater bridge (Memorial Causeway), Clearwater, Fla.* (a) Except as otherwise provided in paragraphs (b) and (c) of this section, the owner or agency controlling the bridge shall not be required to open the drawspan for the passage of vessels on Saturdays, Sundays, Memorial Day, Independence Day and Labor Day between the hours of 4:30 p. m. and 7:00 p. m., except that the drawspan shall be opened at 5:15 p. m., 6:00 p. m., and 6:45 p. m. to allow all accumulated vessels to pass.

(b) The regulations in this section shall not apply to vessels owned or operated by the United States. All such vessels shall be passed without delay through the draw of the bridge at any time on giving the usual signal.

(c) The draw of the bridge shall be opened at any time for the passage of a tow or of a vessel in an emergency involving danger to life or property. Such an emergency shall be indicated by four blasts of a whistle, horn, or megaphone.

(d) The owner of or agency controlling the bridge shall keep a copy of the regulations in this section conspicuously posted on both the upstream and downstream sides thereof, in such manner that it can be easily read at any time.

[Reg., Oct. 15, 1957, 823.01 (Clearwater Harbor, Fla.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

4. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 204.52a is hereby prescribed establishing and governing the use of a prohibited area in the Atlantic Ocean off Camp Pendleton, Virginia, as follows:

§ 204.52a *Atlantic Ocean south of entrance to Chesapeake Bay off Camp Pendleton, Virginia; naval prohibited area*—(a) *The area.* Beginning at a point on the shore at Camp Pendleton at latitude 36°48'19" N, longitude 75°57' 49" W; thence easterly 200 yards to latitude 36°48'20" N, longitude 75°57'42" W; thence northerly 400 yards to latitude 36°48'32" N, longitude 75°57'45" W; thence westerly 200 yards to latitude 36°48'31" N, longitude 75°57'53" W; and thence southerly 400 yards along the shore to the point of beginning.

(b) *The regulations.* (1) Vessels other than those owned and operated by the United States shall not enter the area except by permission of the Commanding Officer, U. S. Naval Amphibious Base, Little Creek, Norfolk, Virginia.

(2) This section shall be enforced by the Commanding Officer, U. S. Naval Amphibious Base, Little Creek, Norfolk, Virginia, and such agencies as he may designate.

[Regs., Oct. 11, 1957, 800.2121 (Atlantic Ocean, Va.)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U. S. C. 1)

5. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1) § 207.655 is hereby prescribed to govern logging operations on the Rogue River, Oregon, as follows:

§ 207.655 *Rogue River, Oregon, logging.* The dumping of logs into the Rogue River or upon its banks, below the high water line, and the rafting of logs, or floating of loose logs, sack rafts of timber and logs, and the towing of log rafts on Rogue River, is hereby limited to the period from November 1, of each year to March 31, of the following year (both dates inclusive). Parties engaged in logging operations on the Rogue River shall arrange their work so that the channel of the river shall be free from floating logs or debris, caused by their operation, from April 1, to October 31, of each year (both dates inclusive).

[Regs., Oct. 11, 1957, 800.21 (Rogue River, Oreg.)-ENGWO] (Sec. 7, 40 Stat. 266; 33 U. S. C. 1)

[SEAL] HEBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 57-9224; Filed, Nov. 6, 1957; 8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 17—MEDICAL

ELIGIBILITY FOR HOSPITAL TREATMENT OR DOMICILIARY CARE OF PERSONS DISCHARGED, RELEASED, OR RETIRED FROM ACTIVE MILITARY OR NAVAL SERVICE

In § 17.47, subparagraph (2) of paragraph (b) is amended to read as follows:

§ 17.47 *Eligibility for hospital treatment or domiciliary care of persons discharged, released, or retired from active military or naval service.* • • •

(b) • • •

(2) Persons defined in § 17.46 (a) (5) who require hospitalization for chronic diseases incurred in line of duty in active military or naval service when beds are available and they agree to pay the subsistence rate set by the Administrator of Veterans Affairs, except that no subsistence charge will be made for those persons who are members or former members of the Public Health Service, Coast Guard, Coast and Geodetic Survey and enlisted personnel of the Army, Navy, Marine Corps, and Air Force.

(Sec. 4, 53 Stat. 1070, as amended, sec. 10, 57 Stat. 556, 65 Stat. 40, 694, sec. 302, 70 Stat. 254; 37 U. S. C. 422, 38 U. S. C. 706b, 730, 745, ch. 12A)

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, as amended, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interpret or apply secs. 1, 6, 48 Stat. 9, as amended, 302, as amended, 53 Stat. 652, as amended; 38 U. S. C. 445b, 706, 706a)

This regulation is effective November 7, 1957.

[SEAL] H. V. HIGLEY,
Administrator of Veterans Affairs.

[F. R. Doc. 57-9262; Filed, Nov. 6, 1957; 8:51 a. m.]

PROPOSED RULE MAKING

CIVIL AERONAUTICS BOARD

[14 CFR Part 35]

[Draft Release 57-23]

FLIGHT ENGINEER CERTIFICATES

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety, notice is hereby given that the Bureau will propose to the Board a revision of Part 35 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by Jan. 7, 1958. Copies of such communications will be available after Jan. 9, 1958, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

The Bureau circulated a proposed revisions of Part 35 as Civil Air Regulations Draft Release No. 56-5 dated February 28, 1956, with the view toward narrowing or eliminating areas of substantive differences between interested parties with respect to the proposed rules contained therein, prior to its circulation as a formal notice of proposed rule making. Upon review of the comments received, it appears that the major areas of differences have been narrowed so that it is now possible to enter into formal rule making procedures for the revision of Part 35.

Based upon the proposals contained in Draft Release No. 56-5, and the comments received thereon, it is apparent that there are certain substantive points that warrant further elaboration. The following discussion covers only such points and does not include any discussion with respect to changes made in the format and terminology to conform with other airman parts. In Amendment 35-1, effective May 1, 1949, Part 35 was amended to eliminate the requirement that an applicant hold an engineering degree plus one year of experience, requiring, in lieu thereof, only that the applicant be a graduate of at least a 2-year specialized aeronautical training course of which at least 6 months shall have been in the maintenance and repair of multiengine aircraft having engines rated at least at 800 horsepower. In that amendment it was not contemplated that persons holding engineering degrees would be precluded from qualifying for a certificate. However, because there has been some confusion as to whether such persons would be eligible, it is being proposed to include in § 35.31 (c) the provision that an applicant holding an engineering degree from a recognized college, university, or engineering school and 6 months practical experience in the maintenance and repair of multiengine aircraft having engines rated at least at 800 horsepower each may qualify for a flight engineer's certificate. An applicant qualifying under this requirement would also be required to have 5 hours of training in flight in the duties of a flight engineer as discussed below.

The current provisions of § 35.6 (a) and (b) of Part 35 permit an applicant with certain diversified practical experience, or specialized aeronautical training, in the maintenance and repair of aircraft and aircraft engines to meet the experience requirements for a flight engineer certificate, even though such an applicant has had no flight experience in the duties of a flight engineer. The principal function of the flight engineer is to assist the pilot members of the crew in the mechanical operation of aircraft during flight. In view of this fact, it is believed that an applicant having only practical experience or aeronautical training in the maintenance and repair of aircraft or aircraft engines should also have a minimum of 5 hours of training in flight in the duties of a flight engineer on multiengine aircraft having engines rated at least at 800 horsepower each. Accordingly, this revision proposes to add such a requirement for in-flight training. However, this flight experience need not be a condition which should be met prior to the applicant's taking the written examination prescribed in § 35.32. Accordingly, a note to this effect has been included in § 35.32. In addition, it is proposed to change the experience requirements to permit experience gained on turbine-powered aircraft having thrust equivalent to at least 800 horsepower to be credited toward qualifying for a certificate.

It should be borne in mind that the requirements proposed herein are minimum basic requirements for the original certification of airmen, and that provision is made in the operating parts to provide for initial and recurrent training of airmen and for the maintenance of airmen qualifications.

Another proposed change in the experience requirements would permit 400 hours of copilot time to be credited as qualification experience provided such time is acquired on aircraft having 4 or more engines rated at least at 800 horsepower each, or the equivalent thereof in the case of turbine-powered aircraft.

Current provisions with respect to re-examination after failure require that an applicant produce evidence that he has received an additional 5 hours of instruction in each of the subjects failed where he does not elect to wait 30 days for re-examination. In certain situations, such as where an applicant has failed because of lack of proficiency in unfeathering an engine, it might be unnecessary and even detrimental to the equipment to require 5 hours' training. Hence it is proposed that the Administrator set the required number of hours, not to exceed 5, as appropriate, rather than prescribe a mandatory 5-hour instruction period.

During the past several years, industry has developed synthetic trainers which simulate flight characteristics and performance of corresponding aircraft through virtually all ranges of normal and emergency operations. In addition to the obvious economic advantages of the use of such aircraft simulators in lieu of aircraft, it is apparent that the examination of certain emergency procedures can be more successfully and safely accomplished in the aircraft

simulator than in the aircraft. Therefore, in recognition of the advanced state of design of the aircraft simulator for training purposes, it is proposed that demonstration of the emergency skill requirements in § 35.33 be permitted by demonstration of proficiency in an aircraft simulator or, alternately, in the aircraft it simulates. The use of the aircraft simulator for this purpose will, however, be limited to demonstration of competence with respect to emergency duties and procedures where malfunction in the aircraft is indicated. The applicant will still be required to demonstrate competence with respect to his normal duties and procedures aboard an aircraft in flight. It was proposed in Draft Release No. 56–5 that the examination, in flight, with respect to normal duties, might be accomplished in air transportation, provided, that the applicant is under the direct supervision of a fully qualified flight engineer assigned to the flight crew. This proposal is not contained herein, inasmuch as it has not been Board policy to permit original airman certification in aircraft in air transportation in view of the possible hazardous conditions which could be created or magnified because of the inexperience of the applicant.

In view of the foregoing, notice is hereby given that the Bureau proposes to recommend to the Board that Part 35 of the Civil Air Regulations be revised as set forth below.

This revision is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in the light of comment received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–610, 52 Stat. 1007–1012, as amended; 49 U. S. C. 551–560)

Dated at Washington, D. C., October 29, 1957.

By the Bureau of Safety.

[SEAL] OSCAR BAKKE, *Director.*

APPLICABILITY AND DEFINITIONS

Sec.
35.1 Applicability of this part.
35.2 Definitions.

CERTIFICATION RULES

35.5 Application for certificate.
35.6 Issuance.
35.7 Duration.
35.8 Change of address.

GENERAL CERTIFICATE REQUIREMENTS

35.21 Citizenship.
35.22 Age.
35.23 Education.
35.24 Examinations.
35.25 Re-examination after failure.
35.26 Substantiation of experience.
35.27 Physical standards.

QUALIFICATIONS FOR A CERTIFICATE

35.31 Experience.
35.32 Knowledge.
35.33 Skill.
35.34 Limited certificate.

OPERATING RULES

35.41 Certificate required.
35.42 Display.
35.43 Medical certificate.
35.44 Operation during physical deficiency.

APPLICABILITY AND DEFINITIONS

§ 35.1 *Applicability of this part.* This part establishes certification and general operating rules for flight engineers.

§ 35.2 *Definitions.* As used in this part terms shall be defined as follows:

Administrator. The Administrator is the Administrator of Civil Aeronautics.

Approved. Approved, when used alone or as modifying terms such as means, method, action, equipment, etc., means approved by the Administrator.

Authorized representative of the Administrator. An authorized representative of the Administrator is any employee of the Civil Aeronautics Administrator or any private person, authorized by the Administrator to perform particular duties of the Administrator under the provisions of this part.

Copilot. Copilot means a pilot serving in any piloting capacity other than as pilot in command on aircraft requiring two pilots for normal operations, but excluding a pilot who is on board the aircraft for the sole purpose of receiving dual instruction.

Flight engineer. A flight engineer is an individual holding a valid flight engineer certificate issued by the Administrator and whose primary assigned duty during flight is to assist the pilots in the mechanical operation of an aircraft.

Flight time. Flight time is the total time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the end of the flight.

Month. A month is that period of time extending from the first day of any month as delineated by the calendar through the last day thereof.

Pilot in command. A pilot in command is the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

CERTIFICATION RULES

§ 35.5 *Application for certificate.* An application for a certificate shall be made on a form and in a manner prescribed by the Administrator.

§ 35.6 *Issuance.* (a) A flight engineer certificate shall be issued by the Administrator to an applicant who meets the requirements of this part.

(b) Pending a review of the applicant's application and supplementary documents and the issuance of a certificate by the Administrator, an authorized representative of the Administrator may, subject to such conditions and limitations as the Administrator may prescribe, issue a temporary flight engineer certificate to an applicant who meets the requirements of this part.

§ 35.7 *Duration.* (a) A flight engineer certificate issued to a United States citizen shall remain in effect until surrendered, suspended, revoked, or otherwise terminated by order of the Board. A certificate issued to an applicant other than a United States citizen shall remain in effect for a period no longer than 12 months after the date of issuance; but it may be reissued without further demonstration of technical competence.

(b) A temporary flight enginer certificate shall remain in effect for a period no longer than 3 months after the date of issuance.

(c) After revocation, and upon request after suspension, the certificate shall be returned to the Administrator.

(d) Nothing in this section shall be construed to deny or defeat the jurisdiction of the Federal courts, the Administrator, or the Board to impose any authorized sanction, including revocation of the certificate, for a violation of the act or of the Civil Air Regulations occurring during the effective period of the certificate.

§ 35.8 *Change of address.* Within 30 days after any change in the permanent mailing address of a certificated flight engineer, he shall notify the Administrator in writing of his new address. The notice shall be mailed to the Administrator of Civil Aeronautics, attention Airman Records Branch, Washington 25, D. C.

GENERAL CERTIFICATE REQUIREMENTS

§ 35.21 *Citizenship.* An applicant for a flight engineer certificate may be a citizen of any country or a person without nationality.

§ 35.22 *Age.* 21 years is the minimum age for the issuance of a flight engineer certificate.

§ 35.23 *Education.* An applicant shall be able to read, write, speak, and understand the English language.

§ 35.24 *Examinations.* Examinations shall be conducted by an authorized representative of the Administrator at such times and places as the Administrator may designate. The passing grade for such examinations shall be at least 70 percent.

§ 35.25 *Re-examination after failure.* An applicant who has failed any prescribed written or practical examination may not apply for re-examination within a 30-day period from the date of such failure unless he presents a statement signed by a certificated flight engineer or a certificated ground instructor, as appropriate, or an equally qualified individual acceptable to the Administrator, which attests that the applicant is considered competent for re-examination, and

(a) In the case of the written examination, that the applicant has received an additional 5 hours of instruction in each of the subjects failed; or

(b) In the case of the practical examination, that the applicant has received such additional instruction, not to exceed 5 hours, as the Administrator may have required in each of the subjects failed.

§ 35.26 *Substantiation of experience.* An applicant shall present documentary evidence, satisfactory to the Administrator, to substantiate the experience qualifications for a flight engineer certificate.

§ 35.27 *Physical standards.* An applicant shall present evidence that he has, within the 12 months immediately preceding the date of application, met the physical standards of the second class prescribed in Part 29 of this chap-

ter: *Provided*, That an applicant who is unable to distinguish aviation signal red, aviation signal green, and white shall be issued an airman certificate appropriately endorsed to prohibit the holder thereof from exercising the privileges of such certificate except under such conditions, or with the use of such equipment, which would not require the ability to distinguish such aviation signal colors.

QUALIFICATIONS FOR A CERTIFICATE

§ 35.31 *Experience.* An applicant shall: (a) Have had at least 3 years of diversified practical experience in the maintenance and repair of aircraft and aircraft engines, of which one year shall have been on the maintenance and repair of multiengine aircraft having engines rated at least at 800 horsepower each or the equivalent thereof in the case of turbine-powered aircraft, and have had at least 5 hours of training in flight in the duties of a flight engineer on multiengine aircraft having engines rated at least at 800 horsepower each or the equivalent thereof in the case of turbine-powered aircraft; or

(b) Be a graduate of at least a 2-year specialized aeronautical training course in the maintenance, repair, and overhaul of aircraft and aircraft engines, of which at least 6 months shall have been in the maintenance and repair of multiengine aircraft having engines rated at least at 800 horsepower each or the equivalent thereof in the case of turbine-powered aircraft, and have had at least 5 hours of training in flight in the duties of a flight engineer on multiengine aircraft having engines rated at least at 800 horsepower each or the equivalent thereof in the case of turbine-powered aircraft; or

(c) Hold a degree in engineering from a recognized college, university, or engineering school and have had 6 months practical experience in the maintenance and repair of multiengine aircraft having engines rated at least at 800 horsepower each or the equivalent thereof in the case of turbine-powered aircraft, and have had at least 5 hours of training in flight in the duties of a flight engineer on multiengine aircraft having engines rated at least at 800 horsepower each or the equivalent thereof in the case of turbine-powered aircraft; or

(d) Have had at least 200 hours of flight time as pilot in command, or 400 hours of flight time as copilot, of aircraft having 4 or more engines rated at least at 800 horsepower each or the equivalent thereof in the case of turbine-powered aircraft; or

(e) Have had at least 100 hours of flight experience in the duties of a flight engineer; or

(f) Within 90 days immediately preceding application, have completed successfully a course of instruction which is approved for the training of a flight engineer.

§ 35.32 *Knowledge.* An applicant shall satisfactorily pass a written examination on the following subjects with respect to aircraft having 4 or more engines and certificated in the transport category or an aircraft having 4 or more engines and incorporating a flight engineer station:

(a) The provisions of the Civil Air Regulations applicable to the duties of a flight engineer;

(b) Theory of flight and elementary aerodynamics;

(c) Aircraft performance and aircraft engine operation with respect to limitations;

(d) Mathematical computations of engine operation and fuel consumption;

(e) Basic meteorology with respect to engine operations;

(f) Aircraft loading and center of gravity computations; and

(g) General aircraft maintenance and operation procedures.

NOTE: The applicant need not have the 5 hours of training in flight in the duties of a flight engineer specified in § 35.31 (a), (b), and (c) prior to taking the written examination required by § 35.32.

§ 35.33 *Skill.* An applicant shall pass a practical examination in the duties of a flight engineer on an aircraft having 4 or more engines and certificated in the transport category or on an aircraft having 4 or more engines and incorporating a flight engineer station, with respect to pre-flight inspection of aircraft, servicing, starting, and pre-takeoff run-up, and

(a) In flight, demonstrate competence with respect to normal duties and procedures relating to the aircraft, aircraft engines, propellers, and appliances; and

(b) In flight, or in an approved synthetic trainer which accurately simulates the flight characteristics and performance of the aircraft, demonstrate competence with respect to emergency duties, procedures, and recognition of and the taking of appropriate action with respect to the malfunctioning of aircraft, aircraft engines, propellers, and appliances.

§ 35.34 *Limited certificate.* (a) An applicant may be certificated as a flight engineer for an aircraft having less than 4 engines, *Provided*: That

(1) The design of the aircraft incorporates a flight engineer station satisfactory to the Administrator,

(2) The applicant meets the requirements of §§ 35.21 through 35.32, except that experience need not include flight time in aircraft having more than 2 engines, and

(3) The applicant passes a practical examination with respect to such aircraft as required in § 35.33.

(b) A certificate issued under the provisions of this section shall contain an appropriate limitation which may be removed at such time as the holder of the certificate passes the practical test prescribed in § 35.33 for an aircraft having 4 or more engines.

OPERATING RULES

§ 35.41 *Certificate required.* No individual shall serve as a flight engineer, in air commerce, on an aircraft of United States registry without, or in violation of the terms of, a certificate issued in accordance with the provisions of this part. He shall have his certificate in his personal possession when performing his duties.

§ 35.42 *Display.* A flight engineer shall, upon request, present his airman and medical certificates for examination by any authorized representative of the Civil Aeronautics Board or the Administrator, or by any State or local law enforcement officer.

§ 35.43 *Medical certificate.* No individual shall exercise the privileges accorded by a flight engineer certificate unless he has in his personal possession while so serving a medical certificate or other evidence satisfactory to the Administrator showing that he has met the physical requirements appropriate thereto within the preceding 12 months.

§ 35.44 *Operation during physical deficiency.* No individual shall exercise the privileges accorded by a flight engineer certificate during any period of known physical deficiency or increase in physical deficiency which would render him unable to meet the physical requirements prescribed for the issuance of his currently effective medical certificate.

[F. R. Doc. 57-9280; Filed, Nov. 6, 1957; 8:55 a. m.]

[14 CFR Part 41]

[Draft Release 57-24]

PERIODIC PROFICIENCY CHECKS FOR PILOTS SERVING AS SECOND IN COMMAND OF FLIGHT CREWS OF THREE OR MORE PILOTS.

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety, notice is hereby given that the Bureau will propose to the Board an amendment to Part 41 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rule, communications must be received by January 13, 1958. Copies of such communications will be available after January 15, 1958, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

Currently effective Part 41 of the Civil Air Regulations contains the certification and operation rules for scheduled air carrier operations outside the continental limits of the United States. Section 41.53 of this part requires that each pilot in command continue to meet the minimum requirements with regard to route competence and pilot technique by means of a flight check at least twice a year. All other pilots are required to receive periodic instructions but are not required to demonstrate competence by means of flight checks given by a check pilot.

A pilot serving as second in command of an aircraft on a flight requiring three or more pilots must possess an airline

transport pilot certificate with an appropriate aircraft type rating. This pilot relieves the pilot in command during periods in which the latter is resting or otherwise absent from his flight station, and during these periods the airplane is under the control of the second in command.

The Civil Aeronautics Administration has recommended the amendment of Part 41 to require that pilots serving as second in command of a crew requiring three or more pilots be given the same periodic proficiency checks required of pilots in command. It appears that such a requirement would insure an equivalent level of safety during these operations when such pilots are acting for the pilot in command. It is believed that this is particularly pertinent to the handling of in-flight emergencies where the second in command is required to take immediate action and cannot consult with the pilot in command or receive direction from him.

In view of the foregoing, notice is hereby given that it is proposed to amend § 41.53 (a) of Part 41 of the Civil Air Regulations to read as follows:

§ 41.53 *Periodic flight checks and instruction.* (a) Each air carrier must provide a sufficient number of check pilots to insure that each pilot in command continues to meet the minimum requirements both with regard to route competence and pilot technique and that each pilot serving as second in command of a flight crew requiring three or more pilots continues to meet the minimum requirements with regard to pilot technique. Each of these checks must be accomplished twice each year at intervals of not less than 4 months. Periodic instruction must be given all pilots. In the case of all pilots in command and also for each pilot serving as second in command of a flight crew requiring three or more pilots, instruction must include the obtaining of optimum performance under simulated maximum authorized weight conditions with one engine inoperative and instrument approach procedures and landings under the same conditions in the type aircraft in which such pilots serve in scheduled air transportation: *Provided,* That subsequent to the initial check and instruction, actual or simulated maximum authorized weight on take-off shall not be required. In the case of all pilots, other than pilots in command, or pilots serving as second in command of a flight crew requiring three or more pilots, instruction must include familiarization with the operations manual, with the types of equipment used, and with the duties of a second in command.

This amendment is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in the light of comment received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–610, 52 Stat. 1007–1012, as amended, 49 U. S. C. 551–560)

Dated at Washington, D. C., November 1, 1957.

By the Bureau of Safety.

[SEAL] OSCAR BAKKE,
Director.

[F. R. Doc. 57-9281; Filed, Nov. 6, 1957; 8:55 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

UNITED STATES STANDARDS FOR GRADES OF FROZEN RAW BREADED SHRIMP

ADDITIONAL TIME FOR FILING DATA, VIEWS, OR ARGUMENTS

Proposed United States Standards for Grades of Frozen Raw Breaded Shrimp were set forth in the notice which was published in the FEDERAL REGISTER of May 18, 1957 (22 F. R. 3484). The FEDERAL REGISTER publication of July 30, 1957 (22 F. R. 5980) provided an additional period of time until October 16, 1957, for the submission of comments and suggestions concerning the proposed grade standards.

In consideration of comments and suggestions received indicating the need for further study of the proposed grade standards, notice is hereby given of a further additional period of time until November 23, 1957, within which written data, views, or arguments may be submitted by interested parties for consideration in connection with the aforesaid proposed United States Standards for Grades of Frozen Raw Breaded Shrimp.

Dated: November 4, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 57-9250; Filed, Nov. 6, 1957; 8:48 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification 137]

NEVADA

SMALL TRACT CLASSIFICATION

1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F. R. 2473), I hereby classify the following described public lands, totalling 3,540 acres in Clark County, Nevada, as suitable for lease and sale for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a), as amended:

MOUNT DIABLO MERIDIAN, NEVADA

T. 22 S., R. 58 E.,
Sec. 11, all;
Sec. 2, NW¼SW¼, NW¼SE¼.

2. Classification of the above-described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid with a preference right to veterans of World War II and of the Korean conflict and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 497; 43 U. S. C. 279–284), as amended.

E. R. GREENSLET,
State Supervisor for Nevada.

OCTOBER 29, 1957.

[F. R. Doc. 57-9227; Filed, Nov. 6, 1957; 8:45 a. m.]

[Classification Order 134]

NEVADA

SMALL TRACT CLASSIFICATION: REVOKED

Effective October 29, 1957, Classification Order No. 134 appearing on page 8322 Federal Register Document 57-8715 is hereby revoked.

The NE¼ sec. 32, T. 36 N., R. 38 E., M. D. M., was withdrawn by Executive Order No. 2639, dated June 18, 1917.

E. R. GREENSLET,
State Supervisor.

OCTOBER 29, 1957.

[F. R. Doc. 57-9228; Filed, Nov. 6, 1957; 8:45 a. m.]

UTAH (I-5)

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

NOVEMBER 1, 1957.

Bureau of Reclamation has filed an application, Serial No. Utah 025597, for the withdrawal of the lands described below, from all forms of appropriation. The applicant desires the land for sediment retention dam and reservoir and for material sites and access road locations.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Post Office Box 777, Salt Lake City, Utah.

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

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

The lands involved in the application are:

SALT LAKE MERIDIAN, UTAH

T. 42 S., R. 1 W.,
Sec. 17: W½NE¼, W½.

T. 43 S., R. 1 W.,
Sec. 1: Lot 1, SE¼NE¼, E½SE¼;
Sec. 11: SE¼;
Sec. 12: Lot 1, SE¼NE¼, S½;
Sec. 13: All;
Sec. 14: E½NE¼, NE¼SE¼;
Sec. 24: E½;
Sec. 25: E½.
T. 43 S., R. 2 W.,
Sec. 8: SE¼NE¼;
Sec. 9: SW¼NW¼, S½;
Sec. 10: S½SW¼;
Sec. 11: S½;
Sec. 14: All;
Sec. 15: All;
Sec. 22: All;
Sec. 23: All;
Sec. 26: W½;
Sec. 27: All;
Sec. 28: SE¼;
Sec. 33: All;
Sec. 34: All;
Sec. 36: S½S½.
T. 44 S., R. 2 W.,
Sec. 1: N½;
Sec. 2: All;
Sec. 3: All;
Sec. 4: All;
Sec. 5: SE¼;
Sec. 8: Lots 3 and 4, N½NE¼;
Sec. 9: All;
Sec. 10: All;
Sec. 11: All.

The above area aggregates 11,711.95 acres.

VAL B. RICHMAN,
State Supervisor.

[F. R. Doc. 57-9229; Filed, Nov. 6, 1957; 8:46 a. m.]

[Document 167]

ARIZONA

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

Pursuant to Determination DA-118-Arizona, of the Federal Power Commission, and in accordance with Order No. 541, section 2.5 of the Director, Bureau of Land Management, approved April 21, 1954, 19 F. R. 2473, it is ordered as follows:

The lands hereinafter described so far as they are withdrawn and reserved for power purposes are hereby restored to disposition under the public land laws, subject to the provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818), as amended.

GILA AND SALT RIVER MERIDIAN

T. 5 S., R. 29 E.,
Sec. 11: E½NE¼, SE¼, S½SW¼;
Sec. 14: N½, SW¼, W½SE¼;
Sec. 15: S½NE¼, SE¼, S½SW¼;
Sec. 16: S½SE¼.

The area described totals 1,280 acres of public land.

The subject lands lie adjacent to both banks of the San Francisco River in the vicinity of Clifton, Arizona.

Beginning on December 5, 1957, the lands described above will become subject to application and selection under the non-mineral public land laws. This restoration is made in furtherance of a proposed exchange under section 8 of the act of June 28, 1934 (48 Stat. 1272; 43 U. S. C. 315g), as amended, which would provide lands for consolidation of Federal holdings within the Sitgreaves National Forest. Since this restoration is made in order to assist in a Federal land program, this opening is not subject to the provisions contained in the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284; 43 CFR Part 181), as amended, granting certain preference rights to veterans of World War II, the Korean Conflict, and others.

No application for these lands will be allowed under the homestead, desert land, small tract, or any other non-mineral public land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits and the lands will not be subject to occupancy or disposition until they have been classified and the application allowed.

Any disposition of the lands described herein shall be subject to the stipulation that if and when the land is required in whole or in part for power development purposes, any structures or improvements placed thereon which may be found to obstruct or interfere with such development, shall, without cost, expense, or delay to the United States, its licensees or permittees, be removed or relocated insofar as may be necessary to eliminate interference with such power development.

The lands described shall be subject to application by the State of Arizona for a period of 90 days from the date of publication of this Order in the FEDERAL REGISTER for right-of-way for public highways or as a source of material for construction and maintenance of such highways, in accordance with and subject to the provisions of section 24 of the Federal Power Act, as amended, and the special stipulation provided in the preceding paragraph.

Inquiries concerning the lands should be addressed to the Manager, Phoenix Land Office, P. O. Box 148, Phoenix, Arizona.

EUGENE H. NEWELL,
Acting State Supervisor.

OCTOBER 30, 1957.

[F. R. Doc. 57-9230; Filed, Nov. 6, 1957; 8:46 a. m.]

[Document 165]

ARIZONA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

OCTOBER 24, 1957.

The U. S. Forest Service has filed an application, Serial No. AR-011812, for the withdrawal of the lands described below, from all forms of appropriation including the mining laws.

The applicant desires the land for roadside zones and scenic strips.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Post Office Box 148, Phoenix, Arizona.

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

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

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN—TONTO NATIONAL FOREST

HIGHWAY 60-70-89

A strip of land 200 feet on each side of the center line of Highway 60-70-89 through the following legal subdivisions:

T. 1 S., R. 16 E.,
Sec. 4: S½;
Sec. 5: S½;
Sec. 6: E½.
T. 1 S., R. 14 E.,
Sec. 2: W½NW¼, NE¼NE¼;
Sec. 3: SE¼NE¼, N½SE¼, N½SW¼;
Sec. 4: S½SE¼;
Sec. 5: S½SW¼;
Sec. 6: SE¼SE¼;
Sec. 7: NE¼NE¼, NW¼NE¼, SW¼NE¼, NE¼SW¼, SW¼SW¼;
Sec. 8: N½NE¼, NE¼NW¼;
Sec. 9: N½NW¼, NW¼NE¼.

HIGHWAY 60-70-89. PINAL CO. TO WEST FOREST BDY.,

T. 1 S., R. 13 E.,
Sec. 14: N½SW¼, SW¼SW¼;
Sec. 15: SE¼SE¼;
Sec. 22: N½NE¼, E½NW¼, N½SW¼, SW¼SW¼;
Sec. 27: W½NW¼;
Sec. 28: S½NE¼, N½SW¼, NW¼SE¼;
Sec. 29: N½SE¼, SW¼SE¼, S½SW¼;
Sec. 30: Lot 4;
Sec. 31: Lot 1.
T. 1 S., R. 12 E.,
Sec. 36: N½NE¼, NE¼NW¼.
T. 2 S., R. 12 E.,
Sec. 5: N½N½SE¼.
T. 2 S., R. 11 E.,
Sec. 1: N½S½SE¼, N½S½SW¼;
Sec. 8: W½SW¼, NE¼SW¼, SE¼NW¼, S½NE¼, NE¼NE¼;
Sec. 9: W½NW¼, SE¼NW¼, S½NE¼;
Sec. 10: S½NW¼, S½NE¼;
Sec. 11: S½NW¼, S½NE¼, NE¼NE¼;
Sec. 12: S½N½NW¼.

The area described approximates 385 acres.

HIGHWAY 60

A strip of land 200 feet on each side of the center line of Highway 60 through the following legal subdivisions:

T. 1 N., R. 16 E.,
Sec. 6: W½SW¼, W½NW¼.
T. 2 N., R. 15½ E.,
Sec. 36: E½SE¼, E½NE¼.
T. 2 N., R. 16 E.,
Sec. 4: N½NW¼;
Sec. 5: N½NE¼, N½NW¼;
Sec. 6: E½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, SW¼SE¼;
Sec. 7: W½NE¼, SE¼NE¼, N½SE¼, SW¼SE¼;
Sec. 17: W½NW¼;
Sec. 18: N½NE¼, S½SE¼, NE¼SE¼;
Sec. 19: E½NE¼, W½SE¼, SE¼SW¼;
Sec. 30: N½NW¼, W½SW¼, W½SW¼, SW¼NW¼.
T. 3 N., R. 16 E.,
Sec. 12: SE¼SE¼;
Sec. 13: NW¼NE¼, E½NW¼, SW¼NW¼, W¼SW¼;
Sec. 14: SE¼SE¼;
Sec. 23: N½N½NE¼, SE¼NW¼, SE¼NE¼NE¼, S½NE¼SW½, W½SW¼;
Sec. 26: NW¼NW¼;

Sec. 27: SE¼NW¼, NW¼SE¼, E½SW¼, SW¼SW¼, E½NE¼;
Sec. 33: N½NE¼, SW¼NE¼, NE¼SE¼, SW¼SE¼, SE¼SW¼;
Sec. 34: NW¼NW¼.
T. 3 N., R. 17 E.,
Sec. 4: N½NW¼;
Sec. 5: E½NE¼, E½SE¼, SW¼SE¼, SE¼SW¼;
Sec. 7: SE¼NE¼, NE¼SE¼, S½SW¼, SW¼SE¼;
Sec. 8: N½NW¼, SW¼NW¼.
T. 4 N., R. 17 E.,
Sec. 1: NW¼NW¼;
Sec. 2: E½NE¼, E½SE¼, SW¼SE¼;
Sec. 10: SE¼SE¼;
Sec. 11: W½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 15: S½NW¼, NE¼NW¼, NW¼NE¼;
Sec. 16: SE¼NE¼, W½SE¼;
Sec. 21: W½NE¼, W½SE¼;
Sec. 28: W½NE¼, W½SE¼, SE¼SE¼;
Sec. 33: N½NE¼, E½SW¼, SE¼NW¼, SW¼NE¼.

The area described approximates 550 acres.

EUGENE H. NEWELL,
Lands and Minerals Officer.

[F. R. Doc. 57-9231; Filed, Nov. 6, 1957; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

RECTOR AUCTION SALE BARN

POSTED STOCKYARDS

Pursuant to the authority delegated to the Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, under the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), on the respective dates specified below, it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the act (7 U. S. C. 202) and were, therefore, subject to the act, and notice was given to the owners and to the public by posting notice at the stockyard as required by said section 302.

Name of stockyard	*Date of posting*
ARKANSAS	
Rector Auction Sale Barn, Rector	Aug. 17, 1957
IOWA	
Wayland Sales Co., Inc., Wayland	Aug. 7, 1957
MISSOURI	
The Green City Auction Co., Green City	Aug. 14, 1957
NEBRASKA	
Falls City Auction Co., Falls City	Sept. 27, 1957
NORTH CAROLINA	
Asheville Live Stock Yard, Asheville	Sept. 26, 1957
Western Carolina Livestock Market, Inc., Asheville	Sept. 27, 1957
TEXAS	
Valley Stock Yard, Mercedes	Sept. 20, 1957
Farmers & Ranchers Livestock Commission Co., Paris	Aug. 28, 1957
WYOMING	
Casper Sales Pavilion, Casper	Aug. 8, 1957

Done at Washington, D. C., this 1st day of November, 1957.

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

[F. R. Doc. 57-9248; Filed, Nov. 6, 1957; 8:48 a. m.]

COMMUNITY SALE YARD

DEPOSTING OF STOCKYARD

It has been ascertained that the Community Sale Yard, Pharr, Texas, originally posted on May 1, 1957, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), no longer comes within the definition of a stockyard under said act for the reason that it is no longer being conducted or operated as a public market. Accordingly, notice is given to the owner thereof and to the public that such livestock market is no longer subject to the provisions of the act.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which no longer is within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U. S. C. 181 et seq.)

Done at Washington, D. C., this 1st day of November 1957.

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

[F. R. Doc. 57-9249; Filed, Nov. 6, 1957; 8:48 a. m.]

[P. & S. Docket No. 5]

PEORIA UNION STOCK YARDS CO., INC.

NOTICE OF PETITION FOR MODIFICATION OF RATE ORDER

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), an order was issued on July 15, 1957 (16 A. D. 668), authorizing the respondent, The Peoria Union Stock Yards Company, Inc., Peoria, Illinois, to continue assessing to and including January 1, 1958, the rates and charges provided for in the order of June 5, 1956 (15 A. D. 625).

By a petition filed October 25, 1957, the respondent requested authority to make certain modifications in its current schedule of rates and charges and requested that such current schedule, as so modified, be continued in effect to and including December 31, 1959. The proposed modifications are set forth below.

SECTION 1—YARDAGE

Item 1. * * * Yardage charges will be assessed on all livestock (or deadstock) sold through these yards or resold by regular selling agencies at the following rate in cents per heads:

	Present	Proposed
Cattle	70	82
Calves (300 pounds and under)	37	43
Hogs	23	27
Sheep and goats	18	21

Item 2. Charges will be collected on all livestock resold on the market (except as specified in Items 1 and 3 of this Section) at the following rate in cents per head:

	Present	Proposed
Cattle	35	41
Calves	19	22
Hogs	12	14
Sheep	9	11

Item 3. Charges subject to the right of this Company to demand full proof of the facts making this Item applicable will be collected on all livestock resold or reweighed for shipment off the market at the following rate in cents per head:

	Present	Proposed
Cattle	13	15
Calves	8	10
Hogs	5	6
Sheep	5	6

SECTION 2—SERVICE CHARGES

Item 1. Present: Livestock forwarded unsold, or without change of ownership, a service charge of $2.00 per car will be made.

Proposed: Shipments of stocker and feeder livestock consigned direct to a livestock feeder off the market and which is removed from the yards promptly without change of ownership shall be considered "Through Business" and a service charge of $4.00 per car will apply. Full yardage charges as shown in Section 1, Item 1, will apply on all shipments of livestock consigned to, or in care of, any person or firm operating as a market agency and/or dealer on this market.

Item 2. * * * (The service charge for "Through Business" would be increased from $2.00 to $4.00 per car).

Item 3. * * * (The service charge for feeding and watering in cars would be increased from $1.00 to $2.00 per deck).

The modifications, if authorized, will produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

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

Done at Washington, D. C., this 1st day of November, 1957.

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

[F. R. Doc. 57-9279; Filed, Nov. 6, 1957; 8:54 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MITSUBISHI SHIPPING CO., LTD., ET AL.

NOTICE OF AGREEMENTS FILED FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

(1) Agreement No. 8214, between Mitsubishi Shipping Co., Ltd., and Bull Insular Line, Inc., covers the transportation of general cargo under through bills of lading from Japan and the Philippines to Puerto Rico, with transhipment at New York.

(2) Agreement No. 8249, between Flota Mercante Grancolombiana, S. A., and Bull Insular Line, Inc., covers the transportation of general cargo under through bills of lading from ports in Ecuador, Colombia, Honduras, Costa Rica, Guatemala and Mexico to Puerto Rico, with transhipment at New York, Baltimore or Philadelphia.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 4, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-9255; Filed, Nov. 6, 1957; 8:50 a. m.]

MEMBER LINES OF PACIFIC COAST/CARIBBEAN SEA PORTS CONFERENCE

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 4294-16, between the member lines of the Pacific Coast/Caribbean Sea Ports Conference, modifies the basic agreement of that conference (No. 4294, as amended) to provide that member lines and their agents shall not represent any vessel in the trade covered by the agreement other than those operated for the account of a member line, except as husbanding agents or as agents for vessels loading full or partial cargoes of open-rated commodities, or as may be agreed by unanimous vote of the conference.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 4, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-9256; Filed, Nov. 6, 1957; 8:50 a.m.]

MEMBER LINES OF PACIFIC COAST RIVER PLATE BRAZIL CONFERENCE

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to Section 15 of the Shipping Act, 1916, (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 6400-8, between the member lines of the Pacific Coast River Plate Brazil Conference, modifies the basic agreement of that conference (No. 6400, as amended) to provide for the establishment and maintenance of divisions of rates and absorptions of transhipment expenses on cargo handled on a transhipment basis. Agreement No. 6400, as presently in effect, provides for the establishment and maintenance of rates, rules and charges for or in connection with the transportation of cargo, both northbound and southbound, between Pacific Coast ports of the United States and British Columbia and ports in Brazil, Argentina and Uruguay.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 4, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-9257; Filed, Nov. 6, 1957; 8:50 a. m.]

MEMBER LINES OF PACIFIC WESTBOUND CONFERENCE

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 57-68, between the member lines of the Pacific Westbound Conference, modifies Rule 10 of the Appendix to the basic agreement of that conference (No. 57, as amended), by deleting from such rule the clause providing that the rate on local traffic to differential ports transhipped shall be $2.00 per ton higher than the tariff rates applying by direct steamer.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: November 4, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-9258; Filed, Nov. 6, 1957; 8:50 a. m.]

Office of the Secretary

GEORGE E. LAWRENCE

STATEMENT OF CHANGES IN FINANCIAL INTERESTS

In accordance with the requirements of section 710 (b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of May 22, 1956, 21 F. R. 3393; November 6, 1956, 21 F. R. 8514; May 3, 1957, 22 F. R. 3165.

A. Deletions: None.
B. Additions: Chemical Fund, Inc.

This statement is made as of October 30, 1957.

Dated: October 30, 1957.

GEO. E. LAWRENCE.

[F. R. Doc. 57-9259; Filed, Nov. 6, 1957; 8:50 a. m.]

ATOMIC ENERGY COMMISSION

[Docket 50-78]

AMERICAN RADIATOR & STANDARD SANITARY CORP.

NOTICE OF ISSUANCE OF CONSTRUCTION PERMIT

Please take notice that no requests for formal hearing having been filed following filing of the notice of proposed action with the Federal Register Division the Atomic Energy Commission on October 31, 1957 issued Construction Permit No. CPRR-20 to American Radiator & Standard Sanitary Corporation authorizing the construction of a research reactor at Mountain View, California.

Notice of proposed issuance of this permit was published in the FEDERAL

REGISTER on October 16, 1957, 22 F. R. 8189.

Dated at Washington, D. C., this 31st day of October 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

[F. R. Doc. 57-9263; Filed, Nov. 6, 1957; 8:51 a. m.]

[Docket 50-73]

GENERAL ELECTRIC CO.

NOTICE OF ISSUANCE OF FACILITY LICENSE

Please take notice that no request for formal hearing having been filed following filing of notice of the proposed action with the Federal Register Division the Atomic Energy Commission on October 31, 1957, issued License R-33 to General Electric Company authorizing the possession and operation of a 30-kilowatt (thermal) research reactor. The notice of proposed issuance of this license was published in the FEDERAL REGISTER on October 9, 1957, 22 F. R. 8019.

Dated at Washington, D. C., this 31st day of October 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

[F. R. Doc. 57-9264; Filed, Nov. 6, 1957; 8:51 a. m.]

[Byproduct Material License Nos. 31-246-1, 31-246-2]

M. W. KELLOGG CO.

NOTICE OF PROPOSED MODIFICATION OF TEMPORARY SUSPENSION ORDER

On May 2, 1957, the Commission issued a temporary suspension order to the M. W. Kellogg Company, 711 Third Avenue, New York, N. Y. (hereinafter referred to as "the company"). This order provided that the company should not resume any operation pursuant to Byproduct Material License Nos. 31-246-1 and 31-246-2, except for acts necessary to decontaminate the facility at South Houston, Texas, and to safeguard byproduct material already in the company's possession.

On May 17, 1957, the Commission issued License No. 31-246-3 to the company which had the effect of partially lifting the May 2 suspension order. That license authorized the company's Construction Department to possess and use certain radioisotopes as sealed sources in radiographic testing of welds and castings. The activities of the Construction Department are of a different nature and are conducted in different facilities from the activities of the Nuclear Products Division at South Houston, Texas.

On August 19, 1957, the company applied for restoration of its License No. 31-246-2 in order to undertake certain activities to dispose of current inventory of byproduct materials necessary for termination of the activities of their Nuclear Products Division. Based on this application and amendments thereto, and upon the Commission's inspection of the South Houston facility, it appears that:

1. The facility to be used for the activities proposed has been decontaminated to the extent that it is safe for the use proposed in this application; and

2. The proposed activities involving byproduct material can be safely conducted by the applicant, subject to the detailed conditions set forth in the Modification of Temporary Suspension Order.

In view of the foregoing and pursuant to the AEA of 1954, as amended, and the regulations contained in Part 30, Title 10, Code of Federal Regulations, the Atomic Energy Commission proposes to issue a modification to the temporary suspension order of May 2, 1957, to permit certain specified activities under License No. 31-246-2, unless on or before 15 days after publication of this notice in the FEDERAL REGISTER a request for formal hearing is filed in the manner prescribed by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2).

The proposed modification only lifts the suspension order to permit certain activities necessary for the Nuclear Products Division, M. W. Kellogg Company, to decontaminate its facilities and to dispose of current inventories of byproduct materials for the purpose of terminating its activities. There are numerous conditions imposed to minimize any risks to the health and safety of the employees or persons outside of the plant. The proposed modification, including the precise list of activities to be permitted and the detailed conditions, is on file for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 2d day of November 1957.

For the Atomic Energy Commission.

HAROLD L. PRICE,
Director,
Division of Civilian Application.

[F. R. Doc. 57-9282; Filed, Nov. 6, 1957; 8:55 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11735; FCC 57M-1075]

NEVADA TELECASTING CORP. (KAKJ)

ORDER SCHEDULING HEARING

In the matter of revocation of television construction permit of Nevada Telecasting Corporation (KAKJ), Reno, Nevada, Docket No. 11735.

The Hearing Examiner having under consideration (1) his Memorandum Opinion and Order released September 9, 1957, denying a motion to change the place of hearing from Los Angeles, California back to Washington, D. C.; (2) the Commission's denial of a petition to review this ruling, announced October 30, 1957; and (3) an oral request by counsel for the Commission's Broadcast Bureau to hold a hearing session in Washington, D. C., to permit him to offer documentary evidence prior to the California sessions;

It appearing that counsel for respondent has no objection to a Washington hearing session for the purpose stated;

It is ordered, This 31st day of October 1957, that a hearing session for this purpose will be held on Tuesday, November 5, 1957, at 10 a. m., in the offices of the Commission, Washington, D. C. At that time consideration will also be given to scheduling an appropriate date for the California hearing.

Released: November 1, 1957.

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

[F. R. Doc. 57-9265; Filed, Nov. 6, 1957; 8:52 a. m.]

[Network Study Committee Order 2]

[Docket No. 11960; FCC 57M-1077]

STUDY OF RADIO AND TELEVISION NETWORK BROADCASTING

ORDER SCHEDULING HEARING

In the matter of study of radio and television network broadcasting pursuant to Delegation Order No. 10, dated July 20, 1955, and Network Study Committee Order No. 1, dated November 21, 1955.

It is ordered, This 31st day of October 1957, that hearing in the above-entitled proceeding will be reconvened in the offices of the Commission, Washington, D. C., commencing at 10:00 a. m., Thursday, November 7, 1957.

Released: November 1, 1957.

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

[F. R. Doc. 57-9266; Filed, Nov. 6, 1957; 8:52 a. m.]

[Docket No. 12046; FCC 57M-1078]

GREENWOOD BROADCASTING CO., INC.

ORDER SCHEDULED HEARING

In re application of Greenwood Broadcasting Company, Inc., Greenwood, Mississippi, Docket No. 12046, File No. BPCT-2224; for construction permit for new television station.

The Hearing Examiner having under consideration the "Petition for Leave to Amend and Application as Amended to Remain on Hearing Docket" of Greenwood Broadcasting Company, Inc., filed on October 15, 1957, and also the verified affidavit to the amendment filed on October 18, 1957;

It appearing, that good and sufficient reason exists why applicant should be permitted to amend its application, and counsel for the Broadcast Bureau concurs in said proposed amendment;

It is ordered, This 1st day of November 1957, that the applicant's verified Peti-

tion for Leave to Amend be, and the same is hereby, granted; that the amendment is accepted; and the application as amended is retained in hearing status.

It is further ordered, That hearing herein will convene on November 8, 1957, at 9:00 o'clock a. m., at the Commission's offices in Washington, D. C.

Released: November 1, 1957.

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

[F. R. Doc. 57-9267; Filed, Nov. 6, 1957; 8:52 a. m.]

[Docket No. 12095, 12096; FCC 57-1183]

WAYNE M. NELSON AND FRED H. WHITLEY

MEMORANDUM OPINION AND ORDER AMENDING ISSUES

In re applications of Wayne M. Nelson, Concord, North Carolina, Docket No. 12095, File No. BP-10936; Fred H. Whitley, Dallas, North Carolina, Docket No. 12096, File No. BP-10987; for construction permits.

1. The Commission has before it for consideration a motion to enlarge the issues filed on August 1, 1957, by Spartan Radiocasting Company (WSPA). Replies to this motion by Fred H. Whitley (Whitley) and Wayne M. Nelson, and a comment by the Commission's Broadcast Bureau were filed on August 12, 1957.

2. The hearing issues in the above entitled proceeding seek to determine the areas and population which would receive primary service from each of the proposed operations and the availability of other primary service to such areas and populations; whether a grant to Nelson would be in contravention of the Commission's rules on multiple ownership; whether the operation proposed by Whitley would involve objectionable interference with Station WSPA, or any other existing standard broadcast station, and, if so, the nature and extent thereof and the availability of other primary service to the areas and populations affected; and, in the light of the evidence and section 307 (b) of the Communications Act of 1934, which, if either, of the applications should be granted.

3. WSPA requests that the Commission enlarge the issues specified for the hearing to include the following two additional issues:

(a) To determine the nature and character of the program service now being rendered by WSPA to the areas and populations which will lose WSPA service by reason of the operation proposed to be rendered by Whitley and the nature and character of the program service proposed to be rendered by Whitley to such areas and populations; and

(b) To determine whether the use of a directional antenna system by Whitley would eliminate the interference to WSPA which could be caused by Whitley operating as proposed, and if so, whether Whitley's application, if granted, should be granted subject to the condition that he install a directional antenna system at his presently proposed site, or at a site to be determined subject to Commission approval, which will eliminate the proposed interference to WSPA.

4. WSPA asserts that the issue now in the hearing notice which purports to adjudicate the rights of WSPA and determine public interest considerations is not adequate; that this issue is inappropriate here where 10 kilocycle adjacent channel interference is involved, and where the real issue turns solely on the question of whether the listening public in the interference area would be better served by the continuation of WSPA's program service or the substitution therefor of the program service proposed by Whitley.

5. WSPA bases its request for a programming issue on its construction of the requirements of § 3.24 (b) of the Commission's rules, and the decision of the Court of Appeals in Democrat Printing Company v. FCC, 202 F. 2d 298, 7 RR 2138 (1952).

6. In support of the foregoing contention, WSPA submits a map of the Spartanburg Trading Area, as defined by the Audit Bureau of Circulation, which depicts the interference area as being located in the northeast corner of the trading area. WSPA's consulting engineer states that Whitley's proposed operation would cause objectionable interference with WSPA's normally protected 0.5 mv/m ground-wave contour which would affect 13,819 persons in an area of 161 square miles, and that these figures represent 3.3 percent and 3.2 percent respectively of the total population of 419,606 in an area of 5,085 square miles encompassed by WSPA's 0.5 mv/m contour. (There is an unresolved difference between the foregoing figures and those in Whitley's application which depict the interference as affecting 5,206 persons (1.46 percent of the population within WSPA's 0.5 mv/m contour) in an area of 71 square miles.)

7. Attached to the subject pleading is an affidavit wherein WSPA's program director states that "* * * it has been the policy of WSPA to program the station to appeal to the maximum number of people within the Spartanburg trading area including the counties which border on Spartanburg County in North Carolina." The program director describes progams which WSPA directs to the Spartanburg trading area. As an additional basis for so enlarging the issues, WSPA notes that Whitley amended his program proposal subsequent to receipt of the Commission's 309 (b) letter, and questions whether Whitley can effectuate his new proposed programming.

8. It is WSPA's position that sound allocation practice requires exploration of the question as to whether directional operation should be required to prevent the degradation of WSPA's service. WSPA states that the Commission should not grant the Whitley application, operating as proposed, if it can be determined that WSPA can be protected and the same service can be provided to Dallas by the use of a directional antenna system. In this connection, WSPA states that its consulting engineer has determined that by the installation of an additional antenna tower Whitley can provide a simple directional antenna system which will afford complete protection to WSPA's service area and at the same time protect other existing operations. WSPA states that the directional antenna system will not materially change Whitley's proposed coverage of areas and populations, since the only loss will be approximately the persons and areas included within the WSPA 0.5 mv/m contour which would receive interference; the additional cost to Whitley would be approximately $7,000; and that approximately three additional acres would be necessary to accommodate the directional system. WSPA declares that, if issue (b) set out in paragraph 3 above is permitted, it will adduce complete proof through its own engineering witnesses concerning the particulars of the directional proposal and will establish for the record all of the pertinent details concerning the same.

9. The Commission's Broadcast Bureau does not favor adoption of WSPA's proposed program issue. After noting that the area of interference to WSPA is located about 30 miles from Spartanburg, and affects 3.2 percent of the area and 3.3 percent (13,819) of the population (419,606) within WSPA's normally protected (0.5 mv/m) contour, the Bureau states its belief that neither the Democrat Printing case nor other considerations require the requested enlargement of issues. The Bureau asserts that in the Democrat case the court was concerned with excessive interference which would affect as much as 41 percent of the population previously served, and that in four recent cases—Courier-Times, Inc., 13 RR 1292 (1956); News on the Air, Inc., 14 RR 123 (1956); The Rochester Broadcasting Company, 14 RR 560 (1956); and WGLI, Inc., 14 RR 560 (1956); and WGLI, Inc., 14 RR 621 (1956)—the Commission has distinguished the Democrat Printing case and held it inapplicable because of the extreme amount of interference presented there compared to the relatively small amounts present in the cases mentioned.

10. The Bureau also gives two reasons why it believes that the requested inquiry into programming would be of no decisional value; (1) That in order to determine the need of an area for any particular kind of service there should be a showing not only of the character of that service but of all other services to the area—otherwise it is impossible to determine the extent to which such a need exists; (2) that in cases too numerous to mention (e.g. Lawton-Ft. Sill Broadcasting Company, 7 RR 1216 (1952)) the Commission has held that the mandate of Section 307 (b) of the act is of great importance in affording a local outlet, insofar as possible, to every community in the nation. The Bureau states further that Whitley would provide a first local station in Dallas, North Carolina, and that there is nothing in WSPA's request to indicate that programming to the interference area could be of substantial significance when weighed against the 307 (b) consideration.

11. The Bureau supports, with limitations, WSPA's request that the issues be enlarged to permit inquiry into the possibility of directional operation by Whitley, terming WSPA's showing in this respect as substantial and sufficient to warrant the inclusion of an issue permitting the requested line of inquiry, as indicated by Beaumont Broadcasting Corporation v. FCC, 7 Pike & Fischer RR 2149 (1952). However, the Bureau believes that WSPA's request goes too far. The Bureau's position is that because an application must be judged on the basis of the applicant's proposal, not on the basis of a different proposal suggested by another party, the question is not whether the Whitley proposal should be granted subject to the condition that he install a directional antenna such as that shown by WSPA, but whether inquiry into the possibilities of directional operation has revealed that another proposal could be worked out which would achieve the same results in terms of coverage and at the same time eliminate interference. The Bureau states that an affirmative answer to the latter question might be grounds for denying the Whitley application as not being in the public interest. Accordingly, the Bureau would revise WSPA's requested issue (b) (paragraph 3 above) to read as follows: "To determine whether the use of a directional antenna system by Whitley would eliminate the interference to WSPA which would be caused by Whitley operating as now proposed, and, if so, whether sound allocation policy and the public interest would be served by a grant of the Whitley proposal in its present form."

12. Nelson, the opposing applicant herein, supports the addition of WSPA's proposed issue (a), which is set out in paragraph 3 above, but opposes the addition of proposed issue (b) in the form suggested by WSPA and requests that the issue be added in the form given below. It is Nelson's position that, upon request in a proceeding such as this, the law requires the Commission to consider whether the possibility of an alternative technical proposal which would eliminate the interference proposed by an applicant demonstrates that the applicant's proposal would not serve the public interest. However, Nelson states that, with one exception which subsequently was reversed by the Court of Appeals (Plains Radio Broadcasting Co., v. FCC, 4 RR 2157), it is aware of no case in which the Commission has considered an alternative proposal with a view towards requiring an applicant to adopt that proposal in the event his application should be granted. Consequently, Nelson requests that the proper issue to be added in this proceeding should read as follows: "To determine whether a grant of the Whitley application would be in the public interest in the light of any alternative proposals submitted by parties to this proceeding under which Whitley could render substantially the same service now proposed by him, but eliminate or reduce the objectionable interference to other stations."

13. Whitley requests that the Commission deny the requested enlargement of issues. As to proposed issue (a), Whitley, in distinguishing the present case from the Democrat Printing case, reiterates material presented by the Broadcast Bureau in paragraph 9 above, and states that WSPA has not made a showing adequate to justify inclusion of the requested program issue. In addition, Whitley challenges the Spartanburg Trading Area map, as defined by the Audit Bureau of Circulation, which is attached to WSPA's request for enlargement, stating that the map is inadmissible as evidence where no attempt is made to show the manner in which the map was prepared, and the persons who prepared it either did not testify or had relied on hearsay material in preparing it, or on other matters not described in testimony. Whitley cites Walker Newspapers, Inc., 6 RR 1112, 1115 (1951) wherein the Commission found, as to a similar exhibit, that a proper foundation had not been laid as a basis for admission of retail trade area maps. Whitley also notes that two standard broadcast stations are located in or adjacent to the actual interference area.

14. Concerning proposed issue (b), Whitley asserts that he does not, at this time, desire to request any amendment of his application to provide for a directional antenna. Whitley declares that the directional antenna proposed by WSPA would be so restrictive that the population loss between the normally protected 0.5 mv/m daytime contour operating non-directional and the same contour operating directional would be 13,318 persons. This loss would include the loss of the city of Bessemer, in Gaston County, which although included within the proposed (non-directional) 2 mv/m contour, would not be within that contour if the proposed directional antenna is used.

CONCLUSIONS

15. As the Broadcast Bureau states in paragraph 9 above, the Commission, in considering petitions which concerned interference situations similar to that described in the subject petition, has distinguished the Democrat Printing case and held that, because of the extreme amount of interference presented there as compared to the relatively small amount of interference present in cases similar to that now before us, the Democrat case is not controlling. An additional factor in our consideration is the fact that Whitley would provide a first local station in Dallas, North Carolina. In this connection, we are of the opinion that WSPA was not shown that its programming to the interference area is such that it would be of substantial significance when weighed against the mandate of section 307 (b) of the Communications Act of 1934 that the Commission, insofar as possible, provide a local outlet to every community in the nation. In the order designating the above-entitled hearing, the Commission found Whitley to be legally, technically, financially and otherwise qualified. In this connection, WSPA has not made a sufficient showing of facts to negate Whitley's statement that he prepared the amended program proposals as the result of a continuing survey of the Dallas, North Carolina, area and contacts with various groups and organizations which revealed that his previous program proposals did not meet the needs of the area. In sum, WSPA has not, under the facts of this case, made a showing adequate to justify inclusion of requested issue (a).

16. However, we agree with the Commission's Broadcast Bureau that it would be appropriate to inquire as to whether Whitley, by utilizing a directional antenna array, could eliminate the interference which his proposed non-directional operation would cause to WSPA and, at the same time, achieve substantially the same coverage as that which he proposes with the non-directional antenna. We are of the opinion that WSPA's proposed issue (b) goes too far. Therefore, with respect to WSPA's request for the enlargment of the issues herein to include an issue as to possible directional operation by Whitley, the issues will be enlarged to include the revision of that issue which the Broadcast Bureau suggests. The burden of introducing evidence concerning this added issue shall be placed upon Spartan Radiobroadcasting Company. However, other parties to the proceeding may also introduce such evidence.

Accordingly, it is ordered, This 30th day of October 1957, that the above referenced motion of Spartan Radiocasting Company, Spartanburg, South Carolina, is granted insofar as the issues are amended to include the issue proposed by Commission's Broadcast Bureau in paragraph 11 above and to place the burden of proceeding with the introduction of evidence concerning this new issue, which is No. 4 of the amended issues below, on Spartan Radiocasting Company. In all other respects the subject petition is denied.

It is further ordered, That, existing issues Nos. 4 and 5 of the order of designation herein, released July 12, 1957, are renumbered issues Nos. 5 and 6 and that the issues in the above-entitled proceeding are amended to read as follows:

1. To determine the areas and populations which would receive primary service from each of the proposed operations and the availability of other primary service to such areas and populations.

2. To determine whether a grant of the application of Wayne M. Nelson would be in contravention of the provisions of § 3.35 of the Commission's rules on multiple ownership.

3. To determine whether the proposed operation of Fred H. Whitley would be involved in objectionable interference with Station WSPA, Spartanburg, South Carolina, 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 use of a directional antenna system by Whitley would eliminate the interference to WSPA which would be caused by Whitley operating as now proposed, and, if so, whether sound allocation policy and the public interest would be served by a grant of the Whitley proposal in its present form.

5. To determine in the light of section 307 (b) of the Communications Act of 1934, as amended, which of the operations proposed in the above-captioned applications would better provide a fair, efficient and equitable distribution of radio service.

6. To determine in the light of evidence adduced pursuant to the foregoing issues which of the applications should be granted.

Released: November 1, 1957.

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

[F. R. Doc. 57-9268; Filed, Nov. 6, 1957; 8:52 a. m.]

[Change List 115]

CANADIAN BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES, AND CORRECTIONS IN ASSIGNMENTS

OCTOBER 15, 1957.

Notification under the provisions of part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignment of Canadian Broadcast Stations modifying appendix containing assignments of Canadian Broadcast Stations (Mimeograph 47214-3) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call Letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
		560 kilocycles				
CFOS	Owen Sound, Ontario (PO: 1470 kc 1 kw DA-N).	1 kilowatt	DA-2	U	III	EIO 9-15-57.
		610 kilocycles				
CKKL	Thompson Townsite, Manitoba	1 kilowatt	ND	U	III	Assignment of call letters.
		1110 kilocycles				
CFTJ	Galt, Ontario	0.25 kilowatt	ND	D	II	Change in call letters from CKGR.
		1340 kilocycles				
CKAR	Huntsville, Ontario	0.25 kilowatt	ND	U	IV	Assignment of call letters.

NOTE: Inadvertently the notification CKVL, Verdun, P. Q. on List No. 111 was repeated on List No. 114.

With regard to items CHAB, Moose Jaw, Sask. and CJCH, Halifax, Nova Scotia on List No. 114, there is no change involved in nighttime operation of the stations.

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

[F. R. Doc. 57-9272; Filed, Nov. 6, 1957; 8:53 a. m.]

[Docket No. 12231; FCC 57-1192]

GREYLOCK BROADCASTING CO. (WBRK)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Greylock Broadcasting Company (WBRK), Pittsfield, Massachusetts, Docket No. 12231, File No. BP-11385; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of October 1957;

The Commission having under consideration the above-captioned application of Greylock Broadcasting Company, for a construction permit to change the transmitter location and to make changes in the antenna system of Station WBRK, Pittsfield, Massachusetts (1340 kc, 250 w, U); and

It appearing that the applicant is legally, technically, financially and otherwise qualified, except as may appear from the issues specified below, to operate its proposed station, but that the proposed operation would cause objectionable interference to Stations WENT, Gloversville, New York (1340 kc, 250 w, U) and WHAZ, Troy, New York (1330 kc, 1 kw, S-WPOW, WEVD); and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated July 19, 1957, of the aforementioned deficiency and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that the applicant filed a timely reply to the Commission's letter; and

It further appearing that the licensees of Stations WHAZ and WENT advised by letters dated August 8, 1957, and August 20, 1957, that they would appear and participate at a hearing on the application of Greylock Broadcasting Company; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station WBRK as proposed, and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation would cause interference to Stations WENT, Gloversville, New York and WHAZ, Troy, New York, 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.

3. To determine whether the antenna system proposed by Greylock Broadcasting Company would constitute a hazard to air navigation.

4. To determine whether, in the light of the evidence adduced pursuant to the foregoing issues, a grant of the above-captioned application would be in the public interest.

It is further ordered, That WENT Broadcasting Corporation, licensee of Station WENT, Gloversville, New York, and Rensselaer Polytechnic Institute, licensee of Station WHAZ, Troy, New York, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.387 of the Commission's 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.

Released: November 4, 1957.

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

[F. R. Doc. 57-9271; Filed, Nov. 6, 1957; 8:53 a. m.]

[Docket Nos. 12176—12178; FCC 57M-1074]

KTAG ASSOCIATES (KTAG-TV) ET AL.

ORDER CONTINUING HEARING

In re applications of Charles W. Lamar, Jr., J. Warren Berwick, Harold Knox, R. B. McCall, Jr., d/b as KTAG Associates (KTAG-TV), Lake Charles, Louisiana, Docket No. 12176, File No. BMPCT-4682; for modification of construction permit; Evangeline Broadcasting Company, Inc., Lafayette, Louisiana, Docket No. 12177, File No. BPCT-2335; Acadian Television Corporation, Lafayette, Louisiana, Docket No. 12178, File No. BPCT-2351; for construction permits for new television broadcast stations.

By agreement of the parties: *It is ordered,* This 31st day of October 1957, that the hearing in the above-entitled matter presently scheduled for November 6, 1957, is hereby continued to a date to be established by subsequent order herein; and

It is further ordered, That a further prehearing conference shall be held in the offices of the Commission, Washing-

ton, D. C., on November 26, 1957, at 10:00 a. m.

Released: November 1, 1957.

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

[F. R. Doc. 57-9269; Filed, Nov. 6, 1957; 8:52 a. m.]

[Docket No. 12226; FCC 57M-1073]

CAPITOL BROADCASTING CORP. (WCAW)

ORDER CONTINUING HEARING CONFERENCE

In re application of Capitol Broadcasting Corporation (WCAW), Charleston, West Virginia, Docket No. 12226, File No. BP-11094; for construction permit.

On the oral request of counsel for the applicant, and without objection by counsel for the Broadcast Bureau: *It is ordered*, This 31st day of October 1957, That the prehearing conference now scheduled for November 7, 1957, is continued to a date to be set by subsequent order.

Released: November 1, 1957.

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

[F. R. Doc. 57-9270; Filed, Nov. 6, 1957; 8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-11797, G-12580]

EL PASO NATURAL GAS CO.

ORDER POSTPONING RESUMPTION OF HEARING

NOVEMBER 1, 1957.

The Commission by order issued September 26, 1957, fixed December 2, 1957, as the date for resumption of the hearing in the consolidated proceedings in Dockets Nos. G-11797 and G-12580 in which El Paso Natural Gas Company seeks certificates of public convenience and necessity authorizing the construction of additional facilities at an estimated cost of $162,602,000 and the sale of 285,000,000 additional cubic feet of natural gas per day to California and Arizona customers.

Commission staff counsel in the above-styled proceedings is also the Commission counsel who has been designated to present on December 2, 1957, the oral argument on behalf of the Commission in a review proceeding before the United States Court of Appeals for the Third Circuit, and it now appears desirable and appropriate in the public interest to postpone for two days the hearing in the above-styled proceedings, and the Commission so finds.

The Commission orders: The resumption of the hearing in the consolidated proceedings in the above-captioned cases is postponed to December 4, 1957.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-9233; Filed, Nov. 6, 1957; 8:46 a. m.]

[Docket No. G-13253]

PACIFIC NORTHWEST PIPELINE CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 1, 1957.

Take notice that on September 11, 1957, Pacific Northwest Pipeline Corporation (Applicant) filed in Docket No. G-13253 an 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 four taps, with measuring and regulating appurtenances, to supply natural gas to Pacific Natural Gas Company for resale service in the communities of Woodland, Castle Rock and environs in Cowlitz County, and Snohomish, Monroe and environs in Snohomish County, all in the State of Washington, as more fully set forth in the application which is on file with the Commission and open to public inspection.

The estimated combined gas requirements for the first three years of service to the four communities are:

	1st year	2d year	3d year
Annual (Mcf)	180,544	236,288	292,710
Peak day (Mcf)	1,103	1,458	1,812

The total estimated cost of all facilities proposed herein is $52,298, to be defrayed from funds on hand. The estimated investment by the distribution company, Pacific Natural, by the third year of full service is $875,121 for the approximately 6½ miles of lateral lines and the four local distribution systems.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 11, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 22, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-9236; Filed, Nov. 6, 1957; 8:47 a. m.]

[Docket Nos. G-13147, G-13176]

ARKANSAS LOUISIANA GAS CO. AND UNITED GAS PIPE LINE CO.

NOTICE OF APPLICATIONS AND DATE OF HEARING

NOVEMBER 1, 1957.

Take notice that on August 27, 1957, Arkansas Louisiana Gas Company (Arkla), filed in Docket No. G-13147 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of a minimum of 50 Mcf of natural gas per day to United Gas Pipe Line Company (United) on an exchange basis for a period of 180 days, and authorizing the construction and operation of a dehydrator and meter station at No. 1 Pipes Estate Well, Calhoun Field, Ouachita Parish, Louisiana, with approximately 1,900 feet of 4-inch lateral field line from said well to a point of connection with United's existing 24-inch transmission line, to make said delivery, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

On August 29, 1957, United filed in Docket No. G-13176 an application for a certificate to implement the foregoing application of Arkla. United proposes to return equivalent volumes of gas to Arkla at an existing point of connection between the two systems in Webster Parish, Louisiana.

The estimated cost of Arkla's proposed facilities is $13,600 to be defrayed from cash on hand.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 10, 1957, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure

(18 CFR 1.8 or 1.10) on or before November 21, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-9234; Filed, Nov. 6, 1957; 8:46 a. m.]

[Docket No. G-13201]

HOPE NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 1, 1957.

Take notice that on August 30, 1957, Hope Natural Gas Company (Applicant), filed in Docket No. G-13201 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the replacement of an existing 500-horsepower compressor engine at its Hunt Compressor Station in Kanawha County, West Virginia, with a 175-horsepower compressor engine and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the present engine is obsolete and inefficient, that the proposed replacement will materially reduce operating costs and that the new compressor will be able to handle the volumes of gas presently available with no abandonment or curtailment of service.

The estimated total capital cost of the proposed facilities is $50,000 which will be financed from cash on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 10, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 21, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-9235; Filed, Nov. 6, 1957; 8:47 a. m.]

[Docket No. G-13300]

TRUNKLINE GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 1, 1957.

Take notice that on September 20, 1957, Trunkline Gas Company (Applicant) filed in Docket No. G-13300 an 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 two 12-inch natural gas pipelines each approximately 3,641 feet in length, and connecting lines, to provide additional facilities crossing the Red River in Rapides Parish, Louisiana, in the vicinity of Applicant's two existing 24-inch pipelines crossing said River, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that recent experience of damage to existing lines from flood water makes necessary the proposed construction to prevent interruption of service from possible future flood damage. The estimated cost of construction of the proposed dual 12-inch river crossing and connection with existing lines is $370,000 which will be financed from funds on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 11, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 22, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-9237; Filed, Nov. 6, 1957; 8:47 a. m.]

[Docket No. G-13615]

HUMBLE OIL & REFINING CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 1, 1957.

Humble Oil & Refining Company (Humble), on October 2, 1957, tendered for filing a proposed change in its presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated September 30, 1957.
Purchaser: United Fuel Gas Co.
Rate schedule designation: Supplement No. 5 to Humble's FPC Gas Rate Schedule No. 23.
Effective date: November 2, 1957 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed rate increase, Humble states that the contract was arrived at by arm's-length bargaining, that the increased price does not constitute a change in rate but is a part of the initial rate schedule which was accepted for filing by the Commission, and that the increased price is reasonable and in line with the average of prices under other recently negotiated long-term contracts in the area and to deny this increase would deny applicant valuable contractual rights and enrich United Fuel at the expense of Humble.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the provisions of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge.

(B) Pending such hearing and decision thereon, said supplement is hereby suspended and the use thereof deferred until April 2, 1958, and until such further

[1] Present rate previously suspended and in effect subject to refund in Docket No. G-11313.

time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of, or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure [18 CFR 1.8 and 1.37 (f)].

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-9239; Filed, Nov. 6, 1957; 8:47 a. m.]

[Project No. 2236]

MECKLENBURG ELECTRIC COOPERATIVE

NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

NOVEMBER 1, 1957.

Public notice is hereby given that Mecklenburg Electric Cooperative, of Chase City, Virginia, has filed application under the Federal Power Act (16 U. S. C. 791a–825r) for a preliminary permit for proposed waterpower Project No. 2236, to be known as the Melrose Project and located on Roanoke River and Whipping Creek in Halifax, Campbell, and Pittsylvania Counties, Virginia, and to consist of the Melrose Dam—an earth and concrete structure about 90 feet high and about 1,620 feet long at the Melrose Site on the Roanoke River at river mile 263; a diversion conduit comprising an inlet canal, a tunnel about 5,200 feet long, and an outlet canal to Whipping Creek reservoir; the Whipping Creek Dam—an earth dam about 96 feet high and about 1,500 feet long on Whipping Creek about 1.3 miles upstream from its confluence with Roanoke River (river mile 258); a 3,230-foot lined canal feeding three penstocks; a powerhouse on the Roanoke River about one mile downstream from Whipping Creek, containing three 11,500 kw. generators (total 34,500 kw.); and appurtenant equipment.

No construction is authorized under a preliminary permit. A permit, if issued, merely gives permittee, during the period of the permit, the right to priority of application for license while the permittee undertakes the necessary studies and examinations, including the preparation of maps and plans, in order to determine the economic feasibility of the proposed project, the means of securing the necessary financial arrangements for construction, the market for the project power, and all other information necessary for inclusion in an application for license, should one be filed.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is December 13, 1957. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-9238; Filed, Nov. 6, 1957; 8:47 a. m.]

[Docket No. G-13616]

F. A. CALLERY, INC.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

NOVEMBER 1, 1957.

F. A. Callery, Inc. (Callery), on October 2, 1957, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated September 30, 1957.

Purchaser: United Fuel Gas Co.

Rate schedule designation: Supplement No. 1 to Callery's FPC Gas Rate Schedule No. 13.

Effective date: November 2, 1957 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed rate increase, Callery states that the contract was entered into after extended negotiations conducted in good faith and at arm's length.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge.

(B) Pending such hearing and decision thereon, said supplement is hereby suspended and the use thereof deferred until April 2, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-9240; Filed, Nov. 6, 1957; 8:47 a. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

DIRECTOR, ADMINISTRATIVE MANAGEMENT, REGION IV (CHICAGO)

REDELEGATION OF AUTHORITY TO EXECUTE CERTAIN CONTRACTS AND AGREEMENTS WITH RESPECT TO ADMINISTRATIVE MATTERS

The Director, Administrative Management, Region IV, Chicago, Office of the Administrator, Housing and Home Finance Agency, is hereby authorized to take the following action with respect to administrative matters within such Region:

Execute contracts and agreements for supplies, equipment, and services (except purely personal services) necessary for the operation and maintenance of field offices in the Region.

This redelegation of authority supersedes the redelegation effective October 1, 1953 (18 F. R. 7306, November 18, 1953).

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U. S. C., 1952 ed. 1701c; Delegation of Authority, effective March 20, 1957, 22 F. R. 1876)

Effective as of the 25th day of March 1957.

JOHN P. MCCOLLUM, *Regional Administrator, Region IV.*

[F. R. Doc. 57-9274; Filed, Nov. 6, 1957; 8:53 a. m.]

DIRECTOR, ADMINISTRATIVE MANAGEMENT, REGION IV (CHICAGO)

REDELEGATION OF AUTHORITY TO EXECUTE LEGENDS ON BONDS, NOTES AND OTHER OBLIGATIONS

The Director, Administrative Management, Region IV, Chicago, Illinois, Housing and Home Finance Agency, is hereby authorized within such Region to execute, on behalf of the Housing and Home Finance Administrator, in instances where necessary or appropriate, any legend appearing on any bond, note or other obligation being acquired by the Federal Government from a local public agency on account of a loan to such local public agency pursuant to Title I of the Housing Act of 1949, as amended (63 Stat. 414–421, as amended, 42 U. S. C. 1952 ed. and Sup. I 1450–1460), which legend indicates the Federal Government's acceptance of the delivery of the particular bond, note or other obligation and its payment therefor on the date specified in the particular legend.

This redelegation of authority supersedes the redelegation effective March 7, 1955 (20 F. R. 1593–4, March 16, 1955).

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); Reorg. Order 1, 19 F. R. 9303–5 (Dec. 29, 1954); 62 Stat. 1283 (1948) as amended by 64 Stat. 80 (1950), 12 U. S. C. 1952 ed. 1701c; Delegation of Authority, 20 F. R. 556 (Jan. 25, 1955))

Effective as of the 25th day of March 1957.

JOHN P. MCCOLLUM,
Regional Administrator,
Region IV.

[F. R. Doc. 57-9275; Filed, Nov. 6, 1957; 8:53 a. m.]

OFFICE OF DEFENSE MOBILIZATION

E. R. PIORE

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No change since last submission of Form ODM–163.

Dated: October 12, 1957.

E. R. PIORE.

[F. R. Doc. 57-9241; Filed, Nov. 6, 1957; 8:48 a. m.]

LLOYD V. BERKNER

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No change since last submission of Form ODM–163.

Dated: September 21, 1957.

LLOYD V. BERKNER.

[F. R. Doc. 57-9242; Filed, Nov. 6, 1957; 8:48 a. m.]

CARYL P. HASKINS

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Deletion: Standard Oil of Indiana.
Addition: Atlantic Refining Co.

Dated: October 12, 1957.

CARYL P. HASKINS.

[F. R. Doc. 57-9243; Filed, Nov. 6, 1957; 8:48 a. m.]

EDWIN H. LAND

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

There have been no changes since the filing of Form ODM–163 as of April 11, 1957 except that appointee is a stockholder or bondholder of the following corporations not previously reported:

Amerace Corp. (formerly reported as Wardell Corp.).
American News Co.
Flagg-Utica Corp.
Nationwide Corp.
Oklahoma Turnpike Authority (Turner Division).
Standard Financial Corp. (formerly reported as Standard Factors Corp).
Standard Milling Co.
Suntide Refining Co.
Tyer Rubber Co.

and is no longer a stockholder of the following corporations previously reported:

Bristol-Myers Company.
Equity Corporation.
Royal McBee Corporation.
Straus-Duparquet Co.

Dated: October 12, 1957.

EDWIN H. LAND.

[F. R. Doc. 57-9244; Filed, Nov. 6, 1957; 8:48 a. m.]

HAROLD M. BOTKIN

APPOINTEE'S STATEMENT OF CHANGES IN BUSINESS INTERESTS

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

No change since last submission of Form ODM–163.

Dated: October 24, 1957.

HAROLD M. BOTKIN.

[F. R. Doc. 57-9245; Filed, Nov. 6, 1957; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–2115]

BELLANCA CORP.

ORDER SUMMARILY SUSPENDING TRADING

OCTOBER 31, 1957.

In the matter of trading on the American Stock Exchange in the $1.00 par value capital stock of Bellanca Corporation; File No. 1–2115.

I. The $1.00 par value Capital Stock of Bellanca Corporation is listed and registered on the American Stock Exchange, a national securities exchange; and

II. The Commission on April 24, 1957, issued its order and notice of hearing under section 19 (a) (2) of the Securities Exchange Act of 1934 (hereinafter called "the act") to determine at a hearing beginning July 10, 1957, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the capital stock of Bellanca Corporation (hereinafter called "registrant") on the American Stock Exchange for failure to comply with section 13 of the act and the rules and regulations adopted thereunder, and for failure to comply with the disclosure requirements of Regulation X–14 adopted pursuant to section 14 (a) of the act.

On October 21, 1957 the Commission issued its order summarily suspending trading of said securities on the exchange pursuant to section 19 (a) (4) of the act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days ending October 31, 1957.

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the American Stock Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion that such suspension is necessary in order to prevent fraudulent, deceptive, or manipulative acts or practices, with the result that it will be unlawful under section 15 (c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule X-15C–2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, such security otherwise than on a national securities exchange,

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, that trading in said securities on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive, or manipulative acts or practices for a period of ten (10) days, November 1 to 10, 1957, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57-9247; Filed, Nov. 6, 1957; 8:48 a. m.]