NOV 8

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

LITTERA SCRIPTA MANET

FEDERAL REGISTER

VOLUME 8 NUMBER 220

Washington, Friday, November 5, 1943

Regulations

TITLE 6—AGRICULTURAL CREDIT

Chapter III—War Food Administration (Farm Security)

Subchapter A—Administration

PART 300—GENERAL

APPLICABILITY OF ORDERS TO EXPENDITURE OF FUNDS UNDER ACT OF 1944

By virtue of and pursuant to the authority vested in me by the Department of Agriculture Appropriation Act, 1944, approved July 12, 1943 (Public Law 129, 78th Congress), I hereby order and direct,

§ 300.10 *Making applicable to the expenditure of funds made available by the items entitled "Farm Tenancy" and "Loans, Grants and Rural Rehabilitation" contained in the Department of Agriculture Appropriation Act, 1944, certain orders, rules, regulations, and delegations of authority issued under authority of the Department of Agriculture Appropriation Act, 1943.* (a) That the expenditure of funds appropriated, authorized or administered by or pursuant to the items of said act entitled "Loans, Grants and Rural Rehabilitation" and "Farm Tenancy" and the administration of all activities conducted with such funds shall, subject to the limitations expressed in said act, be in accordance with the orders, rules, regulations, and delegations of authority heretofore issued and in effect on the date of issuance hereof relating to the expenditure of funds appropriated or authorized to the Department of Agriculture by or pursuant to the Department of Agriculture Appropriation Act, 1943, to the extent that such orders, rules, regulations, and delegations of authority are consistent with the provisions of the Department of Agriculture Appropriation Act, 1944.

(b) That no loans, grants, or other expenditures shall be made from the funds appropriated or authorized by the Department of Agriculture Appropriation Act, 1944, under the item "Loans, Grants and Rural Rehabilitation" except such as are shown clearly by the facts to be necessary for the production of agricultural commodities.

(c) That any redelegations of authority in effect on the date of this order shall continue in effect subject to any powers heretofore granted to revoke such redelegations and subject further to the limitations in the Department of Agriculture Appropriation Act, 1944, and in this memorandum, with respect to use of funds appropriated and authorized by that act.

(d) That whenever any authority heretofore granted by the Secretary in connection with any program limited the amount of money which might be expended thereunder, such limit shall be deemed applicable to the total amount to be expended under such authorization for such program out of funds appropriated by prior acts and funds appropriated by or advanced pursuant to the Department of Agriculture Appropriation Act, 1944.

(e) The foregoing rules and regulations shall be effective as of July 1, 1943, and remain in effect until my further order.

(Pub. Law No. 129, 78th Cong.; E.O. 9322, 8 F.R. 3807, as amended by E.O. 9334, 8 F.R. 5423)

Issued this 3d day of November 1943.

MARVIN JONES,
War Food Administrator.

Approved: November 3, 1943.
CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 43-17885; Filed, November 4, 1943; 11:46 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—War Food Administration (Sugar Determinations)

PART 802—SUGAR DETERMINATIONS

LOUISIANA SUGARCANE FOR SUGAR, 1943 CROP

NOVEMBER 3, 1943.

Pursuant to the provisions of section 301 (d) of the Sugar Act of 1937, as amended, and Executive Order No. 9322, issued March 26, 1943, as amended by Executive Order 9334, issued April 19, 1943, the following determination is hereby issued:

(Continued on next page)

CONTENTS

REGULATIONS AND NOTICES

ALIEN PROPERTY CUSTODIAN:
Vesting orders: Page
Bahlau, Grete 15280
Bauer, Max 15270
Baumann, Frank R. 15271
Boeton Pearl Co., Ltd. 15269
Celle, Antonio 15270
Cilauro, Vincenzo 15271
Crohn, Herman 15271
Danila, Achim 15272
Dreyer, Louise 15272
Edinger, Lina 15272
Foerdrung, Minnie, and Pauline Niecke 15273
Fogliano, Anthony 15273
Foulke, Frances G. 15274
Gerbracht, Ernest W. 15274
Golfuber, Rosa 15279
Hansen, Jorgine 15274
Kuno, Yoshi S. 15275
Lang, Helene 15275
Leichtnam, Margaret 15275
Meinhard, Nina S. 15276
Moulton, Gertrude Mayo 15276
Music Publishers, German 15268
Nador, Joseph 15269
Nixdorf, Otto 15276
Reinius, Elisebeth 15277
Rolzavolgyi & Co. 15268
Santulli, Joseph 15277
Teske, Minna 15277
Traut, Olga 15278
Unterholzner, Simon 15278
Van Der Zee, George 15278
Wacker, Charles 15279
COAL MINES ADMINISTRATION:
Termination of appointment of operating managers:
Acey, Mike Coal Co., et al. 15262
Bertha Jellico Coal Co., et al. 15265
C & C Coal Co., et al. 15263
Cameron Coal Co. Inc., et al. 15264
Darb Fork Coal Co., et al. 15264
Factory Coals Inc., et al. 15263
G. M. A. Coal Co., et al. 15263
James Hatcher Land Co., et al. 15265
FARM SECURITY AGENCY:
Administration; applicability of prior orders to expenditure of funds made available by certain items of appropriation act of 1944 15201

(Continued on next page)

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

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

FEDERAL COMMUNICATIONS COMMISSION: Page
Construction permits:
Albany Broadcasting Co 15267
Valley Broadcasting Co 15267
Emergency radio services:
Coordinated police radiocommunication services 15261
Portable-mobile installations in private vehicles 15261
War emergency services; tests by licensees of civilian defense stations 15262
FEDERAL TRADE COMMISSION:
Hearings, etc.:
Kay Laboratories, Inc 15268
Scotch Woolen Mills 15268
INTERNAL REVENUE BUREAU:
Income tax, revision of regulations applicable to taxable years beginning after Dec. 31, 1941; Subparts D through G, inclusive 15205
INTERSTATE COMMERCE COMMISSION:
Burlington, Iowa, designation as grain marketing area 15262
OFFICE OF DEFENSE TRANSPORTATION:
Coordinated operations plans:
Esau Truck Line and Riley's Truck Line 15281
Frisco Transportation Co. and Sparks Truck Line 15280
Santa Fe Trail Transportation Co. and Remmers Truck Line 15281
OFFICE OF ECONOMIC WARFARE:
General licenses:
In-transit shipments 15239
Shipments not exceeding specified value 15240
OFFICE OF PRICE ADMINISTRATION:
Alfalfa hay products (RMPR 456, Am. 1) 15257

CONTENTS—Continued

OFFICE OF PRICE ADMINISTRATION—Continued. Page
Animal product feedingstuffs (RMPR 74, Am. 4) 15257
Bituminous coal (MPR 120, Am. 70) 15256
Brushes and brooms (Order A-2 under MPR 188, Am. 4) 15282
Fish, fresh, and seafood (MPR 418, Am. 16) 15257
Fish meal and scraps (RPS 73, Am. 5) 15257
Food and drink sold for immediate consumption, dining cars (Restaurant MPR 1, Am. 2) 15254
Foods sold at retail in classified stores:
Group 1 and 2 stores (MPR 423, Am. 7) 15252
Group 3 and 4 stores (MPR 422, Am. 6) 15251
Foods sold at wholesale (MPR 421, Am. 4) 15250
Fruit preserves, jams, etc., packers and sellers (MPR 473, Am. 2) 15257
Gasoline rationing (RO 5C, Am. 80, Corr.) 15255
Hawaii; fruits (MPR 373, Am. 21) 15253
Hides, kips and calf skins (RPS 9, Am. 6) 15259
Laundries, power, in designated areas:
Buffalo, N. Y. (Supp. Service Reg. 13 to MPR 165, Am. 3) 15258
Fall River, Mass. (Supp. Service Reg. 9 to MPR 165, Am. 1) 15258
Minneapolis-St. Paul, Minn. (Supp. Service Reg. 14 to MPR 165, Am. 1) 15258
Pittsfield, Mass. (Supp. Service Reg. 8 to MPR 165, Am. 1) 15258
Spokane, Wash. (Supp. Service Reg. 15 to MPR 165, Am. 1) 15259
Waterbury-Naugatuck, Conn. (Supp. Service Reg. 10 to MPR 165, Am. 1) 15258
Meats, fats, fish and cheeses, rationing:
(RO 16, Am. 76) 15253
(RO 16, Am. 77) 15253
Milk and milk products (Supp. Reg. 14A, Am. 6) 15259
Nuts, edible tree (MPR 490, Am. 1) 15259
Petroleum products sold at retail:
(MPR 137, Am. 38) 15249
(MPR 137, Am. 39) 15249
(MPR 137, Am. 40) 15256
Pig iron (RPS 10, Am. 8, Corr.) 15255
Poultry (RMPR 269, Am. 18) 15258
Regional and district office orders:
Anthracite coal, designated New Jersey counties 15289
Bread, Tarrant County, Texas 15294
Firewood, designated counties:
Idaho 15298
Maine (Corr.) 15301
Washington (2 documents) 15297, 15298

CONTENTS—Continued

OFFICE OF PRICE ADMINISTRATION—Continued.
Regional and district office orders—Continued. Page
Fluid milk, designated areas:
Greenville, Ill 15295
Kearney, Nebr 15296
Marshall County, Ind. (2 documents) 15294, 15300
McCook, Nebr 15295
New Hampshire (2 documents) 15300
Onawa and Blencoe, Iowa 15295
Washington counties 15301
Fresh fish and seafood, designated areas of Washington 15301
Fresh fruit and vegetables, Wyoming (2 documents) 15299
Solid fuels, designated areas:
Atlantic County, N. J 15292
Boston, Mass 15300
Colorado counties 15296
Greeley, Colo 15301
Richmond County, N. Y 15301
Rochester, N. Y 15284
Stoughton, Mass 15287
Worcester, Mass 15282
Rubber goods, mechanical (MPR 149, Am. 15) 15255
Stoves, rationing (RO 9A, Am. 3) 15254
WAGE AND HOUR DIVISION:
Finance, insurance, etc. industries, minimum wage 15265
WAR FOOD ADMINISTRATION:
Dairy foods and mix, frozen (FDO 8-2) 15204
Louisiana sugarcane crop, determination of prices 15201
Milk, designated areas:
Chicago, Ill 15204
Des Moines, Iowa 15204
Oklahoma City, Okla 15204
WAR PRODUCTION BOARD:
Cinchona bark and cinchona alkaloids (M-131) 15247
Industrial machinery:
(L-83 incl. Int. 2 and 3) 15244
(L-83, Int. 1) 15246
Merchant trade products, warehouses, etc. (M-21-b-2) 15242
Military insignia (L-131) 15246
Newspapers (L-240, Am. 1) 15241
Quinine, and other cinchona bark drugs (M-131-a, Rev.) 15244
Suspension order; Glidden Co 15241

§ 802.22k *Fair and reasonable prices for the 1943 crop of Louisiana sugarcane for sugar.* (a) Subject to the provisions of paragraph (b), fair and reasonable prices for the 1943 crop of Louisiana sugarcane for sugar shall be (when the price of 96° raw sugar, duty-paid basis, is 3.50 cents per pound) not less than $1.00 per ton of standard sugarcane for each 1 cent of the average price per pound of raw sugar determined in accordance with whichever of the following options is agreed upon: (1) the average of the weekly quotations of 96° raw sugar, duty-paid basis, on the Louisiana Sugar and Rice Exchange and the Cane Products Trade Association for the week in which such sugarcane is delivered; or (2) the simple average of the weekly quotations of 96° raw sugar, duty-paid basis, on the Louisiana Sugar

and Rice Exchange and the Cane Products Trade Association for the weeks from Friday, October 8, 1943 (or the Friday within the first marketing week of actual trading), to March 31, 1944, except that, if such quotations do not give full effect to orders or regulations of the Federal Government pertaining to the establishment of a price for 96° raw sugar, duty-paid basis, at New Orleans, Louisiana, the Chief of the Sugar Branch, Food Distribution Administration, may substitute such prices as will give effect to any such Federal orders or regulations: *Provided, however,*

(i) That for each decline of ¼ cent in the price of 1 pound of 96° raw sugar, duty-paid basis, below 3.50 cents per pound, the price of standard sugarcane shall be reduced by not more than 3 per centum, with intervening prices in proportion, unless the price of sugar falls below 2.75 cents per pound, in which case no further reduction shall be made;

(ii) That for an advance of ¼ cent in the price of 1 pound of 96° raw sugar, duty-paid basis, above 3.50 cents per pound, the price of standard sugarcane shall be increased by not less than 3 per centum, with intervening prices in proportion, unless the price of raw sugar exceeds 3.75 cents per pound, in which case settlement shall be made on the basis of $1.03 for each 1 cent of the price;

(iii) That the premiums paid for sugarcane of the 1943 crop containing more sucrose in the normal juice than that defined as standard sugarcane shall be not less than those paid during the 1942 crop year;

(iv) That the discounts applicable to sugarcane of the 1943 crop containing less sucrose in the normal juice than that defined as standard sugarcane shall be not greater than those applied in connection with the 1942 crop; and

(v) That, in the event any agency of the Federal Government shall, through any orders or regulations require modification of the normal marketing practices, then the price basis for settlement shall be determined by reference to the results of such orders or regulations and upon approval by the Chief of the Sugar Branch, Food Distribution Administration.

(b) *Processors accepting offer of Commodity Credit Corporation.* Fair and reasonable prices to be paid by processors who have accepted the offer of the Commodity Credit Corporation (copy of which is appended as Exhibit I), shall be:

(1) When the season average price of 96° raw sugar, duty-paid basis, is 3.73 cents or less per pound, the prices calculated in accordance with paragraphs (a) and (c) of this section, plus the additional 33 cents per ton of standard sugar cane as provided in said offer;

(2) When the season average price of 96° raw sugar, duty-paid basis, is between 3.74 and 4.04 cents per pound, inclusive, the prices calculated in accordance with paragraphs (a) and (c) of this section, using a season average price of 3.73 cents per pound, plus the additional 33 cents per ton of standard sugarcane as provided in said offer; and

(3) When the season average price of 96° raw sugar, duty-paid basis, exceeds 4.04 cents per pound, the prices calculated in accordance with the provisions of paragraphs (a) and (c) of this section.

(c) *Definitions and general provisions.* (1) On each ton of Louisiana sugarcane there shall be paid a molasses bonus, such bonus to be computed by taking ½ of the excess, if any, of the average price per gallon of blackstrap molasses, as quoted by the agencies set out above for the period there specified, over 8 cents, and multiplying the product by 6½ (a figure representing the state average recoveries of blackstrap molasses for the three-year period, 1938–1940).

(2) Deductions based upon decreased boiling house efficiency may be made for frozen sugarcane accepted by the processor (it being understood that cane shall not be considered as frozen even after being subjected to freezing temperature unless and until there is evidence of damage having taken place because of the freeze) at a rate not in excess of 3.775 per centum of the payment, computed without regard to the molasses bonus, for each 0.25 cc. of acidity above 2.25 cc. but not in excess of 4.50 cc. (analyzed in accordance with the established methods of the area, with intervening fractions computed to the nearest multiple of 0.05 cc.).

(3) Standard sugarcane shall be sugarcane containing no more sucrose in the normal juice than was defined as standard sugarcane by the processor in his sugarcane purchase contract, or contracts, verbal or written, used in the year 1942.

(4) Costs, such as hoisting and weighing of sugarcane, shall be absorbed by the processor, except in those instances in which the processor did not bear such costs in 1942, but nothing in this subparagraph shal be construed as prohibiting negotiations with respect to the level of such costs, subject, upon appeal, to review by the War Food Administrator or his authorized agent, in the event of changes alleged to be unfair to either the producer or the processor.

(5) Where the only available practicable means of transportation are rail facilities and the distance to the nearest factory is in excess of 50 miles, the cost of transportation may, by mutual consent of the interested parties, and subject, upon appeal, to review by the War Food Administrator or his authorized agent, be shared by the processor and the producer.

(6) The processor shall not, through any subterfuge or device whatsoever, reduce the returns from the 1943 crop of Louisiana sugarcane to the producer below those determined above.

(Sec. 301, 50 Stat. 910; 7 U.S.C. 1940 ed. 1131; E.O. 9322, as amended by E.O. 9334)

Issued this 3d day of November 1943.

ASHLEY SELLERS,
Assistant War Food Administrator.

CCC LETTER NO. 2 TO PROCESSORS OF LOUISIANA SUGARCANE

OFFER TO PROCESSORS OF 1943 CROP LOUISIANA SUGARCANE FOR SUGAR

OCTOBER 22, 1943.

In order that regular and full delivery schedules may be maintained by producers of 1943 crop Louisiana sugarcane and that full utilization may be made of processors' facilities, with a minimum risk of loss of sugarcane through freeze and other hazards; and in order to enable processors contracting with producers of sugarcane to provide for such regular and full delivery schedules, Commodity Credit Corporation, a corporate agency of the United States (hereinafter called "Commodity"), hereby offers, subject to the terms and conditions specified below, to make payments to processors of 1943 crop Louisiana sugarcane for sugar.

1. Processor's contracts with producers shall provide, weather and other conditions permitting, for regular daily deliveries of sugarcane to the Processor in such quantities as will result in full utilization of the Processor's facilities and will reduce so far as possible the risk of loss to sugarcane through freeze and other hazards.

2. (a) On or after November 15, 1943, Commodity shall, on application of the Processor approved by Commodity, pay to the Processor 25 cents per ton of the total estimated quantity of standard sugarcane (standard sugarcane to be defined in accordance with the custom of the Processor) to be delivered to the Processor by all producers and produced by the Processor for the extraction of sugar during the Processor's grinding season. Such estimated quantity shall not exceed 110 percent of the quantity of standard sugarcane of the 1942 Louisiana crop processed by the Processor, and shall be based on a survey of the standing cane from which deliveries to the Processor will be made and which is produced by the Processor for the extraction of sugar during the Processor's grinding season.

(b) As soon as practicable after March 31, 1944, Commodity shall, on application of the Processor approved by Commodity, pay to the Processor any amount by which (i) the product of the number of tons of 1943 crop Louisiana standard sugarcane delivered to the Processor by all producers and harvested from his own production by the Processor for the extraction of sugar during the Processor's grinding season multiplied by 33 cents per ton of such sugarcane exceeds (ii) the amount theretofore paid under subsection (a) of this section.

(c) As soon as practicable after March 31, 1944, the Processor shall pay to Commodity any amount by which (i) the amount theretofore paid under subsection (a) of this section exceeds (ii) the product of the number of tons of 1943 crop Louisiana standard sugarcane delivered to the Processor by all producers and harvested from his own production by the Processor for the extraction of sugar during the Processor's grinding season multiplied by 33 cents per ton of such sugarcane.

3. (a) Processor shall be obligated to pay to the producer 33 cents with respect to each ton of standard sugarcane delivered to the Processor by the producer in the event the simple average of the weekly quotations of 96° raw sugar, duty-paid basis of the Louisiana Sugar and Rice Exchange and the Cane Products Trade Association for the weeks from Friday, October 8, 1943, (or the Friday within the first marketing week of actual trading) to March 31, 1944, does not exceed $4.04 per 100 pounds: *Provided,* That if such quotations do not give full effect to orders or regulations of the Federal Government pertaining to the establishment of a price for 96° raw sugar, duty-paid basis, at New Orleans, Louisiana, the Chief of the Sugar Branch, Food Distribution Administration, may substitute such prices as will give effect to any such Federal orders or regulations.

(b) The amount which the Processor is obligated to pay to producers under subsection (a) of this section, shall be paid as follows: 25 cents of such amount per ton of standard sugarcane shall be paid by the Processor to the producer promptly after the receipt from Commodity of the payment provided for in section 2 (a) hereof with re-

spect to all sugarcane theretofore delivered by producers to Processor and promptly after the delivery by producers of sugarcane which is delivered to the Processor thereafter. The remainder of such amount shall be paid by the Processor to such producers as soon as practicable after March 31, 1944.

(c) In the event the Processor fails to pay to the producers entitled thereto any amount required to be paid by subsections (a) and (b) of this section, Commodity shall have the right to recover an equal amount from the Processor, such right being in addition to all other rights of Commodity in the premises.

4. The Processor shall pay to Commodity as soon as practicable after March 31, 1944, 1.65 cents per ton of standard sugarcane delivered to him by producers and harvested from his own production by the Processor for the extraction of sugar during his grinding season for each one cent by which the simple average of the weekly quotations referred to in section 3 (a) hereof exceeds $3.73 per 100 pounds, up to and including $3.93 per 100 pounds: *Provided*, That if such quotations do not give full effect to orders or regulations of the Federal Government pertaining to the establishment of a price for 96° raw sugar, duty-paid basis, at New Orleans, Louisiana, the Chief of the Sugar Branch, Food Distribution Administration, may substitute such prices as will give effect to any such Federal orders or regulations.

5. Applications made by Processor for payment hereunder shall be in such form, supported by such documents, and accompanied by such certifications and proofs as Commodity may prescribe.

6. The Processor shall keep complete and accurate books, records and accounts with respect to all sugarcane purchased or produced by or delivered to him and with respect to all payments made to producers by him and shall furnish to Commodity whatever information and reports relating to these transactions Commodity may from time to time request. Commodity shall have the right at any time or times to audit the records, books and accounts of the Processor.

7. Any Processor who desires to accept this offer shall return a copy thereof to Commodity with his acceptance endorsed thereon on or before November 6, 1943.

COMMODITY CREDIT CORPORATION,
By J. B. HUTSON,
President.

Accepted____________ 1943

____
Processor

By______________________________
Title____________________________

[F. R. Doc. 43-17884; Filed, November 4, 1943; 11:46 a. m.]

Chapter II—War Food Administration (Distribution Orders)

[FDO 8-2]

PART 1401—DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

Pursuant to the authority vested in me by Food Distribution Order No. 8, issued by the Secretary of Agriculture on January 19, 1943, as amended (8 F.R. 953, 12163), and to effectuate the purposes thereof, it is hereby amended as follows:

§ 1401.6 *Increased percentage for certain frozen dairy foods sold and delivered in California*—(a) *Definitions.* When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) Each term defined in Food Distribution Order No. 8, as amended, shall, when used herein, have the same meaning as set forth in said Food Distribution Order No. 8, as amended.

(2) The term "order" means Food Distribution Order No. 8 issued by the Secretary of Agriculture on January 19, 1943, as amended.

(b) *Increased percentage.* Pursuant to the provisions of § 1401.31 (b) (5) of the order, the percentage designated in § 1401.31 (b) (4) (i) of the order is hereby increased to 20 percent for each processor who sells and delivers in the State of California all of the frozen dairy foods produced by him. Each processor who sells and delivers frozen dairy foods in California and another state or states may apply the aforesaid 20 percent to that portion of his quota which was based upon the production of frozen dairy foods for sale and delivery in the State of California during the base period; but on the remaining portion which was used for the production and sale of frozen dairy foods outside the State of California the percentage shall be 10. The increased percentage granted herein shall be applied only with respect to frozen dairy foods other than ice cream and mixes for frozen dairy foods other than ice cream which are sold in the State of California.

(c) *Effective date:* The provisions hereof shall become effective at 12:01 a. m., p. w. t., November 1, 1943. With respect to violations, rights accrued, or liabilities incurred prior to the effective time hereof, the percentage specified in § 1401.31 (b) (4) (i) of the order shall be deemed to be in effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; FDO 8, 8 F.R. 953, 12163)

Issued this 4th day of November 1943.

ROY F. HENDRICKSON,
Director of Food Distribution.

[F. R. Doc. 43-17880; Filed, November 4, 1943; 11:29 a. m.]

[FDO 79-7, Amdt. 1]

PART 1401—DAIRY PRODUCTS

FLUID MILK AND CREAM IN CHICAGO, ILL., METROPOLITAN MILK SALES AREA

Pursuant to the authority vested in the Director by Food Distribution Order No. 79, dated September 7, 1943 (8 F.R. 12426), as amended, and to effectuate the purposes thereof, Director Food Distribution Order No. 79-7, § 1401.40, relative to the conservation of fluid milk in the Chicago, Illinois, metropolitan milk sales area (8 F.R. 13371), issued by the Director of Food Distribution on September 30, 1943, is amended as follows:

The assessment specified in § 1401.40 (n) of the original order is reduced to $0.005 per cwt.

Effective date. This amendment of FDO No. 79-7, shall become effective at 12:01 a. m. e. w. t., November 5, 1943.

(E.O. 9280, 8 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; FDO 79, 8 F.R. 12426, 13283)

Issued this 3d day of November 1943.

ROY F. HENDRICKSON,
Director of Food Distribution.

[F. R. Doc. 43-17881; Filed, November 4, 1943; 11:29 a. m.]

[FDO 79-48, Amdt. 1]

PART 1401—DAIRY PRODUCTS

FLUID MILK AND CREAM IN DES MOINES, IOWA, METROPOLITAN MILK SALES AREA

Pursuant to the authority vested in the Director by Food Distribution Order No. 79, dated September 7, 1943 (8 F.R. 12426), as amended, and to effectuate the purposes thereof, Director Food Distribution Order No. 79-48, § 1401.81, relative to the conservation of fluid milk in the Des Moines, Iowa, metropolitan milk sales area (8 F.R. 14070), issued by the Director of Food Distribution on October 14, 1943, is amended as follows:

The milk sales area described in § 1401.81 (b) of the original order is modified in the following particulars: Add Crocker township in Polk County, Iowa.

Effective date. This amendment of FDO No. 79-48, shall become effective at 12:01 a. m., e. w. t., November 5, 1943.

(E.O. 9280, 8 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; FDO 79, 8 F.R. 12426, 13283)

Issued this 3d day of November 1943.

ROY F. HENDRICKSON,
Director of Food Distribution.

[F. R. Doc. 43-17882; Filed, November 4, 1943; 11:29 a. m.]

[FDO 79-71, Amdt. 1]

PART 1401—DAIRY PRODUCTS

FLUID MILK AND CREAM IN OKLAHOMA CITY, OKLA., METROPOLITAN MILK SALES AREA

Pursuant to the authority vested in the Director by Food Distribution Order No. 79, dated September 7, 1943 (8 F.R. 12426), as amended, and to effectuate the purposes thereof, Director Food Distribution Order No. 79-71, § 1401.112, relative to the conservation of fluid milk in the Oklahoma City, Oklahoma, metropolitan milk sales area (8 F.R. 14274), issued by the Director of Food Distribution on October 21, 1943, is amended as follows:

The milk sales area described in § 1401.112 (b) of the original order is modified in the following particulars: In line 2 of the description of the milk sales area, insert the word "Boone" after the townships of, and before the word "Britton." In line 3, insert the word "Crutcho" after the word "Council Grove," and before the word "Greeley," making the description of the sales area read as follows:

> The cities of Oklahoma City, Bethany, Britton; the townships of Boone, Britton, Council Grove, Crutcho, Greeley, Mustang, and Oklahoma; and the town of Nichols Hill, all in Oklahoma County, Oklahoma.

Effective date. This amendment of FDO No. 79-71, shall become effective at 12:01 a. m., e. w. t., November 5, 1943.

(E.O. 9280, 8 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; FDO 79, 8 F.R. 12426, 13283)

Issued this 3d day of November 1943.

ROY F. HENDRICKSON,
Director of Food Distribution.

[F. R. Doc. 43-17883; Filed, November 4, 1943; 11:29 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter A—Income and Excess-Profits Taxes

[Regulations 111]

PART 29—INCOME TAX; YEARS BEGINNING AFTER DECEMBER 31, 1941

NOTE: The table of contents and Subparts A and B appeared in the issue for Wednesday, November 3, 1943. Subpart C appeared in the issue for Thursday, November 4, 1943.

SUBPART D—VICTORY TAX ON INDIVIDUALS

RATE AND COMPUTATION OF TAX

SEC. 450. IMPOSITION OF TAX [as added by sec. 172 (a), Rev. Act 1942].

There shall be levied, collected, and paid for each taxable year beginning after December 31, 1942, a victory tax of 5 per centum upon the victory tax net income of every individual (other than a nonresident alien subject to the tax imposed by section 211 (a)).

§ 29.450-1 *Victory tax on individuals.* For taxable years beginning after December 31, 1942, and before the day following the date of cessation of hostilities in the present war (determined as provided in section 475 (b)) there is imposed, in addition to the normal tax and the surtax, upon every individual (other than a nonresident alien whose tax liability is determined under section 211 (a)) a victory tax at the rate of 5 percent (subject to the limitations provided in section 456) upon the amount of the taxpayer's victory tax net income. As to what constitutes victory tax net income, see § 29.451-1.

SEC. 451. VICTORY TAX NET INCOME [as added by sec. 172 (a), Rev. Act 1942].

(a) *Definition.* The term "victory tax net income" in the case of any taxable year means (except as provided in subsection (c)) the gross income for such year (not including gain from the sale or exchange of capital assets as defined in section 117, or interest allowed as a credit against net income under section 25 (a) (1) and (2), or amounts received as compensation for injury or sickness which are included in gross income by reason of the exception contained in section 22 (b) (5) minus the sum of the following deductions:

(1) *Expenses.* The expenses allowable as a deduction by section 23 (a) (1) and (2).

(2) *Interest.* Interest allowable as a deduction by section 23 (b), if the indebtedness in respect of which such interest is allowed was incurred in carrying on any trade or business, or was incurred for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income.

(3) *Taxes.* Amounts allowable as a deduction by section 23 (c), to the extent such amounts are paid or incurred in connection with the carrying on of a trade or business, or in connection with property used in the trade or business, or in connection with property held for the production of income.

(4) *Losses.* Losses (other than losses from the sale or exchange of capital assets) allowable as a deduction under section 23 (e) (1), subject to the limitation provided in section 23 (h).

(5) *Bad debts.* The amount allowable by section 23 (k) (1).

(6) *Depreciation.* The amount allowable by section 23 (l).

(7) *Depletion.* The amount allowable by section 23 (m) and (n).

(8) *Pension trusts.* The amount allowable by section 23 (p).

(9) *Net operating loss.* The net operating loss deduction allowable by section 23 (s).

(10) *Amortization.* The amount allowable by section 23 (t).

(11) *Alimony.* The amount allowable by section 23 (u).

(12) *Special deduction.* The amount allowable by section 120.

(13) *Estates and trusts.* In the case of an estate or trust, the amount allowable by subsection (a) of section 162 in addition to the amounts allowable by subsections (b) and (c) of such section.

(b) *Items not deductible.* The deductions allowable by subsection (a) shall be subject to the limitations contained in section 24 and Supplement J and, in the case of nonresident aliens subject to the victory tax, shall be subject to the limitations contained in Supplement H.

(c) *Supplement T taxpayer.* If for any taxable year a taxpayer makes his return and pays his tax under Supplement T, the term "victory tax net income" means the gross income for such year.

(d) *Basis for determining loss.* The basis for determining the amount of deduction for losses sustained, to be allowed under paragraph (4) of subsection (a), and for bad debts, to be allowed under paragraph (5) of subsection (a), shall be the adjusted basis provided in section 113 (b) for determining the loss from the sale or other disposition of property.

(e) *Rule applicable to participants in a common trust fund.* In the case of a participant in a common trust fund, he shall in respect of the common trust fund income include in computing his victory tax net income, whether or not distributed and whether or not distributable, only his proportionate share of the ordinary net income or the ordinary net loss of the common trust fund, computed as provided in section 169 (d).

(f) *Rule applicable to partners.* In the case of an individual carrying on business in partnership, he shall in respect of the partnership income include in computing his victory tax net income, whether or not distribution is made to him, only his distributive share of the ordinary net income or the ordinary net loss of the partnership, computed as provided in section 183 (b).

§ 29.451-1 *Gross income for victory tax purposes*—(a) *Citizens or residents of the United States.* For the purposes of the determination of victory tax net income, there are excluded from gross income: (1) Gain from the sale or exchange of capital assets as defined in section 117; (2) interest upon obligations of the United States and obligations of corporations organized under Act of Congress which are instrumentalities of the United States, if such interest is allowable as a credit against net income under the provisions of section 25 (a) (1) and (2); and (3) amounts received as compensation for injury or sickness which are included in gross income by reason of the exception contained in section 22 (b) (5). As to what constitutes interest allowable as a credit against net income, see § 29.22 (b) (4)-4.

A participant in a common trust fund shall, in respect of his share of the income of the common trust fund, include in gross income for the purpose of the determination of his victory tax net income only his proportionate share of the ordinary net income or the ordinary net loss of the common trust fund computed as provided in section 169 (d). As to computation of net income of participants in a common trust fund, see § 29.169-2.

A member of a partnership shall, in respect of his share of the income of the partnership, include in gross income for the purpose of the determination of his victory tax net income, only his distributive share (whether distributed or not) of the ordinary net income or the ordinary net loss of the partnership, computed as provided in section 183 (b). As to computation of partnership income, see § 29.183-1.

(b) *Nonresident alien subject to victory tax.* Nonresident aliens falling into the following classes are subject to the victory tax: (1) Such aliens (other than residents of Canada) not engaged in trade or business within the United States but deriving during the taxable year more than $15,400 gross amount of dividends, interest, and other fixed or determinable annual or periodical income from sources within the United States; and (2) such aliens who at any time during the taxable year are engaged in trade or business within the United States. Nonresident aliens not engaged in trade or business within the United States and deriving during the taxable year not in excess of $15,400 gross amount of dividends, interest, and other fixed or determinable annual or periodical income from sources within the United States, and such nonresident aliens who are residents of Canada (regardless of the amount of their fixed or determinable annual or periodical income from sources within the United States), are not subject to the victory tax. In the case of a nonresident alien subject to the victory tax, the gross income adjusted as indicated in section 451 (a) means only gross income from sources within the United States. As to what constitutes gross income from sources within the United States in such cases, see sections 119 and 212 (a), and §§ 29.212-1, 29.212-2, and 29.211-7.

(c) *United States citizens entitled to benefits of section 251.* In the case of United States citizens entitled to the benefits of section 251, gross income for the purposes of the victory tax means only gross income from sources within the United States plus all amounts received by such citizens within the United States whether derived from sources within or without the United States, the sum of such amounts being reduced by the items, if any, excluded from gross income under paragraph (a) of this section. See § 29.251-1.

§ 29.451-2 *Victory tax net income*—(a) *Citizen or resident of the United States.* The term "victory tax net income" in the case of a citizen or resident of the United States means gross income, adjusted as described in § 29.451-1 (a), less the deductions provided in the case of individuals under section 23 relating to deductions from gross income, subject, however, to the qualifications, limitations, and exceptions with respect to such deductions provided in section 451 and this section. The deductions, therefore, from gross income (as defined in § 29.451-1 (a) allowable for the pur-

poses of the determination of victory tax net income are those set forth in section 23 and the regulations thereunder, subject, however, to the following qualifications, limitations, and exceptions:

(1) *Interest.* The deduction generally allowable for interest under the provisions of section 23 (b) is allowable for the purposes of the victory tax if, and only if, the indebtedness with respect to which such interest is allowed was incurred:

(i) In carrying on any trade or business;

(ii) For the production or collection of income; or

(iii) For the management, conservation, or maintenance of property held for the production of income.

Hence, for example, interest upon indebtedness representing a mortgage upon the home of the taxpayer is not deductible for the purposes of the victory tax. Interest upon indebtedness incurred incident to the acquisition of property held for investment, even though it actually produces no income during the taxable year, is nevertheless deductible. For the treatment of interest as a deduction from gross income generally, see section 23 (b) and the regulations thereunder.

(2) *Taxes.* The deduction generally allowable for taxes paid or incurred under the provisions of section 23 (c) is allowable for the purposes of the victory tax if, and only if, paid or incurred:

(i) In connection with the carrying on of a trade or business;

(ii) In connection with property used in the trade or business; or

(iii) In connection with property held for the production of income.

Hence, for example, taxes paid by the taxpayer with respect to ownership of his home are not deductible for this purpose. Likewise, automobile license fees are not deductible for victory tax purposes except in the case of automobiles used in connection with the carrying on of a trade or business. Taxes are not deductible which are paid or incurred by reason of ownership of property held by the taxpayer primarily as a sport, hobby, or recreation. The deduction for retail sales taxes provided in section 23 (c) (3) is not applicable for victory tax purposes. Income, war profits, or excess profits taxes paid to a foreign country or to a possession of the United States are not deductible if the taxpayer chooses to take to any extent for such taxable year the benefits of section 131 relating to the credit for foreign taxes even though no credit is allowed for such taxes against the victory tax. Such taxes are deductible for victory tax purposes only when deducted for income tax purposes under the provisions of section 23 (c) and then only if they qualify under the limitations prescribed in this paragraph. See section 23 (c) (1) (C) and § 29.23 (c)-1. For the treatment of taxes as a deduction from gross income generally, see section 23 (c) and the regulations thereunder.

(3) *Losses.* Only losses allowable as a deduction under section 23 (e) (1) because incurred in trade or business are deductible. Wagering losses so incurred are allowable only to the extent of gains from such transactions. Losses from the sale or exchange of capital assets including losses from worthless securities governed by section 23 (k) (2), even though sustained in trade or business, are not deductible. The basis for determining the amount of allowable losses sustained for the purposes of the victory tax is the adjusted basis for determining the loss from the sale or other disposition of the property. For treatment of such losses generally, see sections 23 (e) (1), 23 (i), 113 (b), and the regulations thereunder.

(4) *Bad debts.* Only bad debts deductible under section 23 (k) (1) are allowable for victory tax purposes. Nonbusiness bad debts as defined in section 23 (k) (4) are not deductible nor is any deduction permitted on account of a worthless debt evidenced by a security as defined in section 23 (k) (3) and allowable for income tax purposes to the extent permitted by section 23 (k) (2). For treatment of bad debts generally, see section 23 (k) and the regulations thereunder.

(5) *Contributions.* The deduction for charitable and other contributions allowed generally under the provisions of section 23 (o) is not allowable for the determination of the victory tax net income except, however, that in the case of any individual who qualifies under the provisions of section 120, the deduction for contributions is allowable under section 23 (o) without regard to the percentage limitation contained therein. See § 29.120-1. In the case of estates or trusts, however, the deductions provided in section 162 (a) with respect to contributions as well as those in section 162 (b) and (c) with respect to distributions by the estate or trust are allowable. See section 162 and § 29.162-1.

(6) *Specific unallowable items.* The following items allowable generally as deductions from gross income for the purposes of normal tax and surtax are not allowable for the purposes of determining victory tax net income:

(i) The deduction for amortization of bond premium provided in section 125;

(ii) The deductions allowed estates, etc., on account of decedent's deductions provided in section 23 (w);

(iii) The deduction for medical, dental, etc., expenses provided in section 23 (x);

(iv) The deduction for certain amounts paid to cooperative apartment corporations provided in section 23 (z).

(7) *Items not deductible generally.* In addition to the deductions generally allowable under chapter 1 but disallowed for the purposes of the determination of the victory tax net income as set forth in subparagraphs (1) to (6), inclusive, there are also disallowed for the purposes of the determination of the victory tax net income those additional items disallowed generally under the provisions of section 24. See §§ 29.24-1 to 29.24-7, inclusive.

(b) *Nonresident aliens.* In addition to the qualifications, limitations, and exceptions contained in subparagraphs (1) to (7), inclusive, of paragraph (a) of this section, the general rules with respect to deductions for the purposes of the normal tax and the surtax in the case of nonresident aliens are likewise applicable to such aliens for the purposes of the victory tax. Such deductions are allowable only if and to the extent that they are connected with income from sources within the United States. See section 213 and § 29.213-1.

(c) *United States citizen entitled to benefits of section 251.* In addition to the qualifications, limitations, and exceptions contained in paragraphs (a) (1) to (a) (7), inclusive, of this section, the general rules with respect to deductions for the purposes of the normal tax and the surtax in the case of a citizen of the United States entitled to the benefits of section 251 are also likewise applicable in the case of such citizens for the purposes of the victory tax. Such deductions are allowable only if and to the extent that they are connected with income from sources within the United States. See section 251 (e) (1) and § 29.251-5.

(d) *Supplement T taxpayer.* If for any taxable year an individual citizen or resident of the United States makes his return and pays his tax under Supplement T (sections 400 to 404, inclusive), relating to individuals with gross income from certain sources of $3,000 or less, then the victory tax net income means gross income for such year and the provisions of section 451 and of this section relating to deductions from gross income have no application to such case.

SEC. 452. SPECIFIC EXEMPTION [as added by sec. 172 (a), Rev. Act. 1942].

In the case of every individual there shall be allowed as a credit against the victory tax net income a specific exemption of $624. In the case of a husband and wife filing a joint return under section 51 (b), if the victory tax net income of one spouse is less than $624, the aggregate specific exemption of both spouses shall be limited to $624 plus the victory tax net income of such spouse.

§ 29.452-1 *Specific exemption.* For the purposes of computing the victory tax, there is allowed against the victory tax net income but one credit, namely, a specific exemption of $624. The credits, therefore, provided in section 25 with respect to normal tax or surtax, or both, have no application for the purposes of the victory tax. Except as otherwise provided in the case of a husband and wife making a joint return, the full exemption of $624 is allowable to each taxpayer regardless of dependents or the personal status of the taxpayer. In the case of a return for a fractional part of a year, as, for instance, the return for a decedent, the $624 exemption is not required to be prorated but is allowable in full. In the case of husband and wife making separate returns for the taxable year, each is entitled to a specific exemption of $624. In the case of husband and wife making a joint return for the taxable year, if the victory tax net income of one spouse is less than $624, the aggregate specific exemption of both

spouses amounts to $624 plus the victory tax net income of such spouse. Thus, if A and his wife B make a joint return for the year 1943 and B has victory tax net income of $300, the total specific exemption for both spouses in such case is $924. In any such case in which a specific exemption of more than $624 is claimed, the facts with respect to the victory tax net income of the respective spouses shall be set forth in an appropriate schedule attached to the return. The principles applicable for the determination of net income of the respective spouses for normal tax and surtax purposes are likewise applicable with respect to what constitutes victory tax net income of the respective spouses, subject, however, to the qualifications, limitations, and exceptions provided in section 451. See section 22 and the regulations thereunder.

SEC. 453. CREDIT AGAINST VICTORY TAX [as added by sec. 172 (a), Rev. Act. 1942].

(a) *Allowance of credit.* There shall be allowed as a credit against the victory tax for each taxable year:

(1) The amount paid by the taxpayer during the taxable year as premiums on life insurance, in force on September 1, 1942, upon his own life, or upon the life of his spouse, or upon the life of any dependent of the taxpayer specified in section 25 (b) (2) (A); and the amount paid during the taxable year as premiums on life insurance which is a renewal or conversion of such life insurance in force on September 1, 1942, to the extent that such premiums do not exceed the premiums payable on such life insurance in force on September 1, 1942.

(2) The amount by which the smallest amount of indebtedness of the taxpayer outstanding at any time during the period beginning September 1, 1942, and ending with the close of the preceding taxable year, exceeds the amount of indebtedness of the taxpayer outstanding at the close of the taxable year.

(3) The amount by which the amount of obligations of the United States owned by the taxpayer on the last day of the taxable year exceeds the greater of (A) the amount of such obligations owned by the taxpayer on December 31, 1942, or (B) the highest amount of such obligations owned by the taxpayer on the last day of any preceding taxable year ending after December 31, 1942. As used in this paragraph (i) the term "owned by the taxpayer" shall include the amount of the obligations owned solely by the taxpayer and one-half of the amount of the obligations owned jointly by the taxpayer with one other person, but shall not include such obligations acquired by the taxpayer by gift, or inheritance, or otherwise than by purchase; (ii) the term "obligations of the United States" means such abligations of the United States as the Secretary may by regulations prescribe, and as are purchased in such manner and under such terms and conditions as he may specify; and (iii) the term "amount of obligations of the United States" means the amount paid for such obligations.

(b) *Limitation on credit.* The amount of such credit for the taxable year shall not exceed the amount of the post war credit or refund allowed by section 454 for such taxable year.

§ 29.453-1 *Credit against victory tax*—(a) *General.* Section 453 permits a taxpayer subject to the victory tax to apply as a credit against such tax for each taxable year all or a portion of the following items (but in an amount not in excess in any event of the post war credit or refund allowed by section 454 for such taxable year):

(1) Premiums paid by the taxpayer on life insurance;

(2) Reduction in indebtedness of the taxpayer;

(3) Increase in taxpayer's holdings of certain United States obligations.

The credit provided in section 453 does not reduce the amount of the victory tax to be withheld at the source as provided in section 466. Such credit is applied against the amount of the victory tax as shown by the taxpayer's victory tax return. The taxpayer is not required to avail himself of such credit. In such event he will be entitled to the post war credit or refund with respect to such taxable year provided in section 454.

(b) *Special items of the credit*—(1) *Premiums paid by taxpayer on life insurance.* In order to secure credit for life insurance premiums paid by the taxpayer during the taxable year, there must be in force on September 1, 1942, life insurance upon the taxpayer's own life or upon the life of his spouse or upon the life of any dependent of the taxpayer as specified in section 25 (b) (2). The amount of the post war credit or refund which may be applied as a credit against the victory tax for the taxable year by reason of payment of insurance premiums is the amount paid by the taxpayer during the taxable year as premiums upon such life insurance. If any such life insurance so in force on September 1, 1942, is renewed or converted after such date, the credit includes premiums paid with respect to such renewed or converted life insurance but the credit therefor can not exceed the amount of the annual premiums payable on such insurance in force on September 1, 1942. In computing the amount of the credit under section 453 (a) (1), no account is to be taken of any life insurance policy taken out after September 1, 1942, and not representing renewal or conversion of a life insurance policy in force on such date. In computing the amount of premiums paid by the taxpayer under section 453 (a) (1), there shall be deducted from the gross amount of premiums paid during the taxable year the amount of dividends received during such taxable year which represents return of premiums.

(2) *Reduction in indebtedness of the taxpayer.* The amount of the post war credit or refund which may be applied as a credit against the victory tax for the taxable year by reason of reduction, if any, in the indebtedness of the taxpayer is the excess of the smallest amount of such indebtedness outstanding at any time during the period beginning with September 1, 1942, and ending with the close of the taxable year preceding the year for which the tax is being computed, over the amount of such indebtedness outstanding at the close of the taxable year. As used in section 453 (a) (2), the term "indebtedness" means all indebtedness for which the taxpayer is liable, whether secured or unsecured and whether or not evidenced by writing. It does not include a mere contingent or secondary liability. However, if and when a contingent liability for the payment of money becomes absolute, it is includible as indebtedness. The term includes indebtedness assumed by the taxpayer even though such indebtedness is evidenced so far as the taxpayer is concerned, only by a contract with the person whose indebtedness has been assumed. An assumption of indebtedness includes, in addition to the customary forms of assumption, the acquisition of property subject to indebtedness. In order for any indebtedness to be included within the term, it must be bona fide.

The application of section 453 (a) (2) may be illustrated by the following example:

Example. A had outstanding as of September 1, 1942, a mortgage upon his home in the amount of $5,000 which had been reduced to $4,500 as of December 31, 1942, and to $4,250 on December 31, 1943. In such case the potential credit against the victory tax by reason of reduction of indebtedness is $4,500 minus $4,250, or $250, but such latter amount is subject to the limitation that it can not in any event exceed the amount of post war credit or refund provided in section 454.

(3) *Increase in holdings of United States obligations.* The amount of the post war credit or refund available to the taxpayer as a credit against the victory tax for the taxable year by reason of increase in his holdings of United States obligations is measured by the excess of the amount of such obligations owned by the taxpayer as of the close of the last day of the taxable year over whichever of the following amounts is the greater: (i) the amount of such obligations owned by the taxpayer as of the close of the calendar year 1942, or (ii) the largest amount of such obligations owned by the taxpayer as of the close of the last day of any preceding taxable year ending after December 31, 1942.

As used in section 453 (a) (3), the term "owned by the taxpayer" includes only such obligations as have been acquired by the taxpayer by purchase and does not include obligations acquired by gift or inheritance. Obligations acquired by purchase include obligations acquired by the taxpayer under such circumstances that their acquisition results in the recognition of income to him. For purposes of the victory tax credit, if an obligation is registered in the names of two persons as co-owners, each shall, in the absence of evidence to the contrary, be presumed to be a purchaser and shall be entitled to the credit to the extent of one-half of the purchase price thereof. If, however, the entire purchase price is contributed by one co-owner, he may, if he so elects at the time of filing his first return under the victory tax subsequent to the purchase of the obligation, be considered to be the sole owner, in which case he shall be entitled to a credit to the full extent of the purchase price and no credit shall be allowed to the other co-owner. For the purposes of section 453 (a) (3), a United States savings bond registered, for example, in the name of A, payable on death to B, is not owned jointly but is owned solely by A. The term "obliga-

tions of the United States" for the purposes of the credit means only United States savings bonds, Series E, F, and G, which are purchased in such manner and under such terms and conditions as the Secretary may by regulations prescribe, subject, however, to the right of the Secretary by regulations at any time to restrict, amplify, or extend the class or classes of United States obligations with respect to which the taxpayer may be entitled to a credit under the provisions of section 453 (a) (3) and the manner, terms, and conditions under which obligations may be purchased. See Treasury Department Circular No. 704, approved December 29, 1942. The date as of which the bond is issued (month and year, as entered on the face panel, but not in the dating stamp of the issuing agent) shall be held to be the date of acquistion. The term "amount of obligations" as used in section 453 (a) (3) means the amount paid for the obligations and not the par value thereof and does not include the interest, if any, accrued thereon.

The application of section 453 (a) (3) may be illustrated by the following example:

Example. A and his wife B file a joint return for the calendar year 1943. On December 31, 1942, A owned a United States savings bond, Series E, of a part value of $500 for which he and his wife had previously paid the amount of $375, the bond being registered in the name of A or his wife B. During 1943 A and B purchased additional bonds of a par value of $200 of the same series of United States savings bonds for which they paid $150, such bonds being registered in the same manner as the bond previously purchased. They also acquired by inheritance a similar bond in the denomination of $1,000. The three bonds were held as of the close of the calendar year 1943. Since the $1,000 bond had been acquired by inheritance, such obligation has no effect upon the credit against the victory tax. Since A and B file a joint return, they are entitled to a credit under section 453 (a) (3) of $150, the difference between $525 (the amount owned at the end of 1943) and $375 (the amount owned as of December 31, 1942), subject to the limitation that such credit can not in any event exceed the amount of the post war credit or refund allowed by section 454. If A and B file separate returns, each would be entitled to a credit of $75, subject to the limitations prescribed under section 454.

For the application as a credit against the victory tax (adjusted for the credit allowed by section 453) of the tax withheld at the source under section 466, see § 29.466-5.

SEC. 454. POST WAR CREDIT OR REFUND OF VICTORY TAX [as added by sec. 172 (a), Rev. Act 1942].

(a) *Allowance of credit.* As soon as practicable after date of cessation of hostilities in the present war (as defined in section 475 (b)), the following amount of the victory tax paid for each taxable year beginning after December 31, 1942, shall be credited against any income tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer:

(1) In the case of a single person or a married person not living with husband or wife, 25 per centum of the victory tax or $500, whichever is the lesser.

(2) In the case of the head of a family, 40 per centum of the victory tax or $1,000, whichever is the lesser. In the case of a married person living with husband or wife where separate returns are filed by each spouse, 40 per centum of the victory tax or $500, whichever is the lesser. In the case of a married person living with husband or wife where a separate return is filed by one spouse and no return is filed by the other spouse, or in the case of a husband and wife filing a joint return under section 51 (b), only one such credit shall be allowed and such credit shall not exceed 40 per centum of the victory tax or $1,000, whichever is the lesser.

(3) For each dependent specified in section 25 (b), excluding as a dependent, in the case of a head of a family, one who would be excluded under section 25 (b) (2) (B), 2 per centum of the victory tax or $100, whichever is the lesser.

(b) *Change of status.* If for any taxable year the status of the taxpayer (other than a taxpayer who makes his return any pays his tax under Supplement T) with respect to his marital relationship or with respect to his dependents, changed during the taxable year, the amount of the credit or refund provided by this section for such taxable year shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

(c) *Status of Supplement T taxpayer.* If for any taxable year a taxpayer makes his return and pays his tax under Supplement T, for the purpose of the credit or refund provided by this section, his status for such year with respect to his marital relationship or with respect to his dependents shall be determined in accordance with the provisions of section 401.

(d) *Period of limitation.* No post war credit or refund of any part of the victory tax provided in this section shall be allowed or made after 7 years from the date of cessation of hostilities in the present war, unless claim for credit or refund is filed before the expiration of such date. No interest shall be allowed on such credits or refunds.

(e) *Limitation of credit.* The post war credit or refund allowed by this section shall be reduced by the amount of any credit allowed under section 453.

§ 29.454-1 *Post war credit or refund*—(a) *General.* Section 454 provides that, as soon as practicable after the cessation of hostilities in the present war (as defined in section 475 (b)), there shall be credited or refunded to the taxpayer certain designated amounts representing portions of the victory tax paid for taxable years beginning after December 31, 1942, but not in excess of certain percentages of the amount of the victory tax, such percentages being conditioned upon the marital status of the taxpayer and the number of his dependents during the year or years for which such victory tax was imposed. Such post war credit or refund applies even though there has been no previous allowance for any taxable year of the annual victory tax credit provided under section 453. However, the amount of the post war credit or refund is reduced by the aggregate amount of the annual victory tax credit previously allowed. See section 454 (e). Such post war credit or refund, to the extent it is not reduced by the amount of the annual credit previously claimed and allowed, shall be credited after the cessation of hostilities in the present war against any income tax or installment thereof then due from the taxpayer and any balance shall be refunded immediately to the taxpayer. See section 454 (d) and § 29.454-3.

(b) *Limitations on amount of post war credit or refund.* The post war credit or refund provided in section 454 is subject to the following limitations:

(1) *Single person or married person not living with husband or wife.* 25 percent of the amount of the victory tax, or $500, whichever is the lesser.

(2) *Married person living with husband or wife where separate returns are filed by each spouse.* 40 percent of the victory tax, or $500, whichever is the lesser.

(3) *Head of a family.* 40 percent of the victory tax, or $1,000, whichever is the lesser.

(4) *Married person living with husband or wife where separate return is filed by one spouse and no return is filed by the other spouse.* 40 percent of the amount of the victory tax, or $1,000, whichever is the lesser.

(5) *Married person living with husband or wife where joint return is filed.* 40 percent of the amount of the victory tax, or $1,000, whichever is the lesser.

If the taxpayer has one or more dependents for whom a credit would be allowable under section 25 (b) (2), the limitations prescribed in subparagraphs (1) to (5), inclusive, shall, for each such dependent, be increased by the addition of 2 percent to the percentage limitation and $100 to the dollar limitation. For example, in the circumstances described in subparagraph (1) if a taxpayer has one dependent, the limitations prescribed would be increased to 27 percent of the victory tax, or $600, whichever is the lesser. In the circumstances described in subparagraph (3) if the taxpayer has three dependents, but the credit for one of such dependents is disallowed by reason of the provisions of section 25 (b) (2) (B), the percentage limitations would be increased by 2 percent for each of two dependents and the dollar limitation by $100 for each of two dependents. Consequently, the limitation on the credit for victory tax purposes would be 44 percent of the victory tax, or $1,200, whichever is the lesser.

As to what constitutes dependency under section 25, see § 29.25-6.

In the application of the provisions of section 454, if a taxpayer files his return for any taxable year under Supplement T (sections 400 to 404, inclusive), his status for such taxable year as to his marital relationship and with respect to his dependents, for the purpose of the post war credit or refund, shall be determined in accordance with the special rules prescribed in section 401. See §§ 29.401-1 and 29.454-2.

The following examples illustrate the computation of the post war credit or refund and the operation of the limitations with respect thereto in cases involving joint and separate returns of husband and wife:

Example (1). For 1943 a husband and wife with two dependents file a joint return and have a victory tax net income (after specific exemption) of $60,000.

Victory tax (5 percent of $60,000)		$3,000
Post war refund:		
44 percent of victory tax	$1,320	
or		
$1,000 plus $200	1,200	
whichever is the lesser		1,200

Example (2). For 1943 a husband and wife with two dependents (supported by the husband) file separate returns. The husband has a victory tax net income (after specific exemption) of $40,000 and the wife has a victory tax net income (after specific exemption) of $20,000.

Computation for husband:		
Victory tax (5 percent of $40,000)		$2,000
Limitation:		
44 percent of victory tax	$880	
or		
$500 plus $200	700	
whichever is the lesser		700
Computation for wife:		
Victory tax (5 percent of $20,000)		1,000
Limitation:		
40 percent of victory tax	400	
or		
$500	500	
whichever is the lesser		400
Recapitulation:		
Credit or refund of husband		700
Credit or refund of wife		400
		1,100

In the application of section 454 (a) to a nonresident alien subject to the victory tax, the provisions of section 214, relating to exemption and credits in the case of such taxpayer, shall be applicable and hence the additional credit for dependents provided in section 454 (a) (3) is allowed only if such taxpayer is a resident of a contiguous country.

§ 29.454-2 *Post war credit or refund where status changes during the taxable year*—(a) *General.* If the status of the taxpayer (other than a taxpayer who makes his return and pays his tax under Supplement T) with respect to his marital relationship or with respect to his dependents changes during the taxable year, the amount of the post war credit or refund under section 454 and § 29.454-1 shall be apportioned according to the number of months during which the taxpayer occupied each status. For the purposes of the apportionment, a fractional part of a month shall be disregarded unless it amounts to more than one-half of a month in which case it shall be considered as a month. In general, the post war credit or refund in the case of any taxpayer whose status as set forth above changed during the taxable year will be the sum of the amounts apportioned to the respective periods during which each status was occupied. If married persons file a joint return for a taxable year in which a change in the marital status has occurred, then, for the purpose of computing the credit or refund applicable to that portion of such taxable year preceding the change of status, one-half of the joint victory tax shall be attributed to each spouse. These principles may be illustrated by the following examples:

Example (1). A and B were married on August 10, 1943, each having the status of a single person prior to such date. They have no dependents. They had a combined victory tax net income (before the specific exemption) of $25,248. The victory tax net income of each is in excess of $624. They file a joint return for 1943. The post war credit or refund in such case is computed as follows:

Victory tax for 1943 on basis of joint return (5 percent of $24,000 ($25,248 minus $1,248))	$1,200
Post war credit or refund:	
Seven months January to July, inclusive	
A. Limitation on post war credit or refund (7/12×(25 percent of $600) or 7/12 of $500).	
Post war credit or refund equals (The figure of $87.50 applies since it is less than 7/12 of $500.)	$87.50
B. Limitation on post war credit or refund (7/12×(25 percent of $600 or 7/12 of $500).	
Post war credit or refund equals (The figure of $87.50 applies since it is less than 7/12 of $500.)	87.50
Five months August to December, inclusive	
Limitation on post war credit or refund (5/12×(40 percent of $1,200) or 5/12 of $1,000).	
Post war credit or refund (The figure of $200 applies since it is less than 5/12 of $1,000.)	$200.00
Recapitulation—Post war credit or refund	
Apportioned to A	$87.50
Apportioned to B	87.50
Apportioned to A and B jointly	200.00
Total for A and B	375.00

Example (2). A, a widower having two dependent children under 18 years of age, married B on July 1, 1943. They filed a joint return for the calendar year 1943 showing victory tax net income of $61,248 (before the application of the specific exemption) and a victory tax of $3,000. The victory tax net income of each exceeded the specific exemption of $624. The post war credit or refund in such case is computed as follows:

First half of year	
A. Limitation on post war credit or refund (1/2×(42 percent of $1,500) or 1/2 of $1,100).	
Post war credit or refund (This figure applies since it is less than 1/2 of $1,100.)	$315.00
B. Limitation on post war credit or refund (1/2×(25 percent of $1,500) or 1/2 of $500).	
Post war credit or refund (This figure applies since it is less than 1/2 of $500.)	187.50
Second half of year	
Limitation on post war credit or refund (1/2 of (44 percent of $3,000) or 1/2 of $1,200).	
Post war credit or refund (This figure applies since it is less than 1/2 of (44 percent of $3,000).)	$600.00
Recapitulation—Post war credit or refund	
Apportioned to A	$315.00
Apportioned to B	187.50
Apportioned to A and B jointly	600.00
Total	1,102.50

(b) *Status of Supplement T taxpayer.* In the case of a taxpayer making his return and paying his tax under Supplement T (sections 400 to 404, inclusive), relating to the optional tax on individuals with gross income from certain sources of $3,000 or less, the status of such taxpayer shall be determined by the application of the following rules:

(1) His status both with respect to marital relationship and with respect to dependents is to be determined as of July 1 of each taxable year.

(2) If such taxpayer is not the head of a family and is not living with husband or wife or is unmarried as of July 1 of the taxable year, he shall be treated as a single person, even though in fact he may become the head of a family or be married during the taxable year subsequent to July 1.

If, for example, A and his wife B are not living together on July 1, 1943, and for the calendar year 1943 they elect to pay the tax under Supplement T, they are considered as single persons for income and victory tax purposes and hence each must file a separate return. In such case, the limitation on the post war credit or refund is determined under section 454 (a) (1) and shall in each case be 25 percent of the victory tax or $500, whichever is the lesser. However, in the case of a husband and wife living together on July 1, 1943, they may elect to file either joint or separate returns under Supplement T. If they elect to file separate returns, the limitation provided in section 454 (a) (2) applicable generally in the case of husband and wife filing separate returns is here likewise applicable and hence the post war credit or refund (without regard to dependents) cannot, in the case of each spouse, exceed 40 percent of the victory tax or $500, whichever is the lesser. If such husband and wife elect to file a joint return, the limitation on the post war credit or refund provided in section 454 (a) (2) applicable generally in respect of husband and wife filing a joint return is here applicable and such credit (without regard to dependents) cannot exceed 40 percent of the victory tax or $1,000, whichever is the lesser.

Payments made by the husband to the wife of an amount which is includible in her gross income by reason of section 22 (k) and section 171 shall not be considered as payment by the husband for the support of any dependent.

§ 29.454-3 *Period of limitation for making post war credit or refund.* The post war credit or refund provided in section 454, to the extent such credit or refund is not applied under section 453 as a credit against the victory tax, cannot be made after seven years from the date of cessation of hostilities in the present war (as that term is defined in section 475 (b)) unless claim for credit or refund thereof is filed with the collector of internal revenue before the expiration of such 7-year period. No interest is allowable upon such credits or refunds of the victory tax. For the manner of filing claims for refund or credit generally, see § 29.322-3.

SEC. 455. RETURNS [as added by sec. 172 (a), Rev. Act 1942].

(a) *Individual returns.* Every individual having a gross income in excess of $624 for the taxable year, shall make, under regulations prescribed by the Commissioner with the approval of the Secretary, a return, which shall contain or be verified by a written declaration that it is made under the pen-

alties of perjury, stating specifically the items of his gross income and the deductions and credits allowed under this subchapter.

(b) *Fiduciary returns.* Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make, under regulations prescribed by the Commissioner with the approval of the Secretary, a return under oath, for any individual, estate, or trust for which he acts, if the gross income of such individual, estate, or trust is in excess of $624 for the taxable year, stating specifically the items of gross income and the deductions and credits allowed under this subchapter. The provisions of section 142 (b) shall be applicable with respect to any return required to be made under this subsection.

§ 29.455-1 *Returns*—(a) *Individuals.* For taxable years beginning after December 31, 1942, there shall be made a victory tax return by each citizen of the United States whether residing within or without the United States, by every individual residing within the United States though not a citizen thereof, by every nonresident alien individual (other than a nonresident alien individual subject to the tax imposed by section 211 (a)), whether or not such citizen or resident or nonresident alien individual is the head of a family or has dependents, if such citizen, resident or alien has a gross income (computed without regard to the exclusion from gross income provided in section 451 (a)) for the taxable year in excess of $624. In the case of nonresident alien individuals, such gross income means only gross income from sources within the United States.

If a return is required for normal tax and surtax purposes or, in the alternative, for the purposes of the tax under Supplement T (sections 400 to 404, inclusive), the return for victory tax purposes shall be made a part of such return. If, under the limitations contained in section 51 (a), the gross income of the taxpayer is insufficient to require a return for normal tax and surtax purposes, a return for victory tax purposes shall, nevertheless, be made in any case in which the gross income for the taxable year exceeds $624. If, for example, A has gross income for the taxable year of $850 and his wife B has gross income for the taxable year of $150, no return is required for normal tax and surtax purposes. However, since the gross income of A exceeds $624, a return is required for victory tax purposes. In such case A may file a separate return or A and B may under the provisions of section 51 (b) elect to make a joint return. See § 29.51-1 (b). In the case of a married person living with husband or wife if each spouse has more than $624 gross income for the taxable year, each must make a return unless they elect to make a joint return. If one such spouse has more than $624 gross income for the taxable year and the other spouse has less than $624 gross income for the taxable year, the spouse having more than $624 gross income may file a separate return or the spouses may elect to make a joint return for the taxable year.

In the case of a husband and wife living together, the election to make a joint return authorized under the provisions of section 51 (b) must be exercised with respect to the tax imposed under chapter 1 considered as a whole and not with respect to the several parts of such tax considered separately. Hence, a husband and wife living together may not elect to make separate returns for the purpose of the tax imposed by sections 11 and 12 or Supplement T and a joint return for the purpose of the victory tax. Likewise, such husband and wife may not elect to make separate returns for the purpose of the victory tax and joint returns for the purpose of the other parts of the tax imposed by chapter 1.

The status of a taxpayer making his return and paying his tax under Supplement T is determined under the provisions of section 401. Under those provisions a married person not the head of a family and not living with husband or wife on July 1 of the taxable year is treated as a single person. Hence, if married persons not living together on July 1 of the taxable year elect to pay the tax under Supplement T, each spouse is required to make a separate return. If such husband and wife are married and living together on July 1 of the taxable year, they may make either joint or separate returns under Supplement T. As to the making of returns generally, see section 51 and § 29.51-1. As to exclusions from gross income and the deductions therefrom for the purposes of the victory tax, see section 451 and § 29.451-1. As to credits against the victory tax, see section 453 and § 29.453-1.

(b) *Fiduciaries.* For taxable years beginning after December 31, 1942, every fiduciary and at least one of two or more joint fiduciaries must make a return for the purposes of the victory tax for any individual, estate, or trust for which he acts if the gross income (computed without regard to the exclusions from gross income provided in section 451 (a)) of such individual, estate, or trust is in excess of $624 for the taxable year. The return for victory tax purposes shall be made a part of the return of the estate or trust for normal tax and surtax purposes, if such return is required. The provisions of section 142 (a) and 142 (b) as well as section 455 (b) are applicable with respect to the return required for victory tax purposes. For form to be used in making the return under section 142 and section 455 (b), see § 29.142-1.

SEC. 456. LIMITATION ON TAX [as added by sec. 172 (a), Rev. Act 1942].

The tax imposed by section 450 (victory tax), computed without regard to the credits provided in sections 453, 454, and 466 (e), shall not exceed the excess of 90 per centum of the net income of the taxpayer for the taxable year over the tax imposed by sections 11 (normal tax) and 12 (surtax), computed without regard to the credits provided in sections 31, 32, and 466 (e).

§ 29.456-1. *Limitation on amount of the victory tax.* The amount of the victory tax, computed before the application thereto of any credit for the post war credit or refund or for the portion of the victory tax withheld at the source, cannot exceed an amount representing the excess of 90 percent of the taxpayer's net income for the taxable year over the sum of the normal tax and the surtax imposed for such taxable year by sections 11 and 12, respectively, computed before the application against such normal tax and surtax of (a) the credit for foreign income tax, (b) the credit for tax withheld at the source under section 143, and (c) the credit for victory tax withheld at the source under section 466. The application of this limitation may be illustrated by the following example:

Example. A, a married person having no dependents, has, for the calendar year 1943, a gross income of $2,000,000 and deductions (not allowable in computing victory tax net income) for interest, taxes, and contributions amounting to $200,000. His earned net income is $20,000. His wife had no gross income. His normal tax and surtax liability is computed as follows:

Gross income	$2,000,000
Less:	
Deductions	200,000
Net income	1,800,000
Less:	
Personal exemption	$1,200
Surtax net income	1,798,800
Less:	
Earned income credit (maximum)	1,400
Normal tax net income	1,797,400
Normal tax at 6 percent on $1,797,400	107,844
Surtax on $1,798,800	1,450,156
Total normal tax and surtax	1,558,000

The normal tax and surtax equal 86.56 percent of the net income. The 5 percent victory tax, if computed without any limitation on such tax, will amount to $99,968.80. Thus, the total normal tax, surtax, and victory tax would amount to $1,657,968.80, which would equal 92.11 percent of the net income. Therefore, the limitation will apply and the victory tax will be reduced to $62,000, making a total tax of $1,620,000, or 90 percent of the net income.

COLLECTION OF TAX AT SOURCE ON WAGES

SEC. 465. DEFINITIONS [as added by sec. 172 (a), Rev. Act 1942].

As used in this part [1]—

(a) *Pay-roll period.* The term "pay-roll period" means a period for which a payment of wages is ordinarily made to the employee by his employer.

(b) *Wages.* The terms "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid (1) for services performed as a member of the military or naval forces of the United States, other than pensions and retired pay, (2) for agricultural labor (as defined in section 1426 (h)), (3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, (4) for casual labor not in the course of the employer's trade or business, (5) for services as an employee of a nonresident alien individual, foreign partnership, or foreign corporation, if such individual, partnership, or corporation is not engaged in trade or business in the United States, (6) for services as an employee of a foreign government or any wholly owned instrumentality thereof, or (7) for services performed as an employee

[1] This part comprises sections 465 to 470, inclusive.

while outside the United States (as defined in section 3797 (a) (9)), unless the major part of the services performed during the calendar year by such employee for his employer are performed within the United States.

(c) *Withholding agent.* The term "withholding agent" means any person required to withhold, collect, and pay the tax under section 466.

(d) *Employee.* The term "employee" includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

(e) *Employer.* The term "employer" includes any person for whom an individual performs any service, of whatever nature, as the employee of such person.

§ 29.465–0 *Introductory.* Sections 465 to 470, inclusive, provide for collection of tax at the source on wages. The regulations prescribed thereunder relate to the operation and effect of the provisions dealing with collection at the source and have no application in the determination of questions relating to the incidence or computation of the victory tax imposed under section 450. Hence, the fact that income of certain specified classes of individuals or income derived from certain specified sources is excluded from the definition of wages for the purpose of collection of tax at the source is not determinative of the question whether or not such income is subject to the victory tax. As to persons subject to the victory tax and the computation of victory tax net income, see §§ 29.451–1 and 29.451–2.

§ 29.465–1 *Pay-roll period.* The term "pay-roll period" means the period for which a payment of wages is ordinarily made to an employee by his employer. If the periods for which payments of wages are made to an employee by his employer are of uniform duration, each such period constitutes a pay-roll period. If, however, the periods occasionally vary in duration, the pay-roll period is the period for which a payment of wages is ordinarily made to the employee by his employer, even though that period does not coincide with the actual period for which a particular payment of wages is made. For example, if an employer ordinarily pays a particular employee for each calendar week at the end of the week, but the employee receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the pay-roll period is still the calendar week; or if, instead, that employee is sent on a trip by his employer and receives at the end of the week a single wage payment for three weeks' services, the pay-roll period is still the calendar week.

§ 29.465–2 *Wages*—(a) *In general.* The term "wages" means all remunerations for services performed by an employee for his employer unless specifically excepted under section 465 (b) or section 466 (g). (See §§ 29.465–3 and 29.466–6.)

The name by which the remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, pensions, and retired pay are wages within the meaning of the statute if paid as compensation for services performed by the employee for his employer.

The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus it may be paid on the basis of piecework, or a percentage of profits; and may be paid hourly, daily, weekly, monthly, or annually.

The medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as, for example, stocks, bonds, or other forms of property. Remuneration paid in items other than cash shall be computed on the basis of the fair market value of such items at the time of payment.

Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases), furnished or offered by an employer to his employees generally, are not considered as remuneration for services if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees.

Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer, are not subject to withholding.

Remuneration for services, unless such remuneration is specifically excepted by the statute, constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

Example. A is employed by B during the month of January 1943 and is entitled to receive remuneration of $100 for the services performed for B, the employer, during the month. A leaves the employ of B at the close of business on January 31, 1943. On February 15, 1943 (when A is no longer an employee of B), B pays A a remuneration of $100 which was earned for the services performed in January. The $100 is wages within the meaning of the statute.

(b) *Pensions and retired pay.* Pensions and retired pay are wages within the meaning of the statute. However, amounts receivable by an employee upon retirement which are taxed as annuities under the provisions of section 22 (b) (2) and distributions under an employees' trust taxable, because of the provisions of section 165 (b), as gain from the sale or exchange of a capital asset do not constitute wages subject to withholding. So-called pensions awarded by one to whom no services have been rendered are mere gifts or gratuities and do not constitute wages.

(c) *Traveling and other expenses.* Amounts paid or reimbursements made to employees specifically for traveling or other expenses incurred in the business of the employer are not subject to withholding.

(d) *Vacation allowances.* Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(e) *Dismissal payments.* Any payments made by an employer to an employee on account of dismissal, that is, involuntary separation from the service of the employer, constitute wages regardless of whether the employer is legally bound by contract, statute, or otherwise, to make such payments.

(f) *Deductions by employer from wages of employee.* The amount of any tax which is required by law to be deducted by the employer from the wages of an employee is considered to be a part of the employee's wages and is deemed to be paid to the employee as wages at the time the deduction is made. Other amounts deducted from the wages of an employee by an employer also constitute wages paid to the employee at the time of the deduction. It is immaterial that the Internal Revenue Code, or any Act of Congress, or the law of any State, requires or permits such deductions and the payment of the amounts thereof to the United States, a State, a Territory, or the District of Columbia, or any political subdivision of any one or more of the foregoing.

(g) *Payment by an employer of employee's tax, or employee's contributions under a State law.* The term "wages" includes the amount of any payment made by an employer on behalf of an employee (without deduction from the remuneration of, or other reimbursements from, the employee) of any payment required from an employee under a State unemployment compensation law, or of any tax imposed upon the employee by any taxing authority, including the taxes imposed by sections 1400 and 1500.

§ 29.465–3 *Exclusions from wages*—(a) *Fees paid to a public official.* Authorized fees paid to public officials, such as notaries public, clerks of courts, sheriffs, etc., for services rendered in the performance of their official duties are excepted from the definition of the term "wages" and hence are not subject to withholding. However, salaries paid such officials by the Government, or Government agency or instrumentality, are subject to withholding.

(b) *Compensation of military and naval forces.* Remuneration paid for services performed as a member of the military or naval forces of the United States is excepted from the definition of the term "wages." For the purpose of the exception, the military and naval forces of the United States include (but are not necessarily limited to) the Army, the Navy, the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, the Navy Nurse Corps, Female, the Women's Army Auxiliary Corps or the Women's Army Corps, the Women's Reserve Branch of the Naval Reserve, the Women's Reserve Branch of the Coast Guard Reserve, and the Marine Corps Women's Reserve.

(c) *Remuneration paid for agricultural labor*—(1) *In general.* The term "wages" does not include remuneration for services which constitute agricul-

tural labor as defined in section 1426 (h) of the Internal Revenue Code. The term "agricultural labor" as so defined includes services of a character described in subparagraphs (2), (3), (4), and (5) of this paragraph.

In general, however, the term "agricultural labor" does not include services performed in connection with forestry, lumbering, or landscaping.

(2) *Services described in section 1426 (h) (1).* Remuneration paid for services performed on a farm by an employee of any person in connection with any of the following activities is excepted as remuneration for agricultural labor:

(i) The cultivation of the soil;

(ii) The raising, shearing, feeding, caring for, training, or management of live stock, bees, poultry, fur-bearing animals, or wildlife; or

(iii) The raising or harvesting of any other agricultural or horticultural commodity.

The term "farm" as used in this and succeeding paragraphs of this subsection includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for other purposes (for example, display, storage, and fabrication of wreaths, corsages, and bouquets), do not constitute "farms."

(3) *Services described in section 1426 (h) (2).* The remuneration paid for the following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms is excepted as remuneration for agricultural labor, provided the major part of such services is performed on a farm:

(i) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment; or

(ii) Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane.

The services described in (i) above may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semiskilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged.

Since the services described in this subparagraph (3) must be performed in the employ of the owner or tenant or other operator of the farm, the exception does not extend to remuneration paid for services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(4) *Services described in section 1426 (h) (3).* Remuneration paid for services performed by an employee in the employ of any person in connection with any of the following operations is excepted as remuneration for agricultural labor without regard to the place where such services are performed:

(i) The ginning of cotton;

(ii) The hatching of poultry;

(iii) The raising or harvesting of mushrooms;

(iv) The operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying or storing water for farming purposes;

(v) The production or harvesting of maple sap or the processing of maple sap into maple sirup or maple sugar (but not the subsequent blending or other processing of such sirup or sugar with other products); or

(vi) The production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gumspirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum.

(5) *Services described in section 1426 (h) (4).* (i) Remuneration paid for services performed by an employee in the employ of a farmer or a farmers' cooperative organization or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of any agricultural or horticultural commodity, other than fruits and vegetables (see subdivision (ii) below), produced by such farmer or farmer-members of such organization or group of farmers is excepted, provided such services are performed as an incident to ordinary farming operations.

Generally services are performed "as an incident to ordinary farming operations" within the meaning of this subparagraph (5) if they are services of the character ordinarily performed by the employees of a farmer or of a farmers' cooperative organization or group as a prerequisite to the marketing, in its unmanufactured state, of any agricultural or horticultural commodity produced by such farmer or by the members of such farmers' organization or group. Services performed by employees of such farmer or farmers' organization or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of commodities produced by persons other than such farmer or members of such farmers' organization or group are not performed "as an incident to ordinary farming operations."

(ii) Remuneration paid for services performed by an employee in the employ of any person in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of fruits and vegetables, whether or not of a perishable nature, is excepted as remuneration for agricultural labor, provided such services are performed as an incident to the preparation of such fruits and vegetables for market. For example, if services in the sorting, grading, or storing of fruits, or in the cleaning of beans, are performed as an incident to their preparation for market, remuneration paid for such services may be excepted whether the services are performed in the employ of a farmer, a farmers' cooperative, or a commercial handler of such commodities.

(iii) The services described in subdivisions (i) and (ii), above, do not include services performed in connection with commercial canning or commercial freezing, or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in such subdivisions must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of subparagraph (3) of this paragraph.

(d) *Remuneration paid for domestic service.* Remuneration paid for services of a household nature performed by an employee in or about the private home of the person by whom he is employed, or performed in or about the clubrooms or house of a local college club or local chapter of a college fraternity or sorority by which he is employed, is excepted from the term "wages."

A private home is the fixed place of abode of an individual or family.

A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter.

If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home and the remuneration paid for services performed therein is not excepted. Likewise, if the clubrooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for such purpose, the remuneration paid for services performed therein is not within the exception.

In general, services of a household nature in or about a private home include services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. In general, services of a household nature in or about the clubrooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, maids, butlers, laundresses, furnacemen, waiters, and housemothers.

The remuneration paid for the services above enumerated is not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, hos-

pitals, eleemosynary institutions, or commercial offices or establishments.

Remuneration paid for services performed as a private secretary, even though performed in the employer's home, is not within the exception.

(e) *Remuneration for casual labor not in the course of employer's trade or business.* The term "casual labor" includes labor which is occasional, incidental, or irregular.

The expression "not in the course of the employer's trade or business" includes labor that does not promote or advance the trade or business of the employer.

Thus remuneration paid for labor which is occasional, incidental, or irregular, and does not promote or advance the employer's trade or business, is excepted.

Example. A's business is that of operating a sawmill. He employs B, a carpenter, at an hourly wage to repair his home. B works irregularly and spends the greater part of two days in completing the work. Since B's labor is casual and is not in the course of A's trade or business, the remuneration paid for such services is excepted.

The remuneration paid for casual labor, that is, labor which is occasional, incidental, or irregular, but which is in the course of the employer's trade or business, does not come within the above exception.

Example (1). C's business is that of operating a sawmill. He employs D for two hours, at an hourly wage, to remove sawdust from his mill. D's labor is casual since it is occasional, incidental, or irregular, but it is in the course of C's trade or business and the remuneration paid for such labor is not excepted.

Example (2). E is engaged in the business of operating a department store. He employs additional clerks for short periods. While the services of the clerks may be casual, they are in the course of the employer's trade or business and, therefore, the remuneration paid for such services is not excepted.

Remuneration paid for casual labor performed for a corporation does not come within this exception.

(f) *Compensation paid by nonresident alien individual, foreign partnership, or foreign corporation.* Remuneration paid for services performed as an employee of a nonresident alien individual, foreign partnership, or foreign corporation, if such individual, partnership, or corporation is not engaged in trade or business in the United States, is excepted. The exception has no application if the employer paying such remuneration is engaged in trade or business in the United States. Whether or not a nonresident alien individual, foreign partnership, or foreign corporation is engaged in trade or business within the United States depends upon the particular facts of each case and will be determined in accordance with the rules applicable under sections 211, 219, and 231 for income tax purposes generally.

For purposes of this exception, the citizenship or residence of the employee or the place where the services are performed is immaterial.

(g) *Compensation paid by foreign government or wholly-owned instrumentality thereof.* Remuneration paid for services performed as an employee of a foreign government or wholly-owned instrumentality thereof is excepted. The exception includes not only remuneration paid for services performed by ambassadors, ministers, and other diplomatic officers and employees but also remuneration paid for services performed as a consular or other officer or employee of a foreign government, or as a diplomatic representative of such a government.

The citizenship or residence of the employee and the place where the services are performed are immaterial for purposes of the exception.

(h) *Remuneration for services performed outside the United States.* The remuneration paid by an employer for services performed outside the United States does not constitute wages and hence is not subject to withholding unless the major part of the services performed by the employee for such employer during the calendar year is performed within the United States. The term "United States" includes the several States, the Territories of Alaska and Hawaii, and the District of Columbia.

The exception relates only to the remuneration paid for the services performed outside the United States regardless of whether the major part of the services performed for such employer during the calendar year is performed within or without the United States. Thus, if an employee performs services outside the United States for more than six months of the calendar year, the remuneration paid for such services does not constitute wages and hence is not subject to withholding, but the remuneration paid for services performed within the United States for such employer during the remainder of the calendar year constitutes wages and is subject to withholding.

If, however, an employee is absent from the United States on business of his employer for less than six months of the calendar year and performs services for such employer within the United States during the remainder of the calendar year, the entire amount of the remuneration paid for services performed during the calendar year constitutes wages and is subject to withholding.

However, it is recognized that in the case of an employee performing, outside the United States, services of indefinite duration, it may be impossible for the employer to determine whether the major portion of the employee's services during the calendar year will be performed within the United States or outside the United States. In such case it may be presumed that such performance will continue throughout the calendar year and the liability of the employer to withhold tax on the compensation paid for such services performed outside the United States will be determined in the light of such presumption. Thus, if an employee undertakes for his employer the performance of services abroad of indefinite duration, or for a term extending beyond the end of the calendar year, and such employee has not already within the calendar year, performed services within the United States for a length of time which would constitute, in any circumstances, the major part of the year's services for such employer, no tax is required to be withheld on the compensation paid for services performed by such employee outside the United States.

Example (1). A has been regularly employed by B, and is sent abroad under such conditions that it is not possible to know when he will return: (a) If A goes abroad on January 1, no tax is required to be withheld on compensation paid to A for services performed abroad, but on the compensation paid for services performed after his return to the United States tax should be withheld. (b) If A goes abroad on June 29, the same rules are applicable. No tax is required to be withheld on the compensation for services performed abroad but on compensation for services performed after his return to the United States tax should be withheld. (c) If A goes abroad on August 1, tax should be withheld on the compensation paid A for all services performed during the calendar year since under no circumstances could the major part of the services performed during such year be performed outside the United States.

Example (2). A begins his employment with B on July 1, and on September 1 is sent abroad under the circumstances described in example (1). No tax is required to be withheld on the compensation paid A for the services performed abroad.

Example (3). A begins his employment with B on July 1, and on November 1 is sent abroad under the circumstances described in example (1). Tax is required to be withheld on the compensation paid A for the services performed abroad, as well as on compensation paid for service performed within the United States, for the reasons set forth in example (1) (c).

The presumption that employees performing services of indefinite duration outside the United States will continue to perform such services throughout the calendar year does not apply in the case of employees sent abroad during the year on business missions of limited duration when there is reasonable expectation that the employee can and will return at such time that the major portion of his services for the employer for that calendar year will be performed within the United States.

§ 29.465-4 *Withholding agent.* Any person required to withhold, collect, and pay the tax imposed by section 466 is a withholding agent. Under section 467 (a), the tax required to be withheld shall be collected by the person having control of the payment of wages. In the case of private employers, the employer is the withholding agent. In situations where neither the wage payment nor the funds from which payment is made is subject to the control of the employer, the person having such control is the withholding agent. For example, where wages such as pensions or retired pay are paid through the medium of a trust over which the employer has no control, the trustee is the withholding agent. With respect to public employees, the withholding agent is by presumption the head officer of particular offices approving and scheduling pay rolls for payment, or, where some other form of administrative procedure for the payment of wages is in effect, the officer exercising control through such procedure.

§ 29.465-5 *Employee.* The term "employee" includes every individual per-

forming services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term specifically includes officers and employees, whether elected or appointed, of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

Generally the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

No distinction is made between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is an employee of the corporation but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

Although an individual may be an employee under the statute, his services may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 465 (b). (See § 29.465-3.)

§ 29.465-6 *Employer.* The term "employer" includes any person for whom an individual performs any service, of whatever nature, as the employee of such person. An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

The term "employer" embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the States, Territories, and the District of Columbia, including their agencies, instrumentalities, and political subdivisions.

Although a person may be an employer under the statute, services performed in his employ may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 465 (b). (See § 29.465-3.)

SEC. 466. TAX COLLECTED AT SOURCE [as added by sec. 172 (a), Rev. Act 1942].

(a) *Requirement of withholding.* There shall be withheld, collected, and paid upon all wages of every person, to the extent that such wages are includible in gross income, a tax equal to 5 per centum of the excess of each payment of such wages over the withholding deduction allowable under this part.[1] This subsection and subsection (c) shall not be applicable in any case provided for in section 143, except in the case of wages paid to residents of a contiguous country who enter and leave the United States at frequent intervals.

(b) *Withholding deduction.* (1) In computing the tax required to be withheld under subsection (a), there shall be allowed as a deduction against the wages paid for each pay-roll period an amount determined in accordance with the following schedule:

Pay-roll period	*Withholding deduction*
Weekly	$12
Biweekly	24
Semimonthly	26
Monthly	52
Quarterly	156
Semiannually	312
Annually	624

[1] This part comprises sections 465 to 470, inclusive.

(2) If a pay-roll period in respect of any wages is less than one week, the excess of the aggregate of the wages paid during each calendar week over the deduction allowed by this subsection for a weekly pay-roll period shall be used in computing the tax required to be withheld.

(3) If a pay-roll period in respect of any wages, or any other period with respect to which wages are paid, is not otherwise specifically provided for in this subsection, the deduction allowable against each payment of such wages shall be the deduction allowable in the case of an annual pay-roll period divided by 365 and multiplied by the number of days in such period, including Sundays and holidays.

(4) In any case in which wages are paid by an employer without regard to any pay-roll period or other period, the deduction allowable against each payment of such wages shall be the deduction allowable in the case of an annual pay-roll period divided by 365 and multiplied by the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(5) The deduction allowable under this subsection in respect of any individual for any calendar year shall not exceed the total deduction which would have been allowable under paragraph (1) if the the only pay-roll period of such individual had been an annual pay-roll period.

(c) *Wage bracket withholding.* (1) At the election of the employer, if his pay-roll period with respect to an employee is weekly, biweekly, semimonthly, or monthly, there shall be withheld, collected, and paid upon the wages of such employee a tax determined in accordance with the following tables, which shall be in lieu of the tax required to be withheld under subsection (a):

For weekly pay-roll period			For biweekly pay-roll period		
If the wages are over—	But not over—	The amount of tax to be withheld shall be—	If the wages are over—	But not over—	The amount of tax to be withheld shall be—
$12	$16	$0.10	$24	$30	$0.10
16	20	.30	30	40	.50
20	24	.50	40	50	1.00
24	28	.70	50	60	1.50
28	32	.90	60	70	2.00
32	36	1.10	70	80	2.50
36	40	1.30	80	100	3.30
40	50	1.60	100	120	4.30
50	60	2.10	120	140	5.30
60	70	2.60	140	160	6.30
70	80	3.10	160	180	7.30
80	90	3.60	180	200	8.30
90	100	4.10	200	220	9.30
100	110	4.60	220	240	10.30
110	120	5.10	240	260	11.30
120	130	5.60	260	280	12.30
130	140	6.10	280	300	13.30
140	150	6.60	300	320	14.30
150	160	7.10	320	340	15.30
160	170	7.60	340	360	16.30
170	180	8.10	360	380	17.30
180	190	8.60	380	400	18.30
190	200	9.10	400	420	19.30
200	--------	[1]	420	440	20.30
			440	460	21.30
			460	480	22.30
			480	500	23.30
			500	--------	[2]

[1] $9.40 plus 5% of the excess over $200.
[2] $23.80 plus 5% of the excess over $500.

For semimonthly pay-roll period			For monthly pay-roll period		
If the wages are over	But not over	The amount of tax to be withheld shall be—	If the wages are over	But not over	The amount of tax to be withheld shall be—
$26	$30	$0.10	$52	$60	$0.20
30	40	.40	60	80	.90
40	50	.90	80	100	1.90
50	60	1.40	100	120	2.90
60	70	1.90	120	140	3.90
70	80	2.40	140	160	4.90
80	100	3.20	160	200	6.40
100	120	4.20	200	240	8.40
120	140	5.20	240	280	10.40
140	160	6.20	280	320	12.40
160	180	7.20	320	360	14.40
180	200	8.20	360	400	16.40
200	220	9.20	400	440	18.40
220	240	10.20	440	480	20.40
240	260	11.20	480	520	22.40
260	280	12.20	520	560	24.40
280	300	13.20	560	600	26.40
300	320	14.20	600	640	28.40
320	340	15.20	640	680	30.40
340	360	16.20	680	720	32.40
360	380	17.20	720	760	34.40
380	400	18.20	760	800	36.40
400	420	19.20	800	840	38.40
420	440	20.20	840	880	40.40
440	460	21.20	880	920	42.40
460	480	22.20	920	960	44.40
480	500	23.20	960	1,000	46.40
500	--------	[3]	1,000	--------	[4]

[3] $23.70 plus 5% of the excess over $500.
[4] $47.40 plus 5% of the excess over $1,000.

(d) *Tax paid by recipient.* If any tax required under this part[1] to be withheld and collected is paid by the recipient of the income, it shall not be re-collected from the withholding agent; but such payment shall in no case relieve the withholding agent from liability for interest or additions to the tax otherwise applicable in respect of the tax imposed by this chapter.

(e) *Credit for tax withheld at source.* The tax withheld and collected under this part[1] shall not be allowed as a deduction either to the withholding agent or to the recipient of the income in computing net income; but the amount of the tax so withheld and collected shall be allowed as a credit against the tax imposed by this chapter upon the recipient of the income. Such credit shall be allowed first against the victory tax imposed by section 450 (adjusted for the credit allowed by section 453) and the excess of such credit, if any, over the victory tax, so adjusted, shall be allowed against the tax imposed by sections 11 and 12 or section 400, as the case may be.

(f) *Refunds.* Where there has been an overpayment of tax under this part,[1] any refund or credit made under the provisions of section 322 shall be made to the recipient of the income; but, in any case in which such tax was not so withheld by the withholding agent, such refund or credit shall be made to the withholding agent.

(g) *Included and excluded wages.* If the remuneration paid by an employer to an employee for services performed during one-half or more of any pay-roll period constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such pay-roll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

[1] This part comprises sections 465 to 470, inclusive.

§ 29.466-1 *Requirement of withholding—(a) In general.* Subject to certain prescribed conditions, section 466 provides, at the election of the employer, alternative methods for computing the tax with respect to wages includible in gross income: (1) A tax equal to 5 percent of the excess of each payment of such wages over the withholding deduction (hereinafter referred to as withholding exemption) allowable under section 466 (b), or (2) a tax determined in accordance with the tables provided in section 466 (c). See § 29.466 (c). The tax is applicable to all wages actually or constructively paid on or after January 1, 1943, regardless of the period for which paid or the method of accounting followed by the employee in computing his income for tax purposes, and is collected by deducting the amount thereof from such wages as and when so paid.

Example (1). Employer X has a semimonthly pay-roll period ending on the 10th and 25th days of the month. The wages earned during such periods are customarily paid on the 15th and 30th days of the month, respectively. The wages earned during the semimonthly period ending on January 10, 1943, and paid on January 15, 1943, are subject to withholding when paid.

Example (2). Employer Y has a weekly pay-roll period based on the calendar week and the wages earned during each calendar week are customarily paid on Wednesday of the succeeding week. The wages earned during the week ending January 2, 1943, and paid on Wednesday, January 6, 1943, are subject to withholding when paid.

Wages are constructively paid within the meaning of this section when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case, the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn upon at any time, and their payment brought within his control and disposition.

(b) *Wages includible in gross income.* Under the provisions of section 466, wages are subject to withholding only if and to the extent includible in gross income. The term "includible in gross income" as it relates to wages from which the tax is required to be deducted and withheld refers only to the taxability of the income. Thus, if an item of wages constitutes gross income under the provisions of section 22, it is includible in gross income within the meaning of this section and is subject to withholding. The fact that such wages may be includible in gross income for a taxable year other than that in which paid is immaterial. For instance, in the case of a taxpayer on the accrual basis, wages actually or constructively paid in 1944 but includible in the recipient's gross income for 1943 are subject to withholding in 1944. Likewise, the fact that wages may be includible in the gross income of a taxpayer other than the wage earner is immaterial. For instance, a part of the wages earned by a taxpayer domiciled in a community property State may be includible for tax purposes in the gross income of his spouse. Nevertheless, the entire amount paid to the wage earner should be taken into account in computing the amount of the tax to be withheld at source.

(c) *Nonresident aliens.* Nonresident alien individuals are not subject to withholding under the victory tax provisions, except that such nonresident aliens who are residents of Canada or Mexico and who enter and leave the United States at frequent intervals are subject to the victory tax withholding provisions upon wages paid for services performed within the United States.

§ 29.466-2 *Withholding exemption—(a) In general.* In computing the amount of the tax to be withheld from wage payments, a withholding exemption is allowable against the wages paid by each employer for each pay-roll period based upon an annual exemption of $624 prorated in accordance with the length of the particular pay-roll period. Under the schedule provided in section 466 (b) (1), the amount of the exemption is as follows:

Pay-roll period:	*Withholding exemption*
Weekly	$12.00
Biweekly	24.00
Semimonthly	26.00
Monthly	52.00
Quarterly	156.00
Semiannually	312.00
Annually	624.00

The amount of the exemption in respect of the wages paid a particular employee is determined by reference to such employee's pay-roll period and without regard to the time the employee is actually engaged in the performance of services during such period.

Example (1). Employer X has a semimonthly pay-roll period. An employee whose wages are determined on an hourly rate basis works 20 hours and earns $24 during the pay-roll period. The amount of the withholding exemption allowable in respect of such wages is $26.

Example (2). Employer Y has a weekly pay-roll period. An employee paid at the rate of $10 per day worked two days and resigned. The amount of the withholding exemption allowable in respect of such wages paid such employee for the weekly period is $12.

(b) *Pay-roll period less than one week.* If the pay-roll period is less than one week, as in the case where employees are paid daily, the amount of tax withheld will be based upon the excess of the aggregate of the wages paid during the period of a calendar week over the exemption which would be allowed for a weekly pay-roll period. For instance, if an employee is paid daily at the rate of $5 per day, no tax shall be withheld with respect to the wages paid for the first two days of employment in the week. The wages paid for the third day will be subject to withholding on $3, the excess of the total wages for three days

($15) over the weekly exemption ($12). Subsequent wage payments during the same calendar week would be subject to withholding at the rate of 5 percent on the entire amount of each payment. During the following and subsequent weeks, the same procedure would apply. In the case of temporary or extra employees, if wages are paid at intervals of less than one week, the withholding exemption with respect to wages paid during any calendar week may be computed in accordance with the provisions of this subsection. As used herein, the term "calendar week" means a period of seven consecutive days beginning with Sunday and ending with Saturday.

(c) *Other pay-roll periods.* If the pay-roll period is greater than one week, and is a period not covered by the schedule set forth in section 466 (b), or if wages are paid for a period of more than one week which does not constitute a pay-roll period, the withholding exemption allowable with respect to each such payment of wages is determined by dividing the annual withholding exemption of $624 by 365 ($1.71) and multiplying by the number of days in the period, including Sundays and holidays. Thus, the withholding exemption allowable for a pay-roll period of 10 days is $17.10.

(d) *Wages paid without regard to any period.* In the case of wages paid without regard to any particular period, as, for instance, commissions paid to a salesman upon completion of a sale, the withholding exemption is measured by the number of days elapsed since the date of the last payment of wages to such employee by such employer during the calendar year, or the date on which employment with such employer began during the calendar year, or January 1 of such calendar year, whichever is the later.

Example. On April 1, 1943, A, an individual, was employed by the X Real Estate Co. to sell real estate on a commission basis, commissions to be paid only upon consummation of sales. On May 20, 1943, A received a commission of $300. Again, on June 15, 1943, A received a commission of $400. The amount of the withholding exemption allowable in respect of the commission paid on May 20 is ($1.71×50) $85.50; and the withholding exemption allowable with respect to the commission paid on June 15 is ($1.71×26) $44.46.

(e) *Maximum witholding exemption.* Under section 466 (b) (5) the total withholding exemption allowable to any individual with respect to wages received from any one employer during a calendar year shall not exceed the amount which would have been allowable if such individual had had an annual pay-roll period. Thus, the maximum amount of the exemption allowable with respect to wages paid to an employee by any one employer during a calendar year is $624.

If the amount of the exemption allowable with respect to wages paid for any period of one week or more exceeds the amount of wages paid with respect to such period, the unused portion of the exemption allowable with respect to such period may not be carried over to a subsequent period. Thus, if an employee's wages for a semimonthly pay-roll period are less than $26, the difference between such wages and the $26 exemption allowable with respect to such pay-roll period may not be carried forward to the subsequent pay-roll period.

(f) *Bonuses and commissions.* If an employee's remuneration for each pay-roll period consists of wages computed at a specified rate plus additional wages in the form of bonuses or commissions, the aggregate of the wages paid for each such period shall be considered as a single wage payment and only one withholding exemption shall be allowed with respect to such wages.

Example (1). A is employed as a salesman at a monthly salary of $100 plus commissions on sales made during the month. A withholding exemption of $52 is allowable against the aggregate wages, consisting of salary and commissions, considered as a single wage payment.

Example (2). B is employed as a mechanic at a specified rate per hour plus a bonus on production in excess of a fixed standard. Under the employer's pay-roll practice, wages are paid weekly and each wage payment consists of the wages for the current week computed at the regular rate plus the production bonuses earned during the preceding week. A withholding exemption of $12 is allowable against each such wage payment.

If an employee's compensation consists of wages paid with respect to a particular pay-roll period and in addition thereto bonuses or commissions paid with respect to a different period or without regard to any particular period, the amount of the withholding exemption allowable with respect to such wage payments shall, at the option of the employer, be determined in accordance with either of the following methods:

(1) The amount of the withholding exemption allowable with respect to the regular wage payment and the amount allowable with respect to the bonuses or commissions may be determined independently under the rules applicable to each. Thus, if a person receives a weekly salary for a 26-week period and at the end of such period receives a bonus paid with respect to the 6-month period, a withholding exemption of $12 is allowable in respect to each weekly wage payment, or an aggregate of $312 for the 26-week period, and a withholding exemption of $312 is allowable with respect to the bonus paid for the 6-month period. Since the aggregate of the withholding exemptions allowable with respect to the weekly wage and the bonus equals the maximum allowance of $624 for the calendar year in the case of such individual, no withholding exemption is allowable with respect to any further wages paid to such employee by the same employer during the calendar year; or

(2) The withholding exemption may be determined as if the aggregate of the additional wages and the regular wages constituted a single wage payment for the regular pay-roll period. For example, an employee is paid a monthly salary of $50 plus a bonus and commissions determined at the end of each 3-month period. The bonus and commission for a particular 3-month period amount to $375 which together with his regular monthly salary of $50 make a total of $425. The amount of the withholding exemption allowable with respect to the aggregate wages of $425 is $52.

§ 29.466-3 *Wage bracket withholding.* The use of the tables provided in section 466 (c) is optional with the employer. An employer may elect to use the wage bracket tables for determining the amount of the tax to be withheld in the case of any one or more of his employees provided only that such employees are paid on a weekly, biweekly, semimonthly, or monthly basis. For example, an employer may elect to use the optional method in case of one group of employees on a particular pay roll and at the same time may use the exact 5 percent method provided in section 466 (a) in the case of another group of employees on a different pay roll.

In order to determine the amount of the tax to be withheld with respect to any wage payment, the employer merely refers to the table applicable to the particular pay-roll period. For example, an employee's earnings for a weekly pay-roll period amount to $35. By reference to the table applicable to a weekly pay-roll period, it will be found that the $35 wage payment falls within the wage bracket from $32 to $36 and the amount of the tax to be withheld shown opposite such bracket is $1.10.

If an employer elects in the case of any employee to determine the tax under the wage bracket tables and such employee is paid in addition to his regular wages extra compensation in the form of bonuses, commissions, etc., no withholding exemption under section 466 (b) is allowable for the purpose of computing the amount of the tax to be withheld upon such additional compensation. In any such case, the amount of the tax to be withheld shall be determined in accordance with the following rules:

(a) If the employee's compensation for each pay-roll period consists of the regular wages plus such additional wages, the aggregate of the wages paid for each pay-roll period shall be considered as a single wage payment for the purpose of determining the appropriate wage bracket and the amount of the tax to be withheld under the table. For example, a salesman employed at a monthly salary of $100 plus commissions on sales made during each month received for a particular month, in addition to his regular salary, commissions amounting to $160. By reference to the table applicable to a monthly pay-roll period, it will be found that the $260 wage payment falls within the wage bracket from $240 to $280 and the amount of the tax to be withheld shown opposite such bracket is $10.40.

(b) If the employee's compensation consists of wages paid with respect to a particular pay-roll period and additional wages in the form of bonuses, commissions, etc., paid with respect to a different period or without regard to any particular period, the amount of the tax to be withheld may, at the option of the employer, be determined by either of the following methods: (1) The amount of the tax to be withheld on the regular wages shall be determined under the ap-

propriate wage table, and the amount of the tax to be withheld on the additional wages shall be 5 percent of each such wage payment, or (2) the aggregate of the additional wages and the regular wages shall be considered as a single wage payment and the amount of the tax to be withheld shall be determined under the table applicable to the regular pay-roll period. For example, an employee is paid a weekly salary of $65 plus a bonus determined at the end of each 3-month period. For a particular 3-month period, the employee is paid a bonus of $115. Under the method provided in (1), the amount of the tax to be withheld on the weekly wages as shown on the table provided for a weekly pay-roll period is $2.60, and the amount of the tax to be withheld on the bonus is 5 percent of $115, or $5.75. Under the method provided in (2), the amount of the tax to be withheld on the aggregate wage payment of $180 under the tablt applicable to a weekly pay-roll period is $8.10.

If, in the case of an employee, the wage bracket tables for determining the amount of the tax to be withheld are used for only a portion of the calendar year, and the exact 5 percent method is used for the balance of the calendar year, the maximum withholding exemption allowable with respect to the wages paid by such employer to such employee during the portion of the calendar year following such change shall not exceed an amount equal to the product of the withholding exemption applicable with respect to such employee's pay-roll period multiplied by the number of such periods in the remaining portion of the calendar year.

Example. In the case of certain employees having a weekly pay-roll period ending on Thursday of each week, an employer used the wage bracket tables for determining the tax to be withheld during the first quarter of the calendar year 1943. For the pay-roll period ending on Thursday, April 1, 1943, and for subsequent pay-roll periods during the calendar year 1943, the employer used the exact 5 percent method for computing the amount of the tax to be withheld. The maximum amount of the withholding exemption allowable with respect to the wages paid each employee during the balance of the calendar year is $12 (the withholding exemption applicable to a weekly pay-roll period) multiplied by 40 (the number of weekly pay-roll periods remaining in the calendar year), or $480.

§ 29.466–4 *Tax paid by recipient.* Section 466 (d) provides that if the tax required to be withheld, collected, and paid by the withholding agent is paid by the recipient of the income, it shall not be re-collected from the withholding agent. Such payment does not, however, operate to relieve the withholding agent from liability for interest or additions to the tax imposed for failure to withhold, collect, and pay the tax within the time prescribed by law or regulations made in pursuance of law. Interest and additions to the tax shall be computed from the date prescribed in section 468 for the making of the return and payment of the tax by the withholding agent to the date of payment of the tax by the recipient of the income. In general, for interest and additions to tax for failure to make return or pay the tax within the time prescribed by law, see sections 291 to 299, inclusive. For minimum addition to tax for failure to make return within the time prescribed by law, see section 470 (c).

§ 29.466–5 *Return of income and credit for tax withheld at source.* The entire amount of the wages from which the tax is withheld shall be included in gross income in the return required to be made by the recipient of the income without deductions for such tax. The tax withheld at source, however, is allowable as a credit against the victory tax imposed upon the recipient of the income and any excess thereof over the amount of the victory tax is allowable as a credit against the tax imposed by sections 11 and 12 or the tax imposed by section 400, as the case may be. Any excess of the tax withheld at source over the aggregate of the tax imposed by chapter 1 shall be refunded to the recipient of the income. If the tax has actually been withheld and collected at the source, refund shall be made to the recipient of the income even though such tax has not been paid over to the Government by the withholding agent. See section 322. For the purpose of the credit, the recipient of the income is the person subject to the tax imposed under chapter 1 upon the wages from which the tax was withheld. For instance, if a husband and wife domiciled in a community property State make separate returns, each reporting for income tax purposes one-half of the wages received by the husband, each spouse is entitled to one-half of the credit allowable for the tax withheld at source with respect to such wages.

Example. A and B are married and living together and have two dependent children throughout the calendar year 1943. Their joint return for 1943 discloses normal tax of $1,075.02, surtax of $6,605.33, and victory tax (before allowance of the credit provided in section 453) of $993.80. A credit under the provisions of section 453 is claimed on account of premiums paid in the amount of $628 on life insurance in force on September 1, 1942, and the purchase of war savings bonds during the calendar year 1943 at a cost of $1,200. The victory tax withheld at the source from the wages of A amounts to $968.80. The tax liability of A and B for the calendar year 1943 is shown as follows:

Victory tax (gross)		$993.80
Credit claimed under section 453 (not to exceed post war credit):		
1. Premiums paid on life insurance	$628.00	
2. Purchase of war bonds	1,200.00	
Total	1,828.00	
Post war credit:		
44 percent of $993.80, or $1,200, whichever is the lesser	$437.27	
Credit allowable under section 453		$437.27
Victory tax (net)		556.53
Less: Credit for tax withheld at source		968.80
Excess credit (allowable against other income tax)		412.27
Income tax:		
Normal tax		1,075.02
Surtax		6,605.33
Total		7,680.35
Less: Balance of credit for tax withheld at source		$412.27
Income tax payable		7,268.08

§ 29.466–6 *Included and excluded wages.* If a portion of the remuneration paid by an employer to his employee for services performed during a pay-roll period constitutes wages, and the remainder does not constitute wages, all the remuneration paid the employee for services performed during such period shall for purposes of withholding be treated alike, that is, either all included as wages or all excluded. The time during which the employee performs services, the remuneration for which under section 465 (b) constitutes wages, and the time during which he performs services, the remuneration for which under such section does not constitute wages, determine whether all the remuneration for services performed during the pay-roll period shall be deemed to be included or excluded.

If one-half or more of the employee's time in the employ of a particular person in a pay-roll period is spent in performing services the remuneration for which constitutes wages, then all the wages paid the employee for services performed in that pay-roll period shall be deemed to be wages.

If less than one-half of the employee's time in the employ of a particular person in a pay-roll period is spent in performing services the remuneration for which constitutes wages, then none of the wages paid the employee for services performed in that pay-roll period shall be deemed to be wages.

Example (1). Employee A is employed by B who operates a farm and a store. The remuneration paid A for services on the farm is excepted as remuneration for agricultural labor, and the remuneration for services performed in the store constitutes wages. Employee A is paid on a monthly basis. During a particular month, A works 120 hours on the farm and 80 hours in the store. None of the remuneration paid A for services performed during the month is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the month constitutes wages.

During another month A works 75 hours on the farm and 120 hours in the store. All of the remuneration paid A for services performed during the month is deemed to be wages since the remuneration paid for one half or more of the services performed during the month constitutes wages.

Example (2). Employee C is employed as a maid by D, a physician, whose home and office are located in the same building. The remuneration paid C for services in the home is excepted as remuneration for domestic service, and the remuneration paid for her services in the office constitutes wages. C is paid on a weekly basis. During a particular week C works 20 hours in the home and 20 hours in the office. All of the remuneration paid C for services performed during that week is deemed to be wages, since the remuneration paid for one-half or more of the services performed during the week constitutes wages.

During another week C works 22 hours in the home and 15 hours in the office. None of the remuneration paid C for services performed during that week is deemed to be wages, since the remuneration paid for more than one-half of the services performed during the week does not constitute wages.

The rules set forth in this section do not apply with respect to any remuneration paid for services performed by an employee for his employer if the periods for which remuneration is paid by the employer vary to the extent that there is no period which constitutes a pay-roll period within the meaning of section 465 (a). In such a case withholding is required with respect to that portion of such remuneration which constitutes wages.

SEC. 467. WITHHOLDING AGENT [as added by sec. 172 (a), Rev. Act 1942].

(a) *Collection of tax.* The tax required to be withheld by section 466 shall be collected by the person having control of the payment of such wages by deducting such amount from such wages as and when paid. As used in this subsection, the term "person" includes officers and employees of the United States, or of a State, Territory, or any political subdivision thereof, or of the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

(b) *Indemnification of withholding agent.* Every person required to withhold and collect any tax under this part shall be liable for the payment of such tax, and shall not be liable to any person for the amount of any such payment.

(c) *Adjustments.* If more or less than the correct amount of tax is withheld or paid for any quarter in any calendar year, proper adjustments, with respect both to the tax withheld or the tax paid, may be made in any subsequent quarter of such calendar year, without interest, in such manner and at such times as may be prescribed by regulations made by the Commissioner, with the approval of the Secretary.

§ 29.467-1 *Collection of and liability for tax.* Under the provisions of section 467, the withholding agent is required to collect the tax by deducting the amount thereof from the employee's wages as and when paid, either actually or constructively. The withholding agent is required to collect the tax notwithstanding the wages are paid in something other than money (for example, wages paid in stock or bonds; see § 29.465-2) and to pay the tax to the collector in money. If wages are paid in property other than money, necessary arrangements should be made between the employer and employee to insure that the amount of the tax is available for payment to the collector.

Every person required to withhold and collect the tax under section 466 from the wages of an employee is liable for the payment of such tax whether or not it is collected from the employee. If, for example, an employer deducts less than the correct amount of tax, or if he fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. See, however, section 466 (d) relieving the withholding agent from liability for the tax if such tax has been paid by the recipient of the income. The amount of any tax withheld and collected by a withholding agent is a special fund in trust for the United States (see section 3661.

Except as otherwise expressly indicated or manifestly inconsistent therewith all provisions of law, including statutes of limitations, applicable with respect to the assessment and collection and refund or credit of the taxes imposed by chapter 1 are applicable to the tax required to be collected at the source.

The withholding agent is relieved of liability to any other person for the amount of any tax withheld and paid to the collector pursuant to the provisions of section 466.

§ 29.467-2 *Quarterly adjustments*—(a) *In general.* If, for any quarter of the calendar year, more or less than the correct amount of the tax is withheld, or more or less than the correct amount of the tax is paid to the collector, proper adjustment, without interest, may be made in any subsequent quarter of the same calendar year. No adjustment, however, under the provisions of this section shall be made in respect of any quarter after the mailing of a statutory notice of deficiency under the provisions of section 272, the making of a jeopardy assessment under the provisions of section 273, or the filing of a claim for refund under the provisions of section 322, in respect of such quarter. Every return on which an adjustment for a preceding quarter is reported must have securely attached as a part thereof a statement, in duplicate, explaining the adjustment, and designating the quarterly return period in which the error occurred. If an adjustment of an overcollection of tax which the withholding agent has repaid to an employee is reported on a return, such statement shall include the fact that such tax was repaid to the employee.

(b) *Less than correct amount of tax withheld.* If none, or less than the correct amount, of the tax is deducted from any wage payment and the error is ascertained prior to the making of the return on Form V-1 for the quarter in which such wages are paid, the withholding agent shall nevertheless report on such return and pay to the collector the correct amount of the tax required to be withheld. If the error is not ascertained until after the making of the return on Form V-1 for the quarter in which such wages are paid, the undercollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year, subject, however, to the limitations noted in paragraph (a). The amount of any undercollection adjusted in accordance with this subsection shall be paid to the collector, without interest, at the time prescribed for payment of the tax for the quarter in which such adjustment is made. If an adjustment is made pursuant to this subsection but the amount thereof is not paid when due, interest thereafter accrues. See section 294.

If none, or less than the correct amount, of the tax is withheld from any wage payment, the withholding agent may correct the error by deducting the amount of the undercollection from remuneration of the employee, if any, under his control after he ascertains the error. Such deduction may be made even though the remuneration, for any reason, does not constitute wages. The obligation of an employee to the withholding agent with respect to an undercollection of tax from the employee's wages not subsequently corrected by a deduction made as prescribed herein is a matter for settlement between the employee and the withholding agent. In this connection, see section 466 (d) relieving the withholding agent from liability for collection of the tax if such tax has been paid by the employee or other recipient of the wages.

(c) *More than correct amount of tax withheld.* If, in any quarter, more than the correct amount of tax is deducted from any wage payment, the overcollection may be repaid to the employee in any quarter of the same calendar year. If the amount of the overcollection is repaid, the withholding agent shall obtain and keep as part of his records the written receipt of the employee showing the date and amount of the repayment.

If an overcollection in any quarter is repaid and receipted for by the employee prior to the time the return on Form V-1 for such quarter is filed with the collector, the amount of such overcollection shall not be included in the return for such quarter.

Subject to the limitations provided in paragraph (a) of this section, if an overcollection in any quarter is repaid and receipted for by the employee after the time the return on Form V-1 for such quarter is filed and the tax is paid to the collector, the overcollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year.

Every overcollection not repaid and receipted for by the employee as provided in this subsection must be reported and paid to the collector with the return on Form V-1 for the quarter in which the overcollection is made.

SEC. 468. RETURN AND PAYMENT BY WITHHOLDING AGENT [as added by sec. 172 (a), Rev. Act 1942].

In lieu of the time prescribed in sections 53 and 56 for the return and payment of the tax imposed by this chapter, every person required to withhold and collect any tax under section 466 shall make a return and pay such tax on or before the last day of the month following the close of each quarter of each calendar year. Every such person shall include with the final return for the calendar year a duplicate copy of each receipt required to be furnished under section 469. Every such person shall also keep such records and render under oath such statements with respect to the tax so withheld and collected as may be required under regulations prescribed by the Commissioner, with the approval of the Secretary.

§ 29.468-1 *Return and payment by withholding agent.* Every person required to withhold and collect any tax under section 466 shall make a return and pay such tax on or before the last day of the month following the close of each of the quarters ending March 31, June 30, September 30, and December 31. Such return is to be made on Form V-1, Return of Victory Tax Withheld, and must be filed with the collector of internal revenue for the district in which is located the principal place of business or office of the employer, or if he has no principal place of business or office, then in the district in which is located his legal residence. There shall be included with the return filed for the fourth quarter of the calendar year, or with the

employer's final return, if filed at an earlier date, a duplicate of each Statement of Victory Tax Withheld (Form V-2) (see § 29.469-1), together with Reconciliation of Quarterly Returns of Victory Tax Withheld with Statements of Victory Tax Withheld (Form V-3). In the case of a large number of duplicate statements (Form V-2), they may be forwarded to the collector in a separate package, properly identified by reference to the return (Form V-1). In such case Form V-3 should accompany the duplicate statements (Form V-2). Employers with numerous establishments or pay rolls should assemble the duplicate statements by establishment or by pay roll.

Every person required to withhold, collect, and pay any tax under section 466 shall keep such records as will indicate the persons employed during the year, payments to whom are subject to withholding, the periods of employment, and the amounts and dates of payment to such persons. Such records shall be kept at all times available for inspection by internal-revenue officers, and shall be retained so long as the contents thereof may become material in the administration of any internal-revenue law.

The return must be signed and sworn to by the employer or other person required to withhold, collect, and pay the tax. The return may be sworn to before any person authorized by law to administer oaths for general purposes, or without charge, before any collector of internal revenue or deputy collector.

If the person required to withhold, collect, and pay the tax under section 466 is a corporation, the return shall be made in the name of the corporation and shall be sworn to by the president, vice president, or other principal officer.

With respect to any tax required to be withheld under section 466 by a fiduciary, the return shall be made in the name of the individual, estate, or trust for which such fiduciary acts, and shall be sworn to by such fiduciary. For returns made by one of two or more joint fiduciaries, see section 142 (b).

The last return on Form V-1 for any employer required to withhold, collect, any pay any tax under section 466 who ceased to pay wages shall be marked "Final return" by such employer. Such final return shall be filed with the collector on or before the thirtieth day after the date on which the final payment of wages is made for services performed for such employer, and shall plainly show the period covered and also the date of the last payment of wages. There shall be executed as part of each final return a statement, in duplicate, giving the address at which the records required by this section will be kept, the name of the person keeping such records and, if the business has been sold or otherwise transferred to another person, the name and address of such person and the date on which such sale or other transfer took effect. If no such sale or transfer occurred or the employer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement. An employer who has only temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns, but shall enter on the face of any return on which no tax is required to be reported a statement showing the date of the last payment of wages and the date when he expects to resume paying wages.

SEC. 469. RECEIPTS [as added by sec. 172 (a), Rev. Act 1942].

(a) *Wages.* Every employer required to withhold and collect a tax in respect of the wages of an employee shall furnish to each such employee in respect of his employment during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made, a written statement showing the period covered by the statement, the wages paid by the employer to such employee during such period, and the amount of the tax withheld and collected under this part[1] in respect of such wages.

(b) *Regulations.* The statements required to be furnished by this section shall be in lieu of the return required to be furnished by the employer with respect to his employee under section 147 and shall be furnished at such other times, shall contain such other information, and shall be in such form as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(c) *Extension of time.* The Commissioner, under such regulations as he may prescribe with the approval of the Secretary, may grant to any employer a reasonable extension of time (not in excess of 30 days) with respect to the statements required to be furnished to employees on the day on which the last payment of wages is made.

§ 29.469-1 *Receipts for tax withheld at source on wages*—(a) *In general.* Every employer or other person required to withhold and collect a tax under section 466 shall furnish to each employee in respect of his employment during the calendar year a written statement on Form V-2, showing the period covered, the wages paid to the employee during such period, and the amount of tax withheld. The Form V-2 shall show all remuneration actually or constructively paid to the employee during the calendar year whether or not constituting wages and whether or not tax has been withheld therefrom. Statements prepared in substantially like form and size, but in no case larger than 8 by 3½ inches, will be acceptable. This statement shall be furnished to the employee on or before January 31 of the succeeding calendar year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made. Statements of Victory Tax Withheld (Form V-2) shall be prepared in duplicate, the original of which shall be furnished to the employee as prescribed. The duplicate statements shall be transmitted to the collector with Form V-1 for the fourth quarter of the calendar year and Form V-3.

For wages, salaries, or other remuneration paid in 1943 and subsequent years, the statement on Form V-2 shall take the place of Form 1099, Information Return.

(b) *Extension of time in case of termination of employment.* An extension of time, not exceeding 30 days, within which to furnish the statement required by section 469 (a) is granted any employer with respect to any employee whose employment is terminated during the calendar year. In the case of intermittent or interrupted employment where there is reasonable expectation on the part of both employer and employee of further employment, there is no requirement that a statement be immediately furnished the employee; but when such expectation ceases to exist, the statement must be furnished within 30 days from that time.

[1] This part comprises sections 465 to 470, inclusive.

SEC. 470. PENALTIES [as added by sec. 172 (a), Rev. Act 1942].

(a) *Penalties for fraudulent receipt or failure to furnish receipt.* In lieu of any other penalty provided by law (except the penalty provided by subsection (b) of this section), any person required under the provisions of section 469 to furnish a receipt in respect of tax withheld pursuant to this part[1] who wilfully furnishes a false or fraudulent receipt, or who wilfully fails to furnish a receipt in the manner, at the time, and showing the information required under section 469, or regulations prescribed thereunder, shall for each such failure, upon conviction thereof, be fined not more than $1,000, or imprisoned for not more than one year, or both.

(b) *Additional penalty.* In addition to the penalty provided by subsection (a) of this section, any person required under the provisions of section 469 to furnish a receipt in respect of tax withheld pursuant to this part[1] who wilfully furnishes a false or fradulent receipt, or who wilfully fails to furnish a receipt in the manner, at the time, and showing the information required under section 469, or regulations prescribed thereunder, shall for each such failure be subject to a civil penalty of not more than $50.

(c) *Failure of withholding agent to file return.* In case of any failure to make and file return required by this part,[1] within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, the addition to the tax provided for in section 291 shall not be less than $5.

§ 29.470-1 *Penalties*—(a) *Fraudulent receipt or failure to furnish receipt.* Section 470 imposes criminal and civil penalties for the willful failure to furnish a receipt in the manner, at the time, and showing the information required under section 469 or regulations prescribed thereunder or for willfully furnishing a false or fraudulent receipt. The criminal penalty is a fine of not more than $1,000 or imprisonment for not more than one year, or both, and the civil penalty is a fine of not more than $50 for each such violation. Such penalties are in lieu of any other penalties provided by law respecting the failure to furnish a receipt or the furnishing of a false or fraudulent receipt.

(b) *Addition to tax for failure to file return.* In case of any failure to make and file a return required by section 468 within the time prescribed by law, unless failure to file the return within the prescribed time is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to willful neglect, the addition to the tax provided by section 291 shall not be less than $5. For interest and additions to tax for failure to make return or pay tax within the time prescribed by law, see generally sections

291 to 299, inclusive; for criminal penalties, see section 145 and § 29.145-1.

EXPIRATION DATE AND DEFINITIONS

SEC. 475. DEFINITIONS [as added by sec. 172 (a), Rev. Act 1942].

(a) *Net income.* When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the term "net income" shall be construed to mean "victory tax net income" for the purposes of this subchapter.

(b) *Date of cessation of hostilities in the present war.* As used in this subchapter, the term "date of cessation of hostilities in the present war" means the date on which hostilities in the present war between the United States and the governments of Germany, Japan, and Italy cease, as fixed by proclamation of the President or by concurrent resolution of the two Houses of Congress, whichever date is earlier, or in case the hostilities between the United States and such governments do not cease at the same time, such date as may be so fixed as an appropriate date for the purposes of this subchapter.

§ 29.475-1 *Definitions*—(a) *Net income as victory tax net income.* The term "net income" as used throughout the Internal Revenue Code, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, shall be construed to mean "victory tax net income" for the purposes of the victory tax.

(b) *Date of cessation of hostilities in the present war.* The term "date of cessation of hostilities in the present war" means the date on which hostilities in the present war between the United States and the Governments of Germany, Japan, and Italy cease, as fixed by proclamation of the President or concurrent resolution of both Houses of Congress, whichever date is earlier, or, in case the hostilities between the United States and such Governments do not cease at the same time, such date as may be fixed by proclamation of the President or by concurrent resolution of both Houses of Congress as an appropriate date for the purposes of the victory tax.

SEC. 476. EXPIRATION DATE [as added by sec. 172 (a), Rev. Act 1942, and amended by sec. 2 (c), Current Tax Payment Act 1943].

The tax imposed by Part I[1] of this subchapter shall not apply with respect to any taxable year commencing after the date of cessation of hostilities in the present war. The tax imposed by Part II[1] of such subchapter shall not apply with respect to any wages paid after June 30, 1943, unless paid during the calendar year 1943 with respect to a payroll period beginning on or before such date. [NOTE. Under sec. 2 (d), Current Tax Payment Act 1943, the amendment by sec. 2 (c) thereof is effective July 1, 1943. Prior to such amendment, section 476 read as follows: "The taxes imposed by this subchapter shall not apply with respect to any taxable year commencing after the date of cessation of hostilities in the present war."]

SUBPART E—PERSONAL HOLDING COMPANIES

SEC. 500. SURTAX ON PERSONAL HOLDING COMPANIES [as amended by sec. 203, Rev. Act 1940; sec. 110 (a), Rev. Act 1941; sec. 181, Rev. Act 1942].

There shall be levied, collected, and paid, for each taxable year beginning after December 31, 1938, upon the undistributed subchapter A net income of every personal holding company (in addition to the taxes imposed by chapter 1) a surtax equal to the sum of the following:

(1) 75 per centum of the amount thereof not in excess of $2,000; plus

(2) 85 per centum of the amount thereof in excess of $2,000.

[NOTE: Under sec. 101, Rev. Act 1942, the rates of tax specified in this section are applicable only with respect to taxable years beginning after December 31, 1941.]

§ 29.500-1 *Surtax on personal holding companies.* Section 500 imposes (in addition to the taxes imposed by chapter 1) a graduated income tax or surtax upon corporations classified as personal holding companies and, under the circumstances specified in section 501 (c), upon an affiliated group of railroad corporations. Corporations so classified are exempt from the surtax on corporations improperly accumulating surplus imposed by section 102, but are not exempt from the other taxes imposed by chapter 1. Unlike the surtax imposed by section 102, the surtax imposed by section 500 applies to all personal holding companies defined as such in section 501 and § 29.501-1, regardless of whether or not they were formed or availed of to accumulate earnings or profits for the purpose of avoiding surtax upon shareholders. The surtax imposed by section 500 is 75 percent of the amount of the undistributed subchapter A net income not in excess of $2,000, and 85 percent of the amount of the undistributed subchapter A net income in excess of $2,000. For the alternative tax where the net long-term gain for any taxable year exceeds the net short-term capital loss, see section 117 (c) and the regulations thereunder.

A foreign corporation, whether resident or nonresident, which is classified as a personal holding company under section 501 (not including a foreign personal holding company as defined in section 331) is subject to the tax imposed by section 500 with respect to its income from sources within the United States even though such income is not fixed or determinable annual or periodical income specified in section 231 (a). (See section 119.) The term "personal holding company," as used in subchapter A of chapter 2, does not include a foreign corporation if (1) its gross income from sources within the United States for the period specified in section 119 (a) (2) (B) is less than 50 percent of its total gross income from all sources and (2) all of its stock outstanding during the last half of the taxable year is owned by nonresident alien individuals, whether directly or indirectly through other foreign corporations.

SEC. 501. DEFINITIONS OF PERSONAL HOLDING COMPANY [as amended by secs. 182 (a), 183, Rev. Act. 1942.]

(a) *General rule.* For the purposes of this subchapter and chapter 1, the term "personal holding company" means any corporation if—

(1) *Gross income requirement.* At least 80 per centum of its gross income for the taxable year is personal holding company income as defined in section 502; but if the corporation is a personal holding company with respect to any taxable year beginning after December 31, 1936, then, for each subsequent taxable year, the minimum percentage shall be 70 per centum in lieu of 80 per centum, until a taxable year during the whole of the last half of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 70 per centum of the gross income is personal holding company income; and

(2) *Stock ownership requirement.* At any time during the last half of the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals.

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

(1) A corporation exempt from taxation under section 101.

(2) A bank as defined in section 104.

(3) A life insurance company.

(4) A surety company.

(5) A foreign personal holding company as defined in section 331.

(6) A licensed personal finance company under State supervision, at least 80 per centum of the gross income of which is lawful interest received from individuals each of whose indebtedness to such company did not at any time during the taxable year exceed $300 in principal amount, if such interest is not payable in advance or compounded and is computed only on unpaid balances.

(7) A loan or investment corporation, a substantial part of the business of which consists of receiving funds not subject to check and evidenced by installment or fully paid certificates of indebtedness or investment, and making loans and discounts, and the loans to a person who is a shareholder in such corporation during such taxable year by or for whom 10 per centum or more in value of its outstanding stock is owned directly or indirectly (including in the case of an individual, stock owned by the members of his family as defined in section 503 (a) (2)) outstanding at any time during such year do not exceed $5,000 in principal amount. [NOTE: Sec. 182 (b), Rev. Act, 1942, provides that the amendment of sec. 501 (b), Internal Revenue Code, by sec. 182 (a), Rev. Act 1942, shall be applicable "to taxable years beginning after December 31, 1941, except that if a taxpayer, within the time and in the manner and subject to such regulations as the Commissioner with the approval of the Secretary prescribes, elects to have such amendments apply retroactively to all taxable years of the taxpayer beginning after December 31, 1938, and not beginning after December 31, 1941, such amendments shall be applicable to such taxable years."]

(c) *Corporations making consolidated returns.* If the common parent corporation of an affiliated group of corporations making a consolidated return under the provisions of section 141 satisfies the stock ownership requirement provided in section 501 (a) (2), and the income of such affiliated group, determined as provided in section 141, satisfies the gross income requirement provided in section 501 (a) (1), such affiliated group shall be subject to the surtax imposed by this subchapter. The preceding sentence shall apply only if the common parent corporation is a common parent of an affiliated group of railroad corporations which would be eligible to file consolidated returns under section 141 prior to its amendment by the Revenue Act of 1942.

§ 29.501-1 *Definition of personal holding company.* A personal holding company is any corporation (other than a corporation specified in section 501 (b)) which for the taxable year meets (a) the gross income requirement specified in § 29.501-2, and (b) the stock ownership

[1] Part I comprises sections 450 to 456, inclusive. Part II comprises sections 465 to 470, inclusive.

requirement specified in § 29.501-3. Both requirements must be satisfied and both must be met with respect to each taxable year.

A loan or investment corporation, as defined in section 501 (b) (7), is not taxable as a personal holding company. If, for any prior taxable year (or years) beginning after December 31, 1938, and before January 1, 1942, such a corporation classifies as a personal holding company under section 501 (a), it is not subject to the surtax imposed by section 500 for such taxable year (or years) if it elects, within one year after October 21, 1942, not to be so taxed. The election can be made only by the filing of a notice in writing with the Commissioner of Internal Revenue, Washington, D. C., attention Income Tax Unit, within such 1-year period, requesting that the exemption granted by section 501 (b) be applied to such prior taxable year (or years) with respect to which the corporation was otherwise subject to surtax as a personal holding company.

§ 29.501-2 *Gross income requirement.* To meet the gross income requirement, it is necessary that either of the following percentages of gross income of the corporation for the taxable year be personal holding company income as defined in section 502:

(a) 80 percent or more; or

(b) 70 percent or more if the corporation has been classified as a personal holding company for any taxable year beginning after December 31, 1936, unless:

(1) A taxable year has intervened since the last taxable year for which it was so classified, during no part of the last half of which the stock ownership requirement specified in section 501 (a) (2) exists; or

(2) Three consecutive years have intervened since the last taxable year for which it was so classified, during each of which its personal holding company income was less than 70 percent of its gross income.

In determining whether the personal holding company income is equal to the required percentage of the total gross income, the determination must not be made upon the basis of gross receipts, since gross income is not synonymous with gross receipts. For a further discussion of what constitutes "gross income," see section 22 (a) and §§ 29.22 (a)-1 to 29.22 (a)-20, inclusive.

§ 29.501-3 *Stock ownership requirement.* To meet the stock ownership requirement, it is necessary that at some time during the last half of the taxable year more than 50 percent in value of the outstanding stock of the corporation be owned, directly or indirectly, by or for not more than five individuals. For such purpose, the ownership of the stock must be determined as provided in section 503 and §§ 29.503 (a)-1 to 29.503 (a)-7, inclusive, and § 29.503 (b)-1.

In the event of any change in the stock outstanding during the last half of the taxable year, whether in the number of shares or classes of stock, or whether in the ownership thereof, the conditions existing immediately prior and subsequent to each change must be taken into consideration.

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

The rules stated in the last two preceding paragraphs are equally applicable in determining the stock ownership requirement specified in section 502 (e), relating to personal service contracts, and in section 502 (f), relating to the use of corporation property by a shareholder. The stock ownership requirement specified in these sections relates, however, to the stock outstanding at any time during the entire taxable year and not merely during the last half thereof.

SEC. 502. PERSONAL HOLDING COMPANY INCOME.

For the purposes of this subchapter the term "personal holding company income" means the portion of the gross income which consists of:

(a) Dividends, interest (other than interest constituting rent as defined in subsection (g)), royalties (other than mineral, oil, or gas royalties), annuities.

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

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

(d) *Estates and trusts.* Amounts includible in computing the net income of the corporation under Supplement E of chapter 1; and gains from the sale or other disposition of any interest in an estate or trust.

(e) *Personal service contracts.* (1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

(f) *Use of corporation property by shareholder.* Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

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

(h) *Mineral, oil, or gas royalties.* Mineral, oil, or gas royalties, unless (1) constituting 50 per centum or more of the gross income, and (2) the deductions allowable under section 23 (a) (relating to expenses) other than compensation for personal services rendered by shareholders, constitute 15 per centum or more of the gross income.

§ 29.502-1 *Personal holding company income.* The term "personal holding company income" means the portion of the gross income which consists of the following:

(a) *Dividends.* The term "dividends" includes dividends as defined in section 115 (a), and amounts required to be included in gross income under section 337 (b). See § 29.115-1.

(b) *Interest (other than interest constituting rent).* The term "interest" means any amounts, includible in gross income, received for the use of money loaned except that it does not include interest constituting rent (see paragraph (j) of this section.

(c) *Royalties (other than mineral, oil, or gas royalties).* The term "royalties" includes amounts received for the privilege of using patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property. It does not include rents, or overriding royalties received by an operating company. As used in this paragraph the term "overriding royalties" means amounts received from the sublessee by the operating company which orginally leased and developed the natural resource property in respect of which such overriding royalties are paid.

(d) *Annuities.* The term "annuities" includes annuities only to the extent includible in the computation of gross income. (See section 22 (b) (2).)

(e) *Gains from the sale or exchange of stock or securities.* The term "gains from the sale or exchange of stock or securities" as used in section 502 (b) applies to all gains (including gains from liquidating dividends and other distributions from capital) from the sale or exchange of stock or securities includible

in gross income. The term "stock or securities" as used in section 502 (b) includes shares or certificates of stock, or interest in any corporation (including any joint-stock company, insurance company, association, or other organization classified as a corporation by the Internal Revenue Code), certificates of interest or participation in any profit-sharing agreement, or in any oil, gas, or other mineral royalty, or lease, collateral trust certificates, voting trust certificates, stock rights or warrants, bonds, debentures, certificates of indebtedness, notes, car trust certificates, bills of exchange, obligations issued by or on behalf of a Government, State, Territory, or political subdivision thereof. In the case of "regular dealers in stock or securities" the term does not include gains derived from the sale or exchange of stock or securities made in the normal course of business. The term "regular dealer in stock or securities" means corporations with an established place of business regularly engaged in the purchase of stock or securities and their resale to customers, but such corporations are not dealers with respect to stock or securities held for speculation or investment.

(f) *Gains from futures transactions in commodities.* Gains from futures transactions in commodities include gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange, but do not include gains from cash transactions or gains by a producer, processor, merchant, or handler of the commodity, which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others. In general, personal holding company income includes gains on futures contracts which are speculative. Futures contracts representing true hedges against price fluctuations in spot goods are not speculative transactions, though not concurrent with spot transactions. Futures contracts which are not hedges against spot transactions are speculative unless they are hedges against concurrent futures or forward sales or purchases.

(g) *Income from estates and trusts.* The income from estates and trusts which is to be included in personal holding company income consists of the income from estates and trusts which is required to be included in the gross income of the corporation under sections 161 to 169, inclusive, together with the gains derived by the corporation from the sale or other disposition of any interest in an estate or trust.

(h) *Amounts received under personal service contracts.* Amounts includible in personal holding company income as amounts received under personal service contracts consist of amounts received pursuant to a contract under which the corporation is to furnish personal services, and amounts received from a sale or other disposition of such a contract, if:

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

(2) At some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For this purpose the stock ownership must be determined as provided in section 503 and §§ 29.503 (a)-1 to 29.503 (a)-7, inclusive, § 29.503 (b)-1, and the last paragraph of § 29.501-3.

The application of section 502 (a) may be illustrated by the following examples:

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

Example (2). The N Corporation, the entire outstanding capital stock of which is owned by four individuals, is engaged in engineering. The N Corporation entered into a contract with the O Corporation to perform engineering services for the O Corporation, in consideration of which the O Corporation was to pay the N Corporation $50,000. The individual who was to perform the services was not designated (by name or by description) in the contract and no one but the N Corporation had the right to designate (by name or by description) such individual. The $50,000 received by the N Corporation from the O Corporation does not constitute personal holding company income.

(i) *Compensation for use of property.* The compensation for the use of, or the right to use, property of the corporation which is to be included in personal holding company income consists of amounts received as compensation (however designated and from whomsoever received) for the use of, or the right to use, property of the corporation in any case in which, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property, whether such right is obtained directly from the corporation or by means of a sublease or other arrangement. The property may consist of a yacht, a city residence, a country house, or any other kind of property. See section 503 and §§ 29.503 (a)-1 to 29.503 (a)-7, inclusive, § 29.503 (b)-1, and the last pargaraph of § 29.501-3.

(j) *Rents (including interest constituting rent).* The rents which are to be included in personal holding company income consist of compensation, however designated, including charter fees, etc., for the use of, or the right to use, real property, or any other kind of property and the interest on debts owed to the corporation, to the extent such debts represent the price for which real property held primarily for sale to customers in the ordinary course of its trade or business was sold or exchanged by the corporation, but do not include amounts constituting personal holding company income under section 502 (f) and paragraph (i) of this section. However, rents do not constitute personal holding company income if constituting 50 percent or more of the gross income of the corporation.

(k) *Mineral, oil, or gas royalties.* The income from mineral, oil, or gas royalties is to be included as personal holding company income, unless (1) the aggregate amount of such royalties constitutes 50 percent or more of the gross income of the corporation for the taxable year and (2) the aggregate amount of deductions allowable for expenses under section 23 (a) (other than compensation for personal services rendered by the shareholders of the corporation) equals 15 percent or more of the gross income of the corporation for the taxable year.

The term "mineral, oil, or gas royalties" means all royalties, except overriding royalties, received from any interest in mineral, oil, or gas properties. The term "mineral" includes the minerals specified in § 29.23 (m)-1 (d). As used in this paragraph the term "overriding royalties" means amounts received from the sublessee by the operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid.

SEC. 503. STOCK OWNERSHIP.

(a) *Constructive ownership.* For the purpose of determining whether a corporation is a personal holding company, insofar as such determination is based on stock ownership under section 501 (a) (2), section 502 (e), or section 502 (f)—

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

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

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

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

(A) For the purposes of the stock ownership requirement provided in section 501 (a) (2), if, but only if, the effect is to make the corporation a personal holding company;

(B) For the purposes of section 502 (e) (relating to personal service contracts), or of section 502 (f) (relating to the use of property by shareholders), if, but only if, the

effect is to make the amounts therein referred to includible under such subsection as personal holding company income.

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

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

§ 29.503 (a)-1 *Stock ownership.* For the purpose of determining whether:

(a) A corporation is a personal holding company, in so far as such determination is based on the stock ownership requirement specified in section 501 (a) (2) and § 29.501-3, or

(b) Amounts received under a personal service contract or from the sale of such a contract constitute personal holding company income in so far as such determination is based on the stock ownership requirement specified in section 502 (e) and paragraph (h) of § 29.502-1, or

(c) Compensation for the use of property constitutes personal holding company income in so far as such determination is based on the stock ownership requirement specified in section 502 (f) and paragraph (i) of § 29.502-1,

stock owned by an individual includes stock constructively owned by him as provided in section 503. For such purpose constructive ownership of stock shall be determined and applied in accordance with the rules provided in section 503 and §§ 29.503 (a)-2 to 29.503 (a)-7, inclusive, and § 29.503 (b)-1. All forms and classes of stock, however denominated, which represents the interests of shareholders, members, or beneficiaries in the corporation shall be taken into consideration.

§ 29.503 (a)-2 *Stock not owned by individual.* In determining the ownership of stock for any of the purposes set forth in § 29.503 (a)-1, stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. For example, if A and B, two individuals, are the exclusive and equal beneficiaries of a trust or estate, and if such trust or estate owns the entire capital stock of the M Corporation, and if the M Corporation in turn owns the entire capital stock of the N Corporation, then the stock of both the M Corporation and the N Corporation shall be considered as being owned equally by A and B as the individuals owning the beneficial interest therein. See also § 29.503 (a)-6.

§ 29.503 (a)-3 *Family and partnership ownership.* In determining the ownership of stock for any of the purposes set forth in § 29.503 (a)-1, an individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of such determination the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

The application of the family and partnership rule in determining the ownership of stock for the purpose set forth in § 29.503 (a)-1 (a) is illustrated by the following example:

Example. The M Corporation at some time during the last half of the taxable year had 1,800 shares of outstanding stock, 450 of which were held by various individuals having no relationship to one another and none of whom were partners, and the remaining 1,350 were held by 51 shareholders as follows:

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

By applying the statutory rule provided in section 503 (a) (2) five individuals own more than 50 percent of the outstanding stock as follows:

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

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

The method of applying the family and partnership rule as illustrated in the foregoing example also applies in determining the ownership of stock for the purposes stated in § 29.503 (a)-1 (a) and (b).

§ 29.503 (a)-4 *Options.* In determining the ownership of stock for any of the purposes set forth in § 29.503 (a)-1, if any person has an option to acquire stock, such stock may be considered as owned by such person. The term "option" as used in this section includes an option to acquire such an option and each one of a series of such options, so that the person who has an option on an option to acquire stock may be considered as the owner of the stock.

§ 29.503 (a)-5 *Application of family-partnership and option rules.* The family and partnership rule provided in section 503 (a) (2) and § 29.503 (a)-3 and the option rule provided in section 503 (a) (3) and § 29.503 (a)-4 shall be applied:

(a) For the purpose stated in § 29.503 (a)-1 (a), if, but only if, the effect of such application is to make the corporation a personal holding company, or

(b) For the purpose stated in § 29.503 (a)-1 (b), if, but only if, the effect of such application is to make the amounts received under a personal service contract or from the sale of such a contract personal holding company income, or

(c) For the purpose stated in § 29.503 (a)-1 (c), if, but only if, the effect of such application is to make the compensation for the use of the property personal holding company income.

The family and partnership rule and the option rule must be applied independently for each of the purposes stated in § 29.503 (a)-1.

§ 29.503 (a)-6 *Constructive ownership as actual ownership.* In determining the ownership of stock for any of the purposes set forth in § 29.503 (a)-1:

(a) Stock constructively owned by a person by reason of the application of the rule provided in section 503 (a) (1), relating to stock not owned by an individual (see § 29.503 (a)-2) shall be considered as actually owned by such person for the purpose of again applying such rule or of applying the family and partnership rule provided in section 503 (a) (2) (see § 29.503 (a)-3) in order to make another person the constructive owner of such stock, and

(b) Stock constructively owned by a person by reason of the application of the option rule provided in section 503 (a) (3) (see § 29.503 (a)-4) shall be considered as actually owned by such person for the purpose of applying either the rule provided in section 503 (a) (1), relating to stock not owned by an individual, or the family and partnership rule provided in section 503 (a) (2) in order to make another person the constructive owner of such stock, but

(c) Stock constructively owned by an individual by reason of the application of the family and partnership rule provided in section 503 (a) (2) shall not be considered as actually owned by such individual for the purpose of again applying such rule in order to make another individual the constructive owner of such stock.

The application of this section may be illustrated by the following examples:

Example (1). A's wife, AW, owns all the stock of the M Corporation, which in turn owns all the stock of the O Corporation.

The O Corporation in turn owns all the stock of the P Corporation.

Under the rule provided in section 503 (a) (1), relating to stock not owned by an individual, the stock in the P Corporation owned by the O Corporation is considered to be owned constructively by the M Corporation, the sole shareholder of the O Corporation. Such constructive ownership of the stock of the M Corporation is considered as actual ownership for the purpose of again applying such rule in order to make AW, the sole shareholder of the M Corporation, the constructive owner of the stock of the P Corporation. Similarly, the constructive ownership of the stock by AW is considered as actual ownership for the purpose of applying the family and partnership rule provided in section 503 (a) (2) in order to make A the constructive owner of the stock of the P Corporation, if such application is necessary for any of the purposes set forth in § 29.503 (a)-1. But the stock thus constructively owned by A may not be considered as actual ownership for the purpose of again applying the family and partnership rule in order to make another member of A's family, for example, A's father, the constructive owner of the stock of the P Corporation.

Example (2). B, an individual, owns all the stock of the R Corporation which has an option to acquire all the stock of the S Corporation, owned by C, an individual, who is not related to B.

Under the option rule provided in section 503 (a) (3) the R Corporation may be considered as owning constructively the stock of the S Corporation owned by C. Such constructive ownership of the stock by the R Corporation is considered as actual ownership for the purpose of applying the rule provided in section 503 (a) (1), relating to stock not owned by an individual, in order to make B, the sole shareholder of the R Corporation, the constructive owner of the stock of the S Corporation. The stock thus constructively owned by B by reason of the application of the rule provided in section 503 (a) (1) likewise is considered as actual ownership for the purpose, if necessary of applying the family and partnership rule provided in section 503 (a) (2), in order to make another member of B's family, for example, B's wife, BW, the constructive owner of the stock of the S Corporation. However, the family and partnership rule could not again be applied so as to make still another individual the constructive owner of the stock of the S Corporation, that is, the stock constructively owned by BW could not be considered as actually owned by her in order to make BW's father the constructive owner of such stock by a second application of the family and partnership rule.

§ 29.503 (a)-7 *Option rule in lieu of family and partnership rule.* If, in determining the ownership of stock for any of the purposes set forth in § 29.503 (a)-1, stock may be considered as constructively owned by an individual by an application of both the family-partnership rule provided in section 503 (a) (2) (see § 29.503 (a)-3) and the option rule provided in section 503 (a) (3) (see § 29.503 (a)-4) such stock shall be considered as owned constructively by the individual by reason of the application of the option rule.

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

Example. Two brothers, A and B, each own 10 percent of the stock of the M Corporation, and A's wife, AW, also owns 10 percent of the stock of such corporation. AW's husband, A, has an option to acquire the stock owned by her at any time. It becomes necessary, for one of the purposes stated in § 29.503 (a)-1, to determine the stock ownership of B in the M Corporation.

If the family and partnership rule were the only rule that applied in the case, B would be considered, under that rule, as owning 20 percent of the stock of the M Corporation, namely, his own stock plus the stock owned by his brother. In that event, B could not be considered as owning the stock held by AW since (1) AW is not a member of B's family and (2) the constructive ownership of such stock by A through the application of the family and partnership rule in his case is not considered as actual ownership so as to make B the constructive owner by a second application of the same rule with respect to the ownership of the stock. (See § 29.503 (a)-6.)

However, there is more than the family and partnership rule involved in this example. As the holder of an option upon the stock, A may be considered the constructive owner of his wife's stock by the application of the option rule and without reference to the family relationship between A and AW. If A is considered as owning the stock of his wife by application of the option rule, then under § 29.503 (a)-6, such constructive ownership by A is regarded as actual ownership for the purpose of applying the family and partnership rule so as to make another member of A's family, for example, B, the constructive owner of the stock. Hence, since A may be considered as owning his wife's stock by applying both the family-partnership rule and the option rule, the provisions of section 503 (a) (6) apply and accordingly A must be considered the consrtuctive owner of his wife's stock under the option rule rather than the family-partnership rule. B thus becomes the constructive owner of 30 percent of the stock of the M Corporation, namely, his own 10 percent, A's 10 percent, and AW's 10 percent constructively owned by A as the holder of an option on the stock.

[SEC. 503. STOCK OWNERSHIP.]

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

(1) For the purpose of the stock ownership requirement provided in section 501 (a) (2), but only if the effect of the inclusion of all such securities is to make the corporation a personal holding company;

(2) For the purpose of section 502 (e) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income; and

(3) For the purpose of section 502 (f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income.

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

§ 29.503 (b)-1 *Convertible securities.* Under section 503 (b), outstanding securities of a corporation, such as bonds, debentures, or other corporate obligations, convertible into stock of the corporation (whether or not convertible during the taxable year) shall be considered as outstanding stock of the corporation for the purpose of the stock ownership requirement provided in section 501 (a) (2), but only if the effect of such consideration is to make the corporation a personal holding company. Such convertible securities shall be considered as outstanding stock for the purpose of section 502 (e), relating to amounts received under personal service contracts, or of section 502 (f), relating to compensation for the use of property, but only if the effect of such consideration is to make the amounts therein referred to includible under such sections as personal holding company income. The consideration of convertible securities as outstanding stock is subject to the exception that, if some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be considered as outstanding stock although the others are not so considered but no convertible securities shall be considered as outstanding stock unless all outstanding securities having a prior conversion date are also so considered. For example, if outstanding securities are convertible in 1942, 1943, and 1944, those convertible in 1942 can be properly considered as outstanding stock without so considering those convertible in 1943 or 1944, and those convertible in 1942 and 1943 can be properly considered as outstanding stock without so considering those convertible in 1944. However, the securities convertible in 1943 could not be properly considered as outstanding stock without so considering those convertible in 1942 and the securities convertible in 1944 could not be properly considered as outstanding stock without so considering those convertible in 1942 and 1943.

SEC. 504. UNDISTRIBUTED SUBCHAPTER A NET INCOME [as amended by sec. 228 (a), Rev. Act 1939; sec 1, Pub. Law 18, approved March 17, 1941; secs. 132 (d), 184 (a), 186 (c), Rev. Act 1942].

For the purposes of this subchapter the term "undistributed subchapter A net income" means the subchapter A net income (as defined in section 505) minus—

(a) The amount of the dividends paid credit provided in section 27 (a) without the benefit of paragraphs (3) and (4) thereof (computed without its reduction, under section 27 (b) (1), by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations); but, in the computation of the dividends paid credit for the purposes of this subchapter, the amount allowed under subsection (c) of this section or of section 405 of the Revenue Act of 1938 in the computation of the tax under this subchapter or under Title IA of the Revenue Act of 1938 for any preceding taxable year beginning after December 31, 1937, shall be considered as a dividend paid in such preceding taxable year and not in the year of distribution;

(b) Amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness;

(c) Dividends paid after the close of the taxable year and before the 15th day of the third month following the close of the taxable year, if claimed under this subsection in the return, but only to the extent to which such dividends would have been includible in the computation of the basic surtax credit

for the taxable year if distributed during such taxable year; but the amount allowed under this subsection shall not exceed either:

(1) The undistributed Subchapter A net income for the taxable year computed without regard to this subsection; or

(2) 10 per centum of the sum of—

(A) The dividends paid during the taxable year (reduced by the amount allowed under this subsection in the computation of the tax under this subchapter for the taxable year preceding the taxable year or, in the case of a taxable year beginning in 1939, by the amount allowed under section 405 (c) of the Revenue Act of 1938 in the computation of the tax under Title IA of such Act for a taxable year beginning prior to January 1, 1939); and

(B) The consent dividends credit for the taxable year.

(d) Amounts distributed before January 1, 1944, in redemption of preferred stock outstanding before January 1, 1934 (including any preferred stock issued after January 1, 1934, in lieu of such previously outstanding preferred stock) if such distributions are made by a corporation the aggregate of whose gross sales and gross receipts arising from manufacturing, commerical, processing, and service operations during the four-year period immediately before January 1, 1934, exceeded the aggregate of its gross receipts from dividends, interest, royalties, annuities, and gains from the sale or exchange of stock or securities during such period.

SEC. 186. DISTRIBUTIONS BY PERSONAL HOLDING COMPANIES. (Revenue Act of 1942, title I.)

* * * * *

(g) *Retroactive application.* The amendments made by subsections (a) to (d), inclusive [the amendments of sections 115 (a), 115 (b), 504 (c), and 506 (c), Internal Revenue Code], shall not apply with respect to any distribution, which is a dividend solely by reason of the last sentence of section 115 (a) of the applicable revenue law, made prior to the date of enactment of this Act by a corporation which, under the law applicable to the taxable year in which the distribution is made, is a personal holding company, or which, for the taxable year in respect of which it is made under section 504 (c) or section 506 or a corresponding provision of a prior income tax law, is a personal holding company under the law applicable to such taxable year, unless—

(1) The corporation (under regulations prescribed by the Commissioner with the approval of the Secretary) files, within one year after the date of the enactment of this Act, a claim for the benefit of this section on account of such distribution;

(2) Such claim is accompanied by signed consents made under oath by each person to whom the corporation made such distribution agreeing to the inclusion of the amount of such distribution to him in his gross income as a taxable dividend. If any such person is no longer in existence or is under disability then the consent may be made by his legal representative; and

(3) Each such consent filed is accompanied by cash, or such other medium of payment as the Commissioner may by regulations authorize, in an amount equal to the amount that would be required by section 143 (b) or 144 of the applicable revenue law to be deducted and withheld by the corporation if the amount of the distribution to the shareholder had been paid to the shareholder in cash as a dividend. The amount accompanying such consent shall be credited against the tax under the applicable revenue law imposed by section 211 (a) or 231 (a) upon the shareholder.

(h) *Overpayments and deficiencies.* If the refund or credit of any overpayment for any taxable year, to the extent resulting from the application of subsections (e) [amendment of section 28 (d), Internal Revenue Code] and (g) of this section is prevented on the date of the enactment of this Act or within one year from such date, then, notwithstanding any other provision of law or rule of law (other than this subsection and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938, relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an income tax erroneously collected if claim therefor is filed within one year from the date of the enactment of this Act If the assessment or collection of any deficiency for any taxable year, to the extent resulting from the application of subsections (e) and (g) of this section, is prevented on the date of the filing of the shareholders' consents referred to in subsection (e) or on the date of filing of the claim referred to in subsection (g) (1) or within one year from the date of filing of such consents or claim, as the case may be, then, notwithstanding any other provision of law or rule of law, such deficiency shall be assessed and collected if assessment is made within one year from the date of the filing of such consents or claim, as the case may be. The failure of a shareholder to include in his gross income for the proper taxable year the amount specified in the consent made by him referred to in subsection (g) (2) shall have the same effect, with respect to the deficiency resulting therefrom, as is provided in section 272 (f) of the applicable revenue law with respect to a deficiency resulting from a mathematical error appearing on the face of the return.

* * * * *

§ 29.504–1 *Undistributed Subchapter A net income.* The term "undistributed subchapter A net income" means the subchapter A net income (as defined in section 505 and § 29.505–1) minus (a) the amount of the dividends paid credit provided in section 27 (a) without the benefit of paragraph (3), relating to the deficit credit, and paragraph (4), relating to the debt credit, thereof (computed without its reduction, under section 27 (b) (1), by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations), (b) amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and the terms of such indebtedness (see § 29.504–2), (c) dividends paid after the close of the taxable year and before the 15th day of the third month thereafter, if claimed under section 504 (c) in the return, but only to the extent and subject to the limitations contained in that section, and (d) amounts distributed in redemption of preferred stock outstanding prior to January 1, 1934 (including preferred stock subsequently issued in lieu thereof), but only if such distributions are made before January 1, 1944, for taxable years beginning after December 31, 1940, by a corporation specified in section 504 (d). In computing the dividends paid credit for the purposes of subchapter A of chapter 2, the amount allowed under section 504 (c) in the computation of the tax under subchapter A for any preceding taxable year is considered a dividend paid in such preceding taxable year and not in the year of distribution.

§ 29.504–2 *Amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934*—(a) *Indebtedness.* The term "indebtedness" means an obligation, absolute and not contingent, to pay, on demand or within a given time, in cash or other medium, a fixed amount. The term "indebtedness" does not include the obligation of a corporation on its capital stock.

The indebtedness must have been incurred (or, if incurred by assumption, assumed) by the taxpayer prior to January 1, 1934. An indebtedness evidenced by bonds, notes, or other obligations issued by a corporation is ordinarily incurred as of the date such obligations are issued and the amount of such indebtedness is the amount represented by the face value of the obligations. In the case of renewal or other changes in the form of an indebtedness, so long as the relationship of debtor and creditor continues between the taxpayer and his creditor, the giving of a new promise to pay by the taxpayer will not have the effect of changing the date the indebtedness was incurred.

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

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

Ordinarily an amount used to pay or retire an indebtedness, in whole or in part, at or prior to the maturity and in accordance with the terms thereof will be considered reasonable, and may be allowable as a deduction for the year in which so used, if no adjustment is required by reason of an amount set aside in a prior year for payment or retirement of the same indebtedness.

All amounts irrevocably set aside for the payment or retirement of an indebtedness in accordance with and pursuant to the terms of the obligation, for example, the annual contribution to

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

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

§ 29.504-3 *Retroactive application.* If any distribution, which is a dividend solely by reason of the last sentence of section 115 (a), was made prior to October 21, 1942, by a corporation which, under the revenue law applicable to the taxable year in which the distribution was made, was a personal holding company, or which, for the taxable year in respect of which it is made under section 504 (c) or section 506 or a corresponding provision of a prior income tax law, was a personal holding company under the law applicable to such taxable year, the corporation is entitled to a dividend paid credit for any taxable year in which, or with respect to which, the distribution was made, provided:

(a) The corporation files with the Commissioner of Internal Revenue, Washington, D. C., attention Income Tax Unit, Records Division, within one year after October 21, 1942, a claim for the benefit of section 186 of the Revenue Act of 1942, on account of any distribution, which is a dividend by reason of the last sentence in section 115 (a), made before October 21, 1942;

(b) Such claim is accompanied by signed consents made on oath or affirmation on Form 972, as provided in § 29.504-5, by each shareholder to whom the corporation made such distribution agreeing to the inclusion of the amount of such distribution as a taxable dividend in his gross income for the taxable year in which it is made; and

(c) Each such consent filed is accompanied by payment of an amount equal to that which would be required by section 143 (b) or 144 of the applicable revenue law to be deducted and withheld by the corporation if the amount of the distribution to the shareholder had been paid to the shareholder in cash as a dividend.

§ 29.504-4 *Claim for benefit of section 186 of the Revenue Act of 1942*—(a) *General.* A claim for the benefit of section 186 of the Revenue Act of 1942 must be filed within one year after October 21, 1942, claiming credit for any distribution, which is a dividend solely by reason of the last sentence of section 115 (a).

(b) *Form of claim.* The claim for such credit shall be made in duplicate, under oath or affirmation, on Form 973B, copies of which, upon request, may be procured from any collector.

(c) *Contents of claim.* The claim shall, in accordance with the provisions of this section and the instructions on the form, set forth the following information:

(1) The name and address of the corporation;

(2) Taxable year or years for which the benefit of a credit is claimed;

(3) Amount of distribution which is a dividend solely by reason of the last sentence of section 115 (a) and date of payment thereof;

(4) Amount of distribution previously allowed, if any, as a dividends paid credit, and amount of distribution previously disallowed as a dividends paid credit and for which signed consents accompany the claim;

(5) Whether the corporation was a personal holding company under the law applicable to the taxable year in which the distribution was made or for the taxable year in respect of which it was made under sections 504 (c) or 506 or a corresponding provision of a prior income tax law;

(6) Amount of tax to be eliminated, refunded, or credited; and

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

§ 29.504-5 *Making and filing of consents.* A consent shall be made in duplicate on oath or affirmation on Form 972 in accordance with these regulations and the instructions on the form or issued therewith and may be made only by or on behalf of the shareholder to whom the corporation made the distribution. In the consent it must be agreed that such distribution shall be included as a taxable dividend in the gross income for the taxable year in which the distribution is made.

A consent may be made at any time not later than one year after October 21, 1942. Within such time the corporation must file two duly executed duplicate originals of each consenting shareholder's consent, and a return on oath or affirmation on Form 973B, showing the class and number of shares of each class held at date of dividend payment, amount previously considered taxable, amount previously considered nontaxable, and all other information required by the form.

In the event that any consent filed by the corporation is made by a shareholder from whom, if the amount of the distribution had been paid in cash as a dividend, the corporation would have been required to deduct and withhold any amount as a tax under section 143 (b) or 144, such consent, when filed by the corporation, must be accompanied by payment of the amount which would have been required to be deducted and withheld if the amount of the distribution had been paid in cash as a dividend. Such payment must be in one of the following forms:

(a) Cash;

(b) United States postal money order;

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

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

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

The amount of such payment shall be credited against the tax imposed by section 211 (a) or 231 (a) upon the shareholder.

§ 29.504-6 *Overpayments and deficiencies*—(a) *Overpayments.* If, as a result of the application of section 186 of the Revenue Act of 1942, any overpayment is established or determined with respect to the personal holding company tax for any year and a claim is filed within one year after October 21, 1942, for the credit or refund of such overpayment, and if, on October 21, 1942, or within one year thereafter, such credit or refund would otherwise be prevented, then notwithstanding any other provision of law or rule of law (other than section 186 (h) of the Revenue Act of 1942, and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938, relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an income tax erroneously collected.

(b) *Deficiencies.* If, as a result of the application of section 186 of the Revenue Act of 1942, a deficiency is established or determined with respect to the personal holding company tax for any year, and if, on the date of the filing of the consents referred to in subsection (e) of that section, or on the date of filing of the claim referred to in subsection (g) (1) of that section, or within one year from the date of filing such consents or claim, as the case may be, the assessment or collection of such deficiency is prevented, then, notwithstanding any other provision of law or rule of law, the deficiency shall be assessed and collected if assessment is made within one year from the filing of such consents or claim, as the case may be.

(c) *Amounts not included in shareholder's return.* If a shareholder fails to include in his gross income for the proper taxable year the amount specified in section 186 (g) (2) of the Revenue Act of 1942, such failure shall have the same effect with respect to the deficiency resulting therefrom as is provided in section 272 (f) of the Internal Revenue Code with respect to a deficiency resulting from a mathematical error appearing on the face of the return.

SEC. 505. SUBCHAPTER A NET INCOME [as amended by secs. 211, 212, Rev. Act 1939; secs. 135 (b), 150 (l), Rev. Act 1942].

For the purposes of this subchapter the term "Subchapter A Net Income" means the net income with the following adjustments:

(a) *Additional deductions.* There shall be allowed as deductions—

(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the

tax imposed by section 102, section 500, or a section of a prior income-tax law corresponding to either of such sections.

(2) In lieu of the deduction allowed by section 23 (q), contributions or gifts, payment of which is made within the taxable year to or for the use of donees described in section 23 (q) for the purposes therein specified, to an amount which does not exceed 15 per centum of the taxpayer's net income, computed without the benefit of this paragraph and section 23 (q), and without the deduction of the amount disallowed under subsection (b) of this section.

(3) In the case of a corporation organized prior to January 1, 1936, to take over the assets and liabilities of the estate of a decedent, amounts paid in liquidation of any liability of the corporation based on the liability of the decedent to make contributions or gifts to or for the use of donees described in section 23 (o) for the purposes therein specified, to the extent such liability of the decedent existed prior to January 1, 1934. No deduction shall be allowed under paragraph (2) of this subsection for a taxable year for which a deduction is allowed under this paragraph.

(b) *Deductions not allowed.* The aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the corporation, shall be allowed only in an amount equal to the rent or other compensation received for the use of, or the right to use, the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

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

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

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

(c) *Net loss carry-over disallowed.* The deduction for net operating losses provided in section 23 (s) shall not be allowed.

(d) *1941 capital loss carry-over denied.* The net income shall be computed without regard to section 117 (e) (2).

(e) *Income not placed on annual basis.* The net income shall be computed without regard to section 47 (c).

§ 29.505–1 *Subchapter A net income.* The term "subchapter A net income" means, in the case of a domestic corporation, the gross income as defined in section 22 less the deductions provided in section 23 subject to the qualifications, limitations, and exceptions provided in section 505. In the case of a foreign corporation, whether resident or nonresident, which files or causes a return to be filed, the "subchapter A net income" means the net income from sources within the United States (gross income from sources within the United States as defined in section 119 and the regulations thereunder less statutory deductions) subject to the qualifications, limitations, and exceptions provided in section 505. In the case of a foreign corporation, whether resident or nonresident, which files no return the "subchapter A net income" means the gross income from sources within the United States as defined in section 119 and the regulations thereunder less the deductions enumerated in section 505 (a) but without the benefit of any deductions under chapter 1 (see section 233). In the case of a taxable year of less than 12 months on account of a change in the accounting period of the corporation, the subchapter A net income is computed on the basis of the period included in the taxable year, and is not placed on an annual basis under section 47 (c).

The "subchapter A net income" includes interest upon obligations of the United States and obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States, except as provided in section 22 (b) (4). The "subchapter A net income" does not include interest on obligations of States or Territories of the United States or any political subdivision thereof or of the District of Columbia or of the possessions of the United States.

The foreign tax credit permitted by section 131 with respect to the taxes imposed by chapter 1 is not allowed with respect to the surtax imposed by section 500. However, the deduction of foreign taxes under section 23 (c) is permitted for the purposes of the surtax even if for the purposes of the corporate tax imposed by chapter 1 a credit for such taxes is taken.

In addition to the qualifications, limitations, and exceptions provided in section 505 (a), a personal holding company is subject to the provisions of section 505 (b), (c), and (d) in the computation of its subchapter A net income. Section 505 (c) provides that the net operating loss deduction provided by section 23 (s) shall not be allowed. Section 505 (d) provides the same treatment to personal holding companies with respect to capital gains and losses as ordinary corporations, except that no capital loss carry-over pursuant to section 117 (e) (2) is allowed from the last taxable year beginning in 1941. Under section 505 (b) the aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the company shall be allowed only in an amount equal to the rent or other compensation received for the use of, or the right to use, the property, unless it is established to the satisfaction of the Commissioner:

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

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

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

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

(1) A description of the property;

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

(3) The name and address of the person from whom acquired and the date thereof;

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

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

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

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

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

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

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

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

§ 29.505–2 *Illustration of computation of subchapter A net income, undistributed subchapter A net income, and surtax.* The method of computation of the subchapter A net income, the undistributed subchapter A net income, and the surtax under subchapter A of chapter 2 may be illustrated as follows:

The following facts exist with respect to the O Corporation, a personal holding company which is on the cash receipts and disbursements basis, for the calendar year 1942:

The net income, as computed under chapter 1, amounts of $190,000.

Federal income tax imposed by sections 13 and 15 was paid March 15, 1942, in the amount of $17,500.

Contributions or gifts payment of which is made to or for the use of donees described in section 23 (q) for the purposes therein specified amount to $35,000, of which $10,000 is deducted in arriving at the net income under chapter 1.

Rent in the amount of $10,000 was received from the principal shareholder of the corporation for the use of a country estate which had been previously acquired from such shareholder in exchange for its capital stock. The expenses of the corporation allocable to the maintenance and operation of the country estate amount to $30,000. The yearly depreciation on the depreciable property of the estate amounts to $5,000. The corporation has not established its right to claim the entire amount of the expenses and depreciation applicable to the estate as provided in section 505 (b) and §29.505-1.

Dividends paid by the corporation to its shareholders during the taxable year which are allowable as a credit under section 27 (a) amount to $125,000.

The amount used during the year to pay indebtedness incurred by the corporation prior to January 1, 1934, is $31,250.

On March 1, 1943, the corporation paid its shareholders a taxable dividend of $15,000 and in its return, on Form 1120H, claimed a deduction under section 504 (c) of $12,500, that being 10 percent of the dividends paid during the taxable year 1942.

The subchapter A net income, the undistributed subchapter A net income, and the surtax are computed as follows:

Net income under chapter 1		$190,000
Add:		
Contributions deductible in computing net income under section 21		10,000
Aggregate of expenses and depreciation relating to the country estate in excess of the income derived therefrom		25,000
Net income computed without the benefit of a deduction for contributions and without the benefit of the amount disallowed under section 505 (b)		225,000
Less:		
Federal income tax	$17,500	
Contributions deductible under section 505 (a) (2) (15 percent of $225,000)	33,750	
		51,250
Subchapter A net income		173,750
Less:		
Dividends paid credit	$125,000	
Amount used to pay indebtedness	31,250	
		156,250
Undistributed subchapter A net income before applying section 504 (c)		17,500
Dividends paid March 1, 1943 (subject to limitation in section 504 (c) (3)		12,500
Undistributed subchapter A net income		5,000
Amount taxable at 75 percent (not in excess of $2,000)		2,000
Amount taxable at 85 percent ($5,000 minus $2,000)		3,000
Surtax on $2,000 at 75 percent		1,500
Surtax on $3,000 at 85 percent		2,550
Total surtax		4,050

SEC. 506. DEFICIENCY DIVIDENDS; CREDITS AND REFUNDS [as amended by sec. 1, Pub. Law 18, approved March 17, 1941; secs. 185, 186 (d) (1), Rev. Act 1942].

(a) *Credit against unpaid deficiency.* If the amount of a deficiency with respect to the tax imposed by this subchapter for any taxable year has been established—

(1) by a decision of the Board of Tax Appeals [known as The Tax Court of the United States] which has become final; or

(2) by a closing agreement made under section 3760; or

(3) by a final judgment in a suit to which the United States is a party;

then a deficiency dividend credit shall be allowed against the amount of the deficiency so established and all interest, additional amounts, and additions to the tax provided by law not paid on or before the date when claim for a deficiency dividend credit is filed under subsection (d). The amount of such credit shall be 65 per centum of the amount of deficiency dividends, as defined in subsection (c), not in excess of $2,000, plus 75 per centum of the amount of such dividends in excess of $2,000; but such credit shall not exceed the portion of the deficiency so established which is not paid on or before the date of the closing agreement, or the date the decision of the Board or the judgment becomes final, as the case may be. Such credit shall be allowed as of the date the claim for deficiency dividend credit is filed.

(b) *Credit or refund of deficiency paid.* When the Commissioner has determined that there is a deficiency with respect to the tax imposed by this subchapter and the corporation has paid any portion of such asserted deficiency and it has been established—

(1) by a decision of the Board of Tax Appeals which has become final; or

(2) by a closing agreement made under section 3760; or

(3) by a final judgment in a suit against the United States for refund—

(A) if such suit is brought within six months after the corporation became entitled to bring suit, and

(B) if claim for refund was filed within six months after the payment of such amount;

that any portion of the amount so paid was the whole or a part of a deficiency at the time when paid, then there shall be credited or refunded to the corporation an amount equal to 65 per centum of the amount of deficiency dividends not in excess of $2,000, plus 75 per centum of the amount of such dividends in excess of $2,000, but such credit or refund shall not exceed the portion so paid by the corporation. Such credit or refund shall be made as provided in section 322 but without regard to subsection (b) or subsection (c) thereof. No interest shall be allowed on such credit or refund. No credit or refund shall be made under this subsection with respect to any amount of tax paid after the date of the closing agreement, or the date the decision of the Board or the judgment becomes final, as the case may be.

(c) *Deficiency dividends*—(1) *Definition.* For the purposes of this subchapter, the term "deficiency dividends" means the amount of the dividends paid, on or after the date of the closing agreement or on or after the date the decision of the Board or the judgment becomes final, as the case may be, and prior to filing claim under subsection (d), which would have been includible in the computation of the basic surtax credit for the taxable year with respect to which the deficiency was asserted if distributed during such taxable year. No dividends shall be considered as deficiency dividends for the purposes of allowance of credit under subsection (a) unless (under regulations prescribed by the Commissioner with the approval of the Secretary) the corporation files, within thirty days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be, notification (which specifies the amount of the credit intended to be claimed) of its intention to have the dividends so considered. [NOTE.—With respect to the amendment of this provision by sec. 186 (d), Rev. Act 1942, see sec. 186 (g) (h), Rev. Act 1942, set forth immediately following sec. 504, Internal Revenue Code.]

(2) *Effect on dividends paid credit*—(A) *For taxable year in which paid.* Deficiency dividends paid in any taxable year (to the extent of the portion thereof with respect to which the credit under subsection (a), or the credit or refund under subsection (b), or both, of this section or section 407 of the Revenue Act of 1938, are allowed) shall be subtracted from the basic surtax credit for such year, but only for the purpose of computing the tax under this subchapter for such year and succeeding years.

(B) *For prior taxable year.* Deficiency dividends paid in any taxable year (to the extent of the portion thereof with respect to which the credit under subsection (a), or the credit or refund under subsection (b), or both, of this section or section 407 of the Revenue Act of 1938, are allowed) shall not be allowed under section 504 (c) in the computation of the tax under this subchapter for any taxable year preceding the taxable year in which paid.

(d) *Claim required.* No deficiency dividends credit shall be allowed under subsection (a) and no credit or refund shall be made under subsection (b) unless (under regulations prescribed by the Commissioner with the approval of the Secretary) claim therefor is filed within sixty days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be.

(e) *Suspension of statute of limitations and stay of collection*—(1) *Suspension of running of statute.* If the corporation files a notification, as provided in subsection (c), to have dividends considered as deficiency dividends, the running of the statute of limitations provided in section 275 or 276 on the making of assessments and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency and all interest, additional amounts, and additions to the tax provided by law, shall be suspended for a period of two years after the date of the filing of such notification.

(2) *Stay of collection.* In the case of any deficiency with respect to the tax imposed by this subchapter established as provided in subsection (a)—

(A) The collection of the deficiency and all interest, additional amounts, and additions to the tax provided for by law shall, except in cases of jeopardy, be stayed until the expiration of thirty days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be.

(B) If notification has been filed, as provided in subsection (c), the collection of such part of the deficiency as is not in excess of either the credit allowable under subsection (a) or the amount which, in the notification, is specified as intended to be claimed as credit, shall, except in cases of jeopardy, be stayed until the expiration of sixty days after the date of the closing agreement, or the date upon which the decision of the Board of judgment becomes final, as the case may be.

(C) If claim for deficiency divided credit is filed under subsection (d), the collection of such part of the deficiency as is not in excess of either the credit allowable under subsection (a) or the amount claimed, shall be stayed until the date the claim for credit is disallowed (in whole or in part), and if disallowed in part collection shall be made only of the part disallowed.

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

for which the collection of such amount is stayed.

(f) *Credit or refund denied if fraud, etc.* No deficiency dividend credit shall be allowed under subsection (a) and no credit or refund shall be made under subsection (b) if the closing agreement, decision of the Board, or judgment contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to failure to file the return under this subchapter within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure to file is due to reasonable cause and not due to willful neglect.

(g) *Rate for taxable years 1939, 1940, and 1941.* If the deficiency is established or determined for a taxable year which begins after December 31, 1939, and does not begin after December 31, 1941, the rates under subsections (a) and (b) used in determining the amount of the credit or refund shall be 71½ per centum in lieu of 65 per centum and 82½ per centum in lieu of 75 per centum.

(h) *Rate for taxable years after 1941.* If the deficiency is established or determined for a taxable year which begins after December 31, 1941, the rates under subsections (a) and (b) used in determining the amount of the credit or refund shall be 75 per centum in lieu of 65 per centum and 85 per centum in lieu of 75 per centum.

(j) [1] *Additional credit or refund for prior taxable year*—(1) *Election to have a certain dividend considered as a deficiency dividend.* If a corporation was a personal holding company for any taxable year beginning after December 31, 1936, and prior to January 1, 1942, and its adjusted net income, Title 1A net income or Subchapter A net income, in the case of a tax imposed by Titles 1A of the Revenue Acts of 1936 and 1938, or Subchapter A of the Internal Revenue Code, as the case may be, exceeds the sum of (A) the earnings and profits accumulated after February 28, 1913, as of the beginning of the taxable year and (B) the earnings and profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year) and if prior to the date of enactment of the Revenue Act of 1942, the corporation paid all or any portion of the tax imposed by Title 1A or Subchapter A for any such taxable year or years then the corporation may elect, within six months after the date of enactment of the Revenue Act of 1942 to have the amount of a dividend paid within such six-month period considered as a deficiency dividend. Such election must be made by the filing of a claim (under regulations prescribed by the Commissioner with the approval of the Secretary) within such six-month period and after the payment of the dividend, specifying the taxable year or years with respect to which such dividend applies, setting forth the amount of the dividend to be apportioned to each taxable year, and claiming the benefit of this subsection by reason of such dividend.

(2) *Effect of election.* If the corporation exercises the election authorized under paragraph (1) of this subsection—

(A) The credit or refund shall be computed, and credited or refunded without interest, as provided in subsection (b) and at the rates provided therein or in subsection (g), as the case may be, but shall be subject to the limitations in subsection (f). In any case where a dividend is apportioned to more than one taxable year the credit or refund shall be determined for each taxable year on the basis of the amount of the dividend apportioned thereto; and

(B) The dividends paid credit for the taxable year in which paid and for a prior taxable year or years shall be determined as provided in subsection (c) (2).

[1] No subsection (i).

§ 29.506-1 *Purpose and scope of deficiency dividend credit.* Section 506 provides a method under which, by virtue of dividend distributions, a corporation may, under certain conditions (see § 29.506-3), be relieved from the payment of a deficiency in the surtax imposed by subchapter A of chapter 2, or, if any portion of such deficiency has been paid, may be entitled, under certain conditions (see § 29.506-4), to a credit or refund of such portion. The deficiency must be established in the manner specified in section 506 (a) (1), (2), or (3) or section 506 (b) (1), (2), or (3) and the dividends must be paid on the date so established or within 60 days thereafter. For what constitutes payment of a dividend, see § 29.27 (b)-2.

The benefit of section 506 is not extended to the satisfaction of any interest, additional amounts, or additions to the tax provided by law with respect to the deficiency and such amounts remain payable as if that section had not been enacted. The benefit is denied if the closing agreement, decision of The Tax Court of the United States, or judgment contains a finding that any part of the deficiency is due to fraud with intent to evade the tax, or to a failure to file a timely return without reasonable cause for such failure. See section 506 (f).

§ 29.506-2 *Date when decision by Tax Court or court becomes final and date of closing agreement.* The date upon which a decision by The Tax Court of the United States becomes final is prescribed in section 1140.

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

The date of the closing agreement, made under section 3760, is the date such agreement is approved by the Secretary, the Under Secretary, or an Assistant Secretary.

§ 29.506-3 *Credit against unpaid deficiency*—(a) *General.* If the amount of a deficiency with respect to the tax imposed by subchapter A of chapter 2 has been established as provided in section 506 (a) (1), (2), or (3), the corporation, under certain circumstances, is entitled to a deficiency dividends credit which, though it may not exceed the amount of the deficiency, is to be applied against the amount of such deficiency and all interest, additional amounts, and additions to the tax provided by law not paid on or before the date when the claim for a deficiency dividends credit is filed under section 506 (d). The amount of the deficiency dividends credit is computed at the rates prescribed in section 506 for the taxable year for which the deficiency was established, and the allowance of the credit is subject to the following conditions, qualifications, and limitations:

(1) The corporation is required under section 506 (c), within 30 days after the date of the closing agreement or the date upon which the decision of The Tax Court of the United States or the judgment becomes final, to file a notice of its intention to claim a deficiency dividends credit, which notice shall specify the amount of the credit intended to be claimed;

(2) The corporation is required under section 506 (d), within 60 days after the date of the closing agreement or the date upon which the decision of The Tax Court or judgment becomes final, to file a claim with respect to the credit for deficiency dividends;

(3) The deficiency dividends are required under section 506 (c) to be paid prior to the filing of the claim for a deficiency dividends credit and such dividends must be of such a nature as to constitute taxable dividends in the hands of such of the shareholders as are subject to taxation under chapter 1 for the year in which paid (see section 27 (i)) and must be nonpreferential (see section 27 (h)); and

(4) Under section 506 (a) the deficiency dividends credit shall not exceed the portion of the deficiency (not counting the interest, additional amounts, and additions to the tax, provided by law) which is not paid on or before the date of the closing agreement, or the date the decision of The Tax Court or the judgment becomes final, as the case may be.

(b) *Form of notification.* The notice of intention to have dividends considered as deficiency dividends for the purposes of the allowance of credit under section 506 (a) shall be made, under oath or affirmation, on Form 975, copies of which, upon request, may be procured from any collector.

(c) *Contents of notification.* The notification shall, in accordance with the provisions of this section and the instructions on the form, set forth the following information:

(1) The name and address of the corporation;

(2) The place and date of incorporation;

(3) The amount of the unpaid deficiency with respect to the tax imposed by subchapter A of chapter 2; how it was established (closing agreement, Tax Court decision or court judgment); the date thereof and the taxable year or years involved;

(4) The amount of the credit intended to be claimed as a deficiency dividends credit; and

(5) Such other information as may be required by the notification form.

(d) *Time and place of filing notification.* The notification required by section 506 (c) (1) and this section shall be filed with the Commissioner of Internal Revenue, Washington, D. C., attention Income Tax Unit, Records Division, within 30 days after the date of the closing agreement, or the date upon which the decision of The Tax Court or

judgment becomes final, as the case may be.

(e) *Claim for deficiency dividends credit.* For claims for deficiency dividends credits, see § 29.506-5.

§ 29.506-4 *Credit or refund of deficiency paid.* If the Commissioner has determined that there is a deficiency with respect to the tax imposed by subchapter A of chapter 2 and the corporation has paid any portion of such asserted deficiency, the corporation under certain circumstances, is entitled to a credit or refund of such deficiency. The amount of the credit or refund is computed at the rates prescribed in section 506 for the taxable year for which the deficiency was established, and the allowance of the credit or refund is subject to the following conditions, qualifications, and limitations:

(a) It must be established that the amount for which credit or refund is sought was the whole or a part of a deficiency at the time when paid, and such fact must be established as provided in section 506 (b) (1), (2), or (3);

(b) The corporation is required under section 506 (d), within 60 days after the date of the closing agreement or the date upon which the decision of The Tax Court of the United States or the judgment becomes final, to file a claim for credit or refund;

(c) The "deficiency dividends" are required under section 506 (c) to be paid prior to the filing of the claim for credit or refund and such dividends must be of such a nature as to constitute taxable dividends in the hands of such of the shareholders as are subject to taxation under chapter 1 for the year in which paid (see section 27 (i)), and must be nonpreferential (see section 27 (h));

(d) The credit or refund shall not exceed the portion of the deficiency (not counting the interest, additional amounts, and additions to the tax, provided by law) which was paid by the corporation;

(e) The credit or refund shall be made as provided in section 322, but without regard to section 322 (b) (relating to the limitations on the allowance of refunds or credits), or section 322 (c) (relating to the effect of petitions to The Tax Court on refunds or credits);

(f) No credit or refund shall be made under section 506 (b) with respect to any amount of tax paid after the date of the closing agreement, or the date the decision of The Tax Court or the judgment becomes final, as the case may be; and

(g) No interest shall be allowed on the credit or refund.

§ 29.506-5 *Claim for deficiency dividends credit or credit or refund*—(a) *General.* A claim for a deficiency dividends credit under section 506 (a), relating to credit against unpaid deficiency and under section 506 (b), relating to credit or refund of deficiency paid, must be filed within 60 days after the date of the closing agreement, or the date upon which the decision of The Tax Court of the United States or judgment becomes final, as the case may be.

(b) *Form of claim.* The claim for a deficiency dividends credit, or credit or refund, shall be made in duplicate, under oath or affirmation, on Form 976, copies of which, upon request, may be procured from any collector.

(c) *Contents of claim.* There shall be attached to and made a part of the claim a certified copy of the resolution of the board of directors, or other authority, authorizing the payment of the dividend with respect to which the claim is filed. In addition the claim shall, in accordance with the provisions of this section and the instructions on the form, set forth the following information:

(1) The name and address of the corporation;

(2) The place and date of incorporation;

(3) The amount of the deficiency determined with respect to the tax imposed by subchapter A of chapter 2 and the taxable year or years involved; the amount of the unpaid deficiency or, if the deficiency has been paid in whole or in part, the date of payment and the amount thereof; a statement as to how the deficiency was established, if unpaid, or if paid in whole or in part, how it was established that any portion of the amount paid was a deficiency at the time when paid and in either case whether it was by closing agreement, Tax Court decision or court judgment and the date thereof; if established by a final judgment in a suit against the United States for refund, the date of payment of the deficiency, the date claim for refund was filed, and the date the suit was brought; if established by a Tax Court decision or court judgment a copy thereof shall be attached, together with an explanation of how the decision or judgment became final;

(4) The amount and date of payment of the dividend with respect to which the claim for deficiency dividends credit, or credit or refund, is filed;

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

(6) The amount claimed as a deficiency dividends credit; and

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

(d) *Time and place of filing claim.* The claim required by section 506 (d) and this section shall be filed with the Commissioner of Internal Revenue, Washington, D. C., attention Income Tax Unit, Records Division, within 60 days after the date of the closing agreement, or the date upon which the decision of The Tax Court or judgment becomes final, as the case may be.

§ 29.506-6 *Effect of deficiency dividends on dividends paid credit.* No duplication of credit allowances with respect to any "deficiency dividends" is permitted. If a corporation claims and receives the benefit of the provisions of section 506 of the Internal Revenue Code or section 407 of the Revenue Act of 1938 based upon a distribution of "deficiency dividends," that distribution does not become a part of the basic surtax credit for the purposes of subchapter A of chapter 2; nor is it made the basis of the 2½-month carry-back credit provided for in section 504 (c).

§ 29.506-7 *Suspension of statute of limitations and stay of collection*—(a) *Suspension of running of statute.* If a corporation files a notification of its intent to have certain dividends considered as "deficiency dividends" as provided in section 506 (c), then the running of the statute of limitations upon the assessment and collection of the established deficiency and all interest, additional amounts, and additions to the tax provided by law, is suspended for a period of two years after the date of the filing of such notification.

(b) *Stay of collection.* The Internal Revenue Code provides that, except in case of jeopardy, the collection of the established deficiency and all interest, additional amounts, and additions to the tax provided by law, is stayed for a period of 30 days subsequent to the final determination of the amount thereof. If within such 30-day period the corporation files with the Commissioner the prescribed notification of intention to seek the benefit of section 506, the collection of the established deficiency, to the extent of the amount of the credit specified by the corporation in such notification if not in excess of the amount allowable under section 506 (a), is, except in cases of jeopardy, stayed for a period of 60 days subsequent to the final determination of the amount thereof. The filing of a claim for a deficiency dividends credit under section 506 (d) effects a further stay of collection of that portion of the established deficiency covered by the claim if not in excess of the amount allowable under section 506 (a), until the date the claim is disallowed (in whole or in part) by the Commissioner. The Code further provides that where collection has been stayed as above indicated no distraint or proceeding in court shall be begun for the collection of the amount stayed during the period for which it is stayed. The Commissioner, notwithstanding the provisions of section 272 (b), may refrain from assessing the subchapter A deficiency (plus interest, additional amounts, and additions to the tax) until the claim for the deficiency dividends credit is disposed of. After such claim is allowed or rejected, either in whole or in part, the entire amount of the deficiency (plus interest, additional amounts, and additions to the tax) will be assessed, if not already assessed. The amount of the claim for the deficiency dividends credit to the extent allowed will be credited against the amount so assessed, and the remainder of the amount assessed will be collected in the usual manner.

§ 29.506-8 *Retroactive application.* For regulations relating to making and filing of the claims and consents referred to in subsections (d) (1) and (g) of section 186 of the Revenue Act of 1942, see §§ 29.504-3, 29.504-4, and 29.504-5.

§ 29.506-9 *Overpayments and deficiencies.* For the refund or credit of any overpayment, and the assessment or collection of any deficiency referred to in section 186 (h) of the Revenue Act of 1942, see § 29.504-6.

§ 29.506-10 *Election to have a certain dividend considered as a deficiency dividend.* Section 506 (j) is designed to be used particularly in those cases where a corporation was a personal holding company for certain taxable years beginning prior to January 1, 1942, and the personal holding company tax has been paid in whole or in part prior to October 21, 1942, for such taxable years. In such a case the corporation may elect to have the amount of a dividend paid within six months after October 21, 1942, to shareholders to whom the distribution is made, considered as a deficiency dividend under the following conditions, qualifications, and limitations:

(a) It must be established by the corporation that its income, upon which the personal holding company tax is imposed, exceeds the sum of (1) the earnings and profits accumulated after February 28, 1913, as of the beginning of the taxable year and (2) the earnings and profits of the taxable year (computed as of the close of such year without diminution by reason of any distributions made during the taxable year);

(b) The corporation is required to make an election within six months after October 21, 1942, to have the amount of a dividend paid within such 6-month period treated as a deficiency dividend;

(c) The election must be made by the filing of a claim for credit or refund within such 6-month period;

(d) The dividend must be paid prior to the filing of the claim for credit or refund and the shareholders to whom the distribution is made must include such distribution as a taxable dividend in their returns for the taxable year in which such distribution is made;

(e) The credit or refund shall be made as provided in section 322, but without regard to section 322 (b) (relating to the limitations on the allowance of refunds or credits), or section 322 (c) (relating to the effect of petitions to The Tax Court of the United States on refunds or credits);

(f) No credit or refund shall be made under section 506 (j), with respect to any amount of tax paid on or after October 21, 1942; and

(g) No interest shall be allowed on the credit or refund.

§ 29.506-11 *Claim for additional credit or refund for prior taxable year*—(a) *General.* A claim for additional credit or refund under section 506 (j), relating to election to have a certain dividend treated as a deficiency dividend, must be filed within six months after October 21, 1942, claiming the benefit of that section by reason of a dividend paid within such 6-month period.

(b) *Form of claim.* The claim for additional credit or refund under this section shall be made in duplicate, on oath or affirmation, on Form 976A, copies of which, upon request, may be procured from any collector.

(c) *Contents of claim.* There shall be attached to and made a part of the claim a certified copy of the resolution of the board of directors, or other authority, authorizing the payment of the dividend with respect to which the claim is filed. In addition the claim shall, in accordance with the provisions of this section and the instructions on the form, set forth the following information:

(1) The name and address of the corporation;

(2) The place and date of incorporation;

(3) The amount of the personal holding company tax imposed for each of the taxable years involved; if tax paid (in whole or in part), date of payment and amount thereof;

(4) The amount of the income, upon which the personal holding company tax is imposed, in excess of the sum of the earnings and profits accumulated after February 28, 1913, as of the beginning of the taxable year, and the earnings and profits of the taxable year (computed as of the close of such year without diminution by reason of any distributions made during the taxable year);

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

(6) The date the dividend was paid, the taxable year or years with respect to which such dividend applies, and the amount of the dividend to be apportioned to each taxable year;

(7) The amount claimed as a credit or refund; and

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

§ 29.506-12 *Effect of election.* If the corporation elects to have a distribution made within six months after October 21, 1942, considered as a deficiency dividend as provided in section 506 (j), and files the claim required by that section:

(a) The credit or refund shall be computed, and credited or refunded without interest, as provided in section 506 (b) and at the rates provided therein or in section 506 (g), as the case may be. However, such credit or refund shall not be allowed with respect to any deficiency attributable, in whole or in part, to fraud with intent to evade the tax or to a failure to file a timely return without reasonable cause for such failure. See section 506 (f). In any case where a dividend is apportioned to more than one taxable year the credit or refund shall be determined for each taxable year on the basis of the amount of the dividend apportioned thereto; and

(b) The dividends paid credit for the taxable year in which paid and for a prior taxable year or years shall be determined in the manner prescribed in section 506 (c) (2).

SEC. 507. MEANING OF TERMS USED [as amended by sec. 227 (a), Rev. Act, 1939].

(a) *General rule.* The terms used in this subchapter shall have the same meaning as when used in chapter 1.

(b) *Insurance companies other than life or mutual.* Notwithstanding subsection (a), the term "gross income", as used in this subchapter, means, in the case of an insurance company other than life or mutual, the gross income, as defined in section 204 (b) (1), increased by the amount of losses incurred, as defined in section 204 (b) (6), and the amount of expenses incurred, as defined in section 204 (b) (7), and decreased by the amount deductible under section 204 (c) (7) (relating to tax-free interest).

SEC. 508. ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by chapter 1, shall insofar as not inconsistent with this subchapter, be applicable in respect of the tax imposed by this subchapter, except that the provisions of section 131 shall not be applicable.

§ 29.508-1 *Return and payment of tax.* A separate return is required for the surtax imposed by section 500. Such returns shall be made on Form 1120H. In the case of a personal holding company which is a domestic corporation, the return is required to be made within the time provided by section 53 and in the case of a foreign corporation within the time provided in section 235. The tax shown by the corporation on its return must be paid in the case of a domestic corporation within the time provided in section 56 and in the case of a foreign corporation within the time provided in section 236. The same provisions of law relating to the period of limitations for assessment and collection which govern the taxes imposed by chapter 1 also apply to the surtax imposed under subchapter A of chapter 2. However, since the surtax imposed under subchapter A of chapter 2 is a distinct and separate tax from those imposed under chapter 1, the making of a return under chapter 1 will not start the period of limitations for assessment of the surtax imposed under subchapter A of chapter 2. If the corporation subject to section 500 fails to file a return the tax may be assessed at any time. If the Commissioner finds a deficiency in respect of the tax imposed by section 500, he is required to follow the same procedure which applies to deficiencies in income tax under chapter 1. The penalties applicable to the income taxes imposed under chapter 1, as well as the provisions of chapter 1 relating to interest and additions to the tax, also apply to the surtax imposed by section 500. The administrative provisions applicable to the surtax imposed by section 500 are not confined to those contained in chapter 1 but embrace all administrative provisions of law which have any application to income taxes.

§ 29.508-2 *Determination of tax, assessment, collection.* The determination, assessment, and collection of the tax imposed by section 500, and the examination of returns and claims in connection therewith, will be made under such procedure as may be prescribed from time to time by the Commissioner.

SEC. 509. IMPROPER ACCUMULATION OF SURPLUS.

For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

SEC. 510. FOREIGN PERSONAL HOLDING COMPANIES.

For provisions relating to foreign personal holding companies and their shareholders, see Supplement P of chapter 1.

SEC. 511. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this subchapter, see subsection (a) (2) of section 55.

SUBPART F—DEFINITIONS

SEC. 3797. DEFINITIONS [as amended by secs. 120 (f), 511, Rev. Act 1942.]

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) *Domestic.* The term "domestic" when applied to a corporation or a partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) *Foreign.* The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) *Stock.* The term "stock" includes the share in an association, joint-stock company, or insurance company.

(8) *Shareholder.* The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

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

(10) *State.* The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(13) *Collector.* The term "collector" means collector of internal revenue.

(14) *Taxpayer.* The term "taxpayer" means any personal subject to a tax imposed by this title.

(15) *Military or naval forces of the United States.* The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, the Women's Army Auxiliary Corps, the Navy Nurse Corps, Female, and the Women's Reverse branch of the Naval Reserve.

(16) *Withholding agent.* The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 143 or 144.

(17) *Husband and wife.* As used in sections 22 (k), 23 (u), 25 (b), (2) (A), and 171, and the last sentence of section 401 (a) (2), if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such sections, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband"; and, if the payments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such sections, the term "husband" shall be read "wife" and the term "wife" shall be read "husband".

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) *Cross references.* For other definitions, see the following:

Singular as including plural R.S. 1 (U.S.C., Title 1, § 1).

Plural as including singular, R.S. 1 (U.S.C., Title 1, § 1).

Masculine as including feminine, R.S. 1 (U.S.C., Title 1, § 1).

Officer, R.S. 1 (U.S.C., Title 1, § 1).

Oath as including affirmation, R.S. 1 (U.S.C., Title 1, § 1).

Company or association as including successors and assigns, R.S. 5 (U.S.C., Title 1, § 5).

County as including parish, R.S. 2 (U.S.C., Title 1, § 2).

Vessels as including all means of water transportation, R.S. 3 (U.S.C., Title 1, § 3).

Vehicle as including all means of land transportation, R.S. 4 (U.S.C., Title 1, § 4).

§ 29.3797-1 *Classification of taxables.* For the purpose of taxation the Internal Revenue Code makes its own classification and prescribes its own standards of classification. Local law is of no importance in this connection. Thus, a trust may be classed as a trust or as an association (and, therefore, as a corporation), depending upon its nature or its activities. (See § 29.3797-3.) The term "partnership" is not limited to the common law meaning of partnership, but is broader in its scope and includes groups not commonly called partnerships. (See § 29.3797-4.) The term "corporation" is not limited to the artificial entity usually known as a corporation, but includes also an association, a trust classed as an association because of its nature or its activities, a joint-stock company, an insurance company, and certain kinds of partnerships. (See §§ 29.3797-2 and 29.3797-4.) The definitions, terms, and classifications, as set forth in section 3797, shall have the same respective meaning and scope in these regulations.

§ 29.3797-2 *Association.* The term "association" is not used in the Internal Revenue Code in any narrow or technical sense. It includes any organization, created for the transaction of designated affairs, or the attainment of some object, which, like a corporation, continues notwithstanding that its members or participants change, and the affairs of which, like corporate affairs, are conducted by a single individual, a committee, a board, or some other group, acting in a representative capacity. It is immaterial whether such organization is created by an agreement, a declaration of trust, a statute, or otherwise. It includes a voluntary association, a joint-stock association or company, a "business" trust, a "Massachusetts" trust, a "common law" trust, an "investment" trust (whether of the fixed or the management type), an interinsurance exchange operating through an attorney in fact, a partnership association, and any other type of organization (by whatever name known) which is not, within the meaning of the Code, a trust or an estate, or a partnership. If the conduct of the affairs of a corporation continues after the expiration of its charter, or the termination of its existence, it becomes an association.

§ 29.3797-3 *Association distinguished from trust.* The term "trust," as used in the Internal Revenue Code, refers to an ordinary trust, namely, one created by will or by declaration of the trustees or the grantor, the trustees of which take title to the property for the purpose of protecting or conserving it as customarily required under the ordinary rules applied in chancery and probate courts. The beneficiaries of such a trust generally do no more than accept the benefits thereof and are not the voluntary planners or creators of the trust arrangement. Even though the beneficiaries do create such a trust, it is ordinarily done to conserve the trust property without undertaking any activity not strictly necessary to the attainment of that object.

As distinguished from the ordinary trust described in the preceding paragraph there is an arrangement whereby the legal title to the property is conveyed to trustees (or a trustee) who, under a declaration or agreement of trust, hold and manage the property with a view to income or profit for the benefit of beneficiaries. Such an arrangement is designed (whether expressly or otherwise) to afford a medium whereby an income or profit-seeking activity may be carried on through a substitute for an organization such as a voluntary association or a joint-stock company or a corporation, thus obtaining the advantages of those forms of organization without their disadvantages. The nature and purpose of a cooperative undertaking will differentiate it from an ordinary trust. The purpose will not be considered narrower than that which is formally set forth in the instrument under which the activities of the trust are conducted.

If a trust is an undertaking or arrangement conducted for income or profit, the capital or property of the trust being supplied by the beneficiaries, and if the trustees or other designated persons are, in effect, the managers of the undertaking or arrangement, whether the beneficiaries do or do not appoint or control them, the beneficiaries are to be treated as voluntarily joining or cooperating with each other in the trust, just as do members of an association, and the undertaking or arrangement is deemed to be an association classified by the Internal Revenue Code as a corporation. However, the fact that the capital or property of the trust is not supplied by the beneficiaries is not sufficient reason in itself for classifying the arrangement as an ordinary trust rather than as an association.

By means of such a trust the disadvantages of an ordinary partnership are

avoided, and the trust form affords the advantages of unity of management and continuity of existence which are characteristic of both associations and corporations. This trust form also affords the advantages of capacity, as a unit, to acquire, hold, and dispose of property and the ability to sue and be sued by strangers or members, which are characteristic of a corporation; and also frequently affords the limitation of liability and other advantages characteristic of a corporation. These advantages which the trust form provides are frequently referred to as resemblance to the general form, mode of procedure, or effectiveness in action, of an association or a corporation, or as "quasi-corporate form." The effectiveness in action in the case of a trust or of a corporation does not depend upon technical arrangements or devices such as the appointment or election of a president, secretary, treasurer, or other "officer," the use of a "seal," the issuance of certificates to the beneficiaries, the holding of meetings by managers or beneficiaries, the use of a "charter" or "by-laws," the existence of "control" by the beneficiaries over the affairs of the organization, or upon other minor elements. They serve to emphasize the fact that an organiaztion possessing them should be treated as a corporation, but they are not essential to such classification, for the fundamental benefits enjoyed by a corporation, as outlined above, are attained, in the case of a trust, by the use of the trust form itself. The Internal Revenue Code disregards the technical distinction between a trust agreement (or declaration) and ordinary articles of association or a corporate charter, and all other differences of detail. It treats such a trust according to its essential nature, namely, as an association. This is true whether the beneficiaries form the trust or, by purchase or otherwise, acquire an interest in an existing trust.

The mere size or amount of capital invested in the trust is of no importance. Sometimes the activity of the trust is a small venture or enterprise, such as the division and sale of a parcel of land, the erection of a building, or the care and rental of an office building or apartment house; sometimes the activity is a trade or business on a much larger scale. The distinction is that between the activity or purpose for which an ordinary strict trust of the traditional type would be created, and the activity or purpose for which a corporation for profit might have been formed.

§ 29.3797-4 *Partnerships.* The Internal Revenue Code provides its own concept of a partnership. Under the term "partnership" it includes not only a partnership as known at common law, but, as well, a syndicate, group, pool, joint venture, or other unincorporated organization which carries on any business, financial operation, or venture, and which is not, within the meaning of the Code, a trust, estate, or a corporation. On the other hand the Code classifies under the term "corporation" an association or joint-stock company, the members of which may be subject to the personal liability of partners. If an organization is not interrupted by the death of a member or by a change in ownership of a participating interest during the agreed period of its existence, and its management is centralized in one or more persons in their representative capacities, such an organization is an association, taxable as a corporation. As to the characteristics of an association, see also §§ 29.3797-2 and 29.3797-3. The following examples will illustrate some phases of these distinctions:

(a) If A and B buy some acreage for the purpose of subdivision, they are joint adventurers, and the joint venture is classified by the Code as a partnership.

(b) A, B, and C contribute $10,000 each for the purpose of buying and selling real estate. If A, B, C, or D, an outside party (or any combination of them as long as the approval of each participant is not required for syndicate action), takes control of the money, property, and business of the enterprise, and the syndicate is not terminated on the death of any of the participants, the syndicate is classified as an association.

§ 29.3797-5 *Limited partnerships.* A limited partnership is classified for the purpose of the Internal Revenue Code as an ordinary partnership, or, on the other hand, as an association taxable as a corporation, depending upon its character in certain material respects. If the organization is not interrupted by the death of a general partner or by a change in the ownership of his participating interest, and if the management of its affairs is centralized in one or more persons acting in a representative capacity, it is taxable as a corporation. For want of these essential characteristics, a limited partnership is to be considered as an ordinary partnership notwithstanding other characteristics conferred upon it by local law.

The Uniform Limited Partnership Act has been adopted in several States. A limited partnership organized under the provisions of that Act may be either an association or a partnership depending upon whether or not in the particular case the essential characteristics of an association exist.

§ 29.3797-6 *Partnership association.* A partnership association of the type authorized by the statutes of several States, such, for instance, as those of the State of Pennsylvania (Purdon's Penna. Stat. Ann., (Perm. Ed.), Title 59, ch. 3), having by virtue of the statutory provisions under which it was organized, the characteristics essential to an association within the meaning of the Internal Revenue Code, is taxable as a corporation.

§ 29.3797-7 *Insurance company.* Insurance companies include both stock and mutual companies, as well as mutual benefit insurance companies. A voluntary unincorporated association of employees formed for the purpose of relieving sick and aged members and the dependents of deceased members is an insurance company, whether the fund for such purpose is created wholly by membership dues or partly by contributions from the employer. A corporation which merely sets aside a fund for the insurance of its employees is not required to file a separate return for such fund, but the income therefrom shall be included in the return of the corporation.

Though its name, charter powers, and subjection to State insurance laws are significant in determining the business which a corporation is authorized and intends to carry on, the character of the business actually done in the taxable year determines whether it is taxable as an insurance company under the Internal Revenue Code. For example, during the year 1942 the M Corporation, incorporated under the insurance laws of the State of R, carried on the business of lending money in addition to guaranteeeng the payment of principal and interest of mortgage loans. Of its total income for the year, one-third was derived from its insurance business of guaranteeing the payment of principal and interest of mortgage loans and two-thirds was derived from its noninsurance business of lending money. The M Corporation is not an insurance company for the year 1942 within the meaning of the Code and these regulations.

§ 29.3797-8 *Domestic, foreign, resident, and nonresident persons.* A domestic corporation is one organized or created in the United States, including only the States, the territories of Alaska and Hawaii, and the District of Columbia, or under the law of the United States or of any State or Territory, and a foreign corporation is one which is not domestic. A domestic corporation is a resident corporation even though it does no business and owns no property in the United States. A foreign corporation engaged in trade or business within the United States is referred to in these regulations as a resident foreign corporation, and a foreign corporation not engaged in trade or business within the United States, as a nonresident foreign corporation. A partnership engaged in trade or business within the United States is referred to in these regulations as a resident partnership, and a partnership not engaged in trade or business within the United States, as a nonresident partnership. Whether a partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its members or by the place in which it was created or organized. The term "nonresident alien," as used in these regulations, includes a nonresident alien individual and a nonresident alien fiduciary.

§29.3797-9 *Fiduciary.* "Fiduciary" is a term which applies to persons who occupy positions of pecular confidence toward others, such as trustees, executors, and administrators. A fiduciary for income tax purposes is a person who holds in trust an estate to which another has the beneficial title or in which another has a beneficial interest, or receives and controls income of another, as in the case of receivers. A committee or guardian of the property of an incompetent person is a fiduciary,

§ 29.3797-10 *Fiduciary distinguished from agent.* There may be a fiduciary relationship between an agent and a principal, but the word "agent" does not denote a fiduciary. An agent having entire charge of property, with authority to effect and execute leases with tenants entirely on his own responsibility and without consulting his principal, merely turning over the net profits from the property periodically to his principal by virtue of authority conferred upon him by a power of attorney, is not a fiduciary within the meaning of the Internal Revenue Code. In cases where no legal trust has been created in the estate controlled by the agent and attorney, the liability to make a return rests with the principal.

§ 29.3797-11 *Military or naval forces of the United States.* The term "military or naval forces of the United States" is defined in section 3797 (a) (15). The term includes, among other organizations, the Coast Guard, which in turn includes the Coast Guard Reserve, of which the Women's Reserve is a branch. The definition in section 3797 (a) (15) is inclusive only and not exclusive.

SUBPART G—MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES

SEC. 3801. MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES.

(a) *Definitions.* For the purpose of this section—

(1) *Determination.* The term "determination under the income tax laws" means—

(A) A closing agreement made under section 3760;

(B) A decision by the Board of Tax Appeals [known as The Tax Court of the United States] or a judgment, decree, or other order by any court of competent jurisdiction, which has become final; or

(C) A final disposition by the Commissioner of a claim for refund. For the purposes of this section a claim for refund shall be deemed finally disposed of by the Commissioner—

(i) as to items with respect to which the claim was allowed, upon the date of allowance of refund or credit or upon the date of mailing notice of disallowance (by reason of offsetting items) of the claim for refund, and

(ii) as to items with respect to which the claim was disallowed, in whole or in part, or as to items applied by the Commissioner in reduction of the refund or credit, upon expiration of the time for instituting suit with respect thereto (unless suit is instituted prior to the expiration of such time).

Such term shall not include any such agreement made, or decision, judgment, decree, or order which became final, or claim for refund finally disposed of, prior to August 27, 1938.

§ 29.3801 (a) (1)-1 *Purpose and scope of section 3801.* Section 3801 provides for correction of the effect of certain types of errors specified in section 3801 (b) and §§ 29.3801 (b)-1 to 29.3801 (b)-5, inclusive, when one or more provisions of the internal revenue laws, such as the statute of limitations, would otherwise prevent such correction. Corrections are authorized under section 3801 only when the Commissioner, if the correction would result in an allowance of a refund or credit for the year with respect to which the error was made, or the taxpayer, if the correction would result in an additional assessment for such year, has maintained a position inconsistent with the error. No correction is permissible unless the inconsistent position is adopted by a determination made on or after August 27, 1938.

§ 29.3801 (a) (1)-2 *Closing agreement as a determination.* For the purposes of section 3801, a determination may take the form of a closing agreement authorized by section 3760. Such an agreement may relate to the total tax liability of the taxpayer for a particular taxable year or years or to one or more separate items affecting such liability. If it becomes necessary or desirable to effect a determination in order to obtain or accelerate an adjustment authorized by section 3801, a closing agreement may be used for such purpose whenever a taxpayer and the Government have concurred in the disposition of an item or items. A closing agreement becomes final within the meaning of section 3801 on the date of its approval by the Secretary, the Under Secretary, or an Assistant Secretary.

§ 29.3801 (a) (1)-3 *Decision by tax court or court as a determination.* A determination may take the form of a decision by The Tax Court of the United States or a judgment, decree, or other order by any court of competent jurisdiction, which has become final.

The date upon which a decision by The Tax Court becomes final is prescribed in section 1140.

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

§ 29.3801 (a) (1)-4 *Final disposition of claim for refund as a determination.* A determination may take the form of a final disposition of a claim for refund. Such disposition may result in a determination with respect to two classes of items, i. e., items included by the taxpayer in a claim for refund and items applied by the Commissioner to offset the alleged overpayment. The time at which a disposition in respect of a particular item becomes final may depend not only upon what action is taken with respect to that item but also upon whether the claim for refund is allowed or disallowed.

(a) *Items with respect to which the taxpayer's claim is allowed.* (1) The disposition with respect to an item as to which the taxpayer's contention in the claim for refund is sustained becomes final on the date of allowance of the refund or credit if:

(i) The taxpayer's claim for refund is unqualifiedly allowed; or

(ii) The taxpayer's contention with respect to an item is sustained and with respect to other items is denied, so that the net result is an allowance of refund or credit; or

(iii) The taxpayer's contention with respect to an item is sustained, but the Commissioner applies other items to offset the amount of the alleged overpayment and the items so applied do not completely offset such amount but merely reduce it so that the net result is an allowance of refund or credit.

(2) If the taxpayer's contention in the claim for refund with respect to an item is sustained but the Commissioner applies other items to offset the amount of the alleged overpayment so that the net result is a disallowance of the claim for refund, the date of mailing, by registered mail, of the notice of disallowance (see section 3772), is the date of the final disposition as to the item with respect to which the taxpayer's contention is sustained.

(b) *Items with respect to which the taxpayer's claim is disallowed.* The disposition with respect to an item as to which the taxpayer's contention in the claim for refund is denied becomes final upon the expiration of the time allowed by section 3772 for instituting suit on the claim for refund, unless suit is instituted prior to the expiration of such period, if:

(1) The taxpayer's claim for refund is unqualifiedly disallowed; or

(2) The taxpayer's contention with respect to an item is denied and with respect to other items is sustained so that the net result is an allowance of refund or credit; or

(3) The taxpayer's contention with respect to an item is sustained in part and denied in part. For example, if the taxpayer claims a deductible loss of $10,000 and a consequent overpayment of $2,500 and the Commissioner concedes that a deductible loss was sustained but in the amount of $5,000 only, or that a deductible loss of $10,000 was sustained, under the Commissioner's computation but under the Commissioner's computation the consequent overpayment is only $2,000, the disposition of the claim for refund with respect to both the allowance of the $5,000 and the disallowance of the remaining $5,000, or the allowance of the $2,000 overpayment and the denial of the $500, becomes final upon the expiration of the time for instituting suit on the claim for refund unless suit is instituted prior to the expiration of such period.

(c) *Items applied by the Commissioner in reduction of the refund or credit.*—If the Commissioner applies an item in reduction of the overpayment alleged in the claim for refund, and the net result is an allowance of refund or credit, the disposition with respect to the item so applied by the Commissioner becomes final upon the expiration of the time allowed by section 3772 for instituting suit on the claim for refund, unless suit is instituted prior to the expiration of such period. If such application of the item results in the assertion of a deficiency, such action does not constitute a

final disposition by the Commissioner of a claim for refund within the meaning of section 3801 (a) (1) (C) (ii), but subsequent action taken with respect to such deficiency may result in a determination under section 3801 (a) (1) (A) or (B).

The necessity of waiting for the expiration of the 2-year period of limitations provided in section 3772 may be avoided in such cases as are described under (b) or (c) of this section by the use of a closing agreement to effect a determination.

[SEC. 3801. MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES.]

[(a) *Definitions*. For the purpose of this section—]

(2) *Taxpayer*. Notwithstanding the provisions of section 3797 the term "taxpayer" means any person subject to a tax under the applicable Revenue Act.

(3) *Related taxpayer*. The term "related taxpayer" means a taxpayer who, with the taxpayer with respect to whom a determination specified in subsection (b) (1), (2), (3), or (4) is made, stood, in the taxable year with respect to which the erroneous inclusion, exclusion, omission, allowance, or disallowance therein referred to was made, in one of the following relationships: (A) husband and wife; (B) grantor and fiduciary; (C) grantor and beneficiary; (D) fiduciary and beneficiary, legatee, or heir; (E) decedent and decedent's estate; or (F) partner.

§29.3801 (a) (3)-1 *Related taxpayer*. An adjustment in the case of the taxpayer with respect to whom the error was made may be authorized under section 3801 although the determination is made with respect to a different taxpayer, provided that such taxpayers stand in one of the relationships specified in section 3801 (a) (3). The concept of "related taxpayer" has application only to section 3801 (b) (1), (2), (3) or (4) and does not apply to section 3801 (b) (5). If such relationship exists, it is not essential that the error be with respect to a transaction possible only by reason of the existence of the relationship. For example, if the error with respect to which an adjustment is sought under section 3801 grew out of an assignment of rents between taxpayer A and taxpayer B, who are partners, and the determination is with respect to taxpayer A, and adjustment with respect to taxpayer B may be permissible despite the fact that the assignment had nothing to do with the business of the partnership. The relationship need not exist throughout the entire taxable year with respect to which the error was made, but only at some time during that taxable year. For example, if a taxpayer on February 15 assigns to his fiancee the net rents of a building which the taxpayer owns, and the two are married before the end of the taxable year, an adjustment may be permissible if the determination relates to such rents despite the fact that they were not husband and wife at the time of the assignment. See § 29.3801 (b)-8 for the requirement in certain cases that the relationship exists at the time an inconsistent position is first maintained.

[SEC. 3801. MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES.]

(b) *Circumstances of adjustment*. When a determination under the income tax laws—

(1) Requires the inclusion in gross income of an item which was erroneously included in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; or

(2) Allows a deduction or credit which was erroneously allowed to the taxpayer for another taxable year or to a related taxpayer; or

(3) Requires the exclusion from gross income of an item with respect to which tax was paid and which was erroneously excluded or omitted from the gross income of the taxpayer for another taxable year or from the gross income of a related taxpayer; or

(4) Allows or disallows any of the additional deductions allowable in computing the net income of estates or trusts, or requires or denies any of the inclusions in the computation of net income of beneficiaries, heirs, or legatees, specified in section 162 (b) and (c) of chapter 1, and corresponding sections of prior revenue Acts, and the correlative inclusion or deduction, as the case may be, has been erroneously excluded, omitted, or included, or disallowed, omitted, or allowed, as the case may be, in respect of the related taxpayer; or

(5) Determines the basis of property for depletion, exhaustion, wear and tear, or obsolescence, or for gain or loss on a sale or exchange, and in respect of any transaction upon which such basis depends there was an erroneous inclusion in or omission from the gross income of, or an erroneous recognition or nonrecognition of gain or loss to, the taxpayer or any person who acquired title to such property in such transaction and from whom mediately or immediately the taxpayer derived title subsequent to such transaction—

and, on the date the determination becomes final, correction of the effect of the error is prevented by the operation (whether before, on, or after May 28, 1938) of any provision of the internal-revenue laws other than this section and other than section 3761 (relating to compromises), then the effect of the error shall be corrected by an adjustment made under this section. Such adjustment shall be made only if there is adopted in the determination a position maintained by the Commissioner (in case the amount of the adjustment would be refunded or credited in the same manner as an overpayment under subsection (c)) or by the taxpayer with respect to whom the determination is made (in case the amount of the adjustment would be assessed and collected in the same manner as a deficiency under subsection (c)), which position is inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be. In case the amount of the adjustment would be assessed and collected in the same manner as a deficiency, the adjustment shall not be made with respect to a related taxpayer unless he stands in such relationship to the taxpayer at the time the latter first maintains the inconsistent position in a return, claim for refund, or petition (or amended petition) to the Board of Tax Appeals [known as The Tax Court of the United States] for the taxable year with respect to which the determination is made, or if such position is not so maintained, then at the time of the determination.

§ 29.3801 (b)-0 *Circumstances of adjustment*. Section 3801 may be applied to correct the effect of an error if, on the date of the determination, correction of the effect of the error is prevented by the operation, whether before, on, or after May 28, 1938 (the date of enactment of the Revenue Act of 1938), of any provision of the internal revenue laws other than section 3801 and other than section 3761 of the Internal Revenue Code and the corresponding provisions of prior Revenue Acts (relating to compromises). Examples of such provisions are: Sections 275, 311 (b) and (c), 322 (b) and (d), 1117 (e), 3746, and 3772 of the Internal Revenue Code and the corresponding provisions of prior Revenue Acts (relating to periods of limitation); sections 272 (f) and 322 (c) of the Internal Revenue Code and the corresponding provisions of prior Revenue Acts (relating to effect of petition to The Tax Court of the United States on further deficiency letters and on credits or refunds); section 3760 of the Internal Revenue Code and the corresponding provisions of prior Revenue Acts (relating to closing agreements); and sections 3770 (a) (2), 3774, and 3775 of the Internal Revenue Code and the corresponding provisions of prior Revenue Acts (relating to payments, refunds or credits after period of limitation has expired).

If the tax liability for the year with respect to which the error was made has been compromised under section 3761 of the Internal Revenue Code or the corresponding provisions of prior Revenue Acts, no adjustment may be made under section 3801 with respect to that year.

Section 3801 is not applicable if, on the date of the determination, correction of the effect of the error is permissible without recourse to such section.

The determination may be with respect to the tax imposed by chapter 1 and subchapters A, B, D, and E of chapter 2 of the Internal Revenue Code, by the corresponding provisions of any prior Revenue Acts, or by more than one of such provisions. Section 3801 may be applied to correct the effect of the error only as to the tax or taxes for the year with respect to which the error was made which correspond to the tax or taxes to which the determination relates. Thus, if the determination relates to the tax imposed by chapter 1 of the Internal Revenue Code, the adjustment may be only with respect to the tax imposed by such chapter or by the corresponding provisions of the Revenue Act applicable to the year with respect to which the error was made; if the determination relates to subchapter B of chapter 2 of the Internal Revenue Code, the adjustment may be only with respect to the tax imposed by such subchapter or by the corresponding provisions of the Revenue Act applicable to the year with respect to which the error was made.

§ 29.3801 (b)-1 *Double inclusion of item of gross income*. Section 3801 (b) (1) applies if the determination requires the inclusion, in a taxpayer's gross income, of an item which was erroneously included in the gross income of the same taxpayer for another taxable year or of a related taxpayer for the same or another taxable year.

Example (1). A taxpayer who keeps his books on the cash basis erroneously included in his return for 1934 an item of accrued rent. In 1939, after the period of limitations on refunds for 1934 has expired, the Commissioner discovers that the taxpayer received his rent in 1935 and asserts a deficiency for the year 1935, which is sustained by The Tax

Court of the United States in 1942. An adjustment is authorized with respect to the year 1934. If the taxpayer had returned the rent for both 1934 and 1935 and by a determination was denied a refund claimed for 1935 on account of the rent item, a similar adjustment is authorized.

Example (2). A husband assigned to his wife salary to be earned by him in the year 1940. The wife included such salary in her separate return for that year and the husband omitted it. The Commissioner asserted a deficiency against the wife for 1940 with respect to a different item and she contested that deficiency before The Tax Court. The wife would therefore be barred by section 322 (c) from filing a claim for refund for 1940. Thereafter, the Commissioner asserts a deficiency against the husband on account of the omission of such salary from his return for 1940. The husband unsuccessfully contests the deficiency before The Tax Court in 1942. An adjustment is authorized with respect to the wife's tax for 1940.

§ 29.3801 (b)-2 *Double allowance of a deduction or credit.* Section 3801 (b) (2) applies if the determination allows the taxpayer a deduction or credit which was erroneously allowed the same taxpayer for another taxable year or a related taxpayer for the same or another taxable year.

Example (1). A taxpayer in his return for 1937 claimed and was allowed a deduction for destruction of timber by a forest fire. Subsequently it was discovered that the forest fire occurred in 1938 rather than in 1937. After the expiration of the period of limitations for the assessment of a deficiency for 1937, the taxpayer files a claim for refund for 1938 based upon a deduction for the fire loss in that year. The Commissioner in 1942 allows the claim for refund. An adjustment is authorized with respect to the year 1937.

Example (2). The beneficiary of a testamentary trust in his return for 1936 claimed, and was allowed, a deduction for depreciation of the trust property. The Commissioner asserted a deficiency against the beneficiary for 1936 with respect to a different item and final decision of The Tax Court of the United States was rendered in 1938, so that the Commissioner was thereafter barred by section 272 (f) of the Revenue Act of 1936 from asserting a further deficiency against the beneficiary for 1936. The trustee thereafter filed a timely refund claim contending that under the terms of the will the trust, and not the beneficiary, was entitled to the allowance for depreciation. The court in 1942 sustains the refund claim. An adjustment is authorized with respect to the beneficiary's tax for 1936.

§ 29.3801 (b)-3 *Erroneous exclusion of item of gross income with respect to which tax was paid.* Section 3801 (b) (3) applies if the determination requires the exclusion, from a taxpayer's gross income, of an item with respect to which tax was paid and which was erroneously excluded or omitted from the gross income of the same taxpayer for another taxable year or of a related taxpayer for the same or another taxable year.

Example (1). A taxpayer received payments in 1939 under a contract for the performance of services and included the payments in his return for that year. A closing agreement was thereafter made with respect to the tax liability of the taxpayer for 1938. The taxpayer subsequently filed claim for refund for the year 1939, asserting that he kept his books on the accrual basis and that, as the payments had accrued in 1938, they were properly taxable in that year. The claim for refund is allowed in 1942. An adjustment is authorized with respect to the year 1938. If the taxpayer had not included the payments in any return and the Commissioner had asserted a deficiency for 1939 with respect to the payments, and the deficiency is not sustained by The Tax Court of the United States in its final decision in 1943, no adjustment is authorized with respect to the year 1938. Although the determination requires the exclusion of the item from gross income, no tax has been paid with respect thereto. If the taxpayer, however, had paid the deficiency and thereafter successfully contested it before The Tax Court or successfully sued for refund in court, an adjustment is authorized.

Example (2). A father and son conducted a partnership business, each being entitled to one-half of the net profits. The father included the entire net income of the partnership in his return for 1935 and the son included no portion of this income in his return for that year. Shortly before the expiration of the period of limitations with repsect to deficiency assessments and refund claims for both father and son for 1935, the father filed a claim for refund of that portion of his 1935 tax attributable to the half of the partnership income which should have been included in the son's return. The court sustains the claim for refund in 1942. An adjustment is authorized with respect to the son's tax for 1935.

§ 29.3801 (b)-4 *Correlative deductions and inclusions specified in section 162 (b) and (c) and corresponding provisions of prior Revenue Acts.* Section 3801 (b) (4) applies if the determination relates to the additional deduction specified in section 162 (b) and (c) of the Internal Revenue Code, or the corresponding provisions of a prior Revenue Act, for amounts distributable to the beneficiaries, heirs, or legatees of an estate or trust, and such determination requires:

(a) The allowance to the estate or trust of such additional deduction when such amounts have been erroneously omitted or excluded from the income of the beneficiaries, heirs, or legatees.

(b) The inclusion of such amounts in the income of the beneficiaries, heirs, or legatees when such additional deduction has been erroneously disallowed to or omitted by the estate or trust;

(c) The disallowance to an estate or trust of such additional deduction when such amounts have been erroneously included in the income of the beneficiaries, heirs, or legatees; or

(d) The exclusion of such amounts from the income of the beneficiaries, heirs, or legatees when such additional deduction has been erroneously allowed to the estate or trust.

The provisions of (a) of this section may be illustrated as follows:

Example. For the taxable year 1936, a trustee, directed by the trust instrument to accumulate the trust income, made no distribution to the beneficiary and returned the entire net income as taxable to the trust. Accordingly, the beneficiary did not include the trust income in his return for the year 1936. In 1938 a State court held invalid the clause directing accumulation. In 1940 the trustee, relying upon the court decision, files a claim for refund of the tax paid on behalf of the trust for the year 1936. The claim is sustained by the court in 1942, after the expiration of the period of limitations upon deficiency assessment against the beneficiary for the year 1936. An adjustment is authorized with respect to the beneficiary's tax for the year 1936.

The provisions of (b) of this section may be illustrated as follows:

Example. Assume the same facts as in the example under (a), except that, instead of the trustee's filing a refund claim, the Commissioner, relying upon the decision of the State court, asserts a deficiency against the beneficiary for 1936. The deficiency is sustained by final decision of The Tax Court of the United States in 1942, after the expiration of the period for filing claim for refund on behalf of the trust for 1936. An adjustment is authorized with respect to the trust for the year 1936.

The provisions of (c) of this section may be illustrated as follows:

Example. A trustee claimed in the return for 1936 a deduction for income distributed to the beneficiary. The income was included by the beneficiary in his return for 1936. In 1940 the Commissioner asserts a deficiency against the trust on the ground that the amount distributed to the beneficiary represented a charge against the corpus of the trust and did not constitute a distribution of income. The deficiency is sustained by final decision of The Tax Court in 1942, after the expiration of the period for filing claims for refund by the beneficiary for 1936. An adjustment is authorized with respect to the beneficiary's tax for the year 1936.

The provisions of (d) of this section may be illustrated as follows:

Example. Assume the same facts as in the example under (c), except that, instead of the Commissioner's asserting a deficiency, the beneficiary files a refund claim for 1936 on the same ground. The claim is sustained by the court in 1942, after the expiration of the period of limitations upon deficiency assessments against the trust for 1936. An adjustment is authorized with respect to the trust for the year 1936.

§ 29.3801 (b)-5 *Determination of basis of property in case of erroneous treatment of transaction relating to acquisition thereof.* Section 3801 (b) (5) applies if the determination establishes the basis of property for income tax purposes and in respect of the transaction upon which such basis depends there was an erroneous inclusion in or omission from gross income or an erroneous recognition or nonrecognition of gain or loss with respect to (1) the taxpayer with respect to whom the determination is made, or (2) any person who acquired title to such property in such transaction and the taxpayer with respect to whom the determination is made mediately or immediately derived title from such person subsequent to such transaction. Section 3801 (b) (5) applies with respect to the person who acquired the property and any subsequent transferees or donees who have a substituted basis ascertained by reference to the basis in the hands of such person. No adjustment is authorized with respect to the transferor of the property in the transaction upon which the basis of the property depends, when the determination is with respect to (1) the original transferee, or (2) a subsequent transferee of such original transferee.

Example (1). In 1936 taxpayer A transferred property which had cost him $5,000 to the X Corporation in exchange for an original issue of shares of its stock having a fair market value of $10,000. In his return for 1936 taxpayer A treated the exchange as

one in which gain or loss was not recognizable;

(a) In 1942 the X Corporation claims that gain should have been recognized on the exchange in 1936 and therefore the property it received had a $10,000 basis for depreciation. Its contention is confirmed by a closing agreement. No adjustment is authorized with respect to the tax of the X Corporation for 1936, as there was no "erroneous inclusion in or omission from the gross income of, or an erroneous recognition or nonrecognition of gain or loss to" the X Corporation with respect to the exchange in 1936. Moreover no adjustment is authorized with respect to taxpayer A, as he is not the taxpayer with respect to whom the determination is made, nor does the determination relate to the property which taxpayer A acquired in the exchange in 1936, but, rather, to the property which he transferred in such exchange.

(b) In 1942 the X Corporation transfers the property to the Y Corporation in a tax-free exchange. In 1943 the Y Corporation sells the property and computes its profit on the basis of $10,000, which basis is sustained by The Tax Court of the United States. No adjustment is authorized with respect to the Y Corporation or with respect to taxpayer A, for the reason stated in (a).

(c) In 1944 taxpayer A sells the stock which he had received in 1936 and claims that, as gain should have been recognized on the exchange in 1936, the basis for computing the profit on the sale is $10,000. His contention is confirmed in a closing agreement. An adjustment is authorized with respect to his tax for the year 1936, as the basis for computing gain on the sale depends upon the transaction in 1936 and in respect of that transaction there was an erroneous nonrecognition of gain to taxpayer A, "the taxpayer" with respect to whom the determination is made.

(d) Taxpayer A does not sell the stock but makes a gift of it to taxpayer B, who later sells the stock and claims the $10,000 basis, which contention is confirmed in a closing agreement. An adjustment is authorized with respect to the tax of taxpayer A for 1936, as the basis for computing gain on the sale by taxpayer B depends upon the transaction in 1936 and in respect of that transaction there was erroneous nonrecognition of gain to taxpayer A, the "person who acquired title to such property in such transaction and from whom * * * immediately" taxpayer B, with respect to whom the determination is made, "derived title subsequent to such transaction."

Example (2). In 1937 taxpayer A sold property acquired at a cost of $5,000 to taxpayer B for $10,000. In his return for 1937 taxpayer A failed to include the profit on such sale. In 1942 taxpayer B sells the property for $12,000 and in his return for 1942 reports a gain of $2,000 upon the sale, which is confirmed in a closing agreement. No adjustment is authorized with respect to the tax of taxpayer A for 1937, as taxpayer A is not the taxpayer with respect to whom the determination is made; nor does the determination relate to property which taxpayer A acquired in the transaction in 1937, but rather to property which he transferred in such transaction.

Example (3). In 1936 a taxpayer received as additional compensation shares of stock in a corporation but did not include any amount in his return for that year on account of the receipt of such stock. In 1942, after the expiration of the period of limitations on deficiency assessments for 1936, he sells the stock for $15,000 and reports $5,000 in his return for 1942 as profit on the sale. A deficiency is asserted by the Commissioner on the theory that the basis is zero and the recognized gain is $15,000. The Tax Court sustains the taxpayer's contention that the transaction was erroneously treated in 1936 in that the property then had a fair market valuation of $10,000. An adjustment is authorized with respect to the year 1936.

Example (4). In 1933 a taxpayer received 100 shares of stock of the X Corporation having a fair market value of $5,000, in exchange for shares of stock in the Y Corporation which he had acquired at a cost of $12,000. In his return for 1933 the taxpayer treated the exchange as one in which gain or loss was not recognizable. The taxpayer sold 50 shares of the X Corporation stock in 1934 and in his return for that year treated such shares as having a $6,000 basis. In 1939 the taxpayer sells the remaining 50 shares of stock of the X Corporation for $7,500 and reports $1,500 gain in his return for 1939. After the expiration of the period of limitations on deficiency assessments and on refund claims for 1933 and 1934, the Commissioner asserts a deficiency for 1939 on the ground that the loss realized on the exchange in 1933 was erroneously treated as nonrecognizable, and that the basis for computing gain upon the sale in 1939 is $2,500, resulting in a gain of $5,000. The deficiency is sustained by The Tax Court in 1943. An adjustment is authorized with respect to the year 1933 as to the entire $7,000 loss realized on the exchange. No adjustment is authorized with respect to the year 1934 as the basis for computing gain upon the sale of the 50 shares in 1939 does not depend upon the transaction in 1934.

§ 29.3801 (b)-6 *Law applicable in determination of error.* The question whether there was an erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition is determined under the provisions of the internal revenue laws applicable with respect to the year as to which the inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, was made. The fact that the inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, was in pursuance of an interpretation, either judicial or administrative, accorded such provisions of the internal revenue laws at the time of such action is not necessarily determinative of this question. For example, if a later judicial decision authoritatively alters such interpretation so that such action was contrary to such provisions of the internal revenue laws as later interpreted, the inclusion, exclusion, ommission, allowance, disallowance, recognition, or nonrecognition, as the case may be, is erroneous within the meaning of section 3801.

§ 29.3801 (b)-7 *Operation dependent upon maintenance of inconsistent position*—(a) *Adjustments resulting in additional assessments.* An adjustment which would result in an additional assessment is authorized only if (1) the taxpayer, with respect to whom the determination is made, has, in connection therewith, maintained a position which is inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, and (2) such inconsistent position is adopted in the determination.

Example (1). A taxpayer in his return for 1937 claimed and was allowed a deduction for a loss arising from a casualty. After the taxpayer had filed his return for 1938 and after the period of limitations upon the assessment of a deficiency for 1937 had expired, it was discovered that the loss actually occurred in 1938. The taxpayer, therefore, filed a claim for refund for the year 1938 based upon the allowance of a deduction for the loss in that year, and the claim was allowed by the Commissioner in 1942. The taxpayer thus has maintained a position inconsistent with the allowance of the deduction for 1937 by filing a claim for refund for 1938 based upon the same deduction. As the determination—the allowance by the Commissioner of the claim for refund—adopts such inconsistent position, an adjustment is authorized for the year 1937.

An adjustment which would result in an additional assessment is not authorized if the Commissioner, and not the taxpayer, has maintained such inconsistent position.

Example (2). In example (1) above, assume that the taxpayer did not file a claim for refund for 1938 but the Commissioner issued a notice of deficiency for 1938 based upon other items. The taxpayer filed a petition with The Tax Court of the United States and the Commissioner in his answer voluntarily proposed the allowance of a deduction for the loss previously allowed for 1937. The Tax Court took the deduction into account in its redetermination in 1942 of the tax for the year 1938. In such case no adjustment would be authorized for the year 1937 as the Commissioner, and not the taxpayer, has maintained a position inconsistent with the allowance of a deduction for the loss in that year.

(b) *Adjustments resulting in refund or credit.* An adjustment which would result in the allowance of a refund or credit is authorized only if (1) the Commissioner, in connection with a determination, has maintained a position which is inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, and (2) such inconsistent position is adopted in the determination.

Example (1). A taxpayer who keeps his books on the cash basis erroneously included in his return for 1936 an item of accrued interest. After the period of limitations on refunds for 1936 had expired, the Commissioner asserted a deficiency for the year 1937 on the ground that the item of interest was received in 1937, and, therefore, was properly includible in gross income for that year. The taxpayer appealed to The Tax Court, which in 1942 sustained the deficiency. By asserting a deficiency for 1937 based upon the inclusion of the interest item in that year, the Commissioner has maintained a position inconsistent with the inclusion of the interest item in 1936. As the determination—the decision of The Tax Court sustaining the deficiency—adopted such inconsistent position, an adjustment is authorized for the year 1936.

An adjustment which would result in the allowance of a refund or credit is not authorized if the taxpayer with respect to whom the determination is made, and not the Commissioner, has maintained such inconsistent position.

Example (2). In example (1) above, assume that the Commissioner asserted a deficiency for 1937 based upon other items for that year, but in computing the net income upon which such deficiency was based did not include the item of interest. The taxpayer appealed to The Tax Court and in his petition asserted that the interest item should be included in gross income for 1937. The Tax Court in 1942 included the item of interest in its redetermination of the tax for the year 1937. In such case no adjustment would be authorized for 1936 as the taxpayer, and not the Commissioner, has maintained a position inconsistent with the erroneous

inclusion of the item of interest in the gross income of the taxpayer for that year.

§ 29.3801 (b)-8 *Existence of status of related taxpayer at time of the first maintenance of an inconsistent position.* No adjustment by way of a deficiency assessment shall be made with respect to a related taxpayer unless the relationship existed both in the taxable year with respect to which the error was made and at the time the taxpayer with respect to whom the determination is made first maintained, in the manner described in this section, the inconsistent position with respect to the taxable year to which the determination relates.

If the inconsistent position is maintained in a return, claim for refund, or petition (or amended petition) to The Tax Court of the United States for the taxable year in respect of which the determination is made, the requisite relationship must exist on the date of filing such document. If the inconsistent position is maintained in more than one of such documents, the requisite date is the date of filing of the document in which it was first maintained. If the inconsistent position was not thus maintained then the relationship must exist on the date of the determination, as, for example, where at the instance of the taxpayer a deduction is allowed, the right to which was not asserted in a return, claim for refund, or petition to The Tax Court, and a determination is effected by means of a closing agreement.

[SEC. 3801. MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES.]

(c) *Method of adjustment.* The adjustment authorized in subsection (b) shall be made by assessing and collecting, or refunding or crediting, the amount thereof, to be ascertained as provided in subsection (d), in the same manner as if it were a deficiency determined by the Commissioner with respect to the taxpayer as to whom the error was made or an overpayment claimed by such taxpayer, as the case may be, for the taxable year with respect to which the error was made, and as if on the date of the determination specified in subsection (b) one year remained before the expiration of the periods of limitation upon assessment or filing claim for refund for such taxable year.

§ 29.3801 (c)-1 *Method of adjustment.* If the amount of the adjustment ascertained pursuant to section 3801 (d) represents an increase in tax, it is to be treated as if it were a deficiency determined by the Commissioner with respect to the taxpayer as to whom the error was made and for the taxable year with respect to which the error was made. The amount of the adjustment is thus to be assessed and collected under the law and regulations applicable to the assessment and collection of deficiencies, subject, however, to the limitations imposed by section 3801 (e). Notice of deficiency, unless waived, must be issued with respect to such amount and the taxpayer may contest the deficiency before The Tax Court of the United States or, if he chooses, may pay the deficiency and later file claim for refund. If the amount of the adjustment ascertained pursuant to section 3801 (d) represents a decrease in tax, it is to be treated as if it were an overpayment claimed by the taxpayer with respect to whom the error was made for the taxable year with respect to which the error was made. Such amount may be recovered under the law and regulations applicable to overpayments of tax, subject, however, to the limitations imposed by section 3801 (e). The taxpayer must file a claim for refund thereof, unless the overpayment is refunded without such claim, and if the claim is denied or not acted upon by the Commissioner within the prescribed time, the taxpayer may then file suit for refund. The amount of the adjustment treated as if it were a deficiency or an overpayment, as the case may be, will bear interest and be subject to additions to the tax to the extent provided by the internal revenue laws applicable to deficiencies and overpayments for the taxable year with respect to which the error was made.

For the purpose of the adjustment authorized by section 3801, the period of limitation upon the making of an assessment or upon refund or credit for the taxable year with respect to which the error was made, as the case may be, shall be considered as if, on the date of the determination, one year remained before the expiration of such period, regardless of whether or not such period had expired prior to the date of the determination. The Commissioner thus has one year from the date of the determination within which to mail a notice of deficiency in respect of the amount of the adjustment where such amount is treated as if it were a deficiency. The issuance of such notice of deficiency, in accordance with the law and regulations applicable to the assessment of deficiencies, will suspend the running of the 1-year period of limitations provided by section 3801 (c). In accordance with the applicable law and regulations governing the collection of deficiencies (see section 276 (c) of the Internal Revenue Code and the corresponding provisions of prior Revenue Acts), the period of limitation for collection of the amount of the adjustment will commence to run from the date of assessment of such amount. Similarly, the taxpayer has a period of one year from the date of the determination within which to file a claim for refund in respect of the amount of the adjustment where such adjustment is treated as if it were an overpayment. Where the amount of the adjustment is treated as if it were a deficiency and the taxpayer chooses to pay such deficiency and contest it by way of claim for refund, the period of limitation upon filing claim for refund will commence to run from the date of such payment (see section 322 (b) of the Internal Revenue Code and the corresponding provisions of prior Revenue Acts).

[SEC. 3801. MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES.]

(d) *Ascertainment of amount of adjustment.* In computing the amount of an adjustment under this section there shall first be ascertained the tax previously determined for the taxable year with respect to which the error was made. The amount of the tax previously determined shall be (1) the tax shown by the taxpayer, with respect to whom the error was made, upon his return for such taxable year, increased by the amounts previously assessed (or collected without assessment) as deficiencies, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or (2) if no amount was shown as the tax by such taxpayer upon his return, or if no return was made by such taxpayer, then the amounts previously assessed (or collected without assessment) as deficiencies, but such amounts previously assessed, or collected without assessment, shall be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax. There shall then be ascertained the increase or decrease in the tax previously determined which results solely from the correct exclusion, inclusion, allowance, disallowance, recognition, or nonrecognition, of the item, inclusion, deduction, credit, gain, or loss, which was the subject of the error. The amount so ascertained (together with any amounts wrongfully collected, as additions to the tax or interest, as a result of such error) shall be the amount of the adjustment under this section.

§ 29.3801 (d)-1 *Ascertainment of amount of adjustment.* The amount of the adjustment shall be ascertained as follows:

(a) The tax previously determined for the taxpayer as to whom the error was made, for the taxable year with respect to which the error was made, must first be ascertained. This may be the amount of tax shown on the taxpayer's return, but if any changes in that amount have been made they must be taken into account. In such cases the tax previously determined will be the tax shown on the return, increased by any amounts previously assessed (or collected without assessment) as deficiencies, and decreased by any amounts previously abated, credited, refunded or otherwise repaid in respect of such tax. If no amount was shown as the tax upon the return, or if no return was made, the tax previously determined will be the sum of the amounts previously assessed, or collected without assessment, as deficiencies, decreased by any amounts previously abated, credited, or otherwise repaid in respect of such tax.

The tax previously determined may consist of tax for any taxable year beginning after December 31, 1931, imposed by chapter 1 and subchapters A, B, D, and E of chapter 2 of the Internal Revenue Code, by the corresponding provisions of prior Revenue Acts, or by any one or more of such provisions.

(b) After the tax previously determined has been ascertained a recomputation must then be made to ascertain the increase or decrease in tax, if any, resulting from the correction of the error. The difference between the tax previously determined and the tax as recomputed after correction of the error will be the amount of the adjustment.

With the exception of the items upon which the tax previously determined was based and the item or items with respect to which the error was made, no other item shall be considered in computing the amount of the adjustment. If the treatment of any item upon which the tax previously determined was based, or if the application of any provisions of the internal revenue laws with respect to such tax, depends upon the amount of income (e. g., charitable contributions,

foreign tax credit, earned income credit), readjustment in these particulars will be necessary as part of the recomputation in conformity with the change in the amount of the income which results from the correct treatment of the item or items in respect of which the error was made.

Any interest or additions to the tax collected as a result of the error shall be taken into account in determining the amount of the adjustment.

Example. For the taxable year 1936 a married man with no dependents, who kept his books on the cash receipts and disbursements basis, filed a return disclosing gross income of $42,000, deductions amounting to $12,000, and a net income of $30,000. Included among other items in the gross income were salary in the amount of $15,000 and rents accrued but not yet paid in the amount of $5,000. During the taxable year he donated $10,000 to the American Red Cross and in his return claimed a deduction of $5,294.12 on account thereof, representing the maximum deduction allowable under the 15 percent limitation imposed by section 23 (o), Revenue Act of 1936. In computing his net income he omitted interest income amounting to $6,000 and neglected to take a deduction for interest paid in the amount of $4,500. The return disclosed a tax liability of $3,565, which was assessed and paid. After the expiration of the period of limitations upon the assessment of a deficiency or the allowance of a refund for 1936, the Commissioner included the item of rental income amounting to $5,000 in the taxpayer's gross income for the year 1937 and asserted a deficiency for that year. As a result of a final decision of The Tax Court of the United States in 1942 sustaining the deficiency for 1937, and adjustment is authorized for the year 1936. The amount of the adjustment is computed as follows:

Tax previously determined for 1936	$3,565.00
Net income for 1936 upon which tax previously determined was based	30,000.00
Less: Rents erroneously included	5,000.00
Balance	25,000.00
Adjustment for contributions (add 15 percent of $5,000)	750.00
Net income as adjusted	25,750.00
Tax as recomputed	2,646.50
Tax previously determined	3,565.00
Difference	918.50
Amount of adjustment to be refunded or credited	918.50

In accordance with the provisions of section 3801 (d), the recomputation to determine the amount of the adjustment does not take into consideration the item of $6,000 representing interest received, which was omitted from gross income, or the item of $4,500 representing interest paid, for which no deduction was allowed.

[SEC. 3801. MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES.]

(e) *Adjustment unaffected by other items, etc.* The amount to be assessed and collected in the same manner as a deficiency, or to be refunded or credited in the same manner as an overpayment, under this section, shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss other than the one which was the subject of the error. Such amount, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss other than the one which was the subject of the error.

§ 29.3801 (e)-1 *Effect of other items on amount of adjustment.* The amount of the adjustment ascertained under section 3801 (d) shall not be diminished by any credit or set-off based upon any item inclusion, deduction, credit, exemption, or gain or loss with respect to the year as to which the error was made.

Example (1). In the example set forth in § 29.3801 (d)-1, if, after the amount of the adjustment has been ascertained, the taxpayer filed a refund claim for the amount thereof, the Commissioner could not diminish the amount of that claim by offsetting against it the amount of tax which should have been paid with respect to the $6,000 interest item omitted from gross income for the year 1936; nor could the court, if suit were brought on such claim for refund, offset against the amount of the adjustment the amount of tax which should have been paid with respect to such interest.

Example (2). Assume that a taxpayer included in his gross income for the year 1943 an item which should have been included in gross income for the year 1942. After expiration of the period of limitations upon the assessment of a deficiency or the allowance of a refund for 1942 the taxpayer filed a claim for refund for the year 1943 on the ground that such item was not properly includible in gross income for that year. The claim for refund was allowed by the Commissioner and as a result of such determination an adjustment was authorized under section 3801 with respect to the tax for 1942. If, in such case, the Commissioner issued a notice of deficiency for the amount of the adjustment and the taxpayer contested the deficiency before The Tax Court of the United States, the taxpayer could not in such proceeding claim an offset based upon his failure to take an allowable deduction for the year 1942; nor could The Tax Court in its decision offset against the amount of the adjustment any overpayment for the year 1942 resulting from the failure to take such deduction.

If the Commissioner has refunded the amount of an adjustment under section 3801, the amount so refunded may not subsequently be recovered by the Commissioner in a suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss (other than the one which was the subject of the error) with respect to the year as to which the error was made.

Example (3). In the example set forth in § 29.3801 (d)-1, if the Commissioner had refunded the amount of the adjustment, no part of the amount so refunded could subsequently be recovered by the Commissioner by a suit for erroneous refund based on the ground that there was no overpayment for 1936, as the taxpayer had failed to include in gross income the $6,000 item of interest received in that year.

If the Commissioner has assessed and collected the amount of an adjustment, no part thereof may be recovered by the taxpayer in any suit for refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss (other than the one which was the subject of the error) with respect to the year as to which the error was made.

Example (4). In example (2) above, if the taxpayer had paid the amount of the adjustment, he could not subsequently recover any part of such payment in a suit for refund based upon his failure to take an allowable deduction for the year 1942.

If the amount of the adjustment is considered as an overpayment, it may be credited, under the applicable law and regulations thereunder, against any income or excess-profits tax, or installment thereof, due from the taxpayer. Likewise, if the amount of the adjustment is considered as a deficiency, any overpayment by the taxpayer of income or excess-profits tax may be credited against the amount of such adjustment in accordance with the applicable law and regulations thereunder. (See section 322 of the Internal Revenue Code and the corresponding provisions of prior Revenue Acts.) Accordingly, it may be possible in one transaction between the Commissioner and the taxpayer to settle the taxpayer's tax liability for the year with respect to which the determination is made and to make the adjustment under section 3801 for the year with respect to which the error was made.

[SEC. 3801. MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES.]

(f) *No adjustment for years prior to 1932.* No adjustment shall be made under this section in respect of any taxable year beginning prior to January 1, 1932.

In pursuance of the Internal Revenue Code, as amended, the foregoing regulations are hereby prescribed for taxable years beginning after December 31, 1941, and Regulations 103, as amended,[1] insofar as they relate to income taxes for taxable years beginning after December 31, 1941, are hereby superseded.

[SEAL] ROBERT E. HANNEGAN,
Commissioner of Internal Revenue.

Approved: October 26, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-17458; Filed, October 28, 1943; 9:43 a. m.]

Chapter VIII—Office of Economic Warfare; Foreign Economic Administration

Subchapter B—Export Control

[Amdt. 116]

PART 802—GENERAL LICENSES

GENERAL IN TRANSIT LICENSES

§ 802.9 *General in transit licenses* is hereby amended in the following particulars:

I. Paragraph (a) *Definitions* is amended to read as follows:

(a) *Definitions.* When used in this section:

(1) "In transit shipment" shall mean a shipment of a commodity or commodities from one foreign destination to another foreign destination, via the United States, for which no formal or informal consumption entry has been made at a United States custom-house.

(2) "S Countries" shall mean the following: French West Africa, French North Africa, Argentina, Eire, Portugal, Portuguese Atlantic Islands, Portuguese Guinea, Spain, Spanish Atlantic Islands, Spanish and International Morocco and Tangier, Sweden, Switzerland, and Turkey.

---

[1] Part 19 of this chapter.

(3) "M Countries" shall mean the following: Aden, Anglo-Egyptian Sudan, Arabia (Saudi), British Somaliland, Cyprus, Egypt, Eritrea, Ethiopia, French Somaliland (French Somali Coast), Iran, Iraq, Italian Somaliland, Kamaran Island (Aden), Khorya-Morya Island (Aden), Lebanon (Syria), Libya, Perim Island (Aden), Saudi Arabia, Sokotra Island (Aden), Sudan, Anglo-Egyptian, Syria, Trans-Jordan and Palestine, and Yemen.

II. Paragraph (b) is hereby amended to read as follows:

(b) General licenses are hereby granted authorizing, subject to the provisions of this section, the exportation of "in transit shipments" from those countries of origin to those countries of destination set forth directly opposite the respective general license designation or each such license in the following table:

General license designation	Countries of origin	Countries of destination
GIT-A/A	All countries except enemy or enemy occupied countries.	All countries except enemy or enemy occupied countries, "S Countries" and "M Countries".
GIT-C/MS	Canada	"S Countries" and "M Countries".

III. Paragraph (d) is hereby amended to read as follows:

(d) No exportation may be made pursuant to general license GIT-C/MS, except to "M Countries" and when consigned to the Armed forces of the United Nations, unless a Canadian export permit or British Imperial license, specifying the nature of the shipment and ultimate consignee in the country of destination, is surrendered to the United States Collector of Customs at the last port of exit from the United States.

IV. Paragraph (e) is hereby amended by deleting therefrom "No shipment" the first two words thereof and inserting in lieu thereof the words "No 'in transit shipment' ".

V. Paragraph (f) is hereby amended

1. By deleting the first paragraph thereof beginning with the words "The following commodities" and ending with the words "United States to Mexico" and inserting in lieu thereof the words "The following commodities shall not be exported pursuant to any general license granted in this section except when the same are incorporated in 'in transit shipments' proceeding (a) from any destination in the British Empire to any other destination in the British Empire, (b) from Mexico to any other port of Mexico, (c) between the Republic of Panama and any destination within the scope of general license GIT-A/A through the Panama Canal Zone or (d) from Canada to any designated country of destination:";

2. By deleting from the list of commodities set forth therein the commodity "Goat Skins Schedule B No. 0250.10 and 0250.12; and

3. By adding to the list of commodities set forth therein the following commodities:

Commodity	*Schedule B No.*
Canton	3205.01
Maguey or Cantala	3205.13
Pacol	3205.17
Henequen	3205.19
Sunn	3205.21
Hemp yarn	3399.20
Ramie yarn	3399.25
Cordage, except of cotton or jute 3411.00 through 3419.98	
Sisal or henequin, istle or Tampico, Canton, maguey, pacol, and sunn yarns	3499.09

(Sec. 6, 54 Stat. 714; Pub. Law 75, 77th Cong.; Pub. Law 638, 77th Cong.; Order 3 and Delegation of Authority 25, 7 F.R. 4951; Delegation of Authority 47, 8 F.R. 8529; E.O. 9361, 8 F.R. 9861 and Order 1, 8 F.R. 9938; E.O. 9380, 8 F.R. 13081)

Dated: November 3, 1943.

C. VICTORY BARRY,
Chief of Office,
Office of Exports.

[F. R. Doc. 43-17832; Filed, November 4, 1943; 10:45 a. m.]

[Amdt. 117]

PART 802—GENERAL LICENSES

LICENSES PERMITTING SHIPMENTS NOT EXCEEDING SPECIFIED VALUE

Section 802.10 *General licenses which permit shipments not exceeding a specified value* (GLV) is hereby amended in the following particulars:

a. Paragraph (a) is hereby amended by adding to the list of commodities set forth therein the following:

Commodity	*Schedule B No.*
Animal oils and fats, edible	0050.00 thru 0059.00
Animal oils and greases, inedible	0803.00 thru 0858.05
Arnica	2209.33, 8124.98
Arsenic salts and compounds	8309.90, 8309.98
Barbituric acid and derivatives	
Beef suet, inedible	0858.98
Calcium gluconate	8135.98
Carbarsone	8127.98, 8180.98
Carbromal	8127.98, 8180.98
Cascara bark and derivatives	2201.00, 8124.98, 8127.98
Chaulmoogra oil	2249.98
Cinchonidine	
Cinchonine	
Cinchophen	8135.98
Cocoa	1501.00 thru 1503.00
Coffee	1511.00, 1512.00
Coffee extracts and substitutes	1513.00
Colchicum and derivatives	2209.29, 8124.98, 8127.98, 8135.98
Confectionery	1634.00 thru 1637.00
Dairy products (excepting fresh and sterilized milk, infants' foods, malted milk)	0061.00 thru 0067.90
Dental instruments (burs, hand-pieces and contra-angles only)	9150.00
Egg products, n. e. s., dried and frozen	0093.05, 0093.07
Eggs, in the shell	0092.00
*Emetine	
Fish and fish products	0070.00 thru 0090.98
Fruit juices	1772.00 thru 1779.00
Fruits and preparations	1302.00 thru 1305.00, 1310.00 thru 1312.00, 1321.00 thru 1328.00, 1330.05 thru 1347.00
Gelatin capsules, empty	0099.00
Gas masks	9190.98
Guaiacol	8135.98
Gum benzoin	2189.93
Hops, concentrated hops and hop extract	1259.98, 2951.00, 2999.91
Hormones	8123.00, 8135.98
Lactose (milk sugar)	8135.98
Lanolin	0858.05
Mapharsen	8124.98, 8135.98
Meat products	0020.00, 0021.00, 0027.00 thru 0036.18, 0037.00, 0038.00, 0039.09
Neoarsphenamine	8124.98, 8135.98
Peanuts and peanut butter	1259.98, 1375.00
Phenolphthaline	8135.98
Penicillin	8124.98, 8135.98
Quinidine	
Rice:	
Paddy or rough rice	1055.00
Milled rice, including brown rice, broken rice and rice screenings	1057.00
Rice flour, meal and polish	1058.00
Sago	1259.98
Seeds (except oilseeds)	2401.00 thru 2419.00, 2468.50, 2468.90
Serums and antitoxins	8121.00
Stramonium	2209.25, 8124.98, 8127.98, 8180.14, 8180.19
Sulfaraphenamine	8124.98, 8135.98
Tapioca	1259.98
Thermometers, clinical	9190.98
Tobacco, unmanufactured leaf (bright flue-cured)	2601.00
Totaquine	8157.05
Vaccines	8122.00

Commodity	*Schedule B No.*
Vegetable oils	2230.00 thru 2249.98
Vegetable oils and fats, edible	1420.00 thru 1441.00, 1447.00 thru 1449.98
Vegetables and preparations	1201.10 thru 1202.50, 1208.00, 1211.00, 1241.00 thru 1251.00, 1252.95, 1253.00 thru 1259.03
Vegetable tallow and wax	2999.05
Vitamins and vitasterols (all)	8119.98
Yeast	1259.98

And by deleting from the list of commodities set forth therein the following:

Commodity	*Schedule B No.*
Adalin	8135.98
Ammonia (anhydrous)	8390.00
Ammonium sulphate	8505.00
Aniline oil and salts	8025.15, 8025.19
Atophan	8135.98
Benzyl chloride	8025.98
Beta naphthol	8025.30
Carbon tetrachloride	8329.10
Chlorine	8392.00
Chlorobenzenes	8069.98
Chloroform	8329.98
Chromium salts and compounds	8357.00, 8359.11, 8368.00, 8396.71 thru 8396.78, 8429.05
Coal-tar colors, dyes, stains, and color lakes	8059.00
Cobalt salts and compounds	8299.90, 8396.91 thru 8396.98, 8429.09
Cork	4302.00 thru 4309.98
Electric curling irons, coffee percolators, flat irons, toasters, waffle irons and other domestic electric heating or cooking devices and utensils, and parts	7071.05, 7071.98, 7073.05, 7073.98, 7099.98
Lead salts and compounds	8202.00, 8299.90, 8398.98
Medinol	8135.98
Novatophan	8135.98
Phosphorus	8398.87
Plastics, casein	8258.01
Plastics, cellulose acetate	8265.05, 8265.98
Plastics, cellulose nitrate	8264.00
Plastics, resins, other	8258.98, 8260.98, 8261.98
Potash salts	8531.01, 8531.03, 8531.05
Potassium chromate and bichromate	8357.00
Rochelle salts	8359.39
Salipyrin	8135.98
Sewing machinery parts	7553.05, 7553.98
Strontium salts and compounds	8397.80 thru 8397.88
Superphosphate	8519.00
Tanning materials, chromium	8239.01
Titanium salts and compounds	8398.10, 8398.18, 8428.00
Urea formaldehyde resins in unfinished forms	8257.07, 8257.98, 8260.07, 8261.07
Zirconium salts and compounds	8398.51 thru 8398.58

b. Paragraph (b) is hereby amended by adding to the list of commodities set forth therein the commodity "penicillin".

c. Paragraph (c) is hereby amended to read as follows:

(c) A general license is hereby granted authorizing the exportation to Iceland of all medicinals: *Provided*, That the net value of any commodity set forth in paragraph (a) of this section, which is contained in or is a component of said medicinal, does not exceed $1.00 in a single shipment.

d. Paragraph (d) is hereby amended to read as follows:

(d) A general license is hereby granted authorizing the exportation to destinations in general license country group K, as set forth in § 802.3 (a) of this subchapter, of all medicinals where, in a single shipment, the net value of any said medicinal does not exceed $100: *Provided*, That the net value of any commodity set forth in paragraph (a) of this section, which is contained in or is a component of said medicinal, does not exceed $1.00.

e. Paragraph (e) is hereby amended by adding thereto subparagraph (3) as follows:

(3) "Medicinal" shall mean any pharmaceutical, drug, or chemical usable for the preventing, healing, curing, alleviating or treating of disease and for which there is no accepted industrial use.

f. Paragraph (f) is hereby amended to read as follows:

(f) The provisions of this section shall not be construed as limiting the use of any other general licenses. Any person making an exportation pursuant to a general license granted in this section shall state on the shipper's export declaration, whenever the filing of said declaration is required, that the value of such exportation as shown on said declaration does not exceed the domestic market price.

(Sec. 6, 54 Stat. 714; Pub. Law 75, 77th Cong.; Pub. Law 638, 77th Cong.; Order 3 and Delegation of Authority 25, 7 F.R. 4751; Delegation of Authority 31, 8 F.R. 8529; E.O. 9361, 8 F.R. 9861 and Order 1, 8 F.R. 9938; E.O. 9380, 8 F.R. 13081)

Dated: October 27, 1943.

HECTOR LAZO,
Assistant Director,
In Charge, Office of Exports.

[F. R. Doc. 43-17833; Filed, November 4, 1943; 10:45 a. m.]

Chaper IX—War Production Board

Subchapter B—Executive Vice-Chairman

AUTHORITY: Regulations in this subchapter issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176; E.O. 9024, 7 F.R. 329; E.O. 9125, 7 F.R. 2719; W.P.B. Reg. 1 as amended March 24, 1943, 8 F.R. 3666, 3696; Pri. Reg. 1 as amended May 15, 1943, 8 F.R. 6727.

PART 1010—SUSPENSION ORDERS

[Suspension Order S-162, Amdt. 1]

GLIDDEN COMPANY

The Glidden Company has appealed from the provisions of Suspension Order No. S-162 issued November 26, 1942, and has requested permission to complete one of its buildings at Buena Park, California, which the Company has designated as Building "B". The Chief Compliance Commissioner has heard the appeal and evidence indicating that the completion of this building would conserve material and would not hamper the war effort, and investigation substantiates these facts.

Suspension Order No. S-162, issued November 26, 1942, is hereby amended by inserting the following paragraph:

§ 1010.162 *Suspension Order S-162.* (e) The Glidden Company is given permission to complete its building described by the company as "Building B", located at its plant at Buena Park, California, provided that it use only the second-hand galvanized sheeting now on its premises at Buena Park, California and that it not engage any contractor, builder or helper not regularly employed by it in its usual business, unless hereafter specifically authorized in writing by the War Production Board.

Issued this 3d day of November 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17788; Filed, November 3, 1943; 2:22 p. m.]

PART 3133—PRINTING AND PUBLISHING

[L-240 as Amended Sept. 28, 1943, Amdt. 1]

NEWSPAPERS

Section 3133.6, Limitation Order L-240 is hereby amended as follows:

1. By inserting in paragraph (b) (1) the bracketed words, so that the paragraph reads as follows:

(1) No publisher, and no person for the account of any publisher, shall purchase, acquire or in any manner [order or] accept delivery of print paper except for the printing of the publisher's newspapers.

2. By inserting in paragraph (b) (2) (i) the bracketed word in place of the words "which was used in printing", so that the paragraph reads as follows:

(i) Ascertain the weight of print paper [comprising] the net paid circulation of the publisher's newspapers during the corresponding calendar quarter of 1941.

3. By adding the following paragraph (b) (3):

(3) If a publisher uses less print paper than he is permitted to use in the fourth quarter of 1943, he may increase his consumption and his inventory by that amount in the first quarter of 1944.

4. By changing the date in paragraph (d) (1) from August 1, 1943 to November 1, 1943, and by inserting the bracketed words, so that the paragraph reads as follows:

(1) On and after [November 1, 1943 no publisher, unless specifically] authorized by the War Production Board, may [order or] accept delivery of print paper in any calendar month in excess of 33⅓% of his quota for the consumption of print paper (plus 33⅓% of any additional tonnage allowed on appeal) for the current calendar quarter: *Provided, however,* That [orders or] deliveries limited by the foregoing to a fraction of one carload may be increased to one full carload in any month.

5. By changing the date in paragraph (d) (2) from August 1, 1943 to November 1, 1943, and inserting the bracketed words, so that the paragraph reads as follows:

(2) Notwithstanding the provisions of paragraph (d) (1), on and after [November 1, 1943] no publisher, unless specifically authorized by the War Production Board, may [order or] accept delivery of print paper if his inventory of such paper on hand, available for use, or in transit is, or by virtue of such [order or] acceptance will become, either:

6. By inserting in paragraph (d) (2) (ii) the bracketed words so that the paragraph reads as follows:

(ii) If in excess of two carloads, more than forty days' supply in the states named in List A below or sixty-five days' supply in the states named in List B below, computed on the basis of his average daily rate of consumption during the first six months of 1943, [less 10 per cent].

List A	List B
Connecticut.	Alabama.
District of Columbia.	Arizona.
Delaware.	Arkansas.
Illinois.	California.
Indiana.	Colorado.
Iowa.	Florida.
Kansas.	Georgia.
Kentucky.	Idaho.
Maine.	Louisiana.
Maryland.	Montana.
Massachusetts.	Mississippi.
Michigan.	New Mexico.
Minnesota.	Nevada.
Missouri.	North Carolina.
Nebraska.	Oklahoma.
New Hampshire.	Oregon.
New Jersey.	South Carolina.
New York.	Tennessee.
North Dakota.	Texas.
Ohio.	Utah
Pennsylvania.	Washington.
Rhode Island.	Wyoming.
South Dakota.	
Vermont.	
Virginia.	
West Virginia.	
Wisconsin.	

7. By adding a new paragraph (d) (2) (iii) as follows:

(iii) On and after November 3, 1943, each order by a publisher for delivery of print paper shall contain substantially the following certification, signed manually or as provided in Priorities Regulation 7 (§ 944.27) by an official duly authorized for such purpose:

The undersigned hereby certifies, subject to the criminal penalties for misrepresentation contained in section 35 (A) of the United States Criminal Code, that acceptance of the print paper covered by this delivery order will not result in a violation of paragraph (d) of War Production Board Order L-240, as amended November 3, 1943, with which the undersigned is familiar.

No person shall deliver print paper to a publisher except upon delivery orders which bear the above certification.

Issued this 3d day of November 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17790; Filed, November 3, 1943; 4:36 p. m.]

PART 962—IRON AND STEEL

[General Preference Order M-21-b-2, as Amended Nov. 4, 1943]

MERCHANT TRADE PRODUCTS WAREHOUSES AND DEALERS

Section 962.11—General Preference Order M-21-b-2, is amended to read as follows, effective October 1, 1943. Prior to that date, General Preference Order M-21-b-2, as amended June 15, 1943, shall govern.

§ 962.11 *General Preference Order M-21-b-2*—(a) *Purpose and scope.* This order tells how, under the Controlled Materials Plan, a distributor obtains deliveries of merchant trade products from producers and from other persons for stock or for delivery direct to a distributor's customers. The method by which a distributor obtains deliveries of general steel products is set forth in General Preference Order M-21-b-1. Deliveries of steel from stock by distributors to persons not purchasing for resale are governed by CMP Regulation No. 4. Deliveries of merchant trade products by distributors to other distributors are governed by this order and not by CMP Regulation No. 4.

(b) *Definitions.* For the purpose of this order:

(1) "Steel" means carbon steel, alloy steel, and wrought iron, in the forms and shapes listed in Schedule 1 to CMP Regulation No. 1.

(2) "Merchant trade products" means any of the steel products listed in Schedule I hereto.

(3) "Product group" means any of the 11 numbered groups of merchant trade products listed in Schedule I hereto.

(4) "Base period" means

(i) With respect to merchant trade products in product groups 20-23, inclusive, of Schedule I, the calendar year 1940.

(ii) With respect to merchant trade products in product groups 24-30, inclusive, of Schedule I, the 12 months ending June 30, 1941.

(5) "Base tonnage" of a warehouse for any product group means the tonnage of such product group delivered by producers to the stock of such warehouse during the base period, or such other tonnage as may be specifically established by the War Production Board.

(6) "Distributor" means any person (including a warehouse, jobber, dealer, or retailer) who is engaged in the business of receiving steel for sale or resale in the form received or after performing such operations as cutting to length, shearing to size, torch cutting or burning to shape, sorting and grading, pipe threading, or corrugating or otherwise forming sheets for roofing and siding; but a person who, in connection with any sale, bends, punches or performs any fabricating operation designed to prepare steel for final use or assembly shall not be deemed a distributor with respect to such sale.

(7) "Warehouse" means a distributor who receives physical delivery of merchant trade products from a producer for sale or resale in the form received, and who was engaged during the base period in the business of distributing merchant trade products from stock. If a warehouse maintains a stock at more than one location, each location shall be deemed a separate warehouse.

(8) "Dealer" means a distributor who receives physical delivery of merchant trade products from persons other than producers for sale or resale in the form received. In certain cases a distributor may be both a warehouse and a dealer. With respect to any product group for which it has a base tonnage with a producer, such a distributor, from and after October 1, 1943, shall be considered as a warehouse and follow the warehouse procedure described in this order. With respect to any other product group, such a distributor shall be considered as a dealer and follow the dealer procedure described in this order.

(9) "Delivery" includes deliveries received on consignment.

(10) "Minimum carload" means a carload weighing not less than 40,000 pounds.

(c) *Restrictions on placing orders by warehouses with producers and other warehouses for shipment to warehouse stock*—(1) *Product groups to be ordered.* No warehouse shall order or accept delivery to warehouse stock of merchant trade products in any product group except those for which it has a base tonnage pursuant to this order.

(2) *Producers from which Merchant Trade Products may be ordered.* A warehouse shall not order any product in product groups 24, 27, 28 and 29 from any producer for shipment to warehouse

stock (and a producer shall not deliver such products to a warehouse) unless the warehouse has a base tonnage for that product group with that producer. A warehouse may place orders for any other merchant trade product for which it has a base tonnage with any producer, but if it wishes to take advantage of the mill tonnage reserved for it as explained in paragraph (d) of this order, it must place orders up to the amount of the reserved tonnage only with its base period supplier. By the use of Form WPB-2889 (PD-83-e) a warehouse can shift its total base tonnage for any product group from one producer to another.

(3) *Stock replacements.* The following rules must be observed by all warehouses when ordering merchant trade products from a producer or another warehouse:

(i) Every order placed with a producer or another warehouse for shipment after September 30, 1943 to warehouse stock must be accompanied by Form WPB-2444 (CMP-11) duly completed and signed.

(ii) For the purpose of Form WPB-2444 (CMP-11) merchant trade products previously delivered from stock in one or more product groups may be accumulated by a warehouse to support an order for any one or more merchant trade product groups for which it has a base tonnage. All deliveries from stock made pursuant to CMP Regulation No. 4 plus deliveries to the stock of other warehouses and dealers made pursuant to this Order, and not previously replaced, may be used to support a form WPB-2444 (CMP-11).

(iii) Form WPB-2444 (CMP-11) may be used only to replace merchant trade products delivered from warehouse stock during the 12 months preceding the date of order placement, but in no event may be used to replace deliveries made before April 1, 1943. No warehouse may use any deliveries from stock to support a stock replacement order more than once. If any deliveries from stock made after March 31, 1943, have been replaced before October 1, 1943, by the use of Form PD-83-g or Form WPB-2444 (CMP-11), such deliveries may not be used to support any order accompanied by Form WPB-2444 (CMP-11).

(iv) Warehouse orders accompanied by Form WPB-2444 (CMP-11) may be placed with any producer (except in the case of the products mentioned in paragraph (c) (2) above) and may be for less than 40,000 lbs. To the extent possible, the tonnage covered by the order should be included with other material to permit the shipment of a minimum carload.

(v) A warehouse may place purchase orders with producers or other warehouses for any merchant trade product group for which it has a base tonnage without limit as to quantity provided each order is accompanied by Form WPB-2444 (CMP-11) properly supported by a record of previous deliveries of merchant trade products from stock.

(vi) All deliveries of steel requested on Form WPB-2444 (CMP-11) must be made only to the location from which the steel being replaced was shipped.

(4) *Time for specifying delivery.* Orders for merchant trade products placed with producers for delivery to warehouse stock, and accompanied by Form WPB-2444 (CMP-11), must specify delivery not earlier than the time shown in Schedule II of this order. A producer may waive this requirement as long as he does not discriminate between his customers in doing so. Also, a producer may, with the customer's approval, make delivery before the date specified in the customer's order, provided such delivery does not interfere with deliveries on other authorized controlled material orders requiring shipment in the same or an earlier month, and provided that such deliveries will not violate production directives then in force. Orders for delivery to warehouse stock accompanied by Form WPB-2444 (CMP-11) placed with producers for material not requiring scheduled rollings (such as rejects, wasters, waste wasters, wire shorts, etc.), or placed with other warehouses, may specify delivery at any time.

(5) *Status of warehouse orders for delivery to stock.* Each order placed by a warehouse with a producer as provided in this paragraph (c) shall be deemed an authorized controlled material order. Orders placed with other warehouses may, but need not, be accepted. Any part of the order which is accepted shall be deemed an authorized controlled material order.

(d) *Warehouse load directives.* Most producers of merchant trade products operate under a warehouse load directive which instructs them to reserve each calendar quarter a part of their production of certain merchant trade product groups to fill authorized controlled material orders submitted by warehouses for which they have a base tonnage. Each warehouse, however, in order to take advantage of the tonnage reserved for it during a calendar quarter, must submit its order or orders, accompanied by Form WPB-2444 (CMP-11), to the producer then holding its base tonnage, not later than the expiration date stated in the warehouse load directive. A producer may fill warehouse orders received after that time but may not reserve any space for them. Producers must consider the first orders for any product group received from any warehouse for delivery in a particular calendar quarter as applicable to the tonnage of such product group reserved for that warehouse during that quarter. In addition to the tonnage of any product group reserved for any warehouse with the producer presently holding its base tonnage, a warehouse may place orders for that product group, accompanied by Form WPB-2444 (CMP-11), with the same or any other producer, subject to the limitations of paragraph (c).

(e) *Purchases from idle or excess inventories.* A distributor may order for delivery to its stock, without limitation as to quantity, from idle or excess inventories pursuant to Priorities Regulation No. 13, merchant trade products in any product group which it handled during the base period. Each purchase order for such material shall be endorsed in substantially the following form, and when so endorsed shall be deemed to be an authorized controlled material order:

The undersigned certifies to the seller and to the War Production Board that this order is placed pursuant to paragraph (e) of Order M-21-b-2, and is an authorized controlled material order.

------------------	By------------------
Name of distributor	Authorized official
------------------	------------------
Address	Date

(f) *Warehouse purchases for direct shipment.* A purchase order placed by a warehouse specifying direct shipment to one of its customers complying with the following conditions shall be deemed an authorized controlled material order:

(1) *Orders for direct shipment to a consumer.* A warehouse receiving an authorized controlled material order from a consumer and wishing to arrange for shipment direct to the consumer by the producer or other supplier must specify delivery to a point other than its warehouse, and shall copy on its own purchase order the endorsement made to it by its customer (including the customer's name) in accordance with CMP Regulation No. 1 or other applicable regulation or order.

(2) *Orders for direct shipment to another warehouse.* A warehouse receiving a stock order from another warehouse (but not a dealer) and wishing to arrange for shipment direct to the warehouse by a producer shall specify delivery direct to its warehouse customer and shall accompany its own purchase order to the producer with a copy of Form WPB-2444 (CMP-11) duly filled out and signed by its warehouse customer in the manner provided for in paragraph (c) of this order.

(3) *Rejection of orders for direct shipment.* A producer may reject an authorized controlled material order received from a warehouse calling for direct shipment, but if open space exists must notify the warehouse in writing, with a copy of the notification being mailed direct to the warehouse customer, that it is prepared to fill the order direct from the customer or through another person.

(4) *Special instruction with respect to wire rope and strand.* When ordering wire rope and strand for direct shipment to a warehouse customer, a warehouse may specify delivery of the order to its own warehouse, providing the material is labeled for the account of the customer, and provided that immediate delivery of the order is made to the warehouse customer upon receipt of the material at the warehouse.

(g) *Earmarked warehouse stocks.* To the extent agreed upon by the Steel Division and any claimant agency, an earmarked stock of one or more merchant trade products may be established in any warehouse. Deliveries to such stock and withdrawals therefrom shall be made only in accordance with the spe-

cific directions which shall be issued at the time such stock is established.

(h) *Restrictions on placing orders by dealers.* Dealers may purchase merchant trade products for stock, and warehouses may deliver on dealers' orders, only as follows:

(1) On or after October 1, 1943, a dealer may order for stock all merchant trade products sold during the preceding 12 months but not earlier than April 1, 1943, in accordance with CMP Regulation No. 4, provided that such material sold has not already been replaced or ordered for stock replacement. Dealers' orders for stock replacement may be placed with wholesale distributors or with any person other than a producer. A dealer does not have to reorder the same merchant trade product he has sold, but can order an equivalent tonnage of the same or any other merchant trade product. No dealer shall use any delivery from stock to support a stock replacement order more than once.

(2) A dealer may not extend individually the allotment numbers, CMP symbols, farmers' certificates or other valid certificates received from his customers in order to purchase merchant trade products for stock from his supplier. To purchase merchant trade products for stock, a dealer must sign the following statement on the purchase order which he places with his supplier:

The undersigned hereby certifies to the seller and to the War Production Board, subject to criminal penalties for misrepresentation, that the material covered by this order is to replace in stock merchant trade products of the same weight delivered by me from stock in accordance with CMP Regulation No. 4, after March 31, 1943, and not previously ordered for replacement.

------------------ By ------------------	
Name of dealer	Authorized official
------------------	------------------
Address	Date

A dealer's order bearing the above certification placed with a warehouse may, but need not, be accepted in whole or in part. Any part of the order which is accepted shall be considered an authorized controlled material order.

(i) *Reports.* Each warehouse whose base tonnage of any one of the groups of merchant trade products listed below exceeds the tonnage shown shall file with the Bureau of the Census, Washington, D. C., a quarterly report in duplicate on Form WPB-2892 (PD-83-1).

	Tons
Pipe (product groups 20-21)	240
Tin and Terne plates (product group 22)	240
Galvanized, lead coated, or painted sheets and strip, including roofing and siding, valley, ridge roll, and flashing (product group 23)	240
Wire products (product groups 24-30)	240

Each warehouse and dealer who is not required to file such report shall maintain for a period of not less than 2 years a record of its shipments from stock, receipts into stock, and inventory of each merchant trade product group on hand at the end of its fiscal year. Such record shall be available for inspection at any time by any duly authorized representative of the War Production Board.

(j) *Appeals.* Any appeal from the provisions of this order shall be made by letter referring to the particular provision appealed from and stating fully the grounds for the appeal. In emergency cases, appeal may be made by telegraph.

(k) *Communications to War Production Board.* All appeals or other communications concerning this order shall be addressed to the Warehouse Branch, Steel Division, War Production Board, Washington 25, D. C., Reference: M-21-b-2.

(l) *Violations.* Any warehouse, dealer, or other person who wilfully violates any provisions of this order or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(m) *Special instructions.* The War Production Board may from time to time issue instructions to warehouses or dealers with respect to making, withholding, accepting or refusing deliveries.

Issued this 4th day of November 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

SCHEDULE I

MERCHANT TRADE PRODUCTS

Product groups	Types of steel included		
	Carbon	Stainless	Other alloy
20. Standard and line pipe and water well tubular products (includes steel and wrought iron pipe), and couplings	x	----	----
21. Oil country casing, tubing and drill pipe, and couplings	x	----	x
22. Tin plate and terne plate (short ternes)	x	----	----
23. [1] Galvanized, lead coated, or painted sheets and strip (including galvanized flat sheets purchased for the manufacture of roofing and siding), formed roofing and siding (painted, black, galvanized or lead coated), valley, ridge roll, and flashing	x	----	----
24. Wire rope and strand	x	----	----
25. Nails (cut and wire), fence and netting staples	x	----	----
26. Wire, drawn	x	x	x
27. Wire bale ties	x	----	----
28. Wire (barbed and twisted), wire fence (woven or welded) and netting	x	----	----
29. Fence posts	x	----	----
30. Welded wire concrete reinforcing fabric	x	----	----

[1] Substitution of black sheets (21 gauge and lighter) may be made for galvanized flat sheets of the same gauge.

SCHEDULE II

TIME FOR PLACING AUTHORIZED CONTROLLED MATERIAL ORDERS FOR MERCHANT TRADE PRODUCTS

Product	*No. of days in advance of first day of month in which shipment is required*
Pipe	30
Sheets and strip, galvanized	45
Tin mill products	30
Wire and wire products:	
Manufacturing wires:	
Low carbon (0.39 carbon and lower)	
.0475" and heavier	45
Under .0475"	60
High carbon (0.40 carbon and higher)	
.0475" and heavier	45
Under .0475" to .021"	60
Under .021"	75
Wire rope and strand:	
⅝" dia. and over	75
9/16" dia. and under	105
Welded wire concrete reinforcing fabric	45
All others	30

[F. R. Doc. 43-17874; Filed, November 4, 1943; 11:14 a. m.]

PART 1184—QUININE AND OTHER DRUGS EXTRACTED FROM CINCHONA BARK

[Revocation of Conservation Order M-131-a]

Section 1184.2 *Conservation Order No. M-131-a* is hereby revoked. This action shall not be construed to affect in any way any liability or penalty accrued or incurred under said Order M-131-a.

Issued this 4th day of November 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17875; Filed, November 4, 1943; 11:14 a. m.]

PART 1226—GENERAL INDUSTRIAL EQUIPMENT

[Limitation Order L-83 as Amended Nov. 4, 1943]

INDUSTRIAL MACHINERY

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain critical materials used in the manufacture of industrial machinery for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1226.82 *General Limitation Order L-83*—(a) *Definitions.* For the purpose of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(2) "Critical industrial machinery" means new, used or reconditioned machinery, of the kinds listed, from time to time, in List A. The value of a critical industrial machine shall be the selling price, or in any case where the machine is rented, the cost of production (as indicated by the company's regularly estab-

lished cost accounting system), excise tax value, or insurance value, whichever is higher. The term "new critical industrial machinery" means any critical industrial machinery which has not been delivered to any person acquiring it for use, and does not include used or reconditioned machinery. The term "used critical industry machinery" means any critical industrial machinery which at any time has been delivered to any person acquiring it for use, but does not include rebuilt machinery. The term "reconditioned critical industrial machinery" means used machinery which has been rebuilt or otherwise conditioned for resale, or reuse.

(3) "Manufacturer" means any person producing critical industrial machinery.

(4) "Distributor" means any person regularly engaged in the business of buying or otherwise acquiring new, used, or reconditioned machinery for resale.

(5) "Order" means any commitment or other arrangement for the delivery of critical industrial machinery, whether by purchase, lease, rental, or otherwise.

(6) "Approved order" means:

(i) Any order for critical industrial machinery, when accompanied by a PD-3A certificate, to be delivered to, or for the account of:

(*a*) The Army or Navy of the United States, the United States Maritime Commission, the Panama Canal, the Coast and Geodetic Survey, the Coast Guard, the Civil Aeronautics Authority, the National Advisory Committee for Aeronautics, the Office of Scientific Research and Development;

(*b*) The government of any of the following countries: Belgium, China, Czechoslovakia, Free France, Greece, Iceland, Netherlands, Norway, Poland, Russia, Turkey, United Kingdom including its Dominions, Crown Colonies, and Protectorates, and Yugoslavia.

(ii) Any order placed by any agency of the United States Government for critical industrial machinery to be delivered to, or for the account of, the government of any country listed above, or any other country, including those in the western hemisphere, pursuant to the Act of March 11, 1941 entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(iii) Any order for critical industrial machinery bearing a preference rating of A-9 or higher assigned by a Preference Rating Certificate PD-3 or PD-3A countersigned prior to May 18, 1942, by a Preference Rating Order in the P-19 series issued prior to May 18, 1942, or by a Preference Rating Certificate PD-1 or PD-1A, a Preference Rating Certificate in the PD-25 or PD-408 Series, or Preference Rating Order P-19-h (PD-200 or 200A) issued at any time. After May 18, 1942, Preference Rating Certificate PD-3A shall be used only to assign preference ratings to approved orders to be delivered to or for the account of the agencies set forth in subdivision (i) hereof. Any preference rating certificate or order of any of the kinds enumerated above may be used to secure critical industrial machinery only by the person to whom it was originally issued and only when such machinery is expressly specified on the certificate or order (or its Form PD-200 or 200A). Any person placing an approved order for critical industrial machinery bearing a rating assigned by any such certificate or order who does not deliver such certificate or order but retains the same, as permitted by Priorities Regulation No. 3, as amended from time to time, or by the terms of the preference rating order shall, in addition to furnishing the endorsement required by such Priorities Regulation No. 3, as amended from time to time, or such preference rating order certify to the person from whom the machinery is to be acquired that the certificate or order was originally issued to him and that the critical industrial machinery ordered was expressly specified on the certificate or order (or its Form PD-200 or 200A).

(iv) Any order which the War Production Board authorizes for production or delivery pursuant to paragraph (b) (2) hereof.

(b) *Restrictions on acceptance of orders for, and delivery and acquisition of, critical industrial machinery*—(1) *General prohibitions.* Except as provided in paragraph (b) (4) hereof, no person shall accept any order for critical industrial machinery, or deliver any critical industrial machinery in fulfillment of any order, whether accepted or not; unless such order is an approved order. No person shall accept delivery of any critical industrial machinery except pursuant to an approved order.

(2) *Procedure for authorization of orders on books.* Manufacturers or distributors may apply for authorization to deliver orders which are not approved orders, on their books on May 18, 1942, as it affects classes of critical industrial machinery from time to time, by filing with the War Production Board in triplicate, plainly marked Ref: L-83, a list of all such orders together with the name of the purchaser or lessee, the date of the order, the number of pieces of machinery, a description of the machinery, the value of the machinery, the rating assigned, if any, the preference rating certificate number, if any (or blanket preference rating order and serial number), the specified delivery date, the percentage of completion of the order on May 18, 1942, as it affects any particular kind of machinery, and the expected use to which the machinery will be put. The War Production Board may thereupon, if it is deemed necessary or appropriate in the public interest and to promote the national defense, authorize the delivery of any such orders, or the assignment of preference ratings thereto.

(3) *Auction sales, sales pursuant to court order and similar transactions.* Dispositions of used critical industrial machinery at auction, at sheriff's sale, at tax sales, in liquidations of all or part of a business, and in similar transactions must be approved orders unless such dispositions are made to distributors within the limits specified in paragraph (b) (4) (vii).

(4) *Exempted transactions.* Nothing in this order shall be construed to prohibit any of the following transactions:

(i) The seizure of critical industrial machinery (but not subsequent disposition or use thereof) upon default, by any person pursuant to the terms of a conditional sale agreement, chattel mortgage, pledge, or other security agreement; and the distraint or levy by execution (but not subsequent disposition thereof) by tax authorities.

(ii) The delivery or acquisition of critical industrial machinery (but not subsequent disposition thereof) through a transfer by will or intestacy, or a transfer by operation of law to a trustee, receiver, or assignee for the benefit of creditors, in bankruptcy, insolvency, receivership, or assignment for the benefit of creditors.

(iii) The delivery or acquisition of critical industrial machinery as part of a transaction, such as merger, consolidation, sale and purchase of assets, sale and purchase of stock, or lease of plant, involving the transfer of all or substantially all of the assets of an enterprise, where no liquidation or dismemberment of assets is contemplated.

(iv) The transfer of critical industrial machinery, within a plant, or within a single corporate enterprise (including majority-owned subsidiaries), from one plant or branch to another: *Provided, however,* That nothing in this subdivision (iv) shall be construed to permit transfers from a portion of an enterprise manufacturing, building, or assembling new machinery to a portion using it.

(v) The delivery or acquisition of critical industrial machinery (but not subsequent disposition thereof) as a trade-in, where the machinery to be installed is delivered pursuant to an approved order.

(vi) Deliveries to, and acquisitions by distributors, of new critical industrial machinery in the following two instances only:

(*a*) To fill approved orders for new critical industrial machinery which orders are actually in the hands of such distributors; or

(*b*) To replace new critical industrial machinery delivered by such distributor to fill an approved order.

(vii) Deliveries to, and acquisitions by, distributors of used critical industrial machinery (but not subsequent dispositions thereof) at auction, sheriff's sales, tax sales, liquidations or otherwise.

(viii) Subject to the provisions of paragraph (c), the delivery of critical industrial machinery for repair and return, the return of a repaired machine, and the loan of a machine to the user, for a period not to exceed one month, pending the repair of the damaged machine.

(ix) The delivery and acquisition of critical industrial machinery to be scrapped for its material content.

(x) The unloading, from a vessel, of any imported critical industrial machinery.

(xi) The transfer of any interest in any written instrument evidencing an interest in critical industrial machinery: *Provided, however,* That nothing in this subdivision (xi) shall be construed to permit the physical delivery or use of critical industrial machinery.

(xii) The return of any leased critical industrial machinery by the lessee to the lessor upon the expiration, termination, or cancellation of the lease.

(c) *Non-applicability to repair or maintenance of existing equipment.* The prohibitions of paragraph (b) hereof shall not be construed to restrict any delivery (1) to fill any order or group of orders of less than $1,000 placed with one or more suppliers within any four weeks' period, for parts intended for use in the repair or maintenance of any single existing machine, or a single machine delivered under the terms of this order, or (2) to fill any order of $1,000 or more for repair or maintenance parts when and only when there has been an actual breakdown or suspension of operations because of damage, wear and tear, destruction or failure of parts or the like, and the essential repair or maintenance parts are not otherwise available.

(d) *Applicability of Priorities Regulation No. 1.* This order and all transactions affected thereby are subject to the provisions of Priorities Regulation No. 1 (Part 944) as amended from time to time, except to the extent that any provision hereof may be inconsistent therewith, in which case the provisions of this order shall govern.

(e) *Appeals.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him may appeal to the War Production Board setting forth the pertinent facts and the reason he considers he is entitled to relief. The War Production Board may thereupon take such action as it deems appropriate.

(f) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Washington 25, D. C., Ref.: L-83.

(g) *Violations.* Any person who wilfully violates any provision of this order, or who wilfully furnishes false information to the War Production Board in connection with this order is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance by the War Production Board.

(h) *Records and reports.* All manufacturers and distributors affected by this order shall keep and preserve for not less than two years accurate and complete records concerning production, deliveries, and orders for industrial machinery. All persons affected by this order shall execute and file with the War Production Board, such reports and questionnaires as said Board shall from time to time request. On or before 15 days after May 18, 1942, as to any kind of machinery, every manufacturer of critical industrial machinery shall file in triplicate with the War Production Board, plainly marked Ref.: L-83, a supplementary list of all orders for critical industrial machinery now on his books (in excess of the amounts listed in List A), not reported under paragraph (b) (2), together with the name of the purchaser or lessee, the date of the order, the number of pieces of machinery, a description of the machinery, the value of the machinery, the rating assigned, the preference rating certificate number, if any, (or blanket preference rating order and serial number), the specified delivery date, the percentage of completion of the order, and the expected use to which the machinery will be put. Manufacturers who have previously filed a list under the order need not refile.

Issued this 4th day of November 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

LIST A

1. Packaging and labeling machinery, on orders for a single machine of a value in excess of $200: *Provided, however,* That there shall be excluded from the terms of this order, orders for machinery to which a preference rating has been legally applied pursuant to the terms of Preference Rating Order P-115, orders involving only the renewal of leases of any kind of packaging or labeling machinery, if the original lease or any prior renewal has been approved under this Limitation Order L-83 and the machinery is still being used for the purpose approved; and orders for food processing machinery covered by Limitation Order L-292.

2. Pulp and paper making machinery, on orders for a single machine of a value in excess of $1,000.

3. Paper converting machinery, on orders for a single machine of a value in excess of $200.

4. [Deleted Sept. 6, 1943]
5. [Deleted June 16, 1943]
6. [Deleted June 16, 1943]
7. [Deleted June 16, 1943]
8. [Deleted June 16, 1943]
9. [Deleted June 16, 1943]
10. [Deleted June 16, 1943]
11. [Deleted Sept. 6, 1943]

INTERPRETATION 2

General Limitation Order L-83 restricts deliveries to those made on approved orders. An approved order is defined in paragraph (a) (6). Some confusion has arisen as to the exact requirements of an approved order assigned a rating on Form PD-3A, in accordance with the provisions of paragraph (a) (6) (iii). Under this paragraph Form PD-3A may be used after May 18, 1942 only to assign preference ratings to orders to be delivered to or for the direct account of the agencies specified in paragraph (a) (6) (i), and the machinery in question must be specified on the certificate. The two requirements are not alternates but must both be met in any one case. (Issued April 24, 1943.)

INTERPRETATION 3

Item 1 of List A to General Limitation Order L-83 covers packaging and labeling machinery. The question has arisen as to whether equipment for sealing glass containers with metal closures, used principally by packers, is within the definition of packaging and labeling machinery. Such machinery is for the purpose of packaging and labeling food and other products and is included in Item 1 of List A. (Issued June 25, 1943)

[F. R. Doc. 43-17876; Filed, November 4, 1943; 11:14 a. m.]

PART 1226—GENERAL INDUSTRIAL EQUIPMENT

[Interpretation 1, as Amended Nov. 4, 1943, of Limitation Order L-83]

The following interpretation as amended, is issued with respect to Limitation Order L-83:

Paragraph (a) (2) of General Limitation Order L-83 defines "Critical industrial machinery" as new, used, or reconditioned machinery of the kinds listed from time to time in List A of the order, and provides that the value of a critical industrial machine shall be the selling price with certain exceptions. List A specifies the machinery included in the order. In certain instances, the list contains dollar limitations on the value of machines so included. For instance, packaging and labeling machinery is covered by General Limitation Order L-83 only on an order for a single machine of a value in excess of $200.

The selling price of a machine would normally establish its value for purposes of this order unless other facts indicated that such selling price was not the actual value placed upon the machinery by the buyer and seller. In any case where a used machine is sold with the understanding by buyer or seller that the machine must be repaired or reconditioned in connection with or in relation to the sale transaction, in order that the machine be an effective instrument, the value of the machine for purposes of this order is to be deemed the aggregate of the selling price of the inoperable machine plus the cost of repairing or reconditioning the machine to the point where it can operate effectively. In other words, the sale of a broken down machine, followed by repairing or reconditioning in order that the machine be in condition to operate, does not avoid the impact of the order merely because the original sale of the inoperable machine is fixed at a value below the limitations established in General Limitation Order L-83; the cost of the repairs necessary to render the machine an effective instrument must be added to such original selling price in order to determine the value for the purposes of the order. (Issued December 17, 1942.)

Issued this 4th day of November 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17877; Filed, November 4, 1943; 11:14 a. m.]

PART 3291—CONSUMERS DURABLE GOODS[1]

[General Limitation Order L-131, as Amended November 4, 1943]

MILITARY INSIGNIA

Section 3291.301[1] *General Limitation Order L-131* is hereby amended to read as follows:

(a) *Definition.* For the purpose of this order:

"Metal and plastic military insignia" means all insignia (except buttons, embroidered insignia, stripes and braid) containing any metal or plastic materials which are designed for use to designate rank, branch or service by the personnel of the United States Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, Public Health Service, Maritime

[1] Formerly Part 1239, § 1239.1.

Commission, Merchant Marine and State Marine Cadets.

(b) *General restrictions.* No person shall manufacture, assemble, or produce any metal and plastic military insignia, except for the following:

(1) War Department on orders or contracts placed by the Quartermaster General.

(2) Navy Department on Navy contracts and orders, or contracts placed by Ship Service Stores, Naval Uniform, Inc., Women's Naval Uniform Inc., such outlets as the War Production Board has specified as eligible to accept delivery of military insignia under paragraph (b) (2) (iii) of Order L-131 issued the 20th day of July, 1942, and such persons as the War Production Board shall designate in writing at the request of the Bureau of Supplies and Accounts, Navy Department.

(3) U. S. Marine Corps on orders or contracts placed by the Headquarters Exchange Officer of the United States Marine Corps, and by Marine Corps Post Exchanges when authenticated by the Headquarters Exchange Officer.

(4) The Coast Guard on orders or contracts placed by the Coast Guard Supply Depot.

(5) U. S. Coast and Geodetic Survey on orders or contracts placed by the Director of the U. S. Coast and Geodetic Survey, and by the Division of Purchases and Sales of the Department of Commerce.

(6) U. S. Public Health Service on orders or contracts placed by the U. S. Service Exchange of the U. S. Public Health Service.

(7) The War Shipping Administration on orders or contracts placed by the Chief Procurement Officer of the Training Organization of the War Shipping Administration.

(c) *Restriction on the use of silver and copper for military insignia.* No person shall use any silver, copper or copper base alloy in the production of any military insignia, except:

(1) Silver as permitted by Order M-199, as amended, or any appeal from the terms of that order.

(2) Copper or copper base alloy to the extent specifically authorized in writing by the War Production Board under Order M-9-c.

(d) *Appeals.* Any appeal from this order should be made on Form WPB-1477 (formerly Form PD-500) and should be filed with the field office of the War Production Board for the district in which is located the plant to which the appeal relates.

(e) *Violations.* Any person who wilfully violates any provision of this order or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

Issued this 4th day of November 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-17878; Filed, November 4, 1943; 11:15 a. m.]

PART 3293—CHEMICALS[1]

[Conservation Order M-131, as Amended November 4, 1943]

CINCHONA BARK AND CINCHONA ALKALOIDS

Section 3293.131[1] *Cinchona bark and cinchona alkaloids* is hereby amended to read as follows:

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of cinchona bark and cinchona alkaloids for the war effort, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the war effort:

§ 3293.131 *(Conservation Order M-131)*—(a) *Definitions.* For the purposes of this order:

(1) "Cinchona alkaloids" means any of the alkaloids or their salts obtained from cinchona bark whether alone or in combination with other alkaloids from cinchona bark, including, but not limited to quinine, totaquine, cinchonine, cinchonidine, quinidine, quinine sulfate, etc., and such alkaloids in standard dosage forms (pills, tablets, capsules, ampoules, etc.) or totaquine in packages of one-half ounce or less.

(2) "Quinine" means quinine alkaloid obtained from cinchona bark and its salts and derivatives.

(3) "Cinchonine" means cinchonine alkaloid obtained from cinchona bark, and its salts and derivatives.

(4) "Cinchonidine" means cinchonidine alkaloid obtained from cinchona bark, and its salts and derivatives.

(5) "Quinidine" means quinidine alkaloid obtained from cinchona bark, and its salts and derivatives.

(6) "Totaquine" means a mixture of alkaloids obtained from cinchona bark.

(7) "Cinchona bark" (also known as Calisaya, Peruvian or Jesuit's bark) means the bark obtained from Cinchona succirubra P. et K., C. Calisaya W., C. Ledgeriana M. et T. and from its hybrids.

(8) "Anti-malarial agent" means any product or material which according to modern medical opinion is recognized as a specific for suppression, alleviation or cure of malarial infections.

(9) "Producer" means any person who produces or imports cinchona bark or cinchona alkaloids or has cinchona alkaloids produced for him pursuant to toll agreement.

(10) "Distributor" means any person who buys cinchona alkaloids for resale without further processing.

(11) "Supplier" means a producer or distributor.

(b) *Restrictions on deliveries and use.* No person other than Defense Supplies Corporation or any other corporation organized under section 5 (d) of the RFC Act, as amended, or any duly authorized agent of such corporation, shall deliver, accept delivery of, or use cinchona bark or cinchona alkaloids unless specifically authorized by War Production Board, on Forms WPB 2945 or WPB 2946, whichever is appropriate. However, the U. S. Army, Navy, the U. S. Maritime Commission and War Shipping Administration need not apply for authorization to accept delivery of and use cinchona bark or cinchona alkaloids, but their supplier must list the proposed deliveries, and contract numbers on his application Form WPB 2946, and such supplier shall not make delivery until authorized by War Production Board. Such authorization will also constitute authorization to those services and agencies named to accept delivery of and to use the cinchona bark or cinchona alkaloids.

(c) *Exceptions to restrictions on delivery and use.* Nothing contained in this order shall prohibit the following transactions:

(1) *Deliveries of uncompounded cinchona alkaloids under toll agreement.* Any person may, without authorization from War Production Board, accept delivery of cinchona alkaloids pursuant to toll agreement for the purpose of compounding into standard dosage forms, and thereafter redeliver the same to the owner thereof, provided the person making the delivery in the first instance has received specific authorization to use the cinchona alkaloids and retains title to such cinchona alkaloids and to the products made therefrom.

(2) *Small deliveries of cinchona alkaloids.* Any person may, without authorization from War Production Board, accept small deliveries of cinchona alkaloids for the purpose of resale to licensed physicians, veterinarians or to ultimate consumers, or for the purpose of compounding into dosage form and thereafter reselling the same in such form, provided that small deliveries do not exceed in any calendar month:

(i) 8 ounces of totaquine (uncompounded). 4 ounces of cinchonine or its salts in the aggregate (uncompounded). 4 ounces of cinchonidine or its salts in the aggregate (uncompounded). 4 ounces of quinine or its salts in the aggregate (uncompounded).

(ii) 2 ounces of quinidine or its salts in the aggregate (whether compounded or in standard dosage form), unless acceptance of delivery of this amount, taken together with such person's stock of quinidine on hand on the delivery date exceeds 4 ounces of quinidine or its equivalent in standard dosage form.

No authorization from War Production Board is required for the compounding of such cinchona alkaloids or for any subsequent delivery, acceptance of delivery, or use of such cinchona alkaloids, whether in compounded form or otherwise. However, the appropriate certifi-

[1] Formerly Part 1184, § 1184.1.

cation referred to in paragraph (d) of this order is required for all small deliveries unless the small delivery is made to an ultimate consumer.

(3) *Deliveries of totaquine, quinine, cinchonine and cinchonidine in standard dosage forms.* Any person may, without authorization from the War Production Board, accept deliveries of totaquine in packages of one-half ounce or less, or quinine, cinchonine or cinchonidine in standard dosage forms. No authorization from War Production Board is required for any subsequent delivery, acceptance of delivery or use of such cinchona alkaloids. However, the certification referred to in paragraph (d) of this order is required for all such deliveries in standard dosage forms, unless the delivery is made to an ultimate consumer.

(4) *Delivery and use of cinchona bark on hand April 30, 1942.* Any person may deliver, accept delivery of or use, without authorization from War Production Board, any stock of cinchona bark consisting of less than 50 pounds and which was physically located at any one place on April 30, 1942.

(5) *Delivery and use of cinchona bark or cinchona alkaloids previously compounded.* Any person may deliver, accept delivery of, or use, without authorization from War Production Board:

(i) Any quinine which had been combined or compounded with other medicinal agents on or before April 4, 1942;

(ii) Any totaquine or cinchona bark which had been combined or compounded with other medicinal agents on or before April 30, 1942;

(iii) Any quinine and urea hydrochloride (USP) or quinine hydrochloride and urethane which had been combined or compounded with other medicinal agents on or before January 9, 1943;

(iv) Any cinchonine, cinchonidine or quinidine which had been combined or compounded with other medicinal agents on or before June 19, 1942.

(v) Any anti-malarial agent manufactured on or before January 9, 1943, pursuant to the provisions of this order as in effect up to that date; provided that the certification for "quinine, cinchonine, cinchonidine and totaquine" referred to in paragraph (d) of this order as now amended is required for all deliveries of such anti-malarial agents, unless delivery is made to an ultimate consumer.

(d) *Certification required.* No person shall deliver cinchona alkaloids pursuant to paragraphs (c) (2), (c) (3) and (c) (5) (v) of this order except upon receipt of a certificate in substantially the form shown below (whichever is appropriate), signed manually by a duly authorized official or as provided in Priorities Regulation No. 7. The quantity of material delivered should be specified on the reverse side of the certificate. A certificate is not required in those cases where delivery is made to an ultimate consumer.

CERTIFICATE FOR QUININE, CINCHONINE, CINCHONIDINE OR TOTAQUINE

The undersigned hereby certifies to War Production Board and to ________________ (insert name of ________________ seller or supplier) that the quinine, cinchonine, cinchonidine or totaquine (or product containing cinchonine or cinchonidine) ordered hereby (specify quantity on reverse side) is for use as an anti-malarial agent and will not be sold, transferred or delivered by the undersigned for any other purpose. This certification is made in accordance with the terms of Conservation Order M-131 with which the undersigned is familiar.

Name ________________
Date ____________ By ________________

CERTIFICATE FOR QUINIDINE

The undersigned hereby certifies to War Production Board and to ________________ (Insert name of ________________ seller or supplier) that the quinidine (or product containing quinidine) ordered hereby (specify quantity on reverse side) is for use in the treatment of cardiac disorders and will not be sold, transferred or delivered by the undersigned for any other purpose and the undersigned further certifies that acceptance of delivery of this order will not increase his inventory of quinidine on hand on the delivery date in excess of 4 ounces of quinidine or its equivalent in standard dosage form. This certification is made in accordance with the terms of Conservation Order M-131 with which the undersigned is familiar.

Date ____________ Name ________________
By ________________

(e) *Applications for authorization to accept delivery or use.* A person requiring authorization to accept delivery or to use cinchona bark or cinchona alkaloids during any calendar month shall file application on Form WPB 2945 (formerly PD-600) with the Chemicals Division, War Production Board, Washington 25, D. C., on or before the 15th of the preceding month. However, applications for November delivery or use should be filed as soon as possible after November 4, 1943. Instructions for filling out this form are set out in Appendix A. One copy of Form WPB 2945 will be returned to the sender, on which War Production Board will indicate the quantity and type of cinchona alkaloids which he is authorized to acquire or use.

(f) *Applications for authorization to deliver.* A supplier desiring authorization to deliver cinchona bark or cinchona alkaloids during any calendar month shall file application on Form WPB 2946 (formerly PD-601) with the Chemicals Division, War Production Board, Washington 25, D. C., on or before the 20th day of the preceding month. However, applications for November delivery should be filed as soon as possible after November 4, 1943. Instructions for filling out this form are set out in Appendix B. One copy of Form WPB 2946 will be returned to the supplier on which the War Production Board will indicate the quantity and type of cinchona bark or cinchona alkaloids which he is authorized to deliver.

(g) *Inventory report—quinine, quinidine.* Every producer or distributor who, on November 4, 1943, has in his possession or under his control, ten ounces or more of uncompounded quinine, or four ounces or more in the aggregate of quinidine, whether uncompounded or in standard dosage forms, shall file a letter with the Chemicals Division, War Production Board, on or before November 15, 1943, stating the quantity of such material on hand as of November 4, 1943. This letter need not be filed by any supplier who files an application for authorization on Form WPB 2945 on or before November 15, 1943, or on WPB 2946 on or before November 20, 1943, for the reason that such forms require an inventory report of these materials on hand.

(h) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of War Production Board, as amended from time to time, except to the extent that any provisions hereof may be inconsistent therewith, in which case the provisions of this order shall govern.

(i) *Inability to deliver.* If a producer or distributor is authorized or directed by War Production Board to deliver cinchona bark or cinchona alkaloids to any specific customer or group of customers, but is unable to make the delivery either because of receipt of notice of cancellation or otherwise, he must immediately notify the War Production Board, Chemicals Division, Washington 25, D. C., Ref: M-131, and shall not deliver the material to anyone else, or use it, until he receives further instructions.

(j) *Appeals.* Appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(k) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(l) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Chemicals Division, Washington 25, D. C. Ref: M-131.

This order supersedes Conservation Order M-131-a, as amended.

Issued this 4th day of November 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

APPENDIX A

INSTRUCTIONS FOR FILING APPLICATIONS ON FORM WPB 2945[1] (FORMERLY PD-600) FOR SPECIFIC AUTHORIZATION TO ACCEPT DELIVERY AND USE CINCHONA BARK OR CINCHONA ALKALOIDS

(1) *Who should file.* Specific authorization by War Production Board is required for acceptance of all deliveries of cinchona alkaloids, unless the deliveries fall within the

[1] The reporting provisions of this order have been approved by the Bureau of the Budget in accordance with Federal Reports Act of 1942.

exceptions provided in paragraph (c) of the order. Any producer desiring permission to use part or all of his own production shall also file this application. This form need not be filed by the U. S. Army, Navy, Coast Guard, the U. S. Maritime Commission or War Shipping Administration.

(2) *Where forms may be obtained.* Copies of Form WPB 2945 may be obtained at local field offices of War Production Board.

(3) *Number of copies.* Five copies shall be prepared, of which three shall be forwarded to War Production Board, Chemicals Division, Washington 25, D. C., Ref: M-131, one forwarded to the supplier with whom applicant's order is placed, and the fifth retained for applicant's file. At least one of the copies filed with War Production Board shall be signed by applicant by a duly authorized official. Where the application is solely for authorization to use from inventory, no copy need be prepared for suppliers.

(4) *Special instructions for filling out form.* Follow the instructions on the form except where they conflict with the specific instructions given below:

(a) *Heading.* Under "Name of chemical", specify either "Cinchona bark" or "Cinchona alkaloids", using a separate set of forms for each. Under "WPB Order No.", specify "M-131", under "Unit of Measure", specify "Pounds" in the case of cinchona bark and "Ounces" in the case of cinchona alkaloids.

(b) *Column 1.* In applying for authorization to receive or to use cinchona bark, specify in Column 1 the grade or variety. In applying for authorization to accept delivery or to use cinchona alkaloids, specify in Column 1 the name of each alkaloid or the salt of the alkaloid; for example, quinine alkaloid, quinine sulfate, totaquine, quinidine alkaloid, quinidine sulfate, etc. (It is not necessary to use a separate set of forms for each alkaloid or salt of alkaloid requested).

(c) *Column 2.* Specify the quantity (in pounds) for cinchona bark and (in ounces) for each type of cinchona alkaloid.

(d) *Column 3.* In Column 3 "Primary product" specify the exact name of the product or products in the manufacture or preparation of which the cinchona bark or the cinchona alkaloids will be used or incorporated. Distributors ordering cinchona bark or cinchona alkaloids for resale will specify "Resale". If purchase is for inventory, specify "Inventory".

(e) *Column 4.* In Column 4 specify ultimate use to be made of the primary product, for example, "Anti-malarial" or "cardiac", and if the purpose is to fill Army, Navy, Lend-Lease or other government agencies' contracts, state the contract number. If purpose is for export, the WPB 2945 must first be sent to Office of Economic Warfare together with application for an export license. If the export license is granted, Office of Economic Warfare will then affix the export license number to Form WPB 2945 and forward the document to War Production Board.

APPENDIX B

INSTRUCTIONS FOR FILING SUPPLIER'S APPLICATION ON FORM WPB 2946[1] (FORMERLY PD-601) FOR SPECIFIC AUTHORIZATION TO DELIVER CINCHONA BARK OR CINCHONA ALKALOIDS

(1) *Who should file.* All suppliers (except Army, Navy, etc.—as listed in paragraph (b)), must obtain specific authorization before delivering cinchona bark or cinchona alkaloids.

(2) *Where forms may be obtained.* Copies of Form WPB 2946 may be obtained at local field offices of War Production Board.

[1] The reporting provisions of this order have been approved by the Bureau of the Budget in accordance with Federal Reports Act of 1942.

(3) *Number of copies.* Four copies shall be prepared, of which three shall be forwarded to War Production Board Chemicals Division, Washington 25, D. C., Ref: M-131, the fourth to be retained by the supplier. Each producer who has filed application on Form WPB 2945 specifying himself as his supplier, shall list his own name as customer on Form WPB 2946 and shall list his request for allocation in the manner prescribed for other customers.

(4) *Special instructions for filling out form.* Follow the instructions on the form except where they conflict with the specific instructions given below:

(a) *Heading.* In the heading under "Name of chemical", specify "Cinchona bark" or "Cinchona alkaloids", as the case may be, using a separate set of forms for each. Under "WPB Order No.", specify "M-131"; under "Unit of measure", specify "Pounds" in the case of cinchona bark and "Ounces" in the case of cinchona alkaloids.

(b) *Column 1.* Specify the names of customers. A producer requiring permission to use a part or all of his own production of cinchona bark or cinchona alkaloids shall list his own name in Column 1 as customer. After completing the list of customers, insert "Total small order deliveries (estimated)" for each alkaloid or salt delivered. pursuant to paragraph (c) (2) of this order.

(c) *Column 3.* List each alkaloid or salt (and in the case of cinchona bark, the variety) for which orders for delivery during the applicable month have been received as indicated in the Forms WPB 2945 filed with him by his customers.

(d) *Column 4.* Specify total quantity to be delivered to each customer named in Column 1, and total estimated quantity to be delivered on the "Small order deliveries" mentioned in Column 1.

(e) *Table II.* Each producer will report production, deliveries and stocks as required by Table II, Columns 8 to 16, inclusive. Distributors and importers will enter in Columns 9, 11 and 14 "Receipts" instead of "Production". In Column 8 the supplier will specify in the case of cinchona bark the variety and in the case of cinchona alkaloids each alkaloid or salt of alkaloid for which orders for delivery during the applicable month have been received, as indicated in the Forms WPB 2945 filed with him by his customers.

[F. R. Doc. 43-17879; Filed, November 4, 1943; 11:14 a. m.]

Chapter XI—Office of Price Administration

PART 1340—FUEL

[MPR 137,[1] Amdt. 38]

PETROLEUM PRODUCTS SOLD AT RETAIL

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 137 is amended in the following respects:

1. The following unnumbered paragraph is added to § 1340.89 (d):

Each Regional Administrator of the Office of Price Administration and such District Directors of the Office of Price Administration as may be designated by the appropriate Regional Administrator are hereby authorized to make adjustments or act upon applications for adjustment under this paragraph (d).

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 12017, 14074.

2. In § 1340.91 (b) the words "and (2)" following the words "determined under § 1340.91 (a) (1)" are deleted.

3. In § 1340.91 (d) the words "and (2)" following the words "determined under § 1340.91 (a) (1)" are deleted.

4. In § 1340.91 (e) the words "and (2)" following the words "determined under § 1340.91 (a) (1)" and the words "and (2)" following the words "under said § 1340.91 (a) (1)" are deleted wherever they appear.

5. In § 1340.91 (g) the words "and (2)" following the words "determined by § 1340.91 (a) (1)" are deleted wherever they appear.

6. In § 1340.91 (j) the words "and (2)" following the words "determined under § 1340.91 (a) (1)" are deleted.

7. Section 1340.91 (h) is amended to read as follows:

(h) *0.3¢ increase where fuel oil is rationed.* The maximum prices at retail establishments for kerosene, range oil, prime white distillate No. 1 or Pacific Specifications No. 100 fuel oil, No. 2 fuel oil, and Diesel fuel oil determined under § 1340.91 (a) (1) of this regulation are increased 0.3 of a cent per gallon in the States of Connecticut, Delaware, Florida (east of the Apalachicola River), Georgia, Idaho (but only in the Counties of Adah, Adams, Benewah, Boise, Bonner, Boundary, Canyon, Clearwater, Elmore, Gem, Kootenai, Idaho, Latah, Lewis, Nez Perce, Owyhee, Payette, Shoshone, Valley, and Washington), Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin and the District of Columbia. The total amount charged on each lot shall be adjusted to the nearest cent.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9255, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 43-17798; Filed, November 3, 1943; 5:13 p. m.]

PART 1340—FUEL

[MPR 137,[1] Amdt. 39]

PETROLEUM PRODUCTS SOLD AT RETAIL

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 1340.91 (c) is amended to read as follows:

(c) *Three-cent margin alternative.* A seller of motor fuel at a retail establishment may, at any time, choose his maximum price for any particular grade in either one of two ways:

(1) He may accept the maximum price as determined under the other provisions of § 1340.91.

(2) He may fix a maximum price at the particular retail establishment which will permit him a margin of 3 cents a gallon. His "margin" shall be computed as defined in § 1340.90 (a) (15).

A maximum price fixed upon the basis of a 3-cent margin will change automatically as the seller's margin is affected by changes in the delivered cost. When the delivered cost goes up, thus reducing a seller's margin below 3 cents a gallon, then the maximum price will go up by the amount the margin is reduced below 3 cents. When the delivered cost goes down, then the maximum price will go down by the amount the margin exceeds 3 cents a gallon, except that the seller does not have to reduce his maximum price below that provided for in other provisions of this § 1340.91. For the purposes of this provision, the margin is deemed to change not at the time the delivered cost changes, but only after the seller has sold an amount equal to that volume on hand at the time the change in the delivered cost occurs.

Notwithstanding other provisions of this regulation a seller fixing a maximum price under this paragraph may treat an increase in his supplier's maximum tank wagon price pursuant to § 1340.159 (b) (11) of Revised Price Schedule No. 88 or pursuant to any amendment adopted after February 13, 1943, to Revised Price Schedule No. 88 as an increase in delivered cost for the purpose of fixing a three-cent margin even though the supplier has not passed on, or has passed on a part only of the permitted increase in his tank wagon price.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9255, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 43-17799; Filed, November 3, 1943; 5:13 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 421,[1] Amdt. 4]

CEILING PRICES OF CERTAIN FOODS SOLD AT WHOLESALE

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 421 is amended in the following respects:

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 9388, 10565, 10987, 13293.

1. Section 13 (a) and (b) are added to read as follows:

(a) Whenever an amendment adds any food product to the list of items covered in Table A, you must figure your ceiling price for that food product in accordance with sections 3, 4 and 5. However, in doing so, you shall substitute the effective date of such amendment for the date August 5, 1943, whenever it appears in sections 3, 4 and 5.

(b) Whenever an amendment changes either a commodity definition in Table A by transferring a food product from one commodity group to another or the mark-up for your class of wholesalers, you must, by the opening of business on the effective date of such amendment refigure your ceiling prices for the items affected by such amendment. In doing so, you must use as your "net cost" the same "net cost" you used in figuring the ceiling prices you had on the effective date of the amendment.

2. In section 32 (a), item (13) of Table A is amended to read as follows:

TABLE A—MARK-UP FIGURES TO BE USED BY WHOLESALERS IN FIGURING CEILING PRICES FOR ITEMS COVERED BY THIS REGULATION BY COMMODITIES

Food commodities	Figures to be multiplied by net cost			
	Class 1	Class 2	Class 3	Class 4
	Retailer-owned cooperative	Cash and carry	Service and delivery	Institutional
13. Frozen foods	1.24	1.24	1.24	1.29

3. Section 32 (b) (3) is amended to read as follows:

(3) "Cocoa, chocolate and cereal-drink preparations" includes, but is not limited to, coffee substitutes or extenders, chicory, malted milk preparations containing less than 35 percent malted milk, chocolate syrup, chocolate bits, cooking chocolate, and packaged powdered skim milk (spray process). Excluded are chocolate confections, bittersweet bars, milk chocolate, powdered whole milks, powdered skim milk packaged in tin in an inert gas, malted milk, and any preparation containing 35 percent or more malted milk.

4. Section 32 (b) (7) is amended to read as follows:

(7) "Dog and cat food" shall not include any item prepared by you for pet food, or any frozen dog or cat food.

5. Section 32 (b) (8) is amended to read as follows:

(8) "Fish, processed" includes, but is not limited to, canned fish, canned seafood, and salted, pickled, smoked, dried or otherwise processed fish, such as fish cakes, roe, clam juice, and oyster puree. Excluded are fresh or frozen fish, fresh or frozen seafood, frozen food products in which fish or seafood are combined with other ingredients, and caviar.

6. Section 32 (b) (13) is amended to read as follows:

(13) "Frozen foods" means packaged quick-frozen or cold-packed foods, including, but not limited to all fruits, berries, fruit or berry juices, and mixtures, vegetables, vegetable juices, and mixtures, including mushrooms, dog and cat food not prepared by you for pet food, applesauce, macaroni and spaghetti products, chop suey, gravies, pork-and-beans, soups, food products in which meat, chicken, turkey, fish or seafood are combined with other ingredients, meat stews, and corned beef hash. Excluded are frozen pies and pasteries, frozen meat, poultry, fish and seafood, ice cream, sherbet and frozen confections.

7. Section 32 (b) (17) is amended to read as follows:

(17) "Macaroni and spaghetti products" includes, but is not limited to, bows, egg alphabets, macaroni, spaghetti, vermicelli, "sea shells", noodles, macaroni dinners, and spaghetti dinners. Excluded are ravioli, tamales, dry noodle soup mixtures, spaghetti-and-meatballs, chicken-and-noodles, Chinese-style noodles, and frozen macaroni and spaghetti products.

8. Section 32 (b) (19) is amended to read as follows:

(19) "Meat, canned" includes, but is not limited to, canned or glassed chicken and turkey products, chicken-and-noodles, chili con carne, meat spreads, meat gravy, pickled meats, ravioli, spaghetti-and-meatballs, stews, tamales and tripe. Excluded are mincemeat, any canned meat which is removed from the can by the retailer and sold sliced in smaller amounts, frozen food products in which meat, chicken and turkey are combined with other ingredients, frozen meat gravies, and frozen meat stews.

9. Section 32 (b) (27) is amended to read as follows:

(27) "Soups, canned" includes all soups, broths and chowder. Excluded are meat stews, "baby" or "junior" soups, dehydrated soups, and frozen soups.

10. In section 32 (b) (37), the item "Salt and ice cream salt (except onion, celery or garlic salt)", is amended to read "Table salt packaged in cartons, bags or packets containing 100 pounds or less, Kosher salt in cartons, and salt packaged in containers of 10 pounds or less and labeled by the manufacturer as ice cream salt (excluded are onion, celery or garlic salt, and meat-curing or smoked salt)".

11. In section 32 (c), the following item is added in alphabetical order to the list of commodities excluded: "Ice cream cones."

12. In section 32 (c), the item "Milk, powdered", is amended to read "Whole milk, powdered, and powdered skim milk packaged in tin in an inert gas".

This amendment shall become effective November 9, 1943, except insofar as it relates to section 32 (a), (b) and (c),

for which it shall become effective November 24, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 43-17791; Filed, November 3, 1943; 5:10 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 422,[1] Amdt. 6]

CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN GROUP 3 AND GROUP 4 STORES

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 422 is amended in the following respects:

1. The third sentence in section 8 (a), beginning with the words "Your net cost", is amended to read as follows:

Your net cost will be the amount you paid your supplier less all discounts except the discount for prompt payment, plus all transportation charges you paid, which may include costs for icing, refrigeration, and ventilation, but which may not include costs for local trucking and local unloading.

2. In section 12, the third undesignated paragraph beginning with the words "Stores under one ownership", is amended to read as follows:

Stores under one ownership pricing from a central point must also keep available at all times in each store a list showing the current selling price, as set at the central point, of each item so priced. These price lists must be kept in each store for one year, or, in the alternative, must be kept in each store for 30 days and thereafter for a period of eleven months in the warehouse from which the food items are delivered to the store. On request, such price lists must be shown to any OPA representative.

3. Section 16 (a) and (b) are added to read as follows:

(a) Whenever an amendment adds any food product to the list of items covered in Table A, you must figure your ceiling price for that food product in accordance with sections 3, 4 and 5. However, in doing so, you shall substitute the effective date of such amendment for the date August 5, 1943, whenever it appears in sections 3, 4 and 5.

(b) Whenever an amendment changes either a commodity definition in Table A by transferring a food product from one commodity group to another or the mark-up for your group of retailers, you must, by the opening of business on the effective date of such amendment refigure your ceiling prices for the items affected by such amendment. However, in doing so, you must use as your "net cost" the same "net cost" you used in figuring the ceiling prices you had on the effective date of the amendment.

If you have customarily made most of your purchases of any item affected from a wholesaler who is pricing under Maximum Price Regulation 421,[2] and if you still customarily purchase such item from such a wholesaler, you must refigure your ceiling price in accordance with section 4, basing your "net cost" on the first delivery to you of such item after the effective date of the amendment.

4. Section 20 (h) is added to read as follows:

(h) *Citrus fruits purchased by you ungraded, unsized and unpacked.* If you purchase ungraded, unsized and unpacked citrus fruits and you grade, size and pack such citrus fruits, you shall figure on such purchases a separate ceiling price weekly for each variety, and size, and fruit from different areas, using as the basis of your "net cost" for each variety, and size, and fruit from different areas, the lowest ceiling price fixed in Maximum Price Regulation No. 292[3] for sales by a packer of such variety, size, and fruit in the type of container in which each item is packed, in effect at the time when you receive delivery at your usual receiving point, plus all transportation charges you paid (except local trucking and local unloading) to your usual receiving point. To get your ceiling price, reduce the resulting figure to the "net cost" or the "selling unit", and apply the mark-up for your group of retailer as set forth in section 8.

5. Section 29 is amended to read as follows:

SEC. 29. *Applications for adjustment.* Any Regional Office of the OPA, or such offices as may be authorized by order issued by the appropriate Regional Office, may act on all applications for adjustment under the provisions of this regulation, and may deny any application filed under section 27 or revoke any order granting adjustment under that section if denial of such application would not cause the applicant a substantial financial hardship. Applications for adjustment are governed by Revised Procedural Regulation No. 1.

6. In section 38 (a), item (13) of Table A is amended to read as follows:

TABLE A—MARK-UPS OVER "NET COST" ALLOWED TO GROUP 3 AND GROUP 4 RETAILERS FOR DRY GROCERIES COVERED BY THIS REGULATION BY COMMODITIES

Food commodities	Allowed mark-ups over net cost	
	Group 3. Retailer other than independent, with annual volume under $250,000	Group 4. Any retailer with annual volume of $250,000 or more
	Percent	*Percent*
13. Frozen foods	27	27

7. Section 38 (b) (3) is amended to read as follows:

(3) "Cocoa, chocolate and cereal-drink preparations" includes, but is not limited to, coffee substitutes or extenders, chicory, malted milk preparations containing less than 35 percent malted milk, chocolate syrup, chocolate bits, cooking chocolate, and packaged powdered skim milk (spray process). Excluded are chocolate confections, bittersweet bars, milk chocolate, powdered whole milks, powdered skim milk packaged in tin in an inert gas, malted milk, and any preparation containing 35 percent or more malted milk.

8. Section 38 (b) (7) is amended to read as follows:

(7) "Dog and cat food" shall not include any item prepared by you for pet food, or any frozen dog or cat food.

9. Section 38 (b) (8) is amended to read as follows:

(8) "Fish, processed" includes, but is not limited to, canned fish, canned seafood, and salted, pickled, smoked, dried or otherwise processed fish, such as fish cakes, roe, clam juice, and oyster puree. Excluded are fresh or frozen fish, fresh or frozen seafood, frozen food products in which fish or seafood are combined with other ingredients, and caviar.

10. Section 38 (b) (13) is amended to read as follows:

(13) "Frozen foods" means packaged quick-frozen or cold-packed foods sold from refrigerated cabinets or lockers, including, but not limited to all fruits, berries, fruit or berry juices, and mixtures, vegetables, vegetable juices, and mixtures, including mushrooms, dog and cat food not prepared by you for pet food, applesauce, macaroni and spaghetti products, chop suey, gravies, pork-and-beans, soups, food products in which meat, chicken, turkey, fish or seafood are combined with other ingredients, meat stews, and corned beef hash. Excluded are frozen pies and pastries, frozen meat, poultry, fish and seafood, ice cream, sherbet, and frozen confections.

11. Section 38 (b) (17) is amended to read as follows:

(17) "Macaroni and spaghetti products" includes, but is not limited to, bows, egg alphabets, macaroni, spaghetti, vermicelli, "sea shells," noodles, macaroni dinners, and spaghetti dinners. Excluded are ravioli, tamales, dry noodle soup mixtures, spaghetti-and-meatballs, chicken-and-noodles, Chinese-style noodles, and frozen macaroni and spaghetti products.

12. Section 38 (b) (19) is amended to read as follows:

(19) "Meat, canned" includes, but is not limited to, canned or glassed chicken and turkey products, chicken-and-noodles, chili con carne, meat spreads, meat gravy, pickled meats, ravioli, spaghetti-and-meatballs, stews, tamales and tripe. Excluded are mincemeat, any canned meat which is removed from the can by the retailer and sold sliced in smaller amounts, frozen food products in which meat, chicken and turkey are combined with other ingredients, frozen meat gravies, and frozen meat stews.

---

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 9395, 10569, 10987, 12443, 12611, 13294.

[2] 8 F.R. 9388, 10565, 10987, 13293.

[3] 8 F.R. 135, 543, 2869, 5367, 6134, 10432, 13974.

13. Section 38 (b) (27) is amended to read as follows:

(27) "Soups, canned" includes all soups, broths and chowder. Excluded are meat stews, "baby" or "junior" soups, dehydrated soups, and frozen soups.

14. In section 38 (b) (37), the item "Salt and ice cream salt (except onion, celery or garlic salt)", is amended to read "Table salt packaged in cartons, bags or pockets containing 100 pounds or less, Kosher salt in cartons, and salt packaged in containers of 10 pounds or less and labeled by the manufacturer as ice cream salt (excluded are onion, celery or garlic salt, and meat-curing or smoked salt)".

15. In section 38 (c), the following item is added in alphabetical order to the list of commodities excluded: "Ice cream cones."

16. In section 38 (c), the item "Milk, powdered", is amended to read "Whole milk, powdered, and powdered skim milk packaged in tin in an inert gas".

This amendment shall become effective November 9, 1943, except insofar as it relates to section 38 (a), (b) and (c), for which it shall become effective November 24, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 43-17792; Filed, November 3, 1943; 5:10 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 423,[1] Amdt. 7]

CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN INDEPENDENT STORES DOING AN ANNUAL BUSINESS OF LESS THAN $250,000 (GROUP 1 AND GROUP 2 STORES)

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 423 is amended in the following respects:

1. The third sentence in section 8 (a), beginning with the words "Your net cost", is amended to read as follows:

Your net cost will be the amount you paid your supplier less all discounts except the discount for prompt payment, plus all transportation charges you paid, which may include costs for icing, refrigeration, and ventilation, but which may not include costs for local trucking and local unloading.

2. Section 17, (a) and (b) are added to read as follows:

(a) Whenever an amendment adds any food product to the list of items covered in Table A, you must figure your ceiling price for that food product in accordance with sections 3, 4 and 5. However, in doing so, you shall substitute the effective date of such amendment for the date August 5, 1943, whenever it appears in sections 3, 4 and 5.

(b) Whenever an amendment changes either a commodity definition in Table A by transferring a food product from one commodity group to another or the mark-up for your group of retailers, you must refigure your ceiling prices for the items affected by such amendment in accordance with section 4, basing your "net cost" on the first delivery to you of such items after the effective date of the amendment.

3. Section 18 (c) is amended to read as follows:

(c) Section 20. *How you figure your "net cost" in certain cases.* (Applies to you if you purchase fresh bananas from importers f. o. b. port of entry or at auction; if you package and print butter; if you candle and grade eggs; if you sell "ungraded eggs"; if you purchase white potatoes or dry onions ungraded and unsacked; or if you purchase ungraded, unsized and unpacked citrus fruits and you grade, size and pack such citrus fruits.)

4. In section 27 (a), item (13) of Table A is amended to read as follows:

TABLE A.—MARK-UPS OVER "NET COST" ALLOWED TO GROUP 1 AND GROUP 2 RETAILERS FOR DRY GROCERIES COVERED BY THE REGULATION BY COMMODITIES

Food commodities	Allowed mark-ups over "net cost"—Independent retailers with annual volumes	
	Group 1—under $50,000	Group 2—$50,000 but less than $250,000
	Percent	*Percent*
13. Frozen foods	27	27

5. Section 27 (b) (3) is amended to read as follows:

(3) "Cocoa, chocolate and cereal-drink preparations" includes, but is not limited to, coffee substitutes or extenders, chicory, malted milk preparations containing less than 35 percent malted milk, chocolate syrup, chocolate bits, cooking chocolate, and packaged powdered skim milk (spray process). Excluded are chocolate confections, bitter-sweet bars, milk chocolate, powdered whole milks, powdered skim milk packaged in tin in an inert gas, malted milk, and any preparation containing 35 percent or more malted milk.

6. Section 27 (b) (7) is amended to read as follows:

(7) "Dog and cat food" shall not include any item prepared by you for pet food, or any frozen dog or cat food.

7. Section 27 (b) (8) is amended to read as follows:

(8) "Fish, processed" includes, but is not limited to, canned fish, canned seafood, and salted, pickled, smoked, dried or otherwise processed fish, such as fish cakes, roe, clam juice, and oyster puree. Excluded are fresh or frozen fish, fresh or frozen seafood, frozen food products in which fish or seafood are combined with other ingredients, and caviar.

8. Section 27 (b) (13) is amended to read as follows:

(13) "Frozen foods" means packaged quick-frozen or cold-packed foods sold from refrigerated cabinets or lockers, including, but not limited to all fruits, berries, fruit or berry juices, and mixtures, vegetables, vegetable juices, and mixtures, including mushrooms, dog and cat food not prepared by you for pet food, applesauce, macaroni and spaghetti products, chop suey, gravies, pork-and-beans, soups, food products in which meat, chicken, turkey, fish or seafood are combined with other ingredients, meat stews, and corned beef hash. Excluded are frozen pies and pastries, frozen meat, poultry, fish and seafood, ice cream, sherbet and frozen confections.

9. Section 27 (b) (17) is amended to read as follows:

(17) "Macaroni and spaghetti products" includes, but is not limited to, bows, egg alphabets, macaroni, spaghetti, vermicelli, "sea shells", noodles, macaroni dinners, and spaghetti dinners. Excluded are ravioli, tamales, dry noodle soup mixtures, spaghetti-and-meatballs, chicken-and-noodles, Chinese-style noodles, and frozen macaroni and spaghetti products.

10. Section 27 (b) (19) is amended to read as follows:

(19) "Meat, canned" includes, but is not limited to, canned or glassed chicken and turkey products, chicken-and-noodles, chili con carne, meat spreads, meat gravy, pickled meats, ravioli, spaghetti-and-meatballs, stews, tamales and tripe. Excluded are mincemeat, any canned meat which is removed from the can by the retailer and sold sliced in smaller amounts, frozen food products in which meat, chicken and turkey are combined with other ingredients, frozen meat gravies, and frozen meat stews.

11. Section 27 (b) (27) is amended to read as follows:

(27) "Soups, canned" includes all soups, broths and chowder. Excluded are meat stews, "baby" or "junior" soups, dehydrated soups, and frozen soups.

12. In section 27 (b) (37), the item "Salt and ice cream salt (except onion, celery or garlic salt)", is amended to read "Table salt packaged in cartons, bags or pockets containing 100 pounds or less, Kosher salt in cartons, and salt packaged in containers of 10 pounds or less and labeled by the manufacturer as ice cream salt (excluded are onion, celery or garlic salt, and meat-curing or smoked salt)".

13. In section 27 (c), the following item is added in alphabetical order to the list of commodities excluded: "Ice cream cones."

14. In section 27 (c), the item "Milk, powdered", is amended to read "Whole milk, powdered, and powdered skim milk packaged in tin in an inert gas".

This amendment shall become effective November 9, 1943, except insofar as it relates to section 27 (a), (b) and (c), for which it shall become effective November 24, 1943.

---

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 9407, 10570, 10988, 12443, 12611, 13294.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 43-17793; Filed, November 3, 1943; 5:10 p. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 16,[1] Amdt. 76]

MEATS, FATS, FISH AND CHEESE

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Ration Order 16 is amended in the following respects:

1. Section 4.11 (a) is amended by designating the text as subparagraph (1) and adding the following subparagraphs (2), (3) and (4):

(2) A primary distributor who has more than one primary distributor establishment may register two or more of those establishments together, in one or more groups, instead of registering each establishment separately, if, prior to March 29, 1943, he maintained a central office, for each group of establishments to be registered together, at which he kept records of the inventory, production, acquisitions, and transfers (including transfers between the establishments in the group) of foods covered by this order at each of such establishments and from which he regularly sent invoices covering at least 90% of all transfers of those foods from each such establishment. However, he may not combine in the same group a primary distributor establishment of the type described in section 4.9 with any other kind of primary distributor establishment.

(3) If the establishments to be registered together are already registered separately under this order, he may re-register them by filing a combined report for the establishments in each such group as his report due in November 1943, or in the first month thereafter in which he wishes to register them together. The report is to be filed with the district office for the place where such central office is located. He must also notify each district office at which a re-registered establishment was originally registered that he is re-registering such establishment, and give the name and address of the district office at which the establishment will be re-registered. This notice must be sent to each such office prior to the date on which he must file the report referred to in this subparagraph.

(4) If after re-registering his establishments under the last paragraph he ceases to continue the central office or to satisfy the conditions described in paragraph (2), he must again register each establishment separately.

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 13128, 13394, 13980.

2. Section 4.11 (b) is amended by inserting between the fourth and fifth sentence the following: "However, if he has registered his establishments in one or more groups, in the way permitted by paragraph (a) (2) he may file a single report for all the establishments in each such group."

3. Section 4.11 (f) is amended by inserting in the first sentence after the word "located" the following: "or, if it is a report covering a group of establishments, with the district office at which that group is registered."

4. Section 4.15 (a) is amended by adding after the word "persons" the following: "(except if they have been registered in the way described in section 4.11 (a) (2))."

5. Section 4.16 (c) is added to read as follows:

(c) However, the records required by paragraphs (a) and (b) need not be kept at each establishment if the establishment is one of a group which has been registered together, but may be kept at the central office for such group. They must, however, be kept separately for each establishment.

6. Section 9.2 (a) is amended by adding the following:

However, if a group of his establishments have been registered together in the way described in section 4.11 (a) (2), a primary distributor must open a single account for all the establishments in the group. When he does so, he must close the separate accounts he has for each of the establishments in the group in the way provided in General Ration Order 3A.

7. Section 10.5 (f) (6) is amended by deleting, in the first sentence, the words ", other than primary distributor establishments,".

8. Section 12.3 (a) is amended by deleting the last sentence and substituting the following:

A person who buys or otherwise acquires a primary distributor establishment must register it separately, unless he has registered a group of his establishments in the way described in Sec. 4.11 (a) (2). In that case he may register the newly acquired establishment as part of that group if the same records will be kept for it at the central office as are kept for the other establishments in the group, and invoices covering at least 90% of all transfers from that establishment will regularly be sent from the central office.

9. Section 13.4 (b) is added to read as follows:

(b) A person who opens a new primary distributor establishment must register it separately, unless he has registered a group of his establishments in the way described in section 4.11 (a) (2). In that case he may register the newly opened establishment as part of that group if the same records will be kept for it at the central office as are kept for the other establishments in the group, and invoices covering at least 90% of all transfers from that establishment will regularly be sent from the central office.

10. Section 17.7 (b) is amended by changing the parenthetical phrase in item numbered "1." to read as follows: "(Sections 4.11 (a), 13.4 (b))".

This amendment shall become effective November 8, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; and Supp. Dir. 1-M, 7 F.R. 8234; Food Directive 1, 8 F.R. 827; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471)

Issued this 3d day of November, 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17796; Filed, November 3, 1943; 5:11 p. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 16,[1] Amdt. 77]

MEAT, FATS, FISH AND CHEESES

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Section 10.5 (d) (3) is amended by inserting the following between the first and second sentences:

(However, if money payment for the foods transferred is made less than 10 days after the transfer, points must be given up at the time the money payment is made.)

This amendment shall become effective November 8, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; and Supp. Dir. 1-M, 7 F.R. 8234; Food Directive 1, 8 F.R. 827; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17797; Filed, November 3, 1943; 5:11 p. m.]

PART 1418—TERRITORIES AND POSSESSIONS

[MPR 373,[2] Amdt. 21]

MAXIMUM PRICES IN THE TERRITORY OF HAWAII

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The table following section 21 (d) (1) is amended by adding new items to the

[1] 8 F.R. 13128, 13394, 13980.

[2] 8 F.R. 5383, 6359, 6849, 7200, 7457, 8064, 8550, 10270, 10666, 10984, 11247, 11437, 11849, 12299, 12703, 13023, 13342, 13500, 14139.

categories "Apples", "Grapes" and "Pears" to read as follows:

	Wholesale maximum prices	Special institutional maximum prices	Retail maximum prices
Apples:	*Per box*		*Per lb.*
Newton Red Diamond	$5.42	None	$0.17
California	5.42	None	.17
Newton Blue Diamond	5.85	None	.17
Grapes:	*Per lug*		
Ribier	4.60	None	.24
Emporer	4.60	None	.24
Almeria	4.60	None	.24
Pears:			
D'Anjous	8.80	----------	.25
Comice	8.80	----------	.25

This amendment shall become effective as of October 22, 1943.

(56 Stat. 23, 765; Pub. Law. 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17802; Filed, November 3, 1943; 5:12 p. m.]

PART 1432—RATIONING OF CONSUMERS' DURABLE GOODS

[RO 9A,[1] Amdt. 3]

STOVES

A rationale accompanying this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Ration Order 9A is amended in the following respects:

1. Section 2.1 (a) is amended by adding the following sentence at the end of the paragraph: "(Any dealer, distributor or manufacturer who demonstrates or exhibits stoves as part of the business of transferring stoves is not a consumer.)"

2. Section 2.3 (a) is amended by substituting the phrase "for any one of the following" for the phrase "for any of the following."

3. Section 2.3 (b) is amended by substituting the phrase "for any one of the following" for the phrase "for any of the following."

4. Section 3.1 (a) is amended to read as follows:

(a) Any place where a "person" regularly "acquires" and "transfers" "stoves" is a "dealer establishment" if the transfers from there are made primarily to "consumers". Such a place is a "distributor establishment" if the transfers from there are made primarily to persons other than consumers or primarily to supply one's own establishments. However, if such a place is used by a person to keep stoves just to supply his own establishments, that place is a distributor establishment only if it supplies:

(1) At least two of his own distributor establishments, or

(2) At least three of his own dealer establishments.

5. The last sentence of section 3.7 (d) is amended to read as follows: "However, upon certification by the War Production Board, the Board shall increase the allowable inventory of a distributor who sells to persons covered by priority orders of an agency of the United States, in the amount specified by the War Production Board in its certification."

6. Section 3.8 (b) is amended by substituting for the first two sentences in the paragraph the following sentence: "Unless authorized by the 'Washington Office,' a Board may not act upon an application under this section, but must send the application together with all the information received, to the District Office."

7. Section 5.2 (c) is added as follows:

(c) Any certificate issued to a person not entitled to it on the basis of the facts stated in the application may be revoked by the issuing Board, District or Washington Office, and the issuing Board, District or Washington Office may order that such certificate be surrendered to it.

8. Section 12.1 (b) is amended to read as follows:

(b) This section does not apply to cases where the Board, or District or Regional Office is not authorized to act on applications made under sections 3.8 or 9.3.

9. Section 13.1 (a) (5) is amended by substituting a comma for the period after the word "transfer" and adding after the comma the phrase "except a dealer, distributor or manufacturer who demonstrates or exhibits a stove as part of the business of transferring stoves."

10. Section 13.1 (a) (7) is amended to read as follows:

(7) "Dealer establishment" means any place where a person regularly acquires and transfers stoves covered by this order if the transfers from that place are made primarily to consumers.

11. Section 13.1 (a) (9) is amended to read as follows:

(9) "Distributor establishment" means any place where a person regularly acquires and transfers stoves covered by this order if the transfers from that place are made primarily to persons other than consumers, or primarily to supply one's own establishments. However, if such a place is used by a person to keep stoves covered by this order just to supply his own establishments, that place is a distributor establishment only if it supplies:

(i) At least two of his own distributor establishments; or

(ii) At least three of his own dealer establishments.

This amendment shall become effective November 8, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, and 507, 77th Cong.; Pub. Laws 421 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; WPB Dir. 1, 7 F.R. 562, and Supp. Dir. 1-S, 8 F.R. 6018)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17795; Filed, November 3, 1943; 5:11 p. m.]

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 11564, 12749, 13060, 14049.

PART 1448—EATING AND DRINKING ESTABLISHMENTS

[Restaurant MPR 1, Amdt. 2]

FOOD AND DRINK SOLD FOR IMMEDIATE CONSUMPTION BY DINING CARS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Restaurant Maximum Price Regulation No. 1 is amended in the following respects:

1. Section 1 is amended to read as follows:

SECTION 1. *Sales at higher than ceiling prices prohibited.* If you own or operate a railroad dining car, cafe car, club car or other similar vehicle, or if you sell food items, beverages or meals to passengers on railroad trains while traveling from station to station, you shall not offer or sell any "food item", including any beverage or "meal" on such a car, railroad train or other similar vehicle, at a price higher than the ceiling price which you figure according to the directions in the next two sections (sections 2 and 3). If, in addition to selling food items, beverages or meals to passengers on railroad trains while traveling from station to station, you sell food items or beverages from news-stands located on the premises of a railroad station, this prohibition applies also to your sales at such news-stands. You may, of course, sell at lower than ceiling prices.

2. Appendix A (a) is amended to read as follows:

(a) *Application of appendix.* This appendix applies to food items offered for sale

in day coaches requiring class two railroad tickets, and at news-stands located on the premises of railroad stations when such news-stands are operated by a proprietor who also sells food items to passengers while traveling from station to station.

This amendment shall become effective November 9, 1943.

(56 Stat. 23,765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November, 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17808; Filed, November 3, 1943; 5:12 p. m.]

PART 1306—IRON AND STEEL

[RPS 10, Amdt. 8]

PIG IRON

Correction

In F.R. Doc. 43-16869, appearing at page 14152 of the issue for Tuesday, October 19, 1943, the reference to "0.50 percent" in the paragraph headed *Silicon differentials*, third column, should read "0.25 percent."

PART 1394—RATIONING OF FUEL AND FUEL PRODUCTS

[RO 5C, Amdt. 80]

MILEAGE RATIONING; GASOLINE REGULATIONS

Correction

In F.R. Doc. 43-16652, appearing at page 14014 of the issue for Thursday, October 14, 1943, the last line of the undesignated paragraph following paragraph 11 in the first column should read "mileage, or mileage allowed under § 1394.7707".

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[MPR 149,[1] Amdt 15]

MECHANICAL RUBBER GOODS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation 149 is amended in the following respects:

1. In § 1315.37 (a) (1) the prices listed in Table I-D for the following two sizes of air and air tool hose are amended to read as follows:

Type of hose	Size (inches)	Braid	Ply	Unit of sale	Consumers' maximum price
Air and air tool hose, Grade 1 (molded braided type)	½	3	------	*Feet* 100	$34.39
	¾	2	------	100	34.39

2. Section 1315.37 (f) is amended to read as follows:

(f) *Maximum manufacturers' prices for Grade 1 Neoprene conveyor and elevator belting*—(1) *Applicability.* This paragraph (f) is applicable to Grade 1 conveyor and elevator belting made in whole or in part of Neoprene which is made with the weights of duck specified in this paragraph (f). Grade 1 means belting having a minimum tensile strength of 2,000 pounds per square inch in the covers and a minimum friction of 16 pounds per square inch between plies.

(2) *Maximum prices for sales to consumers*—(i) *28 and 32 ounce duck.* The maximum manufacturers' price for the sale to consumers of belting covered by this paragraph (f) made with a 28 ounce or a 32 ounce soft duck shall be the price listed in Table V-D. If the belting has a skim coat in addition to the friction coat, the maximum price for that conveyor or elevator belting may be increased by an amount equal to 10% of the carcass price listed in that table. The manufacturer may add a charge for splicing, stitching, punching holes and other operations associated with the manufacture of belting calculated on the same basis that he calculated such charges on October 1, 1941.

TABLE V-D—Consumers' Maximum Prices for Grade 1 Neoprene Conveyor and Elevator Belting

[Price per inch of width per foot]

Minimum tensile strength of the covers—2,000 lbs. per square inch
Minimum friction between plies—16 lbs. per square inch

Covers	Ply	Weight of duck	
		28 oz.	32 oz.
Carcass only	4	$0.0764	$0.0814
	5	0.0956	0.0994
	6	0.1147	0.1193
1/16" top by 1/32" bottom	4	0.1292	0.1342
	5	0.1484	0.1522
	6	0.1675	0.1721
⅛" top by 1/32" bottom	4	0.1644	0.1694
	5	0.1836	0.1874
	6	0.2027	0.2073
3/16" top by 1/16" bottom	4	0.2172	0.2222
	5	0.2364	0.2402
	6	0.2555	0.2601
For each 1/32" additional cover stock	------	0.0176	0.0176
For each additional ply	------	0.0191	0.0199

(ii) *Other weights of duck.* The maximum manufacturers' price for the sale to consumers of belting covered by this paragraph (f) made with a 33 or a 35 ounce hard duck or a 36, a 42 or a 48 ounce soft duck shall be the maximum manufacturers' price for the sale to consumers which would apply to the belting if it were made from a 28 ounce soft duck with the same cover thickness increased by an amount obtained by multiplying the net carcass price which would apply to the belting if it were made with a 28 ounce soft duck by the following percentages:

	Percent
33 ounce hard duck	11
35 ounce hard duck	18
36 ounce soft duck	18
42 ounce soft duck	37
48 ounce soft duck	53

(3) *Maximum prices for sales to persons other than consumers.* The manufacturer shall determine his maximum price for the sale of belting covered by this paragraph (f) to persons other than consumers by deducting from his maximum price for sales to consumers all discounts, allowances and any other deductions from the consumers' net price that he had in effect to a purchaser of the same class on October 1, 1941.

3. Section 1315.37 (g) is added to read as follows:

(g) *Maximum manufacturers' prices for Grade 1 neoprene transmission belting.* This paragraph is applicable to Grade 1 transmission belting made in whole or in part of neoprene with either a 33 to 35 ounce hard duck or a 32 ounce soft duck. The maximum manufacturers' price of belting covered by this paragraph shall be calculated as follows. First determine the base price by deducting the following percentage from the price listed in Table VI-D:

	Percent
Belting made with 33 to 35 ounce hard duck	14
Belting made with 32 ounce soft duck	28

Then determine the maximum price by deducting from the base price all discounts, allowances and other deductions from the base price for transmission belting that the manufacturer had in effect to a purchaser of the same class on October 1, 1941. The manufacturer may add a charge for splicing, stitching and other operations associated with the manufacture of belting calculated on the same basis that he calculated such charges on October 1, 1941.

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 10813, 13172.

TABLE VI-D—NEOPRENE TRANSMISSION BELTING PRICES FROM WHICH DISCOUNTS MUST BE DEDUCTED TO DETERMINE BASE PRICE

[Prices per foot]

Width in inches	2 ply	3 ply	4 ply	5 ply	6 ply	7 ply	8 ply	9 ply	10 ply	11 ply	12 ply
1	$.18	$.20	$.24								
1¼	.23	.26	.30								
1½	.27	.31	.36	$.45							
1¾	.32	.36	.42	.53							
2	.34	.39	.46	.58	$.69						
2½	.42	.48	.56	.70	.84						
3	.48	.55	.65	.81	.98						
3½	.57	.65	.76	.95	1.14						
4	.61	.70	.82	1.03	1.23	$1.44					
4½	.68	.78	.92	1.15	1.38	1.61					
5	.76	.87	1.02	1.28	1.53	1.79	$2.05	$2.30	$2.56	$2.81	$3.06
6	.91	1.04	1.22	1.53	1.83	2.14	2.44	2.75	3.06	3.36	3.66
7	1.08	1.22	1.43	1.79	2.15	2.50	2.86	3.22	3.58	3.94	4.30
8	1.15	1.31	1.54	1.93	2.31	2.70	3.08	3.47	3.86	4.24	4.62
9	1.29	1.47	1.73	2.16	2.60	3.03	3.46	3.89	4.32	4.76	5.20
10	1.43	1.63	1.92	2.40	2.88	3.36	3.84	4.32	4.80	5.28	5.76
11	1.57	1.79	2.11	2.64	3.17	3.69	4.22	4.75	5.28	5.81	6.34
12	1.72	1.96	2.30	2.88	3.45	4.03	4.60	5.18	5.76	6.33	6.90
13	1.86	2.13	2.50	3.13	3.75	4.38	5.00	5.63	6.26	6.88	7.50
14	2.00	2.29	2.69	3.36	4.04	4.71	5.38	6.05	6.72	7.40	8.08
15	2.14	2.45	2.88	3.60	4.32	5.04	5.76	6.48	7.20	7.92	8.64
16	2.29	2.62	3.08	3.86	4.62	5.40	6.16	6.94	7.72	8.48	9.24
18	2.57	2.94	3.46	4.32	5.20	6.06	6.92	7.78	8.64	9.52	10.40
20	2.85	3.26	3.84	4.80	5.76	6.72	7.68	8.64	9.60	10.56	11.52
22	3.14	3.59	4.22	5.28	6.34	7.38	8.44	9.50	10.56	11.62	12.68
24	3.42	3.91	4.60	5.76	6.90	8.06	9.20	10.36	11.52	12.66	13.80
26	3.72	4.25	5.00	6.26	7.50	8.76	10.00	11.26	12.52	13.76	15.00
28	4.00	4.57	5.38	6.72	8.08	9.42	10.76	12.10	13.44	14.80	16.16
30	4.29	4.90	5.76	7.20	8.64	10.08	11.52	12.96	14.40	15.84	17.28
32	4.59	5.24	6.16	7.72	9.24	10.80	12.32	13.88	15.44	16.96	18.48
34	4.86	5.55	6.53	8.18	9.82	11.46	13.08	14.72	16.36	18.00	19.64
36	5.15	5.88	6.91	8.64	10.40	12.12	13.84	15.56	17.28	19.04	20.80
38	5.43	6.21	7.30	9.12	10.96	12.78	14.60	16.42	18.24	20.08	21.92
40	5.71	6.54	7.68	9.60	11.52	13.44	15.36	17.28	19.20	21.12	23.04
42	6.00	6.85	8.06	10.09	12.10	14.10	16.12	18.14	20.16	22.18	24.20
44	6.27	7.17	8.44	10.56	12.68	14.76	16.88	19.00	21.12	23.24	25.36
46	6.57	7.51	8.83	11.04	13.24	15.44	17.64	19.86	22.08	24.28	26.48
48	6.84	7.82	9.20	11.50	13.80	16.12	18.40	20.72	23.04	25.32	27.60
50					14.40	16.82	19.20	21.62	24.04	26.42	28.80
52					15.00	17.52	20.00	22.52	25.04	27.52	30.00
54					15.58	18.18	20.76	23.36	25.96	28.56	31.16
56					16.16	18.84	21.52	24.20	26.88	29.60	32.32
58					16.72	19.50	22.28	25.06	27.84	30.64	33.44
60					17.28	20.16	23.04	25.92	28.80	31.68	34.56

4. Section 1315.37 (h) is added to read as follows:

(h) *Maximum manufacturers' prices for buna-N winterized wire braid hydraulic control hose.* This paragraph is applicable to buna-N winterized wire braid hydraulic control hose that can meet Federal Specification AN-ZZ-H-623a. The maximum manufacturers' price for the sale of that hose to coupling manufacturers shall be the price stated in Table VII-D. The maximum manufacturers' price for the sale of that hose to other classes of purchasers shall be the price stated in Table VII-D, adjusted to reflect the manufacturer's October 1, 1941, differential between the price to coupling manufacturers and the price to the particular class of purchaser to which the sale is made. The manufacturer may add to the maximum price determined in this manner, the same charge that he had in effect on October 1, 1941, for cutting the hose into exact lengths.

TABLE VII-D—Maximum Manufacturers' Prices for Sales of Buna-N Winterized Wire Braid Hydraulic Control Hose to Coupling Manufacturers

Type of hose	Size	Braid	Unit of sale	Maximum price
	Inch		*Feet*	
Federal Specification AN-ZZ-H-623a, Buna-N Winterized Wire Braid, high pressure hydraulic control hose	¼	2	100	$25.96
	5/16	2	100	28.42
	⅜	2	100	30.21
	½	2	100	38.57
	⅝	2	100	47.15
	¾	2	100	56.39
	1	2	100	71.26

This amendment shall become effective November 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17806; Filed, November 4, 1943; 9:16 a. m.]

PART 1340—FUEL

[MPR 120,[1] Amdt. 70]

BITUMINOUS COAL DELIVERED FROM MINE OR PREPARATION PLANT

A statement of the considerations involved in the issuance of this amendment issued simultaneously herewith has been filed with the Division of Federal Register.*

Maximum Price Regulation No. 120 is amended in the following respect:

In § 1340.210 (a) (1), the date in the proviso, October 23, 1943, is amended to read December 31, 1943.

This amendment shall become effective as of October 30, 1943.

(56 Stat. 23 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 14560.

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17807; Filed, November 4, 1943; 9:17 a. m.]

PART 1340—FUEL

[MPR 137,[1] Amdt. 40]

PETROLEUM PRODUCTS SOLD AT RETAIL

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with Division of the Federal Register.*

Section 1340.95 is amended to read as set forth below:

§ 1340.95 *Changes in operators of and sales of retail establishments*—(a) *Sale or transfer of a going business.* If a retail establishment or a service station lease is sold or transferred or if the operator of such a service station is changed and if the sale, transfer or change in operation occurs at a time when an establishment is in operation or within a period of 60 days after operation of the establishment was discontinued the maximum prices of the transferee or new operator shall be the maximum prices which the transferor would have been subject to in sales of petroleum products of the same grade if no such change had taken place and the obligations of the transferee to keep records and make reports shall be the same. The transferor shall either preserve and make available or turn over to the transferee all records of sale prior to the transfer which are necessary to enable the transferee to comply with the record and statement provisions of this regulation.

(b) *Sale or transfer of a business site.* If a retail establishment or a service station lease is sold or transferred or if the operator of a service station is changed but no petroleum products have been sold at retail from the site for a period of sixty days prior to sale or transfer, the maximum prices of the transferee or new operator shall be the maximum prices which may be charged under the other provisions of this regulation by his most closely competitive seller of the same class for a petroleum product of the same grade.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9255, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17816; Filed, November 4, 1943; 9:17 a. m.]

[1] 8 F.R. 12017, 14074.

PART 1341—CANNED AND PRESERVED FOODS

[MPR 473,[1] Amdt. 2]

PACKERS AND CERTAIN OTHER SELLERS OF FRUIT PRESERVES, JAMS AND JELLIES

A statement of the considerations involved in the issuance of this amendment has been issued and filed with the Division of the Federal Register.*

Maximum Price Regulation 473 is amended in the following respects:

1. Section 2 (h) is amended by adding a paragraph to read as follows:

Likewise, a packer who obtained his permitted increase pursuant to § 1341.302 (f) of Maximum Price Regulation No. 226 from the nearest comparable packer who sells to retailers or wholesalers shall make the adjustment for raw material costs which the nearest comparable packer who sells to retailers or wholesalers has made under this regulation (converted to retail units). Normally, "the most nearly comparable packer" will be the same packer from whom the packer got his permitted increase under Maximum Price Regulation No. 226.

2. Section 3 (b) is added to read as follows:

(b) *Distributors who are not wholesalers, wagon wholesalers or retailers.* The maximum price for an item, f. o. b. shipping point, of a distributor who is not a wholesaler, wagon wholesaler or retailer shall be the maximum price of his supplier, f. o. b. shipping point, plus incoming freight paid by him.

A "distributor" is one who purchases all he sells (for his own account) of the kind and brand being priced and resells it without packing or processing any part of it.

3. The provision of section 4 (a) following the text of the "Notice to Wholesalers and Retailers" is amended to read as follows:

For a period of 60 days after making such change in the maximum price of an item, and with the first shipment after the 60-day period to each person who has not made a purchase within that time, each packer shall include in each case or carton containing the item the written notice set forth above, or securely attach it to the case or carton. However, for sales direct to any retailer, the packer may supply the notice by attaching it to or writing it on the invoice covering the shipment instead of providing it with each case or carton.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17808; Filed, November 4, 1943; 9:16 a. m.]

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 13104, 13846.

PART 1351—FOOD AND FOOD PRODUCTS

[Rev. MPR 456, Amdt. 1]

ALFALFA HAY PRODUCTS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 3 (j) is amended to read as follows:

(j) "Wholesaler" is a person who buys alfalfa hay products (other than for human consumption), unloads the same into a warehouse and resells the same to a retailer or a person who processes the same further. It includes a processor who transports and unloads the aforesaid products into a warehouse operated as a place of business separate from the production plant and thereafter sells the same to the persons above mentioned.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17809; Filed, November 4, 1943; 9:16 a. m.]

PART 1363—FEEDINGSTUFFS

[RPS 73 as amended, Amdt. 5]

FISH MEAL AND FISH SCRAP

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Price Schedule No. 73 is amended in the following respects,

1. Section 1363.1a is added to read as follows:

§ 1363.1a *Applicability.* (a) This regulation shall apply to all sales whether for immediate or future delivery, within the 48 states and the District of Columbia of the United States of imported and domestic fish meal and fish scrap.

(b) The maximum prices for imported fish meal and fish scrap are set forth in § 1363.12 (g) hereof. All other maximum prices apply only to domestic fish meal and fish scrap.

2. The first sentence of paragraph (g) of § 1363.12 is amended to read as follows:

The maximum price per ton for fish meal or fish scrap produced outside the 48 states and the District of Columbia of the United States shall be computed as follows:

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17810; Filed, November 4, 1943; 9:15 a. m.]

PART 1363—FEEDINGSTUFFS

[Rev. MPR 74, Amdt. 4]

ANIMAL PRODUCT FEEDINGSTUFFS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

An undesignated paragraph is added at the end of section 3 to read as follows:

"Imported" refers to those commodities produced outside the forty-eight states and the District of Columbia of the United States.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17817; Filed, November 4, 1943; 9:18 a. m.]

PART 1364—FRESH, CURED AND CANNED MEAT AND FISH PRODUCTS

[MPR 418,[1] Amdt. 16]

FRESH FISH AND SEAFOOD

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Maximum Price Regulation No. 418 is amended in the following respects:

1. Section 2 (a) is amended by inserting after the words "depending on the character of the sale:" the sentence "Also, a producer who performs the functions of a primary fish shipper wholesaler or other wholesaler at an established place of doing business, and who prior to July 13, 1943 was engaged in performing those functions at an established place of doing business, may sell at the prices provided in Table B, D or E depending on the character of the sale."

2. Section 13 (c) is amended by inserting after the words "as provided in section 7." the sentence "If the statement furnished a purchaser at the time of delivery does not identify the size, grade and style of dressing, the maximum price which may be charged for the fresh fish and seafood involved in the sale is the maximum price for the lowest priced size, grade and style of dressing of the species of fresh fish and seafood sold: *Provided*, That this paragraph shall not apply to any sales made at prices listed in Table A in section 20."

3. Section 13 (d) is added to read as follows:

(d) Every primary fish shipper wholesaler selling fresh shrimp and/or prawn in containers shall mark in

[1] 8 F.R. 9366, 10086, 10513, 10939, 11734, 12468, 12233, 12688, 13297, 13182, 13302, 14049.

clearly legible numbers and letters on the outside of each container or on a tag attached thereto the count and net weight of the shrimp and/or prawn within the container and the name and address of the shipper.

4. Section 19 is amended by inserting after the words "for which provision is made," the sentence "Any seller who fresh processes fresh fish and seafood which he purchased in containers may add to his selling price for the fresh processed fish as container charge that amount, not exceeding 3¢, which will enable him to recover the full amount of the container charge paid by him when he purchased the fish involved in the fresh processing."

5. The title of Table C in section 20 is amended to read as follows: "Table C—Maximum Prices for Retailer-Owned Cooperative Sales and Sales by Wholesalers Other Than Primary Fish Shipper Wholesalers to Other Wholesalers of Fresh Fish and Seafood [15]".

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November, 1943.

CHESTER A. BOWLES,
Administrator.

[F. R. Doc. 43-17818; Filed, November 4, 1943; 9:18 a. m.]

PART 1429—POULTRY AND EGGS

[Rev. MPR 269,[1] Amdt. 18]

POULTRY

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Maximum Price Regulation 269 is amended in the following respects:

1. In §§ 1429.14, 1429.19, 1429.21, and 1429.23 all references to "quick-frozen eviscerated poultry" items are amended to read: "frozen eviscerated poultry" items.

2. Section 1429.19 (i) (4) (viii) is amended to read as follows:

(viii) Each bird must be placed into a freezer within six hours after the evisceration of such bird, and thereafter must be kept at freezing temperatures until frozen solid.

This amendment shall become effective November 3, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 43-17819; Filed, November 4, 1943; 9:18 a. m.]

---

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 10708, 10864, 11118; 8 F.R. 567, 856, 878, 2289, 3316, 3419, 3792, 6736, 9299, 10940, 11691, 13302, 13303, 13813, 14016.

PART 1499—COMMODITIES AND SERVICES

[MPR 165, as Amended,[1] Amdt. 1 to Supp. Service Reg. 8 [2]]

POWER LAUNDRIES IN PITTSFIELD AREA

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The preamble of Supplementary Service Regulation No. 8 is amended by adding thereto the following sentence:

The specifications and standards set forth in this Supplementary Service Regulation are those which, prior to the issuance of the regulation, were in general use by the trade in the affected area.

This amendment shall become effective November 9 1943.

(56 Stat. 23, 765; 151 Pub. Law, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17812; Filed, November 4, 1943; 9:17 a. m.]

PART 1499—COMMODITIES AND SERVICES

[MPR 165, as Amended,[1] Amdt. 1 to Supp. Service Reg. 9 [3]]

POWER LAUNDRIES IN FALL RIVER AREA, MASS.

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The preamble of Supplementary Service Regulation No. 9 is amended by adding thereto the following sentence:

The specifications and standards set forth in this supplementary service regulation are those which, prior to the issuance of the regulation, were in general use by the trade in the affected area.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; 151 Pub. Law, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17820; Filed, November 4, 1943; 9:18 a. m.]

PART 1499—COMMODITIES AND SERVICES

[MPR 165, as Amended,[1] Amdt. 1 to Supp. Service Reg. 10 [4]]

POWER LAUNDRIES IN WATERBURY-NAUGATUCK AREA, CONN.

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The preamble of Supplementary Service Regulation No. 10 is hereby amended by adding thereto the following sentence:

The specifications and standards set forth in this supplementary service regulation are those, which prior to the issuance of the regulation, were in general use by the trade in the affected area.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; 151 Pub. Law, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17813; Filed November 4, 1943; 9:17 a. m.]

---

[1] 7 F. R. 6428, 6966, 8239, 8431, 8793, 8943, 8948, 9197, 9342, 9343, 9785, 9971, 9972, 10480, 10619, 10718, 11010; 8 F.R. 1080, 3324, 4782, 5681, 5755, 5933, 8506, 8873, 10676, 10939, 11754, 12023, 12710, 13302, 13472.

[2] 8 F.R. 2270.

[3] 8 F.R. 2271.

[4] 8 F.R. 2272.

[MPR 165, as Amended,[1] Amdt. 3 to Supp. Service Reg. 13 [2]]

PART 1499—COMMODITIES AND SERVICES

POWER LAUNDRIES IN THE BUFFALO AREA, N. Y.

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The preamble of Supplementary Service Regulation No. 13 is amended by adding thereto the following sentence:

The specifications and standards set forth in this supplementary service regulation are those which, prior to the issuance of the regulation, were in general use by the trade in the affected area.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; 151 Pub. Law, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17815; Filed, November 4, 1943; 9:15 a. m.]

PART 1499—COMMODITIES AND SERVICES

[MPR 165, as Amended,[1] Amdt. 1 to Supp. Service Reg. 14 [3]]

POWER LAUNDRIES IN MINNEAPOLIS-ST. PAUL AREA, MINN.

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith,

---

[1] 7 F.R. 6428, 6966, 8239, 8431, 8793, 8943, 8948, 9197, 9342, 9343, 9785, 9971, 9972, 10480, 10619, 10718, 11010; 8 F.R. 1080, 3324, 4762, 5681, 5755, 5933, 8506, 8873, 10671, 10939, 11754, 12023, 12710, 13302, 13472.

[2] 8 F.R. 3854, 4191, 6965.

[3] 8 F.R. 6139.

has been filed with the Division of the Federal Register.*

The preamble of Supplementary Service Regulation No. 14 is amended by adding thereto the following sentence:

The specifications and standards set forth in this supplementary service regulation are those which, prior to the issuance of the regulation, were in general use by the trade, in the affected area.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; 151 Pub. Law, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17811; Filed, November 4, 1943; 9:16 a. m.]

PART 1499—COMMODITIES AND SERVICES

[MPR 165, as Amended,[1] Amdt. 1 to Supp. Service Reg. 15 [2]]

POWER LAUNDRIES IN SPOKANE AREA, WASH.

A statement of the considerations involved in the issuance of this Amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The Preamble of Supplementary Service Regulation No. 15 is amended by adding thereto the following sentence:

The specifications and standards set forth in this supplementary service regulation are those which, prior to the issuance of the regulation, were in general use by the trade in the affected area.

This amendment shall become effective November 9, 1943.

(56 Stat. 23, 765; 151 Pub. Law, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17814; Filed, November 4, 1943; 9:15 a. m.]

PART 1314—RAW MATERIALS FOR SHOES AND LEATHER PRODUCTS

[RPS 9,[3] Amdt. 6]

HIDES, KIPS AND CALFSKINS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 1314.9a is added to read as follows:

§ 1314.9a *Adjustable pricing.* Any person may agree to sell at a price which can be increased up to the maximum price in effect at the time of delivery; but no person may, unless authorized by the Office of Price Administration, deliver or agree to deliver at prices to be adjusted upward in accordance with action taken by the Office of Price Administration after delivery. Such authorization may be given when a request for a change in the applicable maximum price is pending, but only if the authorization is necessary to promote distribution or production and if it will not interfere with the purposes of the Emergency Price Control Act of 1942, as amended. The authorization may be given by the Administrator or by the official of the Office of Price Administration to whom the authority to grant such authorization has been delegated. The authorization will be given by letter or telegram when the contemplated revision will be the granting of an individual application for adjustment.

This amendment shall become effective November 3, 1943.

(56 Stat. 23, 765, Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17805; Filed, November 3, 1943; 5:13 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 490, Amdt. 1]

EDIBLE TREE NUTS

A statement of the considerations involved in the issuance of this regulation has been issued and filed with the Division of the Federal Register.*

Maximum Price Regulation No. 490 is amended in the following respects:

1. Section 1 is amended to read as follows:

SEC. 1. *What this regulation covers.* (a) This regulation establishes maximum prices for all sales of edible tree nuts, except sales by growers and country dealers to country dealers and processors.

(b) This regulation does not apply to export sales (see Second Revised Maximum Export Price Regulation [1]).

(c) This regulation is applicable to the forty-eight states and the District of Columbia.

(d) This regulation becomes effective November 3, 1943.

2. Under the four tables of section 8, paragraph (1) in each case is re-titled to read as follows:

(1) *Maximum prices for sales by growers, country dealers, processors, and shellers to all persons other than country dealers and processors.*

This regulation shall become effective November 3, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17800; Filed, November 3, 1943; 5:13 p. m.]

PART 1499—COMMODITIES AND SERVICES

[SR 14A to GMPR,[1] Amdt. 6]

MILK AND MILK PRODUCTS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Supplementary Regulation No. 14A to the General Maximum Price Regulation is amended in the following respects:

1. Section 1499.73a (a) (1) (viii) is redesignated as § 1499.73a (a) (1) (ix).

2. A new § 1499.73a (a) (1) (viii) is added to read as follows:

(viii) *Maximum prices for fluid milk sold and delivered in the "New York regional area"—(a) Maryland.* This inferior subdivision (*a*) establishes maximum prices for specified types of wholesale and retail sales of "regular fluid milk", raw or pasteurized, sold and delivered in glass or paper containers of 1 quart or less within certain specified areas in the State of Maryland. The maximum prices for retail sales of "regular fluid milk" in container sizes of less than 1 quart are applicable only in those areas or places having a population of less than 5,000 persons where sales at retail in such container sizes are permitted by Food Distribution Order No. 11, as amended,[2] issued by the Food Distribution Administration.

Maximum prices are established for the entire State of Maryland, except the "Baltimore-Annapolis, Maryland area", for which maximum prices are established in §§ 1499.73a (a) (1) (i) (*q*) and 1499.73a (a) (1) (ii) (*q*) of Supplementary Regulation 14A, and except the counties of Washington, Allegany and Garrett, maximum prices for which counties remain in all respects subject to the General Maximum Price Regulation or any supplementary or adjustment order of the Office of Price Administration issued with respect to such counties.

Specific exception is made of retail sales of "regular fluid milk" by a restaurant, hotel, bar, cafe, club, delicatessen, soda fountain, boarding house or any other eating or drinking establish-

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 6428, 6966, 8239, 8431, 8793, 8943, 8948, 9197, 9342, 9343, 9785, 9971, 9972, 10480, 10619, 10718, 11010; 8 F.R. 1080, 3324, 4782, 5681, 5755, 5933, 8506, 8873, 10671, 10939, 11754, 12023, 12710, 13302, 13472.

[2] 8 F.R. 6844.

[3] 7 F.R. 1227, 2000, 2132, 5706, 8948, 8 F.R. 2997, 11676, 12312, 13513.

[1] 8 F.R. 4132, 5987, 7662, 9998.

[1] 8 F.R. 9885, 10514, 12793, 13060, 13724.

[2] 8 F.R. 1090, 4751, 5698, 9102.

ment, such sales remaining in all respects subject to the provisions of Restaurant Maximum Price Regulation 2-1, as amended.[3]

This inferior subdivision (*a*) establishes maximum prices for "regular fluid milk" only. It is not applicable to skim milk, buttermilk, chocolate milk, or other flavored milks, special milks and premium milks, maximum prices for which are determined under the General Maximum Price Regulation or any supplementary or adjustment order of the Office of Price Administration issued with respect to such milks for any area in the State of Maryland.

The maximum prices established by this inferior subdivision (*a*) supersede the maximum prices as determined under § 1499.2, general provisions of the General Maximum Price Regulation or under any supplementary or adjustment order issued by the Office of Price Administration, except for the Counties of Washington, Allegany and Garrett.

(*1*) *Maximum prices.* (*i*) The prices set forth below are the maximum prices for "regular fluid milk" sold, and delivered at retail out-of-store or to-the-home and at wholesale in the designated sizes of glass or paper containers in the areas set forth below.

	Area I (cents)		Area II (cents)		Area III (cents)		Area IV (cents)		Area V (cents)	
	Pasteurized	Raw	Pasteurized	Raw	Pasteurized	Raw	Pasteurized	Raw	Pasteurized	Raw
WHOLESALE										
(Glass or paper):										
Quart	12	11	13	12	13	13	13½	12½	14	13
Pint	7	6	7	7	7	7	7	7	8	7
Half-pint	3¾	3¼	3¾	3¾	3¾	3¾	3¾	3¾	4½	3¾
RETAIL										
Out-of-store and to-the-home (Glass or paper):										
Quart	14	13	14	14	15	14	15	14	16	15
Pint	8	7	8	8	8	8	8	8	9	8
Half-pint	5	4	5	5	5	5	5	5	6	5

(*ii*) *Other retail sales.* The maximum prices for sales to the Army and Navy and other retail sales of "regular fluid milk," except retail sales out-of-store and to-the-home, and retail sales by a restaurant, hotel, bar, cafe, club, delicatessen, soda fountain, boarding house, or any other eating or drinking establishment, shall be the wholesale prices listed above, subject to any applicable discounts or allowances.

(*iii*) *Calculations.* On sales of one unit wherein the price specified contains a fraction of a cent, the seller may adjust the price upward to the full cent if the fraction is ½¢ or more, and shall decrease the price to the lowest even cent if the fraction is less than ½¢. On sales of more than one unit, where the unit price is expressed in a fraction of a cent, the exact price established herein shall be multiplied by the number of units. If the computation results in a fraction of a cent, the total shall be adjusted up or down to the nearest full cent, and, in such adjustment, a half-cent may be adjusted upward to the nearest full cent. Deliveries "to-the-home" shall be considered multiple unit sales unless separate collections are made for single units delivered.

(*2*) *Definitions.* For purposes of this inferior subdivision (*a*):

(*i*) "Area I" means all that territory in the State of Maryland included within the city limits of Pocomoke City in Worcester County, the Counties of Carroll, Cecil, Frederick, Harford and Kent, and that portion of the County of Baltimore which is north of the latitude 39°30'.

(*ii*) "Area II" means all that territory in the State of Maryland included within the Counties of Howard, Montgomery and Prince Georges, except those portions of Montgomery and Prince Georges Counties included in the Washington marketing area as defined in Federal Milk Marketing Order No. 45, as amended,[4] issued by the Secretary of Agriculture on January 29, 1940.

(*iii*) "Area III" means all that territory in the State of Maryland included within the Counties of Caroline, Dorchester, Queen Annes, St. Marys, Somerset, Talbot, Wicomico, Worcester, except that portion of Worcester County included within the city limits of Ocean City and Pocomoke City.

(*iv*) "Area IV" means all that territory in the State of Maryland included within the County of Charles.

(*v*) "Area V" means all that territory in the State of Maryland included within the city limits of Ocean City in Worcester County.

(*vi*) "Regular fluid milk" means fluid cow's milk, raw or pasteurized, at least satisfying the minimum butterfat content, sanitary and health requirements for fluid milk sold for human consumption in the particular area wherein it is delivered, and standards set by purchasing officers for sales to the Army or Navy. It shall not include skim milk, buttermilk, chocolate milk, or other flavored milks, special milks and premium milks.

(*b*) *Delaware.* This inferior subdivision (*b*) establishes maximum prices for specified types of wholesale and retail sales of "Grade A fluid milk," raw or pasteurized, sold and delivered in glass or paper containers of 1 quart or less within certain specified areas of the State of Delaware. The maximum prices for retail sales of "Grade A fluid milk" in container sizes of less than 1 quart are applicable only in those areas or places having a population of less than 5,000 persons where sales at retail in such container sizes are permitted by the Food Distribution Order No. 11, as amended, issued by the Food Distribution Administration.

Maximum prices are established for the entire State of Delaware except the County of New Castle, maximum prices for which County remain in all respects subject to the General Maximum Price Regulation or any supplementary or adjustment order of the Office of Price Administration issued with respect to such county.

Specific exception is made of retail sales of "Grade A fluid milk" by a restaurant, hotel, bar, cafe, club, delicatessen, soda fountain, boarding house or any other eating or drinking establishment, such sales remaining in all respects subject to the provisions of Restaurant Maximum Price Regulation 2-1, as amended.

This inferior subdivision (*b*) establishes maximum prices for "Grade A fluid milk" only. It is not applicable to skim milk, buttermilk, chocolate milk, or other flavored milks, special milks or premium milks, maximum prices for which are determined under the General Maximum Price Regulation or any supplementary or adjustment order issued with respect to such milks for any area in the State of Delaware.

The maximum prices established by this inferior subdivision (*b*) supersede the maximum prices as determined under § 1499.2 general provisions of the General Maximum Price Regulation or under any supplementary or adjustment order issued by the Office of Price Administration, except for the County of New Castle.

(*1*) *Maximum prices.* (*i*) The prices set forth below are the maximum prices for Grade A raw and pasteurized fluid milk sold and delivered at retail out-of-store or to-the-home and at wholesale in the designated sizes of glass or paper containers in the areas set forth below.

	Area I	Area II
WHOLESALE		
(Glass or paper):	*Cents*	*Cents*
Quart	12	14
Pint	7	8
Half-pint	3¾	4½
RETAIL OUT-OF-STORE		
(Glass or paper):		
Quart	14	16
Pint	8	9
Half-pint	5	6
RETAIL TO-THE-HOME		
(Glass or paper):		
Quart	14	15
Pint	8	8
Half-pint	5	5

(*ii*) *Other retail sales.* The maximum prices for sales to the Army and Navy and other retail sales of "Grade A fluid milk", except retail sales out-of-store and to-the-home, and retail sales by a restaurant, hotel, bar, cafe, club, delicatessen, soda fountain, boarding house, or any other eating or drinking establish-

[3] 8 F.R. 10436, 12445.

[4] 8 F.R. 4275, 8295.

ment, shall be the wholesale prices listed above, subject to any applicable discounts or allowances.

(*iii*) *Calculations.* On sales of one unit wherein the price specified contains a fraction of a cent, the seller may adjust the price upward to the full cent if the fraction is ½¢ or more, and shall decrease the price to the lowest even cent if the fraction is less than ½¢. On sales of more than one unit, where the unit price is expressed in a fraction of a cent, the exact price established herein shall be multiplied by the number of units. If the computation results in a fraction of a cent, the total shall be adjusted up or down to the nearest full cent, and, in such adjustment, a half-cent may be adjusted upward to the nearest full cent. Deliveries "to-the-home" shall be considered multiple units sales unless separate collections are made for single units delivered.

(2) *Definitions.* For purposes of this inferior subdivision (*b*):

(*i*) "Area I" means all that territory in the State of Delaware included within the Counties of Kent and Sussex except that portion of Sussex County included in "Area II".

(*ii*) "Area II" means all that territory in the State of Delaware included within that portion of Sussex County bounded as follows:

Commencing at a point on the Atlantic coast five (5) miles north of the city of Lewes, then in a westerly direction five (5) miles along a line parallel to the southern boundary of the State of Delaware, thence in a southerly direction along a line parallel to the Atlantic coastline to the southern boundary of the State of Delaware, thence in an easterly direction along the southern boundary of the State of Delaware to the Atlantic coastline, and thence in a northerly direction along the Atlantic coastline to the point of beginning.

(*iii*) "Grade A fluid milk" means fluid cow's milk, raw or pasteurized, at least satisfying the minimum butterfat content, sanitary and health requirements for fluid milk sold for human consumption in the particular area wherein it is delivered, and standards set by purchasing officers for sales to the Army or Navy. It shall not include skim milk, buttermilk, chocolate milk or other flavored milks, special milks and premium milks.

(c) *Definitions.* For purposes of this subdivision (viii):

(*1*) "New York Regional Area" means all that territory lying within the geographic boundaries of the States of Delaware, Maryland, New Jersey, New York, Pennsylvania and the District of Columbia.

This amendment shall become effective November 3, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17804; Filed, November 3, 1943; 5:12 p. m.]

TITLE 47—TELECOMMUNICATIONS

Chapter I—Federal Communications Commission

PART 10—RULES GOVERNING EMERGENCY RADIO SERVICES

PORTABLE-MOBILE INSTALLATIONS IN PRIVATE VEHICLES

The Commission has recently received information indicating that some licensees in the emergency radio services (Police, Forestry, Special Emergency and Marine Fire) have permitted the installation of one or more of their licensed portable-mobile transmitters in vehicles which were not owned, or at all times exclusively controlled, by the licensee or its duly authorized representatives. It is considered that such action might constitute a loss of control of such station or a disposition of certain of the rights conferred by the station license, in violation of section 310 (b) of the Communications Act of 1934, as amended. That section provides:

(b) The station license required hereby, the frequencies authorized to be used by the licensee, and the rights therein granted shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, or indirectly by transfer of control of any corporation holding such license, to any person, unless the Commission shall, after securing full information, decide that said transfer is in the public interest, and shall give its consent in writing.

Some instances of this kind, which have come to the attention of the Commission, are as follows:

(a) Installation of a municipally-owned transmitter in the private automobile of a police officer which is available for city use only while the officer is on duty, and which is thereafter at the private disposal of the officer while off duty.

(b) Installation of a city-owned or county-owned transmitter in a state police automobile which is not operated exclusively within the area over which the city or county has legal jurisdiction.

(c) Installation of a county-owned transmitter in the private automobile of a deputy sheriff which is available for county use only when the deputy sheriff who owns the car is on duty, and which is thereafter at the private disposal of the deputy sheriff while off duty.

(d) Installation of publicly-owned and licensed transmitters (city, county, state) in automobiles operated by military police.

(e) Installation of publicly-owned transmitters in private cars belonging to private radio service men, garages, etc.

Effective December 2, 1943, the Federal Communications Commission adopted new § 10.115 to its rules governing emergency radio services. This new section is set forth herewith for your information:

§ 10.115 *Portable-mobile installations in private vehicles.* No portable-mobile radio station licensed in the emergency radio services may be installed or maintained in any vehicle, aircraft or vessel which is not owned or at all times controlled exclusively by the licensee unless special authorization for such installation has first been granted pursuant to proper application and showing of need therefor to the Commission.

In requesting special authorization within the purview of § 10.115, an applicant must show that proper precautions have been taken effectively to eliminate the possibility of its licensed transmitter being operated during the period that the vehicle, aircraft or vessel is not under the control of the applicant. Merely issuing instructions forbidding use of the transmitter to the person with whom the licensee shares or delegates use and control of the vehicle, aircraft or vessel concerned may not be considered an adequate precaution in all cases. Some method of locking or temporarily disabling the equipment would appear to be the most satisfactory method of insuring against unauthorized operation.

Licensees who now have one or more of their licensed portable-mobile transmitters installed in vehicles, aircraft or vessels not under their exclusive control should submit a notarized application to the Commission describing the installation(s) to be covered, the need therefor, and the protective measures taken to insure control at all times, and requesting special authorization for such installation(s).

Applications for such authorization should be in the form of a notarized letter submitted by the licensee or proposed licensee of the transmitter(s) involved.

(Sec. 4 (i), 48 Stat. 1068, 47 U.S.C. 154(i)).

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 43-17866; Filed, November 4, 1943; 11:07 a. m.]

PART 10—RULES GOVERNING EMERGENCY RADIO SERVICES

COORDINATED POLICE RADIO COMMUNICATION SERVICE

The Commission on November 2, 1943, effective immediately, adopted § 10.153, *Coordinated service*, as follows:

§ 10.153 *Coordinated service.* Any applicant for an instrument of authorization who proposes to furnish a coordinated police radiocommunication service to one or more municipalities, counties, or governmental agencies, other than the applicant, must make specific formal request for authority to furnish such service. Applications for such authority should contain a full and complete description of the service to be rendered, including information as to whether one-way dispatching service to mobile units or two-way radiocommunication service is to be provided. Applications for authority to render coordinated service must be accompanied by duplicate copies, under oath, of all agreements relating to the service to be rendered. Such agreements must be

in writing, must clearly set forth what service is to be rendered, and include a statement as to ownership, control and maintenance of the equipment, and what charge or charges, if any, will be made for the service. Such agreements must run for a definite period of time and notice of the termination of such agreements must be given to the Commission not less than sixty days prior to cessation of service.

(Sec. 4 (i), 48 Stat. 1068; 47 U.S.C. 154 (i))

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 43-17867; Filed, November 4, 1943; 11:07 a. m.]

PART 15—RULES AND REGULATIONS GOVERNING ALL RADIO STATIONS IN THE WAR EMERGENCY RADIO SERVICE

TESTS BY LICENSEES OF CIVILIAN DEFENSE STATIONS

The Commission on November 2, 1943, effective November 12, 1943, amended § 15.75 to read as follows:

§ 15.75 *Tests.* The licensees of civilian defense stations are permitted to make such tests as are necessary for the purpose of maintaining equipment, making adjustments to insure that the apparatus is in operating condition, training personnel and perfecting methods of operating procedure: *Provided,* That such tests shall be conducted only during the following periods:

Time zone	Eastern	Central	Mountain	Pacific
Mondays	9 p. m.-11 p. m.	8 p. m.-10 p. m.	8 p. m.-10 p. m.	7 p. m.-9 p. m.
Wednesdays	9 p. m.-11 p. m.	8 p. m.-10 p. m.	8 p. m.-10 p. m.	7 p. m.-9 p. m.
Sundays	5 p. m.-7 p. m.	4 p. m.-6 p. m.	3 p. m.-5 p. m.	2 p. m.-4 p. m.

All times given are local standard (war) time.

(Sec. 4 (i), 48 Stat. 1068, 47 U.S.C. 154 (i))

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 43-17868; Filed, November 4, 1943; 11:07 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[S. O. 80, Amdt. 15]

PART 95—CAR SERVICE

DESIGNATION OF BURLINGTON, IOWA, AS MARKET AREA

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 1st day of November, A. D. 1943.

Upon further consideration of the provisions of § 95.19 (Service Order No. 80 [1]), as amended;

It is ordered, That the town of Burlington, Iowa is hereby designated as a market area subject to the Terms of Service Order No. 80 as amended.

It is further ordered, That A. J. Skeva, Manager of the Norris Grain Company is hereby designated and appointed as agent of the Commission to issue permits for the movement of grain (including rice) under the terms of this order in the market area of Burlington, Iowa. (40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901; 49 U.S.C. 1 (10)-(17).)

It is further ordered, That this amendment shall become effective November 4, 1943; that copies of this amendment be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement; and that notice of this amendment be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C.

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 43-17829; Filed, November 3, 1943; 11:07 a. m.]

[1] 8 F.R. 8514, 10674, 12349, 13306, 13826.

Notices

DEPARTMENT OF THE INTERIOR.

Coal Mines Administration.

[Order T-107]

MIKE ACEY COAL CO., ET AL.

ORDER TERMINATING APPOINTMENT OF OPERATING MANAGERS

OCTOBER 30, 1943.

Orders have been issued terminating Government possession and control of the coal mines for which the persons listed in Appendix A have served as operating managers for the United States, and the mining companies have duly executed and delivered to the Administrator, Instrument No. 1, as provided in section 40 of the Regulations for the Operation of Coal Mines under Government Control, as amended (8 F.R. 6655, 10712).

Accordingly, I hereby order and direct that the appointments of the operating managers for the United States listed in Appendix A, attached hereto and made a part hereof, be, and they are hereby, terminated.

ABE FORTAS, *Acting Secretary of the Interior.*

APPENDIX A

Name of Operating Manager and Name of Mining Company

Mike Acey, Mike Acey Coal Co., 616 Stone St., Osceola Mills, Pa.

Earl Wells, Acme Coal & Mining Co., Henryetta, Okla.

A. B. Reppert, Alsted Coal Co., Flemington, W. Va.

Monroe Maynard, American Coal Co. (Individual), Zebulon, Ky.

John E. Crawford, Appalacha Coal Co., Pittsburgh, Pa.

Earl Cobb, Arkansas Coal Co., Partnership, 20½ South St., Fort Smith, Ark.

Henry Arnold, Arnold Coal Co., P. O. Box 24, Charleston, Ark.

J. H. Wallin, Banner Coal Co., Philipsburg, Pa.

Phillip Bartley, Bartley Coal Co. (Individual), Elkhorn City, Ky.

Robert J. Bassler, Bassler Contracting Co., 135 River St., Forty Fort, Pa.

J. R. Axelson, Trading as Beechwoods Coal, Beechwoods #1 & #2, 412 S. Main St., Du Bois, Pa.

T. G. Rogers, Bevier-Lamb Mining Co., Bevier, Ky.

Albert D. Hatfield, Big Eagle Fuel Co., Inc., Mohawk, W. Va.

A. K. Althouse, Big Vein Coal Co. of Lonaconing, Md., Inc., Colonial Bldg., Philadelphia, Pa.

H. F. Bigler, Jr., H. F. Bigler, Jr., Clearfield, Pa.

J. F. Neilan, Black Beauty Coal Co., Somerset, Pa.

Henry P. Smith, Blackhawk Coal Corporation, Terre Haute, Ind.

Harvey Bradley, Bradley Bros. Coal Co., 1930 Robinson St., Knoxville, Iowa.

H. D. Williamson, Bradshaw-Williamson Coal Co., Middlesboro, Ky.

J. M. Miller, C. C. Coal Co., Clinton, Pa.

R. W. Callaway, Callaway Mines, 516 Main St., Sturgis, Ky.

H. J. Christ, Carbon Gas Coal Co., Box 185, Kittanning, Pa.

C. P. Callaway, Coleway Coal Co., Fayette, W. Va.

W. A. Ross, Columbia Steel Co., 235 Montgomery St., San Francisco, Calif.

Laurence Parshall, Cornell Coke Co., P. O. Box 1048, Morgantown, W. Va.

L. Rodman Page, Crozer Coal & Coke Co., 1510 Chestnut St., Philadelphia, Pa.

W. L. Sherman, Cumberland Parker Seam Coal Corp., Cumberland, Md.

Roy E. Furman, Dunkard Creek Coal Co., Waynesburg, Pa.

Charles E. Neese, Easton Fuel Co., R. D. #4, Box 270, Morgantown, W. Va.

Henry Dalhaus, Edwardsville Coal Co., Inc., Edwardsville, Ill.

Evan Jarvis, Fair Oak Coal Co., Confluence, Pa.

M. B. Francis and C. K. Laber, Francis Coal Co., East Palestine, Ohio.

Hayward Gerwig, Gerwig Coal Co., Exchange, W. Va.

William H. Gilliland, Gilliland Coal Co., 194 Connellsville St., Uniontown, Pa.

Joe Giordano, Giordano Coal Co, Walsenburg, Ohio

Frank L Miller, Happy Hollow Mining Co, Pleasant Plains, Ill.

W. P. Jones, Harbor Coal Co., 124 Hazel St., Kittanning, Pa.

Wilbert Harden, Harden Coal Co., Frostburg, Md.

Donald Markle, Hazle Brook Coal Co., Jeddo, Pa.

R. R. MacDonald, Herman Block Coal Co., 510 North Main St., Butler, Pa.

Ancleto & Tosti, High Top Coal Co., 1024 Church St., Jessup, Pa.

S. R. Hughes, Highland Creek Coal Co., Inc., Uniontown, Ky.

Floyd R. Shick, Norman Hilliard & Floyd R. Shick, Fairmount City, Pa.

G. M. Johnson, Delmar Coal Co., Incorporated, Pikeville, Ky.

J. Bruce Anderson, Helen Jennings Coal Co., 193 "D" St., Johnstown, Pa.

John Liter, Liter Coal Co., Pella, Iowa.

C. A. Morris, Basil & Arthur Morris, Dawson Springs, Ky.
W. E. Scurfield, Ralphton Coal Mining Co., 326 Main St., Berlin, Pa.
H. Cal Smith, S. & S. Coal Co., Inc., Middleboro, Ky.
Carl P. Snyder, Snyder Mines, R. F. D. #176, Olanta, Pa.
M. A. Berman, Starr Coal, Inc., Henryetta, Okla.
J. H. Suthard, J. H. Suthard (Austin City Mines), Nortonville, Ky.
George Thompson, Thompson Coal Co., R. D. #1, Blairsville, Pa.
Earl Wells, Wells Royal Coal Co., Poteau, Okla.

[F. R. Doc. 43-17821; Filed, November 4, 1943; 9:20 a. m.]

[Order T-108]

FACTORY COALS INC., ET AL.

ORDERING TERMINATING APPOINTMENT OF OPERATING MANAGERS

OCTOBER 30, 1943.

Orders have been issued terminating Government possession and control of the coal mines for which the persons listed in Appendix A have served as operating managers for the United States, and the mining companies have duly executed and delivered to the Administrator appropriate Instruments, as provided in the Regulations for the Operation of Coal Mines under Government Control, as amended (8 F.R. 6655, 10712, 11344).

Accordingly, I hereby order and direct that the appointments of the operating managers for the United States listed in Appendix A, attached hereto and made a part hereof, be, and they are hereby, terminated.

ABE FORTAS,
Acting Secretary of the Interior.

APPENDIX A

Name of Operating Manager and Name of Mining Company

F. Y. Horner, Factory Coals, Inc., Monogahela Bldg., Morgantown, W. Va.
Leslie V. Larsen, Fairfax Mining Co., 801 Oliver Bldg., Pittsburgh, Pa.
John T. Fallon, John T. Fallon, Belington, W. Va.
Chas. Snider (deceased), Farmington Coal Co., Farmington, Ill.
James Fauzio, Fauzio Brothers, Nesquehoning, Pa.
J. L. Hankins, Fayette Fuel Co., 108 North Beeson, Uniontown, Pa.
Claude Congleton, Fayette-Jellico Coal Co., Warren, Ky.
Wm. D. Boyer, Fentress Coal & Coke Co., Nashville, Tenn.
H. S. Ferguson, Ferguson Brothers Co., Shinnston, W. Va.
Steve Ginestra, Fire Creek Fuel Co., P. O. Box 9, Beckley, W. Va.
W. G. Baker, Fisher Coal Co., Knoxville, Tenn.
Hugh Fishwick, Fishwick Coal Mines, 439 Baldwin Rd., Hays, Pa.
J. C. Trader, Flat Creek Coal Co., Providence, Ky.
J. H. Flick, Flick Coal Co., Stoystown, Pa.
C. V. Beck, Florida Coal Co., 122 N. 7th St., St. Louis, Mo.
R. C. Fogle, Fogle Coal Co. Inc., Garrett, Pa.
George P. Foreman, Foreman-White Coal Co., Saxton, Pa.
B. E. Cheely, Fork Mountain Coal Co., Hamilton National Bank Bldg., Knoxville, Tenn.
W. H. Hughes, Forks Coal Mining Co., P. O. Box 7, Cresson, Pa.
James G. Forsyth, Forsyth-Carterville Coal Co., 807 Fullerton Bldg., St. Louis, Mo.
W. H. Glover, Fort Branch Mining Co., Logan, W. Va.
Thomas F. Slattery, Frackville Coal Co., Inc., The Girard Trust Bldg., Philadelphia, Pa.
R. A. Poland, Frances Fuel Co., P. O. Box 96, Shinnston, W. Va.
E. R. Keeler, Franklin County Coal Corp., Field Bldg., 135 So. La Salle St., Chicago, Ill.
Walter Frazier, Walter Frazier, #10 Parkway Norwood Pl., McKees Rock, Pa.
J. Roy Browning, Freeman Coal Mining Corporation, 120 W. Adams St., Chicago, Ill.
Harry M. Moses, Frick, H. C. Coke Co., Frick Bldg., Pittsburgh, Pa.
Frank Fritz, Fritz Coal Co., 315 Lackawanna Ave., Dupont, Pa.
Frank Marcum, Marcum, Frank, Manchester, Pa.

[F. R. Doc. 43-17822; Filed, November 4, 1943; 9:20 a. m.]

[Order T-109]

G. M. A. COAL CO., ET AL.

ORDER TERMINATING APPOINTMENT OF OPERATING MANAGERS

OCTOBER 30, 1943.

Orders have been issued terminating Government possession and control of the coal mines for which the persons listed in Appendix A have served as operating managers for the United States, and the mining companies have duly executed and delivered to the Administrator appropriate Instruments, as provided in the Regulations for the Operation of Coal Mines under Government Control, as amended (8 F.R. 6655, 10712, 11344).

Accordingly, I hereby order and direct that the appointments of the operating managers for the United States listed in Appendix A, attached hereto and made a part hereof, be, and they are hereby, terminated.

ABE FORTAS,
Acting Secretary of the Interior.

APPENDIX A

Name of Operating Manager and Name of Mining Company

Andrew Girman, G. M. A. Coal Co., 806 Hand St., Jessup, Pa.
Earl D. Mender, G. M. S. Coal Co., 415 Poplar St., Nelsonville, Ohio.
Philip Galliardi, Galliardi Coal & Coke Co., Second Nat'l Bank Bldg., Connellsville, Pa.
W. R. Gallagher, Gallagher, W. R., & Bro., Houtzdale, Pa.
Herbert C. Stacher, Gallup Southwestern Coal Co., P. O. Box 670, Gallup, N. Mex.
Walter Scott, Garfield Coal Co., The, Palisade, Colo.
F. B. McFeely, Garfield Fuel Co., Boliver, Pa.
W. Robert Nethken, Garrett Coal Corporation, 1929 Park Ave., Baltimore 17, Md.
Louis Gaspar, Gaspar, Louis, Lessee: Regal Mine, Lafayette, Colo.
Gene Gasparini, Gasparini Excavating Co., Inc., 1439 Main St., Peckville, Pa.
S. Austin Caperton, Gaston Coal Co., Alpoca, W. Va.
J. B. Gatliff, Gatliff Coal Co., Williamsburg, Ky.
R. H. Morris, Gauley Mountain Coal Co., Anstead, W. Va.
Fred S. Geer, Geer, Fred S., Inc., R. F. D. No. 2, Darlington, Pa.
Earl D. Caton, Gem City Coal Co., Inc., Pineville, Ky.
R. L. Stallings, George's Creek Coal Co., Inc., Liberty Trust Bldg., Cumberland, Md.
J. P. Freeman, Gerber Coal Co., Great Falls, Mont.
Tom Gibb, Gibb Coal Co., 310 S. Main St., Albia, Iowa.
O. L. Gibson, Gibson Fuel Co., Inc., Blackwood, Va.
John B. Rich, Gilberton Coal Co., Pottsville, Pa.
H. A. Henthorn, Gilliam Coal & Coke Co., Gilliam, W. Va.
M. L. Pitcock, Gillie Coal Co., Bokoshe, Okla.
Angelo Giombetti, Giombetti Coal Co., P. O. Box 519, Carbondale, Pa.
Stephen Gironda, Gironda, Vito, and Son, Box 5, Holsopple, Pa.
R. E. Travis, Glass Run Coal Co., Inc., R. R. No. 6, Pittsburgh, Pa.
W. H. Crick, Glen Allen Coal Co., Glen Allen, Ala.
H. A. Henthorn, Glen Alum Coal Co., Gilliam, W. Va.
Gordon W. Wilcox, Glendale Gas Coal Co., 800 Western Reserve Bldg., Cleveland, Ohio.
E. L. Goforth, Goforth Coal Co., Rt. No. 1, Whitwell, Tenn.
G. Fred Blankenhorn, Good Clay & Coal Co., Patton, Pa.
Wm. O'Dwyer, Goodtown Smokeless Coal Mining Co., Berlin, Pa.
T. R. Stapleton, Goose Creek Mining Co., Garrett, Ky.
William E. Russell, Graden Coal Company, The, 318 Walnut St., Denver, Colo.
A. J. Warr, Graham Coal Co., Albia, Iowa.
L. G. Hayes, Grapevine Coal Co., Madisonville, Ky.
Frank Gravine, Gravine & Paone Coal Co., 528 Gaughan Court, Archbald, Pa.
Oral Harriss, Green Valley Coal Co., Marion, Ill.
C. A. Hamill, Greenbrier Smokeless Coal Co., Cinderella, W. Va.
Raniero Giombetti, Greentop Coal Co., 1107 Church St., Jessup, Pa.
Sam Marshall, Greenwood Coal Co., P. O. Box 182, Scranton, Pa.
Elizabeth Griffiths, Griffiths Coal Mining Co., 1024 Greenwood Ave., Canon City, Colo.
Tony Grippo, Grippo Coal Co., Butler, Pa.
Robert Groom, Groom Coal Co., 1906 West Main St., Belleville, Ill.
W. O. Gulbranson, Gulbranson, W. O., Inc., Houtzdale, Pa.
S. A. Dobbs, Gulf, Mobile & Ohio Railroad Co., 808 Chemical Bldg., St. Louis, Mo.
A. Ray Guseman, Guseman-Bixler Coal Co., 113 E. Main St., Uniontown, Pa.

[F. R. Doc. 43-17823; Filed, November 4, 1943; 9:20 a. m.]

[Order T-110]

C & C COAL CO., ET AL.

ORDER TERMINATING APPOINTMENT OF OPERATING MANAGERS

OCTOBER 30, 1943.

Orders have been issued terminating Government possession and control of the coal mines for which the persons listed in Appendix A have served as operating managers for the United States, and the mining companies have duly executed and delivered to the Administrator appropriate Instruments, as provided in the Regulations for the Operation of Coal Mines under Government Control, as amended (8 F.R. 6655, 10712, 11344).

Accordingly, I hereby order and direct that the apointments of the operating

managers for the United States listed in Appendix A, attached hereto and made a part hereof, be, and they are hereby, terminated.

ABE FORTAS,
Acting Secretary of the Interior.

APPENDIX A

Name of Operating Manager and Name of Mining Company

Clyde Guthrie, C & C Coal Co., Pineville, Ky.
Daniel Costantino, C & G Coal Co., Pittston, Pa.
Charles L. Yarmy, C & M Coal Co., The, Salineville, Ohio.
Joseph Vagnoni, Cabin Creek Coal Co., R. D. #3, Bloomsburg, Pa.
Mary H. Sweeney, Cairnes Coal Mining Co., Inc., Middlesboro, Ky.
H. W. Callahan, Callahan Mining Co., Salem, Ohio.
Anthony Calvario, Calvario, Albert, Coal Co., Jessup, Pa.
C. W. Henderson, Cambria Coal Co., 801 Mercantile Bldg., Knoxville, Tenn.
C. C. Dovey, Cambria Fuel Co., 116 Market St., Johnstown, Pa.
E. P. Wolfe, Cameo Coal Mining Co., Cameo, W. Va.
Charles E. Campbell, Campbell, Chas. E., Coal Mine, (Maude Mine), 19 E. College St., Canonsburg, Pa.
George D. Campbell, Campbell Coal Co., Campbell Bldg., Piedmont, W. Va.
W. E. Harley, Campbell's Run Coal Co., Rennerdale, Pa.
Louis Yellico, Canon Black Diamond Coal Co., Box 66, Florence, Colo.
Lloyd J. Beer, Canon Monarch Coal Co., Florence, Colo.
Frank A. Boitz, Canon National Coal Co., Box 389, Florence, Colo.
Edward A. Klingbeil, Cantrall Coal Co., 222 S. 6th St., Petersburg, Ill.
Sam J. Capone, Capone Coal Co., 75 Pittston Ave., Pittston, Pa.
R. V. Oakley, Carbondale Coal Co., Nelsonville, Ohio.
James Bolde, Carbon Fuel Co., Cumberland P. O., Bayne, Wash.
Walter D. Skidmore, Carbon Glow Coal Co., Inc., Carbon Glow, Ky.
Ed. E. Carlson, Carlson Coal Co., P. O. Box 832, Punxsutawney, Pa.
Paul W. Kelly, Carnegie-Illinois Steel Corporation, Duquesne Works, #1 Library Pl., Duquesne, Pa.
W. T. McGee, Carpentertown Coal & Coke Co., Inc., 713 Second Nat'l Bank Bldg., Uniontown, Pa.
Frank Ceccarelli, Ceccarelli, Frank, Coal Co., 1004 Ward St., Jessup, Pa.
Roger W. Tompkins, Cedar Grove Collieries, Inc., Cedar Grove, W. Va.
Harold Angel, Cedar Hill Coal Co., Marion, Ill.
Joseph Muelhaupt, Central Service Co., 100 Maple St., Des Moines, Iowa.
H. J. Sternberg, Central State Collieries, Inc., 1706 Arcade Bldg., St. Louis, Mo.
Elmer Centrella, Centrella Coal Co., 19 Norman St., Pittston, Pa.
W. L. Quinn, Century Coal Co. of W. Va., The, 10 South St., Baltimore, Md.
K. J. Heatherman, Chafin Jones Heatherman Coal Co., Peach Creek, W. Va.
Walter W. Hearn, Charmco Smokeless Coal Co., Inc., Charmco, W. Va.
Thurman F. Springer, Chartiers Gas Coal Co., 407 Woodland Rd., Canonsburg, Pa.
George J. Dalleda, Cherry Coal Co., Inc., Oak St., Browntown, Pittston, Pa.
A. A. Groe, Cherry Run Coal Mining Co., Snow Shoe, Pa.
Elizabeth Y. Radomsky, Chest Creek Coal Co., Osceola Mills, Pa.
Charles Wheeler, Chesterfield Coal Co., 101 Atlas Building, Salt Lake City, Utah.
Mrs. J. C. Whitson, Christie Coal Co., Inc., Norton, Va.
Serafino Cinci, Cinci Coal Co., P. O. Box 167, Masontown, Pa.
C. A. Hamill, Cinderella Coal Corporation, Cinderella, W. Va.
A. R. Reppert, Clare Coal Co., Flemington, W. Va.
John A. Clark, Clark Coal Co., 704 Benoni Ave., Fairmont, W. Va.
Aaron P. Clark, Clark, J. O., Heirs Partnership, Glen Campbell, Pa.
George B. Hoffman, Coal Hollow Coal Co., P. O. Box 263, W. Newton, Pa.

[F. R. Doc. 43-17824; Filed, November 4, 1943; 9:20 a. m.]

[Order T-111]

DARB FORK COAL CO., ET AL.

ORDER TERMINATING APPOINTMENT OF OPERATING MANAGERS

NOVEMBER 1, 1943.

Orders have been issued terminating Government possession and control of the coal mines for which the persons listed in Appendix A have served as operating managers for the United States, and the mining companies have duly executed and delivered to the Administrator appropriate instruments, as provided in the Regulations for the Operation of Coal Mines under Government Control, as amended (8 F.R. 6655, 10712, 11344).

Accordingly, I hereby order and direct that the appointments of the operating managers for the United States listed in Appendix A, attached hereto and made a part hereof, be, and they are hereby, terminated.

HAROLD L. ICKES,
Secretary of the Interior.

APPENDIX A

Name of Operating Manager and Name of Mining Company

Ed. B. Johnson, Darb Fork Coal Co., Hazard, Ky.
H. C. Daugherty, Daugherty Coal Co., Finleyville, Pa.
Evor Davis, Davis Coal Co., Plymouth, Pa.
Chas. H. Davis, Davis, R. T. Coal Co., Jackson, Ky.
L. G. Ball, Dawson Coal Co., 1617 Penn. Blvd., Philadelphia, Pa.
Richard E. Day, Day, Richard E., R. D. #2, Harrisville, Pa.
Fred Ellison, Dean Coals, Incorporated, Tinsley, Ky.
R. K. Mehurin, Deep Hollow Coal Co., Cabincreek, W. Va.
Steve Bennis, Deer Creek Coal Mining Co., Lincoln, Ill.
B. A. Howard, Deer Creek Mining Co., Huntington, Utah.
P. L. DePue, Depue Coal Co., Switzer, W. Va.
E. P. Derifield, Derifield Coal Co., Pinson Fork, Ky.
D. F. McKenzie, Dering Coal Co., 111 West Washington St., Chicago, Ill.
John A. DeRoma, DeRoma Coal Co., John A., 22 South Main St., Wilkes-Barre, Pa.
A. Sidney Deringer, Deringer Fuel Co., Spangler, Pa.
Walter R. Dewees, Dewees Brothers, P. O. Box 1293, Kingston, Pa.
M. C. Palmer, Diamond Coal Co., Providence, Ky.
Emet Diamond, Diamond Coal Co., West Church St., Masontown, Pa.
A. E. Dick, Dick Contracting Co., Inc., A. E., Hazelton, Pa.
A. E. Dick, Dick-Smith Engineering Corporation, Church and First Sts., Hazelton, Pa.
P. R. Nicholson, Dillonvale Co-Operative Mining Co., Dillonvale, Ohio.
W. N. Dippel, Dippel Bros. Coal Co., 186 North Broad St., Hazelton, Pa.
T. J. Friel, Dixie Coal & Mining Co., Corning, Ohio.
Miss Pearl Bassham, Dixie-Darby Fuel Co., Verda, Ky.
J. W. Lewis, Dixie Fire Brick Co., Inc., Birmingham, Ala.
J. E. Kuntz, Dixonville Coal Co., Johnstown, Pa.
B. J. Hess, Dixrun Coal Co., Dixonville, Pa.
Frank V. Donnelly, Donnelly Coal, 227 Otterman St., Greensburg, Pa.
V. B. Darby, Dorothy Glenn Coal Mining Co., Dry Branch, W. Va.
A. C. Combs, Dorton Elkhorn Coal Co., Jenkins, Ky.
Tony Santarelli, Double Dick Coal Co., 218 West Second St., Florence, Colo.
B. A. McDonnell, Dougherty-Mountain Coal Co., Fallen Timber, Pa.
John P. Kelley, Drifting Coal Co., Philipsburg, Pa.
Oral Daugherty, Drydock Coal Co., Nelsonville, Ohio.
James F. Dugan, Dugan Coal Mining Co., Osceola Mills, Pa.
Thomas Lippeatt, Dugger Domestic Coal Co., Dugger, Ind.
Frank Dulik, Dulik Coal Co., R. F. D. #4, Box 212 A, Uniontown, Pa.
John E. Reilly, Duncan-Spangler Coal Co., Spangler, Pa.
A. Erskine Miller, Dunedin Coal Company, Inc., Staunton, Va.
Roy V. Plummer, The Dunzweiler Construction Co., Richards Bldg., Fourth and Market Sts., Zanesville, Ohio.
John F. Beatty, Duquesne Light Co., 435 Sixth Ave., Pittsburgh 19, Pa.
Joseph Dzwonczyk, Dzwonczyk, Joseph 726 Hill St., Mayfield, Pa.
F. W. Harrison, Harrison & Quinette Coal Co., R. D. # 1, Glenshaw, Pa.
Robert W. Massie, Hill-Anderson Coal Co., Willis Branch, W. Va.
Rex Henderson, Henderson Coal Co., Fairmont, W. Va.
J. E. Holman, Holman, J. E., Foxburg, Pa.

[F. R. Doc. 43-17825; Filed, November 4, 1943; 9:18 a. m.]

[Order T-112]

CAMERON COAL CO., INC., ET AL.

ORDER TERMINATING APPOINTMENT OF OPERATING MANAGERS

NOVEMBER 1, 1943.

Orders have been issued terminating Government possession and control of the coal mines for which the persons listed in Appendix A have served as operating managers for the United States, and the mining companies have duly executed and delivered to the Administrator appropriate instruments, as provided in the Regulations for the Operation of Coal Mines under Government Control, as amended (8 F.R. 6655, 10712, 11344).

Accordingly, I hereby order and direct that the appointments of the operating managers for the United States listed in Appendix A, attached hereto and made a part hereof, be, and they are hereby, terminated.

HAROLD L. ICKES,
Secretary of the Interior.

APPENDIX A

Name of Operating Manager and Name of Mining Company

R. A. Henderson, Cameron Coal Co., Inc., P. O. Box 15, Knoxville, Tenn.
Thomas R. Lewis, Dial Rock Coal Co., Wyoming, Pa.
Edward Andriole, Eddie & Joe Coal Co., Simpson, Pa.
R. M. Barr, Excelsior Thin Vein Coal Co., Inc., Hackett, Ark.
Thure Lundgren, Fairlawn Coal Co., Centerville, Iowa.
H. R. Randall Franklin-Lykens Coal Co., 615 Market St., Ashland, Pa.
A. B. Shutts, Jones Coal Corporation, Middleport, Pa.
Bruce Payne, Payne Coal Co., Inc., Wilkes-Barre, Pa.

[F. R. Doc. 43-17826; Filed, November 4, 1943; 9:19 a. m.]

[Order T-113]

BERTHA JELLICO COAL CO., ET AL.

ORDER TERMINATING APPOINTMENT OF OPERATING MANAGERS

NOVEMBER 1, 1943.

Orders have been issued terminating Government possession and control of the coal mines for which the persons listed in Appendix A have served as operating managers for the United States, and the mining companies have duly executed and delivered to the Administrator, Instrument No. 1, as provided in section 40 of the Regulations for the Operation of Coal Mines under Government Control, as amended (8 F.R. 6655, 10712).

Accordingly, I hereby order and direct that the appointments of the operating managers for the United States listed in Appendix A, attached hereto and made a part hereof, be, and they are hereby, terminated.

HAROLD L. ICKES,
Secretary of the Interior.

APPENDIX A

Name of Operating Manager and Name of Mining Company

J. T. Gray, Bertha Jellico Coal Co., Gray, Ky.
H. C. Bonner, H. C. Bonner, Rossiter, Pa.
J. R. Ketchum, Brush Creek Fuel Co., Barbourville, Ky.
A. J. Boyle, Calumet Coal & Coke Co., Scottdale, Pa.
Wm. Hawkins, Creekside Coal Co., Clearfield, Pa.
Whitney Warner, The Florence Coal Co., 570 Union Commerce Bldg., Cleveland, Ohio.
C. H. Franks, C. H. Franks Coal Co., Box #419, Smithfield, Pa.
Guy B. Gilmore, Gilmore Coke Co., 9 West Main St., Uniontown, Pa.
William Haas, Wm. Haas, Dawson, Pa.
George Kline, George Kline, Madera, Pa.
Arthur M. Pearce, The M. P. W. Coal Co., Punxsutawney, Pa.
Robt. N. Matthews, Matthews Bros., RFD #1, Lemont Furnace, Pa.
Elias J. Nassar, Nassar Coal Co. (Elias J. Nassar), Perryopolis, Pa.
Chas. D. Norris, Chas. D. Norris Coal Co., Harrisville, Pa.
D. H. Pence, D. H. Pence Coal Co. (D. H. Pence), New Bethlehem, Pa.
C. W. Walker, Pointvue Coal Co., Martin, Pa.
Fred Raybould, Fred Raybould, Clearfield, Pa.
John B. Rupert, John B. Rupert, Frank, Pa.
L. A. Blevans, Wagoner County Coal Co., Porter, Okla.

[F. R. Doc. 43-17827; Filed, November 4, 1943; 9:19 a. m.]

[Order T-114]

JAMES HATCHER LAND CO., ET AL.

ORDER TERMINATING APPOINTMENT OF OPERATING MANAGERS

NOVEMBER 1, 1943.

Orders have been issued terminating Government possession and control of the coal mines for which the persons listed in Appendix A have served as operating managers for the United States, and the mining companies have duly executed and delivered to the Administrator appropriate instruments, as provided in the Regulations for the Operation of Coal Mines under Government Control, as amended (8 F.R. 6655, 10712, 11344).

Accordingly, I hereby order and direct that the appointments of the operating managers for the United States listed in Appendix A, attached hereto and made a part hereof, be, and they are hereby, terminated.

HAROLD L. ICKES,
Secretary of the Interior.

APPENDIX A

Name of Operating Manager and Name of Mining Company

K. S. McKinney, James Hatcher Land Co., Big Shoal, Ky.
James Brennan, The Imperial Coal Co., 514 Denham Bldg., Denver, Colo.
Paul F. Keyser, Independent Coal & Coke Co., Walker Bank Bldg., Salt Lake City, Utah.
Joe Eisenlener, Independent Coal Co., Bankers Trust Bldg., Des Moines, Iowa.
I. H. Buchanan, Indian Head Mining Co., Inc., Hazard, Ky.
Domenic Santavicca, Indian Run Coal Co., Bellaire, Ohio.
G. H. Baker, Jacks Creek Mining Co., HiHat, Ky.
John U. McFadden, Jackson Hill Coal Co., P. O. Box 277, Ebensburg, Pa.
W. A. McBride, Jefferson Coal & Coke Corporation, 440 Clokey Avenue, South Hills, Pittsburgh, Pa.
George Colville, Jewell Mining Co., Kansas City, Mo.
Houston St. Clair, Jewell Ridge Coal Corporation, Tazewell, Va.
C. W. Jones, Jones Coal & Clay Co., Cordova, Ala.
Roy Jones, Roy Jones Coal Co., Summerville, Pa.
Wiley J. Jones, Jones & Hicks Mining Co., Prestonburg, Ky.
M. C. Angloch, Jones & Laughlin Steel Corporation, Pittsburgh, Pa.
John S. Bowie, The Juanita Coal & Coke Co., Pueblo, Colo.
E. C. Owens, The Junction City Clay Co., 3334 Prospect Ave., Cleveland, Ohio.
W. T. Graham, Keener Mining Co., Bokoshe, Okla.
F. P. Keesee, Keesee Coal Co., First National Bank Bldg., Pikeville, Ky.
C. S. Kefover, George-Kefover Coal Co., Morgantown, W. Va.
Frank M. Kehoe, Kehoe-Berge Coal Co., First Floor, Dime Bank Bldg., Pittston, Pa.
Joe F. Klaner, Jr., The Kelley-Carter Coal Co., Inc., 217 National Bank Bldg., Pittsburg, Kans.
James V. Kelly, Kelly Construction Co., Lost Creek, Pa.
Harry T. Ewig, Kelley's Creek Colliery Co., Western Reserve Bldg., West Ninth & Superior Ave., Cleveland, Ohio.
A. B. Miller, The Kenmont Coal Co., Richardson Bldg., Toledo, Ohio.
W. M. Kerr, Kerr Coal Co., Cameo, Colo.

[F. R. Doc. 43-17828; Filed, November 4, 1943; 9:19 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

FINANCE, INSURANCE, REAL ESTATE, MOTION PICTURE, AND MISCELLANEOUS INDUSTRIES

NOTICE OF HEARING ON MINIMUM WAGE RECOMMENDATION

Notice of hearing on the minimum wage recommendation of Industry Committee No. 68 for the Finance, Insurance, Real Estate, Motion Pictures, and Miscellaneous industries to be held November 23, 1943.

Whereas the Administrator of the Wage and Hour Division of the United States Department of Labor, acting pursuant to section 5 (b) of the Fair Labor Standards Act of 1938, on September 22, 1943, by Administrative Order No. 219, appointed Industry Committee No. 68 for the Finance, Insurance, Real Estate, Motion Picture, and Miscellaneous Industries, composed of an equal number of representatives of the public, employers in the Industry and employees in the Industry, such representatives having been appointed with due regard to the geographical regions in which the Industry is carried on; and

Whereas Industry Committee No. 68, on October 14, 1943, recommended a minimum wage rate for the Finance, Insurance, Real Estate, Motion Picture, and Miscellaneous Industries and duly adopted a report containing such recommendation and reasons therefor and filed such report with the Administrator in October 16, 1943 pursuant to section 8 (d) of the Act and § 511.19 of the regulations issued under the Act; and

Whereas the Administrator is required by section 8 (d) of the Act, after due notice to interested persons and giving them an opportunity to be heard, to approve and carry into effect by order the recommendation of Industry Committee No. 68 if he finds that the recommendation is made in accordance with law and is supported by the evidence adduced at the hearing, and, taking into consideration the same factors as are required to be considered by the Industry Committee, will carry out the purposes of Section 8 of the Act; and, if he finds otherwise, to disapprove such recommendation;

Now, therefore, notice is hereby given that:

I. The recommendation of Industry Committee No. 68 is as follows:

That wages at a rate of not less than forty cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the Finance, Insurance, Real Estate, Motion Picture, and Miscellaneous Industries (as defined in Administrative Order No. 219) who is engaged in commerce or in the production of goods for commerce.

II. The definition of the Finance, Insurance, Real Estate, Motion Picture, and Miscellaneous Industries as set forth in Administrative Order No. 219, issued September 22, 1943, is as follows:

The industry carried on by any business or non-profit enterprise performing financial, insurance, real estate, professional, advertising, educational or research activities; the production of motion pictures, photographs and blueprints; and any service activity which is covered by the Act.

III. The full text of the report and recommendation of Industry Committee No. 68 is and will be available for inspection by any person between the hours of 9:00 a. m. and 4:00 p. m. at the following offices of the United States Department of Labor, Wage and Hour Division:

Boston, Mass., Old South Building, 294 Washington St.
New York, N. Y., Parcel Post Building, 341 Ninth Ave.
Newark, N. J., Essex Building, 31 Clinton St.
Syracuse, N. Y., 301 State Tower Building.
Philadelphia, Pa., 1216 Widener Building, Chestnut and Juniper Sts.
Pittsburgh, Pa., Clark Building, Liberty Ave. and Seventh St.
Richmond, Va., 215 Richmond Trust Building.
Baltimore, Md., 401-411 Old Town Building, Gay and Fallsway Sts.
Atlanta, Ga., Fifth Floor, Carl Witt Building, 249 Peachtree Street NE.
Columbia, S. C., Federal Land Bank Building, Hampton and Marion Sts.
Jackson, Fla., 456 New Post Office Building.
Raleigh, N. C., North Carolina Department of Labor, Salisbury and Edenton Sts.
Birmingham, Ala., 1007 Comer Building.
New Orleans, La., 916 Richards Building, 837 Gravier St.
Jackson, Miss., 404 Deposit Guaranty Bank Building, 102 Lamar St.
Nashville, Tenn., 509 Medical Arts Building.
Cleveland, Ohio, 4094 Main Post Office, West Third and Prospect Aves.
Detroit, Mich., David Stott Building, 1150 Griswold St.
Cincinnati, Ohio, 1312 Traction Building, Fifth and Walnut Sts.
Chicago, Ill., 1200 Merchandise Mart, 222 West North Bank Drive.
Minneapolis, Minn., 406 Pence Building, 730 Hennepin Ave.
Kansas City, Mo., 3000 Fidelity Building, 911 Walnut St.
St. Louis, Mo., 316 Old Customs House, 815 Olive St.
Denver, Colo., 800 Chamber of Commerce Building, 1726 Champa St.
Dallas, Tex., Rio Grande National Building, 1100 Main St.
San Francisco, Calif., 500 Humboldt Bank Building, 785 Market St.
Los Angeles, Calif., 417 H. W. Hellman Building, Spring and Fourth St.
Seattle, Wash., 305 Post Office Building, Third Ave. and Union St.
Portland, Oreg., 208 Old United States Courthouse.
San Juan, P. R., Post Office Box 112.
Washington, D. C., Department of Labor, First Floor.
New York, N. Y., 165 West 46th St.

Copies of the Committee's report and recommendation may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York 19, New York.

IV. A public hearing will be held on November 23, 1943, before the Administrator of the Wage and Hour Division or a representative designated to preside in his place, at 10:00 a. m. in Room 1001, 165 West 46th Street, New York 19, New York, for the purpose of taking evidence on the following question:

Whether the recommendation of Industry Committee No. 68 should be approved or disapproved.

V. Any interested person supporting or opposing the recommendation of Industry Committee No. 68 may appear at the aforesaid hearing to offer evidence, either on his behalf or on behalf of any other person: *Provided*, That not later than November 20, 1943, such person shall file with the Administrator at New York, New York, a notice of his intent to appear which shall contain the following information:

1. The name and address of the person appearing.
2. If such person is appearing in a representative capacity, the name and address of the person or persons whom he is representing.
3. Whether such person proposes to appear for or against the recommendation of Industry Committee No. 68.
4. The approximate length of time requested for his presentation.

Such notice may be mailed to the Administrator, Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York 19, New York, and shall be deemed filed upon receipt thereof.

VI. Any person interested in supporting or opposing the recommendation of Industry Committee No. 68 may secure further information concerning the aforesaid hearing by inquiry directed to the Administrator, Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York 19, New York, or by consulting with attorneys representing the Administrator who will be available for that purpose at the Office of the Solicitor, United States Department of Labor, in Washington, D. C., and New York, New York.

VII. Copies of the following document relating to the Finance, Insurance, Real Estate, Motion Picture, and Miscellaneous Industries will be made available on request for inspection by any interested person who intends to appear at the aforesaid hearing:

Report entitled "Memorandum to Industry Committee No. 68 for the Finance, Insurance, Real Estate, Motion Picture, and Miscellaneous Industries," prepared by the Economics Branch, Wage and Hour and Public Contracts Divisions, United States Department of Labor, October 1943.

VIII. The hearing will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Administrator or Presiding Officer as are deemed appropriate:

1. The hearing shall be stenographically reported and a transcript made which will be available to any person at prescribed rates upon request addressed to the Administrator, Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York 19, New York.
2. In order to maintain orderly and expeditious procedure, each person filing a Notice to Appear shall be notified, if practicable, of the approximate day and the place at which he may offer evidence at the hearing. If such person does not appear at the time set in the notice, he will not be permitted to offer evidence at any time except by special permission of the Presiding Officer.
3. At the discretion of the Presiding Officer, the hearing may be continued from day to day, or adjourned to a later date, or to a different place by announcment thereof at the hearing by the Presiding Officer or by other appropriate notice.
4. At any stage of the hearing, the Presiding Officer may call for further evidence upon any matter. After the hearing has been closed, no further evidence shall be taken, except at the request of the Administrator, unless provision has been made at the hearing for the later receipt of such evidence. In the event that the administrator shall cause the hearing to be reopended for the purpose of receiving further evidence, due and reasonable notice of the time and place fixed for such taking of testimony shall be given to all persons who have filed a notice of intention to appear at the hearing.
5. All evidence must be presented under oath or affirmation.
6. Written documents or exhibits, except as otherwise permitted by the Presiding Officer, must be offered in evidence by a person who is prepared to testify as to the authenticity and trustworthiness thereof, and who shall, at the time of offering the documentary exhibit, make a brief statement as to the contents and manner of preparation thereof.
7. Written documents and exhibits shall be tendered in duplicate and the persons preparing the same shall be prepared to supply additional copies if such are ordered by the Presiding Officer. When evidence is embraced in a document containing matter not intended to be put in evidence, such a document will not be received, but the person offering the same may present to the Presiding Officer the original document together with two copies of those portions of the document intended to be put in evidence.
8. Subpoenas requiring the attendance of witnesses or the presentation of a document from any place in the United States at any designated place of hearing may be issued by the Administrator at his discretion, and any person appearing in the proceeding may apply in writing for the issuance by the Administrator of the subpoena. Such application shall be timely and shall identify exactly the witness or document and state fully the nature of the evidence proposed to be secured.
9. Witnesses summoned by the Administrator shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance witnesses appear, and the Administrator before issuing subpoena may require a deposit of an amount adequate to cover the fees and mileage involved.
10. The rules of evidence prevailing in the courts of law or equity shall not be controlling.
11. The Presiding Officer may, at his discretion, permit any person appearing in the proceeding to cross-examine any witness offered by another person insofar as is practicable, and to object to the admission or exclusion of evidence by the Presiding Officer. Requests for permission to cross-examine a witness offered by another person and objections to the admission or exclusion of evidence shall be stated briefly with the reasons for such request or the ground of objection relied on. Such requests or objections shall become a part of the record, but this record shall not include argument thereon except as ordered by the Presiding Officer. Objections to the approval of the Committee's recommendation and to the promulgation of a

wage order based upon such approval must be made at the hearing before the Presiding Officer.

12. Before the close of the hearing, written requests shall be received from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matter in issue. If the Administrator, in his discretion, allows the request, he shall give such notice thereof as he deems suitable to all persons appearing in the proceedings and shall designate the time and place at which the oral arguments shall be heard. If such requests are allowed, all persons appearing at the hearing will be given opportunity to present oral argument.

13. Briefs (12 copies) may be submitted to the Administrator following the close of the hearing, by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall be deemed suitable by him.

14. On the close of the hearing, a complete record of the proceedings shall be filed with the Admininistrator. No intermediate report shall be filed unless so directed by the Administrator. If a report is filed it shall be advisory only and have no binding effect upon the Administrator.

15. No order issued as a result of the hearing will take effect until after due notice is given of the issuance thereof by publication in the FEDERAL REGISTER.

Signed at New York, New York, this 23d day of October 1943.

L. METCALFE WALLING,
Administrator.

[F. R. Doc. 43-17764; Filed, November 3, 1943; 12:05 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 6548]

ALBANY BROADCASTING CO.

NOTICE OF HEARING

In re application of J. W. Woodruff and J. W. Woodruff, Jr., d/b as Albany Broadcasting Company (WGPC); date filed August 31, 1943; for construction permit to move transmitter and studio; class of service, broadcast; class of station, broadcast. Operating assignment specified, frequency, 1490 kc.; power, 250 w.; hours of operation, unlimited. File No. B3-P-3545.

You are hereby notified that the Commission has examined the above-described application and has designated the matter for hearing for the following reasons:

1. To determine the areas and populations which would receive primary service from Station WGPC, operating as proposed, and what other broadcast service is available to those areas and populations.

2. To determine the areas and populations in the vicinity of Albany, Georgia, now receiving primary service from Station WGPC which would be deprived of such service should this application be granted and what other broadcast service is available to those areas and populations.

3. To determine whether the operation of Station WGPC, at the proposed transmitter site, would be consistent with the Standards of Good Engineering Practice, particularly as to the population residing within the "blanket area" (250 mv/m contour).

4. To determine whether the granting of the instant application would be consistent with the policy announced by the Commission in the Memorandum Opinion of April 27, 1942, as amended.

5. To determine the legal, financial and technical qualifications of the applicant to operate the station as proposed and the character of the program service proposed to be rendered.

6. To determine whether there are sufficient economic resources to support the operation proposed by the applicant.

7. To determine whether the granting of the instant application will tend toward a fair, efficient and equitable distribution of radio service as contemplated by section 307 (b) of the Communications Act of 1934, as amended.

8. To determine whether in view of the facts adduced under the foregoing issues, as well as the facts adduced under the issues in Docket 6549, public interest, convenience or necessity would be served through the granting of this application, or the application in Docket 6549 or either of them.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's rules of practice and procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's rules of practice and procedure.

The applicant's address is as follows: J. W. Woodruff & J. W. Woodruff, Jr., d/b as Albany Broadcasting Company, Radio Station WGPC, 125½ N. Jackson Street, Albany, Georgia.

Dated at Washington, D. C., November 2, 1943.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 43-17870; Filed, November 4, 1943; 11:07 a. m.]

[Docket No. 6549]

VALLEY BROADCASTING CO.

NOTICE OF HEARING

In re application of L. J. Duncan, Leila A. Duncan, Josephine A. (Keith) Rawls, Effie H. Allen, d/b as Valley Broadcasting Company (New); Date filed, September 7, 1943; for construction permit; class of service, broadcast; class of station, broadcast; location, West Point, Georgia. Operating assignment specified, frequency, 1490 kc; power, 250 w; hours of operations, unlimited. File No. B3-P-3543.

You are hereby notified that the Commission has examined the above-described application and has designated the matter for hearing for the following reasons:

1. To determine the areas and populations which would receive primary service from the proposed station and what other broadcast service is available to those areas and populations.

2. To determine whether the operation of the proposed station, at the specified transmitter site would be consistent with the Standards of Good Engineering Practice, particularly, as to the population residing within the "blanket area" (250 mv/m contour).

3. To determine whether the proposed radiating system complies with the Standards of Good Engineering Practice, particularly, as to the length of radials comprising the ground system.

4. To determine whether the granting of this application would be consistent with the policy announced by the Commission in its Memorandum Opinion of April 27, 1942, as amended.

5. To determine the legal, financial and technical qualifications of the applicant to operate the station as proposed and the character of the program service proposed to be rendered.

6. To determine whether there are sufficient economic resources to support the operation proposed by the applicant.

7. To determine whether the granting of the instant application will tend toward a fair, efficient and equitable distribution of radio service as contemplated by section 307 (b) of the Communications Act of 1934, as amended.

8. To determine whether, in view of the facts adduced under the foregoing issues and the facts adduced under the issues in Docket 6548, public interest, convenience or necessity would be served through the granting of this application, or the application of the Albany Broadcasting Company (WGPC), in Docket No. 6548 or either of them.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's rules of practice and procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's rules of practice and procedure.

The applicant's address is as follows: L. J. Duncan, General Manager, Valley Broadcasting Company, General Tyler Hotel Building, West Point, Georgia.

Dated at Washington, D. C., November 2, 1943.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 43-17869; Filed, November 4, 1943; 11:07 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 940]

SCOTCH WOOLEN MILLS

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3d day of November, A. D. 1943.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That John W. Addison, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, November 18, 1943, at nine-thirty o'clock in the forenoon of that day (Eastern Standard Time), Hearing Room, Federal Trade Commission Building, 6th and Constitution Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 43-17831; Filed, November 4, 1943; 10:36 a. m.]

[Docket No. 5054]

KAY LABORATORIES, INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of November, A. D. 1943.

In the matter of Kay Laboratories, Inc., a corporation, and Joseph P. Kayatta, individually and as President and Treasurer of Kay Laboratories, Inc.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That John L. Hornor, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, November 18, 1943, at ten o'clock in the forenoon of that day (Eastern Standard Time), Small Court Room, County Court House, Providence, R. I.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 43-17830; Filed, November 4, 1943; 10:36 a. m.]

OFFICE OF ALIEN PROPERTY CUSTODIAN.

[Vesting Order 1902]

ROZAVOLGYI & CO.

Re: Vesting of Copyright Interests held by Rozavolgyi & Co., of Szervits Ter. 5, Budapest, Hungary.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Rozavolgyi & Co., of Szervits Ter. 5, Budapest, Hungary, is a business organization created and operating under the laws of, and has its principal place of business in, and therefore is a national of a foreign country (Hungary);

2. Finding that the property identified in subparagraph 3 hereof is property of Rozavolgyi & Co.;

3. Finding that the property described as follows:

All right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of Rozavolgyi & Co., of Szervits Ter. 5, Budapest, Hungary, in, to and under the following:

(a) Every copyright, claim of copyright and right to copyright in each and all of the works subject to copyright, in which such rights and claims are held by Rozavolgyi & Co., of Szervits Ter. 5, Budapest, Hungary;

(b) Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to any or all of the foregoing excepting the rights of any person to renew any or all of the copyrights arising in, from or under any or all of the foregoing;

(c) All monies and amounts, and all rights to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to any or all of the foregoing;

(d) All rights of reversion or revesting, if any, in any or all of the foregoing;

(e) All causes of action accrued or to accrue at law or in equity with respect to any or all of the foregoing, including but not limited to the right to sue for and recover all damages and profits and to ask and receive any and all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting any or all of the foregoing.

is property of, or is property payable or held with respect to copyrights, or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, a national of a foreign country (Hungary);

And having made all determinations and taken all action required by law, including appropriate consultation and certification, and deeming it necessary in the national interest,

Hereby vests in the Alien Property Custodian the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest and for the benefit of the United States.

Such property, and any or all of the proceeds thereof shall be held in an appropriate account or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof in whole or in part, nor shall it be deemed to indicate that compensation will not be paid in lieu thereof, if and when it should be determined to take any one or all of such actions.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may, within one year from the date hereof, or within such further time as may be allowed, file with the Alien Property Custodian on Form APC-1 a notice of claim, together with a request for a hearing thereon. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order No. 9095, as amended.

Executed at Washington, D. C. on August 3, 1943.

[SEAL] LEO T. CROWLEY, *Alien Property Custodian.*

[F. R. Doc. 43-17834; Filed, November 4, 1943; 11:00 a. m.]

[Vesting Order 1904]

GERMAN MUSIC PUBLISHERS

Re: Vesting of copyright interests held by German music publishers.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that each person whose name and last known address is listed in Exhibit A attached hereto and by reference made a part hereof, if an individual is a resident of, or if a business organization is organized under the laws of, and therefore is a national of the foreign country appearing opposite his or its respective name;

2. Finding that the property identified in subparagraph 3 hereof is property of the persons whose names and last known addresses are listed in said Exhibit A;

3. Finding that the property described as follows:

All right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of each and all of the persons to whom reference is made in said Exhibit A, in, to and under the following:

(a) Every right under copyright, claim of copyright or right to copyright in and for the arrangement or setting of each musical composition or the melody thereof in any system of notation or any form of record in which the thought of an

author may be recorded and from which it may be read or reproduced, so far as such rights secure copyright or rights to copyright controlling the parts of instruments serving to reproduce mechanically any and all musical compositions in which such rights are held by each and all of the persons to whom reference is made in said Exhibit A;

(b) Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to any or all of the foregoing excepting the rights of any person to renew any or all of the copyrights arising in, from or under any or all of the foregoing;

(c) All monies and amounts, and all rights to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to any or all of the foregoing;

(d) All rights of reversion or revesting, if any, in any or all of the foregoing;

(e) All causes of action accrued or to accrue at law or in equity with respect to any or all of the foregoing, including but not limited to the right to sue for and recover all damages and profits and to ask and receive any and all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting any or all of the foregoing;

is property of, or is property payable or held with respect to copyrights, or rights related thereto, in which interests are held by, and such property itself constitutes interests held therein by, nationals of one or more foreign countries;

And having made all determinations and taken all action required by law, including appropriate consultation and certification, and deeming it necessary in the national interest,

Hereby vests in the Alien Property Custodian the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest and for the benefit of the United States.

Such property, and any or all of the proceeds thereof shall be held in an appropriate account or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof in whole or in part, nor shall it be deemed to indicate that compensation will not be paid in lieu thereof, if and when it should be determined to take any one or all of such actions.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may, within one year from the date hereof, or within such further time as may be allowed, file with the Alien Property Custodian on Form APC-1 a notice of claim, together with a request for a hearing thereon. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order No. 9095, as amended.

Executed at Washington, D. C., on August 3, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

EXHIBIT A

Names of Owners of Copyrights and Last Known Addresses

Wiener Boheme Verlag, Nürnbergerstr. 10, Berlin, Germany.

Alrobi Musikverlag, Berlin, Germany.

Ufaton Verlag, Siv. 19, Scharrenstr. 16, Berlin, Germany.

Alberti Verlag, Rankestr. 34, Berlin W 50, Germany.

[F. R. Doc. 43-17835; Filed, November 4, 1943; 11:00 a. m.]

[Vesting Order 1905]

JOSEPH NADOR

Re: Vesting of Copyright Interests held by Joseph Nador of Budapest, Hungary. File No. 9-100-019-1-1903.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Joseph Nador, of Budapest, Hungary, is a resident of and therefore is a national of a foreign country (Hungary);

2. Finding that the property identified in subparagraph 3 hereof is property of Joseph Nador;

3. Finding that the property described as follows:

All right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of Joseph Nador, of Budapest, Hungary, in, to and under the following:

(a) Every copyright, claim of copyright and right to copyright in each and all of the compositions described in that certain assignment registered in the Copyright Office on June 7, 1941 at volume 475, page 237 of the records thereof, held by Joseph Nador, of Budapest, Hungary;

(b) Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to any or all of the foregoing excepting the rights of any person to renew any or all of the copyrights arising in, from or under any or all of the foregoing;

(c) All monies and amounts, and all right to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to any or all of the foregoing;

(d) All rights of reversion or revesting, if any, in any or all of the foregoing;

(e) All causes of action accrued or to accrue at law or in equity with respect to any or all of the foregoing, including but not limited to the right to sue for and recover all damages and profits and to ask and receive any and all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting any or all of the foregoing,

is property of, or in property payable or held with respect to copyrights, or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, a national of a foreign country (Hungary).

And having made all determinations and taken all action required by law, including appropriate consultation and certification, and deeming it necessary in the national interest,

Hereby vests in the Alien Property Custodian the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest and for the benefit of the United States.

Such property, and any or all of the proceeds thereof shall be held in an appropriate account or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the power of the Alien Property Custodian to return such property or proceeds thereof in whole or in part, nor shall it be deemed to indicate that compensation will not be paid in lieu thereof, if and when it should be determined to take any one or all of such actions.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may, within one year from the date hereof, or within such further time as may be allowed, file with the Alien Property Custodian on Form APC-1 a notice of claim, together with a request for a hearing thereon. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order No. 9095, as amended.

Executed at Washington, D. C., on August 3, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17836; Filed, November 4, 1943; 11:00 a. m.]

[Vesting Order 2249]

BOETON PEARL CO., LTD.

Re: 9,860 cultured pearls owned by Boeton Pearl Co., Ltd.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation, finding:

1. That Boeton Pearl Co., Ltd., also referred to as Boeton Pearl Company, Limited, is a business enterprise organized under the laws of Japan, with its principal place of business at Celebes, Dutch East Indies and is controlled by or acting for or on behalf of Nan-Yo Shinju Kaisha, Ltd.;

2. That Nan-Yo Shinju Kaisha, Ltd. is a business enterprise organized under the laws of Japan with its principal place of business in Tokyo, Japan, and is a national of a designated enemy country (Japan);

3. That Boeton Pearl Co., Ltd. is also a national of a designated enemy country (Japan);

4. That Boeton Pearl Co., Ltd. is the owner of the property described in subparagraph 5 hereof;

5. That the property described as follows: 9,860 cultured pearls on consignment from Boeton Pearl Co., Ltd., for the purpose of sale, presently located at the office of Mitsubishi Shoji Kaisha, Ltd., 120 Broadway, New York, New York,

is property within the United States owned or controlled by a national of a designated enemy country (Japan);

And determining that to the extent that Boeton Pearl Co., Ltd., is a person not within a designated enemy country, it is controlled by or acting for or on behalf of a designated enemy country

(Japan) or a person within such country;

And further determining that to the extent that such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan);

And having made all determinations and taken all action, after appropriate consultation and certification required by law, and deeming it necessary in the national interest,

Hereby vests in the Alien Property Custodian the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest, and for the benefit, of the United States.

Such property and any or all the proceeds thereof shall be held in an appropriate account, or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof in whole or in part, nor shall this order be deemed to indicate that compensation will not be paid in lieu thereof, if and when it should be determined to take any one or all of such actions.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may, within one year from the date hereof, or within such further time as may be allowed, file with the Alien Property Custodian on Form APC-1 a notice of claim, together with a request for a hearing thereon. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order No. 9095, as amended.

Executed at Washington, D. C., on September 22, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17837; Filed, November 4, 1943; 11:00 a. m.]

[Vesting Order 2251]

ANTONIO CELLE

Re: Note and second deed of trust, fire insurance policy, and bank account owned by Antonio Celle.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation, finding:

1. That the last known address of Antonio Celle is Leivi, Chiavari, Genoa, Italy, and that he is a resident of Italy and a national of a designated enemy country (Italy);

2. That Antonio Celle is the owner of the property described in subparagraph 3 hereof;

3. That the property described as follows:

a. A certain note and deed of trust executed by Santino Morando and Adele Morando, his wife, as trustors, on February 4, 1941, in favor of Antonio Celle, as beneficiary, and recorded in the Recorder's Office of San Joaquin County, California, in Volume 712 of Official Records, page 453, and any and all obligations secured by said deed of trust, including but not limited to all security rights in and to any and all collateral (including the aforesaid deed of trust) for any and all of such obligations, and the right to enforce and collect such obligations, and the right to the possession of any and all notes, bonds and other instruments evidencing such obligations,

b. All right, title and interest of Antonio Celle in and to fire insurance policy No. 207566, issued by the Alliance Insurance Company of Philadelphia, Pennsylvania, insuring the property covered by the deed of trust described herein, and

c. All right, title, interest and claim of Antonio Celle in and to a certain bank account in the Bank of America National Trust and Savings Association, Stockton Branch, Stockton, California, which is due and owing to and held for and in the name of Antonio Celle, including but not limited to all security rights in and to any and all collateral for and or all of such account, and the right to enforce and collect the same,

is property within the United States owned or controlled by a national of a designated enemy country (Italy);

And determining that the property described in subparagraphs 3-b and 3-c above is necessary for the maintenance or safeguarding of other property (namely, that property described in subparagraph 3-a above) belonging to the same national of the same designated enemy country and subject to vesting (and in fact vested by this order) pursuant to section 2 of said Executive Order;

And further determining that to the extent that such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Italy);

And having made all determinations and taken all action, after appropriate consultation and certification required by law, and deeming it necessary in the national interest,

Hereby vests in the Alien Property Custodian the property described above, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest, and for the benefit, of the United States.

Such property and any or all of the proceeds thereof shall be held in an appropriate account, or accounts, pending further determination of the Alien Property Custodian. This other shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof in whole or in part, nor shall this Order be deemed to indicate that compensation will not be paid in lieu thereof, if and when it should be determined to take any one, or all, of such actions.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may, within one year from the date hereof, or within such further time as may be allowed, file with the Alien Property Custodian on Form APC-1 a notice of claim, together with a request for a hearing thereon. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order No. 9095, as amended.

Executed at Washington, D. C., on September 22, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17838; Filed, November 4, 1943; 11:00 a. m.]

[Vesting Order 2456]

ESTATE OF MAX BAUER

In re: Estate of Max Bauer, deceased; File F-28-6121; E. T. sec. 1975.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Walter N. Rasmussen, Administrator, 300 South Central Avenue, Marshfield, Wisconsin, acting under the judicial supervision of the County Court of the State of Wisconsin, in and for the County of Wood;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Anton Bauer, Germany.
Barbara Bauer Hornick, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

The sum of $6,311.25 which is in the process of administration by and is in the possession and custody of Walter N. Rasmussen, administrator of the estate of Max Bauer, deceased; also all right, title, interest and claim of any kind or character whatsoever of Anton Bauer, Barbara Bauer Hornick, and each of them, in and to the estate of Max Bauer, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it

should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17839; Filed, November 4, 1943; 11:02 a. m.]

[Vesting Order 2457]

ESTATE OF FRANK R. BAUMANN

In re: Estate of Frank R. Baumann, also known as Frank R. Boumann, deceased; File No. D-28-3321; E. T. sec. 672.

Under the authority of the Trading With the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Richard A. Fiesel, administrator, acting under the judicial supervision of the Surrogate's Court, Ulster County, State of New York;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany namely,

Nationals and Last Known Address

Mathilda Ladwig, Germany.

"John" Baumann, his true first name being unknown, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Mathilda Ladwig and "John" Baumann, his true first name being unknown, and each of them, in and to the estate of Frank Baumann, also known as Frank Boumann, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17840; Filed, November 4, 1943; 11:02 a. m.]

[Vesting Order 2458]

ESTATE OF VINCENZO CILAURO

In re: Estate of Vincenzo Cilauro, also known as Jimmy Luppinello, deceased; File D-38-382; E. T. sec. 942.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that:

(1) The property and interests hereinafter described are property which is in the process of administration by Angelo Trombino, Executor acting under the judicial supervision of the Surrogate's Court, County of New York, State of New York; and

(2) Such property and interests are payable or delivered to, or claimed by, nationals of a designated enemy country, Italy, namely:

Nationals and Last Known Address

The children of Santa Cilauro whose names are unknown, Italy.

The children of Angelina Lanzo whose names are unknown, Italy.

And determining that:

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Italy; and

Having made all determinations and taken all action after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest;

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of the children of Santo Cilauro whose names are unknown and the children of Angelina Lanzo whose names are unknown, and each of them, in and to the Estate of Vincenzo Cilauro, also known as Jimmy Luppinello, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17841; Filed, November 4, 1943; 11:03 a. m.]

[Vesting Order 2459]

TRUST UNDER WILL OF HERMAN CROHN

In re: Trust Estate created under the will of Herman Crohn, deceased; File D-28-2153; E. T. sec. 2732.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian,

Finding that—

(1) The property and interest hereinafter described are property which is within the United States and in the possession of the National Bank of Commerce in Memphis, as trustee under the will of Herman Crohn, deceased;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Dr. Siegfried (Seigfried) Crohn, Germany.

Johanna Crohn, Germany.

Children and their descendants, names unknown, of Dr. Siegfried (Seigfried) Crohn, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interest:

All right, title, interest, and claim of any kind or character whatsoever of Dr. Siegfried (Seigfried) Crohn, Johanna Crohn and the children and their descendants, names unknown, of Dr. Siegfried (Seigfried) Crohn, and each of them, in and to the trst estate created under the will of Herman Crohn, deceased, in possession of the National Bank of Commerce in Memphis, as trustee under the will of Herman Crohn, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17842; Filed, November 4, 1943; 11:03 a. m.]

[Vesting Order 2460]

ESTATE OF ACHIM DANILA

In re: Estate of Achim Danila, deceased; File D-57-289; E. T. sec. 7657.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by John I. Kent, Administrator c. t. a., acting under the judicial supervision of the Orphans' Court of Crawford County, Pennsylvania;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Roumania, namely,

Nationals and Last Known Address

Maria Danila, Roumania.
Rafira Danila Brana, Roumania.
Maria Achim Danila, Roumania.
Ilie Achim Danila, Roumania.
Daniel Achim Danila, Roumania.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Roumania; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Maria Danila, Rafira Danila Brana, Maria Achim Danila, Ilie Achim Danila and Daniel Achim Danila, and each of them, in and to the estate of Achim Danila, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17843; Filed, November 4, 1943; 11:03 a. m.]

[Vesting Order 2462]

ESTATE OF LOUISE DREYER

In re: Estate of Louise Dreyer, deceased; File D-28-3448; E. T. sec. 5513.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Emily O'Neil, Executrix of the Estate of Louise Dreyer, deceased, acting under the judicial supervision of the Surrogate's Court, Kings County, New York.

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Marianne Schlauch, a/k/a Marlenna Schlauch, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Marianna Schlauch, a/k/a Marlenna Schlauch in and to the Estate of Louise Dreyer, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property and any or all of the proceeds thereof shall be held in an appropriate special account or accounts pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17844; Filed, November 4, 1943; 11:03 a. m.]

[Vesting Order 2463]

ESTATE OF LINA EDINGER

In re: Estate of Lina Edinger, deceased; File D-28-3702; E. T. sec. 6123.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the

process of administeration by Fred Edinger, Administrator, acting under the judicial supervision of the Essex County Orphans' Court, Essex County, Newark, New Jersey;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Selma Doering, Germany.
Bertha Reinhardt, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property with interests:

All right, title, interest and claim of any kind or character whatsoever of Selma Doering and Bertha Reinhart and each of them in and to the Estate of Lina Edinger, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17845; Filed, November 4, 1943; 11:04 a. m.]

[Vesting Order 2464]

MINNIE FOERDRUNG AND PAULINE NIECKE

In re: Certificate of Beneficial Interest #A-6757, issued by the Seaboard Trust Company to Minnie Foerdrung and Pauline Niecke; File D-28-3687; E. T. sec. 6060.

Under the authority of the Trading with the Enemy Act as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Salvatore Rinaldi, Substituted Trustee, acting under the judicial supervision of the Chancery Court of New Jersey, Trenton, New Jersey;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Minnie Foerdrung, Germany.
Pauline Niecke, Germany.
The respective heirs-at-law, devisees, grantees, next-of-kin, legatees and personal representatives of Minnie Foerdrung and Pauline Niecke, whose names are unknown, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Minnie Foerdrung and Pauline Niecke, their respective heirs-at-law, devisees, grantees, next-of-kin, legatees and personal representatives, in and to the proceeds accepted and received by Salvatore Rinaldi, Substituted Trustee, by order and direction of the Court of Chancery of New Jersey, in consideration for the sale of the certificate of beneficial interest A-6757 in the amount of $1,000.00 issued by the Seaboard Trust Company, Hoboken, New Jersey,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17846; Filed, November 4, 1943; 11:04 a. m.]

[Vesting Order 2465]

ESTATE OF ANTHONY FOGLIANO

In re: Estate of Anthony Fogliano, deceased; File D-38-2739; E. T. sec. 7617.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by The Schuylkill Trust Company, Trustee, acting under the judicial supervision of the Orphans' Court of Schuylkill County, Pennsylvania;

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Italy, namely,

National and Last Known Address

Maria Fogliano Bussacco, Italy.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Italy; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Maria Fogliano Bussacco in and to the estate of Anthony Fogliano, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17847; Filed, November, 4, 1943; 11:04 a. m.]

[Vesting Order 2466]

TRUST UNDER WILL OF FRANCES G. FOULKE

In re: Trust under the will of Frances G. Foulke, deceased; File D-38-1051; E. T. sec. 3091.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Girard Trust Company, Trustee, acting under the judicial supervision of the Orphans Court, Philadelphia County, Pennsylvania;

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Italy, namely,

National and Last Known Address

Frances Calenda, Italy.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Italy; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Frances Calenda in and to the trust created under the will of Frances G. Foulke, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17848; Filed, November 4, 1943; 11:04 a. m.]

[Vesting Order 2467]

ESTATE OF ERNEST W. GERBRACHT

In re: Estate of Ernest W. Gerbracht, deceased; File D-28-3727; E. T. sec. 6269.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Robert Gerbracht, Jr., Executor, acting under the judicial supervision of the Prerogative Court, Trenton, New Jersey;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Hilde Scheibe, Gifhorn, Germany.
Kurt Gerbracht, Gifhorn, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Hilde Scheibe and Kurt Gerbracht and each of them in and to the estate of Ernest W. Gerbracht, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17849; Filed, November 4, 1943; 11:04 a. m.]

[Vesting Order 2468]

ESTATE OF JORGINE HANSEN

In re: Estate of Jorgine Hansen, deceased; File D-19-253; E. T. sec. 7733.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian, after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Chris Hansen and N. Albert Johnson, Co-Administrators, acting under the judicial supervision of the Superior Court of the State of California, in and for the City and County of San Francisco;

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

Margrethe Baasch Kroger, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Margrethe Baasch Kroger, in and to the Estate of Jorgine Hansen, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17850; Filed, November 4, 1943; 11:04 a. m.]

[Vesting Order 2469]

ESTATE OF YOSHI S. KUNO

In re: Estate of Yoshi S. Kuno, also known as Yoshi Saburo Kuno, also known as Y. S. Kuno, deceased; File D-39-1518; E.T. sec. 3930.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the American Trust Company (First Berkeley Office), Executor, acting under the judicial supervision of the Superior Court of the State of California, in and for the County of Alameda;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Japan, namely,

Nationals and Last Known Address

Kuichiro Terasaki, Japan.
Hidesaburo Nomura, Japan.
Dr. Toshihiko (Toshishiko), Kuno, Japan.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Japan; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Kuichiro Terasaki, Hidesaburo Nomura and Dr. Toshihiko (Toshishiko) Kuno, and each of them, in and to the estate of Yoshi S. Kuno, also known as Yoshi Saburo Kuno, also known as Y. S. Kuno, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17851; Filed, November 4, 1943; 11:04 a. m.]

[Vesting Order 2470]

ESTATE OF HELENE LANG

In re: Estate of Helene Lang, deceased; File D-28-7361; E. T. sec. 7495.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by The Ninth Bank and Trust Company, Erna Lang Snape and Martha Lang Haines, Executors, acting under the judicial supervision of the Orphans Court, Montgomery County, Pennsylvania;

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

Margaretta Stimmel, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Margaretta Stimmel in and to the estate of Helene Lang, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17852; Filed, November 4, 1943; 11:05 a. m.]

[Vesting Order 2471]

ESTATE OF MARGARET LEICHTNAM

In re: Estate of Margaret Leichtnam, deceased; File D-28-1586; E. T. sec. 405.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Margaret M. Claas, Administratrix, c. t. a., acting under the judicial supervision of the Atlantic County Orphans' Court, Atlantic City, New Jersey;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Lenchen Wiegand, No. 2 Unterwasser St., Odernheim, Germany.
Emil Cramb, Hornbach Pfalz Zu, Odernheim, Bavaria, Germany.
Hermann Cramb, Hornbach Pfalz Zu, Odernheim, Bavaria, Germany.
Louisa Licht, 30 Gothe St., Hamburg, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Lenchen Wiegand, Emil Cramb, Hermann Cramb and Louisa Licht and each of them in and to the Estate of Margaret Leichtnam, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be

paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17853; Filed, November 4, 1943; 11:05 a. m.]

[Vesting Order 2472]

TRUST UNDER THE WILL OF NINA S. MEINHARD

In re: Trust under the will of Nina S. Meinhard, deceased; File No. D-28-2517; E. T. sec. 4443.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the Bankers Trust Company, as Trustee, acting under the judicial supervision of the Surrogate's Court, New York County, New York;

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

Martha K. Zimmermann, also known as Martha Krieger, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Martha K. Zimmermann, also known as Martha Krieger in and to a trust created under the Will of Nina S. Meinhard, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17854; Filed, November 4, 1943; 11:01 a. m.]

[Vesting Order 2473]

ESTATE OF GERTRUDE MAYO MOULTON

In re: Estate of Gertrude Mayo Moulton, deceased; File D-6-125; E. T. sec. 289.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by William Wood and H. Duncan Wood, Administrators, acting under the judicial supervision of the Surrogate's Court, New York County, New York;

(2) Such property and interest are payable or deliverable to, or claimed by a national of a designated enemy country, Germany, namely,

National and Last Known Address

Dora Waschl, Germany, (Austria).

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interest:

All right, title, interest and claim of any kind or character whatsoever of Dora Waschl, in and to the Estate of Gertrude Mayo Moulton, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17855; Filed, November 4, 1943; 11:01 a. m.]

[Vesting Order 2474]

ESTATE OF OTTO NIXDORF

In re: Estate of Otto Nixdorf, deceased; File D-28-6622; E. T. sec. 4869.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian, after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Ben H. Brown, Administrator, acting under the judicial supervision of the Superior Court of the State of California, in and for the County of Los Angeles;

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

Auguste Schelling, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or characte rwhatsoever of Auguste Schelling, in and to the Estate of Otto Nixdorf, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the terest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts,

pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17856; Filed, November 4, 1943; 11:01 a. m.]

[Vesting Order 2475]

ESTATE OF ELISEBETH REINIUS

In re: Estate of Elisebeth Reinius, also known as Elisabeth Reinius, deceased; File No. D-28-6536; E. T. sec. 4605.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Johanna Ungemach as executrix, acting under the judicial supervision of the Surrogate's Court, Kings County, New York;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Margarethe Kodding, Germany.
Annaliese Balz, nee Reinius, Germany.
Heinrich Reinius, Germany.
George Reinius, Germany.
Herman Reinius, Germany.
Elisabeth, also known as Elsie Flach, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act of otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Margarethe Kodding, Annaliese Balz, nee Reinius, Heinrich Reinius, George Reinius, Herman Reinius, and Elisabeth, also known as Elsie Flach, and each of them, in and to the estate of Elisebeth Reinius, also known as Elisabeth Reinius, deceased.

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17857; Filed, November 4, 1943; 11:01 a. m.]

[Vesting Order 2476]

ESTATE OF JOSEPH SANTULLI

In re: Estate of Joseph Santulli, also known as Guiseppe Santulli, deceased; File D-38-1680; E. T. sec. 4654.

Under the authority of the Trading with the Enemy Act as amended, Executive Order 9095 as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Peter Santulli, Administrator, acting under the judicial supervision of the Surrogate's Court, Kings County, New York;

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Italy, namely

National and Last Known Address

Amelia Amodeo, Italy.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Italy; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Amelia Adomeo in and to the Estate of Joseph Santulli, also known as Guiseppe Santulli, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property and any or all of the proceeds thereof shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon on form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17858; Filed, November 4, 1943; 11:02 a. m]

[Vesting Order 2477]

ESTATE OF MINNA TESKE

In re: Estate of Minna Teske, deceased; File D-28-3762; E.T. sec. 6360.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of examination by Herbert W. Mueller, Executor, acting under the judicial supervision of the Superior Court of the State of California, in and for the City and County of San Francisco;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Louise Mueller, Germany.
Eliese Nellies, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Louise Mueller, and Eliese Nellies, and each of them, in and to the Estate of Minna Teske, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17859; Filed, November 4, 1943; 11:02 a. m.]

[Vesting Order 2478]

ESTATE OF OLGA TRAUT

In re: Estate of Olga Traut, deceased; File D-28-1589; E. T. sec. 469.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Alvaro M. Garcia, Executor, acting under the judicial supervision of the Surrogate's Court of Richmond County, State of New York; and

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Ella Lammerhirdt, nee Bausemann, Germany.

Personal representatives, heirs, next of kin, distributees, and assigns of Minna Schill, deceased, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Ella Lammerhirdt, nee Bausemann, and personal representatives, heirs, next of kin, distributees, and assigns of Minna Schill, deceased, and each of them, in and to the Estate of Olga Traut, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17860; Filed, November 4, 1943; 11:02 a. m.]

[Vesting Order 2479]

ESTATE OF SIMON UNTERHOLZNER

In re: Estate of Simon Unterholzner, deceased; File D-28-6577; E. T. sec. 4922.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interest hereinafter described are property which is in the process of administration by the Treasurer of the City of New York as depositary acting under the judicial supervision of the Surrogate's Court, Bronx County, New York;

(2) Such property and interest are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely, Elizabeth Unterholzner, whose last known address is Germany;

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany, and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interest:

All right, title, interest and claim of any kind or character whatsoever of Elizabeth Unterholzner in and to the Estate of Simon Unterholzner, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17861; Filed, November 4, 1943; 11:02 a. m.]

[Vesting Order 2480]

ESTATE OF GEORGE VAN DER ZEE

In re: Estate of George Van Der Zee, deceased; File D-49-434; E. T. sec. 5229.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Ben H. Brown, Administrator, acting under the judicial supervision of the Superior Court of the State of California, in and for the County of Los Angeles;

(2) Such property and interests are payable or deliverable to, or claimed by, a national of a designated enemy country, Germany, namely,

National and Last Known Address

Garritt Van Der Zee, Germany.

And determining that—

(3) If such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Garritt Van Der Zee, in and to the Estate of George Van Der Zee, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17862; Filed, November 4, 1943; 11:02 a. m.]

[Vesting Order 2481]

TRUST UNDER WILL OF CHARLES WACKER

In re: Trust under the will of Charles Wacker, deceased; File D-28-4172; E. T. sec. 7569.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9095, as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by the Corn Exchange National Bank and Trust Company, Substituted trustee, acting under the judicial supervision of the Orphans' Court of Philadelphia County, Pennsylvania;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Anna Zeller, Germany.
Rosie Leinmuller, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest and claim of any kind or character whatsoever of Anna Zeller and Rosie Leinmuller, and each of them, in and to the trust estate created under the will of Charles Wacker, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17863; Filed, November 4, 1943; 11:02 a. m.]

[Amendment of Vesting Order 491]

ESTATE OF ROSA GOLLUBER

In re: Estate of Rosa Golluber, deceased; File F-28-2017; E. T. sec. 666.

Vesting Order Number 491 dated December 11, 1942 (7 F.R. 10590), is hereby amended to read as follows:

Under the authority of the Trading with the Enemy Act as amended, and Executive Order 9095 as amended, and pursuant to law, the Alien Property Custodian after investigation,

Finding that—

(1) The property and interests hereinafter described are property which is in the process of administration by Otto A. Golluber, Executor, acting under the judicial supervision of the Surrogate's Court of the State of New York, in and for New York County;

(2) Such property and interests are payable or deliverable to, or claimed by, nationals of a designated enemy country, Germany, namely,

Nationals and Last Known Address

Johanna Golluber Freund, Germany.
Leo Freund, Germany.

And determining that—

(3) If such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, Germany; and

Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and deeming it necessary in the national interest,

Now, therefore, the Alien Property Custodian hereby vests the following property and interests:

All right, title, interest, and claim of any kind or character whatsoever of Johanna Golluber Freund and Leo Freund, and each of them, in and to the Estate of Rosa Golluber, deceased, and in and to the Trust Estate created under the Will of Rosa Golluber, deceased,

to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Dated: October 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-17864; Filed, November 4, 1943; 11:01 a. m.]

[Amendment to Vesting Order 2101]

REAL PROPERTY OF GRETE BAHLAU

In re: Real property situated in San Francisco California, saving account and insurance policy owned by Grete Bahlau, formerly known as Grete Muhl.

Vesting Order Number 2101,[1] dated September 6, 1943, is hereby amended to read as follows:

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation, finding:

1. That Grete Bahlau and Grete Muhl are one and the same person;
2. That the last known address of Grete Bahlau is Landsberg Warthe, Bismarckstrasse 28, III, Germany, and that she is a resident of Germany and a national of a designated enemy country (Germany);
3. That Grete Bahlau is the owner of the property described in subparagraph 4 hereof;
4. That the property described as follows:

a. Real property situated in San Francisco County, California, particularly described in Exhibit A, attached hereto and by reference made a part hereof, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property,

b. That certain bank account with the American Trust Company 464 California Street, San Francisco, California, particularly designated as Savings Account No. 6766, which is due and owing to, and held for and in the name of Grete Bahlau, and any and all security rights in and to any and all collateral for all or part of such obligation, and the right to enforce and collect such obligation.

c. All right, title and interest of Grete Bahlau, formerly known at Grete Muhl, in and to Insurance Policy No. D56138 issued by the Merchants Fire Insurance Company, insuring the premises described in subparagraph 4-a hereof,

is property within the United States owned or controlled by a national of a designated enemy country (Germany);

And determining that the property described in subparagraphs 4-b and 4-c hereof is necessary for the maintenance or safeguarding of other property (namely, that property described in subparagraph 4-a hereof, belonging to the same national of the same designated enemy country and subject to vesting (and in fact vested by this order) pursuant to section 2 of said Executive Order;

And further determining that to the extent that such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany);

And having made all determinations and taken all action, after appropriate consultation and certification required by law, and deeming it necessary in the national interest.

Hereby vests in the Alien Property Custodian the property described in subparagraph 4-a hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, and

Hereby vests in the Alien Property Custodian the property described in subparagraphs 4-b and 4-c hereof,

All such property so vested to be held, used, administered, liquidated, sold or otherwise dealt with in the interest, and for the benefit, of the United States.

Such property and any or all of the proceeds thereof shall be held in an appropriate account, or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof in whole or in part, nor shall this order be deemed to indicate that compensation will not be paid in lieu thereof, if and when it should be determined to take any one or all of such actions.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may, within one year from the date hereof, or within such further time as may be allowed, file with the Alien Property Custodian on Form APC-1 a notice of claim, together with a request for a hearing thereon. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order No. 9095, as amended.

Executed at Washington, D. C., on October 26, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

EXHIBIT A

All that certain lot, piece or parcel of land situated, lying and being in the City and County of San Francisco, State of California, and bounded and described as follows, to-wit:

Commencing at a point on the Northeasterly line of Thomas Avenue formerly Twentieth (20th) Avenue South, distant thereon seventy-five (75) feet Southeasterly from the Southeasterly line of Jennings St. formerly "J" Street South, running thence Southeasterly and along said Northeasterly line of Thomas Avenue formerly Twentieth (20th) Avenue South seventy-five (75) feet; thence at a right angle Northeasterly one hundred (100) feet; thence at a right angle Northwesterly seventy-five (75) feet and thence at a right angle Southwesterly one hundred (100) feet to the Northeasterly line of Thomas Aevnue formerly Twentieth (20th) Avenue South and the point of commencement.

Being Lot Number Ten (10) in Block Three Hundred and Eighty-nine (389) as designated upon a certain map entitled "Map of the part of the grounds of the South San Francisco Homestead and Railroad Association" filed in the office of the County Recorder of the City and County of San Francisco, April 15, 1867, in Map Book 2.

[F. R. Doc. 43-17865; Filed, November 4, 1943; 11:01 a. m.]

[1] 8 F.R. 13757.

OFFICE OF DEFENSE TRANSPORTATION.

[Supp. Order ODT 3, Rev. 93]

FRISCO TRANSPORTATION CO. AND SPARKS TRUCK LINE

COORDINATED OPERATIONS BETWEEN POINTS IN MISSOURI

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by Frisco Transportation Company, a corporation, and R. R. Sparks, doing business as Sparks Truck Line, both of Springfield, Missouri, to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended,[1] a copy of which plan is attached hereto as Appendix 1,[2] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such

[1] 7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582.
[2] Filed as part of the original document.

tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Shipments diverted in execution of the plan shall be transported pursuant to the lawfully applicable rates, charges, rules, and regulations of the diverting carrier.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to "Supplementary Order ODT 3, Revised-93," and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective November 8, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 4th day of November 1943.

JOSEPH B. EASTMAN,
Director, Office of Defense Transportation.

[F. R. Doc. 43-17871; Filed, November 4, 1943; 11:08 a. m.]

[Supp. Order ODT 3, Rev. 94]

THE SANTA FE TRAIL TRANSPORTATION CO. AND REMMERS TRUCK LINE

COORDINATED OPERATIONS BETWEEN MARION AND HERRINGTON, KANS.

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by The Santa Fe Trail Transportation Company, Wichita, Kansas, and W. A. Remmers and M. K. Remmers, doing business as Remmers Truck Line, Marion, Kansas, to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended,[1] a copy of which plan is attached hereto as Appendix 1,[2] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Shipments diverted in execution of the plan shall be transported pursuant to the lawfully applicable rates, charges, rules, and regulations of the diverting carrier.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies, for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' posessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to "Supplementary Order ODT 3, Revised-94," and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective November 8, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 4th day of November 1943.

JOSEPH B. EASTMAN,
Director, Office of Defense Transportation.

[F. R. Doc. 43-17872; Filed, November 4, 1943; 11:08 a. m.]

[1] 7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582.
[2] Filed as part of the original document.

[Supp. Order ODT 3, Rev. 95]

ESAU TRUCK LINE AND RILEY'S TRUCK LINE

COORDINATED OPERATIONS BETWEEN WICHITA AND HUTCHINSON, KANS.

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by A. M. Esau, doing business as Esau Truck Line, Hutchinson, Kansas, and Jesse L. Riley, doing business as Riley's Truck Line, Pratt, Kansas,

to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended,[1] a copy of which plan is attached hereto as Appendix 1,[2] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Shipments diverted in execution of the plan shall be transported pursuant to the lawfully applicable rates, charges, rules, and regulations of the diverting carrier.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission, which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term or this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to "Supplementary Order ODT 3, Revised-95," and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective November 8, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 4th day of November 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-17873; Filed, November 4, 1943; 11:08 a. m.]

[1] 7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582.
[2] Filed as a part of the original document.

OFFICE OF PRICE ADMINISTRATION.

[Order A-2 Under MPR 188, Amdt. 4]

BRUSHES AND BROOMS

ADJUSTMENT OF MAXIMUM PRICES

Amendment No. 4 to Order No. A-2 adjustment provisions for particular commodities under Maximum Price Regulation No. 188—Manufacturers' Maximum Prices for Specified Building Materials and Consumers' Goods Other Than Apparel.

A statement of the considerations accompanying this Amendment No. 4 to Order No. A-2 under § 1499.159 (b) of Maximum Price Regulation No. 188 has been issued simultaneously herewith and filed with the Division of the Federal Register.

Order No. A-2 under Maximum Price Regulation No. 188 is amended in the following respects:

1. A new subparagraph (5) is added as follows:

(5) *Articles made of imported materials.* (i) This adjustment provision permits the granting of relief to manufacturers of certain articles made with imported materials. Adjustments pursuant to this paragraph may be made only for those commodities for which maximum prices have been properly established under Maximum Price Regulation No. 188. The articles as to which relief may be granted are listed below in subparagraph (ii). An adjustment may be granted if:

(*a*) (*1*) The imported materials used in the article have increased in cost since the manufacturer determined the base cost upon which his March 1942 prices were based or (*2*) the cost of the imported materials used in an article for which a maximum price was properly determined subsequent to March 1942 have increased since October 1, 1941, and

(*b*) The imported materials used in the article have increased in cost so substantially that the manufacturer cannot continue to produce the article.

(ii) *Articles as to which relief may be granted.*

Brooms made of imported fibres not including imported broomcorn.
Brushes made of imported bristles or fibres.

(iii) The Price Administrator may grant an adjustment under this subparagraph (5) in an amount not to exceed the additional total cost of imported materials. In computing the additional cost of imported materials, no increase in foreign invoice price occurring after August 20, 1943, will be recognized. The Price Administrator may deny the application for adjustment in whole or in part if the granting of it will interfere with the production or distribution, or will endanger price control of comparable articles made of domestic materials. Any order granting an adjustment under this subparagraph (5) may also adjust the maximum prices of purchasers for resale.

(iv) Any application for adjustment under this subparagraph (5) shall be filed in accordance with Subpart B of Revised Procedural Regulation No. 1.[1]

This amendment shall become effective November 4, 1943.

(56 Stat. 23, 765, Pub. Laws 151, 17th Cong.; E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 3d day of November 1943.

CHESTER BOWLES,
Acting Administrator.

[F. R. Doc. 43-17801; Filed, November 3, 1943; 5:10 p. m.]

Regional and District Office Orders.

[Boston Order G-22 Under Rev. MPR 122]

SPECIFIED SOLID FUELS IN WORCESTER AREA, MASS.

Order No. G-22 under revised Maximum Price Regulation No. 122—Solid Fuels Sold and Delivered by Dealers.

[1] 7 F.R. 8961, 8 F.R. 3313, 3533, 6173, 11806.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of Region I of the Office of Price Administration by § 1340.260 of Revised Maximum Price Regulation No. 122 and the Emergency Price Control Act of 1942, as amended, it is hereby ordered:

(a) *Maximum prices established by this order.* The maximum prices established by §§ 1340.252, 1340.254, 1340.256, 1340.257 and 1340.265 of Revised Maximum Price Regulation No. 122 and by Order No. 27 under Maximum Price Regulation No. 122 for sales of specified kinds of solid fuels in the Worcester, Massachusetts Area by dealers, and for specified services renderd by dealers in connection with the sale or handling of said specified solid fuels, are hereby modified, so that the maximum prices therefor shall be the prices hereinafter set forth. Maximum prices are established for (1) sales of various quantities of the specified solid fuels to various classes of purchasers under various conditions of delivery; and (2) charges which may be made, in addition to such maximum prices for the specified solid fuels, for specified services. The geographical applicability of this order G-22 is explained in paragraph (f), and the terms used herein are defined in paragraph (g).

Except as otherwise specifically provided herein, the provisions of Revised Maximum Price Regulation No. 122 apply to all transactions which are the subject of this Order G-22. Specifically, but without limiting the generality of the foregoing, the prohibitions contained in § 1340.252 apply except to the extent that this Order G-22 provides uniform allowances, discounts, price differentials, service charges, and so forth.

Nothing contained in this order shall be so construed as to permit non-compliance with any statutes of the Commonwealth of Massachusetts, or any rules or regulations promulgated under any such statutes, concerning sales or deliveries of solid fuels.

(b) *Price Schedule I; sales on a delivered basis.* (1) Price Schedule I sets forth maximum prices for sales of specified kinds, sizes and quantities of solid fuels on a "direct delivery" basis to consumers at any point in the Worcester, Massachusetts Area.

Kind and size	Per net ton	½ ton	¼ ton	100 lbs.[1]
Pennsylvania anthracite (except egg, stove and chestnut sizes of Jeddo Highland):				
Broken, egg, stove and chestnut	$16.15	$8.35	$4.45	$0.95
Pea	14.55	7.55	4.05	.90
Buckwheat	12.40	6.45	3.50	.80
Rice	11.25	5.90	3.20	.75
Jeddo Highland:				
Egg, stove and chestnut	16.40	8.45	4.50	.95
Coke:				
Egg, stove and chestnut	15.45	8.00	4.25	.90
Pea	13.25	6.90	3.70	.80
Ambricoal	14.90	7.70	4.10	.90
Cannel coal	21.00	10.75	5.65	1.20

[1] The maximum prices per 100 pounds include carrying or wheeling to consumer's bin or storage space.

(2) *Terms of sale.* If payment is made by the buyer within five days after receipt of the fuel, the maximum prices set forth above shall be reduced by $1.00 per ton, or by 50¢ per half-ton, or by 25¢ per quarter-ton, which reductions are "cash discounts." No further discount is required for cash on delivery, and no "cash discount" is required on sales of less than a quarter-ton. If payment is not required or made at the time of delivery or (except in the case of less than quarter-ton lots) within five days thereafter, terms shall be net 30 days.

(3) *Maximum authorized service and deposit charges.* (a) If the buyer requests such service of him, the dealer may make the following charges for carry or wheel service to consumer's bin or storage space:

	Per net ton	Per ½ ton	Per ¼ ton
For any carry or wheeling from a "direct delivery" point, exclusive of charges for carries up or down flights of stairs	*Cents* 50	*Cents* 25	*Cents* 15
For any carry up or down flights of stairs, per flight	50	25	15

(b) If the buyer requests that fuel delivered in burlap bags or canvas carrying bags furnished by the dealer be left in the bags, the maximum amounts which may be required by the dealer as a deposit on, or as predetermined liquidated damages for failure to return, the bags shall be as follows:

Per burlap bag $0.25
Per canvas carrying bag 1.50

(c) *Price Schedule II; yard sales to consumers and unequipped dealers.* (1) Price Schedule II sets forth maximum prices for sales of specified kinds, sizes and quantities of solid fuels delivered at the yard of any dealer in the Worcester, Massachusetts Area to consumers and to unequipped dealers.

Kind and size	Per net ton	½ ton	¼ ton	100 lbs.
Pennsylvania anthracite (except egg, stove and chestnut sizes of Jeddo Highland):				
Broken, egg, stove and chestnut	$14.65	$7.35	$3.70	$0.75
Pea	13.05	6.55	3.30	.70
Buckwheat	10.90	5.45	2.75	.60
Rice	9.75	4.90	2.45	.55
Jeddo Highland:				
Egg, stove and chestnut	14.90	7.45	3.75	.75
Coke:				
Egg, stove and chestnut	13.95	7.00	3.50	.70
Pea	11.75	5.90	2.95	.60
Ambricoal	13.40	6.70	3.35	.70
Cannel coal	19.50	9.75	4.90	1.00

(2) *Terms of sale.* If payment is made by the buyer within five days after receipt of the fuel, the maximum prices set forth above shall be reduced by $1.00 per ton, or by 50¢ per half-ton, or by 25¢ per quarter-ton, which reductions are "cash discounts." No further discount is required for cash on delivery, and no "cash discount" is required on sales of less than a quarter-ton. If payment is not required or made at the time of delivery or (except in the case of less than quarter-ton lots) within five days thereafter, terms shall be net 30 days.

(3) *Maximum authorized bagging and deposit charges.* (a) The maximum prices per 100 pounds are for 100 pounds bagged, but do not include the bag. If the buyer requests such service of him, the dealer may make the following charges for bagging tons, one-half tons and one-quarter tons:

	Cents
Per ton	50
Per half ton	25
Per quarter ton	15

(b) The maximum amounts which may may be required by the dealer as a deposit on, or as predetermined liquidated damages for failure to return, burlap bags or canvas carrying bags furnished by the dealer shall be as follows:

Per burlap bag $0.25
Per canvas carrying bag 1.50

(d) *Price Schedule III; yard sales to dealers other than unequipped dealers.* (1) Price Schedule III sets forth maximum prices for sales of specified kinds, sizes and quantities of solid fuels delivered at the yard of any dealer in the Worcester, Massachusetts Area to dealers in fuels who resell them except sales to unequipped dealers which are governed by Price Schedule II.

Kind and size	Per net ton	½ ton	¼ ton
Pennsylvania anthracite (except egg, stove and chestnut sizes of Jeddo Highland):			
Broken, egg, stove and chestnut	$13.65	$6.85	$3.45
Pea	12.05	6.05	3.05
Buckwheat	10.40	5.20	2.60
Rice	9.25	4.65	2.35
Jeddo Highland:			
Egg, stove and chestnut	13.90	6.95	3.50
Coke:			
Egg, stove and chestnut	12.95	6.50	3.25
Pea	10.75	5.40	2.70
Ambricoal	12.40	6.20	3.10
Cannel coal	18.50	9.25	4.65

(2) *Terms of sale.* If payment is made by the buyer within five days after receipt of the fuel, the maximum prices set forth above shall be reduced by $1.00 per ton, or by 50¢ per half-ton, or by 25¢ per quarter-ton, which reductions are "cash discounts." No further discount is required for cash on delivery, and no "cash discount" is required on sales of less than a quarter-ton. If payment is not required or made at the time of delivery of (except in the case of less than quarter-ton lots) within five days thereafter, terms shall be net 30 days.

(3) *Maximum authorized bagging and deposit charges.* (a) If the buyer requests such service of him, the seller may make the following charges for bagging:

	Cents
Per ton	50
Per half-ton	25
Per quarter-ton	15

(b) The maximum amounts which may be required by the seller as a deposit on, or as predetermined liquidated damages for failure to return, burlap bags or canvas carrying bags furnished by the seller shall be as follows:

Per burlap bag	$0.25
Per canvas carrying bag	1.50

(e) *Transportation tax.* Any dealer subject to this order may collect, in addition to the specified maximum prices established herein, provided he states it separately, the amount of the transportation tax imposed by section 620 of the Revenue Act of 1942 actually paid or incurred by him, or an amount equal to the amount of such tax paid by any of his prior suppliers and separately stated and collected from the dealer by his supplier: *Provided, however,* That no part of that tax may be collected in addition to the maximum price on sales of lesser quantities than one-quarter ton.

(f) *Geographical applicability.* The maximum prices established by this Order G-22 for "yard sales" shall apply to all such sales of the specified solid fuels at a yard located in the Worcester, Massachusetts Area, regardless of the ultimate destination of the fuel. The maximum prices established by this Order G-22 for sales on a delivered basis shall apply to all such sales of the specified solid fuels to purchasers who receive delivery of the fuel within the Worcester, Massachusetts Area, regardless of whether the dealer is located within said area.

(g) *Definitions.* When used in this Order G-22, the term:

(1) "Worcester, Massachusetts Area" shall include the following cities and towns in the Commonwealth of Massachusetts: Auburn, Boylston, Grafton, Holden, Leicester, Millbury, Northboro, Oxford, Paxton, Shrewsbury, Sutton, West Boylston and Worcester.

(2) "Specified solid fuels" shall include all Pennsylvania anthracite (including Jeddo Highland), Ambricoal, cannel coal and coke.

(3) "Pennsylvania anthracite" means coal produced in the Lehigh, Schuylkill and Wyoming regions in the Commonwealth of Pennsylvania.

(4) "Jeddo Highland" is that Pennsylvania anthracite which is prepared at Jeddo #7 breaker and Highland #5 breaker of the Jeddo Highland Coal Company, Jeddo, Pennsylvania and marketed by said company under the trade names "Jeddo Coal," "Highland Coal," or "Hazle Brook Coal."

(5) "Broken," "egg," "stove," "chestnut" and "pea" sizes of Pennsylvania anthracite refer to the legal standard sizes for anthracite offered for sale in the Commonwealth of Massachusetts, effective December 1, 1941, as established by the Director of Standards of the Division of Standards of the Department of Labor and Industries of the Commonwealth of Massachusetts pursuant to General Laws (Ter. Ed.) Chapter 94, section 239A (Chapter 382, Acts of 1926). "Buckwheat" and "Rice" sizes of Pennsylvania Anthracite refer to the sizes of such coal prepared at the mine in accordance with standard sizing specifications adopted by the Anthracite Emergency Committee, effective December 15, 1941.

(6) "Ambricoal" means Anthracite briquettes manufactured by American Briquet Company at its plant at Lykens, Pennsylvania, and marketed under that trade name.

(7) "Dealer" means any person selling solid fuel except producers or distributors making sales at or from a mine, a preparation plant operated as an adjunct of any mine, a coke oven, or a briquette plant.

(8) "Unequipped dealer" means a seller who is engaged in the business of purchasing solid fuel for resale, and delivers the solid fuel resold by him to consumers from his supplier's place of business, without storing the same except in a truck or wagon, and who has no facilities customarily used for storing solid fuel other than a truck or wagon.

(9) "Direct delivery" means dumping or chuting the fuel from the seller's truck directly into the buyer's bin or storage space; but, if that is physically impossible, the term means discharging the fuel directly from the seller's truck at the point where this can be done which is nearest and most accessible to the buyer's bin or storage space.

(10) "Carry" and "wheel" refer to the movement of fuel to buyer's bin or storage space by wheelbarrow, barrel, bag, sack or otherwise from the dealer's truck or wagon, or from the point of discharge therefrom, to buyer's bin or storage space.

(11) "Yard sales" shall mean deliveries made by the dealer in his customary manner at his yard.

(12) Except as otherwise specifically provided, and unless the context otherwise requires, the definitions set forth in §§ 1340.255 and 1340.266 of Revised Maximum Price Regulation No. 122 shall apply to the terms used herein.

(h) *Lower prices permitted.* Lower prices than those set forth herein may be charged, paid or afforded.

(i) *Posting of maximum prices; sales slips and receipts.* (1) Every dealer subject to this Order G-22 shall post all of the maximum prices established hereby which apply to the types of sales made by him in his place of business in a manner plainly visible to and understandable by the purchasing public, and shall keep a copy of this Order No. G-22 available for examination by any person during ordinary business hours. In the case of a dealer who sells directly to consumers from a truck or wagon, the posting shall be done on the truck or wagon. The prices established hereby need not be reported under § 1340.262 (c) of Revised Maximum Price Regulation No. 122.

(2) Every dealer selling solid fuel for sales of which a maximum price is set by this Order G-22 shall give to each purchaser an invoice or similar document showing (a) the date of the sale or delivery, the name and address of the dealer and of the buyer, the kind, size and quantity of the solid fuel sold, and the price charged; and (b) separately stating any special services rendered and deposit charges made and the amount charged therefor. This paragraph (b) (2) shall not apply to sales of quantities of less than one-quarter ton unless the dealer customarily gave such a statement on such sales.

(3) In the case of all other sales, every dealer who during December 1941, customarily gave buyers sales slips or receipts shall continue to do so. If a buyer requests of a seller a receipt showing the name and address of the dealer, the kind, size and quantity of the solid fuel sold to him or the price charged, the dealer shall comply with the buyer's request as made by him.

(j) *Petitions for amendment.* Any person seeking an amendment of any provision of this Order may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, except that the petition shall be filed in the Boston Regional Office of the Office of Price Administration. No appeals from a denial in whole or in part of such petition by the Regional Administrator may be made to the Price Administrator.

(k) This order may be revoked, amended or corrected at any time. The reporting and record-keeping provisions of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This Order No. G-22 shall become effective November 5, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 29th day of October 1943.

GORDON K. CREIGHTON,
Acting Regional Administrator.

[F. R. Doc. 43-17777; Filed, November 1, 1943; 11:22 a. m.]

[Region II Order G-18 Under Rev. MPR 122]

SOLID FUELS IN MONROE COUNTY, N. Y.

Order No. G-18 under §§ 1340.260 and 1340.259 (a) (1) of Revised Maximum Price Regulation No. 122. Solid fuels sold and delivered by dealers. Solid fuels delivered by dealers in the city of Rochester and designated portions of Monroe County, State of New York, coal area IV.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by §§ 1340.260 and 1340.259 (a) (1) of Revised Maximum Price Regulation No. 122, it is ordered:

(a) *What this order does*—(1) *Dealers' maximum prices; area covered.* If you are a dealer in solid fuels, this order fixes the maximum prices which you may charge, and if you are a purchaser in the course of trade or business, this order fixes the maximum prices which you may pay, for certain sizes and quantities of "Pennsylvania anthracite" and for certain sizes, quantities and kinds of bituminous coal delivered to or at any point in State of New York; Coal Area IV. That area consists of the following

portions of Monroe County in the State of New York:

The City of Rochester;

The towns of Irondequoit, Brighton, Chili, Gates and Greece;

The following portions of the Towns of Pittsford, Perinton and Henrietta; bounded on the north by Penfield Road to and including the hamlet of Penfield; on the east by the Five-Mile Line Road, the easterly village line of the village of East Rochester, the Lincoln Marsh Road to and including the hamlet of Bushnell's Basin; on the south by Ballantyne Bridge-Pittsford-Jefferson Avenue and the South Pittsford-Victor Road, to the point where the Brighton-Henrietta town line runs into the Genesee River on the west.

This area shall include the abutting property on each side of all boundary highways.

(2) *Schedules of prices, charges and discounts.* The applicable prices, authorized charges, and required discounts, from which you shall determine the maximum prices for designated kinds, sizes and quantities of coal delivered within Coal Area IV are set forth in Schedules I and II hereafter. Schedule I relates to sales of Pennsylvania anthracite (hereinafter called simply "anthracite"). Schedule II relates to sales of bituminous coal.

(3) *To what sales this order applies.* If you are a dealer in solid fuels, you are bound by the prices, charges and discounts, and by all other provisions of this order for all deliveries within Coal Area IV whether or not you are located in coal area IV.

(b) *What this order prohibits.* Regardless of any contract or other obligations, you shall not:

(1) Sell or, in the course of trade or business, buy solid fuels of the kinds, sizes and in the quantities set forth in the schedules herein, at prices higher than the maximum prices computed as set forth in paragraph (c) of this order, although you may charge, pay, or offer less than maximum prices.

(2) Obtain any price higher than the applicable maximum price by

(i) Changing the discounts authorized herein, or

(ii) Charging for any service which is not expressly requested by the buyer, or

(iii) Charging for any service for which a charge is not specifically authorized by this order, or

(iv) Charging a price for any service higher than the schedule price for such service, or

(v) Using any tying agreement or requiring that the buyer purchase anything in addition to the fuel requested by him, except that a dealer may comply with requirements or standards with respect to deliveries which have been or may be issued by an agency of the United States Government.

(vi) Using any other device by which a higher price than the applicable maximum price is obtained, directly or indirectly.

(c) *How to compute maximum prices.* You must figure your maximum price as follows:

(1) *Use the schedule which covers your sale.* (Schedule I contains a separate table of prices for "direct-delivery" sales, "yard sales" and "bagged coal" sales of anthracite. You will find Schedule I in paragraph (d). Schedule II contains a table of prices for "direct-delivery" sales and "yard sales" of bituminous coal. You will find Schedule II in paragraph (e).)

(2) Take the dollars-and-cents figure given in the applicable table of the applicable schedule, for the kind, size and quantity of solid fuel you are selling.

(3) Deduct from that figure the amount of the discount which you are required to give, as specified therein. Where a discount is required, you must state it separately on your invoice.

(4) If, at your purchaser's request, you actually render him a service for which this order authorizes a charge, you may add to the figure obtained as above no more than the maximum authorized service charge. You must state that charge separately on your invoice. The only authorized service charges are those provided for in the schedules.

(5) If you deliver a fraction of a net ton, but not less than one-half ton, and the applicable schedule does not provide a discount on the basis of the tonnage sold, you shall allow a proportionate discount, making your calculation to the nearest full cent. For example, if you are required to deduct 75¢ per ton for cash payment, you shall deduct 56¢ for three-quarters of a ton.

(6) If you deliver a fraction of a net ton, but not less than one-quarter ton, and the applicable schedule does not provide a service charge on the basis of the tonnage sold, you shall add no more than a proportionate service charge, making your calculation to the nearest full cent. For example, if the transaction permits a service charge of 50¢ per ton, you shall not add more than 38¢ for performance of that service in connection with the delivery of three-quarters of a ton.

(d) *Schedule I.* Schedule I establishes specific maximum prices for certain sizes of anthracite in certain specific quantities, delivered to or at any point within Coal Area IV. There is a separate table of prices for "direct-delivery" sales, "yard sales," and "sales of bagged coal."

(1) *Sales on a "direct-delivery" basis.*

FOR SALES OF ANTHRACITE OF THE SIZES AND IN THE QUANTITIES SPECIFIED

Size	Per net ton	Per net ½ ton	Per 100 lbs. for sales of 100 lbs. or more but less than ½ ton
Broken, egg, stove, nut	$14.15	$7.40	$0.80
Pea	12.10	6.25	.70
Buckwheat	9.65	5.15	.60
Rice	8.40	4.50	
Barley	7.85	4.25	
Screenings	3.60	1.80	

Required discounts. You shall deduct from the prices set forth in Table (1) of this schedule, on sales and deliveries of broker, egg, stove, nut and pea sizes, a discount of 75¢ per net ton and 40¢ per net ½ ton, where payment is made within ten days after delivery. For sales of buckwheat, rice, and barley sizes, you shall deduct a discount of 25¢ per net ton where payment is made within ten days after delivery. Nothing herein requires you to sell on other than a cash basis.

MAXIMUM AUTHORIZED SERVICE CHARGES

Special service rendered at the request of the purchaser:	Maximum authorized service charges
"Carry" or "wheel" (except for sales amounting to less than ¼ ton)	50¢ per net ton. 30¢ per net ½ ton. 20¢ per net ¼ ton.
"Carrying upstairs or downstairs", for each floor above the ground floor (except for sales amounting to less than ¼ ton). The charge shall be in addition to any charge for "carry" or "wheel"	50¢ per net ton. 30¢ per net ½ ton. 20¢ per net ¼ ton.

(2) *"Yard sales".*

FOR SALES OF ANTHRACITE OF THE SIZES AND IN THE QUANTITIES SPECIFIED TO DEALERS AND TO CONSUMERS

Size	Per net ton, to sales of ¼ ton or more		Per 100 lbs. for sales of 100 lbs. or more but less than ¼ ton
	To dealers for resale	To consumers	
Broken, egg, stove, nut	$11.00	$12.55	$0.70
Pea	9.00	10.50	.60
Buck	7.40	8.50	.50
Rice	6.50	7.60	
Barley	5.65		
Screenings	1.60		

Required discounts. You shall deduct from the prices set forth in Table (2) of this schedule, on sales and deliveries to dealers, on quantities of ½ ton or more, the amount of the discounts set forth below. Those discounts are required, if payment is made by the 22nd day of the month on purchases made from the 1st to the 15th day of that month, and if payment is made by the 7th day of the following month on purchases made from the 16th to the 31st day of the previous month. Nothing herein requires you to sell on other than a cash basis.

Size:	Discount per net ton
Broken, egg, stove, nut	$0.15
Pea and buckwheat	.10
Rice and barley	.05

(3) *"Sales of bagged coal"—(Maximum prices per bag).*

MAXIMUM PRICES PER 50 LB. PAPER BAG

Size	Delivered at dealers' yard	Delivered to retail stores	Sales to ultimate consumers
Nut	$0.45	$0.50	$0.55
Pea	.40	.45	.50

MAXIMUM PRICES PER 17 LB. PAPER BAG

Size	Delivered at dealers' yard		Delivered to retail stores	Sales to ultimate consumers
	To dealers	To consumers		
Nut	$0.15	$0.17	$0.17	$0.19

(e) *Schedule II.* Schedule II establishes specific maximum prices for certain kinds, sizes and quantities of bituminous coal, delivered to or at any point within Coal Area IV. There is a separate table for "direct-delivery" sales and "yard sales".

(1) *Sales on a "direct-delivery" basis.*

FOR SALES OF BITUMINOUS COAL OF THE KINDS, SIZES AND QUANTITIES SPECIFIED

Kind and size of bituminous coal:	Per net ton
High volatile bituminous coal from District Nos. 1, 2, 3 or 4:	
Lump, egg, nut and stoker	$6.90
Nut and slack	6.80
Slack	6.60
Low volatile bituminous coal from District No. 1—Pennsylvania: All lump, all double screened coal with top sizes over 2" and coal customarily sold as Run-of-Mine:	
1—Coal in price classification "A"	8.25
2—Coal in price classifications "B" through "E" inclusive	7.45

Where deliveries are requested in quantities of less than two tons, the foregoing prices, for the kinds and sizes of coal included in such deliveries, may be increased by 50¢ per net ton.

MAXIMUM AUTHORIZED SERVICE CHARGES

Maximum Authorized Service Charges, Cents Per Net Ton

Special service rendered at the request of purchasers:	
"Carry" or "wheel" (except for sales amounting to less than ½ ton)	50
"Carrying upstairs, for each floor above the ground floor" (except for sales amounting to less than ½ ton). The charge shall be in addition to any charge for "carry" or "wheel"	50

(2) *"Yard sales".*

FOR SALES OF BITUMINOUS COAL OF THE KINDS, SIZES AND QUANTITIES SPECIFIED TO DEALERS AND TO CONSUMERS

Kind and size of bituminous coal sold	Sales to dealers (per net ton, for sales of ½ ton or more)	Sales to consumers (per net ton, for sales of ½ ton or more)
High volatile bituminous coal from District Nos. 1, 2, 3 or 4:		
Lump, egg, nut or stoker	$5.90	$6.20
Nut and slack	5.80	6.10
Slack	5.60	5.90
Low volatile bituminous coal from District No. 1—Pennsylvania—All lump, all double screened coal with top sizes over 2" and coal customarily sold as run-of-mine:		
1—Coal in price classification "A"	7.25	7.55
2—Coal in price classification "B" through "E" inclusive	6.45	6.75

(f) *Commingling.* If you sell one size or kind of coal, commingled with another size or kind of coal, your maximum price for the combination shall be the maximum price established in this order for the smallest of the sizes or the least expensive kind of coal so commingled, whichever is lower, whether the sale be a "direct-delivery" sale, "yard sale", or "sales of bagged coal", except in the following situation. Where a purchaser requests that two or more sizes or kinds of coal be commingled in one delivery, then, in that event, if those sizes and kinds are separately weighed at the point of loading, or when bagged, the dealer may commingle those sizes and kinds in the truck or other vehicle, or in the bags, in which the delivery is made. The price for coal so commingled shall be calculated on the basis of the applicable per net ton price, or, in the case of bagged coal, on the basis of the applicable bagged price, for each size and kind in the combination, and the invoice shall separately state the price, so determined, for the quantity of each size and kind in the combination.

(g) *Ex parte 148—Freight rate increase.* Since the Ex Parte 148 Freight Rate Increase has been rescinded by the Interstate Commerce Commission, dealers' freight rates are the same as those of December, 1941. Therefore, you may not increase any schedule price on account of freight rates.

(h) *Addition of increase in suppliers' maximum prices prohibited.* You may not increase the specific maximum prices established by this order to reflect, in whole or in part, any subsequent increase to you in your suppliers' maximum price for the same fuel. The specific maximum prices already reflect increases to you in your supplier's maximum prices occurring up to the effective date of this order. If increases in your supplier's maximum prices should occur after such date, as the result of any amendment to or revision of a maximum price regulation issued by the Office of Price Administration governing sales and deliveries made by such suppliers, the Regional Administrator will, if he then deems it to be warranted, take appropriate action to amend this order to reflect such increases.

(i) *Taxes.* If you are a dealer subject to this order you may collect, in addition to the specific maximum prices established herein, provided you state it separately, the amount of the Federal tax upon the transportation of property imposed by section 620 of the Revenue Act of 1942 actually paid or incurred by you, or any amount equal to the amount of such tax paid by any of your prior suppliers and separately stated and collected from you by the supplier from whom you purchased. On sales to the United States or any agency thereof, you need not state this tax separately.

(j) *Adjustable pricing.* You may not make a price adjustable to a maximum price which will be in effect at some time after delivery of the coal has been completed; but the price may be adjustable to the maximum price in effect at the time of delivery.

(k) *Petitions for amendment.* Any person seeking an amendment of any provision of this order may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, except that the petition shall be filed with the Regional Administrator and acted upon by him.

(l) *Right of amendment or revocation.* The Regional Administrator or the Price Administrator may amend, revoke or rescind this order, or any provision thereof, at any time.

(m) *Applicability of other regulations.* If you are a dealer subject to this order, you are governed by the licensing provisions of Licensing Order 1. Licensing Order 1 provides, in brief, that a license is required of all persons making sales for which maximum prices are established. A license is automatically granted. The license may be suspended for violations in connection with the sale of any commodity for which maximum prices are established. If your license is suspended, you may not sell any such commodity during the period of suspension.

(n) *Records.* If you are a dealer subject to this order, you shall preserve, keep, and make available for examination by the Office of Price Administration, the same records you were required to preserve and keep under § 1340.262 (a) and (b) of Revised Maximum Price Regulation No. 122.

(o) *Posting of maximum prices; sales slips and receipts.* (1) If you are a dealer subject to this order, you shall post all your maximum prices (as set forth in the applicable schedule or schedules of this order) in your place of business in a manner plainly visible to and understandable by the purchasing public.

(2) If you are a dealer subject to this order, you shall, except for a sale of less than one-half ton, give each purchaser a sales slip or receipt showing your name and address, the kind, size, and quantity of coal sold to him, the date of the sale or delivery and the price charged, separately stating the amount, if any, of the required discounts which must be deducted from, and the authorized service charges and the taxes, which may be added to, the specific maximum prices prescribed herein.

In the case of all other sales, you shall give each purchaser a sales slip or receipt containing the information described in the foregoing paragraph, if requested by such purchaser or if, during December 1941, you customarily gave purchasers such sales slips or receipts.

(p) *Enforcement.* (1) Persons violating any provision of this order are subject to civil and criminal penalties, including suits for treble damages, provided for by the Emergency Price Control Act of 1942, as amended.

(2) Persons who have any evidence of any violation of this order are urged to communicate with the Buffalo District Office of the Office of Price Administration.

(q) *Definitions and explanations.* When used in this Order No. G-18, the term:

(1) "Person" includes an individual, corporation, partnership, association or

any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency or any of the foregoing.

(2) "Sell" includes sell, supply, dispose, barter, exchange, lease, transfer, and deliver, and contracts and offers to do any of the foregoing. The terms "sale", "selling", "sold", "seller", "buy", "purchase" and "purchaser" shall be construed accordingly.

(3) "Dealer" means any person selling coal of the kinds and sizes set forth in the schedules herein, and does not include a producer or distributor making sales at or from a mine, a preparation plant operated as an adjunct of any mine, or a briquette plant.

(4) "Direct-delivery", except with respect to sales in 100 lb. lots, means delivery to the buyer's bin or storage space by dumping or chuting directly from the seller's truck or other vehicle or, where such delivery to the buyer's bin or storage space is physically impossible, by discharging at the point nearest and most accessible to the buyer's bin or storage space and at which the coal can be discharged directly from the seller's truck. "Direct-delivery" in 100 lb. lots shall mean depositing in buyer's bin or other storage space designated by buyer.

(5) "Carry" and "wheel" refer to the movement of coal to buyer's bin or storage space, in baskets or other containers, or by wheelbarrow or barrel, from the seller's truck or other vehicle, or from the point nearest and most accessible to the buyer's bin or storage space at which coal is discharged from the seller's truck in the course of "direct delivery".

(6) "Yard sales" means sales accompanied by physical transfer to the buyer's truck or vehicle at the yard, dock, barge, car, or at a place of business of the seller other than at seller's truck or vehicle.

(7) "Pennsylvania anthracite" means all coal produced in the Lehigh, Schuylkill and Wyoming regions in the Commonwealth of Pennsylvania.

(8) The sizes of Pennsylvania anthracite described as broken, egg, stove, nut, pea, buckwheat, rice, barley and screenings shall refer to such sizes of anthracite as they were sold and designated in the State of New York; Coal Area IV, during December, 1941.

(9) "Delivered at dealer's yard" as applied to sales of bagged coal, means physical transfer at the dealer's yard to the purchaser's truck or other vehicle.

(10) "Delivered to retail stores" as applied to sales of bagged coal, means deposit in that part of the store designated by the purchaser.

(11) "Sales to ultimate consumer" as applied to bagged coal, means sales by dealers, other than sales at the dealer's yard, whether or not delivered to the consumer's premises.

(12) "District No." refers to the geographical coal-producing districts as defined in the Bituminous Coal Act of 1937, as amended, and as they have been modified as of midnight, August 23, 1943.

(13) "Low volatile bituminous coal" is produced in the low volatile sections of the producing districts specified herein.

(14) "High volatile bituminous coal" is produced in the high volatile sections of the producing districts specified herein.

(15) All designations in this order of sizes, classifications, etc., applicable to bituminous coal, refer to the sizes, classifications, etc., as set forth in the minimum price schedules for the various producing districts issued by the Bituminous Coal Division of the United States Department of Interior, as in effect midnight, August 23, 1943. Where the minimum price schedules do not make specific mention of any size designated in this order, such size designations shall refer to the sizes of bituminous coal sold as such in State of New York; coal area IV during December, 1941.

(16) Except as otherwise provided herein or as the context may otherwise require, the definitions set forth in §§ 1340.255 and 1340.266 of Revised Maximum Price Regulation No. 122 shall apply to terms used herein.

(r) *Effect of order on revised maximum price regulation No. 122.* To the extent applicable this order supersedes Revised Maximum Price Regulation No. 122.

This order has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This Order No. G-18 shall become effective November 1, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 22d day of October 1943.

SYLVAN L. JOSEPH,
Regional Administrator.

[F. R. Doc. 43-17780; Filed, November 1, 1943; 11:22 a. m.]

[Region I Order G-23 Under Rev. MPR 122]

SPECIFIED SOLID FUELS IN STOUGHTON, MASS.

Order No. G-23 under Revised Maximum Price Regulation No. 122—Solid Fuels Sold and Delivered by Dealers.

For the reasons set forth in an opinion issued simultaneously herewith, and under the authority vested in the Regional Administrator of Region I of the Office of Price Administration by § 1340.260 of Revised Maximum Price Regulation No. 122 and the Emergency Price Control Act of 1942, as amended, it is hereby ordered:

(a) *Maximum prices established by this order.* The maximum prices established by §§ 1340.252, 1340.254, 1340.256, 1340.257 and 1340.265 of Revised Maximum Price Regulation No. 122 for sales of specified kinds of solid fuels in Stoughton, Massachusetts, by dealers, and for specified services rendered by dealers in connection with the sale or handling of said specified solid fuels, are hereby modified, so that the maximum prices therefor shall be the prices hereinafter set forth. Maximum prices are established for (1) sales of various quantities of the specified solid fuels to various classes of purchasers under various conditions of delivery; and (2) charges which may be made, in addition to such maximum prices for the specified solid fuels, for specified services. The terms used herein are defined in paragraph (f).

Except as otherwise specifically provided herein, the provisions of Revised Maximum Price Regulation No. 122 apply to all transactions which are the subject of this Order No. G-23. Specifically, but without limiting the generality of the foregoing, the prohibitions contained in § 1340.252 apply except to the extent that this Order G-23 provides uniform allowances, discounts, price differentials, service charges, and so forth.

Nothing contained in this order shall be so construed as to permit non-compliance with any statutes of the Commonwealth of Massachusetts, or any rules or regulations promulgated under any such statutes, concerning sales or deliveries of solid fuels.

(b) *Price schedule I—sales on a delivered basis.* (1) Price schedule I sets forth maximum prices for sales of specified kinds, sizes and quantities of solid fuels on a "direct delivery" basis to consumers at any point in Stoughton, Massachusetts.

Kind and size	1 Ton	½ Ton	¼ Ton	100 lbs.[1]
Pennsylvania anthracite (except broken, egg, stove and chestnut sizes of Red Ash):				
Broken, egg, stove and chestnut	$15.50	$7.75	$4.15	$0.90
Pea	14.00	7.00	3.75	.85
Buckwheat	12.25	6.15	3.30	.80
Rice	11.40	5.70	3.10	.75
Red Ash:				
Broken, egg and chestnut	16.00	8.00	4.25	.95
Stove	16.50	8.25	4.40	.95
Coke: egg, stove and chestnut	14.75	7.40	3.95	.85
Ambricoal	15.05	7.55	4.00	.90

[1] The maximum prices per 100 pounds include carrying or wheeling to consumer's bin or storage space.

(2) *Terms of sale.* If payment is made by the consumer within 10 days after receipt of the fuel, the maximum prices set forth above per net ton shall be reduced by 50 cents, which reduction is a "cash discount." No further discount is required for cash on delivery, and no "cash discount" is required on sales of less than one ton. If payment is not required or made at the time of delivery or, in the case of deliveries of one ton or more, within 10 days thereafter, terms shall be net 30 days.

(3) *Maximum authorized service and deposit charges.* (i) If the consumer requests such services of him the dealer may make the following charges for any carry or wheel from a "direct delivery" point to consumer's bin or storage space:

	Cents
Per net ton	50
Per ½ ton	25
Per ¼ ton	15

(ii) If the consumer requests that fuel delivered in burlap bags furnished by the dealer be left in the bags, the maximum amount which may be required by the dealer as a deposit on, or as predetermined liquidated damages for

failure to return, the bags shall be 25 cents per bag.

This subparagraph (3) applies only when the dealer renders the service.

(c) *Price schedule II—"yard sales" to consumers and unequipped dealers.* (1) Price schedule II sets forth maximum prices for sales of specified kinds, sizes and quantities of solid fuels delivered at the yard of any dealer in Stoughton, Massachusetts to consumers and to unequipped dealers.

Kind and size	Per net ton	½ ton	¼ ton	100 lbs.
Pennsylvania anthracite (except broken, egg, stove and chestnut sizes of red ash):				
Broken, egg, stove and chestnut	$14.00	$7.00	$3.75	$0.85
Pea	12.50	6.25	3.40	.80
Buckwheat	10.75	5.40	2.95	.75
Rice	9.90	4.95	2.75	.70
Red ash:				
Broken, egg and chestnut	14.50	7.25	3.90	.90
Stove	15.00	7.50	4.00	.90
Coke: egg, stove and chestnut	13.25	6.65	3.55	.80
Ambricoal	13.55	6.80	3.65	.85

(2) *Terms of sale.* Terms of sale may be net cash, but no additional charge shall be made for the extension of credit terms of net 30 days or net 10 days e. o. m.

(3) *Maximum authorized bagging and deposit charges.* (i) The maximum prices per 100 pounds are for 100 pounds bagged, but do not include the bag. If the buyer requests such service of him, the seller may make the following charges for bagging tons, one-half tons and one-quarter tons:

	Cents
Per ton	50
Per half ton	25
Per quarter ton	15

(ii) The maximum amount which may be required by the seller as a deposit on, or as predetermined liquidated damages for failure to return, burlap bags furnished by the seller shall be 25 cents per bag.

(d) *Price Schedule III—"yard sales" to dealers other than unequipped dealers.* (1) Price Schedule III sets forth maximum prices for sales of specified kinds, sizes and quantities of solid fuels delivered at the yard of any dealer in Stoughton, Massachusetts, to dealers in fuels who resell them, except sales to unequipped dealers which are governed by Price Schedule II.

Kind and size	Per net ton	½ ton	¼ ton
Pennsylvania anthracite (except broken, egg, stove and chestnut sizes of red ash):			
Broken, egg, stove and chestnut	$13.00	$6.50	$3.50
Pea	11.50	5.75	3.15
Buckwheat	9.75	4.90	2.70
Rice	8.90	4.45	2.50
Red ash:			
Broken, egg and chestnut	13.50	6.75	3.65
Stove	14.00	7.00	3.75
Coke: egg, stove and chestnut	12.25	6.15	3.30
Ambricoal	12.55	6.30	3.40

(2) *Terms of sale.* Terms of sale may be net cash, but no additional charge shall be made for the extension of credit terms of net 30 days or net 10 days e. o. m.

(3) *Maximum authorized bagging and deposit charges.* (i) The maximum prices per 100 pounds are for 100 pounds bagged, but do not include the bag. If the buyer requests such service of him, the seller may make the following charges for bagging tons, one-half tons and one-quarter tons:

	Cents
Per ton	50
Per half ton	25
Per quarter-ton	15

(ii) The maximum amount which may be required by the seller as a deposit on, or as predetermined liquidated damages for failure to return, burlap bags furnished by the seller shall be 25 cents per bag.

(e) *Transportation tax.* Any dealer subject to this order may collect, in addition to the specified maximum prices established herein, provided he states it separately, the amount of the transportation tax imposed by section 620 of the Revenue Act of 1942 actually paid or incurred by him, or an amount equal to the amount of such tax paid by any of his prior suppliers and separately stated and collected from the dealer by his supplier: *Provided, however,* That no part of that tax may be collected in addition to the maximum price on sales of lesser quantities than one-quarter ton.

(f) *Definitions.* When used in this Order G–23, the term:

(1) "Specified solid fuels" shall include all Pennsylvania anthracite (including red ash), ambricoal and coke.

(2) "Pennsylvania anthracite" means coal produced in the Lehigh, Schuylkill and Wyoming regions in the Commonwealth of Pennsylvania.

(3) "Red ash" is that Pennsylvania anthracite which is mined in the Lykens seam in Schuylkill County in the Commonwealth of Pennsylvania.

(4) "Broken", "egg", "stove", "chestnut" and "pea" sizes of Pennsylvania anthracite refer to the legal standard sizes for anthracite offered for sale in the Commonwealth of Massachusetts, effective December 1, 1941, as established by the Director of Standards of the Division of Standards of the Department of Labor and Industries of the Commonwealth of Massachusetts pursuant to General Laws (Ter. Ed.) Chapter 94, section 239A (Chapter 382, Acts of 1926). "Buckwheat" and "rice" sizes of Pennsylvania anthracite refer to the sizes of such coal prepared at the mine in accordance with standard sizing specifications adopted by the Anthracite Emergency Committee, effective December 15, 1941.

(5) "Ambricoal" means anthracite briquettes manufactured by American Briquet Company at its plant at Lykens, Pennsylvania, and marketed under that trade name.

(6) "Dealer" means any person selling solid fuel except producers or distributors making sales at or from a mine, a preparation plant operated as an adjunct of any mine, a coke oven, or a briquette plant.

(7) "Unequipped dealer" means a seller who is engaged in the business of purchasing solid fuel for resale, and delivers the solid fuel resold by him to consumers from his supplier's place of business without storing the same except in a truck or wagon, and who has no facilities customarily used for storing solid fuel other than a truck or wagon.

(8) "Direct delivery" means dumping or chuting the fuel from the seller's truck directly into the buyer's bin or storage space; but, if that is physically impossible, the term means discharging the fuel directly from the seller's truck at the point where this can be done which is nearest and most accessible to the buyer's bin or storage space.

(9) "Carry" and "wheel" refer to the movement of fuel to buyer's bin or storage space by wheelbarrow, barrel, sack or otherwise from the seller's truck or from the point of discharge therefrom when made in the course of "direct delivery."

(10) "Yard sales" shall mean deliveries made by the dealer in his customary manner at his yard.

(11) Except as otherwise specifically provided, and unless the context otherwise requires, the definitions set forth in §§ 1340.255 and 1340.266 of Revised Maximum Price Regulation No. 122 shall apply to the terms used herein.

(g) *Lower prices permitted.* Lower prices than those set forth herein may be charged, paid or offered.

(h) *Posting of maximum prices; sales slips and receipts.* (1) Every dealer subject to this Order G–23 shall post all of the maximum prices established hereby which apply to the types of sales made by him in his place of business in a manner plainly visible to and understandable by the purchasing public, and shall keep a copy of this Order G–23 available for examination by any person during ordinary business hours. In the case of a dealer who sells directly to consumers from a truck or wagon, the posting shall be done on the truck or wagon. The prices established hereby need not be reported under § 1340.262 (c) of Revised Maximum Price Regulation No. 122.

(2) Every dealer selling solid fuel for sales of which a maximum price is set by this Order G–23 shall give to each purchaser an invoice or similar document showing (a) the date of the sale or delivery, the name and address of the dealer and of the buyer, the kind, size and quantity of the solid fuel sold, and the price charged and (b) separately stating any special services rendered and deposit charges made and the amount charged therefor. This paragraph (h) (2) shall not apply to sales of quantities of less than one-quarter ton unless the dealer customarily gave such a statement on such sales.

(3) In the case of all other sales, every dealer who during December, 1941 customarily gave buyers sales slips or receipts shall continue to do so. If a buyer requests of a seller a receipt showing the name and address of the dealer, the kind size and quantity of the solid fuel sold to him or the price charged, the dealer shall comply with the buyer's request as made by him.

(i) *Petitions for amendment.* Any person seeking an amendment of any

provision of this order may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, except that the petition shall be filed in the Boston Regional Office of the Office of Price Administration. No appeal from a denial in whole or in part of such petition by the Regional Administrator may be made to the Price Administrator.

(k) This order may be revoked, amended or corrected at any time.

The reporting and record-keeping provisions of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This Order No. G-23 shall become effective November 8, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 1st day of November 1943.

GORDON K. CREIGHTON,
Acting Regional Administrator.

[F. R. Doc. 43-17778; Filed, November 2, 1943; 12:12 p. m.]

[Region II Order G-16 Under Rev. MPR 122]

SOLID FUELS IN DESIGNATED COUNTIES IN NEW JERSEY

Order No. G-16 under § 1340.260 of Revised Maximum Price Regulation No. 122. Solid fuels sold and delivered by dealers. Pennsylvania anthracite delivered by dealers in Bergen County, Passaic County, and designated portions of Morris County, State of New Jersey; Coal Area IV.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1340.260 of Revised Maximum Price Regulation No. 122, it is hereby ordered:

(a) *What this order does*—(1) *Dealers' maximum prices, area covered.* If you are a dealer in "Pennsylvania anthracite", this order fixes the maximum prices which you may charge, and if you are a purchaser in the course of trade or business, this order fixes the maximum prices which you may pay, for certain sizes and quantities of "Pennsylvania anthracite" (hereinafter called simply "anthracite") delivered to or at any point in the zones comprising State of New Jersey, Coal Area IV. That area consists of three zones, as follows:

Zone 1. Zone 1 includes the following portions of the State of New Jersey: Starting at the intersection of the southern borderline of Bergen County and the Hudson River, running westerly along the Bergen County line to the Hackensack River, thence northerly to Route 6, thence northwesterly along Route 6 to the Erie Railroad Short Cut, thence north to Route 4, thence easterly to Route 17, thence northerly to the New York State Border, thence easterly along the Bergen County Border to the Hudson River at point of origin.

Zone 2. Zone 2 includes the following portions of the State of New Jersey: That portion of Bergen County South of Route 6 and west of the Hackensack River, and the cities of Passaic and Clifton in Passaic County.

Zone 3. Zone 3 includes the following portions of the State of New Jersey: All of Passaic County excluding the cities of Passaic, Clifton and all of Bergen County not included in Zones 1 and 2, and the Boroughs of Lincoln Park, Riverdale, Butler and the Township of Pequamock in the County of Morris.

(2) *Schedules of prices, charges, and discounts.* The applicable prices, authorized charges, and required discounts, from which you shall determine the maximum prices for designated sizes and quantities of anthracite delivered within Zone 1, 2 and 3 are set forth in Schedule I, II and III, respectively.

(3) *To what sales this order applies.* If you are a dealer in anthracite you are bound by the prices, charges and discounts, and by all other provisions of this order for all deliveries within Zones 1, 2 and 3.

You shall determine the maximum price for "direct-delivery" sales, as hereinafter defined, by reference to the appropriate schedule of this order covering the zone to which delivery is made, whether or not you are located in one of the three zones.

You shall determine your maximum price for a "yard" sale, as hereinafter defined, by reference to the appropriate schedule of this order covering the zone in which the purchaser takes physical possession or custody of the anthracite.

(b) *What this order prohibits.* Regardless of any contract or other obligations, you shall not:

(1) Sell or, in the course of trade or business, buy anthracite of the sizes and in the quantities set forth in the schedules herein, at prices higher than the maximum prices computed as set forth in paragraph (c) of this order, although you may charge, pay, or offer less than maximum prices.

(2) Obtain any price higher than the applicable maximum price by

(i) Changing the discounts authorized herein, or

(ii) Charging for any service which is not expressly requested by the buyer, or

(iii) Charging for any service for which a charge is not specifically authorized by this order, or

(iv) Charging a price for any service higher than the schedule price for such service, or

(v) Using any tying agreement or requiring that the buyer purchase anything in addition to the fuel requested by him, except that a dealer may comply with requirements or standards with respect to deliveries which have been or may be issued by an agency of the United States Government.

(vi) Using any other device by which a higher price than the applicable maximum price is obtained, directly or indirectly.

(c) *How to compute maximum prices.* You must figure your maximum price as follows:

(1) *Use the schedule which covers your sale.* (Schedule I applies to sales on a "direct-delivery" basis, "yard sales", and "sales of bagged coal" within Zone 1. You will find Schedule I in paragraph (d). In like manner, Schedules II and III apply to similar sales in Zones 2 and 3, respectively. You will find Schedule II in paragraph (e) and Schedule III in paragraph (f).)

(2) Take the dollars-and-cents figure set forth in the applicable schedule, for the sizes and quantity you are selling.

(3) Deduct from that figure the amount of the discount which you are required to give, as specified in each schedule. Where a discount is required, you must state it separately on your invoice.

(4) If, at your purchaser's request, you actually render him a service for which this order authorizes a charge, you may add to the figure obtained as above no more than the maximum authorized service charge. You must state that charge separately on your invoice. The only authorized service charges are those provided for in Schedules II and III.

(5) If you deliver a fraction of a net ton, even if less than one half ton, and the applicable schedule provides a discount on the basis of one ton or one half ton, you shall allow a proportionate discount, making your calculation to the nearest full cent. For example, if you are required to deduct 50¢ per ton for cash payment, you shall deduct 38¢ for three-quarters of a ton and 13¢ for one-quarter of a ton.

(6) If you deliver a fraction of a net ton, but not less than one-half ton, and the applicable schedule provides a service charge on the basis of one ton, you shall add no more than a proportionate service charge, making your calculation to the nearest full cent. For example, if the transaction permits a service charge of 50¢ per ton, you shall not add more than 38¢ for performance of that service in connection with the delivery of three-quarters of a ton.

(d) *Schedule I.* Schedule I establishes specific maximum prices for certain sizes of anthracite in certain specific quantities, delivered to or at any point within Zone I. There is a separate table of prices for "direct-delivery" sales, "yard sales", and "sales of bagged coal".

(1) *Sales on a "direct-delivery" basis.*

FOR SALES OF ANTHRACITE OF THE SIZES AND IN THE QUANTITIES SPECIFIED

Size	Per net ton	Per net ½ ton	Per 100 lbs. for sales of 100 lbs. or more but less than ½ ton
Broken, egg, stove, nut	$13.55	$7.30	$0.80
Pea	12.00	6.50	.75
Buckwheat	10.20	5.60	.65
Rice	9.45	5.25	
Barley	8.45	4.75	
Screenings	3.80	1.90	

Required discounts. You shall deduct from the prices set forth in table (1) of this schedule, on sales and deliveries of all sizes except screenings, a discount of 50¢ per net ton and 25¢ per net ½ ton, where payment is made within ten days after delivery. Nothing herein requires you to sell on other than a cash basis.

In addition, you shall deduct a discount of 25¢ per net ton, on sales and deliveries of all sizes except buckwheat, rice, barley and screenings, and a discount of 50¢ per net ton on sales of buckwheat, rice and barley sizes, to consumers purchasing from one dealer, for delivery at one point, a quantity of 50 tons

or more, within a period of twelve months.

You shall not break up a single order in an attempt to avoid this discount.

You must grant this discount whether the purchaser has received 50 tons or more pursuant to a single purchase order, or several purchase orders, and whether there was delivery at one time or at intervals of time, the sole basis of the discount being the annual purchase of 50 tons or more for delivery at one point.

You must deduct this discount at or before the delivery of the 50th ton, and continue to grant the discount on every subsequent delivery during the same twelve-month period.

(2) *"Yard sales".*

FOR SALES OF ANTHRACITE OF THE SIZES AND IN THE QUANTITIES SPECIFIED TO DEALERS AND TO CONSUMERS

Size	Sales to dealers		Sales to consumers	
	Per net ton for sales of ½ ton or more	Per 100 lbs. for 100 lbs. or more but less than ½ ton	Per net ton for sales of ½ ton or more	Per 100 lbs. for 100 lbs. or more but less than ½ ton
Broken, egg, stove, nut	$12.05	$0.60	$12.55	$0.70
Pea	10.50	.50	11.00	.60
Buckwheat	8.70	.45	9.20	.55
Rice	7.95	......	8.45	......
Barley	6.95	......	7.45	......
Screenings	2.00	......	2.00	......

Required discounts. You shall deduct from the prices set forth in table (2) of this schedule, on sales and deliveries of all sizes except screenings in quantities of ½ ton or more, a discount of 50¢ per net ton and 25¢ per net ½ ton, where payment is made within ten days after delivery. Nothing herein requires you to sell on other than a cash basis.

(3) *"Sales of bagged coal" (maximum prices per bag).*

MAXIMUM PRICES PER 50 LB. PAPER BAG

Size	Delivered at dealer's yard		Delivered to retail stores	Sales to ultimate consumer
	To dealers	To consumers		
Nut	$0.35	$0.40	$0.40	$0.45
Pea	.30	.35	.35	.40

MAXIMUM PRICES PER 25 LB. PAPER BAG

Size	Delivered at dealer's yard		Delivered to retail stores	Sales to ultimate consumer
	To dealers	To consumers		
Nut	$0.18	$0.21	$0.20	$0.25

MAXIMUM PRICES PER 12 LB. PAPER BAG

Size	Delivered at dealer's yard	Delivered to retail stores	Sales to ultimate consumer
Nut	$0.09	$0.10	$0.12

(e) *Schedule II.* Schedule II establishes specific maximum prices for certain sizes of anthracite, in certain specific quantities, delivered to or at any point within Zone 2. There is a separate table of prices for "direct-delivery" sales, "yard sales", and "sales of bagged coal".

(1) *Sales on a "direct-delivery" basis.*

FOR SALES OF ANTHRACITE OF THE SIZES AND IN THE QUANTITIES SPECIFIED

Size	Per net ton	Per net ½ ton	Per 100 lbs., for sales of 100 lbs. or more, but less than ½ ton
Broken, egg, stove, nut	$13.55	$7.30	$0.80
Pea	12.00	6.50	.75
Buckwheat	9.70	5.35	.65
Rice	8.95	5.00	......
Barley	7.95	4.50	......
Screenings	3.80	1.90	......

Required discounts. You shall deduct from the prices set forth in Table (1) above, on sales and deliveries of all sizes except screenings, a discount of 50¢ per net ton and 25¢ per net ½ ton, where payment is made within ten days after delivery. Nothing herein requires you to sell on other than a cash basis.

In addition, you shall deduct a discount of 50¢ per net ton, on sales and deliveries of all sizes except screenings, to consumers purchasing from one dealer, for delivery at one point, a quantity of 50 tons or more, within a period of twelve months.

You shall not break up a single order in an attempt to avoid this discount.

You must grant this discount whether the purchaser has received 50 tons or more pursuant to a single purchase order, or several purchase orders, and whether there was delivery at one time or at intervals of time, the sole basis of the discount being the annual purchase of 50 tons or more for delivery at one point. You must deduct this discount at or before the delivery of the 50th ton, and continue to grant the discount on every subsequent delivery during the same twelve-month period.

MAXIMUM AUTHORIZED SERVICE CHARGES

Maximum Authorized Service Charges, Cents Per Net Ton

Special service rendered at the request of the purchaser:

"Carry" or "wheel" (except for sales amounting to less than ½ ton) 50

Carrying upstairs, for each floor above the ground floor (except for sales amounting to less than ½ ton). This charge shall be in addition to any charge for "carry" or "wheel" 50

(2) *"Yard sales".*

FOR SALES OF ANTHRACITE OF THE SIZES AND IN THE QUANTITIES SPECIFIED TO DEALERS AND TO CONSUMERS

Size	Sales to dealers		Sales to consumers	
	Per net ton for sales of ½ ton or more	Per 100 lbs. for 100 lbs. or more but less than ½ ton	Per net ton for sales of ½ ton or more	Per 100 lbs. for 100 lbs. or more but less than ½ ton
Broken, egg, stove, nut	$10.95	$0.60	$12.55	$0.70
Pea	9.40	.50	11.00	.60
Buckwheat	7.90	.45	8.70	.55
Rice	7.10	......	7.95	......
Barley	6.10	......	6.95	......
Screenings	2.00	......	2.00	......

Required discounts. You shall deduct from the prices set forth in Table (2) of this schedule, on sales and deliveries of all sizes except screenings in quantities of ½ ton or more, a discount of 50¢ per net ton and 25¢ per net ½ ton, where payment is made within ten days after delivery. Nothing herein requires you to sell on other than a cash basis.

(3) *"Sales of bagged coal"; (maximum prices per bag).*

MAXIMUM PRICES PER 50 LB. PAPER BAG

Size	Delivered at dealer's yard		Delivered to retail stores	Delivered to ultimate consumer
	To dealers	To consumers		
Nut	$0.375	$0.40	$0.40	$0.45
Pea	.325	.35	.35	.40

MAXIMUM PRICES PER 25 LB. PAPER BAG

Size	Delivered at dealer's yard		Delivered to retail stores	Delivered to ultimate consumer
	To dealers	To consumers		
Nut	$0.18	$0.20	$0.20	$0.25

MAXIMUM PRICES PER 12 LB. PAPER BAG

Size	Delivered at dealer's yard	Delivered to retail stores	Delivered to ultimate consumer
Nut	$0.09	$0.10	$0.12

(f) *Schedule III.* Schedule III establishes specific maximum prices for certain sizes of anthracite, in certain specific quantities, delivered to or at any point within Zone 3. There is a separate table of prices for "Direct-Delivery" sales, "Yard Sales", and "Sales of Bagged Coal".

(1) *Sales on a "direct-delivery" basis.*

FOR SALES OF ANTHRACITE OF THE SIZES AND IN THE QUANTITIES SPECIFIED

Size	Per net ton	Per net ½ ton	Per 100 pounds for sales of 100 pounds or more but less than ½ ton
Broken, egg, stove, nut	$13.30	$6.90	$0.80
Pea	11.75	6.15	.75
Buckwheat	9.70	5.10	.65
Rice	8.85	4.70	......
Barley	7.55	4.05	......
Screenings	3.80	1.90	......

Required discounts. You shall deduct from the prices set forth in Table (1) of this schedule, on sales and deliveries of all sizes except screenings, a discount of 50¢ per net ton and 25¢ per net ½ ton, where payment is made within ten days after delivery. Nothing herein requires you to sell on other than a cash basis.

In addition, you shall deduct a discount of 50¢ per net ton, on sales and deliveries of all sizes except screenings, to consumers purchasing from one dealer, for delivery at one point, a quantity of

50 tons or more, within a period of twelve months.

You shall not break up a single order in an attempt to avoid this discount.

You must grant this discount whether the purchaser has received 50 tons or more pursuant to a single purchase order, or several purchase orders, and whether there was delivery at one time or at intervals of time, the sole basis of the discount being the annual purchase of 50 tons or more for delivery at one point.

You must deduct this discount at or before the delivery of the 50th ton, and continue to grant the discount on every subsequent delivery during the same twelve-month period.

MAXIMUM AUTHORIZED SERVICE CHARGES

Maximum Authorized Service Charge, Cents Per Net Ton

Special service rendered at the request of the purchaser:

"Carry" or "Wheel" (except for sales amounting to less than ½ ton)	50
Carrying upstairs, for each floor above the ground floor (except for sales amounting to less than ½ ton). This charge shall be in addition to any charge for "carry" or "wheel"	50

(2) *"Yard sales".*

FOR SALES OF ANTHRACITE OF THE SIZES AND IN THE QUANTITIES SPECIFIED TO DEALERS AND TO CONSUMERS

Size	Sales to dealers		Sales to consumers	
	Per net ton for sales of ½ ton or more	Per 100 lbs. for 100 lbs. or more but less than ½ ton	Per not ton for sales of ½ ton or more	Per 100 lbs. for 100 lbs. or more but less than ½ ton
Broken, egg, stove, nut	$10.05	$0.60	$12.30	$0.70
Pea	8.30	.50	10.75	.60
Buckwheat	6.85	.45	8.70	.55
Rice	6.00	------	7.85	------
Barley	5.15	------	6.55	------
Screenings	2.00	------	2.00	------

Required discounts. You shall deduct from the prices set forth in Table (2) of this schedule, on sales and deliveries to consumers, for all sizes except screenings, in quantities of ½ ton or more, a discount of 50¢ per net ton and 25¢ per net ½ ton, where payment is made within ten days after delivery. Nothing herein requires you to sell on other than a cash basis.

You shall deduct the following discounts on sales and deliveries to dealers for all sizes except screenings, where payment is made within fifteen (15) days after delivery. Nothing herein requires you to sell on other than a cash basis.

Size:	
Broken, egg, stove, nut	$0.15
Pea and buckwheat	.10
Rice and barley	.05

(3) *"Sales of bagged coal"; (maximum prices per bag).*

MAXIMUM PRICES PER 50 POUND PAPER BAG

Size	Delivered at dealer's yard		Delivered to retail stores	Delivered to ultimate consumer
	To dealers	To consumers		
Nut	$0.375	$0.40	$0.40	$0.45
Pea	.325	.35	.35	.40

MAXIMUM PRICES PER 25 POUND PAPER BAG

Size	Delivered at dealer's yard		Delivered to retail stores	Delivered to ultimate consumer
	To dealers	To consumers		
Nut	$0.18	$0.20	$0.20	$0.25

MAXIMUM PRICES PER 12 POUND PAPER BAG

Size	Delivered at dealer's yard	Delivered to retail stores	Delivered to ultimate consumer
Nut	$0.09	$0.10	$0.12

(g) *Commingling.* If you sell one size of anthracite, commingled with another size of anthracite, your maximum price for the combination shall be the maximum price established in this order for the smallest of the sizes so commingled, whether the sale be a "direct-delivery" sale, "yard sale", or "sales of bagged coal", except in the following situation. Where a purchaser requests that two or more sizes of anthracite be commingled in one delivery, then, in that event, if those sizes are separately weighed at the point of loading, or when bagged, the dealer may commingle those sizes in the truck or other vehicle, or in the bags, in which the delivery is made. The price for anthracite so commingled shall be calculated on the basis of the applicable per net ton price, or, in the case of bagged coal, on the basis of the applicable bagged price, for each size in the combination, and the invoice shall separately state the price, so determined, for the quantity of each size in the combination.

(h) *Ex parte 148—freight rate increase.* Since the Ex Parte 148 Freight Rate Increase has been rescinded by the Interstate Commerce Commission, dealers' freight rates are the same as those of December 1941. Therefore, you may not increase any schedule price on account of freight rates.

(i) *Addition of increase in suppliers' maximum prices prohibited.* You may not increase the specific maximum prices established by this order to reflect, in whole or in part, any subsequent increase to you in your supplier's maximum price for the same fuel. The specific maximum prices already reflect increases to you in your supplier's maximum prices occurring up to the effective date of this order. If increases in your supplier's maximum prices should occur after such date, as the result of any amendment to or revision of a maximum price regulation issued by the Office of Price Administration governing sales and deliveries made by such suppliers, the Regional Administrator will, if he then deems it to be warranted, take appropriate action to amend this order to reflect such increases.

(j) *Taxes.* If you are a dealer subject to this order you may collect, in addition to the specific maximum prices established herein, provided you state it separately, the amount of the Federal tax upon the transportation of property imposed by section 620 of the Revenue Act of 1942 actually paid or incurred by you, or an amount equal to the amount of such tax paid by any of your prior suppliers and separately stated and collected from you by the supplier from whom you purchased. On sales to the United States or any agency thereof, you need not state this tax separately.

(k) *Adjustable pricing.* You may not make a price adjustable to a maximum price which will be in effect at some time after delivery of the anthracite has been completed; but the price may be adjustable to the maximum price in effect at the time of delivery.

(l) *Petitions for amendment.* Any person seeking an amendment of any provision of this order may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, except that the petition shall be filed with the Regional Administrator and acted upon by him.

(m) *Right of amendment or revocation.* The Regional Administrator or the Price Administrator may amend, revoke or rescind this order, or any provision thereof, at any time.

(n) *Applicability of other regulations.* If you are a dealer subject to this order, you are governed by the licensing provisions of Licensing Order 1. Licensing Order 1 provides, in brief, that a license is required of all persons making sales for which maximum prices are established. A license is automatically granted. It is not necessary to apply for the license. The license may be suspended for violations in connection with the sale of any commodity for which maximum prices are established. If your license is suspended, you may not sell any such commodity during the period of suspension.

(o) *Records.* If you are a dealer subject to this order, you shall preserve, keep, and make available for examination by the Office of Price Administration, the same records you were re-

quired to preserve and keep under § 1340.262 (a) and (b) of Revised Maximum Price Regulation No. 122.

(p) *Posting of maximum prices; sales slips and receipts.* (1) If you are a dealer subject to this order, you shall post all your maximum prices (as set forth in the applicable schedule or schedules of this order) in your place of business in a manner plainly visible to and understandable by the purchasing public.

(2) If you are a dealer subject to this order, you shall, except for a sale of less than one-half ton, give each purchaser a sales slip or receipt showing your name and address, the kind, size, and quantity of the anthracite sold to him, the date of the sale or delivery and the price charged, separately stating the amount, if any, of the required discounts which must be deducted from, and the authorized service charges and the taxes, which may be added to, the specific maximum prices prescribed herein.

In the case of all other sales, you shall give each purchaser a sales slip or receipt containing the information described in the foregoing paragraph, if requested by such purchaser or if, during December 1941, you customarily gave purchasers such sales slips or receipts.

(q) *Enforcement.* (1) Persons violating any provision of this order are subject to civil and criminal penalties, including suits for treble damages, provided for by the Emergency Price Control Act of 1942, as amended.

(2) Persons who have any evidence of any violation of this order are urged to communicate with the Newark District Office of the Office of Price Administration.

(r) *Definitions and explanations.* When used in this Order No. G-16, the term

(1) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political sub-divisions, or any agency of any of the foregoing.

(2) "Sell" includes sell, supply, dispose, barter, exchange, lease, transfer, and delivery, and contracts and offers to do any of the foregoing. The terms "sale", "selling", "sold", "seller", "buy", "purchase", and "purchaser" shall be construed accordingly.

(3) "Dealer" means any person selling anthracite of the sizes set forth in the schedule herein, and does not include a producer or distributor making sales at or from a mine, a preparation plant operated as an adjunct of any mine, or a briquette plant.

(4) "Pennsylvania anthracite" means all coal produced in the Lehigh, Schuylkill and Wyoming regions in the State of Pennsylvania.

(5) The sizes of "Pennsylvania anthracite" described as broken, egg, stove, nut, pea, buckwheat, rice, barley and screenings shall refer to the same sizes of anthracite as were sold and delivered in the State of New Jersey; Coal Area IV with such designation during December 1941.

(6) *"Direct delivery", in Schedule I applicable to Zone 1,* means delivery to the buyer's bin or storage space.

(7) *"Direct delivery", in Schedules II and III applicable to Zones 2 and 3,* except with respect to sales in 100 lb. lots, means delivery to the buyer's bin or storage space by dumping or chuting directly from the seller's truck or vehicle, or, where such delivery to the buyer's bin or storage space is physically impossible, by discharging at the point nearest and most accessible to the buyer's bin or storage space and at which the coal can be discharged directly from the seller's truck. "Direct delivery" in 100 lb. lots shall mean depositing in buyer's bin or other storage space designated by buyer.

(8) "Carry" and "wheel" as used in Schedules II and III refer to the movement of coal to buyer's bin or storage space in baskets or other containers, or by wheelbarrow or barrel from seller's truck or vehicle, or from the point nearest and most accessible to the buyer's bin or storage space at which the coal is discharged from the seller's truck in the course of "direct delivery".

(9) "Yard sales" means sales accompanied by physical transfer to the buyer's truck or vehicle at the yard, dock, barge, car, or at a place of business of the seller other than at seller's truck or vehicle.

(10) "Delivered at dealer's yard" as applied to sales of bagged coal, means physical transfer at the dealer's yard to the purchaser's truck or other vehicle.

(11) "Delivered to retail stores" as applied to sales of bagged coal, means deposit in that part of the store designated by the purchaser.

(12) "Sales to ultimate consumer" as applied to bagged coal, means sales by dealers, other than sales at a dealer's yard, whether or not delivered to the consumer's premises.

(s) *Effect of order on Revised Maximum Price Regulation No. 122.* This order shall supersede Revised Maximum Price Regulation No. 122, except as to any sales or deliveries of solid fuels not specifically subject to this order.

This order has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date. This order shall become effective November 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 27th day of October 1943.

JOHN R. JOHNSTON,
Acting Regional Administrator.

[F. R. Doc. 43-17779; Filed, November 2, 1943; 12:11 p. m.]

[Region II Order G-19 Under Rev. MPR 122]

SOLID FUELS IN ATLANTIC COUNTY, N. J.

Order No. G-19 under § 1340.260 of Revised Maximum Price Regulation No. 122. Solid fuels sold and delivered by dealers. Solid fuels delivered by dealers in Atlantic County, State of New Jersey; Coal Area IX.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1340.260 of Revised Maximum Price Regulation No. 122, it is ordered:

(a) *What this order does*—(1) *Dealers' maximum prices; area covered.* If you are a dealer in solid fuels, this order fixes the maximum prices which you may charge, and if you are a purchaser in the course of trade or business, this order fixes the maximum prices which you may pay, for certain sizes and quantities of "Pennsylvania anthracite" and for certain sizes, quantities and kinds of bituminous coal and for coke delivered to or at any point in the State of New Jersey; Coal Area IX. That area comprises all of Atlantic County in the State of New Jersey.

(2) *Schedules of prices, charges and discounts.* The applicable prices and required discounts, from which you shall determine the maximum prices for designated kinds, sizes and quantities of solid fuels delivered within Coal Area IX are set forth in Schedule I hereafter.

(3) *To what sales this order applies.* If you are a dealer in solid fuels, you are bound by the prices and discounts, and by all other provisions of this order for all deliveries within Coal Area IX whether or not you are located in Coal Area IX.

(b) *What this order prohibits.* Regardless of any contract or other obligations, you shall not:

(1) Sell or, in the course of trade or business, buy solid fuels of the kinds, sizes and in the quantities set forth in the schedule herein, at prices higher than the maximum prices computed as set forth in paragraph (c) of this order, although you may charge, pay, or offer less than maximum prices.

(2) Obtain any price higher than the applicable maximum price by—

(i) Changing the discounts authorized herein, or

(ii) Charging for any service rendered in connection with the sale or delivery of solid fuels subject to this order.

(iii) Using any tying agreement or requiring that the buyer purchase anything in addition to the fuel requested by him, except that a dealer may comply with requirements or standards with respect to deliveries which have been or may be issued by an agency of the United States Government.

(iv) Using any other device by which a higher price than the applicable maximum price is obtained, directly or indirectly.

(c) *How to compute maximum prices.* You must figure your maximum price as follows:

(1) Refer to Schedule I which contains a separate table of prices for "direct-delivery" sales and "yard sales" of anthracite, bituminous coal, and coke. You will find Schedule I in paragraph (d).

(2) Take the dollars-and-cents figure given in the applicable table of the schedule, for the kind, size and quantity of solid fuel you are selling.

(3) Deduct from that figure the amount of the discount which you are required to give, as specified therein. Where a discount is required, you must state it separately on your invoice.

(4) You shall not impose any charges with respect to such sales.

(d) *Schedule I.* Schedule I establishes specific maximum prices for certain kinds, sizes, and quantities of solid fuel, delivered to or at any point within Coal Area IX. There is a separate table of prices for "direct-delivery" sales and "yard sales".

(1) *Sales on a "direct-delivery" basis.*

FOR SALES OF SOLID FUEL OF THE KINDS AND SIZES AND IN THE QUANTITIES SPECIFIED

Kind and size of fuel	Per net ton	Per net ½ ton	Per net ¼ ton
Anthracite:			
Broken, egg, stove and nut	$13.60	$7.05	$3.65
Pea	12.00	6.25	3.25
Buckwheat	9.50	5.00	2.65
Rice	8.75	4.65	2.45
Barley	7.90	4.20	2.25
Screenings	3.00		
Coke	13.00	6.75	3.50
Briquettes	12.05	6.30	3.25
Bituminous:			
Low volatile from district 1, Run of mine	9.30	4.90	2.60
High volatile from districts 2, 3, and 7, Stoker	9.30	4.90	2.60

Required discounts. You shall deduct a discount of 50¢ per net ton, on sales and deliveries of all sizes except screenings, to consumers purchasing from one dealer, for delivery at one point, a quantity of 100 tons or more, within a period of twelve months.

You shall not break up a single order in an attempt to avoid this discount.

You must grant this discount whether the purchaser has received 100 tons or more pursuant to a single purchase order, or several purchase orders, and whether there was delivery at one time or at intervals of time, the sole basis of the discount being the annual purchase of 100 tons or more for delivery at one point.

You must deduct this discount at or before the delivery of the one hundredth ton and continue to grant the discount on every subsequent delivery during the same twelve-month period.

(2) *"Yard sales".*

FOR SALES OF SOLID FUEL OF THE KINDS AND SIZES, AND IN THE QUANTITIES SPECIFIED

Kind and size of fuel	Per net ton	Per net ½ ton	Per net ¼ ton	Bagged coal	
				Per net 100 lbs.	Per net 50 lbs.
Anthracite:					
Broken, egg, stove, and nut	$12.60	$6.55	$3.40	$0.85	$0.45
Pea	11.00	5.75	3.00	.75	.40
Buckwheat	8.50	4.50	2.40		
Rice	7.75	4.15	2.20		
Barley	6.90	3.70	2.00		
Screenings	2.00				
Coke	12.00	6.25	3.25		
Briquettes	11.05	5.80	3.00		
Bituminous:					
Low volatile from dist. 1, run of mine	8.30	4.40	2.35		
High volatile from districts 2, 3, and 7, stoker	8.30	4.40	2.35		

(e) *Commingling.* If you sell one size or kind of fuel, commingled with another size or kind of fuel, your maximum price for the combination shall be the maximum price established in this order for the smallest of the sizes or the least expensive kind of fuel so commingled, whichever is lower, whether the sale be a "direct-delivery" sale or "yard sale", except in the following situation. Where a purchaser requests that two or more sizes or kinds of fuel be commingled in one delivery, then, in that event, if those sizes and kinds are separately weighed at the point of loading, or when bagged, the dealer may commingle those sizes and kinds in the truck or other vehicle, or in bags, in which the delivery is made. The price for fuel so commingled shall be calculated on the basis of the applicable per net ton price, or, in the case of bagged coal, on the basis of the applicable bagged price, for each size and kind in the combination, and the invoice shall separately state the price, so determined, for the quantity of each size and kind in the combination.

(f) *Ex parte 148—freight rate increase.* Since the Ex Parte Freight Rate Increase has been rescinded by the Interstate Commerce Commission, dealers' freight rates are the same as those of December, 1941. Therefore, you may not increase any schedule price on account of freight rates.

(g) *Addition of increase in suppliers' maximum prices prohibited.* You may not increase the specific maximum prices established by this order to reflect, in whole or in part, any subsequent increase to you in your suppliers' maximum price for the same fuel. The specific maximum prices already reflect increases to you in your supplier's maximum prices occurring up to the effective date of this order. If increases in your supplier's maximum prices should occur after such date, as the result of any amendment to or revision of a maximum price regulation issued by the Office of Price Administration governing sales and deliveries made by such suppliers, the Regional Administrator will, if he then deems it to be warranted, take appropriate action to amend this order to reflect such increases.

(h) *Taxes.* If you are a dealer subject to this order you may collect, in addition to the specific maximum prices established herein, provided you state it separately, the amount of the Federal tax upon the transportation of property imposed by section 620 of the Revenue Act of 1942 actually paid or incurred by you, or any amount equal to the amount of such tax paid by any of your prior suppliers and separately stated and collected from you by the supplier from whom you purchased. On sales to the United States or any agency thereof, you need not state this tax separately.

(i) *Adjustable pricing.* You may not make a price adjustable to a maximum price which will be in effect at some time after delivery of the fuel has been completed; but the price may be adjustable to the maximum price in effect at the time of delivery.

(j) *Petitions for amendment.* Any person seeking an amendment of any provision of this order may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, except that the petition shall be filed with the Regional Administrator and acted upon by him.

(k) *Right of amendment or revocation.* The Regional Administrator or the Price Administrator may amend, revoke or rescind this order, or any provisions thereof, at any time.

(l) *Applicability of other regulations.* If you are a dealer subject to this order, you are governed by the licensing provisions of Licensing Order 1. Licensing Order 1 provides, in brief, that a license is required of all persons making sales for which maximum prices are established. A license is automatically granted. It is not necessary to apply for the license. The license may be suspended for violations in connection with the sale of any commodity for which maximum prices are established. If your license is suspended, you may not sell any such commodity during the period of suspension.

(m) *Records.* If you are a dealer subject to this order, you shall preserve, keep, and make available for examination by the Office of Price Administration, the same records you were required to preserve and keep under § 1340.262 (a) and (b) of Revised Maximum Price Regulation No. 122.

(n) *Posting of maximum prices; sales slips and receipts.* (1) If you are a

dealer subject to this order, you shall post all your maximum prices (as set forth in the applicable schedule or schedules of this order) in your place of business in a manner plainly visible to and understandable by the purchasing public.

(2) If you are a dealer subject to this order, you shall, except for a sale of less than one-half ton, give each purchaser a sales slip or receipt showing your name and address, the kind, size, and quantity of fuel sold to him, the date of the sale or delivery and the price charged, separately stating the amount, if any, of the required discounts which must be deducted from and the taxes, which may be added to, the specific maximum prices prescribed herein.

In the case of all other sales, you shall give each purchaser a sales slip or receipt containing the information described in the foregoing paragraph, if requested by such purchaser or if, during December 1941, you customarily gave purchasers such sales slips or receipts.

(o) *Enforcement.* (1) Persons violating any provision of this order are subject to civil and criminal penalties, including suits for treble damages, provided for by the Emergency Price Control Act of 1942, as amended.

(2) Persons who have any evidence of any violation of this order are urged to communicate with the Camden District Office of the Office of Price Administration.

(p) *Definitions and explanations.* When used in this Order No. G-19, the term:

(1) "Person" includes an individual, corporation, partnership, association or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political sub-divisions, or any agency or any of the foregoing.

(2) "Sell" includes sell, supply, dispose, barter, exchange, lease, transfer, and deliver, and contracts and offers to do any of the foregoing. The terms "sale", "selling", "sold", "seller", "buy", "purchase" and "purchaser" shall be construed accordingly.

(3) "Dealer" means any person selling coal of the kinds and sizes set forth in the schedules herein, and does not include a producer or distributor making sales at or from a mine, a preparation plant operated as an adjunct of any mine, or a briquette plant.

(4) "Direct-delivery" means delivery to the buyer's bin or storage space.

(5) "Yard sales" means sales accompanied by physical transfer to the buyer's truck or vehicle at the yard, dock, barge, car, or at a place of business of the seller other than at seller's truck or vehicle.

(6) "Pennsylvania anthracite" means all coal produced in the Lehigh, Schuylkill and Wyoming regions in the Commonwealth of Pennsylvania.

(7) The sizes of Pennsylvania anthracite described as broken, egg, stove, nut, pea, buckwheat, rice, barley and screenings shall refer to such sizes of anthracite as they were sold and designated in the State of New Jersey, Coal Area IX, during December, 1941.

(8) "District No." refers to the geographical coal-producing districts as defined in the Bituminous Coal Act of 1937, as amended, and as they have been modified as of midnight, August 23, 1943.

(9) "Low volatile bituminous coal" is produced in the low volatile sections of the producing districts specified herein.

(10) "High volatile bituminous coal" is produced in the high volatile sections of the producing districts specified herein.

(11) All designations in this order of sizes, etc., applicable to bituminous coal, refer to the sizes, etc., as set forth in the minimum price schedules for the various producing districts issued by the Bituminous Coal Division of the United States Department of the Interior, as in effect midnight, August 23, 1943. Where the minimum price schedules do not make specific mention of any size designated in this order, such size designations shall refer to the sizes of bituminous coal sold as such in State of New Jersey; Coal Area IX, during December, 1941.

(12) Except as otherwise provided herein or as the context may otherwise require, the definitions set forth in §§ 1340.255 and 1340.266 of Revised Maximum Price Regulation No. 122 shall apply to terms used herein.

(q) *Effect of order on Revised Maximum Price Regulation No. 122.* To the extent applicable this order supersedes Revised Maximum Price Regulation No. 122.

This order has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This Order No. G-19 shall become effective November 1, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 29th day of October 1943.

JOHN R. JOHNSON,
Acting Regional Administrator.

[F. R. Doc. 43-17781; Filed, November 2, 1943; 12:12 p. m.]

[Region III Order G-12 Under 18 (c), Amdt. 5]

FLUID MILK IN MARSHALL COUNTY, INDIANA

Amendment No. 5 to Order No. G-12 under § 1499.18 (c) of the General Maximum Price Regulation. Order adjusting the maximum prices of fluid whole milk sold at retail and wholesale in the State of Indiana.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administration of Region III of the Office of Price Administration by § 1499.75 (a) of the General Maximum Price Regulation and § 1351.807 of Maximum Price Regulation No. 280; *It is hereby ordered,* That subparagraph A-1 of paragraph II be and hereby is revoked.

Said paragraph II is further amended by the inclusion therein of a new paragraph K as set forth below.

K. Notwithstanding the provisions of paragraph I and schedule A hereof, the prices set forth in the following schedule shall be the only maximum prices for all sales and deliveries of approved fluid milk at wholesale and retail in the County of Marshall in the State of Indiana.

Type of delivery	Container	Size	Adjusted maximum price
Retail	Glass or other	1 gallon or multiples thereof	48 cents per gallon.
Retail	Glass or paper	½ gallon	26 cents per one-half gallon.
Retail	Glass or paper	1 quart	14 cents per quart.
Retail	Glass or paper	1 pint	8 cents per pint.
Retail	Glass or paper	½ pint	6 cents per one-half pint.
Wholesale	Glass or other	1 gallon or multiples thereof	45 cents per gallon.
Wholesale	Glass or paper	½ gallon	23 cents per one-half gallon.
Wholesale	Glass or paper	1 quart	12 cents per quart.
Wholesale	Glass or paper	1 pint	6½ cents per pint.
Wholesale	Glass or paper	½ pint	3¾ cents per one-half pint.

This amendment to Order No. G-12 shall become effective October 20, 1943.

(56 Stat. 23, 765; Pub. Laws 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued October 20, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-17783; Filed, November 2, 1943; 12:10 p. m.]

[Region V Order G-4 Under 18 (c)]

BREAD IN TARRANT COUNTY, TEXAS

Order No. G-4 under section 18, paragraph (c) of the General Maximum Price Regulation. Prices for bread sold in Tarrant County, Texas.

For the reasons set forth in the opinion issued simultaneously herewith and under the authority vested in the Regional Administrator, Region V of the Office of Price Administration by the Emergency Price Control Act of 1942, as amended, and by section 18, paragraph (c) of the General Maximum Price Regulation as amended, and the approval of the Director of the Office of Economic Stabilization having first been obtained, *It is hereby ordered:*

(a) The maximum prices for any seller in Tarrant County, Texas, for bread manufactured by the sellers herein named shall be the prices determined in accordance with the provisions of § 1499.2 and other applicable sections of the General Maximum Price Regulation or the maximum prices specified below:

Manufacturer	Net weight per loaf	Sales at wholesale	Sales at retail
		Cents	*Cents*
Newman-Reich Baking Co., Fort Worth, Tex.	1 pound, white or wheat	7½	9
	1½ pound, white or wheat	9½	11
Taystee Baking Co., Fort Worth, Tex.	1½ pound, white pullman	11½	
Mrs. Baird's Bakery, Fort Worth, Tex.	1½ pound, wholewheat pullman	11½	
	3 pound, white pullman	23	
	4½ pound, white pullman	34	
Leonard's, Fort Worth, Tex.	1 pound, white or wheat		5
	1½ pound, white or wheat		8
Safeway Stores, Inc., Dallas, Tex.	1 pound, white or wheat		6
	1½ pound, white or wheat		9

(b) *Other kinds of bread.* Except as specified herein, maximum prices for all sales of bread shall remain subject to the provisions of the General Maximum Price Regulation.

(c) This order is subject to revocation or amendment at any time hereafter either by special order or by any price regulation issued hereafter or by any amendment or supplement hereafter issued to any price regulation, the provisions of which may be contrary hereto,

This order shall become effective on the 25th day of October 1943.

(Pub. Laws 421 and 729; 77th Cong., E.O. 9250, 7 F.R. 7871)

Issued at Dallas, Texas, this the 23d day of October 1943.

MAX MCCULLOUGH,
Regional Administrator.

[F. R. Doc. 43-17784; Filed, November 2, 1943; 12:08 p. m.]

[Region VI Order G-3 Under SR 15]

FLUID MILK GREENVILLE, ILL.

Order No. G-3 under § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation. Adjustment of fluid milk prices for Greenville, Illinois.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation, it is hereby ordered:

(a) *Maximum prices.* Maximum Prices for the sale and delivery of fluid milk in bottles and paper containers at wholesale and retail in the Greenville, Illinois area, as hereinafter defined, are hereby established as follows:

	Wholesale	Retail
Regular and homogenized vitamin D milk:	*Cents*	*Cents*
½ gallon	19	23
Quart	10	12
½ pint	3	5
Buttermilk: Quart	5	7

(b) *Definitions.* For the purposes of this order: 1. "Sales and deliveries within the Greenville, Illinois area" shall mean:

i. All sales and deliveries made within the city limits of Greenville, Illinois, and all sales by sellers located in Greenville, Illinois

ii. All sales of fluid milk by any seller at retail at or from an establishment obtaining the major portion of its supply of milk from a seller at wholesale located within Greenville, Illinois

2. "Milk" shall mean cows' milk having a butterfat content of not less than 3.2% or the legal minimum established by statute or municipal ordinance, processed, distributed and sold for consumption in fluid form as whole milk.

3. "Sales at wholesale" shall for the purposes of this order include all sales to retail stores, restaurants, army camps, prisons, schools, hospitals and other institutions.

(c) Except as otherwise herein provided, the provisions of the General Maximum Price Regulation shall apply.

(d) This order may be revoked, amended or corrected at any time.

This order shall become effective October 21, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, F.R. 7871)

Issued this 16th day of October 1943.

RAYMOND S. MCKEOUGH,
Regional Administrator.

[F. R. Doc. 43-17789; Filed, November 2, 1943; 12:08 p. m.]

[Region VI Order G-4 Under SR 15 and MPR 329]

FLUID MILK IN MCCOOK, NEBR.

Order No. G-4 under § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation and § 1351.408 (a) of Maximum Price Regulation No. 329. Purchase of fluid milk from producers for resale as fluid milk. Adjustment of fluid milk prices in McCook, Nebraska.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.75 (a) (9) to Supplementary Regulation No. 15 to the General Maximum Price Regulation and by § 1351.408 (a) of Maximum Price Regulation No. 329, it is ordered:

(a) *Maximum producer prices.* The maximum price for milk sold for human consumption in fluid form which may be paid to producers by distributors selling milk in McCook, Nebraska shall be a price determined by the payment of 76¢ for each pound of butterfat contained in such milk.

(b) *Maximum distributor prices.* The maximum price for sale and delivery of fluid milk in bottles and paper containers at wholesale and retail in the McCook, Nebraska area shall be:

Regular milk	Wholesale	Retail
	Cents	*Cents*
Gallon	37	44
Quart	10	12
½ pint	3¼	

(c) *Definitions.* For the purposes of this order: 1. "Sales and deliveries" shall mean:

i. All sales and deliveries made within the city limits of McCook, Nebraska and all sales by sellers located in McCook, Nebraska.

ii. All sales of fluid milk by any seller at retail at or from an establishment obtaining the major portion of its supply of milk from a seller at wholesale located within McCook, Nebraska.

2. "Milk" shall mean cow's milk having a butterfat content of not less than 3.2 percent or the legal minimum established by statute or municipal ordinance, processed, distributed and sold for consumption in fluid form as whole milk.

3. "Sales at wholesale" shall for the purposes of this order include all sales to retail stores, restaurants, army camps, prisons, schools, hospitals and other institutions.

(d) Except as otherwise herein provided, the provisions of the General Maximum Price Regulation shall apply.

(e) This order may be revoked, amended or corrected at any time.

This order shall become effective October 21, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 16th day of October 1943.

RAYMOND S. MCKEOUGH,
Regional Administrator.

[F. R. Doc. 43-17785; Filed, November 2, 1943; 12:08 p. m.]

[Region VI Order G-5 Under SR 15]

MILK IN ONAWA AND BLENCOE, IOWA

Order No. G-5 under § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation. Ajustment of fluid milk prices for Onawa and Blencoe, Iowa.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation, it is hereby ordered:

(a) *Maximum prices.* Maximum prices for the sale and delivery of fluid milk in bottles and paper containers at wholesale and retail in the Onawa and Blencoe, Iowa area, as hereinafter defined, are hereby established as follows:

Regular milk	Wholesale	Retail
	Cents	*Cents*
Quart	10	12
½ pint	3	

(b) *Definitions.* For the purposes of this order:

1. "Sales and deliveries" shall mean:

i. All sales and deliveries made within the city limits of Onawa and Blencoe, Iowa, and all sales by sellers located in Onawa and Blencoe, Iowa.

ii. All sales of fluid milk by any seller at retail at or from an establishment obtaining the major portion of its supply of milk from a seller at wholesale located within Onawa and Blencoe, Iowa.

2. "Milk" shall mean cow's milk having a butterfat content of not less than 3.2 percent of the legal minimum established by statute or municipal ordinance, processed, distributed and sold for consumption in fluid form as whole milk.

3. "Sales at wholesale" shall for the purposes of this order include all sales to retail stores, restaurants, army camps, prisons, schools, hospitals and other institutions.

(c) Except as otherwise herein provided, the provisions of the General Maximum Price Regulation shall apply.

(d) This order may be revoked, amended or corrected at any time.

This order shall become effective October 23, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 18th day of October 1943.

RAYMOND S. MCKEOUGH,
Regional Administrator.

[F. R. Doc. 43-17786; Filed, November 2, 1943; 12:07 p. m.]

[Region VI Order G-7 Under SR 15 and MPR 329]

MILK IN KEARNEY, NEBR.

Order No. G-7 under § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation and under § 1351.408 (a) of Maximum Price Regulation No. 329. Purchases from producers for resale as fluid milk. Adjustment of fluid milk prices for Kearney, Nebraska.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation and by § 1351.408 (a) of Maximum Price Regulation No. 329, it is ordered:

(a) *Maximum producer prices.* The maximum price for milk sold for human consumption in fluid form which may be paid to producers by distributors selling milk in Kearney, Nebraska shall be $3.05 per cwt. for 4 percent milk, plus no more than 5¢ for each 1/10 of a pound of butterfat above 4 percent and minus no less than 5¢ for each 1/10 of a pound of butterfat below 4 percent.

(b) *Maximum distributor prices.* The maximum price for sale and delivery of fluid milk in bottles and paper containers at wholesale and retail in the Kearney, Nebraska area shall be:

Regular milk, chocolate milk and buttermilk	Wholesale	Retail
	Cents	*Cents*
Gallon	37	43
½ Gallon	19	22
Quart	10	12
½ Pint	3¼	5

(c) *Definitions.* For the purposes of this order:

1. "Sales and deliveries within the Kearney, Nebraska area" shall mean:

i. All sales made within the city limits of Kearney, Nebraska and all sales at or from and establishment located in Kearney, Nebraska; and

ii. All sales of fluid milk by any seller at retail at or from an establishment obtaining the major portion of its supply of milk from a seller at wholesale located within Kearney, Nebraska.

2. "Milk" shall mean cow's milk having a butterfat content of not less than 3.2 percent or the legal minimum established by statute or municipal ordinance, bottled, distributed and sold for consumption in fluid form as whole milk.

3. "Sales at wholesale" shall for the purposes of this order include all sales to retail stores, restaurants, army camps, prisons, schools, hospitals and other institutions.

(d) Except as otherwise herein provided, the provisions of the General Maximum Price Regulation shall apply.

(e) This order may be revoked, amended or corrected at any time.

This order shall become effective October 25, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 20th day of October 1943.

RAYMOND S. MCKEOUGH,
Regional Administrator.

[F. R. Doc. 43-17787; Filed, November 2, 1943; 12:07 p. m.]

[Region VII Order G-15 Under Rev. MPR 122]

SOLID FUELS IN COLORADO

Order No. G-15 under Revised Maximum Price Regulation 122. Solid fuels sold and delivered by dealers. Maximum prices for certain solid fuels sold and delivered by dealers in the designated area of the State of Colorado.

Pursuant to the Emergency Price Control Act of 1942, as amended, and § 1340.259 of Revised Maximum Price Regulation No. 122, and for the reasons set forth in an opinion issued simultaneously herewith, it is hereby ordered:

(a) *Geographical applicability.* This order shall apply to all of the area contained within Adams and Weld counties and the eastern portion of Boulder County lying between its eastern boundary and a line ten miles west of and parallel to its eastern boundary, and the eastern portion of Larimer County lying between its eastern boundary and a line ten miles west of and parallel to its eastern boundary in the State of Colorado.

(b) *What this order does.* If you are a dealer in sub-bituminous coal, you will find set forth in this order the maximum prices which you may charge for sales and deliveries made by you from your place of business in the area described.

(c) *To what sales this order applies.* If you sell coal of the kind specified herein and make delivery thereof to any person within the area described, the maximum prices which you may charge therefor and the customary discounts and allowances which you must give are those set forth in this order, except that where coal has been sold beyond the usual free delivery limits of the communities covered by this order at an overhaul charge for such delivery during the base period, December 1941, the prices as set forth in Table I of this order may be increased the applicable amount of any such overhaul charges that were in effect during December 1941 when deliveries are made beyond the free delivery zones.

(d) *Specific maximum delivered prices.* (1) If you sell and deliver in the area described any one or more of the kinds and sizes of coal named in Table I set forth below, your maximum prices therefor are those specified in said Table I.

TABLE I

MAXIMUM DELIVERED PER NET TON PRICES WITHIN THE AREA DEFINED

Kind of coal	Subdistrict No. 1	Subdistrict No. 2	Subdistrict No. 4	Subdistrict No. 6	Subdistrict No. 8	All subdistricts
Subbituminous coal produced in District 16:						
#2—8" lump	$7.45	$7.20	$6.80	$6.70	$6.60	
#3—2½" lump	7.45	7.20	6.80	6.70	6.60	
#4—8 x 4 grate	7.45					
#5—8 x 2½ egg	7.20	7.20	6.80	6.70	6.60	
#6—4 x 2½ nut	6.80	6.80	6.40	6.30	6.20	
#8—2½ x 1½ pea	5.90	5.90	5.90	5.75	5.75	
#9—1½ x ¾ mod. pea	5.25	5.25	5.25	5.00	5.00	
#10—2½ x 0 slack						[1] $3.95
#11—1½ x 0 slack						[1] $3.85

[1] Slack prices per net ton are based on load lots of 2 ton or more. For deliveries of less than 2 ton add 25¢ to the per net ton price.

(2) If in connection with a sale and delivery of coal made by you in the area described, you, at the request of the purchaser, perform any one or more of the special services set forth below, the maximum prices which you may charge for such special services are those stated:

Special service charges	Per ton	Per ½ ton
"Wheel-in"	$0.50	$0.35
"Pull-back" or "Trimming"	.25	.15
"Carrying up or down stairs"	1.00	.50
Oil or chemical treatment	.25	.15

(e) *Determination of mixed coals prices.* If you mix sizes or kinds of coal your maximum price shall be the proportionate sum of the applicable maximum prices per net ton established in this order for each of the coals so mixed adjusted to the nearest five cents.

(f) *When transportation tax may be collected.* If on any purchase of coal made by you you are required to pay the amount of the transportation tax imposed by section 620 of the Revenue Act of 1942, you may, in addition to the specific maximum prices established in subparagraph (1) of paragraph (d) hereof, collect from the buyer the amount of such tax actually incurred or paid by you, or an amount equal to the amount of such tax paid by any of your prior suppliers and separately stated and collected from you by the supplier from whom you purchased, provided you state separately on your sales invoice, slip, ticket or other memorandum, the amount of such tax so collected by you. But on sales to the United States or any agency thereof, such tax need not be seperately stated.

(g) *Applicability of other regulations.* Except as inconsistent with or contradictory of the terms and provisions of this order, all of the terms and provisions of Revised Maximum Price Regulation No. 122, except paragraph (c) of § 1340.262 thereof, as stated in paragraph (h) of this order, shall apply to all dealers selling and delivering coal in the area described with like force and effect as though the same were re-written herein. If you sell solid fuel of a kind or size not specifically priced by this order, all such sales and deliveries remain subject to the provisions of Revised Maximum Price Regulation No. 122 and orders issued thereunder.

(h) *Filing requirements.* Dealers whose prices are established by this order shall not be required to file prices with their Local War Price and Rationing Board as previously required in § 1340.262 (c). However, prices for coals not specifically covered by this order shall be filed as required by that section.

(i) *What you must not do.* Regardless of any contract or other obligation which you may have heretofore entered into you shall not:

(1) Sell, or in the course of trade or business, buy solid fuels of the kinds and sizes covered by this order at prices higher than the maximum prices set forth herein; but you may sell or buy such coal at lower prices than such maximum prices.

(2) Obtain any prices higher than the applicable maximum prices by:

(i) Changing or withdrawing your customary discounts, differentials or allowances;

(ii) Charging for any service which is not expressly requested by the buyer; or

(iii) Charging for any service for which a charge is not specifically authorized by this order; or

(iv) Charging a price for any service higher than the price authorized by this order for such service; or

(v) Increasing your delivery charges, if any, for delivery outside your free delivery zone, or increasing any interest rate on delinquent and past-due accounts over the rate or charge made by you in December, 1941; or

(vi) Using any tying agreement whereby the buyer is required or persuaded to purchase anything other than the fuel requested by him; or

(vii) Using any other device by which a price higher than your maximum price is obtained either directly or indirectly.

(j) *An increase in your supplier's prices does not authorize you to increase your prices.* You must not increase the specific maximum prices established for you by this order to reflect in whole or in part any subsequent increase to you in your supplier's maximum prices for the fuel covered by this order. These specific maximum prices established for you by this order reflect all of the increases in the maximum prices of your supplier to the date hereof. If increase in your supplier's maximum prices shall occur after the effective date of this order, you may bring that fact to the attention of the Regional Administrator whereupon he will take such appropriate action in the premises as the then existing facts and circumstances justify.

(k) *Adjustable pricing.* You may not make a price adjustable to a maximum price which becomes effective at some time after you have made delivery of the coal; but you may agree to sell at whatever maximum price is in effect at the time of delivery.

(l) *Petition for amendment.* If you desire an amendment of any provisions of this order, you may file a petition therefor with the Regional Administrator and in accordance with the provisions of Revised Procedural Regulation No. 1.

(m) *Right to revoke or amend.* This order may be revoked, modified or amended at any time by the Price Administrator or the Regional Administrator.

(n) *Definitions.* (1) "Carry" or "wheel-in" means to transport coal from the vehicle in which delivery is made or from the nearest accessible point of dumping or unloading and place the same in the buyer's bin or storage space when the physical condition of the premises are such as to prevent dumping or unloading directly into such bin or storage space.

(2) "Pull-back" or "trimming" means to arrange and place coal in the buyer's bin by re-handling the same for the purpose of filling the bin.

(3) "Carrying up or down stairs" means generally the labor involved in carrying coal up or downstairs for depositing in customer's bin or storage space.

(4) "Delivery" means delivery to the buyer's bin or storage space by dumping, chuting, or shovelling directly from the seller's truck or vehicle, or where such delivery to the buyer's bin or storage space is physically impossible, by discharging at the point nearest and most accessible to the buyer's bin or storage space and at which the coal can be discharged directly from the seller's truck.

(5) "Dealer" means any person selling solid fuels of any kind or size for which a maximum price is established by this order for sales and deliveries made in the area described and does not include transactions whereby a producer or distributor makes a sale at or from a mine or preparation plant operated as an adjunct of a mine.

(6) "Sub-bituminous coal" means coal produced in district 16 and any sub-district thereof as set forth in the Minimum Price Schedules of the Bituminous Coal Division of the Department of the Interior and in effect as of Midnight, August 23, 1943. This "sub-bituminous coal" produced in District 16 is commonly referred to as "lignite".

(o) *Licensing.* The provisions of Licensing Order No. 1, licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation or schedule. A seller's license may be suspended for violations of the license or of one or more applicable price schedules or regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended.

Effective date. This order shall become effective October 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9280, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 20th day of October 1943.

CLEM W. COLLINS,
Regional Administrator.

[F. R. Doc. 43-17773; Filed, November 2, 1943; 12:10 p. m.]

[Region VIII Order G-66 Under 18 (c)]

FIREWOOD IN CLALLAM AND JEFFERSON COUNTIES, WASH.

Order No. G-66 under § 1499.18 (c) as amended of the General Maximum Price Regulation. Certain firewood in Clallam County and Jefferson County, Washington.

For the reasons set forth in the opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.18 (c) as Amended of the General Maximum Price Regulation, *It is hereby ordered:*

(a) The maximum prices for certain sales and deliveries of specified kinds of firewood in Clallam County and Jefferson County, Washington, as established by sections 2 and 3 of the General Maxi-

mum Price Regulation or by any previous order issued pursuant to such regulation or to any supplementary regulation thereto, are hereby modified so that the maximum prices therefor shall be the prices set forth in paragraphs (b) and (c).

(b) The maximum price for the sale of the specified kinds of firewood shall be:

1. For sales in the woods in Clallam County and Jefferson County, Washington:

Kind of wood	Length		
	4 feet	24 inches	16 inches
(i) Old growth wood, per cord	$6.75	$7.50	$8.25
(ii) Second growth, alder, maple, and hard woods, per cord	5.75	6.50	7.25

2. For sales delivered to the premises of the consumer in Clallam County and Jefferson County, Washington:

Kind of wood	Length		
	4 feet	24 inches	16 inches
(i) Old growth wood, per cord	$11.00	$11.75	$13.00
(ii) Second growth, alder, maple, and hard woods, per cord	10.00	10.75	12.00
(iii) Bark, old growth, per cord			12.50

(c) The maximum prices established in paragraph (b) 1 are applicable only to firewood sold in the woods. The maximum prices established in paragraph (b) 2 are applicable only to firewood which is delivered to the premises of the buyer.

(d) No seller shall evade any of the provisions of this Order No. G-66 by changing the customary allowances, discounts, or other price differentials.

(e) This order may be revoked, amended, or corrected at any time.

This order shall become effective October 28, 1943.

(544 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued October 28, 1943.

L. F. GENTNER,
Regional Administrator.

[F. R. Doc. 43-17767; Filed, November 2, 1943; 12:10 p. m.]

[Region VIII Order G-67 Under 18 (c)]

FIREWOOD IN DESIGNATED COUNTIES IN STATE OF WASHINGTON

Order No. G-67 under § 1499.18 (c) as amended of the General Maximum Price Regulation. Certain firewood in Douglas, Grant, and Okanogan Counties in the State of Washington.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.18 (c) as amended of the General Maximum Price Regulation, *It is hereby ordered:*

(a) The maximum prices for certain sales and deliveries of the specified kinds of firewood in the specified areas of Douglas, Grant, and Okanogan Counties in the State of Washington as established by sections 2 and 3 of the General Maximum Price Regulation, or by any previous order issued pursuant to such regulation, or to any supplementary regulation thereto are hereby adjusted so that the maximum prices therefor shall be the prices set forth in paragraph (b).

(b) The maximum prices for sales of fir, tamarack, and pine forest wood delivered to the premises of the consumer shall be as specified in the schedule set forth below:

THE CITY OF NESPELEM

Type of wood	Length of wood	Unit of sale	Maximum price
Green-cut	4 feet	Cord	$10.50
Green-cut	16 inches	Cord	11.50
Green-cut	12 inches	Cord	12.00
Dry-cut or green-cut seasoned	4 feet	Cord	11.50
Dry-cut or green-cut seasoned	16 inches	Cord	12.50
Dry-cut or green-cut seasoned	12 inches	Cord	13.00

THE CITIES OF COULEE DAM, GRAND COULEE, AND MASON CITY

Type of wood	Length of wood	Unit of sale	Maximum price
Green-cut	4 feet	Cord	$12.50
Green-cut	16 inches	Cord	13.50
Green-cut	12 inches	Cord	14.00
Dry-cut or green-cut seasoned	4 feet	Cord	13.50
Dry-cut or green-cut seasoned	16 inches	Cord	14.50
Dry-out or green-cut seasoned	12 inches	Cord	15.00

(c) For the purpose of this order:

(1) The term "City of Nespelem" shall include the area within a radius of five miles from the corporate limits of said city.

(2) The term "Cities of Coulee Dam, Grand Coulee, and Mason City" shall include the area within a radius of seven miles from the corporate limits of each of said cities.

(d) If in March, 1942, the seller had an established practice of giving allowances, discounts, or other price differentials to certain classes of purchasers, he must continue such practice, and the maximum prices fixed by this order must be reduced to reflect such allowances, discounts, and other price differentials.

(e) Violations of this order shall subject the violator to all of the criminal and civil penalties provided by the Emergency Price Control Act of 1942, as amended.

(f) Insofar as the same fixes adjusted prices differing from those fixed in this order, Order No. G-63 under § 1499.18 (c) as amended of the General Maximum Price Regulation, issued on October 6, 1943, establishing adjusted maximum prices for firewood in Chelan and Okenogan Counties, Washington, is hereby superseded and revoked.

(g) This order may be revoked, amended, or corrected at any time.

This order shall become effective upon its issuance.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 28th day of October 1943.

L. F. GENTNER,
Regional Administrator.

[F. R. Doc. 43-17768; Filed, November 2, 1943; 12:09 p. m.]

[Region VIII Order G-68 Under 18 (c)]

FIREWOOD IN KOOTENAI COUNTY, IDAHO

Order No. G-68 under § 1499.18 (c) as amended of the General Maximum Price Regulation. Certain firewood in Kootenai County, Idaho.

For the seasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.18 (c) as amended of the General Maximum Price Regulation; it is hereby ordered:

(a) The maximum prices for certain sales and deliveries of the specified kinds of firewood in Kootenai County, Idaho as established by sections 2 and 3 of the General Maximum Price Regulation, or by any previous order issued pursuant to such regulation, or to any supplementary regulation thereto are hereby adjusted so that the maximum prices therefor shall be the prices set forth in paragraphs (b), (c), (d), and (e).

(b) The maximum prices for sales of fir, tamarack, and pine forest wood, green or dry, shall be as specified in the schedules set forth below:

(1) For sales delivered to the premises of the consumer at any point in that part of Kootenai County located within a distance of ten miles from the boundary line between Kootenai and Bonner Counties, Idaho:

Length of wood	Unit of sale	Maximum price
4 feet	Cord	$10.50
16 inches or shorter	Cord	12.00
16 inches	1 rick	4.75
12 inches	1 rick	4.00

(2) For sales delivered to the premises of the consumer at any point in said

Kootenai County other than the territory specified in paragraph (b) (1):

Length of wood	Unit of sale	Maximum Price
4 feet	Cord	$12.00
16 inches or shorter	Cord	13.50
16 inches	1 rick	5.25
12 inches	1 rick	4.25

(c) The maximum prices for sales of fir and tamarack tie slabs delivered to the premises of the consumer at any point in said Kootenai County shall be as follows:

(1) For wood in 4 ft. lengths or longer, $9.00 per cord.

(2) For wood cut to 16 in. lengths or shorter, $10.50 per cord.

(d) The maximum prices for sales of mill slabwood, irrespective of the length of the wood, delivered to the premises of the consumer in said Kootenai County within the normal free delivery area of the seller shall be:

(1) For fir and tamarack wood, $6.50 per cord.

(2) For yellow pine and white pine wood, $5.00 per cord.

(3) For white fir, spruce, and cedar wood, $4.50 per cord.

(4) For planing mill wood, $5.00 per cord.

(e) The maximum prices for sales of mill slabwood, irrespective of the length of the wood, delivered to the premises of the consumer in said Kootenai County outside the normal free delivery area of the seller, shall be those specified in paragraph (d) plus such delivery charges as were made by the seller during March, 1942 for deliveries outside the seller's normal free delivery area, provided such deliver. charges are separately stated in the seller's invoice or receipt to the purchaser.

(f) For the purpose of this order, the term "normal free delivery area" is that area within which the seller made deliveries to the premises of the consumer without an additional charge therefor during the month of March, 1942.

(g) If in March, 1942, the seller had an established practice of giving allowances, discounts, or other price differentials to certain classes or purchasers, he must continue such practice, and the maximum prices fixed by this order must be reduced to reflect such allowances, discounts, and other price differentials.

(h) Violations of this order shall subject the violator to all of the criminal and civil penalties provided by the Emergency Price Control Act of 1942, as amended.

(i) This order may be revoked, amended, or corrected at any time.

This order shall become effective upon its issuance.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E. O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 28th day of October 1943.

L. F. GENTNER,
Regional Administrator.

[F. R. Doc. 43-17769; Filed, November 2, 1943; 12:09 p. m.]

[Wyoming Rev. Order G-1 Under MPR 426]

FRESH FRUITS AND VEGETABLES IN WYOMING

Revised Order No. G-1 under Maximum Price Regulation No. 426. Fresh fruits and vegetables for table use, sales except at retail, in the State of Wyoming.

Pursuant to the Emergency Price Control Act of 1942 as Amended, section 2 (b) of Maximum Price Regulation No. 426, as Amended, Regional Delegation Order No. 16 and for the reasons set forth in the accompanying opinion, "Order G-1 under MPR 426" is hereby redesignated Revised Order No. G-1 under Maximum Price Regulation No. 426 and is revised and amended to read as follows:

(a) *What this order does.* This order adjusts upward the delivered prices for head lettuce sold by intermediate sellers operating from a wholesale receiving point within the State of Wyoming.

(b) *Adjusted prices for delivered sales of head lettuce.* On and after the effective date of this order the maximum prices for less than carlot or less than trucklot delivered sales of head lettuce to any person except an ultimate consumer, made by an intermediate seller operating at a wholesale receiving point, shall be as follows:

(1) For iceberg lettuce in L. A. or Salinas crates containing not less than 48 heads, with a minimum net weight of 60 pounds, the maximum carlot or trucklot price at such wholesale receiving point as determined under Column 7 of "Appendix A—Lettuce," Article III, section 15 of Maximum Price Regulation No. 426, plus 30¢.

(2) All lettuce in any container, except iceberg lettuce, in L. A. or Salinas crates, and except hothouse lettuce, and any lettuce sold with a net weight of less than 60 pounds in any container, or less than 48 heads in an L. A. or Salinas crate, the maximum carlot or trucklot price per pound at such wholesale receiving point as determined under Column 7 of "Appendix A—Lettuce," Article III, section 15 of Maximum Price Regulation No. 426, plus ½¢ per pound.

(3) For hothouse lettuce in any container the maximum carlot or trucklot price at such wholesale receiving point as determined under Column 7 of "Appendix A—Lettuce," Article III, section 15 of Maximum Price Regulation No. 426, plus ½¢ per pound.

(c) *Applicability of other regulations.* Except in so far as the same are inconsistent with or contradictory of the terms and provisions of this Revised Order No. G-1, all of the terms and provisions of Maximum Price Regulation No. 426 shall remain in full force and effect and be applicable to all intermediate sellers covered by this adjustment order.

(d) *Geographical applicability.* This revised order is hereby expressly limited to the State of Wyoming and is made applicable only to intermediate sellers of head lettuce who operate an established place of business within the State of Wyoming at which fresh fruits and vegetables are received and resold in less than carlots or less than trucklots on a delivered basis to any person except an ultimate consumer.

(e) *Licensing.* The provisions of Licensing Order No. 1, licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation or schedule. A seller's license may be suspended for violations of the license or of one or more applicable price schedules or regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended.

(f) *Right to revoke or amend.* This revised order may be revoked, modified or amended at any time by the Price Administrator or the Regional Administrator.

Effective date. This revised order shall become effective as of September 20, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 26th day of October 1943.

H. D. WATENPAUGH,
District Director.

[F. R. Doc. 43-17770; Filed, November 2, 1943; 12:07 p. m.]

[Wyoming Order G-2 Under MPR 426]

FRESH FRUITS AND VEGETABLES IN WYOMING

Order No. G-2 under Maximum Price Regulation No. 426. Fresh fruits and vegetables for table use, sales except at retail, in the State of Wyoming.

Pursuant to the Emergency Price Control Act of 1942, as Amended, section 2 (b) of Maximum Price Regulation No. 426, as Amended, Regional Delegation Order No. 16 and for the reasons set forth in the accompanying opinion, this Order G-2 under Maximum Price Regulation 426 is hereby issued.

(a) *What this order does.* This order adjusts upward the delivered prices for table grapes sold by intermediate sellers operating from a wholesale receiving point within the State of Wyoming.

(b) *Adjusted prices for delivered sales of table grapes.* On and after the effective date of this order the maximum prices for less than carlot or less than trucklot delivered sales of table grapes to any person except an ultimate consumer, made by an intermediate seller operating at a wholesale receiving point, shall be as follows:

(1) For grapes in lug boxes, with a minimum net weight of 28 pounds, sold in the United States, except in California, the maximum carlot or trucklot price at such wholesale receiving point as determined under Column 7 of "Appendix D—Maximum Price for Table Grapes." Article 111, section 15 of Maximum Price Regulation No. 426, plus 70c.

(2) All grapes in any container, except lug boxes, with a minimum net weight of 28 pounds, sold in the United States, except California, the maximum carlot or trucklot price at such wholesale receiving point as determined under Column 7 of "Appendix D—Maximum Prices for Table Grapes," Article 111,

section 15 of Maximum Price Regulation No. 426, plus 2½c per pound.

(c) *Applicability of other regulations.* Except in so far as the same are inconsistent with or contradictory of the terms and provisions of this Order No. G-2, all of the terms and provisions of Maximum Price Regulation No. 426 shall remain in full force and effect and be applicable to all intermediate sellers covered by this adjustment order.

(d) *Geographical applicability.* This revised order is hereby expressly limited to the State of Wyoming and is made applicable only to intermediate sellers of table grapes who operate an established place of business within the State of Wyoming at which fresh fruits and vegetables are received and in less than carlots or less than trucklots on a delivered basis to any person except an ultimate consumer.

(e) *Licensing.* The provisions of Licensing Order No. 1, licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation or schedule. A seller's license may be suspended for violations of the license or on one or more applicable price schedules or regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended.

(f) *Right to revoke or amend.* This revised order may be revoked, modified or amended at any time by the Price Administrator or the Regional Administrator.

Effective date. This revised order shall become effective as of October 26, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 26th day of October 1943.

H. D. WATENPAUGH,
District Director.

[F. R. Doc. 43-17771; Filed, November 2, 1943; 12:07 p. m.]

[Region I Order G-9 Under Rev. MPR 122, Amdt. 1]

SPECIFIED SOLID FUELS IN METROPOLITAN BOSTON AREA

Amendment No. 1 to Order No. G-9 under Revised Maximum Price Regulation No. 122. Solid Fuels Sold and Delivered by Dealers.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of Region I of the Office of Price Administration by §§ 1340.259 (a) (1) and 1340.260 of Revised Maximum Price Regulation No. 122 and the Emergency Price Control Act of 1942, as amended, subparagraph (1) of paragraph (f) of Region I Order No. G-9 under Revised Maximum Price Regulation No. 122 is hereby amended to read as follows:

(f) *Definition.* When used in this Order G-9, the term:

(1) "Metropolitan Boston Area" shall include the following cities and towns in the Commonwealth of Massachusetts: Arlington, Ashland, Belmont, Boston, Braintree, Brookline, Cambridge, Chelsea, Dedham, Dover, Everett, Framingham, Hingham, Holliston, Lexington, Malden, Medford, Melrose, Milton, Natick, Needham, Newton, Quincy, Reading, Revere, Sherborn, Somerville, Stoneham, Sudbury, Wakefield, Waltham, Watertown, Wayland, Wellesley, Weston, Weymouth, Winchester, Winthrop and Woburn.

This Amendment No. 1 to Order No. G-9 shall become effective November 8, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 1st day of November 1943.

GORDON K. CREIGHTON,
Acting Regional Administrator.

[F. R. Doc. 43-17774; Filed, November 2, 1943; 12:12 p. m.]

[Region I Order G-19, Amdt. 5]

FLUID MILK IN NEW HAMPSHIRE

Amendment No. 5 to Order No. G-19 under section 18 (c) of the General Maximum Price Regulation, § 1351.807 of Maximum Price Regulation 280, and § 1351.408 of Maximum Price Regulation 329 (formerly General Order 19).

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of Region I of the Office of Price Administration by section 18 (c) of the General Maximum Price Regulation, as amended by Amendment No. 33, and by § 1351.807 of Maximum Price Regulation 280: *It is hereby ordered,* That subdivision (viii) of paragraph (b) (1) be added, and that subparagraph (5) of paragraph (1) be added, to read as set forth below:

(b) * * *
(1) * * *
(viii) The maximum prices for buttermilk sold and delivered in any locality in each Zone shall be 1 cent per quart less than the maximum prices fixed in this Order for standard milk sold and delivered in any locality in such zone.

* * * * *

(1) * * *
(5) Amendment No. 5 shall become effective July 29, 1943, at 12:01 a. m.

Issued this 28th day of July 1943.

FRANK O'NEIL,
Acting Regional Administrator.

[F. R. Doc. 43-17775; Filed, November 2, 1943; 12:11 p. m.]

[Region I Order G-19, Amdt. 6]

FLUID MILK IN NEW HAMPSHIRE

Amendment No. 6 to Order No. G-19 under section 18 (c) of the General Maximum Price Regulation, § 1351.807 of Maximum Price Regulation No. 280 and § 1351.408 of Maximum Price Regulation No. 329 (formerly General Order 19).

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of Region I of the Office of Price Administration by section 18 (c) of the General Maximum Price Regulation, as amended by Amendment No. 33, and by § 1351.807 of Maximum Price Regulation No. 280: *It is hereby ordered,* That subdivision (viii) of paragraph (b) (1) be revoked, and that subparagraph (6) of paragraph (1) be added, to read as set forth below:

(1) * * *

(6) Amendment No. 6 shall become effective September 21, 1943, at 12:01 a. m.

Issued this 21st day of September 1943.

GORDON K. CREIGHTON,
Acting Regional Administrator.

[F. R. Doc. 43-17776; Filed, November 2, 1943; 12:11 p. m.]

[Region III Order G-11 Under MPR 329]

FLUID MILK IN MARSHALL COUNTY, IND.

Order No. G-11 under Maximum Price Regulation No. 329. Purchases of Milk from Producers for Resale as Fluid Milk. Adjustment of the maximum prices milk distributors in Marshall County, Indiana may pay to producers.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of Region III of the Office of Price Administration by § 1351.408 (c) of Maximum Price Regulation No. 329, *It is hereby ordered:*

(a) Any milk distributor in Marshall County, Indiana, may pay producers for "milk" an amount not in excess of $3.20 per cwt., f. o. b. plant for "milk" of 4% butterfat content, plus or minus 5¢ for each 1/10 of 1% butterfat variation over or under 4%.

(b) Each milk distributor increasing his price to producers for "milk" pursuant to the provisions of this order shall within five days of such action, notify the Regional Office of the Office of Price Administration, Union Commerce Building, Cleveland, Ohio, by letter or postcard, of his price established pursuant to the provisions of this order, together with a statement of his previous price.

(c) *Definitions.* (1) "Milk distributor" is defined to mean any individual, corporation, partnership, association, or any other organized group of persons or successors of the foregoing who purchases "milk" in a raw and unprocessed state for the purpose of resale as fluid milk in glass, paper or other containers.

(2) "Producer" means a farmer, or other person or representative, who owns, superintends, managers, or otherwise controls the operations of a farm on which "milk" is produced. For the purposes of this order, farmers' cooperatives are producers when (i) they do not own or lease physical facilities for receiving, processing, or distributing milk, and (ii)

they do own or lease physical facilities for receiving, processing or distributing milk, but they act as selling agents for producers, whether members of such cooperative or not.

(3) "Milk" means liquid cow's milk in a raw, unprocessed state, which is purchased for resale for human consumption as fluid milk. "In a raw, unprocessed state" means unpasteurized and not sold and delivered in glass or paper containers.

(d) This order replaces and supersedes the provisions of Order No. G-3 under Maximum Price Regulation No. 329, Purchases of Milk from Producers for Resale as Fluid Milk, insofar as its application to milk distributors in Marshall County, Indiana. Said Order No. G-3 under Maximum Price Regulation No. 329 is therefore revoked as to milk distributors located in Marshall County, Indiana.

(e) This order may be modified, amended or revoked at any time.

This order shall be effective as of October 20, 1943.

(56 Stat. 23, 765; Pub. Laws 151, 78th Cong.; E.O. 9250, 7 F.R. 78711 and E.O. 9328, 8 F.R. 4681)

Issued October 21, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-17782; Filed, November 2, 1943; 12:10 p. m.]

[Region VII Order G-7 Under Rev. MPR 122, Revocation]

SOLID FUELS IN GREELEY TRADE AREA, COLO.

Order No. G-7 Under Revised Maximum Price Regulation No. 122. Maximum prices for certain solid fuels sold and delivered by dealers in the Greeley Trade Area.

Pursuant to the Emergency Price Control Act of 1942, as amended, § 1340.260 of Revised Maximum Price Regulation No. 122, paragraph (1) of this Order No. G-7, and for the reasons set forth in the opinion, this order of revocation is issued:

(a) This Order No. G-7 under Revised Maximum Price Regulation No. 122, is hereby revoked, effective at 11:59 o'clock p. m. on October 20, 1943, subject to all the terms and provisions of Supplemental Order No. 40.

(b) This order shall become effective immediately.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 21st day of October 1943.

CLEM W. COLLINS,
Regional Administrator.

[F. R. Doc. 43-17772; Filed, November 2, 1943; 12:11 p. m.]

[Region VIII Order G-2 Under MPR 418, Amdt. 1]

FRESH FISH AND SEAFOOD IN STATE OF WASHINGTON

For the reasons set forth in an opinion issued simultaneously herewith, and under the authority vested in the Regional Administrator of the Office of Price Administration by section 2 (d), of Maximum Price Regulation 418, as amended, *It is hereby ordered,* That paragraph (a) be amended to read as set forth below:

(a) The maximum price for the specie and style of dressing of fresh fish described in section 20, Table A, Schedules 29 and 30 of Maximum Price Regulation 418, as amended, delivered to buyers' docks in the cities of Seattle, Everett, Bellingham and Anacortes, in the State of Washington, shall be the prices set forth in section 20, Table A, Schedules 29 and 30, plus ½ cent per pound.

This amendment shall take effect upon its issuance.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 26th day of October 1943.

L. F. GENTNER,
Regional Administrator.

[F. R. Doc. 43-17765; Filed, November 2, 1943; 12:09 p. m.]

[Region VIII Order G-7 Under MPR 280]

FLUID MILK IN DESIGNATED COUNTIES OF WASHINGTON

Order No. G-7 under Maximum Price Regulation No. 280, as Amended. Maximum prices for specific food products (milk).

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1351.817 (a) of Maximum Price Regulation No. 280, *It is hereby ordered:*

(a) The maximum price at which any farmers' cooperative may sell fluid milk in bulk for human consumption as fluid milk as a "handler" as defined in paragraph (c) below, except sales to stores, hotels, restaurants and institutions, shall be as follows:

(1) For such sales of milk to purchasers who purchased from the farmers' cooperative during August, 1943, the maximum price shall be the highest price which the particular farmers' cooperative charged such purchaser during August, 1943.

(2) For such sales of milk to purchasers who did not purchase milk from the particular farmers' cooperative during August, 1943, the maximum price shall be the highest price which such farmers' cooperative charged any purchaser during August, 1943.

(b) This order shall apply to farmers' cooperatives whose plants are located in the following counties in the state of Washington:

Chelan, Challam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, Yakima.

(c) *Definitions.* (1) "Fluid milk" means liquid cow's milk in a raw, unprocessed state meeting the minimum health and sanitary requirements specified by State and local health agencies, which is purchased for resale for human consumption as fluid milk.

(2) "Handler" means any person who, on his own behalf or on the behalf of others, purchases fluid milk from producers, associations of producers, or other handlers, and who sells such fluid milk at wholesale in bulk (other than in glass or paper containers), to any person, other than stores, hotels, restaurants and institutions.

(3) A "farmers' cooperative" is also a handler with respect to that fluid milk processed for it by operators of milk receiving or processing plants, and with respect to that fluid milk handled in physical facilities for receiving processing or distributing fluid milk which are owned or leased by the cooperative, which fluid milk is sold by it at wholesale in bulk (other than in glass or paper containers), to any person, other than stores, hotels, restaurants, and institutions.

(d) *Evasion.* The price limitations of this order shall not be evaded by direct or indirect methods, by means of, or in connection with, any offer, solicitation, agreement, sale, delivery, purchase, or receipt of or relating to milk, alone or in conjunction with any other commodities, or by way of, or in connection with, any commission, service, transportation, or other charge or discount, premiums, or privilege, tying agreement, trade understanding, or change in any business trade practice.

(e) *Enforcement.* Purchasers violating any provision of this order are subject to the criminal penalties, civil enforcement actions, suits for treble damages, and proceedings for suspensions of licenses provided by the Emergency Price Control Act of 1942, as amended.

(f) This order may be revoked, amended or corrected at any time.

This order shall become effective October 26, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 26th day of October 1943.

L. F. GENTNER,
Regional Aaministrator.

[F. R. Doc. 43-17766; Filed, November 2, 1943; 12:09 p. m.]

[Region I Order G-30 Under 18 (c)]

FIREWOOD IN MAINE

Correction

In F.R. Doc. 43-16410, appearing at page 13868 of the issue for Saturday, October 9, 1943, the designation of paragraph (4) in the third column should read "(d)".

In Table 2 (page 13869) the heading of the eighth column should read "½ cord or ½ load".

[Region II Order G-14 Under Rev. MPR 122]

SOLID FUELS IN RICHMOND COUNTY, N. Y.

Correction

In F.R. Doc. 43-16788, appearing at page 14100 of the issue for Saturday, October 16, 1943, the fifth line of paragraph (g) in the third column should read "price established in this order for the".