

self by overt acts, (ii) a psychotic disorder, (iii) chronic alcoholism, (iv) drug addiction, (v) epilepsy, or (vi) a disturbance of consciousness without satisfactory medical explanation of the cause.

(2) An applicant shall be disqualified if he has any other disease of the nervous system, mental abnormality, or psychoneurotic disorder which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

4. By amending paragraphs (c) and (d) of § 29.4 to read as follows:

§ 29.4 Third class.

(c) *General medical condition.* (1) An established medical history or clinical diagnosis of the following conditions shall be disqualifying: (i) Diabetes mellitus which requires insulin or other hypoglycemic drug for control, (ii) myocardial infarction, or (iii) angina pectoris or other evidence of coronary heart disease which the Civil Air Surgeon finds may reasonably be expected to lead to myocardial infarction.

(2) An applicant shall be disqualified if he has any other organic, functional or structural disease, defect or limitation which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

(d) *Nervous system.* (1) An established medical history or clinical diagnosis of the following conditions shall be disqualifying: (i) A character or behavior disorder which is sufficiently severe to have repeatedly manifested itself by overt acts, (ii) a psychotic disorder, (iii) chronic alcoholism, (iv) drug addiction, (v) epilepsy, or (vi) a disturbance of consciousness without satisfactory medical explanation of the cause.

(2) An applicant shall be disqualified if he has any other disease of the nervous system, mental abnormality, or psychoneurotic disorder which the Civil Air Surgeon finds either (i) renders the applicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought, or (ii) may reasonably be expected to result within two years from such finding in a condition which would render the ap-

plicant unable safely to perform the duties or to exercise the privileges of the airman certificate held or sought. Such findings will be based on the case history and appropriate professionally qualified medical judgment related to the condition involved.

5. By amending § 29.5 to read as follows:

§ 29.5 Medical deficiencies.

At the discretion of the Civil Air Surgeon, a medical certificate of the appropriate class may be issued to an applicant who does not meet the medical standards in this part, except an applicant who is disqualified under the respective paragraphs (c) (1) and (d) (1) of §§ 29.2, 29.3 and 29.4, if the applicant demonstrates to the satisfaction of the Civil Air Surgeon by operational experience, special practical or flight testing or as may otherwise be required, that he can carry out the airman duties appropriate to the airman certificate held, applied for or issued in a manner which would not endanger safety in air commerce during the period of validity of such medical certificate. The need for any operational limitations or limitation on the duration of the medical certificate designed to achieve safety will be determined by the Civil Air Surgeon and will be specified on the respective airman or medical certificate held or issued. An applicant who has taken a practical or flight test for issuance of a medical certificate under this section shall not be required to retake such practical or flight test during subsequent physical examinations, unless, in the opinion of the Civil Air Surgeon, the individual's physical deficiency has become sufficiently more pronounced to require such additional tests.

(Secs. 313(a), 601, 602, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1422)

This amendment shall become effective on October 15, 1959.

Issued in Washington, D.C. on September 4, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-7542; Filed, Sept. 10, 1959; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER A—PROCEDURAL REGULATIONS

[Reg. Docket No. 114; Amdt. 406-12]

PART 406—CERTIFICATION PROCEDURES

Subpart B—Issuance of Certificates

Part 29 of the Civil Air Regulations (14 CFR Part 29) is being amended to, among other things, revise § 29.5 relating to issuance of medical certificates to applicants with certain medical deficiencies. This makes unnecessary the provisions of paragraphs (a) (4), (b) (4) and (c) (4) of § 406.12, which provide procedures for issuance of waivers.

Public notice of the substantive changes proposed in Part 29 was given in Daft Release 59-1 (24 F.R. 2257).

Since this amendment to Part 406 is only procedural, clarifying and minor in nature and imposes no additional burden on any person notice and public procedure hereon are unnecessary.

In consideration of the foregoing, § 406.12 of Part 406 (14 CFR Part 406) is hereby amended by deleting paragraphs (a) (4), (b) (4) and (c) (4).

(Secs. 313(a), 601, 602, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1422)

This amendment shall become effective on October 15, 1959.

Issued in Washington, D.C. on September 4, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-7544; Filed, Sept. 10, 1959; 8:46 a.m.]

[Airspace Docket No. 59-LA-20]

[Amdt. 18]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification and Revocation

[Amdt. 24]

PART 608—RESTRICTED AREAS

The purpose of these actions is to revoke the Coulee Dam, Washington, restricted area (R-248) and to delete all reference to this restricted area from the description of the Ephrata, Wash., control area extension.

The U.S. Air Force no longer has a requirement for this restricted area, and has requested that it be revoked.

The portion of the Ephrata, Wash., control area extension which would otherwise lie within this restricted area is presently excluded. Since this exclusion will no longer be necessary after the restricted area is revoked, Part 601 is being amended concurrently by deleting all reference to the Coulee Dam restricted area (R-248), from the description of the Ephrata, Wash., control area extension.

Since these amendments eliminate a burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, the following action is taken:

1. Section 601.1433 (14 CFR, 1958 Supp. 601.1433) is amended to read:

§ 601.1433 Control area extension (Ephrata, Wash.).

The airspace north of VOR Federal Airway No. 2 within a 25-mile radius of the Ephrata, Wash., VOR.

§ 608.55 [Amendment]

2. In § 608.55 the Coulee Dam, Wash., restricted area (R-248) (Seattle, Spokane and Kootenai Charts) (23 F.R. 8589, 24 F.R. 3876) is revoked.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on September 4, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-7541; Filed, Sept. 10, 1959; 8:45 a.m.]

[Airspace Docket No. 59-LA-21]

[Amdt. 23]

PART 608—RESTRICTED AREAS

Revocation

The purpose of this action is to revoke the Guadalupe Mountains, New Mexico, restricted area (R-212).

The U.S. Air Force no longer has a requirement for this restricted area, and has requested that it be revoked.

Since this amendment eliminates a burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, the following action is taken:

In § 608.39 the Guadalupe Mountains, N. Mex., restricted area (R-212) (Roswell Chart) (23 F.R. 8584, 24 F.R. 3231) is revoked.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on September 4, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-7540; Filed, Sept. 10, 1959; 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

Beneficial Ownership of Securities

On July 21, 1959, the Securities and Exchange Commission published notice that it had under consideration the adoption of a rule under the Investment Company Act of 1940 which would except small business investment companies from the registration and other requirements of the Act if certain conditions are met, and invited all interested persons to comment upon the proposal. The Commission has considered the comments re-

ceived, all of which were favorable, and has determined to adopt such a rule in the form set forth below.

Section 3(c)(1) of the Act excepts from its operation any issuer which is not making and does not propose to make a public offering of its securities and whose outstanding securities are beneficially owned by not more than one hundred persons and further provides that beneficial ownership by a company shall be deemed beneficial ownership by one person, with the exception that if such company owns 10 per centum or more of the outstanding voting securities of the issuer, the beneficial ownership of the issuer shall be deemed to be that of the holders of such company's outstanding securities.

The rule adopted provides that for the purpose of section 3(c)(1) of the Act, beneficial ownership by a company owning 10 per centum or more of the outstanding voting securities of a small business investment company licensed or proposed to be licensed under the Small Business Investment Act of 1958 shall be deemed to be beneficial ownership by one person notwithstanding that such company owning such securities has more than one stockholder, if the value of all securities of small business investment companies owned by such company does not exceed 5 percent of the value of its total assets. The rule also would deem beneficial ownership by a company to be beneficial ownership by one person if the owner is a state-wide development corporation created by or pursuant to an act of a State legislature to promote and assist growth and development of the economy of the State, provided that such State development corporation itself is not, or would not become as a result of its investment, an investment company. These latter provisions were not a part of the proposed rule as set forth in the notice issued on July 21, 1959, and the Commission determined to enlarge the rule in these respects following consideration of the comments received.

The rule will, in the Commission's view, tend to effectuate the purposes and objectives of the Small Business Investment Act and in view of the limited public investor interest under the prescribed conditions, as well as the policy expressed in section 2(b) of the Act, is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Investment Company Act of 1940. This action is taken pursuant to the provisions of sections 6(c) and 38(a) of the Investment Company Act of 1940. The text of the rule follows:

§ 270.3c-2 Definition of beneficial ownership.

For the purpose of section 3(c)(1) of the Act, beneficial ownership by a company, other than a registered investment company, owning 10 per centum or more of the outstanding voting securities of any issuer which is a small business investment company licensed to operate under the Small Business Investment

Act of 1958, or which has received from the Small Business Administration notice to proceed to qualify for a license, which notice or license has not been reownership by one person (a) if and so voked, shall be deemed to be beneficial long as the value of all securities of small business investment companies owned by such company does not exceed 5 per centum of the value of its total assets; or (b) if and so long as such stock of the small business investment company shall be owned by a state development corporation which has been created by or pursuant to an act of the state legislature to promote and assist the growth and development of the economy within such state on a state-wide basis provided that, such state development corporation is not, or as a result of its investment in the small business investment company (considering such investment as an investment security) would not be, an investment company as defined in section 3 of the Act.

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

Effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

SEPTEMBER 3, 1959.

[F.R. Doc. 59-7563; Filed, Sept. 10, 1959; 8:48 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6412]

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

Returns and Payment of Tax (Consolidated Returns)

On July 21, 1959, notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 5803) regarding an amendment of the Income Tax Regulations (26 CFR Part 1) under subchapter A, returns and payment of tax (Consolidated Returns), and subchapter B, related rules, of chapter 6 of the Internal Revenue Code of 1954. After consideration of all such relevant matter as was presented by interested persons regarding the proposed rules, the regulations as so proposed are hereby adopted for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except where otherwise provided, subject to the following changes:

PARAGRAPH 1. Paragraph (h)(1)(i) of § 1.1502-13 is revised.

PAR. 2. Section 1.1502-31 is revised—
(A) By amending the next to the last sentence of paragraph (a)(4)(i).

(B) By amending paragraph (a)(23)(iii).

PAR. 3. Paragraphs (a) and (b) of § 1.1502-43 are revised.

PAR. 4. Section 1.1504 is amended.
PAR. 5. Section 1.1551 is amended.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: SEPTEMBER 9, 1959.

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

PARAGRAPH 1. Paragraph (b) of § 1.1502-2 is amended to read as follows:
§ 1.1502-2 Definitions.

(b) *Affiliated group.* (1) * * *

(vi) A regulated investment company subject to tax under subchapter M of chapter 1;

(vii) An unincorporated business enterprise subject to tax as a corporation under section 1361; and

(viii) An electing small business corporation as defined in section 1371(b).

PAR. 2. Paragraph (h) of § 1.1502-13 is amended to read as follows:

§ 1.1502-13 Change in affiliated group during taxable year.

(h) *Time for making separate returns for periods not included in consolidated return.* (1) (i) If the due date for filing a subsidiary's separate return (determined without regard to the affiliation and without regard to extensions of time) precedes the due date for filing the consolidated return of the affiliated group (determined without regard to extensions of time), then, on or before the due date of the subsidiary's separate return, it may make a separate return either for that portion of its taxable year which would not be included in the consolidated return, if such return is filed, or for its complete taxable year. However, if a separate return is filed for only a portion of its taxable year and the group does not elect to make a consolidated return, such subsidiary shall file a return for its complete taxable year not later than the due date (including extensions of time) prescribed for the filing of the consolidated return by the group. There shall be attached to the return for the complete taxable year a statement setting forth that such return is in lieu of the return previously filed. In such case the return previously filed for only a portion of its taxable year shall not be considered a return within the meaning of section 6012. On the other hand, if a return is filed for the subsidiary's complete taxable year and the group later makes a consolidated return, such subsidiary should file an amended return not later than the due date (including extensions of time) for the filing of the consolidated return of the group. Such amended return shall be for that portion of the taxable year which is not included in the consolidated return.

(ii) If the due date for filing a subsidiary's separate return (determined without regard to the affiliation and without regard to extensions of time) is later than the due date for filing the consolidated return of the affiliated

group (determined without regard to extensions of time), then the separate return for that portion of the subsidiary's taxable year which is not included in the consolidated return of the group should be filed no later than the due date (including extensions of time) for the filing of the consolidated return.

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

Example (1). Corporation P, which reports its income on a calendar year basis, acquires all of the stock of Corporation S on January 1, 1959. Corporation S reports its income on a fiscal year ending March 31. On June 15, 1959, the due date for the filing of a separate return by Corporation S, it is anticipated that Corporation P will elect, on the due date of its return, to file a consolidated return for 1959. On June 15, Corporation S may file either a return for a short taxable year beginning April 1, 1958, and ending December 31, 1958, or it may file a return for the complete fiscal year ending March 31, 1959. If it files a return for the short taxable year and Corporation P does not elect to file a consolidated return, corporation S must file a return for the complete fiscal year ending March 31, 1959, in lieu of the return previously filed for the short period. Interest is computed on any additional tax from June 15, 1959.

Example (2). Assume the same facts as in example (1) except that Corporation P acquires all of the stock of Corporation S on October 1, 1959, and that Corporation P elects to file a consolidated return on March 15, 1960, the due date of its return. The return of Corporation S for the short taxable year beginning April 1, 1959, and ending September 30, 1959, should be filed on March 15, 1960.

PAR. 3. Section 1.1502-14 is amended to read as follows:

§ 1.1502-14 Accounting period of an affiliated group.

(a) The taxable year of an affiliated group which makes a consolidated return shall be the same as the taxable year of the common parent corporation; and, except as provided in paragraph (c) of this section, upon having elected to file a consolidated return, each subsidiary corporation shall, not later than the close of the first consolidated taxable year ending thereafter, adopt an annual accounting period, fiscal year or calendar year as the case may be, in conformity with that of the common parent.

(b) If a change of accounting period is necessary in order to conform the accounting periods of the common parent and of its subsidiaries, Form 1128 shall be submitted at or before the time of filing the consolidated return for the taxable year in which the subsidiary has first adopted the parent corporation's annual accounting period.

(c) If the common parent corporation of an affiliated group has a fiscal year accounting period and any member of the group is an includible insurance company required by section 843 to file its return on a calendar year, the first consolidated return which includes such insurance company may be filed on the basis of the fiscal year accounting period of the common parent, provided, however, the common parent and the other includible corporations change to a calendar year basis effective immediately

after the close of such fiscal year. For this purpose, Form 1128 shall be submitted at or before the time such first consolidated return is filed.

(d) With respect to computations for years involved in the change to the consolidated basis, see § 1.1502-32.

PAR. 4. Paragraphs (a), (b), and (d) of § 1.1502-31 are amended to read as follows:

§ 1.1502-31 Bases of tax computation.

(a) *Definitions.* — (1) *Consolidated taxable income.* * * *

(i) * * *
(b) Any consolidated section 1231 net loss, relating to net losses from involuntary conversions subject to section 1231, and from sales or exchanges of property subject to section 1231,

(f) Any consolidated section 175 deduction, but not in excess of 25 percent of the consolidated section 175 gross income,

(g) Any consolidated section 247 deduction, and

(h) Any consolidated section 582(c) net loss,

(4) *Consolidated net operating loss carrybacks.* (i) The consolidated net operating loss carrybacks to the taxable year with respect to net operating losses sustained in taxable years ending after December 31, 1957, shall consist of—

(a) The amount of the consolidated net operating loss, if any, for the first succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year) reduced to the extent absorbed as a carryback, consolidated or separate, as the case may be, for the first two preceding taxable years;

(b) The amount of the consolidated net operating loss, if any, for the second succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year) reduced to the extent absorbed as a carryback, consolidated or separate, as the case may be, for the first preceding taxable year;

(c) The amount of the consolidated net operating loss, if any, for the third succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group),

and, with respect to a net operating loss sustained by a corporation which, for any of the three succeeding taxable years, files a separate return or joins in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in paragraph (b) (3) of this section,

(d) The amount of the net operating loss, if any, sustained by such corporation, for the first succeeding taxable year, reduced to the extent absorbed by such corporation for either or both of the first two preceding taxable years, or,

if the income of such corporation is included in the consolidated return for either or both of the first two preceding taxable years, reduced to the extent absorbed by such consolidated return or returns;

(e) The amount of the net operating loss, if any, sustained by such corporation for the second succeeding taxable year, reduced to the extent absorbed by such corporation for the first preceding taxable year, or, if the income of such corporation is included in the consolidated return for the first preceding taxable year, reduced to the extent absorbed by such consolidated return; and

(f) The amount of the net operating loss, if any, sustained by such corporation for the third succeeding taxable year.

If the taxable year in which the net operating loss or consolidated net operating loss was sustained is a year beginning in 1957 and ending in 1958, the carryback is subject to section 172(i) or paragraph (b)(4)(v) of this section, respectively. See also paragraph (b)(21) of this section in any case in which a member of the group is an acquiring corporation in a transaction described in section 381(a), or any member of the group is subject to the limitations provided under section 382.

(ii) The consolidated net operating loss carrybacks to the taxable year with respect to net operating losses sustained in taxable years ending before January 1, 1958, shall consist of—

(a) The amount of the consolidated net operating loss, if any, for the first succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year) reduced to the extent absorbed as a carryback, consolidated or separate, as the case may be, for the first preceding taxable year;

(b) The amount of the consolidated net operating loss, if any, for the second succeeding taxable year to the extent not attributable to those corporations making separate returns in the taxable year;

and, with respect to a net operating loss sustained by a corporation which, for either of the two succeeding taxable years, files a separate return or joins in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in paragraph (b)(3) of this section.

(c) The amount of the net operating loss, if any, sustained by such corporation for the first succeeding taxable year reduced to the extent absorbed by such corporation for the first preceding taxable year or, if the income of such corporation is included in the consolidated return for the first preceding taxable year, reduced to the extent absorbed by such consolidated return; and

(d) The amount of the net operating loss, if any, sustained by such corporation for the second succeeding taxable year.

See, however, paragraph (b)(21) of this section in any case in which a member of the group is an acquiring corporation

in a transaction described in section 381 (a) or any member of the group is subject to the limitations provided in section 382.

(5) *Consolidated net operating loss.*

(i) The consolidated section 175 deduction, but not in excess of 25 percent of the consolidated section 175 gross income,

(iii) The consolidated section 1231 net loss,

(iv) The aggregate of the deductions of the several affiliated corporations under sections 243, 244, and 245 (computed without regard to the limitation contained in section 246(b)) and under section 247 (computed without regard to the limitation of subsection (a)(1) (B) of such section), and

(v) The consolidated section 582(c) net loss,

over the sum of—

(vi) The combined taxable income of the several affiliated corporations having taxable income, computed without regard to any deductions under section 242 (relating to partially tax-exempt interest), and

(vii) The consolidated net capital gain.

(8) *Consolidated charitable contribution carryovers.* The consolidated charitable contribution carryovers to the taxable year shall consist of—

(i) The excess, if any, of the amount of the consolidated charitable contribution deduction (computed without regard to any charitable contribution carryovers) for the two preceding taxable years over the limitation of subparagraph (1)(i)(c) of this paragraph for such years to the extent that the consolidated charitable contribution deduction for any such preceding year was not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year reduced by—

(a) The amount absorbed as a carryover by the consolidated or separate taxable income for the intervening taxable year, and

(b) The increase in a consolidated or separate net operating loss carryover resulting from such excess,

and, with respect to any excess of charitable contributions over the applicable 5-percent limitation of a corporation in a taxable year for which a separate return was filed, or for which such corporation joined in a consolidated return filed by another affiliated group—

(ii) The amount of such excesses of such corporation for the two preceding taxable years reduced by:

(a) The amount absorbed as a carryover by the consolidated or separate taxable income for the intervening taxable year, and

(b) The increase in a consolidated or separate net operating loss carryover resulting from such excess.

(9) *Consolidated net capital gain.* The consolidated net capital gain shall be the excess of the sum of—

(i) The aggregate of the capital gains of the several affiliated corporations,

(ii) The consolidated section 1231 net gain, and

(iii) The consolidated section 582(c) net gain,

over the sum of—

(iv) The aggregate of the capital losses of such corporations, and

(v) The aggregate of the consolidated net capital loss carryovers to the taxable year.

(12) *Consolidated net capital loss.*

(i) The aggregate of the capital gains of such corporations,

(ii) The consolidated section 1231 net gain, and

(iii) The consolidated section 582(c) net gain,

reduced in the case of an affiliated group including as members one or more corporations subject to the tax imposed by section 831, but only for the purpose of net capital loss carryover computations, by whichever of the following amounts is the lesser—

(iv) The combined additional capital loss deductions of such corporations authorized by section 832(c)(5), or

(v) The consolidated taxable income computed without regard to capital gains and losses and without regard to any deduction for partially tax-exempt interest provided by section 242.

(18) *Consolidated accumulated taxable income.*

(i) The consolidated charitable contribution deduction computed without regard to section 170(b)(2),

(19) *Consolidated accumulated earnings credit.*

(i) In the case of an affiliated group which is not a mere holding or investment group, an amount equal to such part of the aggregate of the earnings and profits for the taxable year of the several members of the group as are retained for the reasonable needs of the business of the group, minus the deduction allowed by subparagraph (18)(iv) of this paragraph, but not less than the amount (if any) by which \$100,000 (\$60,000 if the taxable year begins before January 1, 1958) exceeds the aggregate of the accumulated earnings and profits of the several members of the group at the close of the preceding taxable year, or

(ii) In the case of an affiliated group which is a mere holding or investment group, the amount (if any) by which \$100,000 (or \$60,000 if the taxable year begins before January 1, 1958) exceeds the aggregate of the accumulated earnings and profits of the several members of the group at the close of the preceding taxable year.

(23) *Consolidated undistributed personal holding company income.*

(i) In lieu of the deduction provided by subparagraph (1)(i)(c) of this paragraph, the consolidated charitable contribution deduction computed without the application of section 170(b)(2) but

limited as provided in section 170(b)(1) (A) and (B) (except that the 10-percent and 20-percent limitations therein shall be applied with respect to the consolidated adjusted gross income);

(iii) The amount of the consolidated net operating loss for the preceding taxable year (computed without the deductions provided in part VIII (except section 248) of subchapter B if the current taxable year begins after December 31, 1957) to the extent not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group for the taxable year, and, with respect to a corporation which filed a separate return or joined in a consolidated return filed by another affiliated group for the preceding taxable year, the net operating loss of such corporation for such preceding taxable year (computed without the deductions provided in part VIII (except section 248) of subchapter B if the current taxable year begins after December 31, 1957) but not in excess of the portion of the consolidated personal holding company income attributable to such corporation for the taxable year;

(35) *Consolidated section 175 carryovers.* The consolidated section 175 carryovers to the taxable year shall consist of—

(i) The excess, if any, of the amount of the consolidated section 175 deductions over 25 percent of the consolidated section 175 gross income of preceding taxable years to the extent that such consolidated section 175 deduction for any preceding taxable year was not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year and was not absorbed as a carryover by the consolidated section 175 gross income for preceding taxable years

and, with respect to any excess of deductions under section 175 over the 25-percent limitation of section 175(b) of a corporation in a taxable year for which a separate return was filed or for which such corporation joined in a consolidated return filed by another affiliated group, but subject to the limitation prescribed in paragraph (b)(15) of this section.

(36) *Consolidated section 582(c) net loss.* The consolidated section 582(c) net loss shall be the excess of the aggregate of the losses of the character described in section 582(c) recognized in a taxable year beginning after December 31, 1958, by the several affiliated corporations which are banks over the aggregate of gains of the character described in section 582(c) recognized in such taxable year by the several affiliated corporations which are banks.

(37) *Consolidated section 582(c) net gain.* The consolidated section 582(c) net gain shall be the excess of the aggregate of the gains of the character described in section 582(c) recognized in a taxable year beginning after December 31, 1958, by the several affiliated corporations which are banks over the aggregate of the losses of the character

described in section 582(c) recognized in such taxable year by the several affiliated corporations which are banks.

(b) *Computations.* * * *

(i) *Taxable income.* * * *

(iv) There shall be disregarded all gains and losses from involuntary conversions subject to section 1231, and from sales and exchanges of property subject to section 1231;

(xi) No deductions under sections 243, 244, 245, or 247 (relating to deductions with respect to dividends received and dividends paid) or under section 922 (relating to the special deduction for Western Hemisphere trade corporations), shall be taken into account;

(xii) No deductions under section 175 (relating to soil and water conservation expenditures) shall be taken into account by a member of an affiliated group to which the consolidated section 175 deduction is applicable; and

(xiii) In the case of a bank, for taxable years beginning after December 31, 1958, there shall be disregarded all gains and losses from sales and exchanges of property described in section 582(c).

(2) *Other computations on separate basis.* * * *

(iii) *Capital gains and losses.* * * *

(c) The net capital loss carryovers provided in section 1212,

(d) In the case of a corporation which became a member of the affiliated group subsequent to January 1, 1954, common parent corporation or subsidiary, as the case may be, capital losses to the extent disallowed pursuant to the provisions of subparagraph (9) of this paragraph, and

(e) In the case of a bank, for taxable years beginning after December 31, 1958, gains or losses from sales or exchanges of property described in section 582(c).

(viii) *Gains or losses under section 1231.* Gains and losses from involuntary conversions subject to section 1231, and from sales or exchanges of property subject to section 1231 shall be determined without regard to—

(3) *Limitations on net operating loss carryovers and carrybacks from separate return years.* In no case shall there be included in the consolidated net operating loss deduction for the taxable year as consolidated net operating loss carryovers under paragraph (a)(3)(ii) of this section (relating to the net operating losses sustained by a corporation in years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group), and as consolidated net operating loss carrybacks under paragraphs (a)(4)(i) (d), (e) and (f), and (a)(4)(ii) (c) and (d) of this section (relating to a net operating loss sustained by a corporation which for any of the two or three succeeding taxable years, whichever is applicable, files a separate return or joins in a consolidated return filed by another affiliated group), an amount exceeding in the aggregate the taxable income of such corporation included in the computation of the consolidated taxable

income for the taxable year decreased by its deductions under sections 243, 244, 245, 247, and 922, (and in the case of a member of an affiliated group to which the consolidated section 175 deduction is applicable, the section 175 deduction) increased by its separate net capital gain, and increased or decreased, as the case may be, with respect to its separate gains or losses from involuntary conversions subject to the provisions of section 1231, and from sales or exchanges of property subject to the provisions of section 1231. * * *

(4) *Law applicable to computations of net operating loss carryovers and carrybacks.* (i) * * *

(iii) (a) The consolidated net operating loss deduction for a taxable year beginning in 1953 and ending in 1954, shall be the sum of—

(i) That portion of the consolidated net operating loss deduction for such taxable year, computed as though paragraph (a)(2) of § 1.1502-31 applied to such taxable year, which the number of days in such taxable year after December 31, 1953, bears to the total number of days in such taxable year, and

(2) That portion of the consolidated net operating loss deduction for such taxable year, computed in accordance with paragraph (a)(2) of § 24.31 of Regulations 129 (26 CFR (1939) 24.31 (a)(2)), which the number of days in such taxable year before January 1, 1954, bears to the total number of days in such taxable year.

(b) The consolidated net income for any taxable year beginning in 1953 and ending in 1954 which is subtracted from the net operating loss for any other taxable year to determine the portion of such net operating loss which is a carryback or a carryover to a particular taxable year shall be determined in accordance with the principles of section 172(f)(4).

(iv) (a) The consolidated net operating loss deduction for a taxable year beginning after December 31, 1953, and ending before August 17, 1954, shall be computed as if the regulations under section 1502 apply to such taxable year.

(b) The consolidated net income for any taxable year beginning after December 31, 1953, and ending before August 17, 1954, which is subtracted from the consolidated net operating loss for any other taxable year to determine the portion of such net operating loss which is a carryback or a carryover to a particular taxable year shall be determined in accordance with section 172(g)(3).

(v) In the case of a consolidated net operating loss for a taxable year beginning in 1957 and ending in 1958, the amount of such consolidated net operating loss which shall be carried to the third preceding taxable year shall be the amount which bears the same ratio to such consolidated net operating loss as the number of days in the loss year after December 31, 1957, bears to the total number of days in such year. In determining the amount carried to any other taxable year, the amount absorbed for the third taxable year preceding the loss year shall not exceed the portion of the consolidated net operating loss which is

carried to the third preceding taxable year.

(vi) For purposes of section 141 of the Internal Revenue Code of 1939 and that part of the regulations promulgated thereunder which relate to subchapter D of chapter 1 of such Code, excess profits net income and consolidated section 433(a) excess profits net income shall be computed as if the regulations under section 1502 did not apply and as if such section and such regulations continued to apply to taxable years beginning after December 31, 1953.

(10) Loss to group of investment in an affiliate.

(i) The portion of any such loss otherwise allowable as a deduction for the taxable year which is disallowed pursuant to the provisions of subdivision (i) of this subparagraph shall be considered as a consolidated net operating loss to be taken into account as a consolidated carryback to the two preceding taxable years or, if the loss is sustained in a taxable year ending after December 31, 1957, the three preceding taxable years and as a consolidated carryover to the five succeeding taxable years, but in an amount not greater for any taxable year than the excess of the consolidated taxable income for such year, computed without regard to such carryover or carryback, as the case may be, over that portion of such consolidated taxable income so computed for such taxable year attributable to such other affiliate.

(15) **Limitation on section 175 carryovers from separate return years.** In no case shall there be included in the consolidated section 175 deductions for the taxable year as consolidated section 175 carryovers under paragraph (a)(35)(ii) of this section (relating to excess section 175 deductions of a corporation for years for which separate returns were filed or for which such corporation joined in a consolidated return filed by another affiliated group), an amount exceeding in the aggregate the amount by which 25 percent of the gross income of such corporation derived from farming included in the computation of the consolidated section 175 gross income for the taxable year exceeds the amount of the expenditures of such corporation of the taxable year deductible under section 175.

(d) **Net operating loss deduction, excess charitable contributions, excess section 175 deductions, and dividend carryover before or after consolidated return.**—(1) **Net operating loss deduction.** The consolidated net operating loss of an affiliated group shall be used in computing the consolidated net operating loss deduction notwithstanding that one or more members of the group in the taxable year in which such loss originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback computation for a preceding taxable year), but only to the extent that such consolidated net operating loss is not attributable to such corporations. Such

portion of such consolidated net operating loss as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback computation for a preceding taxable year) shall be used by such corporations severally as carryovers or as carrybacks in such separate returns or in such consolidated returns of the other affiliated group. Any net operating loss separately sustained by a corporation prior to a first taxable year in respect of which its income is included in the consolidated return of the group (or sustained in either of the two taxable years immediately following a consolidated return year or any of the three taxable years so following if sustained in a taxable year ending after December 31, 1957) shall be used in computing the net operating loss deduction of such corporation (or the consolidated net operating loss deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such net operating loss was not absorbed (either as a carryover or as a carryback) in the computation of the consolidated net operating loss deduction for consolidated return periods.

(2) **Excess charitable contributions.** The excess of the consolidated charitable contributions over the 5 percent limitation of paragraph (a)(1)(i)(c) of this section shall be used in computing the consolidated charitable contribution carryover notwithstanding that one or more members of the group in the taxable year in which such carryover originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year, but only to the extent that such excess charitable contributions as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year shall be used by such corporations severally as carryovers in such separate returns or in such consolidated returns of the other affiliated group. Any excess of charitable contributions of a corporation for the year prior to a first taxable year in respect of which its income is included in the consolidated return of the group shall be used in computing the charitable contribution deduction of such corporation (or the consolidated charitable contribution deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such excess charitable contribution was not absorbed as a carryover in the consolidated charitable contribution deduction for consolidated return periods. In applying this paragraph, the excess of the consolidated charitable contributions over

the 5 percent limitation shall be reduced by the increase in a consolidated or separate net operating loss carryover resulting from such excess.

(3) **Excess section 175 deductions.** The excess of the deductions under section 175 over the limitation of 25 percent provided in paragraph (a)(1)(i)(f) of this section shall be used in computing the consolidated section 175 carryover notwithstanding that one or more members of the group in the taxable year in which such carryover originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year, but only to the extent that such excess section 175 deduction is not attributable to such corporations. Such portion of such excess section 175 deductions as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year shall be used by such corporations severally as carryovers in such separate returns or in such consolidated returns of the other affiliated group. Any excess of section 175 deductions of a corporation for a year prior to a first taxable year in respect of which its income is included in the consolidated return of the group shall be used in computing the section 175 deduction of such corporation (or the consolidated section 175 deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such excess section 175 deduction was not absorbed as a carryover in the computation of a consolidated section 175 deduction for consolidated return periods.

(4) **Unused consolidated dividend carryover.** The unused consolidated dividend carryover shall be used in computing the consolidated dividend carryover notwithstanding that one or more members of the group in the taxable year in which such carryover originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year, but only to the extent that such unused consolidated dividend carryover is not attributable to such corporations. Such portion of such unused consolidated dividend carryover as is attributable to the several corporations making separate returns or computing their tax liability under section 541 pursuant to the last sentence of paragraph (b)(4) of § 1.1502-30 (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year shall be used by such corporations severally as carryovers in such separate returns, in such separate computations under section 541, or in such consolidated returns of the other affiliated group. Any unused dividend carryover of a corporation separately produced for a year prior to a taxable year in respect of which its tax liability under section 541 is computed upon the consolidated undistributed personal holding company income shall be used in computing the dividend carryover of such corporation (or the consolidated

dividend carryover of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such unused dividend carryover was not absorbed in the computation of the consolidated section 561 dividends paid deduction for the intervening consolidated return period.

PAR. 5. Section 1.1502-43 is amended to read as follows:

§ 1.1502-43 Credit for foreign taxes.

(a) *Choice of credit or deduction.* The credit under section 901 for taxes paid or accrued to any foreign country or possession of the United States shall be allowed to an affiliated group filing a consolidated return only if the common parent corporation chooses to use such credit in the computation of the tax liability of the group for the taxable year. If this choice is made, no deduction may be taken under section 164 on the consolidated return for such taxes paid or accrued by any member of the group. For purposes of this section, the term "taxes paid or accrued to any foreign country or possession of the United States" includes the amount of taxes deemed paid pursuant to section 902.

(b) *Amount of credit.* Subject to the limitation provided in paragraph (c) of this section, the credit allowable to an affiliated group filing a consolidated return shall be an amount equal to the aggregate of the taxes paid or accrued to any foreign country or possession by the several members of the affiliated group for the taxable year, plus the aggregate of the consolidated excess tax paid carryovers and carrybacks to the taxable year allowable as a credit under section 904(c).

(c) *Per country limitation.* The credit for tax paid or accrued for the taxable year to any country or possession shall not exceed an amount which bears the same ratio to the total tax of the affiliated group against which the credit is taken as the consolidated taxable income of the group from sources within such country or possession (but not in excess of the consolidated taxable income of the group) bears to the entire consolidated taxable income.

(d) *Consolidated excess tax paid carryovers.* The consolidated excess tax paid carryovers to the current taxable year for taxes paid to any foreign country or possession shall consist of—

(1) The consolidated excess tax paid to such country or possession for the five preceding taxable years (not including as a preceding taxable year any taxable year beginning before January 1, 1958) to the extent that the consolidated excess tax paid for any such preceding taxable year was not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the current taxable year and was not absorbed pursuant to section 904(c) in years preceding the current taxable year (whether or not taken as a credit), and,

with respect to the excess tax paid by a corporation in a taxable year for which a separate return was filed, or for which such corporation joined in a consolidated return filed by another affiliated group, but subject to the limitation prescribed in paragraph (h) of this section—

(2) The amount of the excess tax paid to such country or possession by such corporation for the five preceding taxable years (not including as a preceding taxable year any taxable year beginning before January 1, 1958) to the extent that the excess tax paid for any such preceding taxable year was not absorbed pursuant to section 904(c) in years preceding the current taxable year (whether or not taken as a credit).

(e) *Consolidated excess tax paid carrybacks.* (1) The consolidated excess tax paid carrybacks to the current taxable year for taxes paid to any foreign country or possession shall consist of—

(i) The consolidated excess tax paid to such country or possession for the first succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the current taxable year) reduced to the extent absorbed pursuant to section 904(c) in the first preceding taxable year (whether or not taken as a credit), and

(ii) The consolidated excess tax paid to such country or possession for the second succeeding taxable year to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the current taxable year;

and, with respect to any excess tax paid to such country or possession by a corporation which for either of the two succeeding taxable years files a separate return or joins in a consolidated return filed by another affiliated group, but subject to the limitation prescribed in paragraph (h) of this section—

(iii) The amount of such excess tax paid by such corporation for the first succeeding taxable year reduced to the extent absorbed pursuant to section 904(c) by such corporation for the first preceding taxable year (whether or not taken as a credit), or if the income of such corporation is included in a consolidated return for the first preceding taxable year, reduced to the extent absorbed pursuant to section 904(c) by such consolidated return (whether or not taken as a credit); and

(iv) The amount of such excess tax paid by such corporation for the second succeeding taxable year.

(2) The excess tax paid, whether consolidated or separate, may not be carried back to a taxable year beginning before January 1, 1958; and in determining the carryover or carryback to taxable years beginning on or after January 1, 1958, no amount shall be treated as absorbed for taxable years beginning before such date.

(f) *Consolidated excess tax paid.* The consolidated excess tax paid to any foreign country or any possession for a taxable year is the excess of the aggregate of the taxes paid or accrued by the sev-

eral members of the affiliated group to such country or possession over the per country limitation described in paragraph (c) of this section applicable to such country or possession. However, there is no consolidated excess tax paid for a taxable year in which the affiliated group takes any deduction under section 164 for such taxes paid or accrued to a foreign country or possession.

(g) *Excess tax paid.* The excess tax paid or accrued to any foreign country or possession by a corporation for any year for which a separate return is filed is the excess of the taxes paid or accrued by the corporation to such foreign country or possession over the amount allowable as a credit for such year pursuant to section 904(a). However, there is no such excess tax paid or accrued for a taxable year in which the corporation takes a deduction under section 164 for such taxes paid to any foreign country or possession.

(h) *Limitation on credit for carryovers and carrybacks of excess tax paid from separate return years.* In no case shall there be included in the credit for taxes paid or accrued to any foreign country or possession for the taxable year as consolidated excess tax paid carryovers under paragraph (d)(2) of this section (relating to excess tax paid by a corporation in years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group), and as consolidated excess tax paid carrybacks under paragraph (e)(1)(iii) and (iv) of this section (relating to excess tax paid by a corporation which for either of the two succeeding taxable years files a separate return or joins in a consolidated return filed by another affiliated group), an amount exceeding in the aggregate that which would be allowable as a credit for a carryover or carryback to such corporation if it had filed a separate return for such taxable year.

(i) *Apportionment of consolidated excess tax paid.* If an affiliated group filing a consolidated return has a consolidated excess tax paid with respect to any foreign country or any possession for the taxable year and if there are included as members of such group one or more corporations which make separate returns (or join in a consolidated return filed by another affiliated group) in a preceding or succeeding taxable year, the portion of such consolidated excess tax paid attributable to such corporations severally shall be determined. The portion in the case of any such corporation shall be the amount which bears the same ratio to such consolidated excess tax paid as the tax paid or accrued by such corporation to such country or possession bears to the total tax paid or accrued by the affiliated group to such country or possession.

(j) *Consolidated excess tax paid before or after consolidated return period.* The consolidated excess tax paid by an affiliated group with respect to any foreign country or possession shall be used in computing the consolidated excess tax paid carryover and carryback of the group notwithstanding that one or more corporations that were members of the

group in the taxable year in which such consolidated excess tax paid originates make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback for a preceding taxable year) but only to the extent that such consolidated excess tax paid is not attributable to such corporation. Such portion of such consolidated excess tax paid as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback, for a preceding taxable year) reduced to the extent absorbed in earlier years shall be used by such corporations severally as carryovers or as carrybacks in such separate returns or in such consolidated returns of the other affiliated group. Any excess tax paid by a corporation prior to the first taxable year in which its income is included in the consolidated return of the group (or paid in either of the two years immediately following a consolidated return year) may be used in computing the carryover or carryback of such corporation (or of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in the consolidated return of another group, but only to the extent that such excess tax paid was not absorbed (either as a carryover or as a carryback) for consolidated return periods.

PAR. 6. Section 1.1504 is amended to read as follows and to add historical note:

§ 1.1504 Statutory provisions; definitions.

Sec. 1504. Definitions.

(b) Definition of "includible corporations". * * *

(2) Insurance companies subject to taxation under section 802 or 821.

(8) An electing small business corporation (as defined in section 1371(b)).

[Sec. 1504 as amended by sec. 5, Act of March 13, 1956 (Pub. Law 429, 84th Cong., 70 Stat. 49); sec. 64(d)(3), Technical Amendments Act 1958 (72 Stat. 1657) sec. 3(f)(1) Life Insurance Company Income Tax Act 1959 (73 Stat. 140)]

PAR. 7. Section 1.1551 is amended to read as follows and to add historical note:

§ 1.1551 Statutory provision; disallowance of surtax exemption and accumulated earnings credit.

Sec. 1551. Disallowance of surtax exemption and accumulated earnings credit. If any corporation transfers, on or after January 1, 1951, all or part of its property (other than money) to another corporation which was created for the purpose of acquiring such property or which was not actively engaged in business at the time of such acquisition, and if after such transfer the transferor corporation or its stockholders, or both, are in control of such transferee corporation during any part of the taxable year of such transferee corporation, then such transferee corporation shall not for such taxable year (except as may be otherwise determined

under section 269(b)) be allowed either the \$25,000 exemption from surtax provided in section 11(c) or the \$100,000 accumulated earnings credit provided in paragraph (2) or (3) of section 535(c), unless such transferee corporation shall establish by the clear preponderance of the evidence that the securing of such exemption or credit was not a major purpose of such transfer. For purposes of this section, control means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of the corporation. In determining the ownership of stock for the purpose of this section, the ownership of stock shall be determined in accordance with the provisions of section 544, except that constructive ownership under section 544(a)(2) shall be determined only with respect to the individual's spouse and minor children. The provisions of section 269(b), and the authority of the Secretary under such section, shall, to the extent not inconsistent with the provisions of this section, be applicable to this section.

[Sec. 1551 as amended by sec. 205(a), Small Business Tax Revision Act of 1958 (72 Stat. 1680)]

PAR. 8. Paragraph (a) of § 1.1551-1 is amended to read as follows:

§ 1.1551-1 Disallowance of surtax exemption and accumulated earnings credit.

(a) In general. If one corporation transfers on or after January 1, 1951, all or part of its property (other than money) to another corporation, neither the \$25,000 exemption from surtax provided in section 11(c) nor the \$100,000 (\$60,000 if the taxable year begins before January 1, 1958) accumulated earnings credit provided in paragraph (2) or (3) of section 535(c) shall be allowed the transferee if: * * *

[F.R. Doc. 59-7610; Filed, Sept. 10, 1959; 8:50 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

Miscellaneous Amendments

1. In Part 6, §§ 6.0 and 6.1 are revoked:

§ 6.0 Under section 300, World War Veterans' Act, 1924, as amended. [Revoked]

§ 6.1 Under section 310, World War Veterans' Act, 1924, as amended. [Revoked]

2. In § 6.2, the headnote and paragraphs (a), (b) and (c) are amended to read as follows:

§ 6.2 Applications for insurance under section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a

permanent plan of United States Government life insurance which was in force other than as extended term insurance, for its cash value under the provisions of § 6.115 or under § 6.186 if the policy had no cash value, shall be granted a new policy of United States Government life insurance in accordance with § 6.3(a), provided a written application signed by the applicant and payment of the required premium are made on or after January 1, 1959 within the period set forth in paragraph (c) of this section and the other conditions of that paragraph are met. Such insurance shall be granted without medical examination. If the applicant is mentally incompetent, the application for insurance under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(b) Any person having United States Government life insurance on the 5-year level premium term plan, the term of which expired while such person was in the active service after April 25, 1951, or within 120 days after separation from such active service, and in either case prior to January 1, 1957, shall be granted United States Government life insurance on the 5-year level premium term plan in accordance with § 6.3(b) provided a written application signed by the applicant, payment of the required premium, and evidence of good health satisfactory to the Administrator are submitted on or after January 1, 1959, within the period set forth in paragraph (c) of this section and the other conditions of that paragraph are met.

(c) Any person whose permanent plan insurance was surrendered or whose term insurance expired under the conditions provided in this section, and who had continuous indemnity protection from the surrender or expiry date to January 1, 1957, continuous active service from January 1, 1957 to January 1, 1959, and continuous active duty thereafter, may make application for insurance under this section while on continuous active duty or within 120 days after separation from such service or duty. A person who reenters active service or duty on the date of separation or the following day shall be deemed to be in continuous active service or on continuous active duty.

3. The centerhead immediately preceding § 6.3 is amended to read "United States Government life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code."

4. Section 6.3 is revised to read as follows:

§ 6.3 United States Government life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code.

(a) United States Government life insurance on a permanent plan, issued pursuant to the provisions of section 5

of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code shall be issued on the same plan and under the same terms and conditions as the United States Government life insurance which was surrendered. The amount of permanent plan United States Government life insurance issued pursuant to said section 5, section 623, or section 781 shall not be in excess of the amount of insurance which was surrendered.

(b) United States Government life insurance on the 5-year level premium term plan, issued pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code shall be issued under the same terms and conditions as the United States Government life insurance 5-year level premium term policy which expired. The amount of 5-year level premium term insurance issued pursuant to said section 5, section 623 or section 781 shall not be in excess of the amount of term insurance which expired.

(c) The amount of insurance granted under said section 5, section 623, or section 781 plus the amount of any other insurance (National Service Life—United States Government life—War Risk) in force under premium-paying conditions, or as paid-up or extended insurance, shall not exceed \$10,000.

5. Sections 6.5 and 6.6 are revoked:

§ 6.5 Insurance applied for by person entering active military or naval service. [Revoked]

§ 6.6 Insurance applied for under section 310, World War Veterans' Act, 1924, as amended. [Revoked]

6. Section 6.7 is revised to read as follows:

§ 6.7 Effective date of United States Government life insurance applied for pursuant to the provisions of section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) The effective date of United States Government life insurance issued pursuant to the provisions of section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code may be established upon written request of the applicant as follows:

(1) As of the date on which valid application and tender of premiums are made.

(2) As of the first day of the month in which valid application and tender of premiums are made.

(3) As of the first day of the month following the month in which valid application and tender of premiums are made.

(4) As of the first day of any month, but not more than 6 months prior to the month in which valid application and tender of premiums are made: *Provided*, That there be paid (i) an amount equal to the full reserve on the insurance at the end of the month prior to the month in which application is made, and (ii) the full premium on the amount of insurance

for the month in which application is made.

(b) Unless otherwise specified by the applicant, the effective date of such United States Government life insurance shall be established as of the date on which valid application and tender of premiums are made.

7. Section 6.15 is revised to read as follows:

§ 6.15 Due date of premiums.

Premiums on United States Government life insurance are due and payable monthly in advance in legal tender of the United States of America to the Veterans Administration in the city of Washington, District of Columbia or any office of the Veterans Administration authorized to receive premium payments. Premiums may be paid annually, semi-annually, or quarterly, in advance, in which case the premium payable will be the sum of the monthly premiums for the period discounted at 3½ percent per annum. The discounted premiums for these periods are stated on the first page of the policy. At maturity by death or otherwise, the discounted value at 3½ percent per annum of the premiums paid in advance beyond the current calendar month shall be refunded to the insured, if living; otherwise to the beneficiary. If any premium be not paid when due, the policy shall cease and become void except as otherwise provided.

8. Section 6.17 is revised to read as follows:

§ 6.17 Payment of insurance premiums by mail.

When it appears by proof satisfactory to the Administrator of Veterans Affairs that the person to whom United States Government life insurance has been granted, or any person acting on his behalf has deposited in the mail, within the grace period allowed by Veterans Administration regulation for payment of a premium, an envelope properly addressed to the Veterans Administration, Washington 25, D.C., or any field station of the Veterans Administration, containing money, check, draft, or money order, in payment of a premium, such insurance will not lapse for nonpayment of such premium within the grace period: *Provided*, That any such check or draft is paid on presentation for payment or the conditions of § 6.17a are met.

9. In § 6.20, the introductory paragraph and paragraphs (a) and (b) are amended to read as follows:

§ 6.20 Deduction of insurance premiums from compensation, retirement pay, or pension.

The insured under a United States Government life insurance policy which is not lapsed, may authorize the monthly deduction of premiums from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension that may be due and payable to him under any laws administered by the Veterans Administration in accordance with the following provisions.

(a) The authorization must be in writing over the signature of the insured,

or his legal representative, and, whenever practicable on such forms as may be prescribed by the Veterans Administration. If insured is incompetent and has no legal representative and has a wife to whom benefits are being paid pursuant to section 3202(f) of Title 38, United States Code and § 13.201 of this chapter, she may authorize payment of insurance premiums through the deduction system. If insured is incompetent and has no legal representative and an institutional award has been made in his behalf, the authorization may be executed by the Manager of the field station in which the insured is hospitalized or receiving domiciliary care, and, in appropriate cases, by the chief officers of State hospitals or other institutions to whom similar awards may have been approved.

(b) The monthly disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension so due and payable must be equal to, or in excess of, the amount of the insurance premium figured on a monthly basis.

10. Sections 6.21, 6.22, and 6.23 are revised to read as follows:

§ 6.21 Authorization for deduction of insurance premiums from compensation, retirement pay, or pension.

The authorization for deductions from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension to be acceptable for the payment of insurance premiums must be executed and mailed or otherwise delivered to the Veterans Administration while the insurance is not lapsed. Such an authorization will be effective against the benefit payment for the month in which it is mailed or otherwise delivered to the Veterans Administration unless the insured elects to have the authorization become effective against the benefit payment for a succeeding month. However, the deduction made from the benefit payment for the month in which the authorization becomes effective shall be for the insurance premium due in the succeeding calendar month. When premium deductions are authorized in accordance with the provisions of Veterans Administration regulations, the Veterans Administration will make monthly deductions from the benefit payment due and payable to the insured of an amount sufficient to pay the monthly insurance premium. Such deductions will continue so long as the benefit payment due and payable to the insured is sufficient to pay the monthly insurance premium or until the authorization is revoked by the veteran or otherwise terminated.

§ 6.22 Premiums to be deducted from compensation, retirement pay, or pension, treated as paid, for purpose of preventing lapse.

When premium deductions are authorized by the insured under United States Government life insurance in accordance with the provisions of Veterans Administration regulations, the insurance premium will be treated as paid for the purpose of preventing lapse of the in-

insurance, although such deduction is not in fact made, if upon the due date of the premium there is due and payable to the insured an amount of disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension sufficient to provide the payment. Any premium authorized to be deducted from such compensation, retirement pay, or pension due and payable to the insured and not actually paid shall be deducted from the amount of such current compensation, retirement pay, or pension that may become due and payable to the insured. The amounts so deducted for premiums shall be deposited and covered into the Treasury to the credit of the United States Government Life Insurance Fund.

§ 6.23 Termination of the authorization to deduct insurance premiums from compensation, retirement pay, or pension.

Deduction of insurance premiums on United States Government life insurance shall cease and the authorization shall terminate if the disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension becomes insufficient to provide the premium or if such compensation, retirement pay, or pension is no longer due and payable to the insured. If authorization was executed by the Manager of a Veterans Administration hospital or domiciliary or chief officer of a State hospital or other institution to make deductions from an institutional award, the authorization will cease and terminate at the termination of the institutional award, and, if subsequent premiums are to be paid by deduction from monthly benefit payments, another authorization must be executed by the insured or his legal representative or his wife. (See § 6.20(a).) The insurance shall lapse after the termination or cancellation of the authorization to deduct premiums from compensation, retirement pay, or pension, unless the premium be otherwise paid within the grace period. The insured will be notified by letter directed to his last address of record, of the termination of the authorization to deduct premiums; but the failure to give such notice or the failure to receive such notice shall not prevent lapse of the insurance.

11. Section 6.35 is revised to read as follows:

§ 6.35 Establishment of grace period.

For the payment of any premium under a United States Government life insurance policy, a grace period of 31 days without interest will be allowed, during which time the policy will remain in force; but if the policy shall become a claim within the grace period, the unpaid premium shall be deducted from the amount of insurance payable. A 5-year level premium term policy shall cease and become void at the end of the 60-month period unless renewed as provided in Veterans Administration regulations.

12. Section 6.40 is revised to read as follows:

§ 6.40 Forms of policies.

The forms of policies of insurance described and designated below are hereby prescribed for use in granting United States Government life insurance. Contracts of insurance authorized to be made in accordance with the terms and conditions set forth in the forms of policies described and designated in this section are subject in all respects to the applicable provisions of Title 38, United States Code, amendments and supplements thereto, and all Veterans Administration regulations promulgated pursuant thereto.

Ordinary life policy (VA Form 9-741)
Five-year level premium term policy (VA Form 9-735)

Twenty-payment life policy (VA Form 9-747)

Thirty-payment life policy (VA Form 9-748)

Twenty-year endowment policy (VA Form 9-749)

Thirty-year endowment policy (VA Form 9-750)

— year endowment policy (VA Form 9-751)

The 5-year level premium term policy (VA Form 9-735) is substituted for the 5-year convertible term policy (VA Form 9-745). Additions to or modifications of said policies may hereafter be made by the Administrator of Veterans Affairs.

13. Sections 6.41 and 6.42 are revoked:

§ 6.41 Form to be used in applying for converted insurance. [Revoked]

§ 6.42 Forms of application and policies to be used in converting yearly renewable term insurance subsequent to July 2, 1927. [Revoked]

14. In § 6.45, paragraph (a) is amended to read as follows:

§ 6.45 Incontestability of United States Government life insurance.

(a) A United States Government life insurance policy shall be incontestable from the date of issuance, reinstatement or conversion, except for fraud, nonpayment of premiums, or on the ground that the applicant was not a member of the military or naval forces of the United States, and the policy is issued free of restrictions as to travel, residence, occupation, or military or naval service. However, no insurance shall be payable for death inflicted as a lawful punishment for crime or military offense, except when inflicted by the enemy: *Provided*, That the cash value, less any indebtedness, on the date of such death shall be paid to the designated beneficiary if living, or, if there be no designated beneficiary alive at the death of the insured, the said value shall be paid to the estate of the insured.

15. Section 6.46 is revised to read as follows:

§ 6.46 Refund of premiums in fraud cases.

Where United States Government life insurance is canceled or voided for fraud and notice thereof is mailed after March 16, 1954, any premiums paid on such insurance for any period subsequent to 2 years after the date insurance was issued, reinstated, or converted because of such fraud shall be refunded without

interest. On antedated policies the date of issue or conversion for the purpose of this section is the due date of the first full premium. The amount of any dividends, loan, or other insurance payment made as a result of the fraudulent issue, reinstatement or conversion shall be deducted from such refund. The refund shall be made to the insured, if living, otherwise to the designated beneficiary; or, if no designated beneficiary survives, to the insured's estate.

16. Section 6.51 is revised to read as follows:

§ 6.51 To a policy at a higher rate of premium as of a current effective date.

A United States Government life insurance policy on the 5-year level premium term plan may be exchanged for a policy of the same amount on any plan of insurance issued by the Veterans Administration at a higher rate of premium, upon payment of the current monthly premium at the attained age of the insured for the plan of insurance selected: *Provided*, That where premium waiver on United States Government life insurance is effective under section 622 of the National Service Life Insurance Act, as amended, or section 724 of Title 38, United States Code, that portion of the current monthly premium at the attained age of the insured for the plan of insurance selected which is not required for the pure insurance risk must be paid. The reserve (if any) on the policy will be allowed as a credit on the current monthly premium. Such exchange will be made without medical examination upon complete surrender of the insurance while in force and within 5 years from the effective date of the policy.

17. Section 6.78 is revised to read as follows:

§ 6.78 Provisions for reinstatement.

(a) Subject to the United States Government life insurance provisions of Title 38, United States Code, and Veterans Administration regulations issued thereunder, any insurance which has lapsed or may hereafter lapse and which has not been surrendered for a cash value or for paid-up insurance may be reinstated upon written application signed by the applicant, and, except as hereinafter provided in this paragraph, upon payment of all premiums in arrears, with interest from their several due dates, provided such applicant at the time of application and tender of premiums is in the required state of health as shown in § 6.79 (a) or (b), whichever is applicable, and submits evidence thereof at the time of application and tender of premiums as may be satisfactory to the Administrator of Veterans Affairs. Interest on premiums in arrears shall be at the rate of 5 per centum per annum, compounded annually, to the first monthly premium due date after July 31, 1946, and thereafter at the rate of 4 per centum per annum, compounded annually: *Provided*, That no interest on premiums in arrears will be required if reinstatement is effected within 3 months from the due date of the premium in default. The payment or rein-

statement of any indebtedness against any policy must be made, with interest, and if such indebtedness with interest exceeds the reserve of the policy at the time of application for reinstatement thereof, then the amount of such excess shall, except as provided in § 6.81, be paid by the applicant as a condition of the reinstatement of the indebtedness and of the policy. A lapsed United States Government life insurance policy which is in force under extended term insurance may be reinstated without health statement or other medical evidence, if application and tender of premiums with the required interest are made not less than 5 years prior to the date such extended insurance would expire. In any case in which the extended insurance under an endowment policy provides protection to the end of the endowment period, such policy may be reinstated upon application and payment of the premiums with the required interest, and health statement or other medical evidence will not be required. United States Government life insurance on the 5-year level premium term plan may be reinstated at any time after lapse and within the 60-month period upon evidence of the insurability of the insured satisfactory to the Administrator of Veterans Affairs and upon payment of two monthly premiums, one for the month of lapse, the other for the premium month in which reinstatement is effected. Any indebtedness against the policy must be paid or reinstated with interest. Such insurance when reinstated without payment of all premiums in arrears with interest shall have no reserve value. The provisions of the "reinstatement" clause in United States Government life insurance policies are hereby amended accordingly.

(b) Reinstatement is effected when an acceptable application and the required premiums are delivered to the Veterans Administration. If application for reinstatement is submitted by mail, properly addressed to the Veterans Administration, the postmark date shall be the date of delivery. The effective date of reinstatement of the insurance shall be the last monthly premium due date prior to the delivery or postmark date of the application for reinstatement, except where reinstatement is effected on the due date of a premium, then in such case, that date shall be the reinstatement date.

18. Sections 6.80 and 6.81 are revised to read as follows:

§ 6.80 - Application and medical evidence.

The applicant for reinstatement of United States Government life insurance must furnish during his lifetime, and before becoming totally and permanently disabled, and within the three calendar months including the calendar month for which the unpaid premium was due, a written application signed by him which shall state that he is in as good health as at date of lapse, or after the expiration of the three calendar months, a written application signed by him that

he is in good health, in accordance with the requirements of the particular case; and in addition the applicant shall furnish such evidence relative to his physical condition as may be required by the Administrator of Veterans Affairs, and on such forms as may be prescribed: *Provided*, That if the insurance becomes a claim after tender of the amount of the premiums required but before full compliance with the requirements of this section, and the applicant was in the required state of health at the date that he made the tender of the amount of premiums, and that there is a satisfactory reason for his noncompliance, the Director, Accounts and Underwriting Service in Central Office and the Director, Insurance Service in the District Office in Philadelphia, Pennsylvania, may, if the applicant be dead, waive any or all of the requirements of this section, or, if the applicant be living, allow compliance with this section, as of the date the required amount of premiums was received by the Veterans Administration.

§ 6.81 Indebtedness at time of reinstatement.

The United States Government life insurance shall not be deemed to be reinstated until satisfactory evidence of good health has been furnished and approved as required, and, except as provided in § 6.78, until all premiums in arrears have been paid with the required interest, and any indebtedness existing at the time of default has been paid or reinstated as set forth in the policy: *Provided*, That any indebtedness on account of unpaid service premiums and premiums waived under authority of section 306 of the World War Veterans' Act, 1924, as amended, or section 760 of Title 38, United States Code, may be reinstated, even though the amount of such indebtedness exceeds the reserve of the policy; and such indebtedness unless otherwise paid shall be deducted from the proceeds of insurance in any settlement thereof, or from the cash value when such value is taken in cash or used for the purpose of purchasing paid-up or extended insurance or making a loan: *Provided further*, That the amount of such unpaid premiums with interest shall not be considered an indebtedness as is set forth in paragraph 5(D) of the contract of Government life insurance to cause the policy to cease and become void if the amount (premiums with interest) is greater than the cash surrender value of an insurance without indebtedness, so long as current premiums are being paid by the insured when due or the payment on the due date thereof is being waived as provided by Veterans Administration regulations.

19. Section 6.85 is revoked:

§ 6.85 Reinstatement of policies in force under extended insurance. [Revoked]

20. In § 6.86, the headnote and paragraphs (a) and (b) are amended to read as follows:

§ 6.86 Applications for reinstatement of United States Government life insurance pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan policy of United States Government life insurance which was in force other than as extended term insurance, for its cash value under the provisions of § 6.115 or under § 6.186 if the policy had no cash value, upon written application made by any such person on or after January 1, 1959, within the period set forth in paragraph (b) of this section and upon meeting the other conditions of that paragraph, may reinstate such surrendered United States Government life insurance (or any portion thereof in multiples of \$500, not less than \$1,000) without medical examination upon payment of (1) an amount required to provide the full reserve of the insurance at the end of the month prior to the month in which application is made and (2) the full premium on the amount of insurance for the month in which application is made. If the applicant is mentally incompetent the application for reinstatement under this section may be made only by the guardian (committee or conservator) and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(b) Any person whose permanent plan insurance was surrendered under the conditions provided in this section, and who had continuous indemnity protection from the date of surrender to January 1, 1957, continuous active service from January 1, 1957, to January 1, 1959, and continuous active duty thereafter, may make application for reinstatement under this section while on continuous active duty or within 120 days after separation from such service or duty. A person who reenters active service or duty on the date of separation or the following day shall be deemed to be in continuous active service or on continuous active duty.

21. In § 6.90, paragraph (b) is amended to read as follows:

§ 6.90 Examinations for insurance purposes.

(b) Physical examinations required of applicants for United States Government life insurance, or for reinstatement of such insurance, may be made free of charge to the applicant by a full-time or part-time salaried physician at a field station of the Veterans Administration upon the request of the applicant, or upon the specific request of the underwriting activity in connection with an application for reinstatement of insurance when deemed necessary in order properly to safeguard the interests of the Government. Physical examinations required of applicants for United States Government life insurance or for rein-

statement of such insurance, may be made at applicant's own expense by a physician duly licensed for the practice of medicine by a State, Territory of the United States, or the District of Columbia, or by a duly licensed osteopathic physician who is a graduate of a recognized and approved college of osteopathy and who is listed in the current directory of the American Osteopathic Association. Such examination may be made by a physician or osteopath who is not related to the applicant by blood or marriage, associated with him in business, or pecuniarily interested in the issuance or reinstatement of the policy. Examinations made in a foreign country by a physician duly licensed for the practice of medicine and otherwise acceptable may be accepted if submitted through the American consul. The Administrator of Veterans Affairs may require such further medical examination or additional medical evidence as may be deemed necessary and proper to establish the physical and mental condition of the applicant at the time of the application.

22. Section 6.91 is revised to read as follows:

§ 6.91 Examinations and inspections for insurance purposes where applicant or claimant, by reason of his physical or mental condition, is unable to appear at an office of the Veterans Administration.

If an individual is unable to travel because of physical or mental condition, the Manager of a regional office or hospital may, on his own initiative or at the request of the insurance activity concerned, authorize at Government expense examination at the home of the person to be examined in those instances in which, as provided by § 6.90, examination by a full-time or part-time salaried physician is deemed necessary properly to safeguard the interests of the Government. Examination at the home of an applicant for reinstatement of insurance can be authorized at Government expense only by the Underwriting activity.

23. In § 6.92, paragraphs (a), (b) and (c) are amended to read as follows:

§ 6.92 Expenses incident to examinations for insurance purposes.

(a) Necessary transportation expenses incident to physical or mental examinations at regional offices or hospitals of the Veterans Administration may be furnished in the following instances: (1) When, upon filing of an application for payment of insurance benefits, an applicant is ordered to report for examination by the Veterans Administration to determine the existence of total or total and permanent disability; (2) when an individual receiving payments of insurance benefits is ordered to report for the examination by the Veterans Administration to determine if he has recovered the ability to follow a gainful occupation; (3) when an individual is ordered to report for examination by the Veterans Administration to determine the existence of mental incompetency for

the purpose of waiver of payment of an insurance premium on its due date.

(b) Necessary transportation expenses may be furnished, incident to a physical examination at a regional office or hospital of the Veterans Administration of an applicant for reinstatement of insurance: *Provided*, That the applicant was ordered to report for the examination at the specific request of the Underwriting activity.

(c) Such expenses will be borne by the United States and will be paid from the applicable appropriation of the Department of Medicine and Surgery. Transportation, meal, and lodging requests in connection with reporting to and returning from the place of examination will be furnished the applicant or claimant provided prior authority has been given for the travel. Travel incident to such an examination by salaried employees of the Veterans Administration will be in accordance with the Standardized Government Travel Regulations. If such examination is made by a medical examiner on a fee basis, payment will be made at a fee not in excess of the schedule of fees in effect and approved by the Veterans Administration for medical and professional services in the State in which the examination is made. Where no approved State fee schedule is in effect or where a fee for the type of examination authorized is not listed in the approved State fee schedule in effect, such examinations will be furnished at a fee not in excess of that listed in the "Guide for Charges for Medical and Ancillary Services" of the Department of Medicine and Surgery in effect at the time the examination is authorized. If the particular examination is not covered by a schedule in effect and/or the said guide, a fee not in excess of what is reasonable and customarily charged in the community concerned may be allowed.

24. Section 6.96 is revised to read as follows:

§ 6.96 Special dividends.

Any special United States Government life insurance dividend that may be declared shall be paid in cash only. Such special dividends shall not be accepted to accumulate on deposit or as a dividend credit. Unpaid special dividends shall not be available to pay premiums.

25. Section 6.102 is revised to read as follows:

§ 6.102 Rate of interest on policy loans on and after July 19, 1939.

(a) On and after July 19, 1939, and except as provided in paragraph (b) of this section, the interest on all policy loans then outstanding or thereafter granted will be at the rate of 5 per centum per annum.

(b) On and after August 1, 1946, the interest on all policy loans then outstanding or thereafter granted will be at the rate of 4 per centum per annum.

26. Section 6.118 is revised to read as follows:

§ 6.118 Collection of unpaid premiums.

When it becomes necessary to collect and deduct unpaid premiums and interest due under yearly renewable term or United States Government life insurance, such unpaid premiums and interest shall be deducted from the amount of the insurance (commuted value of the installments then due and payable), thus reducing the amount of each monthly installment in the proportion that the amount of the indebtedness bears to the amount of insurance.

27. Section 6.123 is revised to read as follows:

§ 6.123 Recovery from total permanent disability.

Notwithstanding proof of total permanent disability may have been accepted as satisfactory, the insured shall at any time, on demand, furnish proof satisfactory to the Administrator of Veterans Affairs of the continuance of such total permanent disability, and, if the insured shall fail to furnish such proof, all payments of monthly installments on account of such total permanent disability under a United States Government life insurance policy shall cease and all premiums thereafter falling due shall be payable in conformity with the policy. Thereafter, the premium to be paid and the cash values, paid-up insurance values, and loan values shall be reduced so that the resulting premium and values shall bear the same proportion to the premiums and values, respectively specified on the policy, that the commuted value of the remaining installments (240 installments less the number paid) bears to the commuted value of 240 installments. The extended insurance values shall be modified accordingly. (See also § 6.124.)

28. New §§ 6.123a, 6.123b, and 6.124 are added to read as follows:

§ 6.123a Recovery from disability; 5-year level premium term policy.

Notwithstanding proof of total permanent disability may have been accepted as satisfactory, the insured under a United States Government life insurance policy on the 5-year level premium term plan shall at any time, on demand, furnish proof satisfactory to the Administrator of Veterans Affairs of the continuance of such total permanent disability. If the insured shall fail to furnish such proof, all payments of monthly installments on account of such total permanent disability shall cease, and all premiums thereafter falling due shall be payable in conformity with the 5-year level premium term policy. Thereafter the premium to be paid shall be reduced so that the resulting premium shall bear the same proportion to the premium specified on the policy that the commuted value of the installments (240 less the number paid) bears to the commuted value of 240 installments. If recovery from total permanent disability takes place after the expiration of the term period, the insurance may be continued in accordance with § 6.123b.

§ 6.123b Continuance of insurance after termination of total and permanent rating and award, where such termination is effective after the expiration of the term period.

If United States Government life insurance on the 5-year level premium term plan (or on the 5-year convertible term plan) matures or has matured by reason of total and permanent disability and the insured recovers from such disability after expiration of the term period, the reduced amount of insurance (commuted value of remaining unpaid installments) shall be automatically renewed at the premium rate for the attained age of the insured on the policy anniversary renewal date of the current 5-year period. The reduced amount of insurance or any part thereof in multiples of \$500 and not less than \$1,000 may be continued without medical examination on the level premium term plan or on any permanent plan, as the insured may elect, and subject to the following provisions:

(a) Such insurance may be continued in force as 5-year level premium term insurance upon payment of premiums, as required in paragraph (c) of this section, at the rate required for the attained age of the insured on the policy anniversary renewal date for the current 5-year period. A certificate of renewal will be issued effective on the policy anniversary renewal date.

(b) Such insurance may be converted to any of the permanent plans upon application therefor and payment of premiums at the rate required for the then attained age, and a policy will be issued to the insured effective as of the date on which the first premium became payable.

(c) The insurance shall lapse unless the first premium is paid in accordance with this paragraph. The first premium on the reduced amount of insurance for the plan selected is payable on the first day of the month following the month for which the last installment under the total and permanent disability rating was paid to the insured, but may be paid within 31 days from the date of notice advising of the amount of insurance and the monthly premium rate. Thereafter, subsequent premiums will be payable in accordance with the terms and conditions of the policy.

§ 6.124 Grace period for payment of first premium payable on United States Government life insurance and total disability insurance after termination of a total and permanent disability insurance award and a total disability insurance award.

United States Government life insurance and total disability insurance shall not lapse during the period between the termination of a total and permanent disability insurance award or the termination of a total disability insurance award and 31 days from the due date of the first premium payable after such termination or 31 days from the date of notice mailed to the insured's last address of record advising of the termination of the award and the amount and due date of the first premium so payable, whichever is the later date. If the premium or premiums be not paid within

said 31 days, the insurance policy and the total disability provision shall lapse in accordance with the terms and conditions thereof and shall otherwise be subject to the terms and conditions of said policy and provision. A letter by registered mail will be mailed to the insured at his last address of record advising of the due date of the first premium payable after termination of the award, and of the amount of insurance, and the amount due as premiums. The mailing of such letter to the insured's last address of record will be sufficient notice within the provisions of this section, and the failure of the insured to furnish a correct current address at which mail will reach him promptly shall not be grounds for an extension of time under this section.

29. Section 6.126 is revised to read as follows:

§ 6.126 Death by suicide.

Payment of claims arising under yearly renewable term insurance and United States Government life insurance, validly granted, and where said insurance was in force at the time of the death of the insured, shall not be refused or contested on the ground that death was by suicide, sane or insane.

30. Section 6.150 is revised to read as follows:

§ 6.150 Claims alleging insurance contract where there is no application for insurance on file.

In those cases where claim is made alleging that a person made valid application for yearly renewable term (War Risk) insurance or United States Government life insurance, and that the insurance is subject to reinstatement, or that such insurance matured by reason of the total and permanent disability or death of the person at a time when the insurance was in force, and, in case of death, that there was a valid designation of beneficiary, or that there is entitlement to total disability benefits, and where there is no application for insurance on file, the claimant will be required to submit all available evidence concerning the alleged application for insurance in such manner and on such forms as may be deemed necessary. The evidence submitted by the claimant and the evidence as disclosed by records in possession of the Government relative to the question as to whether the person made a valid application for insurance will be considered and, if found sufficient to establish as a fact that the said person did apply for insurance and if the other allegations of said claim are sustained, a record of insurance will be established in accordance with such finding. However, if it be determined that the evidence is not sufficient to establish as a fact that the said person applied for insurance as alleged, or determined that any insurance applied for as alleged would not be valid or not subject to reinstatement, or determined that the said person did not become permanently and totally disabled, or die at a time when the insurance would have been in force if insurance has been applied for, or, in case of death, if it be determined

that there was no valid designation of beneficiary, the claimant will be so informed and will be notified that, unless he desires to appeal to the Administrator, a disagreement exists as to the matters in controversy as contemplated by the provisions of section 784 of Title 38, United States Code, as far as the Veterans Administration is concerned. Further, the claimant will be informed that an appeal may be taken from the decision to the Administrator of Veterans Affairs by giving notice in writing in accordance with Veterans Administration Regulations. The Chief Insurance Director or Deputy Chief Insurance Director will make all original determinations as to whether a person made valid application for insurance as alleged. The determination as to the validity of beneficiary designations, in death cases, will be made by the claims activity having jurisdiction over the insurance death claim.

31. The centerhead immediately preceding § 6.153 is amended to "Payment of Insurance Benefits to Minors Following Discharge From the Active Military, Naval or Air Service".

32. Section 6.153 is revised to read as follows:

§ 6.153 Payment of insurance benefits to minors following discharge from the active military, naval or air service.

The minority of a person who has been discharged from the active military, naval or air service of the United States will not preclude direct payment of either United States Government life insurance or National Service life insurance to such person. (Sec. 3202(a) of Title 38, United States Code.)

33. Sections 6.161 and 6.162 are revised to read as follows:

§ 6.161 Authority for the total disability provision for United States Government life insurance.

The total disability provision for United States Government life insurance authorized by section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930, and section 748 of Title 38, United States Code is subject in all respects to the applicable provisions of Title 38, United States Code or any amendments thereto, and all United States Government life insurance regulations now in force or hereafter adopted, all of which together with the insured's application, report of physical examination, tender of premium, and the total disability provision shall constitute the contract.

§ 6.162 Application for total disability provision authorized by section 748 of Title 38, United States Code.

Applications for the total disability provisions for United States Government life insurance and the report of physical examination shall be on such forms as may be prescribed by the Veterans Administration, but any statement in writing sufficient to identify the applicant and the amount of insurance applied for, together with a report of a physical examination and remittance

sufficient to cover the first monthly premium will be sufficient as an application for the total disability provision.

34. In § 6.162a, the headnote and paragraphs (a) and (b) are amended to read as follows:

§ 6.162a Application for reinstatement and issue of the total disability provision pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person having a United States Government life insurance policy on a permanent plan with a total disability provision attached who surrendered such insurance prior to January 1, 1957, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 at a time when the total disability provision was in force, upon meeting the requirements for reinstatement of such insurance pursuant to the provisions of § 6.86 may at the same time reinstate the lapsed total disability provision without medical examination upon (1) written application signed by any such person, (2) payment of the required reserve, and (3) the full premium on the total disability provision for the month in which application is made.

(b) Any person having a United States Government life insurance policy on a permanent plan with a total disability provision attached who surrendered such insurance prior to January 1, 1957, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 at a time when the total disability provision was in force, upon meeting the requirements for issuance of United States Government life insurance pursuant to the provisions of § 6.2(a), may be issued at the same time a total disability provision without medical examination upon written application signed by the applicant and payment of the required premium; *Provided*, That the total disability provision issued pursuant to this paragraph shall not be in excess of the total disability insurance which lapsed at the time the life insurance was surrendered prior to January 1, 1957, pursuant to section 5 of the Servicemen's Indemnity Act.

35. Section 6.162b is revised to read as follows:

§ 6.162b Payment of total disability benefits on United States Government life insurance issued or reinstated pursuant to section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code.

Payment under the total disability provision attached to permanent plan insurance and issued or reinstated pursuant to section 5 of Public Law 23, 82d Congress, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code shall not be denied because the total disability of the applicant commenced prior to the date of his application for issuance or reinstatement of such provision. If the insured was totally disabled at the time of issuance or reinstatement of the total

disability provision and (a) such disability had existed for less than 4 consecutive months, payment will commence in accordance with the provisions of § 6.164, and (b) if such disability had existed for at least 4 consecutive months, payment will commence on the first monthly anniversary date of total disability on or subsequent to the effective date of the issue or reinstatement of such insurance but in no event more than 6 months prior to receipt of due proof; *Provided*, That on insurance issued or reinstated pursuant to section 623 of the National Service Life Insurance Act, while the applicant is in active service, payment of total disability benefits shall not commence prior to the first monthly anniversary date of total disability on or after January 1, 1957.

36. In § 6.163, the headnote and introductory paragraph are amended to read as follows:

§ 6.163 Effective date of the total disability provision authorized by section 748 of Title 38, United States Code.

The total disability provision for United States Government life insurance will be effective:

37. In § 6.14, the headnote, introductory paragraph, and the 12th paragraph of the Total Disability Provision beginning "This provision is issued under authority of * * *" are amended to read as follows:

§ 6.164 Total disability provision for United States Government life insurance authorized by section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930, and section 748 of Title 38, United States Code.

The total disability provision for United States Government life insurance authorized by section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930 and section 748 of Title 38, United States Code, is as follows:

This provision is issued under authority of section 311 of the World War Veterans' Act, 1924, as amended July 3, 1930, and section 748 of Title 38, United States Code, and is subject to the applicable provisions of Title 38, United States Code, and amendments and supplements thereto, and to the Regulations of the Veterans Administration now in force or hereafter published. The terms and conditions of the policy which are not contrary to or inconsistent with the terms and conditions of this provision are hereby expressly made a part of this provision.

38. Section 6.165 is revised to read as follows:

§ 6.165 Disabilities deemed to be total.

Without prejudice to any other cause of disability, the loss of the use of both feet, or both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the loss of hearing of both ears, or the organic loss of speech, or becoming permanently helpless or permanently bedridden shall be deemed to be total disability for United States Government life insurance authorized by section 311 of

the World War Veterans' Act, 1924, as amended July 3, 1930, and monthly income payments for any of these specifically enumerated causes of total disability may be paid from the first day of the fifth consecutive month of such continuous total disability. Organic loss of speech will mean the loss of the ability to express oneself, both by voice and whisper through the normal organs of speech if such loss is caused by organic changes in such organs. Where such loss exists, the fact that some speech can be produced through the use of an artificial appliance or other organs of the body will be disregarded. However, such anatomical and functional loss shall not be deemed to be a total disability under a total disability provision originally issued on and subsequent to December 15, 1936.

39. Sections 6.175, 6.176, 6.178, 6.179, 6.180, and 6.181 are revoked:

§ 6.175 Grace for payment of premiums; 5-year level premium term policy. [Revoked]

§ 6.176 Reinstatement; 5-year level premium term policy. [Revoked]

§ 6.178 Indebtedness at maturity of policy; 5-year level premium term policy. [Revoked]

§ 6.179 Recovery from disability; 5-year level premium term policy. [Revoked]

§ 6.180 Continuance of insurance after termination of total and permanent rating and award, where such termination is effective after the expiration of the term period. [Revoked]

§ 6.181 Grace period for payment of first premium payable on United States Government life insurance and total disability insurance after termination of a total and permanent disability insurance award and a total disability insurance award. [Revoked]

40. The centerhead immediately preceding § 6.185 is amended to "Premium Waiver on United States Government Life Insurance Under Section 622, National Service Life Insurance Act, as amended, and section 724 of Title 38, United States Code."

41. In § 6.185, the headnote and paragraphs (j), (k), and (l) are amended to read as follows:

§ 6.185 Premium waiver on United States Government life insurance under section 622 of the National Service Life Insurance Act, as amended, and section 724 of Title 38, United States Code.

(j) Waiver of premiums under this section shall not include the premiums due and payable on the total disability provision attached to such United States Government life insurance policy.

(k) During any period waiver of premium is effective under this section the insurance shall be nonparticipating.

(l) A 5-year level premium term policy on which premiums have been waived under this section during any portion of the term period shall have no reserve value.

42. Section 6.186 is revised to read as follows:

§ 6.186 Surrender of permanent plan policies of United States Government life insurance, in force for less than 1 year, under the provisions of section 5, Servicemen's Indemnity Act of 1951.

A permanent plan policy of United States Government life insurance in force for less than 1 year by payment or waiver of premiums shall not have a cash value. Such a policy which was not lapsed could be surrendered by the insured while in active service prior to January 1, 1957, with right of replacement pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code, upon written request therefor and upon complete surrender of the insurance with all claims thereunder.

43. The centerhead immediately preceding § 6.190 is amended to "Determination of Liability Under Sections 302 and 313, World War Veterans' Act, 1924, Sections 607 and 602(v) (2), National Service Life Insurance Act, 1940, as amended, and Sections 721 and 757 of Title 38, United States Code."

44. Section 6.190 is revised to read as follows:

§ 6.190 Establishment of committees on extra hazards of service.

There are hereby established in the Department of Insurance the necessary committees to make determinations on extra hazards of service (sections 302 and 313, World War Veterans' Act, 1924, sections 607 and 602(v) (2), National Service Life Insurance Act, 1940, as amended, and sections 721 and 757 of Title 38, United States Code) which will be in charge of chairmen who shall be responsible for the proper functioning of such committees. Each committee shall be composed of the chairman and such regular members, alternate members, and other personnel as may be found necessary for the purpose of executing the duties and functions assigned thereto.

45. Section 6.192 is revised to read as follows:

§ 6.192 Definition of "disease or injury traceable to the extra hazard of the military or naval services".

(a) In cases wherein, pursuant to the provisions of the War Risk Insurance Act and the amendments thereto or of the World War Veterans' Act and the amendments thereto or the United States Government life insurance provisions of Title 38, United States Code, a determination has been made that a disease or injury has been suffered or contracted in the active military or naval service during the period beginning April 6, 1917 and ending July 2, 1921, and notwithstanding such disease or injury the insured has been permitted under the provisions of said War Risk Insurance Act, World War Veterans' Act, or Title 38 of the United States Code to reinstate or to convert insurance into United States Government life insurance, the subse-

quent death or total permanent disability of the insured, if found to be traceable to the said disease or injury, shall, for the purpose of determining liability under section 302 of the World War Veterans' Act or section 757 of Title 38, United States Code, be held to be the result of disease or injury traceable to the extra hazard of the military or naval service.

(b) In other cases, disease or injury may be found to be traceable to the extra hazard of the military or naval service when it appears from the evidence that the said disease or injury was in fact caused by or is traceable to the performance of duty in the active military, naval, or air service (as that term is defined in section 101 of Title 38, United States Code).

46. Section 6.206 is revised to read as follows:

§ 6.206 Reconsideration of insurance claims where suits have terminated in favor of the Government.

Where suit has been brought against the United States under section 19 of the World War Veterans' Act, 1924, as amended, or section 784 of Title 38, United States Code, for the benefits of yearly renewable term insurance, automatic, or United States Government life insurance because of alleged total permanent disability, or total disability as defined in the total disability provision attached to United States Government life insurance policies, or under section 617 of the National Service Life Insurance Act of 1940, as amended, or section 784 of Title 38, United States Code, and judgment on the merits in favor of the Government has been entered, the claim will be reconsidered only where it is definitely shown that new and material evidence has been produced which was not presented to the court, or that manifest error was made.

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

47. In Part 8, §§ 8.0, 8.1, and 8.2 are revised to read as follows:

§ 8.0 Eligibility.

(a) *Applications for insurance under section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.* (1) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan of National Service life insurance, which was not lapsed, for its cash value under the provisions of § 8.27 (a) or (b) or under § 8.114 if the policy had no cash value, shall be granted a new policy of National Service life insurance in accordance with § 8.110(a) provided a written application signed by the applicant and payment of the required premium are made on or after January 1, 1959, within the period set forth in subparagraph (3) of this paragraph and the other conditions of that subparagraph are met. Such insurance shall be granted without medical examination. If the applicant is mentally incompetent, the application for insurance under this subparagraph may be made only by the guardian (committee or conservator)

and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(2) Any person having National Service life insurance on the 5-year level premium term plan, the term of which expired while such person was in the active service after April 25, 1951, or within 120 days after separation from such active service, and in either case prior to January 1, 1957, shall be granted National Service life insurance on the 5-year level premium term plan in accordance with § 8.110(b): *Provided*, a written application signed by the applicant, payment of the required premium and evidence of good health satisfactory to the Administrator are submitted on or after January 1, 1959, within the period set forth in subparagraph (3) of this paragraph and the other conditions of that subparagraph are met.

(3) Any person whose permanent plan insurance was surrendered or whose term insurance expired under the conditions provided in this paragraph, and who had continuous indemnity protection from the surrender or expiry date to January 1, 1957, continuous active service from January 1, 1957, to January 1, 1959, and continuous active duty thereafter, may make application for insurance under this paragraph while on continuous active duty or within 120 days after separation from such service or duty. A person who reenters active service or duty on the date of separation or the following day shall be deemed to be in continuous active service or on continuous active duty.

(4) An application for insurance under this paragraph should be made on the form prescribed therefor, but any written statement which in substance meets the requirements of this paragraph may be considered an application.

(b) *Applications for insurance under section 722(a) of Title 38, United States Code.* (1) Any person who is released from active military, naval, or air service (as that term is defined in sec. 101 of Title 38, United States Code) under other than dishonorable conditions, on or after April 25, 1951, shall be granted National Service life insurance as provided in § 8.111 upon compliance with the following conditions:

(i) Written application signed by the applicant.

(ii) Proof, satisfactory to the Administrator, that the applicant is suffering from a service-connected disability (or disabilities) for which compensation is or would be payable, if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health established by the Administrator (§ 8.1).

(iii) Written application for such insurance must be submitted within 1 year from the date service connection of such disability is first determined by the Veterans Administration by a rating made subsequent to discharge: *Provided*, That if the applicant is shown by evidence satisfactory to the Administrator to have been mentally incompetent during any part of the 1-year period, application under this paragraph may be filed within 1 year after a guardian is appointed or

within 1 year after the removal of such mental incompetency as determined by the Administrator, whichever is the earlier date. If a guardian was appointed or the removal of such disability occurred before January 1, 1959, application under this paragraph may be made within 1 year after that date.

(iv) Payment of the required premium.

(2) An application for insurance under this paragraph should be made on the form prescribed therefor, but any written statement which in substance meets the requirements of this paragraph may be considered an application. If the applicant is mentally incompetent, the application may be made only by the guardian and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(3) The words "dishonorable conditions" as used in this paragraph are defined in § 3.64 of this chapter.

(c) *Application for insurance issued under section 621 of the National Service Life Insurance Act, as amended.* Insurance heretofore issued under section 621 of the National Service Life Insurance Act is subject to the provisions of § 8.112 (a) and (c). No National Service life insurance shall be granted to any person under such section on or after January 1, 1957, unless prior to such date an acceptable application accompanied by proper and valid remittances or authorizations for payment of premiums (1) was received by the Veterans Administration, (2) was placed in the mails properly directed to the Veterans Administration, or (3) was delivered to an authorized representative of any of the uniformed services.

§ 8.1 Definition of good health.

The words "good health," when used in connection with insurance, mean that the applicant is, from clinical or other evidence, free from disease, injury, abnormality, infirmity, or residual of disease or injury to a degree that would tend to weaken or impair the normal functions of the mind or body or to shorten life.

§ 8.2 Effective date.

(a) *Effective date of insurance applied for under section 722(a) of Title 38, United States Code.* (1) The effective date of National Service life insurance issued under the provisions of section 722(a) of Title 38, United States Code, shall not be established in any event prior to April 25, 1951, nor prior to the date of entry into active service.

(2) Subject to the limitations in subparagraph (1) of this paragraph, the effective date of such insurance may be established upon written request of the applicant as follows:

(i) As of the date on which valid application and tender of premium are made.

(ii) As of the first day of the month in which valid application and tender of premium are made.

(iii) As of the first day of the month following the month in which valid application and tender of premium are made.

(iv) As of the first day of any month, but not more than 6 months prior to the month in which valid application and tender of premium are made: *Provided*, That there be paid (a) an amount equal to the full reserve on the insurance at the end of the month prior to the month in which application is made, and (b) the full premium on the amount of insurance for the month in which application is made.

(3) Unless otherwise specified by the applicant, the effective date of such National Service life insurance shall be established as of the date on which valid application and tender of premiums are made.

(b) *Effective date of insurance applied for under section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.* (1) The effective date of National Service life insurance issued under the provisions of section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code may be established upon written request of the applicant as follows:

(i) As of the date on which valid application and tender of premiums are made.

(ii) As of the first day of the month in which valid application and tender of premiums are made.

(iii) As of the first day of the month following the month in which valid application and tender of premiums are made.

(iv) As of the first day of any month, but not more than 6 months prior to the month in which valid application and tender of premiums are made: *Provided*, That there be paid (a) an amount equal to the full reserve on the insurance at the end of the month prior to the month in which application is made, and (b) the full premium on the amount of insurance for the month in which application is made.

(2) Unless otherwise specified by the applicant, the effective date of such National Service life insurance shall be established as of the date on which valid application and tender of premiums are made.

48. Section 8.7 is revised to read as follows:

§ 8.7 Payment of insurance premiums by mail.

When it appears by proof satisfactory to the Administrator of Veterans Affairs that the person to whom National Service life insurance has been granted, or any person acting on his behalf has deposited in the mail within the grace period allowed by Veterans Administration regulation for payment of a premium an envelope properly addressed to the Veterans Administration, Washington 25, D.C., or any field station of the Veterans Administration, containing money, check, draft, or money order, in payment of premium, such insurance will not lapse for a nonpayment of such premium within the grace period: *Provided*, That any such check or draft is paid on presentation for payment or the conditions of § 8.7a are met.

49. In § 8.8, the introductory paragraph and paragraphs (a) and (b) are amended to read as follows:

§ 8.8 Deduction of insurance premiums from compensation, retirement pay, or pension.

The insured under a National Service life insurance policy which is not lapsed may authorize the monthly deduction of premiums from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension that may be due and payable to him under any laws administered by the Veterans Administration in accordance with the following provisions.

(a) The authorization must be in writing over the signature of the insured, or his legal representative, and, whenever practicable, on such forms as may be prescribed by the Veterans Administration. If insured is incompetent and has no legal representative and has a wife to whom benefits are being paid pursuant to section 3202(f) of Title 38, United States Code, and § 13.201 of this chapter, she may authorize payment of insurance premiums through the deduction system. If insured is incompetent and has no legal representative and an institutional award has been made in his behalf, the authorization may be executed by the Manager of the field station in which the insured is hospitalized or receiving domiciliary care, and in appropriate cases by the chief officers of State hospitals or other institutions to whom similar awards may have been approved.

(b) The monthly disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension so due and payable must be equal to, or in excess of, the amount of the insurance premium figured on a monthly basis.

50. Sections 8.9, 8.10, and 8.11 are revised to read as follows:

§ 8.9 Authorization for deduction of insurance premiums from compensation, retirement pay, or pension.

The authorization for deductions from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension, to be acceptable for the payment of insurance premiums, must be executed and mailed or otherwise delivered to the Veterans Administration while the insurance is not lapsed. Such an authorization will be effective against the benefit payment for the month in which it is mailed or otherwise delivered to the Veterans Administration, unless the insured elects to have the authorization become effective against the benefit payment for a succeeding month. However, the deduction made from the benefit payment for the month in which the authorization becomes effective shall be for the insurance premium due in the succeeding calendar month. When premium deductions are authorized in accordance with the provisions of Veterans Administration regulations, the Veterans Administration will

make monthly deductions from the benefit payment due and payable to the insured of an amount sufficient to pay the monthly insurance premium. Such deductions will continue so long as the benefit payment due and payable to the insured is sufficient to pay the monthly insurance premium or until the authorization is revoked by the veteran or otherwise terminated.

§ 8.10 Premiums to be deducted from compensation, retirement pay, or pension treated as paid for purpose of preventing lapse.

When premium deductions are authorized by the insured under National Service life insurance, in accordance with the provisions of Veterans Administration regulations, the insurance premium will be treated as paid for the purpose of preventing lapse of the insurance, although such deduction is not in fact made, if upon the due date of the premium there is due and payable to the insured an amount of disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension sufficient to provide the payment. Any premium authorized to be deducted from such compensation, retirement pay, or pension, due and payable to the insured and not actually paid, shall be deducted from the amount of such current compensation, retirement pay, or pension that may become due and payable to the insured. The amounts so deducted for premiums shall, except as otherwise provided in §§ 8.102 and 8.103, be deposited and covered into the Treasury to the credit of the National Service Life Insurance Fund.

§ 8.11 Termination of the authorization to deduct insurance premiums from compensation, retirement pay, or pension.

Deduction of insurance premiums on National Service life insurance shall cease and the authorization shall terminate if the disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension becomes insufficient to provide the premium, or if such compensation, retirement pay, or pension is no longer due and payable to the insured. If authorization was executed by the Manager of a Veterans Administration hospital or domiciliary or chief officer of a State hospital or other institution to make deductions from an institutional award, the authorization will cease and terminate at the termination of the institutional award, and if subsequent premiums are to be paid by deduction from monthly benefit payments, another authorization must be executed by the insured or his legal representative or his wife. (See § 8.8(a)). The insurance shall lapse after the termination or cancellation of the authorization to deduct premiums from such compensation, retirement pay, or pension, unless the premium be otherwise paid within the grace period. The insured will be notified, by letter directed to his last address of record, of the termination of the authorization to deduct premiums; but

the failure to give such notice or the failure to receive such notice shall not prevent lapse of the insurance.

51. In § 8.18, paragraph (b) is amended to read as follows:

§ 8.18 Lapse while insured is in active military or naval service. National Service life insurance will lapse and terminate while the insured is in the active military or naval service of the United States:

(b) If the service department shall discontinue the allotment and premium is not otherwise paid prior to expiration of the grace period.

52. Section 8.20 is revoked:

§ 8.20 Nonlapse of insurance during active service prior to date of enactment of Public Law 539, 79th Congress. [Revoked]

53. In § 8.22, paragraphs (a) and (b) are amended to read as follows:

§ 8.22 Reinstatement of National Service life insurance.

(a) *Reinstatement of National Service life insurance except insurance reinstated pursuant to section 623 of the National Service Life Insurance Act or Section 781 of Title 38, United States Code.* Subject to the National Service life insurance provisions of Title 38, United States Code, and Veterans Administration regulations issued thereunder, any insurance which has lapsed or may hereafter lapse and which has not been surrendered for a cash value or for paid-up insurance may be reinstated upon written application signed by the applicant, and, except as herein-after provided in this paragraph, upon payment of all premiums in arrears, with interest from their several due dates, provided such applicant at the time of application and tender of premiums is in the required state of health as shown in § 8.23 (a) or (b), whichever is applicable, and submits evidence thereof at the time of application and tender of premiums as may be satisfactory to the Administrator of Veterans Affairs. Interest on premiums in arrears shall be at the rate of 5 per centum per annum, compounded annually, to the first monthly premium due date after July 31, 1946, and thereafter at the rate of 4 per centum per annum, compounded annually; *Provided*, That no interest on premiums in arrears will be required if reinstatement is effected within 3 months from the due date of the premium in default. The payment or reinstatement of any indebtedness against any policy must be made, and if such indebtedness with interest exceeds the reserve of the policy at the time of application for reinstatement thereof, then the amount of such excess shall be paid by the applicant as a condition of the reinstatement of the indebtedness and of the policy. A lapsed National Service life insurance policy which is in force under extended term insurance may be reinstated without health statement or other medical evidence, if application and tender of premiums with the required interest are

made not less than 5 years prior to the date such extended insurance would expire. In any case in which the extended insurance under an endowment policy provides protection to the end of the endowment period, such policy may be reinstated upon application and payment of the premiums with the required interest, and health statement or other medical evidence will not be required. National Service life insurance on the level premium term plan may be reinstated by written application of the insured accompanied by evidence of insurability and tender of two monthly premiums, one for the month of lapse, the other for the premium month in which reinstatement is effected; but such insurance when reinstated without payment of all premiums in arrears with interest shall have no reserve value. Application for reinstatement of level premium term insurance accompanied by evidence of insurability and tender of premiums must be submitted prior to the expiration of the 5-year term period, except as provided in § 8.85.

(b) *Applications for reinstatement of insurance pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.* (1) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan policy of National Service life insurance which was not lapsed, for its cash value under the provisions of § 8.27(a) or (b), or under § 8.114 if the policy had no cash value, upon written application made by any such person on or after January 1, 1959, within the period set forth in subparagraph (2) of this paragraph and upon meeting the other conditions of that subparagraph, may reinstate such surrendered National Service life insurance (or any portion thereof in multiples of \$500, not less than \$1,000) without medical examination upon payment of (i) an amount required to provide the full reserve of the insurance at the end of the month prior to the month in which application is made and (ii) the full premium on the amount of insurance for the month in which application is made. If the applicant is mentally incompetent the application for reinstatement under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

(2) Any person whose permanent plan insurance was surrendered under the conditions provided in this paragraph, and who had continuous indemnity protection from the date of surrender to January 1, 1957, continuous active service from January 1, 1957, to January 1, 1959, and continuous active duty thereafter, may make application for reinstatement under this paragraph while on continuous active duty or within 120 days after separation from such service or duty. A person who reenters active service or duty on the date of separation or the following day shall be deemed to be in continuous active service or on continuous active duty.

54. Sections 8.23 and 8.24 are revised to read as follows:

§ 8.23 Health requirements.

National Service life insurance on any plan may be reinstated if application and tender of premiums are made:

(a) Within 3 premium months including the premium month for which the unpaid premium was due, provided the applicant be in as good health on the date of application and tender of premiums as he was on the due date of the premium in default and furnishes evidence thereof satisfactory to the Administrator.

(b) After expiration of the 3-month period mentioned in paragraph (a) of this section, provided applicant is in good health (§ 8.1) on the date of application and tender of premiums and furnishes evidence thereof satisfactory to the Administrator of Veterans Affairs.

§ 8.24 Application and medical evidence.

The applicant for reinstatement of National Service life insurance, during his lifetime and before becoming totally disabled, must submit a written application signed by him and furnish evidence of health as required in § 8.23 at the time of application satisfactory to the Administrator of Veterans Affairs and upon such forms as the Administrator shall prescribe or otherwise as he shall require. Applicant's own statement of comparative health may be accepted as proof of insurability for the purpose of reinstatement under § 8.23(a), but, whenever deemed necessary in any such case by the Administrator, report of physical examination may be required. Applications for reinstatement submitted after expiration of the applicable period mentioned in § 8.23(a) must be accompanied by report of physical examination made in accordance with the provisions of § 8.64: *Provided*, That, if the insurance becomes a claim after the tender of the amount necessary to meet reinstatement requirements but before full compliance with the requirements of this section, and the applicant was in a required state of health at the date that he made the tender of the amount necessary to meet reinstatement requirements, and that there is satisfactory reason for his non-compliance, the Director, Accounts and Underwriting Service, in Central Office; Assistant Managers for Insurance, VA Centers, Denver, Colorado, and St. Paul, Minnesota, and Director, Insurance Service in the District Office in Philadelphia, Pennsylvania, may, if the applicant be dead, waive any or all requirements of this section (except payment of the necessary premiums), or, if the applicant be living, allow compliance with this section as of the date the required amount necessary to reinstate was received by the Veterans Administration.

55. In § 8.46, paragraph (a) is amended to read as follows:

§ 8.46 Beneficiary designations.

(a) The insured shall have the right to designate as beneficiary any person or persons, firm, corporation, or other legal entity (including the estate of the insured), individually or as trustee, for insurance maturing on or after August 1, 1946: *Provided*, That as to any insur-

ance which matured prior to August 1, 1946, designated beneficiaries shall be restricted to persons within the permitted class of designated beneficiaries as follows: Wife (husband), child (including an adopted child, stepchild, illegitimate child), parent (including parent through adoption, stepparent, and persons who stood in loco parentis to the insured for a period of not less than 1 year prior to entry into active service), brother or sister (including those of the halfblood and through adoption) of the insured.

56. In § 8.48, the introductory paragraph is amended to read as follows:

§ 8.48 Class and order of payment to other than designated beneficiary.

If no beneficiary was designated by the insured for insurance which matured prior to August 1, 1946, or if the designated beneficiary of such insurance did not survive the insured or dies or has died prior to completion of payment of the installments certain, the installments of insurance remaining unpaid shall be paid to persons in the permitted class of beneficiaries and in the order named:

57. The centerhead immediately preceding § 8.49 is amended to "Settlement Where Insurance Matured Prior to August 1, 1946."

58. Sections 8.49 and 8.50 are revised to read as follows:

§ 8.49 Limitations on entitlement and payment.

(a) Any payment of insurance made to a person represented by the insured to be within the permitted class of beneficiaries shall be deemed to have been properly made and to satisfy fully the obligations of the United States under such insurance policy to the extent of such payments. The following provisions are applicable only to insurance which matured prior to August 1, 1946. No person shall have a vested right to any installment or installments of the insurance, and no installment of insurance shall be paid to the heirs, creditors, or legal representatives as such of the insured or of any beneficiary except as provided in § 8.60. If no person within the permitted class survives to receive the insurance or any part thereof, no payment of the unpaid installments shall be made, except that if the reserve of a converted policy, together with dividend accumulations, less any indebtedness under such policy, exceeds the amount paid to the beneficiaries, such excess shall be paid to the estate of the insured unless the estate of the insured would escheat under the laws of his place of residence, in which event no payment shall be made.

(b) When the amount of an individual monthly payment is less than \$5, such amount may in the discretion of the Administrator, be allowed to accumulate without interest and be disbursed annually.

§ 8.50 Payment to first beneficiary where insurance matured prior to August 1, 1946.

Upon due proof of the death of the insured prior to August 1, 1946, and

while a National Service life insurance policy is in force, the monthly installments without interest, which have accrued since the death of the insured (the first installment being due on the date of the death of the insured), and the monthly installments which thereafter become payable in accordance with the provisions of the policy shall be paid, as provided in § 8.75, to the beneficiary or beneficiaries entitled.

59. Sections 8.60 and 8.61 are revised to read as follows:

§ 8.60 Taxation and exemption.

(a) Payments of National Service life insurance as such are exempt from taxation, but such exemption does not extend to any property purchased in part or wholly out of such payments. Payments of insurance to a beneficiary under a National Service life insurance policy are exempt from claims of creditors, and are not liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary.

(b) The exemption shall apply against the United States or any agency thereof: *Provided*, That except as to dividends being held to the credit of the insured for the payment of premium under the provisions of Public Law 36, 82d Congress, or section 707 of Title 38, United States Code, the United States shall be entitled to collect by setoff or otherwise out of benefits, payable to any beneficiary under a National Service life insurance policy, the amount of any indebtedness due the United States by such beneficiary because of overpayments or illegal payments made to such beneficiary under laws administered by the Veterans Administration: *Provided further*, That in the settlement of any claim under a National Service life insurance policy, the United States shall be entitled to deduct the amount of unpaid premiums, or loans, or interest on such premiums or loans; or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits; or any other indebtedness existing under the particular insurance contract.

(c) Effective January 1, 1958, payments of insurance to a beneficiary under a National Service life insurance policy shall be subject to levy for taxes due the United States by such beneficiary (sec. 3101(c) of Title 38, United States Code).

§ 8.61 Insurance forfeiture.

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such forces, shall forfeit all rights to insurance. No insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States; but the cash surrender value, if any, of such insurance on the date of death of the insured shall be paid to the designated beneficiary, if living, or otherwise to the beneficiary or beneficiaries within the permitted class in the order specified in

section 716(b) of Title 38, United States Code.

60. Sections 8.63, 8.64, 8.65, 8.66, 8.69, and 8.70 are revised to read as follows:

§ 8.63 Refund of premiums in fraud cases.

Where National Service life insurance is canceled or voided for fraud and notice thereof is mailed after March 16, 1954, any premiums paid on such insurance for any period subsequent to 2 years after the date insurance was issued, reinstated, or converted because of such fraud shall be refunded without interest. On antedated policies the date of issue or conversion for the purpose of this section is the due date of the first full premium. The amount of any dividends, loan, or other insurance payment made as a result of the fraudulent issue, reinstatement, or conversion shall be deducted from such refund. The refund shall be made to the insured, if living, otherwise to the designated beneficiary; or, if no designated beneficiary survives, to the insured's estate.

§ 8.64 Examination of applicants for insurance or reinstatement.

Where physical or mental examination is required of an applicant for National Service life insurance or of an applicant for reinstatement of National Service life insurance, such examination may be made by a medical officer of the United States Army, Navy, Air Force, or Public Health Service, or may be made free of charge to him by a full-time or part-time salaried physician at a regional office or hospital of the Veterans Administration. Such examination may also be made, at the applicant's own expense, by a physician duly licensed for the practice of medicine by a State, Territory of the United States, or the District of Columbia, or by a duly licensed osteopathic physician who is a graduate of a recognized and approved college of osteopathy and who is listed in the current directory of the American Osteopathic Association. Such examination may be made by a physician or osteopath who is not related to the applicant by blood or marriage, associated with him in business, or pecuniarily interested in the issuance or reinstatement of the policy. Examinations made in a foreign country by a physician duly licensed for the practice of medicine and otherwise acceptable may be accepted if submitted through the American consul. The Administrator of Veterans Affairs may require such further medical examination or additional medical evidence as may be deemed necessary and proper to establish the physical and mental condition of the applicant at the time of the application.

§ 8.65 Examination in connection with total disability benefits.

Physical examination in connection with claim for total disability benefits may be made by a medical officer of the United States Army, Navy, Air Force, or Public Health Service, or may be made at Government expense by a full-time or part-time salaried physician at a regional office or hospital of the Veterans Administration. If an insured is

unable to travel, because of physical or mental condition, the Manager of a regional office or hospital may, on his own initiative or at the request of the insurance activity concerned, authorize at Government expense examination at the residence of the insured. The Administrator of Veterans Affairs may require such further medical examination or such additional medical evidence as may be deemed necessary and proper to establish the physical and mental condition of the insured.

§ 8.66 Expenses incident to examination for insurance purposes.

Necessary transportation expenses incident to physical or mental examinations for insurance purposes at regional offices or hospitals shall be furnished when the insured is ordered to report for examination at the specific request of the Director, Accounts and Underwriting Service or Insurance Claims Service in Central Office; Assistant Managers for Insurance, VA Centers Denver, Colorado, and St. Paul, Minnesota, and Director, Insurance Service in the District Office in Philadelphia, Pennsylvania, or the Manager of a regional office or hospital: *Provided*, Such expenses will be borne by the United States and will be paid from the applicable appropriation of the Department of Medicine and Surgery. Transportation, meal, and lodging requests in connection with reporting to and returning from the place of examination may be furnished the applicant, or the applicant may travel at his own expense and claim reimbursement for such travel on a mileage basis, provided prior authority has been given for the travel. Travel incident to such an examination by salaried employees of the Veterans Administration will be in accordance with the Standardized Government Travel Regulations. If such an examination is made by a medical examiner on a fee basis, payment will be made at a fee not in excess of the schedule of fees in effect and approved by the Veterans Administration for medical and professional services in the State in which the examination is made. Where no approved State fee schedule is in effect or where a fee for the type of examination authorized is not listed in the approved State fee schedule in effect, such examinations will be furnished at a fee not in excess of that listed in the "Guide for Charges for Medical and Ancillary Services" of the Department of Medicine and Surgery in effect at the time the examination is authorized. If the particular examination is not covered by a schedule in effect and/or the said guide, a fee not in excess of what is reasonable and customarily charged in the community concerned may be allowed.

§ 8.69 Definition of "disease or injury traceable to the extra hazards of the military or naval service."

A disease or injury may be found to be traceable to the extra hazards of the military or naval service when it appears from the evidence that the said disease or injury was in fact caused by, or is traceable to, the performance of duty in

the active military, naval, or air service (as that term is defined in section 101 of Title 38, United States Code).

§ 8.70 Claims alleging insurance contract where there is no application for insurance on file.

In those cases where claim is made alleging that a person made valid application for National Service life insurance, and that the insurance is subject to reinstatement or a waiver of payment of premiums is in order, or that the insurance matured by reason of the death of the insured at a time when the insurance was in force, and that there was a valid designation of beneficiary, and where there is no application for insurance on file, the claimant will be required to submit all available evidence concerning the alleged application for insurance in such manner and on such forms as may be deemed necessary. The evidence submitted by the claimant and the evidence as disclosed by records in possession of the Government relative to the question as to whether the person made a valid application for insurance will be considered and, if found sufficient to establish as a fact that the said person did apply for insurance and if the other allegations of said claim are sustained, a record of insurance will be established in accordance with such finding. However, if it be determined that the evidence is not sufficient to establish as a fact that the said person applied for insurance as alleged, or determined that any insurance applied for as alleged would not be valid or not subject to reinstatement, or determined that the said person did not die at a time when the insurance would have been in force if insurance had been applied for, or, in case of death, if it be determined that there was no valid designation of beneficiary, the claimant will be so informed and will be notified that, unless he desires to appeal to the Administrator, a disagreement exists as to the matters in controversy as contemplated by the provisions of section 784 of Title 38, United States Code, as far as the Veterans Administration is concerned. Further, the claimant will be informed that an appeal may be taken from the decision to the Administrator of Veterans Affairs by giving notice in writing in accordance with Veterans Administration regulations. The Chief Insurance Director or the Deputy Chief Insurance Director will make all original determinations as to whether a person made valid application for insurance as alleged. The determination as to the validity of beneficiary designations, in death cases, will be made by the claims activity in the office having jurisdiction over the insurance death claim.

61. In § 8.71, the introductory paragraph is amended to read as follows:

§ 8.71 Parents, brothers, and sisters of illegitimates.

If the insured was born an illegitimate and not legitimized before his death, the terms "parent," "father," "mother," "brother," and "sister" employed in the National Service Life Insurance Act, as amended, and the National Service life insurance provisions of Title 38, United

States Code, shall include as to relationship by consanguinity:

62. In § 8.75, the introductory paragraph is amended to read as follows:

§ 8.75 Mode of payment where insurance matured prior to August 1, 1946.

National Service life insurance which matured prior to August 1, 1946, shall be payable in the following manner:

63. In § 8.77, paragraph (b) (2) is amended to read as follows:

§ 8.77 Election of optional settlement by beneficiary.

(b) * * *

(2) Except as provided below in this subparagraph, a change in the mode of settlement is not authorized in any case in which payment has commenced, and settlement under any one of the options shall be in full and complete discharge of all liability under the contract: *Provided*, That where payments were commenced on or after September 30, 1944, but before the beneficiary was advised of the right of election, change in the mode of settlement may be effected if such beneficiary so elects within a reasonable period, ordinarily not more than 60 days, after notice has been sent regarding optional settlement: *Provided further*, That in any case in which payments were commenced prior to September 30, 1944, the beneficiary, whether or not the first beneficiary, may, within 2 years after August 1, 1946, elect a refund life income (option 4) payable in monthly installments adjusted as of the date of maturity of the insurance and based upon the age of the original payee at such maturity date, credit being allowed for payments made under the present mode of settlement.

64. In § 8.79, the headnote and introductory paragraph are amended to read as follows:

§ 8.79 Optional settlements on insurance issued under the provisions of the National Service Life Insurance Act of 1940, as amended, prior to April 26, 1951.

The optional settlements under a National Service life insurance policy maturing on or after August 1, 1946, are as follows:

65. In § 8.80a, the headnote and introductory paragraph are amended to read as follows:

§ 8.80a Payment to a beneficiary where the monthly installment of insurance, issued under the National Service Life Insurance Act, as amended prior to April 26, 1951, is less than \$10 under the option selected.

Where payment is to be made in 12 or 24 monthly installments (see § 8.77(a) (5)), the amount of each monthly installment will be paid in accordance with the following table:

66. Section 8.81 is revised to read as follows:

No. 178—4

§ 8.81 Maturity by death during total disability of less than 6 months' duration.

In the event of the death of the insured within 6 months after becoming totally disabled, insurance will be deemed in force if such disability commenced (a) subsequent to the date of application for insurance, (b) while the insurance was in force under premium-paying conditions, and (c) prior to the insured's 60th birthday, and continued without interruption until the insured's death: *Provided*, That proof of the foregoing facts, satisfactory to the Administrator of Veterans Affairs, is filed by the beneficiary with the Veterans Administration within 1 year after the insured's death: *Provided further*, That if the beneficiary be insane or a minor, the proof of such facts may be filed within 1 year after removal of such disability: *And provided further*, That the amount of the unpaid premiums shall be a lien against and deducted from the proceeds of the insurance.

67. Section 8.84 and the centerhead immediately above which reads "Automatic Extension of 5-Year Level Premium Term Insurance" are revoked:

§ 8.84 Five-year level premium term insurance as extended by Public Law 118, 79th Congress. [Revoked]

68. Section 8.93 is revised to read as follows:

§ 8.93 Selection of optional settlements for minors and incompetents.

When an optional mode of settlement of National Service life insurance heretofore or hereafter matured is available to a beneficiary who is a minor or incompetent, such option may be exercised by his fiduciary, person qualified under section 14 of Title 25, United States Code, or person recognized by the Administrator as having custody of the person or the estate of such beneficiary, and the obligation of the United States under the insurance contract shall be fully satisfied by payment of benefits in accordance with the mode of settlement so selected.

69. Section 8.95 is revised to read as follows:

§ 8.95 Authority for the total disability income provision for National Service life insurance.

The total disability income provision for National Service life insurance authorized by section 602(v) of the National Service Life Insurance Act, 1940, as amended, and section 715 of Title 38, United States Code, is subject in all respects to the applicable provisions of Title 38, United States Code, or any amendments thereto and all National Service life insurance regulations now in force or hereafter adopted, all of which together with the insured's application, evidence of good health, tender of premium, and the total disability income provision shall constitute the contract.

70. In § 8.96, paragraph (a) is amended to read as follows:

§ 8.96 Application for total disability income provision and application for reinstatement thereof.

(a) Application for the total disability income provision authorized by Public Law 85-678 and section 715 of Title 38, United States Code, and the evidence of good health should be on such forms as may be prescribed by the Veterans Administration, but any statement in writing sufficient to identify the applicant and the amount of insurance applied for, together with evidence of good health satisfactory to the Administrator and remittance to cover the first monthly premium, will be sufficient as an application for the total disability income provision. Effective November 1, 1958, total disability insurance with benefits at the rate of \$10 per month will be granted for each \$1,000 of National Service life insurance in force in full multiples of \$500, but not to exceed the amount of life insurance, other than extended insurance, in force under the policy at the time of the application, upon compliance with the above requirements: *Provided*, That the total disability income provision authorized by Public Law 85-678 and section 715 of Title 38, United States Code, shall not be added to a National Service life insurance policy containing the total disability income provision issued under section 602(v) of the National Service Life Insurance Act, as amended, August 1, 1946, except (1) upon complete surrender of such total disability income provision with all claims thereunder (except as to rights which have matured for a period prior to the surrender), (2) written application signed by the applicant, (3) proof, satisfactory to the Administrator, that the applicant is in good health, and (4) payment of the first monthly premium determined by the Administrator to be required in such cases: *Provided further*, That no total disability income provision shall be issued on insurance granted under the provisions of section 620 of the National Service Life Insurance Act, as amended, or section 722(a) of Title 38, United States Code.

71. In § 8.96a, the headnote and paragraphs (a), (b), and (d) are amended to read as follows:

§ 8.96a Application for reinstatement and issue of the total disability income provision pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person having a National Service life insurance policy on a permanent plan with a total disability income provision attached who surrendered such insurance prior to January 1, 1957, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 at a time when the total disability income provision was in force, upon meeting the requirements for reinstatement of such insurance pursuant to the provisions of § 8.22(b) may at the same time reinstate the lapsed total disability income provision without medical examination upon (1) written application

signed by any such person, (2) payment of the required reserve and (3) the full premium on the total disability income provision for the month in which application is made.

(b) Any person having a National Service life insurance policy on a permanent plan with a total disability income provision attached who surrendered such insurance prior to January 1, 1957, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 at a time when the total disability income provision was in force, upon meeting the requirements for issuance of National Service life insurance pursuant to the provisions of § 8.0(a) (1) may be issued at the same time a total disability income provision without medical examination upon written application signed by the applicant and payment of the required premium: *Provided*, That the total disability income provision issued pursuant to this paragraph shall be on the same terms and conditions and shall not be in excess of the total disability insurance which lapsed at the time the life insurance was surrendered prior to January 1, 1957, pursuant to section 5 of the Servicemen's Indemnity Act of 1951.

(d) Where no total disability income provision was attached to National Service life insurance surrendered prior to January 1, 1957, under the provisions of section 5 of the Servicemen's Indemnity Act of 1951, such provisions may be added to National Service life insurance issued or reinstated under § 8.0(a) (1) or § 8.22 (b) upon compliance with the provisions of § 8.96(a).

72. Section 8.96b is revised to read as follows:

§ 8.96b Payment of total disability benefits on National Service life insurance issued or reinstated pursuant to section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code.

Payment under the total disability income provision (§ 8.98) attached to permanent plan insurance and issued or reinstated pursuant to section 5 of Public Law 23, 82d Congress, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code, shall not be denied because the total disability of the applicant commenced prior to the date of his application for issuance or reinstatement of such provision. If the insured was totally disabled at the time of issuance or reinstatement of the total disability income provision and (a) such disability had existed for less than 6 consecutive months, payment will commence in accordance with the provisions of § 8.98, and (b) if such disability had existed for at least 6 consecutive months, payment will commence on the first monthly anniversary date of total disability on or subsequent to the effective date of the issue or reinstatement of such insurance but in no event more than 6 months prior to receipt of required proof: *Provided*, That on insurance issued or reinstated

pursuant to section 623 of the National Service Life Insurance Act, while the applicant is in active service, payment of total disability income benefits shall not commence prior to the first monthly anniversary date of total disability on or after January 1, 1957.

73. In § 8.97, the headnote and paragraph (c) are amended to read as follows:

§ 8.97 Effective date of the total disability income provision authorized by Public Law 85-678 and section 715 of Title 38, United States Code.

The total disability income provision will be made effective as follows:

(c) No protection shall be granted on the total disability income provision issued under Public Law 85-678 and section 715 of Title 38, United States Code unless the total disability commenced on or after November 1, 1958, and subsequent to the date of application for such provision or the effective date thereof, whichever is later.

74. In § 8.99, the headnote and introductory paragraph are amended to read as follows:

§ 8.99 Total disability income provision for National Service life insurance authorized by Public Law 85-678 and section 715 of Title 38, United States Code.

The total disability income provision for National Service life insurance authorized by Public Law 85-678 and section 715 of Title 38, United States Code, is as follows:

75. Section 8.99a is revised to read as follows:

§ 8.99a Premium rates for the total disability income provision authorized by Public Law 85-678 and section 715 of Title 38, United States Code.

The premium rates for the total disability income provision authorized by Public Law 85-678 and section 715 of Title 38, United States Code, are published in VA Pamphlets 90-5A and 90-12.

76. Section 8.102 is revised to read as follows:

§ 8.102 Crediting of premiums to and payment of benefits from National Service life insurance appropriation.

(a) All premiums collected for insurance granted or reinstated pursuant to the second sentence of section 602(c) (2) or the first proviso of section 602(v) (1) of the National Service Life Insurance Act, as amended, August 1, 1946, shall be credited directly to the National Service life insurance appropriation.

(b) Any payment of benefits on insurance granted or deemed to have been granted pursuant to the foregoing provisions of the National Service Life Insurance Act, as amended; section 602(c) (3) of the act, as amended; section 602 (p) of the act, as amended (second sentence); and, any payment of benefits on insurance continued in force as provided in section 602(m) (2) of the act, as amended, shall be made directly from

the National Service life insurance appropriation.

77. In § 8.108, the introductory paragraph and Note immediately following paragraph (q) are amended and new paragraphs (o), (p) and (q) are added as follows:

§ 8.108 Forms of policies.

The forms of policies of insurance, listed in paragraphs (a) through (q) of this section, are hereby prescribed for use in granting National Service life insurance applied for in accordance with the provisions of the National Service Life Insurance Act of 1940, and the National Service life insurance provisions of Title 38, United States Code, amendments and supplements thereto, and Veterans Administration regulations promulgated pursuant thereto. Contracts of insurance authorized to be made in accordance with the terms and conditions set forth in the forms and policy plans listed in paragraphs (a) through (q) of this section, are subject in all respects to the applicable provisions of Title 38, United States Code, amendments and supplements thereto, and all Veterans Administration regulations promulgated pursuant thereto, all of which together with the insured's application, required evidence of health, including physical examination, if required, and tender of premium shall constitute the contract: *Provided*, any such policy that has been or is hereafter issued or reinstated under any provision of the law which provides for premiums being credited to other than the National Service Life Insurance Fund shall not participate in any gains or savings of such fund.

(o) Limited convertible five-year level premium term plan (VA Forms 9-4408 and 9-4412).

(p) Ordinary life plan; Twenty payment life plan; and Thirty payment life plan; (VA Forms 9-4409 and 9-4412).

(q) Twenty year endowment plan; Endowment plan maturing at age 60; and Endowment plan maturing at age 65; (VA Forms 9-4410 and 9-4412).

NOTE: Policy plans in paragraphs (g) through (q) of this section are nonparticipating.

78. The centerhead immediately preceding § 8.110 is amended to "National Service Life Insurance Issued On or After April 25, 1951."

79. Section 8.110 is revised to read as follows:

§ 8.110 National Service life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code.

(a) National Service life insurance on a permanent plan, issued pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act, or section 781 of Title 38, United States Code, shall be issued on the same plan and under the same terms and conditions as the National Service life insurance which was surrendered: *Provided*,

That waiver of premiums under section 602(n) of the National Service Life Insurance Act, as amended, or section 712 of Title 38, United States Code, shall not be denied because the total disability of the applicant commenced prior to the date of his application for such insurance. The amount of permanent plan National Service life insurance issued pursuant to said section 5, section 623, or section 781 shall not be in excess of the amount of insurance which was surrendered.

(b) National Service life insurance on the 5-year level premium term plan, issued pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code, shall be issued under the same terms and conditions as the National Service life insurance 5-year level premium term policy which expired. The amount of 5-year level premium term insurance issued pursuant to said section 5, section 623, or section 781 shall not be in excess of the amount of term insurance which expired.

(c) The amount of insurance granted under said section 5, section 623 or section 781, plus the amount of any other insurance (National Service life—United States Government life—War Risk) in force under premium-paying conditions or as paid-up or extended insurance, shall not exceed \$10,000.

80. Section 8.114 is revised to read as follows:

§ 8.114 Surrender of permanent plan policies of National Service life insurance, in force for less than 1 year, under the provisions of section 5, Servicemen's Indemnity Act of 1951.

A permanent plan policy of National Service life insurance in force for less than 1 year by payment or waiver of premiums shall not have a cash value. Such a policy which was not lapsed could be surrendered by the insured while in active service prior to January 1, 1957, with right of replacement pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, section 623 of the National Service Life Insurance Act or section 781 of Title 38, United States Code, upon written request therefor and upon complete surrender of the insurance with all claims thereunder.

81. Section 8.115 and the centerhead immediately above which reads "Applications for Government Life Insurance Under Section 623, National Service Life Insurance Act, Made by Person in Active Service on January 1, 1957, But Filed Prior to That Date" are revoked:

§ 8.115 Applications for National Service life insurance and United States Government life insurance under section 623, of the National Service Life Insurance Act, which are made by persons in the active service on January 1, 1957, but filed prior to that date. [Revoked]

82. Immediately above § 8.116, a new centerhead is added to read "National

Service Life Insurance Granted Under Section 722(b) of Title 38, United States Code."

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

These regulations are effective September 11, 1959.

[SEAL] ROBERT J. LAMPERE,
Associate Deputy Administrator.

[F.R. Doc. 59-7564; Filed, Sept. 10, 1959; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

[Circular 2021]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RE-CONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

Miscellaneous Amendments

On page 5577 of the FEDERAL REGISTER of July 10, 1959, there was published a notice of proposed rule making to issue regulations to provide for the sale of set-aside timber to qualified small business concerns in accordance with the Small Business Act of July 18, 1958 (72 Stat. 384). Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed regulations.

No comments, suggestions or objections have been received.

The proposed regulations are hereby adopted without change and are set forth below.

FRED A. SEATON,
Secretary of the Interior.

SEPTEMBER 3, 1959.

1. Section 115.16 is amended by adding a new paragraph (f) to read as follows:

§ 115.16 Definitions.

(f) "Set-aside" means a designation of timber for sale which is limited to bidding by small business concerns as defined by the Small Business Administration in its regulations (13 CFR Part 121) under the authority of section 15 of the Small Business Act of July 18, 1958 (72 Stat. 384).

2. Section 115.17 is amended to read as follows:

§ 115.17 Annual timber sale plan.

Plans for the sale of timber from the O. and C. lands will be developed annually. Suggestions from prospective purchasers of such timber may be received to assist in the development of a sound annual timber sale plan. Such

plan shall be advertised in a newspaper of general circulation in the area in which the timber is located. Such advertisement shall indicate generally the probable time when the various tracts of timber included in the plan will be offered for sale, set-asides if any, and the probable location and anticipated volumes of such tracts. The authorized officer may subsequently change, alter or amend the annual timber sale plan.

3. Paragraph (b) of § 115.18 is amended to read as follows:

§ 115.18 Advertising.

(b) The advertisement of sale shall state the location by legal description of the tract or tracts on which timber is being offered, the species, estimated quantities, the unit of measurement, appraised values, time and place for receiving and opening of bids, minimum deposit required, the access situation, the method of bidding, which tracts of timber if any have been designated as set-asides, the office where additional information may be obtained, and such additional information as the authorized officer may deem necessary.

4. Section 115.22 is amended to read as follows:

§ 115.22 Qualifications of bidders.

A bidder for the sale of timber must be (a) an individual who is a citizen of the United States, (b) a partnership composed wholly of such citizens, (c) an unincorporated association composed wholly of such citizens, or (d) a corporation authorized to transact business in the State of Oregon. A bidder must also have submitted a deposit in advance of sale as required by § 115.23. To purchase set-aside timber, the bidder must accompany his deposit with a self-certification statement that he is qualified as a small business concern as defined by the Small Business Administration in its regulations (13 CFR Part 121).

5. In § 115.24 the present paragraphs (c) and (d) are redesignated as paragraphs (d) and (e) and a new paragraph (c) is added as follows:

§ 115.24 Conduct of sales.

(c) Only bids of small business concerns which have filed a self-certification statement as required by § 115.22, may be considered for sales subject to set-asides. When no such bids are received, the timber may be sold under paragraph (e) of this section in the same manner as timber not previously made subject to a set-aside. When timber subject to a set-aside is not sold for any other reason, the sale may be rescheduled for a set-aside sale.

(Sec. 5, 50 Stat. 875; 43 U.S.C. 1181e)

[F.R. Doc. 59-7564; Filed, Sept. 10, 1959; 8:47 a.m.]