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Regulations

TITLE 7—AGRICULTURE

Chapter VIII—War Food Administration

PART 802—SUGAR DETERMINATIONS

NORMAL YIELDS OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE FOR SUGAR BEETS (REVISED)

Pursuant to the provisions of section 303 of the Sugar Act of 1937, as amended, and Executive Order No. 9322, issued March 26, 1943, as amended by Executive Order No. 9334, issued April 19, 1943, the following determination is hereby issued:

§ 802.15e *Determination of normal yields of commercially recoverable sugar per acre for sugar beets.* (a) The normal yield of commercially recoverable sugar per acre for any farm on which sugar beets are planted shall be the amount of sugar obtained by multiplying the normal yield of sugar beets in tons per acre for the farm by the amount of sugar, raw value, determined to be commercially recoverable under section 302 (a) of the Sugar Act of 1937, as amended, from a ton of sugar beets of normal percentage of sugar content for the farm.

(b) For the purposes of this determination:

(1) "Planted" sugar beets shall be deemed to include only sugar beets planted for harvest for the extraction of sugar.

(2) The "normal yield" of sugar beets shall be:

(i) For a farm on which sugar beets were planted in three or more of the next preceding seven years, the simple average of the annual average yields of sugar beets in tons per acre planted on the farm for all of such years in which sugar beets were planted;

(ii) For a farm on which sugar beets were planted in only one or two of the next preceding seven years, the number of tons obtained by multiplying the county normal yield of sugar beets by the percentage that the simple average of the yields of sugar beets in tons per acre planted on the farm in such year or years is of the simple average of the county average yields of sugar beets for such year or years, except that the normal yield for such farm shall not be less than 80 percent nor more than 120 percent of the county normal yield; and

(iii) For a farm on which sugar beets were not planted in any of the next preceding seven years, 90 percent of the county normal yield of sugar beets.

(3) The "county average yield" of sugar beets shall be:

(i) For each of the years 1936–1941, inclusive, the yield established, or which could have been established, under the 1942 sugar beet program; and

(ii) For the year 1942 and any subsequent year, for a county with ten or more farms with respect to which applications for sugar payments were approved, the weighted average yield in tons per planted acre on such farms in such year, and for a county with less than ten farms with respect to which applications for sugar payments were approved, the yield per acre established by the State Agricultural Conservation Committee on the basis of the yields per acre for such year in the county and in adjacent counties with similar production conditions.

(4) The "county normal yield" of sugar beets shall be:

(i) For a county for which county average yields are established for three or more of the next preceding seven years on the basis of ten or more farms, the simple average of all the average yields in tons per acre so established for such county for such years; and

(ii) For a county for which county average yields are established for less than three of the next preceding seven years on the basis of ten or more farms, the yield established by the State Agricultural Conservation Committee on the

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FEDERAL REGISTER

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basis of the yields per acre for the next preceding seven years in the county and in adjacent counties with similar production conditions.

(5) The "normal percentage of sugar content" of sugar beets for a farm from which sugar beets were contracted to be marketed under that type of agreement commonly known as an "individual test contract" shall be:

(i) In case sugar beets were so marketed in three or more of the next preceding seven years, the simple average of the annual average percentages of sugar content, at the time of delivery to a processor, of the sugar beets marketed in all of such years in which sugar beets were so marketed;

(ii) In case sugar beets were so marketed in only one or two of the next preceding seven years, the percentage of sugar content obtained by multiplying the county normal percentage of sugar content of sugar beets by the percentage that the simple average of the average percentages of sugar content, at the time of delivery to a processor, of the sugar beets marketed in such year or years is of the simple average of the county average percentages of sugar content of sugar beets for such year or years; and

(iii) In case sugar beets were not so marketed, in any of the next preceding seven years, the county normal percentage of sugar content of sugar beets.

(6) The "county average percentage of sugar content" of sugar beets shall be:

(i) For each of the years 1936–41, inclusive, the percentage established, or which could have been established, under the 1942 sugar beet program; and

(ii) For the year 1942 and any subsequent year, for a county with ten or more farms with respect to which applications for sugar payments were approved, the weighted average percentage of sugar content, at the time of delivery to a processor, of all sugar beets marketed under individual test contracts in such year from farms in the county, and for a county with less than ten farms with respect to which applications for sugar payments were approved, the percentage established by the State Agricultural Conservation Committee on the basis of the percentage of sugar content, at the time of delivery to a processor, of the sugar beets so marketed in such year from farms in the county and in adjacent counties.

(7) The "county normal percentage of sugar content" of sugar beets shall be:

(i) For a county for which county average percentages are established for three or more of the next preceding

seven years on the basis of ten or more farms, the simple average of all the average percentages so established for the county for such years; and

(ii) For a county for which county average percentages are established for less than three of the next preceding seven years on the basis of ten or more farms, the percentage established by the State Agricultural Conservation Committee on the basis of the percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed under individual test contracts in the next preceding seven years from farms in the county and in adjacent counties.

(8) The "normal percentage of sugar content" of sugar beets for a farm from which sugar beets were contracted to be marketed under any type of agreement other than that commonly known as an "individual test contract" shall be the normal percentage of sugar content of sugar beets for the district (an area in which a common marketing agreement was in use).

(9) The "normal percentage of sugar content of sugar beets for the district" shall be:

(i) For a district in which a beet sugar factory was operated in three or more of the next preceding seven years, the simple average of the annual average percentages of sugar content, at the time of processing, of all of the sugar beets processed in the district in all of such years in which sugar beets were processed; and

(ii) For a district in which a beet sugar factory was operated in less than three of the next preceding seven years, the percentage of sugar content of sugar beets established by the Agricultural Adjustment Agency on the basis of the average percentage of sugar content, at the time of processing, of sugar beets produced under similar conditions in the next preceding seven years.

This determination supersedes, with respect to the 1943 and subsequent crops, the "Determination of Normal Yields of Commercially Recoverable Sugar Per Acre for Sugar Beets, Pursuant to the Sugar Act of 1937, as Amended," issued July 27, 1942.

(Sec. 303, 50 Stat. 911; 7 U.S.C. 1940 ed. 1133; E.O. 9322, as amended by E.O. 9334)

Issued this 3d day of August 1943.

MARVIN JONES,
War Food Administrator.

[F. R. Doc. 43-12647; Filed, August 4, 1943; 11:34 a. m.]

Chapter XI—War Food Administration

[FDO 27-2, Amdt. 3]

PART 1410—LIVESTOCK AND MEATS

MEAT QUOTAS

Food Distribution Order No. 27-2, as amended (8 F.R. 7185, 9041, 9641), § 1410.10, issued by the Director of Food Distribution, is amended as follows:

1. By deleting the figure "85" in paragraph (b) and substituting in lieu thereof the figure "90".

2. By deleting the word "July" wherever it appears in the proviso at the end of paragraph (c) and substituting in lieu thereof the word "August".

With respect to violations of said Food Distribution Order No. 27-2, as amended, rights accrued, or liabilities incurred prior to the effective date of this amendment, said Food Distribution Order No. 27-2, as amended, shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

This order shall become effective at 12:01 a. m., e. w. t., August 1, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; F.D.O. 27, 8 F.R. 2785, 4227, 5700, 7739, 8795)

Issued this 4th day of August 1943.

ROY F. HENDRICKSON,
Director of Food Distribution.

[F. R. Doc. 43-12649; Filed, August 4, 1943; 11:34 a. m.]

[FDO 61-2]

PART 1410—LIVESTOCK AND MEATS

MEAT QUOTAS

Pursuant to the provisions of Food Distribution Order No. 61 (8 F.R. 9108) and to effectuate the purposes thereof, *It is hereby ordered,* As follows:

§ 1410.16 *Increase in quotas for August.* (a) Any commercial slaughterer may deliver, during the month of August 1943, in addition to his quota and in addition to the percentage of such quota allowed to be delivered in August under (d) of Director Food Distribution Order No. 61-1, as amended (8 F.R. 9112, 9319), an amount of pork equivalent to 2 percent of such commercial slaughterer's pork quota base for Quota Period 4.

(b) Any commercial slaughterer located in the States of California, Oregon, and Washington may deliver, during the month of August 1943, in addition to his quota and in addition to the percentage of such quota allowed to be delivered in August under (d) of Director Food Distribution Order No. 61-1, as amended (8 F.R. 9112, 9319), an amount of lamb and mutton equivalent to 7 percent of such commercial slaughterer's lamb and mutton quota base for Quota Period 4.

(c) This order shall become effective at 12:01 a. m., e. w. t., August 1, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3897; E.O. 9334, 8 F.R. 5423; F.D.O. 61, 8 F.R. 9108)

Issued this 4th day of August 1943.

ROY F. HENDRICKSON,
Director of Food Distribution.

[F. R. Doc. 43-12648; Filed, August 4, 1943; 11:34 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter B—Estate and Gift Taxes

PART 86—GIFT TAX UNDER CHAPTER 4 OF INTERNAL REVENUE CODE, AS AMENDED

Regulations 108, relating to the Gift Tax under Chapter 4 of the Internal Revenue Code, as amended.

Sec.

AUTHORITY: §§ 86.0 to 86.75, inclusive, issued under secs. 1029 and 3791 of the Internal Revenue Code (53 Stat. 157, 467; 26 U.S.C. 1029, 3791)

§ 86.0 *Scope of regulations.* These regulations deal with the gift tax imposed by chapter 4 of the Internal Revenue Code and apply to transfers of property by gift during the calendar year 1940 and thereafter. They do not affect gift tax regulations (including Treasury decisions) heretofore issued in so far as they relate to taxes imposed on gifts made prior to January 1, 1940.

Each section, subsection, or paragraph of the Internal Revenue Code appearing in the regulations is followed by the section or sections of the prescribed regulations relating thereto and shall be considered as a part thereof. Sections of the Code set forth are readily distinguishable from the prescribed regulations sections since the latter appear in larger type and bear a number commencing with 86 and a decimal point. The number "86" is used in numbering the sections of the regulations for the reason that the regulations constitute Part 86 of Title 26 of the Code of Federal Regulations. Identifying portions of the section numbers (following 86.) begin with "0" and follow in sequence. Except as otherwise indicated, the statutory references are to the Internal Revenue Code.

To the extent that Regulations 79 (1936 Edition), as amended by Treasury decisions, have been made applicable to gift taxes imposed by the Internal Revenue Code, they are hereby superseded.

SEC. 1000. IMPOSITION OF TAX. [As originally enacted.]

(a) For the calendar year 1940 and each calendar year thereafter a tax, computed as provided in section 1001, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift. Gift taxes for the calendar years 1932–1939, inclusive, shall not be affected by the provisions of this chapter, but shall remain subject to the applicable provisions of the Revenue Act of 1932, except as such provisions are modified by legislation enacted subsequent to the Revenue Act of 1932.

(b) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; but, in the case of a nonresident not a citizen of the United States, shall apply to a transfer only if the property is situated within the United States.

SEC. 452. POWERS OF APPOINTMENT. [Revenue Act of 1942, Title IV, Part II, Enacted October 21, 1942.]

(a) *General rule.* Section 1000 (relating to imposition of gift tax) is amended by inserting at the end thereof the following new subsection:

(c) *Powers of appointment.* An exercise or release of a power of appointment shall be deemed a transfer of property by the individual possessing such power. For the purposes of this subsection the term "power of appointment" means any power to appoint exercisable by an individual either alone or in conjunction with any person, except—

(1) A power to appoint within a class which does not include any others than the spouse of such individual, spouse of the creator of the power, descendants of such individual or his spouse, descendants (other than such individual) of the creator of the power or his spouse, spouses of such descendants, donees described in section 1004 (a) (2), and donees described in section 1004 (b). As used in this paragraph, the term "descendant" includes adopted and illegitimate descendants, and the term "spouse" includes former spouse; and

(2) A power to appoint within a restricted class if such individual did not receive any beneficial interest, vested or contingent, in the property from the creator of the power or thereafter acquire any such interest, and if the power is not exercisable to any extent for the benefit of such individual, his estate, his creditors, or the creditors of his estate.

If a power to appoint is exercised by creating another power to appoint, such first power shall not be considered excepted under paragraph (1) or (2) from the definition of power of appointment to the extent of the value of the property subject to such second power to appoint. For the purposes of the preceding sentence the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint.

(b) *Powers with respect to which amendments not applicable.* (1) The amendments made by this section shall not apply with respect to a power to appoint, created on or before the date of enactment of this Act, which is other than a power exercisable in favor of the donee of the power, his estate, his creditors, or the creditors of his estate, unless such power is exercised after the date of enactment of this Act.

(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act, which is exercisable in favor of the donee of the power, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

(c) *Release on or before January 1, 1943.* (1) A release of a power to appoint before January 1, 1943, shall not be deemed a transfer of property by the individual possessing such power.

(2) This subsection shall apply to all calendar years prior to 1943.

SEC. 10. EXTENSION OF TIME IN CONNECTION WITH RELEASE OF POWER OF APPOINTMENT. [Current tax payment act of 1943.]

* * * section 452 (c) of the Revenue Act of 1942 is amended to read as follows:

(c) *Release before March 1, 1944.* (1) A release of a power to appoint before March 1, 1944, shall not be deemed a transfer of property by the individual possessing such power.

(2) This subsection shall apply to all calendar years prior to 1944 and to that part of the calendar year 1944 prior to March 1, 1944.

SEC. 453. GIFTS OF COMMUNITY PROPERTY. [Revenue Act of 1942, Title IV, Part II. Effective for calendar year 1943 and each calendar year thereafter.]

Section 1000 (relating to tax on gifts) is amended by inserting at the end thereof the following new subsection:

(d) *Community property.* All gifts of property held as community property under the law of any State, Territory, or possession of the United States, or any foreign country shall be considered to be the gifts of the husband except that gifts of such property as may be shown to have been received as compensation for personal services actually rendered by the wife or derived originally from such compensation or from separate property of the wife shall be considered to be gifts of the wife.

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE. [Revenue Act of 1942, Title IV, Part II.]

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

§ 86.1 *Imposition of tax.* The statute imposes no tax upon property, but subjects to tax transfers of property by gift. The statute taxes all such transfers of property (other than gifts specified in section 1003 (b) (2) and (3) and other than releases before March 1, 1944, of powers to appoint created on or before October 21, 1942, the date of enactment of the Revenue Act of 1942) to the extent that they exceed the deductions authorized by section 1004. The tax is not limited in its imposition to transfers of property without a valuable consideration, which at common law are treated as gifts, but extends to sales and exchanges for less than an adequate and full consideration in money or money's worth. (See § 86.8.) The tax applies to all individuals, whether resident or nonresident of the United States, but, in the case of a nonresident not a citizen, the tax applies only to transfers of property situated within the United States. For the definition of "resident," see § 86.4. With reference to the situs of property, see § 86.18.

§ 86.2 *Transfers reached*—(a) *In general.* The statute imposes a tax whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible. Thus, for example, a taxable transfer may be effected by the declaration of a trust, the forgiving of a debt, the assignment of a judgment, the assignment of the benefits of a contract of insurance, or the transfer of cash, certificates of deposit, or Federal, State, or municipal bonds. Various statutory provisions, which exempt bonds, notes, bills and certificates of indebtedness of the Federal Government or its agencies and the interest thereon from taxation, are not applicable to the gift tax since this tax is an excise tax on the transfer, and is not a tax on the subject of the gift. However, a gift of a bond, note, or certificate of indebtedness issued by the Federal Government prior to March 1, 1941, if made by a nonresident alien not engaged in business in the United States, is not subject to the tax; but a gift by any such nonresident alien of an obligation of the Federal Government issued on or after March 1, 1941, is subject to the tax. Inasmuch as the tax also applies to gifts indirectly made, all transactions whereby property or property rights or interests are gratuitously passed or conferred upon another, regardless of the means or device employed, constitute gifts subject to tax. See, further, § 86.8. (However, for special provisions with respect to the exercise or release of powers of appointment, see paragraph (b) of this section.) In the following examples of transactions resulting in taxable gifts, it will be understood that the transfers were not made for an adequate and full consideration in money or money's worth:

(1) Transfer of property by a corporation to B is a gift to the latter from the stockholders of the corporation. If B himself is a stockholder, the transfer, not being a distribution from earnings or in liquidation to which B is entitled as a stockholder, is a gift to him from the other stockholders.

(2) The transfer of property to B where there is imposed upon B the obligation of paying a commensurate annuity to C is a gift to C.

(3) The payment of money or the transfer of property to B in consideration whereof B is to render a service to C, is a gift to C, or both to B and C, depending on whether the service to be rendered by B to C is or is not an adequate and full consideration in money or money's worth for that which is received by B.

(4) If A creates a joint bank account for himself and B (or similar type of ownership where A can regain the entire fund without B's consent), there is a gift to B when B draws upon the account for his own benefit, to the extent of the amount drawn.

(5) If A with his own funds purchases property and has the title thereto conveyed to himself and B as joint owners, with rights of survivorship (other than a joint ownership described in example (4) of this section), but which rights may be defeated by either party severing his interest, there is a gift to B in the amount of one-half the value of such property.

(6) If a husband with his own funds purchases property and has the title thereto conveyed to himself and wife as tenants by the entirety, and under the law of the jurisdiction governing the rights of the tenants there is no right of severance by which either of the tenants, acting alone, can defeat the right of the survivor to the whole of the property, he consummates a gift of such property valued as provided in § 86.19 (h).

(7) If A, without retaining a power to revoke the trust or to change the beneficial interests, transfers property in trust whereby B is to receive the income therefrom for life and at his death the trust is to terminate and the corpus is to be returned to A provided A survives but if A predeceases B the corpus is to pass to C, A consummates a gift of such property valued as provided in § 86.19 (g).

(8) If the insured purchases a life insurance policy, or pays a premium on a previously issued policy, the proceeds of which are payable to a beneficiary or beneficiaries other than his estate, and with respect to which the insured retains no power to revest the economic benefits in himself or his estate or to change the beneficiaries or their proportionate benefits (or if the insured relinquishes by assignment, by designation of a new beneficiary or otherwise, every such power that was retained in a previously issued policy), the insured consummates a gift of the value of such policy, or to the extent of such premium, even though the right of the assignee or beneficiary to receive the benefits is conditioned upon his surviving the insured. For the valuation of life insurance policies, see § 86.19 (i).

(b) *Transfers under power of appointment.* The exercise of a power of appointment after June 6, 1932, and before January 1, 1943, constitutes a gift by the individual possessing the power if the power is exercisable in favor of any person or persons in the discretion of such individual, or, however limited as to the persons or objects in whose favor the appointment may be made, if it is exercisable in favor of the individual possessing the power, his estate, his creditors, or the creditors of his estate. The release before March 1, 1944, of a power to appoint created on or before October 21, 1942, the date of enactment of the Revenue Act of 1942, is excepted from the application of the tax by reason of the express provisions of section 452 (c) of the Revenue Act of 1942, as amended by section 10 of the Current Tax Payment Act of 1943. It is presumed that all general powers of appointment are releasable, unless the local law on the subject is to the contrary; and it is presumed that the method employed to release the power is effective, unless it is not in accordance with the local law on the subject (or, in the absence of such local law, is not in accordance with the local law relating to similar transactions). Section 452 (c) of the Revenue Act of 1942, however, does not apply to any release of a power reserved, directly or indirectly, by a donor upon a transfer, as distinguished from a donee of a power of appointment who releases the power which he had received from another person. See § 86.3 with respect to the taxability of the relinquishment of reserved powers.

During the calendar year 1943 and any calendar year thereafter, section 1000 (c), as added by the Revenue Act of 1942, applies, subject, however, to sec-

tion 452 (c) of such Act, as amended by section 10 of the Current Tax Payment Act of 1943. That is, during such years an exercise or release (other than a release prior to March 1, 1944), without an adequate and full consideration in money or money's worth, of a power of appointment created on or before October 21, 1942, the date of enactment of the Revenue Act of 1942 (including a power to appoint exercisable in conjunction with another person) constitutes a gift by the individual possessing such power, except in the case of the following:

(1) The exercise or release of a power to appoint which is not exercisable to any extent for the benefit of such individual, his creditors, his estate, or the creditors of his estate, and which is exercisable in favor of only one or more other persons or objects:

(i) Within a class which does not include any others than the spouse of such individual, spouse of the creator of the power, descendants of such individual or his spouse, descendants of the creator of the power or his spouse, spouses of such descendants, charitable, etc., organizations described in section 1004 (a) (2) and charitable, etc., organizations described in section 1004 (b); or

(ii) Within a restricted class if such individual did not receive any beneficial interest, vested or contingent, in the property from the creator of the power or thereafter acquire any such interest.

For the purposes of this paragraph, the term "descendant" includes adopted and illegitimate descendants, and the term "spouse" includes former spouse. The treatment of adopted and illegitimate children (and their descendants and their adopted and illegitimate children (and their descendants and their adopted and illegitimate children) as descendants, if such children would be descendants had they been born as legitimate children in the station to which they are adopted or born. The provisions of (ii) apply to a power possessed by a disinterested trustee or one occupying a similar status to appoint within a relatively small class. For example, a power to appoint within a class composed of A's children would be a power to appoint within a restricted class. On the other hand, a power to appoint to anyone except A and his family would not be a power confined to a restricted class. The restricted character of a class is not affected by the fact that the decedent has power to appoint to any number of charitable, etc., organizations described in section 1004 (a) (2) or (b). A power to appoint is not confined to a restricted class merely because the power is not exercisable in favor of such individual, his creditors, his estate, or the creditors of his estate, or all of them.

(2) The release of a power to appoint created on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, which is not a power exercisable in favor of the donee of the power (who is the appointer), his estate, his creditors, or the creditors of his estate.

(3) The release of a power to appoint created on or before October 21, 1942, the date of the enactment of the Revenue Act of 1942, which power is exercisable in favor of the donee of the power (who is the appointor), his creditors, his estate, or the creditors of his estate, if on such date such appointor was under a legal disability to release such power and if the release thereof is effected prior to March 1, 1944, or the day after six months immediately following the termination of the legal disability, whichever is later. The legal disability referred to is determined under local law and may include the disability of an insane person, a minor, or an unborn child. The fact that a power of appointment of the type possessed by the individual was not generally releasable under the local law does not place the individual under a legal disability within the meaning of section 452 (b) (2) of the Revenue Act of 1942. Until the termination of the present war, an individual in active service in the military or naval forces of the United States on October 21, 1942, shall be considered under a legal disability to release a power to appoint while such individual is in such service.

If a power to appoint is exercised by creating another power to appoint, to the extent of the property subject to such second power to appoint, such first power shall not be considered excepted in (1) above of this paragraph. For this purpose the statute prescribes that the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint. Thus if the donor has a power to appoint a fund of $100,000 within a class consisting only of his children (which is one of the excepted powers) and during his lifetime exercises such power by giving one child a power to appoint $25,000 of such fund and by making an outright appointment of $75,000, only $25,000 is considered a gift. If, however, the individual had appointed the income from the entire fund to such child for life with power in such child to appoint the remainder in his will, the whole $100,000 would be considered a gift. This provision applies whether or not the newly created power to appoint is of a kind described in (1) above of this paragraph.

The term "power of appointment" includes any power received by the appointor from another person which is in substance and effect a power to appoint regardless of the nomenclature used in creating the power and local property law connotations. For example, if a settlor transfers property in trust for the life of his wife with a power in the wife to appropriate or consume the principal of the trust, the wife has a power of appointment and the release of such a power constitutes a taxable transfer. On the other hand, if, for example, a power of appointment with respect to the remainder, exercisable by the life tenant, is subject to the consent of the trustee who is a disinterested third party not receiving any beneficial interest upon such transfer, upon the exercise or release of the power by the life tenant no part of the gift of such remainder is attributable to the trustee personally. Similarly, if property is transferred in trust by a grantor reserving the power to alter, amend, revoke, or terminate the trust with the consent of the trustee who is a disinterested party not receiving any beneficial interest upon the transfer, the exercise or relinquishment of such power by the grantor with the consent of such trustee is not a taxable transfer by the latter. Ordinarily, powers of management with respect to property in trust, such as the determination of whether distributions shall be made annually or quarterly, the making of investments and reinvestments, or the determination of items of income or principal under recognized rules of accounting, are not powers of appointment over property under section 1000 (c).

A power to appoint is exercised where the property subject thereto is appointed to the taker in default of appointment, regardless of whether or not the appointed interest and the interest in default of appointment are identical, and regardless of whether or not the appointee renounces any right to take under the appointment. For the purposes of section 1000 (c), a release of a power of appointment need not be express or formal in character. For example, the failure to exercise a power of appointment within a specified time, resulting in the termination of the power of appointment, is taxable if the other conditions imposed by section 1000 (c) are present.

The reduction in scope of a power of appointment, as defined in section 1000 (c), to an excepted power under section 1000 (c) (1) or (2), which is not a power of appointment as thus defined, constitutes the release of the power of appointment. In such case, the release is effected at such time as under the applicable law the power cannot be exercised in favor of persons or objects other than those described in section 1000 (c) (1) or (2). If such release of a power created on or before October 21, 1942, the date of enactment of the Revenue Act of 1942, is effected prior to March 1, 1944 (or, in a case described in (3) above of this paragraph, relating to persons under a legal disability, prior to the date specified therein), a taxable transfer does not result. For the purpose of determining whether a power created on or before October 21, 1942, satisfied the requirements of section 1000 (c) (2) on March 1, 1944 (or other applicable date in a case described in (3) above of this paragraph), the fact as to whether the individual received any beneficial interest in the property is to be ascertained without regard to the power to appoint which he received. If such release is effected on or after March 1, 1944 (or, in a case described in (3) above of this paragraph, relating to persons under a legal disability, on or after the date specified therein), a taxable transfer results.

Section 1000 (c) does not apply to a power reserved, directly or indirectly, by a donor upon a transfer, as distinguished from the possessor of a power of appointment received from another person. See § 86.3 with respect to the taxability of reserved powers.

(c) *Transfers of community property after 1942.* During the calendar year 1943 and any calendar year thereafter any gift of property held as community property under the law of any State, Territory, or possession of the United States, or any foreign country constitutes a gift of the husband for the purpose of the gift tax statute (regardless of whether under the terms of the transfer the husband alone or the wife alone is designated as the donor or whether both are so designated as donors), except to the extent that such property is shown (1) to have been received as compensation for personal services actually rendered by the wife or derived originally from such compensation, or (2) to have been derived originally from separate property of the wife. The entire property comprising the gift is prima facie a gift of the husband, but any portion thereof which is shown to be economically attributable to the wife as prescribed in the preceding sentence constitutes a gift of the wife.

The rule stated in the preceding paragraph applies alike to a transfer by way of gift of community property to a third party or third parties, to a division of such community property between husband and wife into the separate property of each, and to a transfer by the husband and wife of any part of such community property into the separate property either of the husband or of the wife, or into a joint estate or tenancy by the entirety of both spouses. In all of such cases the value of the property so transferred or so divided, as the case may be, is a gift by the husband to the extent that it exceeds the aggregate amount of the value of that portion which is shown to be economically attributable to the wife, as prescribed in the preceding paragraph, and of the value of the husband's interest in such property after such transfer or division. The value of the property so transferred or so divided, as the case may be, is a gift by the wife to the extent that the portion of such value which is shown to be economically attributable to her, as prescribed in the preceding paragraph, exceeds the value of her interest in such property after such transfer or division. See subparagraphs (5) and (6) of paragraph (a) of this section. No gift tax results from a transfer on or after January 1, 1943, of separate property of either spouse into community property.

Property derived originally from compensation for personal services actually rendered by the wife or from separate property of the wife includes property that may be identified as (1) income yielded by property received as such compensation or by such separate property, and (2) property clearly traceable (by reason of acquisition in exchange, or other derivation) to property received as such compensation, to such separate property, or to such income. The rule established by this statute for apportioning the respective contributions of the spouses is applicable regardless of varying local rules of apportionment, and State presumptions are not operative against the Commissioner.

§ 86.3 *Cessation of donor's dominion and control.* The tax is not imposed upon the receipt of the property by the donee, nor is it necessarily determined by the measure of enrichment resulting to the donee from the transfer, nor is it conditioned upon ability to identify the donee at the time of the transfer. On the contrary, the tax is a primary and personal liability of the donor, is an excise upon his act of making the transfer, is measured by the value of the property passing from the donor, and attaches regardless of the fact that the identity of the donee may not then be known or ascertainable.

As to any property, or part thereof or interest therein, of which the donor has so parted with dominion and control as to leave in him no power to change the disposition thereof, whether for his own benefit or for the benefit of another, the gift is complete. But if upon a transfer of property (whether in trust or otherwise) the donor reserves any power over the disposition thereof, the gift may be wholly incomplete, or may be partially complete and partially incomplete, depending upon all the facts in the particular case. Accordingly, in every case of a transfer of property subject to a reserved power, the terms of the power must be examined and its scope determined.

A gift is incomplete in every instance where a donor reserves the power to revest the beneficial title to the property in himself. A gift is also incomplete where and to the extent that a reserved power give the donor the right to name new beneficiaries or to change the interests of the beneficiaries as between themselves. Thus, the transfer of an estate for life where, by an exercise of the power, the estate may be terminated or cut down to one of less value, and without restriction upon the extent to which the estate may be so cut down, constitutes an incomplete gift. If in this example the power was confined to the right to cut down the estate for life to one for a term of five years, the certainty of an estate for not less than that term results in a gift to that extent complete.

A gift shall not be considered incomplete, however, merely because the donor reserves the power to change the manner or time of enjoyment thereof. Thus, the creation of a trust the income of which is to be paid annually to the donee for a period of years, the corpus being distributable to him at the end of the period, and the power reserved by the donor being limited to a right to require that, instead of the income being so payable, it should be accumulated and distributed with the corpus to such donee at the termination of the period, constitutes a completed gift.

A donor shall be considered as himself having the power where it is exercisable by him in conjunction with any person not having a substantial adverse interest in the disposition of the transferred property or the income therefrom. A trustee, as such, is not a person having an adverse interest in the disposition of the trust property or its income.

The relinquishment or termination of a power to change the disposition of the transferred property, occurring otherwise than by the death of the donor (the statute being confined to transfers by living donors), is regarded as the event which completes the gift and causes the tax to apply. For example, if A transfers property in trust for the benefit of B and C but reserves the power as trustee to change the proportionate interests of B and C, and if A thereafter has another person appointed trustee in place of himself, such later relinquishment of the power by A to the new trustee completes the gift of the transferred property, whether or not the new trustee has a substantial adverse interest. The receipt of income or of other enjoyment of the transferred property by the transferee or by the beneficiary (other than by the donor himself) during the interim between the making of the initial transfer and the relinquishment or termination of the power operates to free such income or other enjoyment from the power, and constitutes a gift of such income or of such other enjoyment taxable as of the calendar year of its receipt.

If the donor contends that the power is of such nature as to render the gift incomplete, and hence not subject to the tax as of the calendar year of the initial transfer, the transaction shall be disclosed in the return and evidence showing all relevant facts, including a copy of the instrument of transfer, should be submitted.

If for any calendar year prior to the calendar year 1939 a transfer has been subjected to payment of the tax despite the fact that the donor retained a power to name new beneficiaries or to change the interests of the beneficiaries as between themselves, and if the tax for such calendar year has been finally determined on such basis, and for all gift tax purposes such transfer has been treated, for such calendar year and each subsequent calendar year, as subject to the tax, and the donor agrees, in a closing agreement executed under the provisions of section 3760, that he will continue so to treat such transfer, then the relinquishment or termination of the power so retained by the donor shall not be treated as a gift subject to the tax.

§ 86.4 *Residence.* The statute imposes the tax upon the transfer of property by gift made by any individual, resident or nonresident, but provides that in the case of a nonresident not a citizen of the United States the tax shall apply to a transfer only if the property is situated within the United States. (See § 86.18.) If the donor is a citizen of the United States, whether a resident or a nonresident, thereof, or is a resident of the

United States, whether or not a citizen thereof, the tax applies, regardless of where the property, whether real or personal, is situated.

A resident is one who has his domicile in the United States (including only the States, the Territories of Alaska and Hawaii, and the District of Columbia) at the time of the gift. (See section 3797 (a) (9).) All others are nonresidents. A person acquires a domicile in a place by living there for even a brief period of time with no definite present intention of moving therefrom. Residence without the requisite intention to remain indefinitely will not suffice to constitute domicile, nor will intention to change domicile effect such change unless accompanied by an actual removal."

SEC. 1001. COMPUTATION OF TAX.

(a) The tax for each calendar year shall be an amount equal to the excess of—

(1) A tax, computed in accordance with the Rate Schedule hereinafter set forth, on the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years, over

(2) A tax, computed in accordance with the said Rate Schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

RATE SCHEDULE

(as amended by section 402 (a) of the Revenue Act of 1941; effective for the calendar year 1942 and each calendar year thereafter).

If the net gifts are	*The tax shall be*
Not over $5,000	2¼% of the net gifts.
Over $5,000 but not over $10,000	$112.50, plus 5¼% of excess over $5,000.
Over $10,000 but not over $20,000	$375, plus 8¼% of excess over $10,000.
Over $20,000 but not over $30,000	$1,200, plus 10½% of excess over $20,000.
Over $30,000 but not over $40,000	$2,250, plus 13½% of excess over $30,000.
Over $40,000 but not over $50,000	$3,600, plus 16½% of excess over $40,000.
Over $50,000 but not over $60,000	$5,250, plus 18¾% of excess over $50,000.
Over $60,000 but not over $100,000	$7,125, plus 21% of excess over $60,000.
Over $100,000 but not over $250,000	$15,525, plus 22½% of excess over $100,000.
Over $250,000 but not over $500,000	$49,275, plus 24% of excess over $250,000.
Over $500,000 but not over $750,000	$109,275, plus 26¼% of excess over $500,000.
Over $750,000 but not over $1,000,000	$174,900, plus 27¾% of excess over $750,000.
Over $1,000,000 but not over $1,250,000	$244,275, plus 29¼% of excess over $1,000,000.
Over $1,250,000 but not over $1,500,000	$317,400, plus 31½% of excess over $1,250,000.
Over $1,500,000 but not over $2,000,000	$396,150, plus 33¾% of excess over $1,500,000.
Over $2,000,000 but not over $2,500,000	$564,900, plus 36¾% of excess over $2,000,000.
Over $2,500,000 but not over $3,000,000	$748,650, plus 39¾% of excess over $2,500,000.
Over $3,000,000 but not over $3,500,000	$947,400, plus 42% of excess over $3,000,000.
Over $3,500,000 but not over $4,000,000	$1,157,400, plus 44¼% of excess over $3,500,000.
Over $4,000,000 but not over $5,000,000	$1,378,650, plus 47¼% of excess over $4,000,000.
Over $5,000,000 but not over $6,000,000	$1,851,150, plus 50¼% of excess over $5,000,000.
Over $6,000,000 but not over $7,000,000	$2,353,650, plus 52½% of excess over $6,000,000.
Over $7,000,000 but not over $8,000,000	$2,878,650, plus 54¾% of excess over $7,000,000.
Over $8,000,000 but not over $10,000,000	$3,426,150, plus 57% of excess over $8,000,000.
Over $10,000,000	$4,566,150, plus 57¾% of excess over $10,000,000.

(b) For the purpose of this section the term "preceding calendar years" means the calendar year 1932 and all calendar years intervening between the calendar year 1932 and the calendar year for which the tax is being computed.

(c) *Cross reference.* For definition of "calendar year", see section 1030 (a).

RATE SCHEDULE

(under section 1001 as enacted on February 10, 1939; effective for calendar years 1940 and 1941)

Upon net gifts not in excess of $10,000, 1½ per centum.

$150 upon net gifts of $10,000; and upon net gifts in excess of $10,000 and not in excess of $20,000, 3 per centum in addition of such excess.

$450 upon net gifts of $20,000; and upon net gifts in excess of $20,000 and not in excess of $30,000, 4½ per centum in addition of such excess.

$900 upon net gifts of $30,000; and upon net gifts in excess of $30,000 and not in excess of $40,000, 6 per centum in addition of such excess.

$1,500 upon net gifts of $40,000; and upon net gifts in excess of $40,000 and not in excess of $50,000, 7½ per centum in addition of such excess.

$2,250 upon net gifts of $50,000; and upon net gifts in excess of $50,000 and not in excess of $70,000, 9 per centum in addition of such excess.

$4,050 upon net gifts of $70,000; and upon net gifts in excess of $70,000 and not in excess of $100,000, 10½ per centum in addition of such excess.

$7,200 upon net gifts of $100,000; and upon net gifts in excess of $100,000 and not in excess of $200,000, 12¾ per centum in addition of such excess.

$19,950 upon net gifts of $200,000; and upon net gifts in excess of $200,000 and not in excess of $400,000, 15 per centum in addition of such excess.

$49,950 upon net gifts of $400,000; and upon net gifts in excess of $400,000 and not in excess of $600,000, 17¼ per centum in addition of such excess.

$84,450 upon net gifts of $600,000; and upon net gifts in excess of $600,000 and not in excess of $800,000, 19½ per centum in addition of such excess.

$123,450 upon net gifts of $800,000; and upon net gifts in excess of $800,000 and not in excess of $1,000,000, 21¾ per centum in addition of such excess.

$166,950 upon net gifts of $1,000,000; and upon net gifts in excess of $1,000,000 and not in excess of $1,500,000, 24 per centum in addition of such excess.

$286,950 upon net gifts of $1,500,000; and upon net gifts in excess of $1,500,000 and not in excess of $2,000,000, 26¼ per centum in addition of such excess.

$418,200 upon net gifts of $2,000,000; and upon net gifts in excess of $2,000,000 and not in excess of $2,500,000 28½ per centum in addition of such excess.

$560,700 upon net gifts of $2,500,000; and upon net gifts in excess of $2,500,000 and not in excess of $3,000,000, 30¾ per centum in addition of such excess.

$714,450 upon net gifts of $3,000,000; and upon net gifts in excess of $3,000,000 and not in excess of $3,500,000, 33 per centum in addition of such excess.

$879,450 upon net gifts of $3,500,000; and upon net gifts in excess of $3,500,000 and not in excess of $4,000,000, 35¼ per centum in addition of such excess.

$1,055,700 upon net gifts of $4,000,000; and upon net gifts in excess of $4,000,000 and not in excess of $4,500,000, 37½ per centum in addition of such excess.

$1,243,200 upon net gifts of $4,500,000; and upon net gifts in excess of $4,500,000 and not in excess of $5,000,000, 39¾ per centum in addition of such excess.

$1,441,950 upon net gifts of $5,000,000; and upon net gifts in excess of $5,000,000 and not in excess of $6,000,000, 42 per centum in addition of such excess.

$1,861,950 upon net gifts of $6,000,000; and upon net gifts in excess of $6,000,000 and not in excess of $7,000,000, 44¼ per centum in addition of such excess.

$2,304,450 upon net gifts of $7,000,000; and upon net gifts in excess of $7,000,000 and not in excess of $8,000,000, 45¾ per centum in addition of such excess.

$2,761,950 upon net gifts of $8,000,000; and upon net gifts in excess of $8,000,000 and not in excess of $9,000,000, 47¼ per centum in addition of such excess.

$3,234,450 upon net gifts of $9,000,000; and upon net gifts in excess of $9,000,000 and not in excess of $10,000,000, 48¾ per centum in addition of such excess.

$3,721,950 upon net gifts of $10,000,000; and upon net gifts in excess of $10,000,000 and not in excess of $20,000,000, 50¼ per centum in addition of such excess.

$8,746,950 upon net gifts of $20,000,000; and upon net gifts in excess of $20,000,000 and not in excess of $50,000,000, 51¾ per centum in addition of such excess.

$24,271,950 upon net gifts of $50,000,000; and upon net gifts in excess of $50,000,000, 52½ per centum in addition of such excess.

SEC. 207. GIFT TAX. [Revenue Act of 1940. Enacted on June 25, 1940; effective for calendar years 1940 and 1941.]

Section 1001 of the Internal Revenue Code is amended by adding at the end thereof the following new subsection:

(d) *Defense tax for 1940–1945.* Despite the provisions of subsection (a)—

(1) The tax for each of the calendar years 1941 to 1945, both inclusive, shall be an amount equal to the excess of—

(A) 110 per centum of a tax, computed in accordance with the Rate Schedule hereinbefore set forth, on the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years, over

(B) 110 per centum of a tax, computed in accordance with the said Rate Schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

(2) The tax for the calendar year 1940 shall be the sum of (A) the tax computed under subsection (a), plus (B) an amount which bears the same ratio to 10 per centum of the tax so computed as the amount of gifts made after the date of the enactment of the Revenue Act of 1940 bears to the total amount of gifts made during the year. For the purposes of this paragraph, the term "gifts" does not include gifts which, under section 1003 (b) (2), are not to be included in computing the total amount of gifts made during the calendar year 1940, or gifts which, in the case of a citizen or resident, are allowed as a deduction by section 1004 (a) (2), or gifts which, in the case of a nonresident not a citizen of the

United States, are allowed as a deduction by section 1004 (b).

SEC. 402. GIFT TAX RATES. [Revenue Act of 1941.]

(a) *Rates.* The Rate Schedule of section 1001 of the Internal Revenue Code is amended to read as follows:

* * * * *

(b) *Years to which amendments applicable.* The amendments made by this section shall be applied in computing the tax for the calendar year 1942 and each calendar year thereafter (but not the tax for the calendar year 1941 or a previous calendar year), and such amendments shall be applied in all computations in respect of the calendar year 1941 and previous calendar years for the purpose of computing the tax for the calendar year 1942 and any calendar year thereafter.

(c) *Defense tax repealed.* Section 1001 (d) of the Internal Revenue Code (relating to defense tax for five years on gifts) is repealed.

§ 86.5 *Tax rate schedules.* The rate schedule of section 1001 of the Internal Revenue Code as enacted on February 10, 1939, is applicable in computing the tax under the provisions of subsection (a) of that section for the calendar years 1940 and 1941. The defense tax imposed by subsection (d) of section 1001 (as added by section 207 of the Revenue Act of 1940) is applicable to the calendar years 1940 and 1941. For such years the tax is the sum of the amount computed in accordance with the rate schedule plus 10 percent thereof (or plus a proportion of such 10 percent for the calendar year 1940 as explained in § 86.7), and only such 10 percent or proportion thereof is referred to as the defense tax. The Revenue Act of 1941 (section 402) increased the rates and repealed the defense tax, effective for the calendar year 1942 and each calendar year thereafter, and the rate schedule of section 1001 as amended by such Act is applicable in computing the tax for the calendar year 1942 and each calendar year thereafter.

§ 86.6 *Use of table for computing gift tax.* On the following page is a tabulation of the rate schedules (1) applicable to the calendar year 1942 and each calendar year thereafter and (2) applicable to the calendar years 1940 and 1941. Care should be exercised in selecting the appropriate rate schedule (column 1 or 2). Only column 1 should be used in the computation of the tax for the year 1942 or any year thereafter. Only column 2 should be used in the computation of the tax for the years 1940 and 1941.

In using the table, select the amount set out in column A which is equal to, or which is the largest amount shown therein that is less than, the amount of the net gifts upon which tax is to be computed as provided in § 86.7. The tax upon the amount so selected is indicated on the same line in the first subcolumn of column 1 or 2. The tax upon any part of the amount of the net gifts in excess of the amount so selected is computed by multiplying the amount of such excess by the percentage indicated on the same line in the second subcolumn of column 1 or 2. If the amount of the net gifts is less than $5,000, the tax is computed at the rate indicated on the first line in the second subcolumn of the appropriate column. An illustration of the use of the table follows.

The tax according to the rate schedule in column 1 upon net gifts of $62,500 is computed as follows:

Tax on $60,000 (from first subcolumn of column 1)	$7,125
Tax on $2,500 at 21 percent (from second subcolumn of column 1)	525
Tax on net gifts of $62,500	7,650

For examples showing computation of tax for the calendar years 1940, 1941, and 1943, including the defense tax for the years 1940 and 1941, see § 86.7.

TABLE FOR COMPUTING GIFT TAX

(A)	(B)	(1) In effect for calendar year 1942 and for each calendar year thereafter		(2) In effect for calendar years 1940 and 1941	
Amount of net gifts equaling—	Amount of net gifts not exceeding—	Tax on amount in column (A)	Rate of tax on excess over amount in column (A)	Tax on amount in column (A)	Rate of tax on excess over amount in column (A)
			Percent		Percent
	$5,000		2¼		1½
$5,000	10,000	$112.50	5¼	$75	1½
10,000	20,000	375.00	8¼	150	3
20,000	30,000	1,200.00	10½	450	4½
30,000	40,000	2,250.00	13½	900	6
40,000	50,000	3,600.00	16½	1,500	7½
50,000	60,000	5,250.00	18¾	2,250	9
60,000	70,000	7,125.00	21	3,150	9
70,000	100,000	9,225.00	21	4,050	10½
100,000	200,000	15,525.00	22½	7,200	12¾
200,000	250,000	38,025.00	22½	19,950	15
250,000	400,000	49,275.00	24	27,450	15
400,000	500,000	85,275.00	24	49,950	17¼
500,000	600,000	109,275.00	26¼	67,200	17¾
600,000	750,000	135,525.00	26½	84,450	19½
750,000	800,000	174,900.00	27¾	113,700	19½
800,000	1,000,000	188,775.00	27¾	123,450	21¾
1,000,000	1,250,000	244,275.00	29¼	166,950	24
1,250,000	1,500,000	317,400.00	31½	226,950	24
1,500,000	2,000,000	396,150.00	33¾	286,950	26¼
2,000,000	2,500,000	564,900.00	36¾	418,200	28½
2,500,000	3,000,000	748,650.00	39¾	560,700	30¾
3,000,000	3,500,000	947,400.00	42	714,450	33
3,500,000	4,000,000	1,157,400.00	44¼	879,450	35¼
4,000,000	4,500,000	1,378,650.00	47¼	1,055,700	37½
4,500,000	5,000,000	1,614,900.00	47¼	1,243,200	39¾
5,000,000	6,000,000	1,851,150.00	50¼	1,441,950	42
6,000,000	7,000,000	2,353,650.00	52½	1,861,950	44¼
7,000,000	8,000,000	2,878,650.00	54¾	2,304,450	45¾
8,000,000	9,000,000	3,426,150.00	57	2,761,950	47¼
9,000,000	10,000,000	3,996,150.00	57	3,234,450	48¾
10,000,000	20,000,000	4,566,150.00	57¾	3,721,950	50¼
20,000,000	50,000,000	10,341,150.00	57¾	8,746,950	51¾
50,000,000		27,666,150.00	57¾	24,271,950	52½

§ 86.7 *Computation of tax.* The first step in the determination of the tax is to ascertain the amount of the net gifts for the calendar year for which the return is being prepared. (For meaning of "net gifts," see § 86.9.) The second step is to ascertain the aggregate sum of the net gifts for each of the preceding calendar years, considering only gifts made after June 6, 1932. By the words "aggregate sum of the net gifts for each of the preceding calendar years" (aside from the amount of the specific exemption (deductible) is meant the true and correct aggregate of such net gifts, not necessarily that returned for such years and in respect to which tax was paid. In determining the aggregate sum of the net gifts for each of the preceding calendar years, the total amount of the specific exemption claimed and allowed for such preceding years should be deducted, except that if tax is being computed for the calendar year 1943 or for any calendar year thereafter such deduction cannot exceed $30,000, or if the tax is being computed for the calendar year 1940, 1941, or 1942 such deduction cannot exceed $40,000. (See § 86.12.) The third step is to add to the amount of net gifts for the calendar year for which the return is being prepared the aggregate sum of the net gifts for each of the preceding calendar years. The fourth step is to compute the tax upon the total amount of net gifts (as ascertained by the third step) by use of the rate schedule in force for the calendar year for which the return is being prepared. (See §§ 86.5 and 86.6.) The fifth step is to compute a tax in accordance with the same rate schedule upon the aggregate sum of net gifts for each of the preceding calendar years only. The sixth step is to subtract from the amount of tax as computed in the fourth step the amount of tax as computed in the fifth step. The amount remaining after such subtraction is the tax for the calendar year for which the return is being prepared, except in the case of a return for the calendar year 1940 or 1941.

If the return is being prepared for the calendar year 1940 or 1941, the defense tax, imposed by subsection (d) of section 1001 of the Internal Revenue Code, as added by section 207 of the Revenue Act of 1940, must be computed. The defense tax was repealed by section 402 of the Revenue Act of 1941 and is not applicable to gifts made during the calendar year 1942 or any calendar year thereafter but

remains in effect for the calendar years 1940 and 1941.

If the return is being prepared for the calendar year 1941, the defense tax is ascertained by computing 10 percent of the tax determined in the manner set forth in the first paragraph of this section. For such calendar year the total amount of tax payable is the amount determined in the manner explained in that paragraph plus the defense tax of 10 percent thereof.

In case of a return for the calendar year 1940, the amount of the defense tax to be added is that proportion of 10 percent of the tax computed in the manner indicated in the first paragraph of this section which the total amount of the gifts made after Jun 25, 1940 (determined after the allowance of any applicable exclusions authorized by section 1003 (b) (2) of the Internal Revenue Code, or deductions for charitable, etc., gifts authorized by sections 1004 (a) (2) and 1004 (b) of the Internal Revenue Code, but without the allowance of the specific exemption or any portion thereof) bears to the total amount of gifts made during the calendar year determined in the same manner. In computing this ratio, the exclusion authorized by section 1003 (b) (2) with respect to gifts made to the same person both on or before and after June 25, 1940, is applied against the first such gifts made during the calendar year.

In case no reportable gifts were made during the preceding calendar years, considering only gifts made after June 6, 1932, the tax for the calendar year for which the return is being prepared is the tax computed in accordance with the rate schedule in force for such year upon the amount of the net gifts for such calendar year, plus the amount of the defense tax, if applicable.

Example (*1*) (showing computation of tax for calendar year 1943). A donor makes gifts (other than gifts of future interests in property) during the calendar year 1943 of $30,000 to A and $33,000 to B. After excluding $6,000 for the two donees in accordance with section 1003 (b) (3), the total amount of gifts made during that year is $57,000. The specific exemption was previously exhausted and the amount of the net gifts for 1943 is $57,000. The total amount of gifts made by the donor during the preceding years, after excluding $5,000 for each donee for each calendar year in accordance with section 1003 (b) (1), is computed as follows:

Calendar year 1934	$120,000
Calendar year 1935	25,000
Total amount of gifts for preceding calendar years	145,000

The aggregate sum of the net gifts for the preceding calendar years, $115,000, is determined by deducting a specific exemption of $30,000 from $145,000. The deduction for such specific exemption cannot exceed $30,000, even though $50,000 was allowed as the specific exemption in the computation of the tax applicable to the preceding years 1934 and 1935. See § 86.12. The computation of the tax for the calendar year 1943 is shown below:

1. Amount of net gifts for year	$57,000
2. Total amount of net gifts for preceding years	115,000
3. Total net gifts	172,000
4. Tax computed on item 3 (in accordance with rate schedule)	31,725
5. Tax computed on item 2 (in accordance with rate schedule)	18,900
6. Tax for year 1943 (item 4 minus item 5)	12,825

Example (*2*) (showing computation of defense tax for calendar year 1941). During the calendar year 1941 a resident donor makes the following gifts:

To daughter	$44,000
To son	14,000
To a charitable organization	10,000

The amount of his net gifts for preceding calendar years, subsequent to June 6, 1932, is $50,000. Only $25,000 of his specific exemption was claimed for such preceding years. The remaining $15,000 of his specific exemption is claimed for the calendar year 1941. The amount of the net gifts for the calendar year 1941 is determined as follows:

Total gifts		$68,000.00
Less exclusions under the section 1003 (b) (2) of the Internal Revenue Code		12,000.00
Total included amount of gifts for year		56,000.00
Total deductions for charitable gifts ($10,000 less exclusion of $4,000)	$6,000	
Specific exemption claimed	15,000	
Total deductions		21,000.00
Amount of net gifts for year		35,000.00

The total amount of the tax payable for the calendar year 1941 is computed as follows:

1. Amount of net gifts for year	$35,000.00
2. Total amount of net gifts for preceding years	50,000.00
3. Total net gifts	85,000.00
4. Tax computed on item 3 (in accordance with rate schedule)	5,625.00
5. Tax computed on item 2 (in accordance with rate schedule)	2,250.00
6. Tax on net gifts for year without addition of defense tax (item 4 minus item 5)	3,375.00
7. Defense tax (10 percent of item 6)	337.50
8. Total tax payable for year (item 6 plus item 7)	3,712.50

Example (*3*) (showing computation of defense tax for calendar year 1940). The facts are the same as in the preceding example except that the remaining $15,000 of the donor's specific exemption is claimed for the calendar year 1940 and the gifts to the daughter, son, and charitable organization were made during the calendar year 1940, as follows:

To daughter before June 26, 1940	$44,000
To son after June 25, 1940	14,000
To charitable organization after June 25, 1940	10,000

The determination of the amount of the net gifts and the computation of the tax, without the addition of the defense tax, is the same as in the preceding example.

The computation of the defense tax and the total amount of the tax payable for the calendar year 1940 is shown as follows:

Total included amount of gifts for year, less amount deducted for charitable gift ($56,000 minus $6,000)	$50,000.00
Total included amount of gifts made after June 25, 1940, less amount deducted for charitable gift made after June 25, 1940 ($16,000 minus $6,000)	$10,000.00
10 percent of $3,375, the amount of the tax without the addition of the defense tax	337.50
Defense tax for 1940 $\left(\frac{10,000}{50,000} \times \$337.50\right)$	67.50
Total amount of tax payable for calendar year 1940 ($3.375 plus $67.50)	3,442.50

SEC. 1002. TRANSFER FOR LESS THAN ADEQUATE AND FULL CONSIDERATION.

Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this chapter, be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

§ 86.8 *Transfers for a consideration in money or money's worth.* Transfers reached by the statute are not confined to those only which, being without a valuable consideration, accord with the common law concept of gifts, but embrace as well sales, exchanges, and other dispositions of property for a consideration in money or money's worth to the extent that the value of the property transferred by the donor exceeds the value of the consideration given therefor. However, a sale, exchange, or other transfer of property made in the ordinary course of business (a transaction which is bona fide, at arm's length, and free from any donative intent), will be considered as made for an adequate and full consideration in money or money's worth. A consideration not reducible to a money value, as love and affection, promise of marriage, etc., is to be wholly disregarded, and the entire value of the property transferred constitutes the amount of the gift.

SEC. 1003. NET GIFTS. [As originally enacted.]

(a) *General definition.* The term "net gifts" means the total amount of gifts made during the calendar year, less the deductions provided in section 1004.

(b) *Exclusions from gifts.*—(1) *Gifts prior to 1939.* In the case of gifts (other than of future interests in property) made to any person by the donor during the calendar year 1938 and previous calendar years, the first $5,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

(2) *Gifts after 1938.* In the case of gifts (other than gifts in trust or of future interests in property) made to any person by the donor during the calendar year 1939 and subsequent calendar years, the first $4,000 of such gifts to such persons shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

SEC. 454. EXCLUSION FROM NET GIFTS REDUCED. [Revenue Act of 1942, Title IV, Part II. Effective for calendar year 1943 and each calendar year thereafter.]

Section 1003 (b) (2) (relating to exclusion of gifts) is amended to read as follows:

(2) *Gifts after 1938 and prior to 1943.* In the case of gifts (other than gifts in trust or of future interests in property) made to any person by the donor during the calendar year 1939 and subsequent calendar years prior to 1943, the first $4,000 of such gifts

to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

(3) *Gifts after 1942.* In the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year 1943 and subsequent calendar years, the first $3,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE. [Revenue Act of 1942, Title IV, Part II.]

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

§ 86.9 *Net gifts.* The tax is computed upon the amount of the donor's net gifts (see §§ 86.5, 86.6, and 86.7. The term "net gifts" means the "total amount of gifts" computed as provided in section 1003 (see § 86.10), less the deductions provided in section 1004. (See §§ 86.12 and 86.13.)

§ 86.10 *Total amount of gifts.* Except with respect to any gift of a future interest in property, the first $3,000 of gifts made to any one donee during the calendar year 1943 or during any calendar year thereafter shall be excluded in determining the total amount of gifts for such calendar year. In the case of a gift in trust, the beneficiary of the trust is the donee of the gift. Except with respect to any gift in trust or of a future interest in property, the first $4,000 of gifts made to any one donee during any one of the calendar years 1939 to 1942, inclusive, shall be excluded in determining the total amount of gifts for any such calendar year. Except with respect to any gift of a future interest in property, the first $5,000 of gifts made to any one donee during the calendar year 1938 or during any calendar year prior thereto shall be excluded in determining the total amount of gifts for such calendar year. The entire value of any gift of a future interest in property, and the entire value of any gift made by a transfer in trust during the calendar years 1939 to 1942, inclusive, must be included in the total amount of gifts for the calendar year in which such a gift is made.

§ 86.11 *Future interests in property.* No part of the value of a gift of a future interest may be excluded in determining the total amount of gifts made during the calendar year. "Future interests" is a legal term, and includes reversions, remainders, and other interests or estates, whether vested or contingent, and whether or not supported by a particular interest or estate, which are limited to commence in use, possession, or enjoyment at some future date or time. The term has no reference to such contractual rights as exist in a bond, note (though bearing no interest until maturity), or in a policy of life insurance, the obligations of which are to be discharged by payment in the future. But a future interest or interests in such contractual obligations may be created by the limitations contained in a trust or other instrument of transfer employed in effecting a gift. For the valuation of future interests, see § 86.19 (g).

SEC. 1004. DEDUCTIONS.

In computing net gifts for the calendar year 1939 and preceding calendar years, there shall be allowed (except as otherwise provided in paragraph (1) of subsection (a) such deductions as are provided for under the gift tax laws applicable to the years in which the gifts were made.

In computing net gifts for the calendar year 1940 and subsequent calendar years, there shall be allowed as deductions:

(a) *Residents.* In the case of a citizen or resident—

(1) *Specific exemption.* An exemption of $40,000, less the aggregate of the amounts claimed and allowed as specific exemption in the computation of gift taxes for the calendar year 1932 and all calendar years intervening between that calendar year and the calendar year for which the tax is being computed under the laws applicable to such years. This exemption shall be applied in all computations in respect of the calendar year 1939 and previous calendar years for the purpose of computing the tax for the calendar year 1940 or any calendar year thereafter.

(2) *Charitable, etc., gifts.* The amount of all gifts made during such year to or for the use of—

(A) The United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(B) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence, legislation;

(C) A fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals;

(D) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(E) The special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924, 43 Stat. 611 (U. S. C., title 38 § 440).

(b) *Nonresidents.* In the case of a nonresident not a citizen of the United States, the amount of all gifts made during such year to or for the use of—

(1) The United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) A domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(3) A trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; but only if such gifts are to be used within the United States exclusively for such purposes;

(4) A fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used within the United States exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals;

(5) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(6) The special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924, 43 Stat. 611 (U.S.C., Title 38, § 440).

(c) *Extent of deductions.* The deductions provided in subsection (a) (2) or (b) shall be allowed only to the extent that the gifts therein specified are included in the amount of gifts against which such deductions are applied.

SEC. 455. *Specific Exemption of Gifts Reduced.* [Revenue Act of 1942, Title IV, Part II. Effective for calendar year 1943 and each calendar year thereafter.]

That part of section 1004 which precedes paragraph (2) of subsection (a) is amended to read as follows:

SEC. 1004. DEDUCTIONS.

In computing net gifts for the calendar year 1942 and preceding calendar years, there shall be allowed (except as otherwise provided in paragraph (1) of subsection (a)) such deductions as are provided for under the gift tax laws applicable to the years in which the gifts were made.

In computing net gifts for the calendar year 1943 and subsequent calendar years, there shall be allowed as deductions:

(a) *Residents.* In the case of a citizen or resident—

(1) *Specific exemption.* An exemption of $30,000, less the aggregate of the amounts claimed and allowed as specific exemption in the computation of gift taxes for the calendar year 1932 and all calendar years intervening between that calendar year and the calendar year for which the tax is being computed under the laws applicable to such years. This exemption shall be applied in all computations in respect of the calendar year 1942 and previous calendar years for the purpose of computing the tax for the calendar year 1943 or any calendar year thereafter.

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE. [Revenue Act of 1942, Title IV, Part II.]

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

§ 86.12 *Specific exemption.* In determining the amount of net gifts for the calendar year there may be deducted, if the donor was a citizen or resident of the United States at the time the gifts were made, a specific exemption of $30,000 ($40,000 if the calendar year is 1940, 1941, or 1942), less the sum of the amounts claimed and allowed as an exemption in prior calendar years. The exemption, at the option of the donor, may be taken in its entirety in a single

year, or be spread over a period of years in such amounts as he sees fit, but after the limit has been reached no further exemption is allowable. In determining the aggregate sum of the net gifts for the preceding calendar years (see § 86.7), the total amount of the specific exemption claimed and allowed for such preceding years should be deducted, except that if tax is being computed for the calendar year 1943 or for any calendar year thereafter such deduction cannot exceed $30,000, or if the tax is being computed for the calendar year 1940, 1941, or 1942, such deduction cannot exceed $40,000. The specific exemption is authorized only in the case of a citizen or resident of the United States. A donor who was a nonresident not a citizen of the United States at the time of the gift or gifts is not entitled to this exemption.

§ 86.13 *Charitable, etc., gifts.* In determining the amount of net gifts of a given calendar year, in the case of a donor who was a citizen or resident of the United States at the time when the gifts were made, there may be deducted the amount of such gifts as were to or for the use of (a) the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes; or (b) any corporation, trust, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, provided no part of the net earnings of such organization inures to the benefit of any private shareholder or individual, and no substantial part of its activities is carrying on propaganda, or otherwise attempting, to influence legislation; or (c) a fraternal society, order, or association, operating under the lodge system, provided such gifts are to be used by such fraternal society, order, or association exclusively for one or more of the purposes enumerated in (b); or (d) any organization of war veterans or auxiliary unit or society thereof if such organization, auxiliary unit, or society thereof is organized in the United States or any of its possessions, and if no part of its net earnings inures to the benefit of any private shareholder or individual. The special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924, referred to in section 1004, has been discontinued. See notes, 38 U. S. C. 440, 531–539.

In case the donor was a nonresident not a citizen of the United States at the time the gifts were made, the deduction of the amount of charitable, etc., gifts is governed by the same rules as those applying to similar gifts made by citizens or residents, subject, however, to the two following exceptions: (1) If the gift be made to or for the use of a corporation, such corporation must be one created or organized under the laws of the United States or of any State or Territory thereof; and (2) if made to or for the use of a trust, or community chest, fund, or foundation, or a fraternal society, order, or association, operating under the lodge system, the gift must be for use within the United States exclusively for religious, charitable, scientific, literary or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals.

The deduction is not limited in the case of donors who were citizens or residents to gifts to or for the use of domestic corporations, or for use within the United States when made to a trust, or community chest, fund, or foundation, or a fraternal society, order, or association, operating under the lodge system.

If money or other property is so given that the income is, for the duration of a life or a term of years, to be paid to the donor or other individual, or is to be used for a purpose not described in section 1004 (a) (2) or (b), and the property is then to be devoted exclusively to some one or more of the uses described in section 1004 (a) (2) or (b), only the present worth of the remainder is deductible. To determine the present worth or value of such remainder (that is, its value as of the date of the gift), the amount of the money or the value of the property transferred should be multiplied by the appropriate factor in column 3 of Table A or B, a part of § 86.19.

§ 86.14 *Religious, charitable, scientific, literary, and educational organizations.* The corporation, or trust, or community chest, fund, or foundation to which a gift is made must meet three tests to entitle the donor to deduct the amount of the gift: (1) It must be organized and operated exclusively for one or more of the purposes specified in the statute; (2) it must not by a substantial part of its activities carry on propaganda, or otherwise attempt, to influence legislation; and (3) no part of its net earnings shall inure to the benefit of private shareholders or individuals.

The donor is not deprived of the right to deduct an amount equal to the value of property so transferred by reason of the fact that private individuals are the recipients of the benefits which the organization dispenses. Such right is lost, however, where any part of the net earnings of the organization inures to the benefit of a private shareholder or individual.

§ 86.15 *Proof required.* In order to prove the right to this deduction, the donor must submit such documents or evidence as may be requested by the Commissioner.

§ 86.16 *Charitable, etc., gifts, with power to divert.* If a fraternal society, order, or association, operating under the lodge system, is empowered to divert a part of the property or fund transferred by gift to a use or purpose which would have rendered it, to the extent that it is subject to such power, not deductible had it been directly transferred by the donor for such use or purpose, deduction will be limited to that part of the property or fund which is not subject to the exercise of the power.

SEC. 1005. GIFTS MADE IN PROPERTY.

If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

§ 86.17 *Gifts made in property.* A gift made in property is subject to the tax in the same manner as a gift of cash, and the amount of the gift is the value of the property at the date of the gift.

§ 86.18 *Situs of property.* The statute imposes a tax upon gifts made by citizens of the United States, residents or nonresidents thereof, and upon those made by residents of the United States, whether or not citizens, irrespective of whether the property transferred (real or personal, tangible or intangible) be situated within or without the United States. But gifts by nonresidents of the United States who are not citizens thereof (see § 86.4) are subject to tax only if the property transferred is, at the time of the transfer, situated within the United States.

Real estate, tangible personal property, and the written evidence of intangible personal property which is treated as being the property itself are within the United States if physically situated therein. For example, a bond for the payment of money is not within the United States unless physically situated therein. Stock of a domestic corporation, however, constitutes property within the United States, irrespective of where the certificates thereof are physically located. (See section 1030 (b) and § 86.74.) Intangible personal property the written evidence of which is not treated as being the property itself constitutes property within the United States if consisting of a property right issuing from or enforceable against a resident of the United States or a domestic corporation (public or private), irrespective of where such written evidence is physically located.

Paragraph (9) of section 3797 (a) of the Internal Revenue Code defines the term "United States," when used in a geographical sense, as including only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

§ 86.19 *Valuation of property.* (a) *General.* The statute provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift. The value of the property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The value of a particular kind of property is not to be determined by a forced sale price. Such value is to be determined by ascertaining as a basis the fair market value at the time of the gift of each unit of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the time of the gift should be considered.

(b) *Real estate.* In returning a gift of real estate, the local assessed value thereof should not be returned as the value of the gift unless such value represents the fair market value of the property as of the date of the gift. (See § 86.24 for manner of listing and describing real estate in returns.)

(c) *Stocks and bonds.* The value at the date of the gift in the case of stocks

and bonds, within the meaning of the statute, is the fair market value per share or bond on such date.

In the case of stocks and bonds listed on a stock exchange, the mean between the highest and lowest quoted selling prices on the date of the gift shall be considered as the fair market value per share or bond. If there were no sales on the date of the gift, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift. For example, assume that sales of stock nearest the date of the gift (June 15) occurred two days before (June 13) and three days after (June 18) and that on such days the mean sale prices per share were $10 and $15, respectively. The price of $12 shall be taken as representing the fair market value of a share of such stock as of the date of the gift. If, however, on June 13 and June 18 the mean sale prices per share were $15 and $10, respectively, the price of $13 shall be taken as representing the fair market value of a share of such stock as of the date of the gift. If the security was listed on more than one exchange, the records of the exchange where the security is principally dealt in should be employed. In valuing listed stocks and bonds the donor should observe care to consult accurate records to obtain values as of the date of the gift.

In the case of stocks and bonds which are not listed upon an exchange, but are dealt in through brokers, or have a market, the fair market value shall be determined by taking the mean between the highest and lowest selling prices as of the date of the gift; or, if there were no sales on that date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the donor should preserve in his files the letters furnishing such quotations or evidence of sale for inspection when the return is verified by an investigating officer.

If actual sales are not available during a reasonable period beginning before and ending after the date of the gift, the fair market value may be determined by taking the mean between the bona fide bid and asked prices on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift.

If actual sale prices or quoted bona fide bid and asked prices are available on a date within a reasonable period prior to the date of the gift, and if no actual sale prices or bona fide bid and asked prices are available on a date within a reasonable period after the date of the gift, or vice versa, then the mean between such highest and lowest available sale prices or bid and asked prices may be taken as the value.

If actual sales or bona fide bid and asked prices are not available, then, in the case of corporate or other bonds, the value is to be arrived at by giving consideration to the soundness of the security, the interest yield, the date of maturity, and other relevant factors, and, in the case of shares of stock, upon the basis of the company's net worth, earning power, dividend-paying capacity, and all other relevant factors having a bearing upon the value of the stock. Complete financial and other data upon which the donor bases his valuation should be submitted with the return.

In cases in which it is established that the value per bond or share of any security determined on the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, then some reasonable modification of such basis or other relevant facts and elements of value shall be considered in determining fair market value.

(d) *Interest in business.* Care should be taken to arrive at an accurate valuation of any business which the donor transfers without an adequate and full consideration in money or money's worth, whether the interest transferred is that of a partner or of a proprietor. A fair appraisal as of the date of the gift should be made of all the assets of the business, tangible and intangible, including good will, and the business should be given a net value equal to the amount which a willing purchaser, whether an individual or a corporation, would pay therefor to a willing seller in view of the net value of the assets of the business and its demonstrated earning capacity. Special attention should be given to fixing an adequate figure for the value of the good will of the business.

The factors hereinbefore stated relative to the valuation of other property, if applicable, will be considered in determining the valuation of a proprietary or partnership interest in the business. All evidence bearing upon such valuation should be submitted with the return, including copies of reports in any case in which examinations of the business have been made by accountants, engineers, or any technical experts as of or near the date of the gift.

(e) *Notes, secured and unsecured.* The value of notes, whether secured or unsecured, will be presumed to be the amount of unpaid principal, plus accrued interest to the date of the gift, unless the donor establishes a lower value. Unless returned at face value, plus accrued interest, it must be shown by satisfactory evidence that the note is worth less than the unpaid amount because of the interest rate, or date of maturity, or other cause, or that the note is uncollectible in part by reason of the insolvency of the party or parties liable, or for other cause, and that the property, if any, pledged or mortgaged as security is insufficient to satisfy it.

(f) *Annuities, life estates, remainders and reversions*—(1) *Annuities—General.* For valuation of annuities purchased from life insurance companies or other companies regularly engaged in issuing annuity contracts, see (i) under this section. In case the donor creates a trust under which a specified annuity is payable to the donee, the value of such gift should be determined by using Table A or Table B, whichever is applicable, shown at the end of this section. If the annuity is payable at the end of each annual period, the factor is obtained directly from the table. If the annuity is payable for the life of an individual, the amount payable annually should be multiplied by the figure in column 2 of Table A opposite the number of years in column 1 of such table nearest the age of the individual (as of the date of the gift) whose life measures the duration of the annuity, or if payable for a definite number of years the amount payable annually should be multiplied by the figure in column 2 of Table B opposite the number of years in column 1 of such table.

Example (1). The donee is made the beneficiary of an annuity of $10,000 payable at the end of annual periods during his life. The age of the donee at the date of the gift is 40 years and 8 months. By reference to Table A, it is found that the figure in column 2 opposite 41 years, the number nearest to the donee's age, is 14.86102. The value of the gift is, therefore, $148,610.20 ($10,000 multiplied by 14.86102).

Example (2). The donor was entitled to receive an annuity of $10,000 a year payable at the end of annual periods throughout a term of 20 years; the donor, when 15 years have elapsed, makes a gift thereof to his son. By reference to Table B, it is found that the figure in column 2 opposite 5 years, the unexpired portion of the 20-year period, is 4.45182. The present worth of the annuity is, therefore, $44,518.20 ($10,000 multiplied by 4.45182).

(2) *Annuities payable at end of semiannual, quarterly, or monthly periods.* If the annuity is payable semiannually, quarterly, or monthly, the value should be determined by multiplying the aggregate amount to be paid within a year by the figure in column 2 of Table A opposite the number of years in column 1 nearest the actual age of the person whose life measures the annuity, or the figure in column 2 of Table B opposite the number of years the annuity is payable, as the case may be, and then multiplying the product by 1.01820 for monthly payments, by 1.01488 for quarterly payments, or by 1.00990 for semiannual payments.

Example. If, in example (1) given above under (1) *Annuities—General*, the annuity is payable semiannually, the factor, 14.86102, should be multiplied by 1.00990 and the prod-

uct multiplied by $10,000. The value of the gift is, therefore, $150,081.44 ($10,000×14.86102×1.00990).

(3) *Annuities payable at beginning of annual, semiannual, quarterly, or monthly periods*—(i) *Annuity for life.* If the first payment of an annuity for the life of an individual is to be paid at once, the value of the annuity is the sum of the first payment plus the present worth of a similar annuity the first payment of which is not to be made until the end of the first period.

Example. The donee is made the beneficiary for life of an annuity of $50 a month payable from the income of a trust, subject to the right reserved by the donor to cause the annuity to be paid for his own benefit or for the benefit of another. On the day a payment is due, the donor relinquishes his reserved power. The donee is then 50 years of age. The value of the gift is $50 plus the product of $50×12×12.47032 (see Table A)×1.01820, or $7,668.37 [$50 plus ($50×12×12.47032×1.01820)].

(ii) *Annuity for term of years.* If the first payment of an annuity for a definite number of years is to be paid at once, the applicable factor is the product of the factor shown in Table B multiplied by 1.02154 for monthly payments, by 1.02488 for quarterly payments, by 1.02990 for semiannual payments, or by 1.04 for annual payments.

Example. The donee is the beneficiary of an annuity of $50 a month subject to a reserved right in the donor to cause the annuity or the cash value thereof to be paid for his own benefit or for the benefit of another. On the day a payment is due, the donor relinquishes his power. There are 300 payments to be made covering a period of 25 years, including the payment due. The value of the gift is the product of $50×12×15.62208 (factor for 25 years, Table B)×1.02154, or $9,575.15 ($50×12×15.62208×1.02154).

(4) *Actuarial calculations by Bureau.* If in the case of a completed gift an annuity is to be paid during the life of an individual and in any event for a definite number of years, or for more than one life, or in any other manner rendering inapplicable both Table A and Table B, the case may be stated to the Commissioner, who will thereupon furnish the applicable factor. In making such calculations when life interests or remainders upon life interests are involved, use will be made of the Actuaries' or Combined Experience Table of Mortality, as extended (that being the basis of Table A), with interest at 4 percent per annum compounded annually.

(5) *Life estates, terms for years.—Hypothetical annuity.* If the gift consists of the donor's right for life or for the life of another person, or for a term of years, either to receive the income of certain property or to use nonincome-producing property, a hypothetical annuity at the rate of 4 percent of the value of the property should be made the basis of the calculation. A provision for the payment of income in semiannual, quarterly, or monthly installments does not affect the value to be assigned to the life interest.

(6) *Remainders or reversionary interests.* If the gift is of a remainder or reversionary interest subject to an outstanding life estate, the value of the gift will be obtained by multiplying the value of the property at the date of the gift by the figure in column 3 of Table A opposite the number of years nearest to the age of the life tenant. In case the remainder or reversion is to take effect at the end of a term of years, Table B should be used.

Example. The donor transferred by gift property worth $50,000 which he was entitled to receive upon the death of his brother, to whom the income for life had been bequeathed. The brother at the date of the gift was 31 years of age. By reference to Table A, it is found that the figure in column 3 opposite 31 years is 0.31262. The value of the gift is, therefore, $15,631 ($50,000×0.31262).

(g) *Transfers conditioned upon survivorship.* If A, without retaining a power to revoke the trust or to change the beneficial interest, transfers property in trust whereby B is to receive the income therefrom for life and at his death the trust is to terminate and the corpus is to be returned to A provided A survives but if A predeceases B the corpus is to pass to C, A consummates a gift of such property less the present value of his right to the corpus should he survive the life tenant. The value of such gift is to be determined in accordance with the Actuaries' or Combined Experience Table of Mortality, as extended.

A case involving the value of the right of survivorship (provided the gift is completed and not merely proposed or hypothetical) may be submitted to the Commissioner, who will furnish the applicable factor, computed in accordance with recognized actuarial principles.

(h) *Tenancies by the entirety.* If either a husband or his wife purchases property and causes the title thereto to be conveyed to themselves as tenants by the entirety, or if either causes to be created such a tenancy in property already owned by him or her, and under the law of the jurisdiction governing the rights of the spouses with respect to the property neither of them may, acting alone, defeat the right of the survivor of them to the whole of the property, the transfer effects a gift from the spouse owning the property at the time of the creation of the tenancy or who furnished the consideration in the purchase of the property. The value of the gift is the value of such property less the value of the right, if any, of the donor spouse to the income or other enjoyment of the property, or share thereof, during the joint lives of the spouses, and the value of the right of the donor spouse to the whole of the property should he or she be the survivor of them. The value of each of such rights is to be determined in accordance with the Actuaries' or Combined Experience Table of Mortality, as extended.

A case of this character (provided the gift is completed and not merely proposed or hypothetical) may be submitted to the Commissioner, who will, in accordance with recognized actuarial principles, compute the applicable factor to be used in determining such value, and will advise the donor of the factor.

(i) *Life insurance and annuity contracts.* The value of a life insurance contract or of a contract for the payment of an annuity issued by a company regularly engaged in the selling of contracts of that character is established through the sale of the particular contract by the company, or through the sale by the company of comparable contracts. As valuation through sale of comparable contracts is not readily ascertainable when the gift is of a contract which has been in force for some time and on which further premium payments are to be made, the value may be approximated, unless because of the unusual nature of the contract such approximation is not reasonably close to the full value, by adding to the interpolated terminal reserve at the date of the gift the proportionate part of the gross premium last paid before the date of the gift which covers the period extending beyond that date.

The examples given below, so far as relating to life insurance contracts, are of gifts of such contracts on which there are no accrued dividends or outstanding indebtedness.

Example (*1*). A donor purchases from a life insurance company for the benefit of another a life insurance contract or a contract for the payment of an annuity; the value of the gift is the cost of the contract.

Example (*2*). An annuitant, having purchased from a life insurance company a single payment annuity contract by the terms of which he was entitled to receive payments of $1,200 annually for the duration of his life, five years subsequent to such purchase, and when of the age of 50 years, gratuitously assigns the contract. The value of the gift is the amount which the company would charge for an annuity contract providing for the payment of $1,200 annually for the life of a person 50 years of age.

Example (*3*). A donor owning a life insurance policy on which no further payments are to be made to the company (e. g., a single premium policy or paid-up policy) makes a gift of the contract. The value of the gift is the amount which the company would charge for a single premium contract of the same specified amount on the life of a person of the age of the insured.

Example (*4*). A gift is made four months after the last premium due date of an ordinary life insurance policy issued nine years and four months prior to the gift thereof by the insured, who was 35 years of age at date of issue. The gross annual premium is $2,811. The computation follows:

Terminal reserve at end of tenth year	$14,601.00
Terminal reserve at end of ninth year	12,965.00
Increase	1,636.00
One third of such increase (the gift having been made four months following the last preceding premium due date), is	545.33
Terminal reserve at end of ninth year	12,965.00
Interpolated terminal reserve at date of gift	13,510.33
Two-thirds of gross premium ($2,811)	1,874.00
Value of the gift	15,384.33

(j) *Other property.* Any property not specifically treated in this section should be valued in accordance with the rule laid down under paragraph (a) of this section.

TABLE A

[Table, single life, 4 percent, showing the present worth of an annuity, or a life interest, and of a reversionary interest]

Age	2. Annuity, or present value of $1 due at the end of each year during the life of a person of specified age	3. Reversion, or present value of $1 due at the end of the year of death of a person of specified age
	Annuity	*Reversion*
0	$14.72829	$0.39507
1	17.30771	.29586
2	18.69578	.24247
3	19.15901	.22465
4	19.41226	.21491
5	19.55301	.20950
6	19.61731	.20703
7	19.62502	.20673
8	19.61097	.20727
9	19.53413	.21022
10	19.45359	.21332
11	19.36943	.21656
12	19.28184	.21993
13	19.19065	.22344
14	19.09590	.22708
15	18.99764	.23086
16	18.89569	.23478
17	18.79010	.23884
18	18.68070	.24305
19	18.56751	.24740
20	18.45038	.25191
21	18.32932	.25656
22	18.20416	.26138
23	18.07471	.26636
24	17.94097	.27150
25	17.80274	.27682
26	17.65984	.28231
27	17.51224	.28799
28	17.35968	.29386
29	17.20225	.29991
30	17.03961	.30617
31	16.87176	.31262
32	16.69846	.31929
33	16.51964	.32617
34	16.33503	.33327
35	16.14437	.34060
36	15.94755	.34817
37	15.74427	.35599
38	15.53421	.36407
39	15.31722	.37241
40	15.09295	.38104
41	14.86102	.38996
42	14.62122	.39918
43	14.37356	.40871
44	14.11860	.41852
45	13.85713	.42857
46	13.58958	.43886
47	13.31608	.44935
48	13.03942	.46002
49	12.75716	.47088
50	12.47032	.48191
51	12.17919	.49311
52	11.88408	.50446
53	11.58531	.51595
54	11.28325	.52757
55	10.97789	.53931
56	10.66982	.55116
57	10.35931	.56310
58	10.04630	.57514
59	9.73131	.58726
60	9.41474	.59943
61	9.09765	.61163
62	8.78052	.62383
63	8.46412	.63600
64	8.14888	.64812
65	7.83552	.66017
66	7.52476	.67212
67	7.21699	.68397
68	6.91298	.69565
69	6.61301	.70719
70	6.31716	.71857
71	6.02612	.72976
72	5.74003	.74077
73	5.45928	.75157
74	5.18402	.76215
75	4.91463	.77251
76	4.65125	.78264
77	4.39383	.79254
78	4.14286	.80220
79	3.89858	.81159
80	3.66071	.82074
81	3.42900	.82965
82	3.20258	.83836
83	2.98024	.84691
84	2.76106	.85534
85	2.54366	.86371
86	2.32795	.87200
87	2.11384	.88024
88	1.90115	.88842
89	1.69107	.89650
90	1.48540	.90441
91	1.28432	.91214
92	1.09024	.91961
93	$0.90647	$0.92667
94	.73687	.93320
95	.58435	.93906
96	.46182	.94378
97	.36698	.94742
98	.24038	.95229
99	.00000	.96154

TABLE B

[Table showing the present worth at 4 percent of an annuity for a term certain, and of a reversionary interest postponed for a term certain]

1. Number of years	2. Present worth of an annuity of $1, payable at the end of each year, for a certain number of years	3. Present worth of $1, payable at the end of a certain number of years
	Annuity	*Reversion*
1	$0.96154	$0.961538
2	1.88609	.924556
3	2.77509	.888996
4	3.62989	.854804
5	4.45182	.821927
6	5.24214	.790314
7	6.00205	.759918
8	6.73274	.730690
9	7.43533	.702587
10	8.11089	.675564
11	8.76047	.649581
12	9.38507	.624597
13	9.98565	.600574
14	10.56312	.577475
15	11.11839	.555265
16	11.65229	.533908
17	12.16567	.513373
18	12.65929	.493628
19	13.13394	.474642
20	13.59032	.456387
21	14.02916	.438834
22	14.45111	.421955
23	14.85684	.405726
24	15.24696	.390121
25	15.62208	.375117
26	15.98277	.360689
27	16.32958	.346816
28	16.66306	.333477
29	16.98371	.320651
30	17.29203	.308319

SEC. 1006. RETURNS.

(a) *Requirement.* Any individual who within the calendar year 1940 or any calendar year thereafter makes any transfers by gift (except those which under section 1003 are not to be included in the total amount of gifts for such year) shall make a return under oath in duplicate. The return shall set forth (1) each gift made during the calendar year which under section 1003 is to be included in computing net gifts; (2) the deductions claimed and allowable under section 1004; (3) the net gifts for each of the preceding calendar years; and (4) such further information as may be required by regulations made pursuant to law.

(b) *Time and place for filing.* The return shall be filed on or before the 15th day of March following the close of the calendar year with the collector for the district in which is located the legal residence of the donor, or if he has no legal residence in the United States, then (unless the Commissioner designates another district) with the collector at Baltimore, Maryland.

§ 86.20 *Persons required to file return.* Any individual citizen or resident of the United States who within the calendar year 1943, or within any calendar year thereafter, makes a transfer or transfers by gift to any one donee of a value or total value in excess of $3,000 (or regardless of value in the case of a gift of a future interest in property) must file a gift tax return for such year on Form 709. Any individual citizen or resident of the United States who within the calendar year 1940, 1941, or 1942 makes a transfer or transfers by gift to any one donee of a value or total value in excess of $4,000 (or regardless of value in the case of a gift in trust or of a future interest in property) must file a gift tax return for such year on Form 709. A nonresident not a citizen of the United States who made such a gift must also file a return on Form 709 if the subject of the gift consisted of property situated in the United States. The return is required even though because of authorized deductions (the specific exemption, in the case of a citizen or resident, and charitable, public, and similar gifts) no tax may be payable. Individuals only are required to file returns as donors, and not trusts, estates, partnerships, or corporations.

If the donor dies before filing his return, the executor of his will or the administrator of his estate shall file the return. If the donor becomes legally incompetent before filing his return, his guardian or committee shall file the return.

The return shall not be made by an agent unless by reason of illness, absence, or nonresidence, the person liable for the return is unable to make it within the time prescribed. Mere convenience is not sufficient reason for authorizing an agent to make the return. If by reason of illness, absence, or nonresidence, a return is made by an agent, such return must be ratified by the donor or other person liable for its filing within a reasonable time after such person becomes able to do so; otherwise the return filed by the agent will not be considered the return required by the statute. Supplemental data may be submitted at the time of ratification. The ratification must be in the form of an affidavit, filed with the Commissioner, and must specifically state that the return made by the agent has been carefully examined and that the affiant ratifies such return as his own. If a return is signed by an agent, a statement fully explaining the inability of the donor must accompany the return.

§ 86.21 *Donees and trustees required to file notice of gifts.* An information return or notice on Form 710 must be filed by every donee or trustee (except in the case of an organization receiving a gift for a public, charitable, etc., purpose as hereinafter explained) to whom is transferred in any one calendar year property by gift for which, as set forth in § 86.20, the donor is required to file a gift tax return. An organization which has been held by the Commissioner to come within the purview of section 1004 (a) (2) of the Internal Revenue Code or the corresponding provision of the Revenue Act of 1932 need not file such information return if the gift was made

by a citizen or resident of the United States. An organization which has been held by the Commissioner to come within the purview of section 1004 (b) of the Internal Revenue Code or the corresponding provision of the Revenue Act of 1932 need not file such information return if the gift was made by a nonresident not a citizen of the United States. Copies of this form may be obtained from any United States collector of internal revenue upon application. When a gift is made in trust notice thereof should be filed by either the beneficiary of the trust or the trustee, but in such case one notice only is required. If the donor retains a power over transferred property, the notice (which is for information purposes only) should be filed even though it is considered that the retention of the power renders the transfer wholly incomplete as a gift within the meaning of the statute. The notice shall be filed in duplicate with the collector for the district in which the donor resides, or with the Commissioner of Internal Revenue at Washington, D. C., on or before the 15th day of March following the close of the calendar year in which the transfer was made. The notice shall disclose the following information: (1) Name and address of donor, (2) date of transfer, (3) a general description of the property transferred, and (4) the approximate value thereof at the date of the transfer. If the donee dies or becomes legally incompetent, his executor, administrator, guardian, or committee, as the case may be, shall file such notice as would be required of the donee.

§ 86.22 *Time and place of filing return.* Gift tax returns must be filed in duplicate on or before the 15th day of March following the close of the calendar year in which gifts were made. The return shall be filed with the collector of internal revenue for the district in which is located the legal residence of the donor, or, if he has no legal residence in the United States, then, unless the Commissioner otherwise designates, with the collector of internal revenue at Baltimore, Md. When the due date for the filing of the return falls on a Sunday or a legal holiday, the due date will be the day next following which is not a Sunday or a legal holiday. If placed in the mails, the return should be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is required to be filed. If a return is made and so placed in the mails, properly addressed, and postage paid, in ample time to reach the office of the collector on or before the due date, no penalty will attach should the return not be actually received by such officer until subsequent to that date. As to additions to the tax in the case of failure to file a return within the period prescribed, see section 3612 (d) (1) and § 86.50.

Section 3634 provides:

> If the failure to file a return (other than a return of income tax) or list at the time prescribed by law or by regulation made under authority of law is due to sickness or absence, the collector may allow such further time, not exceeding thirty days, for making or filing the return or list as he deems proper.

No such extension of time may be granted unless the application therefor is received by the collector prior to the expiration of the period for which the extension is requested and authorized. An extension of time for filing the return does not in itself operate to extend the time for the payment of the tax.

§ 86.23 *Form of return.* The return must be made on Form 709, copies of which will be supplied by the collector upon application. The return must be filed in duplicate and under oath. If the return is filed for the calendar year 1943, or for any calendar year thereafter, it must set forth every transfer by gift to any one donee during such calendar year, as to which the donor is required to make a return under § 86.20, which singly or in the aggregate exceeds $3,000 in value (or regardless of value in the case of a gift of a future interest in property). A return filed for the calendar year 1940, 1941, or 1942 must set forth every transfer by gift to any one donee during such calendar year, as to which a return is required under § 86.20, which singly or in the aggregate exceeds $4,000 in value (or regardless of value in the case of a gift in trust or of a future interest in property). The return shall also set forth the fair market value of all such gifts not made in money, including gifts resulting from sales and exchanges of property made for less than an adequate and full consideration in money or money's worth (see § 86.8), giving the fair market value of the property sold or exchanged and that of the consideration received by the donor, both as of the date of sale or exchange. The return shall also contain information with respect to transfers which the donor considers incomplete gifts because of his retained power over such transferred property (see § 86.3). The deductions claimed must also be fully set forth. The instructions printed on the form of return should be carefully followed. All documents and vouchers used in preparing the return should be retained by the donor so as to be available for inspection by representatives of the Bureau whenever required. Certified or verified copies of all documents required by the instructions printed on the form, or any documents which the donor may desire to submit, should be filed with the return.

In addition to the list of gifts made during the calendar year for which the return is filed, the return shall set forth for each of the preceding calendar years both the amount of gifts (other than charitable, public, and similar gifts) and the amount of specific exemption claimed and allowed.

The tax, if any, for the calendar year for which the return is filed shall be computed and entered on the return, as provided by the form. (See § 86.7.)

§ 86.24 *Description of property listed on return.* In listing upon the return the property comprising the gifts made during the calendar year, the description thereof should be such that the property may be readily identified. Thus, there should be given for each parcel of real estate a legal description, its area, a short statement of the character of any improvements, and if located in a city the name of street and number. Description of bonds should include the number transferred, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number where there is more than one issue, the exchange upon which listed, or the principal business office of the corporation, if unlisted. Description of stocks should include number of shares, whether common or preferred, and, if preferred, what issue thereof, par value, quotation at which returned, exact name of corporation, and, if the stock is unlisted, the location of the principal business office and State in which incorporated and the date of incorporation. If a listed security, state principal exchange upon which sold. Description of notes should include name of maker, date on which given, date of maturity, amount of principal, amount of principal unpaid, rate of interest and whether simple or compound, and date to which interest has been paid. If the gift of property includes accrued income thereon to the date of the gift, the amount of such accrued income should be separately set forth. Description of land contracts transferred should include name of vendee, date of contract, description of property, sale price, initial payment, amounts of installment payments, unpaid balance of principal, interest rate and date prior to gift to which interest has been paid. Description of life insurance policies should show the name of the insurer and the number of the policy. A supplemental statement, Form 938, must be filed for every life insurance policy. (See § 86.26.) In describing an annuity, the name and address of the issuing company should be given, or if payable out of a trust or other fund such a description as will fully identify such trust or fund. If the annuity is payable for a term of years, the duration of the term and the date on which it began should be given, and if payable for the life of any person, the date of birth of such person should be stated. Judgments should be described by giving the title of the cause and the name of the court in which rendered, date of judgment, name and address of judgment debtor, amount of judgment, rate of interest to which subject, whether any payments have been made thereon, and, if so, when and in what amounts.

SEC. 1007. RECORDS AND SPECIAL RETURNS.

(a) *By donor.* Every person liable to any tax imposed by this chapter or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) *To determine liability to tax.* Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show whether or not such person is liable to tax under this chapter.

§ 86.25 *Aids to determination and collection of tax.* In assessing and collecting gift taxes, the Commissioner has the benefit of all existing internal revenue laws in so far as such laws are applicable. (See section 1028.) The Commissioner may require any person to keep specific records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may prescribe in order that he may determine whether such person is liable for the tax. In accordance with this provision, every individual shall, for the purpose of determining the total amount of his gifts, keep such permanent books of account or records as are necessary to establish the amount of his total gifts (limited as provided in section 1003 (b)), together with the deductions allowable in determining the amount of his net gifts, and the other information required to be shown in a gift tax return.

§ 86.26 *Supplemental data.* In order that the Commissioner may determine the correct tax the donor shall furnish such supplemental data as may be deemed necessary by the Commissioner. It is, therefore, the duty of the donor to furnish upon request copies of all documents relating to his gift or gifts, appraisal lists of any items included in the total amount of gifts, copies of balance sheets, or other financial statements relating to the value of stock constituting the gift, and any other information obtainable by him that may be found necessary in the determination of the tax. (See § 86.19.) For every policy of life insurance listed on the return, the donor must procure a statement from the insurance company on Form 938, in accordance with instructions printed thereon, and file it with the collector who receives the return. If specifically requested by the Commissioner, the insurance company shall file this statement direct with the Bureau.

§ 86.27 *Recognition of attorneys and other persons representing taxpayers.* For regulations governing the recognition of attorneys, agents, and other persons representing claimants before the Treasury Department, reference should be made to Treasury Department Circular No. 230, as revised, copies of which may be obtained upon application to the secretary of the Committee on Practice, Treasury Department, Washington, D. C.

If an attorney or other person asks a ruling on a question of law arising in a specific case, the Commissioner will require satisfactory evidence of the right to obtain such ruling. The transaction on which the ruling is sought must be completed and not merely proposed or planned. Hypothetical questions cannot be answered.

SEC. 1008. PAYMENT OF TAX.

(a) *Time of payment.* The tax imposed by this chapter shall be paid by the donor on or before the 15th day of March following the close of the calendar year.

(b) *Extension of time for payment.* At the request of the donor, the Commissioner may extend the time for payment of the amount determined as the tax by the donor, for a period not to exceed six months from the date prescribed for the payment of the tax. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(c) *Voluntary advance payment.* A tax imposed by this chapter, may be paid, at the election of the donor, prior to the date prescribed for its payment.

(d) *Fractional parts of cent.* In the payment of any tax under this chapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(e) *Receipts.* The collector to whom any payment of any gift tax is made shall, upon request, grant to the person making such payment a receipt therefor.

§ 86.28 *Date of payment.* The tax is required to be paid by the donor on or before the 15th day of March following the close of the calendar year in which the gifts were made, unless an extension of time for payment thereof has been granted by the Commissioner. (See § 86.29.)

§ 86.29 *Extension of time for payment of tax shown on return.* If it is shown to the satisfaction of the Commissioner that the payment of the amount determined as the tax by the donor, or any part thereof, upon the due date will result in undue hardship to the donor, the Commissioner, at the request of the donor, may grant an extension of time for the payment for a period not to exceed six months. The extension will not be granted upon a general statement of hardship. The term "undue hardship" means more than an inconvenience to the donor. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the donor from making payment of the amount at the due date. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in undue hardship. An application for an extension of time for the payment of such tax should be made under oath and must be accompanied or supported by evidence showing the undue hardship that would result to the donor if the extension were refused. A sworn statement of assets and liabilities of the donor and an itemized statement under oath showing all receipts and disbursements for each of the three months immediately preceding the month in which falls the date prescribed for the payment of the tax are required and should accompany the application. The application, with the evidence, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the donor will be notified. The Commissioner will not consider an application for such an extension unless request therefor is made to the collector on or before the due date. If the donor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension.

As a condition to the granting of such an extension, the Commissioner will usually require the donor to furnish a bond in an amount not exceeding double the amount for which the extension is desired, or to furnish other security satisfactory to the Commissioner for the payment of the liability on or before the date prescribed for the payment in the extension, so that the risk of loss to the Government will not be more at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the amount for which the extension is granted, together with interest and additional amounts assessed in connection therewith, in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the donor may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 22, 6 U.S.C. 15.)

The amount for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the donor from paying the entire amount of interest provided for in the extension.

§ 86.30 *Voluntary advance payment.* The gift tax may be paid at the election of the donor prior to the date prescribed for its payment, that is, prior to the 15th day of March following the close of the calendar year in which the gift or gifts were made. No discount will be allowed for payment in advance of the due date.

§ 86.31 *When fractional part of cent may be disregarded.* In the payment of tax a fractional part of a cent shall be disregarded, unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. A fractional part of a cent should not be disregarded in the computation of the tax.

§ 86.32 *Receipts for taxes.* Upon request the collector will give a receipt for tax payments. In the case of payments made by check or money order, the canceled check or the money order receipt is usually a sufficient receipt. In case of payments in cash, however, it might be to the donor's interest to require the collector to furnish a receipt.

§ 86.33 *Payment by check.* Collectors may accept uncertified checks in the payment of the tax, provided such

checks are collectible at par—that is, for the full amount without any deduction for exchange or other charges. The day on which the check is received will be considered the date of payment so far as the taxpayer is concerned unless the check is uncollectible.

All expenses incident to the attempt to collect unhonored checks and their return through the depositary bank must be paid by the drawer of the check to the bank on which it is drawn. (See section 3971.) If a check has been returned uncollected by the depositary bank, the collector should proceed to collect the tax as though no check had been given, and the taxpayer will remain liable for payment of the tax and for all interest, legal penalties, and additions, if any attach, to the same extent as though such check had not been tendered. A taxpayer who tenders a certified check in payment of taxes is not released from his obligation until the check has been paid. (See section 3656.)

§ 86.34 *Donor liable for tax.* The statute provides that the donor shall pay the tax. If the donor dies before the tax is paid, his executor or administrator shall make payment thereof to the collector. If there is no duly qualified executor or administrator, the heirs, legatees, devisees, and distributees are liable for and required to pay the tax to the extent of the value of their inheritance, bequest, devise, or distributive share of the donor's estate. As to the personal liability of the donee, see § 86.35, and as to that of the executor or administrator, see § 86.70.

SEC. 1009. LIEN FOR TAX.

The tax imposed by this chapter shall be a lien upon all gifts made during the calendar year, for ten years from the time the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien herein imposed and the lien, to the extent of the value of such gift, shall attach to all the property of the donee (including after-acquired property) except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth. If the Commissioner is satisfied that the tax liability has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all of the property from the lien herein imposed.

§ 86.35 *Lien for tax.* A lien attaches upon all gifts made during the calendar year for the amount of the tax imposed upon the gifts made during such year. The lien extends for a period of 10 years from the time the gifts were made, unless the tax is sooner paid. If the tax is not paid when due, the donee of any gift becomes personally liable for the tax to the extent of the value of his gift. Any part of property which was the subject of a gift, sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth, is divested of the lien, but a like lien to the extent of the value of such gift attaches to all the property of the donee, including after-acquired property, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

§ 86.36 *Release of lien.* The statute provides that, if the Commissioner is satisfied that the tax liability has been fully discharged or provided for, he may issue his certificate releasing any or all property from the lien imposed thereon. The issuance of certificates releasing such lien is a matter resting within the discretion of the Commissioner, and certificates will be issued only in case there is actual need therefor. The primary purpose of such release is not to evidence payment or satisfaction of the tax but to permit transfer of property free from the lien in case it is necessary to clear title. Receipts for payment of tax are issued by the collector. (See § 86.32.)

If the tax liability has been fully discharged, or its discharge provided for to the satisfaction of the Commissioner by the applicant for the release of lien filing with the collector a surety bond, a certificate may then be issued releasing any or all property from the lien imposed thereon. The tax will be considered fully discharged only when the return has been examined and payment of the tax, including any deficiency determined to be due, has been made. If the tax liability has not been fully discharged, or provided for as above stated, no general release will be granted, but certificates releasing the lien on particular items of property may be issued by the Commissioner, who may require as a prerequisite, in such amount as he may designate, a partial payment of the tax, or a surety bond. As to the character of surety bonds required, see § 86.29. In lieu of a surety bond, the taxpayer may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 22, 6 U.S.C. 15.)

The application for a release should be filed with the Commissioner, should explain the circumstances that require the release, and should fully describe the particular items for which the release is desired. If the application is made prior to the filing of the return for gift tax, an affidavit may be required showing the value of the property to be released from the lien, the basis for such valuation, the total amount of gifts made during the calendar year and the prior calendar years subsequent to the enactment of the Revenue Act of 1932, the approximate value of all real estate upon which the lien has attached, and, in case the property is to be sold or otherwise transferred, the name and address of the purchaser or transferee and the consideration, if any, paid or to be paid by him.

SEC. 1010. EXAMINATION OF RETURN AND DETERMINATION OF TAX.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

§ 86.37 *Examination of return and determination of tax by the Commissioner.* As soon as practicable after returns are filed, they will be examined and the amount of tax determined under such procedure as may be prescribed from time to time by the Commissioner. (See section 1012 and § 86.39.)

SEC. 1011. DEFINITION OF DEFICIENCY.

As used in this chapter in respect of the tax imposed by this chapter the term "deficiency" means—

(1) The amount by which the tax imposed by this chapter exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the donor upon his return, or if no return is made by the donor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax.

§ 86.38 *Deficiency defined.* Section 1011, by its definition of the word "deficiency," provides a term which will apply to any amount of tax determined to be due in excess of the amount of tax reported by the donor upon his return; or in excess of the amount reported by the donor after adjustment made for prior assessments, abatements, credits, refunds, or collections without assessment. In defining the term "deficiency" section 1011 recognizes two classes of cases—one, where the taxpayer makes a return showing some tax liability; the other, where the taxpayer makes a return showing no tax liability, or where the taxpayer fails to make a return. Additional tax shown on any so-called "amended return" is a deficiency within the meaning of the statute.

When a donor's taxability is considered for the first time, the deficiency is the excess of the amount determined to be the correct amount of tax over the amount shown as the tax by the donor on his return, or, if no tax was reported by the donor, the deficiency is the amount determined to be the correct amount of tax. Subsequent information sometimes discloses that the amount previously determined to be the correct amount of tax is less than the correct amount, and that a redetermination of the tax is necessary. In such a case, the deficiency on redetermination is the excess of the amount determined to be the correct amount of tax over the sum of the amount of tax reported by the donor and the deficiency assessed in connection with the previous determination. If it is a case where no tax was reported by the donor, the deficiency is the excess of the amount determined to be the correct amount of tax over the amount

of deficiency assessed in connection with the previous determination. If the previous determination resulted in a credit or refund to the taxpayer, the deficiency upon the second determination is the excess of the amount determined to be the correct amount of tax over the amount of tax reported by the donor decreased by the amount of the credit or refund.

SEC. 1012. ASSESSMENT AND COLLECTION OF DEFICIENCIES. [As originally enacted.]

(a) (1) *Petition to Board of Tax Appeals.* If the Commissioner determines that there is a deficiency in respect of the tax imposed by this chapter, the Commissioner is authorized to send notice of such deficiency to the donor by registered mail. Within 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the donor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this chapter and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the donor, nor until the expiration of such 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3653 (a) the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

(2) *Cross references.* For exceptions to the restrictions imposed by this subsection see—

Subsection (d) of this section, relating to waivers by the donor;

Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;

Section 1013, relating to jeopardy assessments;

Section 1015, relating to bankruptcy and receiverships; and

Section 1145, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) *Collection of deficiency found by board.* If the donor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) *Failure to file petition.* If the donor does not file a petition with the Board within the time prescribed in subsection (a) the deficiency, notice of which has been mailed to the donor, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) *Waiver of restrictions.* The donor shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) on the assessment and collection of the whole or any part of the deficiency.

(e) *Increase of deficiency after notice mailed.* The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the donor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) *Further deficiency letters restricted.* If the Commissioner has mailed to the donor notice of a deficiency as provided in subsection (a) of this section, and the donor files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same calendar year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiencies before the Board, or in section 1013 (c), relating to the making of jeopardy assessments. If the donor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 1027 (c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the donor shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) *Jurisdiction over other calendar years.* The Board in redetermining a deficiency in respect of any calendar year shall consider such facts with relation to the taxes for other calendar years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other calendar year has been overpaid or underpaid.

(h) *Final decisions of Board.* For the purposes of this chapter the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1140.

(i) *Extension of time for payment of deficiencies.* Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the donor the Commissioner, under regulations prescribed by the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of eighteen months, and, in exceptional cases, for a further period not in excess of twelve months. If an extension is granted, the Commissioner may require the donor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

(j) *Address for notice of deficiency.* In the absence of notice to the Commissioner under section 1026 (a) of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by this chapter, if mailed to the donor at his last known address, shall be sufficient for the purposes of this chapter even if such donor is deceased, or is under a legal disability.

SEC. 456. PERIOD FOR FILING PETITION EXTENDED IN CERTAIN CASES. [Revenue Act of 1942, enacted October 21, 1942.]

(a) *Period extended.* Section 1012 (a) (1) (relating to period of filing petition with Board of Tax Appeals) is amended by inserting at the end thereof the following new sentence: "If the notice is addressed to a donor outside the States of the Union and the District of Columbia, the period specified in this paragraph shall be one hundred and fifty days in lieu of ninety days."

(b) *Effective date.* The amendment made by this section shall be applicable with respect to notices of deficiency mailed after the date of the enactment of this Act.

SEC. 504. CHANGE OF NAME OF BOARD OF TAX APPEALS. [Revenue Act of 1942, enacted October 21, 1942.]

(a) *The Tax Court of the United States.* Effective on the day after the date of enactment of this Act, section 1100 (relating to status of Board of Tax Appeals) is amended by inserting at the end thereof the following new sentence: "The Board shall be known as The Tax Court of the United States and the members thereof shall be known as the presiding judge and the judges of The Tax Court of the United States."

(b) *Powers, tenure, etc., unchanged.* The jurisdiction, powers, and duties of The Tax Court of the United States, its divisions and its officers and employees, and their appointment, including the designation of its officers, and the immunities, tenure of office, powers, duties, rights, and privileges of the presiding judge and judges of The Tax Court of the United States shall be the same as by existing law provided in the case of the Board of Tax Appeals. The Commissioner shall continue to be represented by the same counsel in the same manner before the Court as he has heretofore been represented in proceedings before the Board of Tax Appeals and the taxpayer shall continue to be represented in accordance with rules of practice prescribed by the Court. No qualified person shall be denied admission to practice before such Court because of his failure to be a member of any profession or calling.

(c) *References.* All references in any statute (except this section), or in any rule, regulation, or order, to the "Board of Tax Appeals" or to the "Board" when used in the sense of "Board of Tax Appeals", or to the "member", "members", or "chairman" thereof shall be considered to be made to The Tax Court of the United States, the judge, judges, and presiding judge thereof, respectively.

§ 86.39 *Assessment of deficiency.* If the Commissioner determines that there is a deficiency in respect of the tax he is authorized to notify the donor of the deficiency by registered mail. In the absence of notice to the Commissioner under section 1026 (a) of the existence of a fiduciary relationship, the Commissioner is authorized to mail the notice of a deficiency to the donor at his last known address, and such notice is sufficient even if the donor is deceased or is under a legal disability. Within 90 days after the notice of deficiency is mailed (or within 150 days after the notice of deficiency is mailed in case such notice is mailed after October 21, 1942, addressed to a donor outside the States of the Union and the District of Columbia), a petition may be filed with The Tax Court of the United States (formerly known as the Board of Tax Appeals) for a redetermination of the deficiency. In determining such prescribed period, Sunday or a legal holiday in the District of Columbia is not to be counted as the last day thereof. Except as stated in paragraphs (a), (b), (c), (d), and (e) of this section, no assessment of deficiency in respect of the tax shall be made until such notice has been mailed to the donor, nor until the expiration of the period prescribed for the filing of a petition with The Tax Court, nor, if a petition

has been filed, until the decision of The Tax Court has become final. As to the date on which a decision of The Tax Court becomes final, see sections 1140 and 1142.

(a) The donor may, at any time, by a signed notice in writing filed with the Commissioner, waive the restrictions on the assessment of the whole or any part of the deficiency. The notice must in all cases be filed with the Commissioner. The filing of such notice with The Tax Court does not constitute filing with the Commissioner within the meaning of the statute. After such waiver has been acted upon by the Commissioner and the assessment has been made in accordance with its terms, the waiver cannot be withdrawn. After a waiver of the restrictions on the assessment of the deficiency has been filed, there will be assessed at the same time as the assessment made in accordance with the terms of the waiver interest upon the tax so assessed at the rate of 6 percent per annum from the due date of the tax to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed, whichever is the earlier. (See section 1021 and § 86.53.)

(b) If a donor is notified of an additional amount of tax due on account of a mathematical error appearing upon the face of his return, such notice is not a notice of deficiency prescribed by section 1012 (a) and the donor has no right to file a petition with The Tax Court upon the basis of such notice, nor is the assessment of such additional tax prohibited by the provisions of section 1012 (a).

(c) If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, such deficiency shall be assessed immediately as provided in section 1013. (See § 86.43.)

(d) Upon the adjudication of bankruptcy of a donor in any bankruptcy proceeding or the appointment of a receiver for a donor in any receivership proceedings before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency determined by the Commissioner in respect of the tax shall be assessed immediately irrespective of the provisions of section 1012 (a) if such deficiency has not been assessed in accordance with the law prior to the adjudication of bankruptcy or the appointment of the receiver. (See section 1015 and § 86.45.)

(e) If The Tax Court renders a decision and determines that there is a deficiency, and, if the donor duly files a petition for review of the decision by a Circuit Court of Appeals (or the United States Court of Appeals for the District of Columbia), the filing of the petition will not operate as a stay of the assessment of any portion of the deficiency determined by The Tax Court, unless the donor has filed a bond with The Tax Court as provided in section 1145. If, in such a case, the necessary bond has not been filed by the donor, the amount determined by The Tax Court as a deficiency will be assessed immediately after the filing of such petition. If the Commissioner files a petition for review and the donor has not filed a petition for review within three months after the decision of The Tax Court is rendered, the amount determined by The Tax Court as a deficiency will be assessed immediately after the expiration of the 3-month period. If the Commissioner files a petition for review, and a similar petition is filed by the donor, but the bond required by section 1145 has not been filed with The Tax Court, the deficiency will be assessed immediately after the filing of the petition for review by the donor.

If no petition is filed with The Tax Court within the period prescribed, the Commissioner shall assess the amount determined by him as the deficiency and of which he has notified the donor by registered mail. In such case, the Commissioner will not be precluded from determining a further deficiency and notifying the donor thereof by registered mail. In case a petition is filed with The Tax Court, the entire amount redetermined as the deficiency by the decision of The Tax Court which has become final shall be assessed by the Commissioner. If the Commissioner mails to the donor notice of a deficiency and the donor files a petition with The Tax Court within the period prescribed, the Commissioner is barred from determining any additional deficiency for the same taxable year except in the case of fraud and except as provided in section 1012(e), relating to the assertion of greater deficiencies before The Tax Court, or in section 1013, relating to jeopardy assessments. (See § 86.43.)

§ 86.40 *Waiver by donor of restrictions on Assessment.* If the donor acquiesces in any proposed, tentative, or final determination of the whole or any part of the deficiency, the donor has the right by a signed notice in writing filed with the Commissioner to waive the restrictions on the assessment and collection of such whole or part of the deficiency under the provisions of section 1012(d). A form of notice of such waiver for filing with the Commissioner will be supplied the donor upon notice of any proposed, tentative, or final determination of a deficiency. Filing of the notice of waiver will expedite assessment and stop the accrual of interest on the amount assessed until after notice and demand by the collector. As to interest on deficiencies, see section 1021 and § 86.53.

§ 86.41 *Collection of deficiency.* If a deficiency as redetermined by a decision of The Tax Court which has become final is assessed, or the donor has not filed a petition with The Tax Court and the deficiency as determined by the Commissioner has been assessed, or the restrictions upon the assessment and collection of the whole or any part of the deficiency provided in subsection (a) of section 1012 have been waived and an assessment made in accordance with such waiver, the amount so assessed shall be paid upon notice and demand from the collector. As to deficiencies coming within the provisions of sections 1013, 1015, and 1145, relating to jeopardy assessments, bankruptcies and receiverships, and deficiencies determined by The Tax Court pending court review, see §§ 86.43, 86.45, and 86.39 (e). As to interest on deficiencies, see section 1021 and § 86.53.

§ 86.42 *Extension of time for payment of deficiencies.* If it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for payment thereof would result in undue hardship to the donor, the Commissioner may grant an extension of time for the payment of the deficiency or any part thereof for a period of time not in excess of 18 months and in exceptional cases for a further period not in excess of 12 months. The extension will not be granted upon a general statement of hardship. The term "undue hardship" means more than an inconvenience to the donor. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the donor from making payment of the deficiency at the date prescribed for payment. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in undue hardship. The statute provides that no extension will be granted where the deficiency is due to negligence or intentional disregard of rules and regulations or to fraud with intent to evade tax.

An application for an extension of time for the payment of the deficiency should be made under oath and must be accompanied or supported by evidence showing the undue hardship that would result to the donor if the extension were refused. A sworn statement of assets and liabilities of the donor and an itemized statement under oath showing all receipts and disbursements for each of the three months immediately preceding the month in which falls the date prescribed for the payment of the deficiency are required and should accompany the application. The application, with the evidence, must be filed with the collector, who will transmit it to the Commissioner with his recommendation as to the extension. When it is received by the Commissioner, it will be examined and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the donor will be notified. The Commissioner will not consider an application for an extension of time for the payment of a deficiency unless request therefor is made to the collector on or before the date prescribed for payment thereof, as shown by the notice and demand from the collector. If the donor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension.

As a condition to the granting of such an extension, the Commissioner will usually require the donor to furnish a bond in an amount not exceeding double the amount of the deficiency, or to furnish other security satisfactory to the Commissioner for the payment of the liability on or before the date prescribed for the payment in the extension, so that the

risk of loss to the Government will not be more at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the deficiency, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the donor may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 22, 6 U.S.C. 15.)

The amount for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the donor from paying the entire amount of interest provided for in the extension.

SEC. 1013. JEOPARDY ASSESSMENTS.

(a) *Authority for making.* If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) *Deficiency letters.* If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 1012 (a), then the Commissioner shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) *Amount assessable before decision of Board.* The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of section 1012 (f) prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) *Amount assessable after decision of Board.* If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) *Expiration of right to assess.* A jeopardy assessment may not be made after the decision of the Board has become final or after the donor has filed a petition for review of the decision of the Board.

(f) *Bond to stay collection.* When a jeopardy assessment has been made the donor, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 1022 or 1023 (b) (4). If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced.

(g) *Same—Further conditions.* If the bond is given before the donor has filed his petition with the Board under section 1012 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) *Waiver of stay.* Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The donor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the donor, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the donor, be proportionately reduced.

(i) *Collection of unpaid amounts.* When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded as provided in section 1027, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

§ 86.43 *Jeopardy assessments.* If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he is required to assess such deficiency immediately, together with the interest and other additional amounts provided by law. If a deficiency is assessed on account of jeopardy after the decision of The Tax Court of the United States (formerly known as the Board of Tax Appeals) is rendered, the jeopardy assessment may be made only with respect to the deficiency determined by The Tax Court. The Commissioner is prohibited from making a jeopardy assessment after a decision of The Tax Court has become final (see section 1140) or after the donor has filed a petition for review of the decision of The Tax Court.

If notice of a deficiency was mailed to the donor (see section 1012 (a) and § 86.39) before it was discovered that delay would jeopardize the assessment or collection of the tax, a jeopardy assessment may be made in an amount greater or less than that included in the deficiency notice. On the other hand if the assessment on account of jeopardy was made without mailing the notice required by section 1012 (a), the Commissioner must within 60 days after the making of the assessment send the donor notice of the deficiency by registered mail. The donor may file a petition with The Tax Court for a redetermination of the amount of the deficiency within 90 days after such notice is mailed (or within 150 days after mailing in case such notice is mailed after October 21, 1942, addressed to a donor outside the States of the Union and the District of Columbia), and in determining such prescribed period Sunday or a legal holiday in the District of Columbia is not to be counted as the last day thereof. If the petition of the donor is filed with The Tax Court, either before or after the making of the jeopardy assessment, the Commissioner is required to notify The Tax Court of such assessment, and The Tax Court has jurisdiction to redetermine the amount of the deficiency together with all other amounts assessed at the same time in connection therewith. If the jeopardy assessment is made, the Commissioner may, at any time before the decision of The Tax Court is rendered, abate the assessment or any unpaid portion thereof, to the extent that he believes it to be excessive in amount. (See section 1013 (c).)

After a jeopardy assessment has been made, the list showing such assessment will be immediately transmitted to the collector. Upon receipt of the list containing the assessment, the collector is required to send notice and demand to the donor for the amount of the jeopardy assessment. Regardless of whether the donor has filed a petition with The Tax Court, he is required to make payment of the amount of such assessment within 10 days after the sending of notice and demand by the collector, unless before the expiration of such 10-day period he files with the collector a bond of the character hereinafter prescribed. The bond must be in such amount, not exceeding double the amount for which the stay is desired, as the collector deems necessary and must be executed by sureties satisfactory to the collector. In lieu of a surety bond, the taxpayer may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par

value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 22, 6 U.S.C. 15.) The bond must be conditioned upon the payment of so much of the amount, the collection of which is to be stayed by the bond, as is not abated by a decision of The Tax Court which has become final, together with the interest on such amount as may accrue under section 1022 and section 1023 (b) (4). If the bond is given before the donor has filed his petition with The Tax Court, it must contain a further condition that if a petition is not filed before the expiration of the period provided for the filing of such petition, the amount stayed by the bond will be paid upon notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 percent per annum from the date of the jeopardy notice and demand to the date of the notice and demand made after the expiration of such period. If a petition is not filed with The Tax Court within the period prescribed for the filing of such petition, the collector will be so advised, and, if collection of the deficiency has been stayed by the filing of a bond within 10 days after the date of jeopardy notice and demand, he should then give notice and make demand for payment of the amount assessed plus interest. Any bond filed after the expiration of 10 days from the date of the jeopardy notice and demand is not such a bond as is contemplated by section 1013 (f), although the collector may in his discretion accept the bond and stay collection of the deficiency. If the Commissioner believes that the amount of the jeopardy assessment is excessive and abates a portion thereof before the decision of The Tax Court is rendered, the amount of the bond will be proportionately reduced at the request of the donor.

Upon the filing of a bond of the character described within 10 days after the date of notice and demand for payment of the amount assessed, the collection of so much thereof as is covered by the bond will be stayed. The donor may at any time waive the stay of collection of the whole or any part of the amount covered by the bond. If as a result of such waiver any part of the amount covered by the bond is paid, then the bond will at the request of the donor be proportionately reduced.

After The Tax Court has rendered its decision and such decision has become final, the collector will be notified of the action taken. The collector will then send notice and demand for the unpaid portion of the amount determined by The Tax Court, the collection of which has been stayed by the bond. The collector is required to include in the notice and demand for the unpaid portion, interest at the rate of 6 percent per annum from the date of the jeopardy notice and demand to the date of the notice and demand referred to in this paragraph. If the amount of the jeopardy assessment is less than the amount determined by The Tax Court, the difference, together with interest as provided in section 1021, will be assessed, and collected as part of the tax upon notice and demand from the collector. If the amount included in the notice and demand made after the decision of The Tax Court is not paid within 10 days after such notice and demand, there shall be collected, as part of the tax, interest as provided in section 1023. (See § 86.55.) If the amount of the jeopardy assessment is in excess of the amount determined by The Tax Court, the unpaid portion of such excess will be abated. If any part of the excess amount has been paid, it will be credited or refunded to the donor as provided in section 1027. (See §§ 86.60–86.63.)

As to bankruptcy and receivership cases, see sections 1015 and 1023 (b) (5) and §§ 86.45 and 86.55.

SEC. 1014. CLAIMS IN ABATEMENT.

No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this chapter.

§ 86.44 *Claims in abatement.* Section 1014 prohibits the filing of claims for abatement by donors in respect of any assessment of gift tax imposed by the Internal Revenue Code. This provision does not prohibit the filing of claims in abatement by collectors. (See also § 86.62.)

SEC. 1015. BANKRUPTCY AND RECEIVERSHIPS.

(a) *Immediate assessment.* Upon the adjudication of bankruptcy of any donor in any bankruptcy proceeding or the appointment of a receiver for any donor in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this chapter upon such donor shall, despite the restrictions imposed by section 1012 (a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) *Unpaid claims.* Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the donor upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within six years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in sections 1012 (1), 1020 (b), and 1023 (b) (3) in the case of a deficiency in a tax imposed by this chapter.

§ 86.45 *Bankruptcy and receivership proceedings.* During a bankruptcy proceeding, or an equity receivership proceeding in either a Federal or a State court, the assets of the donor are in general under the control of the court in which such proceeding is pending, and the collection of taxes cannot be made by distraining upon such assets. However, any assets which under applicable provisions of law are not under the control of the court may be subject to distraint.

As used in these regulations the term "bankruptcy proceeding" includes proceedings under Chapters I to VII of the Bankruptcy Act, as amended, or under section 75 (11 U.S.C. 203), or Chapters XI to XIII, of such Act, as amended; and the term "adjudication of bankruptcy" includes an adjudication in a proceeding under Chapters I to VII, as amended, and the filing of a petition under section 75 or Chapters XI to XIII with a court of competent jurisdiction.

The clerk of a court of bankruptcy is required to mail to the Commissioner of Internal Revenue a certified copy of every order of adjudication forthwith upon the entry thereof. In every such case, the court of bankruptcy is required to mail or cause to be mailed a copy of the notice of the first meeting of creditors to the Commissioner of Internal Revenue and to the collector of internal revenue for the district in which the court located. (See section 58 (e) of the Bankruptcy Act, 11 U.S.C. 94 (e).)

Collectors should, promptly after notice of outstanding liability against a donor in any bankrutcy or receivership proceeding, and in any event within the time limited by the appropriate provisions of the Bankruptcy Act, as amended, and the orders of the court in which such proceeding is pending, file claim covering such liability in the court in which such proceeding is pending. Such claim should be filed whether the unpaid taxes involved have been assessed or not, except in cases where the departmental instructions direct otherwise; for example, where the payment of the taxes is secured by a suffcient bond. Such claim should cover the amount represented by the assessment, plus interest at the rate of 6 percent per annum for the period from the date of filing claim by the collector to the date of termination of the bankruptcy or receivership proceeding or to the date of payment if payment is made in full prior to such termination. At the same time claim is filed with the bankruptcy or receivership court, the collector will send notice and demand for payment to the donor together with a copy of such claim.

Under section 3466 of the Revised Statutes (31 U.S.C. 191) and section 3467 of the Revised Statutes, as amended by section 518 of the Revenue Act of 1934 (31 U.S.C. 192), and section 64 of the Bankruptcy Act, as amended (11 U.S.C. 104), taxes are entitled to the priority over other claims therein stated and the trustee, receiver, debtor in possession, or other person designated as in control of the assets of the debtor by the court in which bankruptcy or receivership proceeding is pending, may be held personally liable for failure on his part to protect the priority of the Government respecting taxes of which he has notice. Bankruptcy courts have jurisdiction under the Bankruptcy Act, as amended,

to determine all disputes regarding the amount and validity of taxes of a bankrupt or of a debtor in a proceeding under the Bankruptcy Act, as amended. A bankruptcy or receivership proceeding for the donor does not discharge any portion of a claim of the United States for taxes except to the extent which may be provided in a plan or arrangement duly effectuated in a bankruptcy proceeding; and any portion of a claim of the United States for taxes which has been allowed by the court in which the bankruptcy or receivership proceeding is pending and which remains unsatisfied after the termination of the bankruptcy or receivership proceeding shall be collected, with interest as provided in section 1023 (b) (5).

§ 86.46 *Immediate assessments in bankruptcy and receivership cases.* If the Commissioner has determined that a deficiency is due in respect of gift tax and the donor has filed a petition with The Tax Court of the United States (formery known as the Board of Tax Appeals) prior to the adjudication of bankruptcy or the appointment of a receiver, the trustee, receiver, debtor in possession, or other person designated as in control of the assets of the debtor by the court in which the bankruptcy or receivership proceeding is pending, may prosecute the donor's appeal before The Tax Court as to that particular determination. No petition shall be filed with The Tax Court for a redetermination of the deficiency after the adjudication of bankruptcy or the appointment of a receiver.

Claim for the amount of a deficiency, even though pending before The Tax Court for consideration, may be filed with the court in which the bankruptcy or receivership proceeding is pending without awaiting final decision of The Tax Court. In case of final decision of The Tax Court before the termination of the bankruptcy, debtor, or receivership proceeding, a copy of The Tax Court decision may be filed by the Commissioner with the court in which such proceeding is pending.

While the Commissioner is required by section 1015 to make immediate assessment of any deficiency, such assessment is not made as a jeopardy assessment within the meaning of section 1013 and consequently the provisions of that section do not apply to any assessment made under section 1015. Therefore, the notice of the deficiency provided for in section 1013 (b) will not be mailed. Although such notice will not be issued, nevertheless a letter will be sent to the donor, or to the trustee, receiver, debtor in possession, or other person designated by the court in which the bankruptcy or receivership proceeding is pending as in control of the assets of the debtor, notifying him in detail how the deficiency was computed, that he may furnish evidence showing wherein the deficiency is incorrect, and that upon request he will be granted a hearing with respect to such deficiency. If after such evidence is submitted and hearing held any adjustment appears necessary in the deficiency, appropriate action will be taken. A copy of the notification letter will be attached to the assessment list as the collector's authority for filing claim in any bankruptcy or receivership proceeding.

If any portion of the claim allowed by the court in a bankruptcy or receivership proceeding remains unpaid after the termination of such proceeding, the collector will send notice and demand for payment thereof to the donor. Such unpaid portion with interest as provided in section 1023 (b) (5) may be collected from the donor by distraint or proceeding in court within six years after the termination of the bankruptcy, debtor, or receivership proceeding. Extensions of time for the payment of such unpaid amount may be granted in the same manner and subject to the same provisions and limitations as provided in sections 1012 (i), 1020 (b), and 1023 (b) (3). (See § 86.42.)

This section deals only with immediate assessments provided for in section 1015 and the procedure in connection with such assessments.

SEC. 1016. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

(a) *General rule.* Except as provided in subsection (b), the amount of taxes imposed by this chapter shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed.

(b) *Exceptions—*

(1) *False return or no return.* In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(2) *Collection after assessment.* Where the assessment of any tax imposed by this chapter has been made within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the donor.

§ 86.47 *Period of limitation upon assessment of tax.* The amount of the tax must be assessed within three years after the return was filed. Exceptions to this period of limitation are as follows:

(1) In case of a false or fraudulent return with intent to evade tax, the tax may be assessed at any time after such false or fraudulent return is filed.

(2) In the event the donor fails to file a return, the amount of tax due may be assessed at any time after the date prescribed for filing the return. See section 1017 and § 86.49 for provisions relating to the suspension of the running of the statute of limitations on the making of assessments.

With respect to the period of limitation for assessing the amount of the liability of a transferee of property of a donor, or for assessing the amount of the liability of a fiduciary under section 3467 of the Revised Statutes, as amended by section 518 of the Revenue Act of 1934 (31 U.S.C. 192), see section 1025 and § 86.58.

§ 86.48 *Period of limitation upon collection of tax.* A proceeding in court without assessment for the collection of the tax must be begun within three years after the return was filed, except that if the donor files a false or fraudulent return with intent to evade tax or fails to file a return, a proceeding in court for the collection of the tax may be begun at any time.

In any case in which the tax has been assessed within the statutory period of limitation properly applicable thereto, a proceeding in court or distraint for the collection of such tax may be begun within six years after the assessment thereof, or prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the donor. In determining the running of the statute of limitations in respect of distraint, the distraint shall be considered to have been begun, in the case of personal property, on the date on which the levy upon such property is made, or, in the case of real property, on the date on which notice of the time and place of sale is given to the person whose property it is proposed to sell.

See section 1017 and § 86.49 for provisions relating to the suspension of the running of the statute of limitations on the beginning of distraint or a proceeding in court for collection of the tax.

SEC. 1017. SUSPENSION OF RUNNING OF STATUTE.

The running of the statute of limitations provided in section 1016 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 1012 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

§ 86.49 *Suspension of running of statute of limitations.* If a notice of a deficiency has been mailed to the donor under the provisions of section 1012 (a) (see § 86.39), then the running of the statute of limitations on assessment, on the beginning of distraint after assessment, or on the beginning of a proceeding in court after assessment or without assessment, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessment or from beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of The Tax Court of the United States (formerly known as the Board of Tax Appeals), until the decision of The Tax Court becomes final), and for 60 days thereafter.

SEC. 1018. ADDITION TO THE TAX IN CASE OF DELINQUENT RETURN.

For addition to the tax in case of failure to make and file a return required by this chapter within the time prescribed by law or prescribed by the Commissioner in pursuance of the law, see section 3612 (d) (1).

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.

(d) *Additions to tax*—(1) *Failure to file return.* In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided*, That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) *Fraud.* In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

(3) *Cross reference.*

For additions to tax in the case of income tax, see sections 291 and 293, and in the case of a deficiency in gift tax, see section 1019.

(e) *Collection of additions to tax.* The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

* * * * *

§ 86.50 *Addition to the tax for failure to file return.* For failure to file the return required by the Internal Revenue Code within the time prescribed or within an extension of time granted by the collector, unless it is filed after such time and the failure is shown to have been due to a reasonable cause and not to willful neglect, 5 percent of the amount of the tax will be added thereto if the failure is for 30 days or less, with an additional 5 percent for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate.

Two classes of delinquents are subject to this addition to the tax:

(a) Those who do not file returns, and

(b) Those who file tardy returns and are unable to show reasonable cause for the delay.

A donor who files a tardy return and wishes to avoid the addition to the tax must make an affirmative showing of all facts alleged as a reasonable cause for failure to file the return on time in the form of an affidavit or affidavits which should be attached to the return. If affidavits are furnished with the return or upon the collector's demand, the collector, unless otherwise directed by the Commissioner, will forward the affidavits with the return, and, if the Commissioner determines that the delinquency was due to a reasonable cause and not to willful neglect, the addition to the tax will not be assessed. If the donor exercised ordinary business care and prudence and was nevertheless unable to file the return in the prescribed time, then the delay is due to reasonable cause.

If the addition to the tax for delinquency in filing the return has been added, the amount so added shall be collected in the same manner as the tax except that the interest provisions of section 1021 (see § 86.53) shall not apply to such additional amount. (But see § 86.55 as to interest accruing after issuance of notice and demand.)

For addition to the tax in case of fraud, see sections 1019 (b) and 3612 (d) and § 86.51.

SEC. 1019. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

(a) *Negligence.* If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 1021, relating to interest on deficiencies, shall not be applicable.

(b) *Fraud.* If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3612 (d) (2).

§ 86.51 *Additions to the tax in case of deficiency.* If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 percent of the total amount of the deficiency shall be added to the deficiency, and shall be assessed, collected, and paid in the same manner as the deficiency.

If any part of the deficiency is due to fraud with intent to evade tax, 50 percent of the total amount of the deficiency, in addition to the deficiency, shall be assessed, collected, and paid in the same manner as the deficiency. The 50 percent addition to the tax provided by section 1019 (b) is in lieu of the 50 percent addition provided in section 3612 (d) (2).

The interest provisions of section 1021 (see § 86.53) shall not apply to the additions to the tax described in this section. (But see § 86.55 as to interest accruing after issuance of notice and demand.)

For penalties other than additions to the tax for willful attempts to evade or defeat the tax, see section 1024 and § 86.56.

SEC. 1020. INTEREST ON EXTENDED PAYMENTS.

(a) *Tax shown on return.* If the time for payment of the amount determined as the tax by the donor is extended under the authority of section 1008 (b), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

(b) *Deficiency.* In case an extension for the payment of a deficiency is granted, as provided in section 1012 (1), there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period.

§ 86.52 *Interest on extended payments.* In case an extension of time has been granted for paying any portion of the tax shown by the donor upon his return, the statute requires the imposition of interest upon the amount, the time for payment of which has been extended, at the rate of 6 percent per annum from the date upon which such payment should have been made (the 15th day of March following the close of the calendar year) to the expiration of the period of the extension.

If an extension of time for paying the deficiency, or any portion thereof, has been granted, section 1020 (b) requires the imposition of interest upon the amount, the time for payment of which has been extended, at the rate of 6 percent per annum for the period of the extension, i. e., from the date prescribed for the payment (10 days after the date of the notice and demand) to the expiration of the period of the extension.

For provisions relating to interest in case the amount, the time for payment of which has been extended, is not paid on or before the expiration of the period of the extension granted, see § 86.55.

Example. A deficiency in tax amounting to $500 was determined and assessment thereof made on the 15th day of July, the due date of the tax being March 15 preceding. The amount of the assessment in this instance is $500, plus interest thereon at 6 percent per annum from and including March 16 to and including July 15, amounting to $10.03, computed upon the basis of 365 days to the year (or 366 days in a leap year), or a total assessment of $510.03, which thereupon becomes the amount of the deficiency. The date of the notice and demand by the collector for payment was August 1 following the assessment. Within 10 days thereafter $255.02 was paid and request was made for an extension of time for paying the balance of the deficiency ($255.01), and an extension from August 11 to and including February 11 was granted for the payment thereof. This amount bears interest at 6 percent per annum for the period of the extension, amounting to $7.71. The remaining liability is, therefore, $262.72.

SEC. 1021. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the due date of the tax to the date the deficiency is assessed, or, in the case of a waiver under section 1012 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

§ 86.53 *Interest on deficiencies.* The statute provides that the deficiency shall bear interest at the rate of 6 percent per annum from the due date of the tax (the 15th day of March following the close of the calendar year) to the date the deficiency is assessed, except in the case of a waiver of the restrictions against the assessment and collection of the deficiency, and that such interest shall be assessed at the same time as the deficiency and shall be collected as part of the tax. The deficiency in respect to which the restrictions against the assessment and collection are waived under the provisions of section 1012 (d) bears interest at the rate of 6 percent per an-

num from the due date of the tax to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed, whichever is the earlier. The term "deficiency" as used in this section includes any tax resulting from the correction of a mathematical error appearing upon the face of a return. (See §§ 86.38 and 86.39 (b).)

For provisions relating to interest upon the deficiency in case an extension of time for payment is granted, see §§ 86.52 and 86.55. For provisions relating to interest in case of a jeopardy assessment, see § 86.54.

SEC. 1022. INTEREST ON JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 1013 (f) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 1013 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 1021.

§ 86.54 *Interest on jeopardy assessments.* In case a stay of the collection of a jeopardy assessment of a deficiency tax (together with interest and any other amount assessed and collectible as a part thereof) is obtained in accordance with the provisions of section 1013 (f) (see § 86.43), and a petition for a redetermination of the deficiency is filed with The Tax Court of the United States (formerly known as the Board of Tax Appeals), interest accrues on the unpaid portion of any such amount determined by a decision of The Tax Court which becomes final, at the rate of 6 percent per annum from the date of the notice and demand from the collector following the jeopardy assessment to the date of the notice and demand by the collector subsequent to the final action taken on the petition filed with The Tax Court. If the amount determined by The Tax Court as the amount which should have been assessed is greater than the amount actually assessed, the difference bears interest at the rate of 6 percent per annum from the due date of the tax until the assessment of such difference. If the collection of the jeopardy assessment is stayed, and no petition is filed with The Tax Court for a redetermination of the deficiency, interest accrues upon the deficiency so assessed at the rate of 6 percent per annum from the date of the jeopardy notice and demand to the date of the notice and demand made by the collector after the expiration of the period prescribed for the filing of the petition.

SEC. 1023. ADDITIONS TO THE TAX IN CASE OF NONPAYMENT.

(a) *Tax shown on return*—(1) *Payment not extended.* Where the amount determined by the donor as the tax imposed by this chapter, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 6 per centum per annum from the due date until it is paid.

(2) *Payment extended.* Where an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 1020 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 6 per centum per annum shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) *Deficiency*—(1) *Payment not extended.* Where a deficiency, or any interest assessed in connection therewith under section 1021, or any addition to the tax provided for in section 3612 (d), is not paid in full within 10 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.

(2) *Filing of jeopardy bond.* If a bond is filed, as provided in section 1013, the provisions of paragraph (1) of this subsection shall not apply to the amount covered by the bond.

(3) *Payment extended.* If the part of the deficiency the time for payment of which is extended as provided in section 1012 (i) is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 6 per centum per annum for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

(4) *Jeopardy assessment—payment stayed by bond.* If the amount included in the notice and demand from the collector under section 1013 (i) is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.

(5) *Interest in case of bankruptcy and receiverships.* If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 1015, is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 6 per centum per annum from the date of such notice and demand until payment.

§ 86.55 *Interest on delinquent taxes.* If any portion of the tax shown on the donor's return is not paid on or before the due date (the 15th day of March following the close of the calendar year) and no extension of time for payment thereof has been granted, such unpaid portion bears interest from the due date until payment is received by the collector at the rate of 6 percent per annum.

If any portion of a deficiency assessed, together with interest and any other amount assessed and collectible as a part thereof, is not paid within 10 days from the date of the notice and demand issued by the collector (except a deficiency with respect to which a jeopardy assessment is made and collection is stayed by the filing of bond), and no extension of time for payment thereof has been granted, such unpaid amount bears interest from the date of the notice and demand until payment is received by the collector at the rate of 6 percent per annum.

If an extension of time has been granted for paying any portion of the tax shown on the donor's return (see § 86.29) or for any portion of a deficiency (see § 86.42) and the amount due is not paid in full prior to the expiration of the extension, the total unpaid amount (tax and interest for the period of the extension) bears interest from the expiration of the extension until payment is received by the collector at the rate of 6 percent per annum.

If a deficiency as determined by a decision of The Tax Court of the United States (formerly known as the Board of Tax Appeals) which has become final is in the amount of a jeopardy assessment, collection of which was stayed by the filing of a bond and such amount is not paid in full within 10 days after the notice and demand issued subsequent to such final decision, interest accrues on the unpaid amount for which such notice and demand was made, from the date of the notice and demand until it is paid at the rate of 6 percent per annum.

If, in the case of bankruptcy, debtor's relief proceeding, or a receivership for any donor, any portion of the claim for a deficiency (including interest and any other amount assessed and collectible as a part thereof) presented for adjudication in accordance with law is unpaid, the unpaid portion of the claim, if not paid in full within 10 days from notice and demand from the collector, bears interest from the date of such notice and demand until paid at the rate of 6 percent per annum.

SEC. 1024. PENALTIES.

(a) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

§ 86.56 *Penalties.* Two kinds of penalties are provided for delinquency with respect to duties imposed by the statute:

(1) Criminal penalties, and

(2) Penalties of a certain percentage of the tax, to be added to and collected in the same manner as the tax.

In any case where more than one penalty is provided, the Government may assert any one or more thereof.

Any person required by the Internal Revenue Code to pay any tax, or required by law or regulations made under authority thereof to file any notice or make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of the tax, who willfully fails to pay such tax, file such notice or make such return, keep such records, or supply such information as required by the

law and the regulations, shall, in addition to the other penalties, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Any person who willfully attempts in any manner to evade or defeat any gift tax shall, in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, shall be fined not more than $10,000, or imprisoned, for not more than five years, or both, together with the costs of prosecution.

Any person who willfully aids or assists in the preparation or presentation of a false or fraudulent notice or return, or procures, counsels, or advises the preparation or presentation of such notice or return, whether such falsity or fraud is with or without the knowledge or consent of the person required to make the notice or return, will be guilty of a felony and, upon conviction thereof, fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution. (See section 3793 (b).)

Any person who, in connection with any compromise entered into or offer made under the provisions of section 3761, or who, in connection with any closing agreement under section 3760 (see § 86.69) or the offer to enter into any such agreement, willfully conceals from any officer or employee of the United States any property belonging to the estate of the donor or to any person liable in respect of the tax, or receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement relating to the estate or financial condition of the donor or other person liable in respect of the tax, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both. (See section 3762.)

For penalties imposed for failure to make and file a return, or for fraud with intent to evade tax, which consist of a percentage of the tax to be added thereto and collected in the same manner as the tax, see sections 1019 and 3612 (d) and §§ 86.50 and 86.51.

SEC. 3761. COMPROMISES.

(a) *Authorization.* The Commissioner, with the approval of the Secretary, or of the Under Secretary of the Treasury, or of an Assistant Secretary of the Treasury, may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) *Record.* Whenever a compromise is made by the Commissioner in any case there shall be placed on file in the office of the Commissioner the opinion of the General Counsel for the Department of the Treasury, or of the officer acting as such, with his reasons therefor, with a statement of—

(1) The amount of tax assessed,

(2) The amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

(c) *Cross reference.* For compromises after judgment, see R. S. 3469 (U. S. C., Title 31, § 194).

§ 86.57 *Compromises.* Offers in compromise should be filed with the appropriate collector of internal revenue. No offer in compromise of tax, interest, and ad valorem penalty collectible as part of the tax will be accepted unless there is a substantial doubt as to either liability or collectibility.

SEC. 1025. TRANSFERRED ASSETS.

(a) *Method of collection.* The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this chapter (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) *Transferees.* The liability, at law or in equity, of a transferee of property of a donor, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this chapter.

(2) *Fiduciaries.* The liability of a fiduciary under section 3467 of the Revised Statutes (U. S. C., Title 31, sec. 192) in respect of the payment of any such tax from the estate of the donor.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) *Period of limitation.* The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the donor.

(2) If a court proceeding against the donor for the collection of the tax has been begun within the period provided in paragraph (1),—then within one year after return of execution in such proceeding.

(c) *Period for assessment against donor.* For the purposes of this section, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred.

(d) *Suspension of running of statute of limitations.* The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under section 1012 (a) to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

(e) *Prohibition of suits to restrain enforcement of liability of transferee or fiduciary.* No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity, of a transferee of property of a donor in respect of any gift tax, or (2) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes (U. S. C., Title 31, sec. 192) in respect of any such tax.

(f) *Definition of "transferee."* As used in this section the term "transferee" includes donee, heir, legatee, devisee, and distributee.

(g) *Address for notice of liability.* In the absence of notice to the Commissioner under section 1026 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this chapter, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this chapter even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

§ 86.58 *Claims in cases of transferred assets.* The amount for which a transferee of the property of a donor is liable, at law or in equity, and the amount of the personal liability of a fiduciary under section 3467 of the Revised Statutes, as amended by section 518 of the Revenue Act of 1934, 31 USC 192, in respect of the tax, whether such tax is shown on the return of the donor or determined as a deficiency, shall be assessed against such transferee or such fiduciary, as the case may be, and collected and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax, except as hereinafter provided.

The term "transferee" as used in this section includes among others a donee, heir, legatee, devisee, and distributee.

The period of limitation for assessment of the liability of a transferee or of a fiduciary, is as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the donor.

(2) If a court proceeding against the donor for the collection of the tax has been begun within the period of limitation for the bringing of such proceeding, then within one year after the return of the execution in such proceeding.

For the purpose of determining the period of limitation for assessment against a transferee or a fiduciary, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred.

If a notice of the liability of a transferee or the liability of a fiduciary has been mailed to such transferee or to such fiduciary under the provisions of section 1012 (a) (see § 86.39), then the running of the statute of limitations shall be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of The Tax Court of the United States (formerly known as the Board of Tax Appeals), until the decision of The Tax Court becomes final), and for 60 days thereafter.

SEC. 1026. NOTICE OF FIDUCIARY RELATIONSHIP.

(a) *Fiduciary of donor.* Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the donor in respect of a tax imposed by this chapter (except as otherwise specifically provided and except that the tax shall be collected from the estate of the donor), until notice is given that the fiduciary capacity has terminated.

(b) *Fiduciary of transferee.* Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 1025, the fiduciary shall assume, on behalf of such

person, the powers, rights, duties, and privileges of such person under such action (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) *Manner of notice.* Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

§ 86.59 *Notice of fiduciary relationship.* As soon as the Commissioner recieves notice that any person is acting in a fiduciary capacity for a donor or a donor's estate, such fiduciary must, except as otherwise specifically provided, assume the powers, rights, duties, and privileges of the donor in respect of the the tax. If the person is acting as a fiduciary for a transferee or other person subject to the liability specified in section 1025 (see § 86.58), such fiduciary is required to assume the powers, rights, duties, and privileges of the transferee or other person under that section. The amount of the tax or liability is, however, not collectible from the estate of the fiduciary but is collectible from the estate of the donor or from the estate of the transferee or other person subject to the liability specified in section 1025. The "notice to the Commissioner" provided for in section 1026 shall be a written notice signed by the fiduciary and filed with the Commissioner. The notice must state the name and address of the person for whom the fiduciary is acting and the nature of the liability of such person; that is, whether it is a liability for the tax, and, if so, the year or years involved, or a liability at law or in equity of a transferee of property of the donor, or a liability of a fiduciary under section 3467 of the Revised Statutes, as amended by section 518 of the Revenue Act of 1934, 31 U.S.C. 192, in respect of the payment of any tax from the estate of the donor. Satisfactory evidence of the authority of the fiduciary to act for such person in the fiduciary capacity must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as such satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the Commissioner written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary.

If the notice of the fiduciary capacity described in the preceding paragraph is not filed with the Commissioner prior to the sending of notice of a deficiency by registered mail to the last known address of the donor (see section 1012 (a)), or the last known address of the transferee or other person subject to liability (see section 1025), no notice of the deficiency will be sent to the fiduciary. In such a case the sending of the notice to the last known address of the donor, transferee, or other person, as the case may be, will be a sufficient compliance with the requirements of the statute, even though such donor, transferee, or other person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence. Under such circumstances if no petition is filed with The Tax Court of the United States (formerly known as the Board of Tax Appeals) before the expiration of the period prescribed for the filing of the petition by the donor, transferee, or other person, the tax, or liability under section 1025, will be assessed immediately upon the expiration of such period, and demand for payment will be made by the collector. The term "fiduciary" is defined by section 3797 (a) (6) to mean guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

SEC. 1027. REFUNDS AND CREDITS. [As originally enacted.]

(a) *Authorization.* Where there has been an overpayment of any tax imposed by this chapter, the amount of such overpayment shall be credited against any gift tax then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) *Limitation on allowance*—(1) *Period of limitation.* No such credit or refund shall be allowed or made after three years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) *Limit on amount of credit or refund.* The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund.

(c) *Effect of petition to Board.* If the Commissioner has mailed to the taxpayer a notice of deficiency under section 1012 (a) and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the calendar year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) *Overpayment found by Board.* If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid within three years before the filing of the claim or the filing of the petition, whichever is earlier, or that such portion was paid after the mailing of the notice of deficiency.

SEC. 457. OVERPAYMENT FOUND BY BOARD. [Revenue Act of 1942, Title IV, Part II. Effective for calendar year 1943 and each calendar year thereafter.]

The second sentence of section 1027 (d) (relating to overpayment found by the Board of Tax Appeals) is amended by striking out "or the filing of the petition" and inserting in lieu thereof "or the mailing of the notice of deficiency".

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE. [Revenue Act of 1942, Title IV, Part II.]

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

SEC. 503. SUIT AGAINST COLLECTOR BAR IN OTHER SUITS. [Revenue Act of 1942.]

Section 3772 (relating to suits) is amended by inserting at the end thereof the following new subsection:

(d) *Suits against collector a bar.*—A suit against a collector (or former collector) or his personal representative for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected shall be treated as if the United States had been a party to such suit in applying the doctrine of res judicata in all suits instituted after June 15, 1942, in respect of any internal revenue tax, and in all proceedings in the Board and on review of decisions of the Board where the petition to the Board was filed after such date.

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS.

(a) *To taxpayers.*

* * * * *

(2) *Assessments and collections after limitation period.* Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

SEC. 3775. CREDITS AFTER PERIODS OF LIMITATION.

(a) *Period against United States.* Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 3770 (a) (2).

SEC. 3771. INTEREST ON OVERPAYMENTS.

(a) *Rate.* Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the rate of 6 per centum per annum.

(b) *Period.* Such interest shall be allowed and paid as follows:

(1) *Credits.* In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921, 42 Stat. 227, or any subsequent Revenue Act, then to the date of the assessment of that amount.

(2) *Refunds.* In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(c) *Additional assessment defined.* As used in this section the term "additional assessment" means a further assessment for a tax

of the same character previously paid in part, and includes the assessment of a deficiency of any income or estate tax imposed by the Revenue Act of 1924, 43 Stat. 253, or by any subsequent Revenue Act.

* * * * *

§ 86.60 *Authority for abatement, credit, or refund.* Authority for the credit or refund of an overpayment is contained in section 1027. As to the abatement of a jeopardy assessment by the Commissioner before The Tax Court of the United States (formerly known as the Board of Tax Appeals) renders a decision, see § 86.43.

Section 1014 prohibits the filing of claims for abatement by donors with respect to assessments of the tax. The provisions of section 1014 do not impair the authority of the collectors to file claims with the Commissioner for relief from charges against them for uncollectible items, in accordance with section 3950, which provides:

SEC. 3950. CHARGES AND CREDITS.

(a) *Charges.* Every collector shall be charged with—

(1) *Taxes.* The whole amount of taxes, whether contained in lists transmitted to him by the Commissioner, or by other collectors, or delivered to him by his predecessor in office, and the additions thereto;

(2) *Stamps.* The par value of all stamps deposited with him; and

(3) *Moneys.* All moneys collected for penalties, forfeitures, fees, or costs.

(b) *Credits.* Every collector shall be credited with—

(1) *Payments into Treasury.* All payments into the Treasury made as provided by law;

(2) *Returned stamps.* All stamps returned by him uncancelled to the Treasury;

(3) *Taxes transmitted to other collectors.* The amount of taxes contained in the lists transmitted in the manner provided in section 3651 (b) to other collectors, and by them receipted as therein provided;

(4) *Taxes of insolvent or absconded persons.* The amount of the taxes of such persons as may have absconded or become insolvent, prior to the day when the tax ought, according to the provisions of law, to have been collected;

(5) *Uncollected taxes transferred to successor.* All uncollected taxes transferred by him or by his deputy acting as collector to his successor in office: *Provided*, That it shall be proved to the satisfaction of the Commissioner, who shall certify the facts to the General Accounting Office, that due diligence was used by the collector; and

(6) *Property purchased for United States.* The amount of all property purchased by him for the use of the United States, provided he faithfully account for and pay over the proceeds thereof upon a resale of the same as required by law.

§ 86.61 *Credit and refund adjustments.* Overassessments and overpayments of gift taxes will be adjusted by means of certificates of overassessment. Credits or refunds of overpayments on the basis of such certificates of overassessment will be allowed or made even though claim for credit or refund has not been filed. However, credits or refunds may not be allowed or made after the expiration of the statutory period of limitation properly applicable unless prior to the expiration of such period a proper claim therefor has been filed by the donor. The claim, together with appropriate supporting evidence, must be filed in the office of the collector for the district in which the tax was paid. (See § 86.63.) As to interest in case of credits or refunds, see section 3771 of the Internal Revenue Code and section 177 (b) of the Judicial Code as amended by Act of June 22, 1936 (28 U.S.C. 284).

§ 86.62 *Claims by collectors.* A collector may present blanket claims for the abatement of certain items which were erroneously assessed. Many of these items fall in a class where the error in assessment is apparent, and the abatement of such assessment by the use of blanket claims serves to relieve the collector of the charge against him for such amount and to relieve him in an expeditious manner of the duty of collecting from the donor certain amounts which a summary examination clearly shows are not due from the donor. Some of the items included in this class of cases are duplicate assessments, amounts assessed as unidentified collections and later identified, assessments resulting from errors in computation, and amounts assessed as excess collections which are subsequently credited against taxes later found to be due.

In the event an erroneous assessment has been paid, the collector may file a blanket claim for credit of such amounts against any unpaid assessments standing against the donor upon the assessment lists held by the collector. If there are no such unpaid assessments against which credit may be taken, the collector shall submit refund schedules to cover such amounts in accordance with instructions issued by the Commissioner. But no such credit or refund shall be allowed or made unless allowed or made within the statutory period of limitation properly applicable thereto.

The collector may also present claims for credit of taxes not erroneously assessed but found to be uncollectible. (See section 3950.) In such cases the collector or deputy collector who made the demand for the payment and is conversant with the facts may prepare the claim for credit. Even though the collector is so credited with the amount allowed as uncollectible, nevertheless the obligation to pay still remains upon the person assessed. It is the duty of the collector to use the same diligence to collect the tax after he has received credit for an amount as uncollectible as before the allowance of such credit. Collectors should, therefore, keep a record of all taxes thus credited and of the persons from whom they are due and should enforce payment whenever it is in their power to do so.

§ 86.63 *Claims for credit or refund by donors.* Claims for the crediting or refunding of taxes, interest, penalties, and additions to tax erroneously or illegally collected shall be made on Form 843 and should be filed with the collector of internal revenue, although a claim will not be considered defective solely by reason of the fact that it is not made on the form or that it is filed with the Commissioner of Internal Revenue. A separate claim on such form shall be made for each taxable year.

Claims must set forth in detail and under oath each ground upon which a credit or refund is claimed and facts sufficient to apprise the Commissioner of the exact basis thereof. No credit or refund will be allowed or made after three years from the date of the payment of the tax sought to be credited or refunded, except upon one or more of the grounds set forth in a claim or an amendment thereof filed prior to the expiration of such period. A claim which does not comply with this paragraph will not be considered for any purpose as a claim for credit or refund.

The burden of proof to sustain a claim for credit or refund rests upon the claimant and all facts relied upon in support of the claim must be clearly set forth under oath. Every affidavit, argument, brief, or statement of facts, prepared or filed by an attorney or agent as argument or evidence in the matter of a claim, must have therein a statement signed by such attorney or agent showing whether or not he prepared such document and whether or not the attorney or agent knows of his own knowledge that the facts contained therein are true. When there is a hearing, should the donor not appear in person, his representative who appears must present a properly executed power of attorney and be enrolled to practice before the Treasury Department. (See § 86.27.)

If a return is filed by a donor who subsequently dies and a refund claim is thereafter filed by a legal representative of the deceased, certified copies of the letters testamentary or letters of administration, or other similar evidence must be annexed to the claim to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the return was filed by the fiduciary and that the latter is still acting. In such cases, if a refund or interest is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request therefor. If a claim is filed by a fiduciary other than the one by whom the return was filed, the necessary documentary evidence should accompany the claim.

Checks in payment of claims allowed will be drawn in the names of the persons entitled to the money and may be sent to such persons in care of an attorney or agent who has filed a power of attorney specifically authorizing him to receive such checks. The Commissioner may, however, send any such check direct to the claimant. In this connection, see section 3477 of the Revised Statutes (31 U.S.C. 203), the pertinent part of which provides:

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and what-

ever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

The Commissioner has no authority to refund on equitable grounds penalties or other amounts legally collected. As to claims for refund of sums recovered by suit see §§ 86.64 and 86.65.

§ 86.64 *Claims for refund in case of judgment obtained against collector.* (a) Claims for the amount of a judgment against a collector of internal revenue for the recovery of taxes, penalties, or other sums should be made on Form 843 and filed with the Commissioner of Internal Revenue, Washington, D. C. The claimant should state the grounds of his claim under oath, giving the names of all the parties to the suit, the cause of action, the date of its commencement, the date of the judgment, the court in which it was recovered, and its amount. To this affidavit there should be annexed a certified copy of the final judgment in duplicate, a certificate of probable cause, and an itemized bill of the costs paid, receipted by the clerk or other proper officer of the court. In this connection section 989 of the Revised Statutes (28 U.S.C. 842) provides:

When a recovery is had in any suit or proceeding against a collector or other officer of the revenue for any act done by him, or for the recovery of any money exacted by or paid to him and by him paid into the Treasury in the performance of his official duty, and the court certifies that there was probable cause for the act done by the collector or other officer, or that he acted under the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such collector or other officer, but the amount so recovered shall, upon final judgment, be provided for and paid out of proper appropriation from the Treasury.

(b) If the judgment debtor shall have already paid the amount recovered against him, the claim should be made in his name. A certificate of the clerk of the court in which the judgment was recovered (or other satisfactory evidence), showing that the judgment has been satisfied and specifying the exact sum paid in its satisfaction, with a detail of all items of costs which were paid by the judgment debtor or for which he is liable, should accompany the claim. (See further, § 86.63.)

§ 86.65 *Claims for refund in case of judgment obtained against the United States.* Claims for the payment of judgments rendered by United States district courts and the United States Court of Claims against the United States representing taxes, penalties, or other sums, should be executed on Form 843 in duplicate and filed directly with the Commissioner of Internal Revenue, Washington, D. C. The claimant should state the grounds of his claim under oath, giving the names of all parties to the suit, the cause of action, the date of its commencement, the date of the judgment, the court in which it was recovered, and its amount. To this affidavit there should be annexed two certified copies of the final judgment, and an itemized bill of the costs paid, receipted by the clerk or other proper officer of the court. In the case of a judgment rendered by the Court of Claims, there may be submitted in lieu of a certified copy of the final judgment, a certificate of judgment issued by the clerk of the court and two copies of the court's opinion, if any was rendered.

§ 86.66 *Limitations upon the crediting and refunding of taxes paid.* (a) Except as provided in (b) of this section, (1) the Commissioner is prohibited from making credits or refunds of the tax after three years from the time the tax was paid unless before the expiration of such 3-year period a claim therefor is filed, and (2) the amount of such credit or refund shall not exceed the portion of the tax paid during the 3-year period immediately preceding the date of the allowance of the credit or refund, or, if the credit or refund is based upon a claim, the amount of the credit or refund shall not exceed the portion of the tax paid during the 3-year period immediately preceding the date of filing such claim.

(b) In any case where a person having a right to file a petition with The Tax Court of the United States (formerly known as the Board of Tax Appeals) with respect to a deficiency in the tax files such petition within the prescribed time, no credit or refund of the tax for the year to which the deficiency relates shall be allowed or made, and no suit for the recovery of any part of such tax shall be instituted by the donor, except that:

(1) If The Tax Court finds that the tax has been overpaid for the year to which the notice of the deficiency relates, if the decision of The Tax Court as to the amount overpaid has become final (see section 1140 of the Internal Revenue Code), and if The Tax Court determines as a part of its decision (i) that, as to gifts made during the calendar year 1943 or thereafter, any portion of the overpayment was made within three years before the filing of the claim for refund or the mailing of the notice of deficiency, whichever is earlier, or, as to gifts made during the calendar year 1940, 1941, or 1942, any portion of the overpayment was made within three years before the filing of the claim or the filing of the petition, whichever is earlier, or (ii) that any portion of the overpayment was made after the mailing of the notice of deficiency, the amount of such portion of the overpayment will be credited or refunded.

(2) In the case of a jeopardy assessment made under section 1013, if the amount which should have been assessed as determined by a decision of The Tax Court which has become final is less than the amount already collected, the excess payment shall be credited or refunded subject to the limitations provided in (b) (1) of this section.

(3) If the amount of the deficiency determined by The Tax Court (in a case where collection has not been stayed by the filing of a bond) is disallowed in whole or in part by the reviewing court, then the overpayment resulting from such disallowance shall be credited or refunded without the making of claim therefor. (See section 1146.)

(4) Where the amount collected is in excess of the amount computed in accordance with the decision of The Tax Court which has become final, the excess payment shall be credited or refunded within the period of limitation provided in section 1027 (b).

(5) Where an amount is collected after the statutory period of limitation upon the beginning of distraint or a proceeding in court for collection has expired (see § 86.48), the donor may file a claim for refund of the amount so collected within the period of limitation provided in section 1027 (b). In any such case, the decision of The Tax Court as to whether the statutory period upon collection of the tax expired before notice of the deficiency was mailed shall, when the decision becomes final, be conclusive.

§ 86.67 *Crediting of accounts of collectors in cases of assessments against several persons covering same liability.* If assessments have been made against several persons covering the same tax liability, and payment of such liability by one or more of such persons has been duly certified to the Commissioner, the Commissioner, for the purpose of temporarily relieving the collector from liability under section 3950, may authorize him to take credit temporarily with respect to the assessments not specifically paid. Such action, however, shall not constitute an abatement and shall not discharge the liability of the persons concerned.

SEC. 3774. REFUNDS AFTER PERIODS OF LIMITATION.

A refund of any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) shall be considered erroneous—(a) *Expiration of period for filing claim.* If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) *Disallowance of claim and expiration of period for filing suit.* In the case of a claim filed within the proper time and disallowed by the Commissioner if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) Within such period suit was begun by the taxpayer, or

(2) Within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the Board of Tax Appeals or the courts. If such agreement has been entered into, the running of such statute of limitations shall

be suspended in accordance with the terms of the agreement.

(c) *Cross reference.* For procedure by the United States to recover erroneous refunds, see section 3746.

SEC. 3775. CREDITS AFTER PERIODS OF LIMITATION.

* * * * *

(b) *Period against taxpayer.* A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 3774.

SEC. 3746. SUITS AND RECOVERY OF ERRONEOUS REFUNDS.

(a) *Refunds after limitation period.* Any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax), refund of which is erroneously made, within the meaning of section 3774, may be recovered by suit brought in the name of the United States, but only if such suit is begun within two years after the making of such refund.

* * * * *

(c) *Refund based on fraud or misrepresentation.* Despite the provisions of subsections (a) and (b) such suit may be brought at any time within five years from the making of the refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

* * * * *

§ 86.68 *Erroneous refunds and credits.* A refund is erroneous when made after the expiration of the period of limitation for filing a claim therefor, unless within such period a claim was filed. In the case where a claim was filed within the proper time and such claim was disallowed by the Commissioner and the period of limitation for filing suit by the donor had expired prior to the making of the refund, a refund is erroneous unless suit was begun by the donor within the period of limitation for filing suit, or unless within such period the donor and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of the final decision of one or more named cases then pending before The Tax Court of the United States (formerly known as the Board of Tax Appeals) or the courts. Any erroneous refund may be recovered by suit brought in the name of the United States within two years after the refund was made. If it appears that any part of an erroneous refund was induced by fraud or the misrepresentation of a material fact, the entire amount of such refund may be recovered by suit brought in the name of the United States within five years after the refund was made.

Where a refund of an overpayment would be an erroneous refund under the preceding paragraph of this section, a credit of such overpayment allowed against any tax is void. A credit is also void if allowed against a liability the assessment and collection of which was barred by the expiration of the period of limitation properly applicable thereto.

SEC. 3760. CLOSING AGREEMENTS.

(a) *Authorization.* The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) *Finality.* If such agreement is approved by the Secretary, the Under Secretary, or an Assistant Secretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

§ 86.69 *Closing agreements relating to tax liability in respect of internal revenue taxes.* Closing agreements provided for in section 3760 may relate to the total tax liability of the donor, or to one or more separate items affecting such liability. For example, an agreement may be entered into with respect to the total amount of gifts, to deductions, or to the value of property on the date of gift. Accordingly, there may be a series of agreements relating to the tax liability for a single taxable period. Any tax or deficiency in tax determined pursuant to such an agreement shall be assessed and collected, and any overpayment determined pursuant thereto shall be credited or refunded, in accordance with the applicable provisions of the statute. Such agreements are final and conclusive, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact. (See also section 3762.)

SEC. 3467. REVISED STATUTES, AS AMENDED BY SECTION 518 OF THE REVENUE ACT OF 1934 (31 U. S. C. 192). LIABILITY OF FIDUCIARIES.

Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

§ 86.70 *Personal liability of fiduciaries.* Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debts due by a donor or a donor's estate for whom or for which he acts before he satisfies and pays the gift tax due to the United States from such donor, is, to the extent of such payments, personally liable for the payment of such tax.

SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

(a) *To determine liability of the taxpayer.* The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

(b) *To determine liability of a transferee.* The Commissioner, for the purpose of determining the liability at law or in equity of a transferee of the property of any person with respect to any Federal taxes imposed upon such person, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon such liability, and may require the attendance of the transferor or transferee, or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter, with power to administer oaths to such person or persons.

SEC. 3633. JURISDICTION OF DISTRICT COURTS.

(a) *To enforce summons.* If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

* * * * *

SEC. 3800. JURISDICTION OF DISTRICT COURTS TO ISSUE ORDERS, PROCESSES, AND JUDGMENTS.

The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws.

SEC. 3632. AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY.

(a) *Internal Revenue personnel*—(1) *Persons in charge of administration of internal revenue laws generally.* Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

* * * * *

(b) *Others.* Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

§ 86.71 *Securing evidence; taking testimony.* In order to ascertain the correctness of a return or to determine the liability of a transferee of the property, the Commissioner has power to require the attendance and to take the testimony of the person rendering the return, any employee of such person, a

transferee of the property, or any other person having knowledge in the premises. Such persons may be required to produce any relevant book, paper, or other record. This power may be exercised by any revenue agent or inspector designated for the purpose. For penalties, see § 86.56.

§ 86.72 *Power to compel compliance.* Where any person is summoned to appear and testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides has power to compel the giving of testimony, the production of books, papers, or data, and to issue any appropriate process, writ, or order.

SEC. 1028. LAWS MADE APPLICABLE.
All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this chapter.

§ 86.73 *Laws made applicable.* All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are made a part of chapter 4 of the Internal Revenue Code imposing the gift tax for the calendar year 1940 and each calendar year thereafter. For provisions of law and regulations authorizing the postponement by reason of war of the performance of certain acts required or permitted under the gift tax law, see section 507 of the Revenue Act of 1942 and regulations pertaining thereto separately promulgated.

SEC. 1030. DEFINITIONS. [As originally enacted.]
For the purposes of this chapter—
(a) *Calendar year.* The term "calendar year" includes only the calendar year 1932 and succeeding calendar years, and, in the case of the calendar year 1932, includes only the portion of such year after June 6, 1932.
(b) *Property within the United States.* Stock in a domestic corporation owned and held by a nonresident shall be deemed property situated within the United States.

SEC. 458. DEFINITION OF PROPERTY IN UNITED STATES. [Revenue Act of 1942]
(a) *Technical amendment to definition.*—Section 1030 (b) is amended to read as follows:

(b) *Property within the United States.* Stock in a domestic corporation owned and held by a nonresident not a citizen of the United States shall be deemed property situated within the United States.

(b) *Effective date of amendment.*—The amendment made by this section shall be effective as of February 10, 1939.

§ 86.74 *Definitions*—(a) *Calendar year.* The term "calendar year" as used in the gift tax provisions of the Internal Revenue Code includes the portion of the calendar year 1932 after the date of the enactment of the Revenue Act of 1932, i. e., June 6, 1932, and succeeding calendar years.

(b) *Property within the United States.* Section 1030 provides that stock in a domestic corporation owned and held by a nonresident not a citizen of the United States shall be deemed property situated in the United States for the purposes of the gift tax provisions of the Internal Revenue Code. For regulations relating to situs of property generally, see § 86.18.

(c) *Other definitions.* For other definitions, see section 3797.

SEC. 1031. PUBLICITY OF RETURNS.
For provisions with respect to publicity of returns under this chapter, see subsection (a) (2) of section 55.

SEC. 1029. RULES AND REGULATIONS.
The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

SEC. 3791. RULES AND REGULATIONS.
(a) *Authorization*—(1) *In general.* The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.
(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.
(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

SEC. 3802. SEPARABILITY CLAUSE.
If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of the title, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

§ 86.75 *Promulgation of regulations.* In pursuance of the Internal Revenue Code, the foregoing regulations are hereby made and promulgated.

[SEAL] NORMAN D. CANN,
Acting Commissioner of Internal Revenue.

Approved: July 30, 1943.

D. W. BELL,
Acting Secretary of the Treasury.

[F. R. Doc. 43-12541; Filed, August 2, 1943; 11:58 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

[Docket No. A-2049]

PART 324—MINIMUM PRICE SCHEDULE, DISTRICT NO. 4

ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 4 for the establishment of price classifications and minimum prices for the coals of certain mines; for changes in shipping points of certain other mines and for other relief.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 4; for changes in shipping points of certain other mines in District No. 4; for correction of minimum prices of Long Hollow Coal Company, Mine Index No. 750, by showing the correct location of the mine as Hocking County rather than Athens County; and for correction of minimum prices of John W. Freetage, Mine Index No. 2060, and Dickerson & McCullough Coal Co. (Everett Dickerson), Mine Index No. 2059, by showing the correct location of said mines as being in Subdistrict No. 4, Middle, instead of Subdistrict No. 5; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith § 324.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 324.24 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division on or before August 7, 1943, pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final on August 10, 1943, unless it shall otherwise be ordered.

The minimum prices proposed by petitioner for the coals of the Sidwell Bros. Mine, Mine Index No. 3160, for truck shipments do not appear to reflect the minimum price increases provided for by the order entered in General Docket No. 21 on August 28, 1942. Accordingly, the minimum prices established for these coals are 20 cents per net ton more than the minimum prices requested therefor in the respective size groups.

Dated: July 24, 1943.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 4

NOTE: The material in these supplements is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 324, Minimum Price Schedule for District No. 4 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 324.7 *Alphabetical list of code members*—Supplement R

[Alphabetical list of code members having railroad loading facilities, showing price classification by price group numbers]

Mine Index No.	Code member	Mine name	Seam	Type	Subdistrict No.	Shipping points in Ohio	Freight origin group No.	Railroad	Price group No.	Railroad fuel price group No.	
										On line	Off line
3162	Angelo, Felix	Blue Diamond #2	7	Strip	6	Zanesville	34	PRR	41	113	202-204
2051	Gilchrist, Arthur W.[1]	Gilchrist	8	Deep	5	Amesville	24	FV	22-23	109	201-203
597	Leone, Tony (Leone Coal Co.)[2]	Little Valley	8	Deep	1	Piedmont	12	B&O	1	101	201-203
3165	McFarland, T. E. (Athens Coal Co.)	Athens	8A	Deep	8	Middleport	23	C&O	31	103	201-203
77	Marshall Mining Company[3]	Klemann	6	Strip	4	Lisbon	71	Erie	72	108	202-204
243	Marshall Mining Company[3]	Rock Camp	6 and 7	Strip	4	Lisbon	71	Erie	72	108	202-204
3168	Marshall Mining Company	Hanover	7	Strip	4	Lisbon	71	Erie	72	108	202-204
3170	Mitchell & Jones Corporation	Standard #3	8	Strip	1	Brilliant	15	PRR	3	113	202-204
3174	New Albany Coal Company (L. D. Russell).	Rogers	6	Strip	4	Willowcrest	74	Y&S	72	120	202-204
1966	Novak, Steve[3]	Novak	6	Deep	4	Lisbon	71	Erie	71	107	201-203
3167	Ryan, D. M. (Rayland Coal Co.)	No. 1	8	Strip	1	Warrenton	18	W&LE	3	119	202-204
3160	Sidwell Brothers (Carl Sidwell)	Sidwell Bros.	6	Strip	5	Greendale	22	C&O	25	104	202-204
361	Williams, Elbert[2]	Williams	8A	Deep	8	Hobson	25	NYC	31	110	201-203

For letter classification see § 324.9 in Minimum Price Schedule for District No. 4.

[1] Subject to Price Exception No. 4, in § 324.1 in Minimum Price Schedule.
[2] Shipping point established in previous docket shall no longer be applicable.
[3] Change in Railroad and Freight Origin Group Number.

FOR TRUCK SHIPMENTS

§ 324.24 *General prices in cents per net ton for shipment into all market areas*—Supplement T

Code member	Mine	Mine index No.	Type	Seam	Base sizes							
					6" lump	3", 4", 5" lump	2" lump	2" x 4" egg, 2" x 5" egg	1¼" lump, 1¼" x 4" egg	Mine run, nut and pea	2" x 0 slack	¾" x 0 slack
					1	2	3	4	5	6	7	8
SUBDISTRICT NO. 1—EASTERN OHIO												
JEFFERSON COUNTY												
Mitchel & Jones Corporation	Standard #3	3170	Strip	8	295	285	270	245	240	230	210	200
Ryan, D. M. (Rayland Coal Co.)	No. 1	3167	Strip	8	295	285	270	245	240	230	210	200
SUBDISTRICT NO. 4—MIDDLE												
COLUMBIANA COUNTY												
Marshall Mining Company	Hanover	3168	Strip	7	320	310	295	270	265	245	225	215
New Albany Coal Company (L. D. Russell).	Rogers	3174	Strip	6	320	310	295	270	265	245	225	215
COSHOCTON COUNTY												
Dickerson & McCullough Coal Co. (Everett Dickerson).[1]	D. & McC. C. Co.	2059	Deep	6	300	290	280	255	250	215	185	175
Freetage, John W.[1]	J. W. Freetage	2060	Deep	6	300	290	280	255	250	215	185	175
SUBDISTRICT NO. 5—HOCKING												
HOCKING COUNTY												
Preston, Fred (Long Hollow Coal Company).[2]	Long Hollow	750	Deep	6	315	305	295	270	265	215	185	175
Sidwell Brothers (Carl Sidwell)	Sidwell Bros.	3160	Strip	6	300	290	280	255	250	215	185	175
SUBDISTRICT NO. 6—CROOKSVILLE												
MUSKINGUM COUNTY												
Angelo, Felix	Blue Diamond #2	3162	Strip	7	300	290	280	255	250	215	185	185
PERRY COUNTY												
Standard Hocking Coal Co., The	Rend	3166	Deep	6	300	290	280	255	250	215	185	175
SUBDISTRICT NO. 8—POMEROY												
GALLIA COUNTY												
McFarland, T. E. (Athens Coal Co.).	Athens	3165	Deep	8A	315	305	295	270	265	215	160	160
Wheaton, Harold D.	Wheaton	3164	Deep	8	315	305	295	270	265	215	160	160

[1] Priced and classified in a previous docket in Subdistrict No. 5 instead of Subdistrict No. 4.
[2] Priced and classified in a previous docket in Athens County instead of Hocking County.

[F. R. Doc. 43-12566; Filed, August 3, 1943; 10:23 a. m.]

[Docket No. A-1438]

PART 327—MINIMUM PRICE SCHEDULE, DISTRICT NO. 7

MEMORANDUM OPINION AND ORDER ESTABLISHING MINIMUM PRICES

Memorandum opinion and order of the Director in the matter of the petition of District Board No. 7 for the establishment of minimum prices for river and ex-river shipments of the coals of Midvale No. 2 Mine (Mine Index No. 122) of Eastern Gas & Fuel Associates (Koppers Coal Division), a code member in District 7.

On August 26, 1942, after notice and hearing, Floyd McGown, a duly designated Examiner of the Bituminous Coal Division, submitted a report in which he found that: (1) minimum f. o. b. mine prices should be established for the high volatile coals in Size Groups 1 to 27, inclusive, produced by Eastern Gas & Fuel Associates (Koppers Coal Division) at its Midvale No. 2 Mine (Mine Index No. 122) in District 7, for shipment by Kanawha River to free alongside consumers at all destinations for all uses except for railway locomotive fuel, except that when floating equipment is loaded on the Kanawha River, at Cabin Creek Junction, West Virginia, Mine Index No. 122 may reduce said prices 25 cents per net ton; (2) the Special River Price Instructions and Exceptions for river (free alongside) and ex-river deliveries set forth on pages 37, 38, 40, 41 and 42, and amendments thereto, of the schedule of effective minimum prices for District No. 8 for all shipments except truck should be made applicable to the coals in question; (3) seasonal discounts for domestic coal should apply; (4) there should be added to the f. o. b. mine price for river (free alongside) not less than a reasonable charge for all transportation and handling to the point at which the purchaser takes possession of the coal, determined in the light of charges currently quoted or used by competing river transporters and others rendering similar services; and (5) for the determination of minimum f. o. b. mine

prices for the coals produced at the Midvale No. 2 Mine for ex-river deliveries, the Special River Price Instructions and Exceptions shown on pages 37, 38, 40, 41, and 42 of the schedule of effective minimum prices for District No. 8 for all shipments except truck, and amendments thereto, should be made applicable. The Examiner recommended that an order be entered in conformity with the foregoing provisions.

An opportunity to file exceptions to the report of the Examiner was afforded all interested parties. As of the date hereof, no such exceptions have been filed.

I have considered the entire record in this proceeding and the report of the Examiner, and upon the basis thereof, I find that the report of the Examiner adequately and accurately reflects the law and the facts, as disclosed by the record. Accordingly, I have concluded to approve and adopt the proposed findings of fact and the proposed conclusions of law of the Examiner, as the findings of fact and conclusions of law of the Director.

Upon the entire record in this proceeding, upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to section 4 II (d) and other provisions of the Bituminous Coal Act of 1937.

It is ordered, That the proposed findings of fact and the proposed conclusions of law of the Examiner be, and the same hereby are, approved and adopted as the findings of fact and conclusions of law of the Director; and

It is, further, ordered, That § 327.14 (*Special prices*) be, and the same hereby is, added to the schedule of effective minimum prices for District No. 7 for all shipments except truck in acordance with the minimum prices [1] for river (free alongside deliveries) and ex-river shipments and the provisions set forth, in detail, in Supplement R, which supplement is hereinafter set forth and hereby made a part hereof.

Dated: July 23, 1943.

[SEAL] DAN H. WHEELER,
Director.

SUPPLEMENT R

§ 327.14 *Special prices*—(a) *Prices for river (free alongside deliveries) and ex-river shipments*—(1) *Special river price instructions and exceptions*—(i) *Definitions of river (free alongside) deliveries.* "River (free alongside) deliveries", as used in this schedule, means:

(*a*) Deliveries in barges or other floating equipment alongside river docks or other barge unloading facilities to purchasers for consumption in their plants which adjoin such docks or other barge unloading facilities;

(*b*) Deliveries in barges or other floating equipment to purchasers for consumption on floating equipment operated by them;

(c) Deliveries in barges or other floating equipment alongside river docks or other barge unloading facilities to those retail dealers (not located in the Cincinnati, Louisville, Memphis, Chicago or Minneapolis-St. Paul areas as herein defined), for resale at retail, who operate such river docks or other barge unloading facilities and whose yard and storage facilities (in which the coal purchased free alongside is stored, when it is stored) adjoin such river docks or other barge unloading facilities; and

(*d*) Deliveries to any person at the mine or at a point nearer the mine than the river docks or other barge unloading facilities for transportation in barges or other floating equipment to a purchaser who takes free alongside delivery, within the meaning of Item (1) (*a*) or Item (1) (c) above.

(ii) *Definition of ex-river deliveries.* "Ex-river deliveries", as used in this schedule, means deliveries involving river transportation other than those defined in Item (1), above.

(iii) *Special cases.* (*a*) Any code member or Consumers Counsel Division, on behalf of any consumer or retail dealer (which consumer or retail dealer falls within the definition of a purchaser of ex-river coal, as defined in Item 2 above, but who (*a*) in the past customarily purchased coal moving by river at such prices and under such conditions that the coal moving by river was not competitive with coal of comparable quality moving by rail, truck or ex-lake dock, or (*b*) in the past regularly purchased coal moving by river at a savings over available prices for comparable coal moving by rail, truck or ex-lake dock) may file a petition requesting that such consumer or retail dealer be enabled to purchase at the minimum f. o. b. mine prices for free alongside delivery; and the Division shall, after hearing and upon satisfactory showing, authorize the sale of river coal to such purchaser by one or more code members at minimum f. o. b. mine prices for free alongside delivery, subject to such conditions as may be necessary to accomplish the objectives of the Act and to maintain the prescribed minimum prices. Any such petition filed by a code member or Consumers Counsel Division, as herein provided, and the procedure subsequent thereto shall be governed by the rules and regulations governing the procedure in respect to applications under section 4 II (d) of the Bituminous Coal Act of 1937.

Similarly, any code member or Consumers Counsel Division may file a petition requesting appropriate relief on behalf of any consumer or retail dealer, who in the absence of established minimum f. o. b. mine prices and by virtue of some future development, would have customarily purchased coal moving by river at such prices and under such conditions that the coal moving by river would not be competitive with coal of comparable quality moving by rail, truck or ex-lake dock, or would have regularly purchased coal moving by river at savings over available prices of comparable coal moving by rail, truck or ex-lake dock. Such future development may pertain to the location of the plant or facilities of the consumer or retail dealer, the cost of river transportation or other similar matters.

Any State or political subdivision of a State, which is a consumer of ex-river coal, may, on its own behalf, file petitions such as those which a code member or the Consumers Counsel Division may file, as above provided.

(*b*) Any code member may sell at the free alongside prices to the following consumers, subject to the limitations indicated:

(*1*) American Rolling Mill Company (for consumption at its plants located at Hamilton and Middletown, Ohio).

(*2*) Champion Paper & Fibre Company (for consumption at its plant located at Hamilton, Ohio).

(*3*) The City of Cincinnati, Ohio (for consumption within the city limits).

(*4*) The Board of Education of the City School District in the City of Cincinnati, Ohio (for consumption within the city limits).

(*5*) The Cincinnati Gas and Electric Co. (for consumption at its West End Station, located at Cincinnati, Ohio).

(*6*) The County of Hamilton, Ohio (for consumption at the County Home, the Court House, and the Tuberculosis Hospital).

(*7*) James Walsh and Company, Inc. (for consumption at its plant located at Lawrenceburg, Indiana).

(*8*) Key City Gas Company (for consumption at its plant located at Dubuque, Iowa).

(*9*) Lawrenceburg Roller Mills Company (for consumption at its plant located at Lawrenceburg, Indiana).

(*10*) The Northern States Power Company (for consumption at its Riverside Station Plant at Minneapolis, Minnesota, and its High Bridge Station Plant at St. Paul, Minnesota, limited to coals in Size Groups Nos. 20, 21, and 22).

(*11*) Old Quaker Company (for consumption at its plant located at Lawrenceburg, Indiana).

(*12*) Procter and Gamble Company (for consumption at its Ivorydale and St. Bernard plants located at St. Bernard, Ohio, provided that such coal is delivered in not less than barge load lots).

(*13*) Joseph E. Seagram and Sons, Inc. (for consumption at its plant located at Lawrenceburg, Indiana).

[1] The foregoing prices shall include the general increase in prices granted by Order of the Director in General Docket No. 21, dated August 28, 1942.

(2) *Price tables.*

[High volatile coal prices in cents per net ton f. o. b. Eastern Gas & Fuel Associates (Koppers Coal Division) Midvale No. 2 Mine, Index No. 122, for shipment by river to free alongside consumers to all destinations in all market areas. For all uses except for railway locomotive fuel]

	Size group Nos.																					
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	27
Price classifications	Q	Q	Q	Q	L	L	K	H	F	H	E	E	E	E	E	E	E	E	E	E	E	E	E
Prices	275	265	255	245	255	245	235	225	220	220	235	225	220	210	235	225	215	210	205	200	195	190	200

When floating equipment is loaded on Kanawha River at Cabin Creek Junction, West Virginia, Mine Index No. 122, may reduce the above prices 25 cents per net ton.

1. *Seasonal discounts.* Seasonal discounts for domestic coal as provided in price instructions and exceptions may be applied to the prices for free alongside deliveries.

2. *Transportation charges.* In all cases of free alongside delivery, as herein before defined, there shall be added to the f. o. b. mine price not less than a reasonable charge for rail, truck, river or other transportation and handling to the point at which the purchaser takes possession of the coal. The reasonableness of the charge at any given time shall be determined in light of the charges then currently quoted or used by competing river transporters and others rendering similar services.

3. The prices in the above price table shall be increased or decreased the cents per net ton indicated below for the market area at the destination point.

When destination is within Market Areas 1 to 21, inclusive; 100, 101, 102; 105 to 112, inclusive; 118; 125 to 129, inclusive; 131; 133 to 137, inclusive; 139 to 141, inclusive	No Adjustments.
When destination is within Market Areas 32 to 41, inclusive; 47 to 50, inclusive; 52 to 69, inclusive; 71, 73; 75 to 78, inclusive; 203, 215, 216, 234, 237 (Idaho), 240 and 241	Deduct 15¢.
Market Areas 22 to 31, inclusive; 70, 72, 74, 103, 104, 114, 115, 116; 151 to 157, inclusive; and 204 to 212, inclusive	Deduct 10¢.
Market Areas 42 to 46, inclusive; 200, 201, 202, 213, 214; 217 to 232, inclusive; 236, 244, 245, 246	Deduct 5¢.
Market Areas 237 (Washington), 238, 239, 242, 243; 247 to 254, inclusive	Add 5¢.
Market Areas 113, 117; 120 to 124, inclusive; 130, 132, 142, 143; 145 to 148, inclusive; and 150	Add 10¢.

(b) *Ex-river deliveries*—(1) *F. o. b. mine prices.* When coal is sold for ex-river delivery, whether the sale is made f. o. b. mine or f. o. b. destination or at some intermediate point, the minimum f. o. b. mine price of the size and quality of coal reloaded at the river terminals shall be such that the price at destination, including the rail, truck, river and other transportation and terminal and dock charges or expenses, shall be not less than the minimum all-rail price for the same size and quality of coal f. o. b. the originating mine for the destination Market Area plus the base freight origin group all-rail freight rate from District No. 7 to the same destination.

(2) *Delivery costs.* Producers or distributors shall promptly submit to the Coal Division such data and information as will establish that the coal sold ex-river was sold on a basis whereby it would be delivered at the destination at an amount not less than the sum of the f. o. b. mine price for the same size and quality of coal destined to the same Market Area and the base freight origin group all-rail freight rate from District No. 7 to the destination.

(3) *Seasonal discounts.* Seasonal discounts for domestic coal as provided in the price instructions and exceptions as shown for high volatile coals in section I of this schedule may be applied to prices for such coal for ex-river delivery.

(4) *Price exceptions for screenings.* The f. o. b. mine price for high volatile coal in Size Groups 18 to 22, inclusive, when destined to Market Areas 24, 25, 26, 28, 31 and that part of 23 located east of and including points on the N. Y. C. Railroad from Anderson to and including Alexandria and south of and including all destinations on the N. Y. C. & St. L. Railroad between and including Alexandria and Muncie and south of and including all destinations on the N. Y. C. Railroad between Muncie and Winchester, and that part of 27 lying south of and including the line of the N. Y. C. Railroad between Indianapolis and Anderson, may be adjusted so that such coal will deliver at 17¢ per net ton below the price for the same coal delivered via all-rail movement to the same destination.

(5) *Price exceptions for retail dealers*—(i) *F. o. b. mine prices.* All sizes to retail dealers having facilities, as described under Item 1 (c) of Special River Price Instructions, but who are located within the Cincinnati, Louisville, Memphis, Chicago or Minneapolis-St. Paul areas, as herein described, shall be made on the basis of an f. o. b. mine price, plus the all-rail or lake (as the case may be) freight rate to the destination, the same as herein described for ex-river movement, except that not more than the following deductions in cents per net ton may be made from the f. o. b. mine price in order that such coal may deliver in barges alongside such retail dealers' barge unloading facilities at delivered prices less than the all-rail or lake delivered price by the amount of these deductions:

	Cents
Size Groups 1 to 15, inclusive, 24, 25, 26	Deduct 60
Size Groups 16 to 23, inclusive, 27	Deduct 20

No deductions are applicable to the Chicago area (see base freight rates to the Chicago area following).

(ii) *Base freight rates.* In determining the base delivered price from which these deductions may be made, the published freight rates from the following Freight Origin Groups shall be used:

Cincinnati Area: Freight Origin Groups 61, 123, 150.

Louisville Area: Freight Origin Groups 80, 100.

Memphis Area: Freight Origin Groups 70, 71, 90.

Chicago Area: The rail freight rate from Freight Origin Groups 61, 123, 150 to Lake Erie ports plus the dumping charge plus the bulk vessel cargo rate of 55¢ to the Chicago Area. This results in the same delivered price for the same coal alongside such retail dealers' barge unloading facilities within the Chicago area, whether the coal is delivered alongside in river barges or in lake vessels.

Minneapolis-St. Paul Area: The rail freight rate from Freight Origin Groups 61, 123, 150 to Lake Erie ports plus the dumping charge plus the bulk vessel cargo rate of 45¢ to Duluth-Superior plus a dock handling charge of $1.00 on Lump and Double Screened coal and 50¢ on other than Lump and Double Screened coal plus the rail freight rate from Duluth-Superior to the destination.

(iii) *Description of retail dealers areas.* The following are descriptions of the areas to which prices for retail dealers, as referred to in Ex-River Deliveries, Item 5, are applicable:

Cincinnati area. Both banks of the Ohio River from a point at and on the opposite bank of the River from Silver Grove, Kentucky, downstream to and including a point at and on the opposite bank of the River from Columbia Park, Ohio.

Both banks of the Licking River from a point at and on the opposite bank of the River from DeCoursey, Kentucky, downstream to the confluence of the Licking and Ohio Rivers.

Louisville area. Both banks of the Ohio River from a point at and on the opposite bank of the River from Utica, Indiana, downstream to and including a point at and on the opposite bank of the River from Locust Point, Indiana.

Memphis area. Both banks of the Mississippi River from a point 10 miles upstream from the northerly limits of the City of Memphis on the water front to a point 10 miles downstream from the southerly limits of the City of Memphis on the water front, including a similar distance on the opposite bank of the River.

Both banks of the Wolf River from the head of navigation, downstream to its confluence with the Mississippi River.

Chicago area. Both banks of the Des Plaines River and the Chicago Sanitary and Ship Canal from a point at and on the opposite side of the Canal and River from Lockport, Illinois, upstream to and including all navigable points connected with the Chicago Sanitary and Ship Canal within Cook and Will Counties, Illinois and Lake County, Indiana including the Lake Michigan harbor.

Minneapolis-St. Paul area. Both banks of the Mississippi River from a point at the confluence of the St. Croix and Mississippi Rivers and on the opposite bank of the Mississippi River from this point upstream to a point at and on the opposite bank of the River from Anoka, Minnesota.

[F. R. Doc. 43-12565; Filed, August 3, 1943; 10:22 a. m.]

[Docket No. A-2077]

PART 327—MINIMUM PRICE SCHEDULE, DISTRICT NO. 7

ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in

the matter of the petition of District Board No. 7 for the establishment of price classifications and minimum prices for coals produced from certain mines in District No. 7.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals produced from certain mines in District No. 7.

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 327.11 (*Low volatile coals: Alphabetical list of code members*) is amended by adding thereto Supplement R, which supplement is hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division on or before August 7, 1943, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final on August 10, 1943, unless it shall otherwise be ordered.

Dated: July 24, 1943.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 7

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 327, Minimum Price Schedule for District No. 7 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 327.11 *Low volatile coals: Alphabetical list of code members*—Supplement R

[Alphabetical list of code members having railway loading facilities, showing price classifications by size groups for all uses except as separately shown]

Mine index No.	Code member	Mine name	Subdistrict No.	Low volatile steam	Shipping point	Railroad	Freight origin group No.	Price classification by size group No.									
								1	2	3	4	5	6	7	8	9	10
339	Duo Coal Company [1]	Martin	1	Sewell	Quinwood, W. Va.	NF&G	19	D	D	C	A	A	B	B	C	C	(†)

†When shown under a Size Group Number, this symbol indicates no classifications effective for this size group.
[1] Formerly Martin-Hines Smokeless Coal Company (S. L. Martin).

[F. R. Doc. 43-12567; Filed, August 3, 1943; 10:23 a. m.]

[Docket No. A-2078]

PART 329—MINIMUM PRICE SCHEDULE, DISTRICT NO. 9

ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 9 for the establishment of price classifications and minimum prices and for other relief for the coals in certain mines.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been filed with this Division by the above-named party requesting the establishment, both temporary and permanent, of price classifications and minimum prices; for change in shipping point for the coals of Mine Index No. 212; and also requesting changes, both temporary and permanent, in price classifications and minimum prices heretofore established for Mine Index Nos. 922 and 682; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and no petitions of intervention having been filed with the Division in the above-entitled matter, and the following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 329.5 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 329.24 (*General prices in cents per net ton for shipment into any market area*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division on or before August 7, 1943, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final on August 10, 1943, unless it shall otherwise be ordered.

No relief is granted herein as to that part of the petition requesting changes in price classifications and minimum prices for the coal produced by Alvey's No. 2 Mine, Mine Index No. 922, of Alvey Brothers (Bernard Alvey) and S. S. Wathen Mine, Mine Index No. 682, of Wathen-Deanfield Coal Co. (S. S. Wathen) for the reasons that a hearing would be necessary and that insufficient time remains prior to August 24, 1943, when the Bituminous Coal Act of 1937 will cease to be in effect to finally determine this question.

No relief is granted herein for the coals of Johnson Mine, Mine Index No. 1094 of Will Johnson, for the reasons that no prices were proposed for this mine in petitioner's Exhibit A.

No relief is granted herein for the coals of the Daniel Boone No. 2 Mine, of Sterling Mining Company, for the reason that the Code Membership Acceptance submitted with respect to this mine has not been approved by the Division.

Dated: July 24, 1943.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 9

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 329, Minimum Price Schedule for District No. 9 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 329.5 *Alphabetical list of code members*—Supplement R

Mine Index No.	Producer	Mine	Seam	Freight origin group	Shipping point	Railroad
[1] 618	Alabama Mining Co. (Delsie Phelps).	Phelps & Childers	11	10	Beaver Dam	IC.
[1] 1096	Bates W. C. (Paradise Coal Company).	Paradise Mining Co	11	40	Rockport Drakesboro	IC. L&N.
[1] 1093	Bates, W. C. (Paradise Coal Company).	Paradise Mining Co	12	40	Rockport Drakesboro	IC. L&N.
[1] 1091	Black Gem Mining Company (J. L. Rogers, Jr.)	Black Gem	11	30	Bevier	L&N.
[1] 1089	Clayton & Clayton (Elmo Clayton).	C & C	11	10	Madisonville	IC.
[1] 1097	DuVall, Ross	DuVall Strip	9	10	Mellenry	IC.
[1] 1090	Franklin, Chesley	Franklin	9	50	Providence	L&N-IC.
[1] 721	McCormack, C	Williams	11	10	Rockport	IC.
[1] 607	McCormack, C	Engler	11	10	Rockport	IC.
[1] 1095	Rye & Kyle (Archie Rye)	R & K	9	10	Madisonville	IC.
[2] 48	Meadows, T. C. (Meadows Coal Co.).	Lakeview #3	6	10	Dawson Springs Charleston	IC. IC.
[3] 212	Hawes, Sherman & Rex	Hawes	Stray	[4] 40	Drakesboro Beaver Dam	L&N. IC.
[3] 1087	Romans, Lonnie	Ellis No. 4-A	Stray	30	Drakesboro	L&N.

[1] The f. o. b. mine prices for coal shipped by Mine Index Nos. 618, 1096, 1093, 1091, 1089, 1097, 1090, 721, 607, 1095 to any market area in any size group and for any use, including Railroad Locomotive Fuel, are the same as the prices shown for Beech Creek Coal Company, Mine Index No. 1, in Price Schedule No. 1 for District No. 9, For All Shipments Except Truck.

[2] The f. o. b. mine prices for coal shipped by Mine Index No. 48 to any market area in any size group and for any use, including Railroad Locomotive Fuel, are the same as the prices shown for Dawson Daylight Coal Company, Mine Index No. 19, in Price Schedule No. 1 for District No. 9, For All Shipments Except Truck.

[3] The f. o. b. mine prices for coal shipped by Mine Index Nos. 212, 1087 to any market area for any use, including Railroad Locomotive Fuel, for size groups 1 to 4, inclusive, shall be the same as the prices shown for Sentry Coal Mining Co., Mine Index No. 72, in Price Schedule No. 1 for District No. 9, for All Shipments Except Truck; for size groups 5 to 29, inclusive, the prices shall be the same as the prices shown for Beech Creek Coal Company, Mine Index No. 1, in Price Schedule No. 1 for District No. 9, For All Shipments Except Truck.

[4] Freight Origin Group 30 is no longer applicable.

TRUCK SHIPMENTS

§ 329.24 *General prices in cents per net ton for shipment into any market area*—Supplement T

Code member index	Mine index No.	Mine	Seam	Prices and size group Nos.																
				1, 2	3	4	5	6	7	8	9	10, 11, 12	13, 14	15	17	18, 19, 20	21, 22	23, 24	25	26, 27	28, 29
BUTLER COUNTY																					
Johnson, Will	1094	Johnson	Stray	240	230	220	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
Romans, Lonnie	1087	Ellis No. 4-A	Stray	240	230	220	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
HANCOCK COUNTY																					
Bruner, J	1088	Bee	Stray	210	200	190	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
HOPKINS COUNTY																					
Clayton & Clayton (Elmo Clayton).	1089	C & C	#11	210	200	190	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
Franklin, Chesley	1090	Franklin	#9	210	200	190	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
Rye & Kyle (Archie Rye)	1095	R & K	#9	210	200	190	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
MUHLENBERG COUNTY																					
Bates, W. C. (Paradise Coal Co.).	1096	Paradise Mining Co.	#11	210	200	190	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
Bates, W. C. (Paradise Coal Co.).	1093	Paradise Mining Co.	#12	210	200	190	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
Black Gem Mining Company (J. L. Rogers, Jr.).	1091	Black Gem	#11	210	200	190	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120
OHIO COUNTY																					
DuVall, Ross	1097	DuVall Strip	#9	210	200	190	180	175	165	165	155	145	115	55	----	----	----	----	----	125	120

[F. R. Doc. 43-12568; Filed, August 3, 1943; 10:24 a. m.]

PART 334—MINIMUM PRICE SCHEDULE, DISTRICT NO. 14

[Docket No. A–1359]

MEMORANDUM OPINION AND ORDER

Memorandum opinion and order of the Director in the matter of the petition of District Board 14 for revision of the effective price classifications and minimum prices for the coals produced at certain mines in Production Group No. 5, in District No. 14, pursuant to Section 4 II (d) of the Bituminous Coal Act of 1937.

This proceeding was instituted upon a petition filed with the Bituminous Coal Division on March 18, 1942, by District Board 14, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. The petition requests the revision of the effective price classifications and minimum prices for the coals produced at the following six [1] mines, all located in Sebastian County, Arkansas, in Production Group 5 of District 14:[2]

Mine index No.	Mine name	Code member
2	Watson Excelsior	Barr Excelsior Coal Co. (hereinafter referred to as Barr).
14	Boyd No. 3	Boyd-Sicard Coal Co. (hereinafter referred to as Boyd).
34	Barr	Excelsior Thin Vein Coal Co., Inc. (hereinafter referred to as Excelsior).
176	Peerless No. 2	Peerless Coal Co. (hereinafter referred to as Peerless).
195	Gary	Harper, W. T. (Harper-Excelsior Coal Co.) (hereinafter referred to as Harper).
511	Paris Purity No. 6.	Paris Purity Coal Co. (herein referred to as Paris Purity)

All of these mines except the Paris Purity mine hereinafter sometimes will be referred to collectively as the Group 1 mines.

Motions of intervention and protest were filed by all operators whose mines were involved in the petition. The Bituminous Coal Consumers' Counsel filed a notice of appearance and brief. After due notice, a hearing was held in this matter, commencing April 21, 1942, before Examiner Scott A. Dahlquist, in Fort Smith, Arkansas, at which the above-named intervenors appeared. Thereafter, D. C. McCurtain was designated as Examiner vice Dahlquist.

On April 7, 1943, the Examiner filed his Report in this proceeding. He recommended the following revisions of classifications and prices:

1. FOR THE COALS PRODUCED AT THE MINES OF BARR, BOYD, EXCELSIOR, AND PEERLESS

Size groups	4	6	7	8	9	18
Rail	D	E	E	E	E	J
Truck	4.75	4.75	4.75	4.75	4.50	3.75

2. FOR THE COALS PRODUCED AT THE MINE OF HARPER

Size groups	4	6	7	8	9	10	11	13	17	18
Rail	D	E	E	E	E	G	F	D	A	J
Truck	4.75	4.75	4.75	4.75	4.50	4.00	3.85	2.30	2.15	3.75

3. FOR THE COALS PRODUCED AT THE MINE OF PARIS PURITY

Size groups	4	6	7	8	9	10	11	13	17	18
Rail	G	H	H	H	H	G	F	D	A	N
Truck	4.55	4.55	4.55	4.55	4.30	4.00	3.85	2.30	2.15	3.55

These changes are identical with those requested in the petition, as amended at the hearing, except that the recommended minimum prices for Paris Purity mine coals in Size Group 18 are 10 cents per ton lower, and except that the changes reflect the increases effected by the Order of August 28, 1942 in General Docket No. 21. The Examiner found that these changes were justified in order to effect the proper coordination between the prices of the coals of the various competing code members. In arriving at this conclusion, he took into consideration not only the evidence concerning mine conditions, operating and preparation methods, analyses, appearance, production, and market history, but also that concerning the size stability, friability, and slack content of the coals, including the results of drop shatter tests.

Paris Purity filed exceptions to the Report of the Examiner but no exceptions have been filed by the operators of the Group 1 mines. By letter, the operators of the Group 1 mines have requested disposition of the petition on the merits in so far as the relief recommended by the Examiner is applicable to the coals produced at their mines. Paris Purity, on the other hand, has indicated by letter that it would not object to the issuance of such an order, nor to dismissal of the entire proceeding, but it does object to a revision of prices for coals produced at its mine without affording it an opportunity to present oral argument to the Director, its application for oral argument having been previously granted.

Although a motion for severance of that portion of the docket relating to price changes for coals produced at the Group 1 mines was denied by me July 6, 1943, the case has assumed a new complexion by reason of the fact that it now appears that the Bituminous Coal Act of 1937 will expire (save as provided in section 19 of the Act) August 24, 1943.

Examination of the entire record in this proceeding leads me to believe that the Report of the Examiner, in so far as it relates to prices for coals produced by the Group 1 mines, adequately and accurately reflects the evidence. To this extent, I believe that the proposed findings of fact and proposed conclusions of law of the Examiner should be adopted as the findings of fact and conclusions of law of the Director.

On the other hand, Paris Purity has vigorously attacked the conclusions and recommendations of the Examiner with respect to prices the Examiner found to be appropriate for the coals produced at Mine Index No. 511 of Paris Purity. It has filed voluminous exceptions which raise varied and complex questions of law and fact. Normally, oral argument would be heard and the entire proceeding decided at one time. In view of the approaching elapse of the statute, however, it is hardly feasible to schedule oral argument, permit the filing of appropriate briefs, and finally determine the issues raised by Paris Purity. Moreover, any order which might be entered would become inoperative after the Act expires. For these reasons it seems advisable to dismiss the petition in so far as it relates to Paris Purity Coal Company, effective midnight, August 23, 1943. This appears to be satisfactory to Paris Purity as well as the other group of mines involved, and will prejudice neither.

It is therefore ordered, That the proposed findings of fact and conclusions of law of the Examiner are approved and adopted as the findings of fact and conclusions of law of the Director in so far as they relate to the coals produced at Mine Index Nos. 2, 14, 34, 176, and 195.

It is further ordered, That § 334.5 (*Alphabetical list of code members*) and § 334.24 (*General prices for shipment into all market areas*) in the Schedule of Effective Minimum Prices for District No. 14 for All Shipments Except Truck and the Schedule of Effective Minimum Prices for District No. 14 for Truck Shipments are amended, effective fifteen (15) days from the date hereof, by establishing in lieu of the present price classifications and minimum prices for the coals of Mine Index Nos. 2, 14, 34, 176, and 195, in certain size groups, those set forth in Supplement R and Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That the petition is dismissed effective midnight August 23, 1943, in so far as it relates to revisions of the classifications and minimum prices of the coals produced at Mine Index No. 511 of the Paris Purity Coal Company.

Date: July 24, 1943.

[SEAL] DAN H. WHEELER,
Director.

[1] The petition was amended at the hearing, on motion of petitioner, by eliminating the request for revision of the price classifications and minimum prices of the coals of a seventh mine, Mine Index No. 553 (Lewis Excelsior Mine) of the Lewis Excelsior Coal Company (T. E. Lewis).

[2] Mine names and code member names listed here vary, in several cases, from those listed in the petition. The designations listed conform with the current official records of the Division.

DISTRICT No. 14

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 334, Minimum Price Schedule for District No. 14 and supplements thereto.

FOR RAIL SHIPMENTS

§ 334.5 *Alphabetical list of code members*—Supplement R

[Alphabetical list of code members showing price classification, by size group for all uses except railroad locomotive fuel]

Code member	Mine index No.	Mine name	Prod. group No.	Shipping point	Railroad	Freight origin group No.	Price classification by size group																
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Boyd-Sicard Coal Co	14	Boyd No. 3	5	Excelsior, Ark	MV	15	---	---	---	D	---	E	E	E	E	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	J
Excelsior Thin Vein Coal Company, Inc.	34	Barr	5	Hackett, Ark	SL-SF	16	---	---	---	D	---	E	E	E	E	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	J
Harper, W. T. (Harper-Excelsior Coal Company).	195	Gary	5	Excelsior, Ark	MV	15	---	---	---	D	---	E	E	E	E	G	F	(*)	D	(*)	(*)	(*)	A	J
Peerless Coal Company, c/o W. H. Lewis.	176	Peerless #2	5	Excelsior, Ark	MV	15	---	---	---	D	---	E	E	E	E	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	J
Watson Excelsior Coal Co., c/o T. W. Watson.	2	Watson Excelsior	5	Hackett, Ark	SL-SF	16	---	---	---	D	---	E	E	E	E	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	J

* Previously classified for these size groups. No changes requested.

FOR TRUCK SHIPMENTS

§ 334.24 *General prices for shipment into all market areas*—Supplement T

Code member index	Mine index No.	Mine	Subdistrict No.	County	Prices and size group Nos.																
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Boyd-Sicard Coal Co	14	Boyd No. 3	5	Sebastian	---	---	---	475	---	475	475	475	450	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	375
Excelsior Thin Vein Coal Company, Inc.	34	Barr	5	Sebastian	---	---	---	475	---	475	475	475	450	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	375
Harper, W. T. (Harper-Excelsior Coal Company).	195	Gary	5	Sebastian	---	---	---	475	---	475	475	475	450	400	385	(*)	230	(*)	(*)	(*)	215	375
Peerless Coal Company c/o W. H. Lewis.	176	Peerless #2	5	Sebastian	---	---	---	475	---	475	475	475	450	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	375
Watson Excelsior Coal Co. c/o T. W. Watson.	2	Watson Excelsior	5	Sebastian	---	---	---	475	---	475	475	475	460	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	375

*Previously priced for these size groups. No changes requested.

[F. R. Doc. 43-12564; Filed, August 3, 1943; 10:22 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IX—War Production Board

Subchapter B—Executive Vice Chairman

AUTHORITY: Regulations in this subchapter issued under P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176.

PART 962—IRON AND STEEL

[Supplementary Order M-21-h as Amended August 4, 1943]

TOOL STEEL

§ 962.9 *Supplementary Order M-21-h*—(a) *Definitions.* For the purpose of this order:

(1) "Tool steel" means any steel to be used for the manufacture of tools for use in mechanical fixtures for cutting, shaping, forming, and blanking of material, either hot or cold, or for precision gauges. It is not deemed to include steel for use as shanks in the manufacture of tipped or welded tools or for hand tools such as chisels, pliers, screw drivers, wrenches, centering punches and nail-sets.

(2) "Alloy steel" means alloy steel as defined in paragraph (a) of Supplementary Order M-21-a.

(3) "High-speed steel" means alloy tool steel of either of the following classes:

(i) "Class A high-speed steel" means either alloy steel containing not less than .60% carbon and more than 3.0% molybdenum; or alloy steel containing not less than .60% carbon, 6.0% or less tungsten, and more than 3.0% molybdenum.

(ii) "Class B high-speed steel" means alloy steel containing not less than .55% carbon and more than 12.0% tungsten.

Other alloying elements may be present in the high-speed steels of either class, but steel not containing the elements named, in the amount specified, shall not be deemed high-speed steel.

(4) "Producer" means any person who melts tool steel.

(b) *Purchasers' statements.* In addition to any statement required by General Preference Order M-21, on and after May 1, 1943, every order placed with a producer for steel to be used for the manufacture of tools for use in mechanical fixtures for cutting, shaping, forming or blanking of material, either hot or cold, or for precision gauges, shall include the statement, "This is an order for 'tool steel' ", over the signature, either manual or as provided in Priorities Regulation No. 7, of a duly authorized official of the purchaser, which will constitute a representation to the producer and to the War Production Board that the steel ordered will be used only for one or more of the above purposes.

(c) *Producers' forms.* Each producer shall file monthly with the War Production Board, Ref.: M-21-h, melting schedules on form PD-440. The War Production Board may make such changes in any melting schedule as shall seem appropriate and may from time to time issue supplementary directions with regard to melting of tool steel.

(d) *Melting and deliveries of tool steel.* Except pursuant to specific authorization in writing by the War Production Board, tool steel shall be melted and delivered as follows:

(1) Each producer shall melt tool steel in accordance and only in accordance with such melting schedules as are approved by the War Production Board or such supplementary directions as may from time to time be issued by the War Production Board.

(2) Each producer shall deliver tool steel on an order and only on an order for which the melting has been specifically authorized or directed by the War Production Board.

(e) *Special instructions.* The War Production Board may from time to time issue directions as to facilities to be

used in production and directions specifying as to any alloying element the quantities and proportions which may be used in making tool steel, and whether and in what proportions any such element is to be the metal, a ferroalloy, reclaimed metal, scrap, a chemical compound or any other material containing such element.

(f) *Restrictions of deliveries under toll agreements.* Except pursuant to specific authorization in writing by the War Production Board, no person shall make or accept delivery under any toll agreement whereby one person melts tool steel for another person.

(g) *Melting and deliveries of high-speed steel.* Except pursuant to specific authorization in writing by the War Production Board

(1) No producer shall melt high-speed steel except within the limits below specified for the following elements:

(i) Class A high-speed steel:

Grade	C.	Cr.	W.	Mo.	V.	Co.
	Min.	*Max.*	*Max.*	*Max.*	*Max.*	
I	.60	4.5	6.0	5.0	1.6	0.0
Ic	.60	4.5	6.0	5.0	1.9	3.5 Min.
II	.60	4.5	1.8	8.75	1.2	0.0
IIc	.60	4.5	1.8	8.75	1.9	3.5 Min.
III	.60	4.5	------	8.75	1.9	0.0
IIIc	.60	4.5	------	8.75	1.9	3.5 Min.

(ii) Class B high-speed steel:

Grade	C.	Cr.	W.	Mo.	V.	Co.
	Min.	*Max.*	*Max.*		*Max.*	
IV	.55	4.5	19.0	0.0	1.10	0.0
IVc	.55	4.5	22.0	1.1 Max.	1.90	3.5 Min.

(2) No producer shall melt in any calendar quarter, Class B high-speed steel which will exceed, in the aggregate, by weight, 35% of the total high-speed steel melted by him in such quarter.

(3) No person shall place an order with a producer or any other person for Class B high-speed steel if Class A high-speed steel would reasonably fulfill his requirements.

(4) No person shall place with a producer, and no producer shall accept, in any calendar quarter orders for Class B high-speed steel which will exceed, in the aggregate, by weight, 35% of the total high-speed steel ordered by such person from such producer during such quarter. This provision does not apply to the placement of orders for high-speed steel with warehouses.

(5) No person shall accept from producers in any calendar quarter, deliveries of Class B high-speed steel which will exceed in the aggregate, by weight, 35% of the total deliveries of all high-speed steel made to him by all producers during such quarter. This provision does not apply to deliveries of high-speed steel by warehouses.

(6) Customers' orders for high-speed steel which are to be filled in whole or in part by the use of material, including ore, ferro alloys, and alloy-bearing scrap, furnished by such customers shall be subject to all the restrictions and provisions of this order.

(7) The foregoing provisions of this paragraph (g) do not authorize the purchase or acquisition of Class A high-speed steel for the purpose of obtaining complementary quantities of Class B high-speed steel when the Class A high-speed steel being purchased or acquired will not be put into productive use within the time limits allowable by applicable War Production Board inventory regulations.

(h) *Exceptions to restrictions on deliveries of high-speed steel.* The provisions of paragraphs (g) (4) and (5) with respect to maximum permitted purchases and deliveries of Class B high-speed steel shall not apply to:

(1) Deliveries of high-speed steel to any person whose total receipts of high-speed steel from all producers does not exceed 100 lbs. per calendar quarter.

(2) Deliveries of high-speed steel to any person whose total receipts of high-speed steel from any producer in any calendar quarter balance within 5%, by weight, or 500 lbs., whichever is the lesser, of the permissive ratio of Class B high-speed steel to total high-speed steel.

(i) *Melting and deliveries of Class A high-speed steel.* Except pursuant to specific authorization in writing by the War Production Board:

(1) On and after December 1, 1942, no producer shall melt during any calendar month Class A high-speed steel, grades II and III, in excess of 30% of the monthly average tonnage of such Class A high-speed steel melted by him during the second calendar quarter of 1942.

(2) On and after January 1, 1943, no person shall accept for delivery from a producer during any calendar quarter Class A high-speed steel, grades II and III, in excess of 35% of the amount of such Class A high-speed steel received by him during the second calendar quarter of 1942.

(j) *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.

(k) *Appeal.* Any 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.

(l) *Communications.* All communications concerning this order shall, unless otherwise directed, be addressed to: War Production Board, Steel Division, Washington 25, D. C.; Ref.: M-21-h.

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-12638; Filed, August 4, 1943; 11:16 a. m.]

PART 962—IRON AND STEEL

[Direction 1 to Supplementary Order M-21-h]

USE OF VANADIUM IN MELTING ALLOY TOOL STEELS

The following Direction 1 is issued pursuant to Supplementary Order M-21-h.

Except pursuant to specific authorization or direction of the War Production Board, no producer shall use vanadium in the melting of alloy tool steel except within the limits below specified:

Grades I-IVc, High speed steel: In accordance with paragraph (g) of Order M-21-h.

Grade V, Hot work steels:

C	Mn	Si	Cr	W	Mo	V
.25/.55	.15/.45	.15/.45	3.50/4.50	16.00/18.00		.30/.40
.25/.55	.15/.45	.15/.45	2.50/4.50	13.00/15.00		.30/.40
.25/.55	.15/.45	.15/.45	2.50/4.50	10.00/12.00		.30/.40
.25/.55	.15/.45	.15/.45	2.50/4.50	7.50/ 9.50		.30/.40
.30/.45	.20/.75	.80/1.35	4.50/6.00		1.00/1.50	.30/.40

Grade VI, High chrome die steels; No vanadium permissible.

Grade VII, All other alloy tool steels:

1.00/1.30	.15/.40	.10/.45	.25/.80	1.00/1.50	/.30 max.	.15/.25
.60/1.35	.10/.45	.10/.45				.15/.25
.45/.70	.30/1.20	.70/2.25	/.50 max.		/.50 max.	.15/.25
.40/1.00	.20/.90	.15/.55	.60/1.10			.15/.25

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-12639; Filed, August 4, 1943; 11:16 a. m.]

PART 1010—SUSPENSION ORDER

[Suspension Order S–301]

B. SIMON HARDWARE CO. ORDER FOR STAY OF EXECUTION

§ 1010.301 *Stay of execution of Suspension Order S–301.* (a) The provisions of the Suspension Order S–301 shall be stayed and shall be of no force or effect until further order of the War Production Board.

Issued this 3rd day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43–12637; Filed, August 4, 1943; 11:21 a. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S–395]

BECK ENGINEERING COMBUSTION KOMPANY

Vernon S. Beck is engaged in business as a manufacturer and fabricator of furnaces under the firm name of Beck Engineering Combustion Kompany, 3033 Spruce Street, St. Louis, Mo. During the fourth quarter of 1942 he extended ratings to obtain deliveries and accepted deliveries of over 40 tons of carbon steel in excess of quantities authorized on his PD–25–A certificate. This was in violation of Priorities Regulation No. 11. In January and February, 1943, he put into production and completed six furnaces without having obtained approval from the War Production Board in violation of Limitation Order L–22–A. Vernon S. Beck had knowledge of Priorities Regulation No. 11 and of Limitation Order L–22–A and the aforesaid violations were wilful.

These violations of Limitation Order L–22–A and of Priorities Regulation No. 11 have hampered and impeded the war effort of the United States. In view of the foregoing: *It is hereby ordered,* That:

§ 1010.395 *Suspension order No. S–395.* (a) Deliveries of material to Vernon S. Beck, individually, or doing business as Beck Engineering Combustion Kompany, or otherwise, his or its successors or assigns, shall not be accorded priority over deliveries under any other contract or order and no preference ratings shall be assigned, applied or extended to such deliveries by means of preference rating certificates, preference rating orders, general preference orders, or any other order or regulation of the War Production Board, unless hereafter specifically authorized in writing by the War Production Board.

(b) No allocation or allotment shall be made to Vernon S. Beck, individually, or doing business as Beck Engineering Combustion Kompany, or otherwise, his or its successors or assigns, of any material or product, the supply or distribution of which is governed by any order of the War Production Board, unless hereafter specifically authorized in writing by the War Production Board.

(c) Nothing contained in this order shall prevent deliveries of materials made pursuant to allotment or preference rating assigned by CMPL–150 issued May 20, 1943 and CMPL–200 issued June 4, 1943.

(d) Nothing contained in this order shall be deemed to relieve Vernon S. Beck, individually, or doing business as Beck Engineering Company, or otherwise, from any restriction, prohibition or provision contained in any other order or regulation of the War Production Board, except in so far as the same may be inconsistent with the provisions of this order.

(e) This order shall take effect on August 4, 1943, and shall expire on September 30, 1943.

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43–12640; Filed, August 4, 1943; 11:17 a. m.]

PART 1227—AROMATIC PETROLEUM SOLVENTS

[Allocation Order M–150 as Amended August 4, 1943]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of aromatic petroleum solvents 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:

§ 1227.1 *Allocation Order M–150*—(a) *Definitions.* For the purposes of this order:

(1) "Aromatic petroleum solvents" means solvents or naphthas of petroleum origin, other than benzol and toluol, containing more than 30% by volume of aromatic hydrocarbons as determined by the analytical procedure described as "Proximate Analysis of Hydrocarbon Thinners" published in the Scientific Section Circular No. 568 of the National Paint, Varnish and Lacquer Association, November, 1938, pages 381–388, and having A. S. T. M. 50% distillation point lower than 330° F.

Such term also includes all grades of xylol, regardless of whether derived from petroleum, coal tar or other sources, and includes high-flash naphtha as defined in the next paragraph.

(2) "High-flash naphtha" means water white coal tar solvent naphtha, refined from coke oven light oil, coal tar distillate, drip oils or holder oils.

(3) "Producer" means any person engaged in the production of aromatic petroleum solvents and includes any person who has such materials produced for him pursuant to toll agreement.

(4) "Distributor" means any person who purchases or has purchased aromatic petroleum solvents for resale, excluding, however, any person who sells aromatic petroleum solvents only in containers of capacities of sixty (60) gallons or less.

(b) *Restrictions on use and delivery of aromatic petroleum solvents.* (1) No producer or distributor shall deliver aromatic petroleum solvents other than high-flash naphtha at any time, or high-flash naphtha on and after September 1, 1943, and no person shall accept such delivery, except as specifically authorized in writing by the War Production Board upon application pursuant to paragraph (f).

(2) No person, including a producer or distributor, shall use aromatic petroleum solvents other than high-flash naphtha at any time or high-flash naphtha on and after September 1, 1943, except as specifically authorized in writing by the War Production Board upon application pursuant to paragraph (f).

(3) Each person accepting delivery of any aromatic petroleum solvent pursuant to specific authorization of the War Production Board shall use such aromatic petroleum solvent only for the purposes specified in such authorization.

(4) Each person affected by this order shall comply with such directions as may be given from time to time by the War Production Board, with respect to the use or delivery by such person of any aromatic petroleum solvent.

(c) *Small order exemptions.* Notwithstanding the provisions of paragraphs (b) (1) and (2):

(1) Any person may, without specific authorization, accept delivery from all suppliers, and use for any purpose, 60 gallons or less of aromatic petroleum solvents in any calendar month.

(2) Any person may, without specific authorization, accept delivery of 550 gallons or less of aromatic petroleum solvents other than high-flash naphtha, including quantities received pursuant to paragraph (c) (1) above, from all suppliers during any calendar month, and may use these solvents only as follows:

(i) Toluene range aromatic petroleum solvents only for barrage balloon cloth treatment, aircraft finishes, synthetic rubber manufacture and processing, or impregnation of wire and cable coatings.

(ii) Aromatic petroleum solvents other than toluene range solvents only for the uses listed in Schedule A annexed hereto.

(3) Authorization by the War Production Board is required for any producer or distributor to make such small order deliveries, upon application pursuant to paragraph (f) requesting an aggregate quantity of aromatic petroleum solvents for small orders.

(d) *Special exemption.* The restrictions provided for in paragraph (b) (1) hereof shall not apply to, and the specific authorization provided for in paragraph (b) (2) hereof, shall not be required with respect to, delivery to, or acceptance of delivery or use by, any person of any intermediate fraction for the manufacture of any aromatic petroleum solvents.

(e) *Production of aromatic petroleum solvents.* Each producer shall comply with such directions as may be given from time to time by the War Production Board with respect to the production of any aromatic petroleum solvent.

(f) *Applications and reports.* (1) The following instructions for filling out Forms WPB 2945 (formerly PD–600) and WPB 2946 (formerly PD–601) are in-

tended to clarify but not to alter the practice previously followed in allocations under this order.

(2) Each person seeking authorization to use or accept delivery of aromatic petroleum solvents shall file application on Form WPB 2945 (formerly PD–600) in the manner prescribed therein, subject to the following instructions for the purpose of this order:

Form WPB 2945. Copies of Form WPB 2945 (formerly PD–600) may be obtained at local field offices of the War Production Board.

Time. Applications shall be made in time to ensure that copies will have reached the supplier and the War Production Board on or before the 10th day of the month preceding the month for which authorization to use or accept delivery is requested, if the supplier is a producer, on or before the 5th day if the supplier is a distributor.

Number of copies. Five copies shall be prepared, of which one shall be retained by the applicant. one (with Tables II, III and IV left blank) shall be forwarded to the supplier, and three completely filled out certified copies shall be forwarded to the War Production Board, Chemicals Division, Washington, D. C., Reference M–150.

Number of sets. A separate set of WPB 2945 (formerly PD–600) application blanks shall be submitted for each supplier, and for each plant of the applicant.

Heading. Under name of chemical specify aromatic petroleum solvents; under War Production Board order number, specify M–150; under unit of measure, specify gallons; and otherwise fill in as indicated.

Table I. Specify in the heading the month and year for which authorization for acceptance of delivery or use is requested.

Column 1. Specify trade name and number or letter, except in the case of xylol, in which case specify "xyol" and the degrees of range or other common identification.

Column 2. Specify gallons of aromatic petroleum solvents requested for each primary product and product use specified in Columns 3 and 4.

Column 3. Fill in as follows:

Paint, varnish, lacquer.
Flameproof composition.
Natural and synthetic rubber solution.
General solvents.
Dyestuffs.
Intermediates.
Other organic chemical.
Other (specify).
Resale (in original form).
Export (in original form).
Inventory (in original form).

Column 4. Opposite each primary product listed in Column 3, specify in Column 4 the product end use and governing military or Lend-Lease contract or specification number, if any. In describing end use the applicant may be guided by end use lists issued by the Chemicals Division for the guidance of protective coating manufacturers.

Opposite "Resale" or "Inventory" in Column 3, write in Column 4 "subject to further authorization", or specify "deliveries exclusively in containers of 60 gallons or less".

Opposite "Export" in Column 3, specify in Column 4 the name of the individual company or governmental agency to whom or for whose account the solvents will be exported, the country of destination and governing export license or contract numbers, unless Lend-Lease, in which case merely specify the Lend-Lease contract or serial number.

Columns 9 and 10. Leave blank, except for remarks, if any, in Column 10.

Table II. Fill in as indicated for each grade or solvent listed in Column 1 of the application.

Table III. Fill in as indicated.

Table IV. Leave blank.

(3) Each producer and distributor shall apply for authorization to make deliveries of aromatic petroleum solvents on Form WPB 2946 (formerly PD–601) in the manner prescribed therein, subject to the following instructions for the purpose of this order:

Form WPB 2946. Copies of Form WPB 2946 (formerly PD–601) may be obtained at local field offices of the War Production Board.

Time. Application shall be made in time to ensure that copies will have reached the War Production Board on or before the 15th day of the month preceding the month for which authorization to make delivery is sought.

Number of copies. Four copies shall be prepared, of which one shall be retained by the applicant and three certified copies shall be forwarded to the War Production Board, Washington, D. C., Reference M–150.

Number of sets. A separate set of forms shall be filed for each plant or distribution point.

A separate set of forms shall be submitted for each type of solvent.

Heading. Under name of chemical, specify type of aromatic petroleum solvent; under War Production Board order number, specify M–150; specify allocation month; under unit of measure, specify gallons; and otherwise fill in as indicated.

Columns 1, 2, 3, 4 and 5. Fill i as indicated Each customer who has filed Form WPB 2945 (formerly PD–600) with the producer or distributor (including the producer himself if he consumes part of his own production) shall be listed in Column 1. Column 5 is optional. At the end of the list of customers, application may be made for aggregate small order deliveries pursuant to paragraph (c) (4).

Columns 5a, 6 and 7. Leave blank, except for remarks, if any, in Column 7.

Rolling stock requirements. The columns relating to number of hopper cars and tank cars required may be left blank.

Table II. Fill in as indicated for each grade of solvent listed in Column 3, and leave Column 16 blank.

(4) The War Production Board may require any person affected by this order to file such other reports as may be prescribed, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942, and may issue special instructions to any such person with respect to filing Form WPB 2945 (formerly PD–600) and Form WPB 2946 (formerly PD–601). Form WPB 2945 and Form WPB 2946 have been approved by the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(g) *Allocations for inventory.* Aromatic petroleum solvents allocated for inventory shall not be used for any purpose, except as specifically directed by the War Production Board or except to fill orders for authorized uses pending arrival of the solvent allocated to fill such orders. Upon arrival of such solvents, the allocated inventory shall be restored.

(h) *Notification of customers.* Each producer and distributor is requested to notify each of his regular customers as soon as possible of the requirements of this order as amended, but failure to receive such notice shall not excuse any person from complying with the terms hereof.

(i) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected hereby are subject to all applicable War Production Board regulations, as amended from time to time.

(2) *Intra-company deliveries.* The prohibitions and restrictions of this order with respect to deliveries of aromatic petroleum solvents, shall apply not only to deliveries to other persons, including affiliates and subsidiaries, but also to deliveries from one branch, division or section of a single enterprise to another branch, division or section of the same or any other enterprise under common ownership or control.

(3) *Violations.* Any person who wilfully violates any provisions of 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.

(4) *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, D. C., Reference: M–150.

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

SCHEDULE A

A. Military:
1. All arms and weapons.
2. Firing control equipment.
3. Ammunition and ammunition boxes.
4. Pyrotechnics.
5. Tanks, jeeps, peeps and parts.
6. Paulins and engine covers.
7. Camouflage paint.
8. Chemical resistant finishes for arsenals.
9. Fort, barrack, arsenal, camp, cantonment, & Navy yard finishes.
10. Special naval cable.
11. Special electronic equipment.
12. Signal corps equipment.
13. Canteen and blitz cans.

B. Aircraft:
Finishes for aircraft and aircraft parts.

C. Transportation:
1. Ships and vessels, construction and maintenance and parts.
2. Barges.
3. Plywood watercraft.
4. Dry docks.
5. Buoys.
6. Hawsers (cables).
7. Life preservers and jackets.
8. Motors, engines, and generators.
9. Railway equipment parts, and maintenance (other than freight cars).
10. Railroad military cars.
11. Ambulances.
12. Trucks.
13. Automobiles.
14. Trailers.
15. Motorcycles, bicycles and other vehicles.
16. Brake shoes and linings.

D. Communications and utilities:
1. Searchlights.
2. Military lanterns and flashlights.
3. Light bulbs.
4. Cable core.
5. Cable and wire insulation.
6. Bonding mica for insulation.
7. Electric motors and generating equipment.
8. Batteries.
9. Battery cables.
10 Radio cabinets and boxes (military only).
11. Radio tubes.
12. Other radio parts (military only).
13. Antenna masts.
14. Telephone & Telegraph equipment.
15. Gas, power & light plant operations equipment.
16. Central heating plant operational equipment.
17. Water supply plant operational equipment.
18 Water tanks.

E. Textiles and textile treating:
1. Tent proofing.
2. Flame proofing (other than tentage).
3. Gas proofing.
4. Mildew proofing.
5. Water proofing.
6. Wind proofing.
7. Insect cloth.
8. Chevron cloth.
9. Fluorescent coating.
10. Wool pile adhesive.
11. Wool scouring, other than dry cleaning.
12. Leather finishes.

F. Clothing:
1. Shoe parts (Shoe adhesives, combining shoe fabrics, shoe uppers, house slipper uppers, platform binding and heel covers, high heel covers, shoe linings, sock lining on paper heel pads, sock lining on fabric heel pads, innersole binding, house slipper soling).
2. Flying boots.
3. Gas resistant clothing (including leggings and footwear).
4. Flame-proof clothing (including leggings and footwear).
5. Foul weather clothing (including leggings and footwear).
6. Raincoats.
7. Gas masks.
8. Helmets.
9. Helmet liners.
10. Waterproof hat and cap covers.
11. Uniforms.
12. Insignia

G. Health safety and scientific uses:
1. X-Ray equipment.
2. Pill and tablet coatings.
3. Sutures.
4. Pharmaceutical, medical and surgical supplies (specify).
5. Surgical adhesive tape and plasters.
6. Collodion.
7. Surgical and medical equipment.
8. Surgical and medical instruments.
9. Scientific and precision instruments.

H. Photography:
1. Photographic equipment.
2. Photographic supplies.

I. Printing, publishing and engraving:
1. Gravure ink.
2. Aniline inks.

J. Containers and packaging:
1. Food packaging (containers, closures and linings).
2. Gasoline and water drums.
3. Cellophane.
4. Capsules.
5. Seam sealing of containers.
6. Heat sealing compound.

K. Chemical uses:
1. Vitamin synthesis.
2. De-hydrating agents.
3. Synthetic rubber.
4. Dyestuff and intermediates.
5. Rust preventatives.
6. Alkyd resins (mfgr. only).

L. Industrial operations and equipment:
1. Hoists, cranes, derricks and conveyors.
2. Stationary motors.
3. Elevator equipment.
4. Oil refinery equipment (petroleum equipment operations).
5. Plating and chemical equipment.
6. Textile machinery.
7. Industrial adhesives.
8. Machine tools.
9. Power and transmission equipment.

[F. R. Doc. 43-12642; Filed, August 4, 1943; 11:16 a. m.]

PART 3119—REAGENT CHEMICALS

[Supplementary Order P-135-a]

§ 3119.2 *Supplementary Order P-135-a*—(a) *What this order does.* This order provides a standard form of certification for laboratories ordering reagent chemicals for analysis, testing, control, educational or research purposes.

This order also provides that each laboratory shall be entitled to the full small order exemption of each WPB chemicals order.

(b) *Form of certification under small order exemptions.* Laboratories and laboratory suppliers ordering reagent chemicals under the small order exemption provided by any WPB chemicals order, may use this form of certification:

Pursuant to Order P-135-a, the undersigned represents to the seller and to the War Production Board that the reagent chemicals called for by this purchase order will be used, or resold for use, in a laboratory for one or more of the following purposes: Analysis, testing, control, educational or research. This purchase order is placed in accordance with the small order exemption(s) provided by the applicable WPB order(s).

(Name of purchaser)

By ---
(Signature and title of duly authorized official)

(c) *Form of end use certificate.* Laboratories and laboratory suppliers ordering reagent chemicals may use the following form of certificate in any case in which a WPB chemicals order requires a certificate of end use as a basis for allocation:

Pursuant to Order P-135-a, the undersigned represents to the seller and to the War Production Board that the reagent chemicals called for by this order will be used, or resold for use, in a laboratory for one or more of the following purposes: Analysis, testing, control, educational or research.

(Name of purchaser)

By ---
(Signature and title of duly authorized official)

Attention is drawn to the fact that the above end use certificate is the same as the small order certificate with the last sentence struck out.

(d) *Optional use of certificate.* The above standard certificate is optional. The certificate specified in the applicable WPB chemicals order may be used instead, and it is not necessary to use any certificate if the applicable WPB chemicals order does not require a certificate.

(e) *When the certificate may not be used.* The above certificate may not be used:

(1) In place of any certificate required to apply or extend preference ratings or allotment numbers or symbols.

(2) In place of a WPB-2945 (formerly PD-600) application form or any similar form.

(3) In any case where the applicable WPB order expressly prohibits use of the chemical except for one or more purposes which are specified in the WPB order, and where the WPB order requires that purchase orders carry a certificate specifying one of the permitted uses; for example, the Quinine Order, M-131.

(f) *Separate small order exemptions for laboratories.* Each laboratory shall be considered a separate person for the purpose of the small order exemption provisions of WPB chemicals orders, and therefore shall be entitled to the full exemption provided by each order.

(g) *Communications to the War Production Board.* All communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Chemicals Division, Washington 25, D. C., Ref: P-135-a.

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-12641; Filed, August 4, 1943; 11:17 a. m.]

PART 3171—COMMERCIAL DISHWASHERS

[Limitation Order L-248 as Amended August 4, 1943]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of iron, steel and other metals 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:

§ 3171.1 *General Limitation Order L-248*—(a) *Definitions.* For the purposes of this order:

(1) "Commercial dishwasher" means any mechanical device designed for washing dishes, cutlery, glassware or kitchen utensils in establishments where food is prepared for consumption or sale on the premises. The term does not include dishwashers designed for domestic use.

(2) "Ultimate consumer" means any person who uses a commercial dishwasher for washing dishes, cutlery, glassware and kitchen utensils.

(3) "New commercial dishwasher" means any commercial dishwasher which has never been used by an ultimate consumer.

(4) "Used commercial dishwasher" means any commercial dishwasher which has been used by an ultimate consumer.

(5) "Copper base alloy" means any alloy metal in the composition of which the percentage of copper metal by weight equals or exceeds 40% of the total weight of the alloy. It shall include alloy metal produced from scrap.

(b) *Restrictions on manufacture.* No manufacturer of commercial dishwash-

ers shall put into process in the manufacture of such dishwashers, including finished units and parts thereof, during any calendar quarter, a weight of metal in excess of six and one quarter percent (6¼%) of the weight of metal put into process in the manufacture of finished commercial dishwashers by him during the calendar year 1941 except that in addition to the quotas set forth in this paragraph any manufacturer may put any weight of metal into process in the manufacture of any such dishwashers for delivery to or for the account of the Army, the Navy, the Maritime Commission, or the War Shipping Administration of the United States.

(c) *Restrictions on delivery.* Regardless of the terms of any contract, sale, other commitment or any preference rating, no person shall make or accept physical delivery of any new or used commercial dishwashers except that:

(1) Any person may make or accept physical delivery of any such dishwasher on a specific contract or subcontract for delivery to or for the account of the Army, the Navy, the Maritime Commission, or the War Shipping Administration of the United States;

(2) Any person may make or accept physical delivery of any such dishwasher pursuant to specific authorization of the War Production Board on Form WPB–1529 (formerly PD–638A). Applications under this order and Order L–182 may be made on a single Form WPB–1529 (formerly PD–638A);

(3) Any manufacturer may make physical delivery of any such dishwasher to any dealer or distributor of such dishwashers, or to any ultimate consumer, from whom he has received a written order or contract which bears a certification substantially as follows signed by an authorized official, either manually or as provided in Priorities Regulation No. 7; and any such dealer, distributor or ultimate consumer may accept such delivery:

I certify that I have received specific authority from the War Production Board to accept delivery of the equipment listed hereon; that I have knowledge of and am in compliance with Limitation Orders L–182 and/or L–248; and, further, that authorization was received by me on the following Form(s) WPB–1529 (formerly PD–638A):

(List number or numbers)

Firm Name

Signature & Title of Officer

Such certification shall constitute a representation to the War Production Board, as well as to the manufacturer of the facts certified therein.

No manufacturer shall make delivery under this order who has reason to believe that the purchaser has furnished a false certification; and no person shall falsely furnish the certification specified above.

Any manufacturer may rely upon the facts furnished in the above mentioned certification and shall not be responsible for any action taken by him under this order in reliance upon inaccurate or untrue statements therein, unless he has reason to believe that such statements are inaccurate or untrue;

(4) Any ultimate consumer may make physical delivery of any such dishwasher to any manufacturer, dealer or distributor of such dishwashers; and such manufacturer, dealer, or distributor may accept such delivery;

(5) Any such dishwasher actually in transit on March 2, 1943, may be delivered to its immediate destination; and

(6) Any such dishwasher manufactured in accordance with an appeal granted prior to March 2, 1943, may be physically delivered to the person specified in the appeal, and such person may accept delivery of such dishwasher.

(d) *Delivery of repair and replacement parts.* Nothing in this order shall prevent the delivery of repair or replacement parts for commercial dishwashers.

(e) *Simplified practices.* No person shall manufacture, fabricate or assemble any commercial dishwasher designed for washing cutlery, glassware or kitchen utensils exclusively. No person shall manufacture, fabricate or assemble any other type of commercial dishwasher except in accordance with the specifications and practices given below in this paragraph. However, this paragraph does not revoke or modify the terms of any appeal granted under this order.

(1)

Minimum capacity (dishes per hour)	Maximum content exclusive of motor, switches and wiring (pounds)		Maximum motor size (h. p.)
	Iron and steel	Copper base alloy	
1,500	600	18	¾
3,500	900	22	2
5,000	1,150	35	3

NOTE: Center column heading of Table amended August 4, 1943.

(2) Body (hood and tanks) shall be manufactured of not heavier than 14 gauge black iron or 14 gauge galvanized iron.

(3) No thermostatic controls shall be used.

(4) Spray pipes, feed pipes, and other piping shall be galvanized iron.

(5) To the extent that copper base alloy castings are permitted by this order, the alloy shall be of a type and grade in the production of which the use of refined copper or refined tin is not necessary.

(6) No metal other than iron, steel or copper base alloy shall be used, except zinc for coating or spraying, and metal necessary for assembling or installing.

(f) *Exceptions from simplified practices.* None of the restrictions in paragraph (e) shall apply to commercial dishwashers manufactured to specifications of the Army, Navy, Maritime Commission or War Shipping Administration of the United States for use on ships.

(g) *Reports.* Every manufacturer, dealer and distributor of any commercial dishwasher shall execute and file with the War Production Board on or before the tenth day of each calendar quarter a report on Form WPB–1509 (formerly PD–638), which may be obtained from the nearest field office of the War Production Board. Reports under this order and order L–182 may be made on a single Form WPB–1509 (formerly PD–638).

(h) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of all the priorities regulations of the War Production Board, as amended from time to time.

(i) *Applicability of other orders.* Insofar as any other order issued, or to be issued hereafter, limits the production or delivery of commercial dishwashers to a greater extent than the limits imposed by this order, the restrictions in such other order shall govern unless otherwise specified therein.

(j) *Appeals.* Any 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 the grounds of the appeal.

(k) *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 the War Production Board, Plumbing and Heating Division, Washington (25), D. C., Ref: L–248.

(l) *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 or both. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing and using, materials under priority control and may be deprived of priorities assistance.

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

INTERPRETATION 1

Paragraph (c) (1) of General Limitation Order L–248 (Commercial Dishwashers) reads as follows:

(1) Any person may make or accept physical delivery of any such dishwasher on a specific contract or subcontract for delivery to or for the account of the Army, the Navy, the Maritime Commission, or the War Shipping Administration of the United States;

Question has been raised as to whether purchase by the Army Pre-Flight Training Schools is within the exception stated in this subparagraph or whether such schools desiring to purchase this equipment must apply on Form WPB 1529, formerly Form PD–638A for authorization.

The exception referred to applies only to specific contracts or subcontracts for deliveries to or for the account of the agencies named. It does not include equipment which will be owned by the training schools and not by the Army, even though it is intended

that the equipment will for the present be used solely for the benefit of the personnel assigned to the school. Such a delivery is not made on a specific contract or subcontract for delivery to or for the account of the Army within the meaning of the provision quoted above. Accordingly, any training school desiring to purchase this equipment under these circumstances must apply on Form WPB 1529 formerly Form PD-638A for authorization. (Issued April 24, 1943.)

[F. R. Doc. 43-12643, Filed, August 4, 1943; 11:16 a. m.]

PART 3175—REGULATIONS APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[Amdt. 2 to CMP Reg. 1 as Amended May 28, 1943]

Section 3175.1 (t) (3) (iv) of CMP Regulation No. 1 is hereby amended to read as follows:

(iv) A delivery to fill a sample order. Delivery of a sample order must be supported by the purchaser's certificate that the material covered by the order will be used by him for testing purposes only in connection with war production. On orders for steel (except stainless steel, tool steel and steel castings), the purchaser must also certify that the total amount received and on order for delivery within any calendar quarter does not exceed 1000 pounds of any composition nor a total of 3000 pounds of all compositions. On orders for other controlled materials (including stainless steel, tool steel and steel castings) the aggregate amount of any item delivered by any producer to any one purchaser in any one month shall not exceed 1 percent of the minimum mill quantity prescribed with respect to such item in Schedule IV of this regulation.

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-12644; Filed, August 4, 1943; 11:16 a. m.]

PART 3191—CIVILIAN AIRCRAFT

[Preference Rating Order P-47 as Amended August 4, 1943]

Limited Preference Rating Order P-47 is hereby amended to read as follows:

§ 3191.21 *General Preference Rating Order P-47*—(a) *Purpose and scope.* The purpose of this order is to provide persons operating civilian type aircraft with a uniform procedure for obtaining material for the operation of aircraft and aircraft facilities, both in the case of controlled materials obtained by use of allotment symbols under the Controlled Materials Plan, and in the case of materials or products, including components, obtained by preference ratings.

(b) *Definitions.* (1) "Aircraft facility" means any machinery, material, equipment, or structure, used in connection with the operation or shelter, or the maintenance or repair of aircraft.

(2) "Operator" means any individual, partnership, association, business trust, corporation, or any organized group of persons (whether incorporated or not), any air carrier holding a certificate of necessity from the Civil Aeronautics Board, any state or local governmental agency, any United States Governmental Agency, other than the Army or Navy of the United States, engaged in the operation of aircraft, or in the business of maintaining or repairing aircraft. Operator, as herein defined, may include foreign operators and domestic operators carrying on business outside of the United States.

(c) *Application for material.* Each operator may file Form WPB-1747 in accordance with the instructions accompanying the form, for the material, parts and products required for operation of aircraft and aircraft facilities. The War Production Board may approve the acquisition of materials, parts, and products, and will assign preference ratings for approved materials other than controlled materials, will authorize the use of the allotment symbol MRO (P-47) for approved controlled materials, and will assign a serial number on the form.

(d) *Restrictions on the acquisition of materials.* No operator may apply ratings or use any allotment symbol to acquire any material, parts or products in excess of the amounts approved, or at a time other than that specified in the approval.

(e) *Acquisition of materials.* Operators may obtain materials approved on Form WPB-1747 by placing on their purchase orders the following certification, (or the alternative form of certification provided in CMP Regulation No. 7) signed manually or as provided in Priorities Regulation No. 7:

MRO (P-47 Serial Number ——) [Insert Preference Rating]. The undersigned certifies, subject to the criminal penalties for misrepresentation contained in section 35(A) of the United States Criminal Code, that the items covered by this order are within the amounts approved by the War Production Board under Preference Rating Order P-47, and are to be used for a purpose so approved.

Name_____
By_____
Authorized official.
Date_____

A purchase order bearing this certification shall be deemed an authorized controlled material order for the purpose of all CMP Regulations.

(f) *Penalties for misrepresentation.* (1) The placing of any order bearing a certification or symbol, as provided by this order, shall constitute a representation, subject to the criminal penalties of section 35(A) of the United States Criminal Code (18 U. S. C. 80), that the person placing the order is entitled, under the terms of this order, to use of the symbol or preference rating indicated thereon.

(g) *Inventory restrictions.* No person shall receive any delivery if acceptance thereof would increase his inventory above a practicable working minimum, as provided in § 944.14 of Priorities Regulation No. 1, or would exceed the inventory limitations prescribed for such person by CMP Regulation No. 2, or by any other applicable regulation or order of the War Production Board.

(h) *Applicability of other orders and regulations.* (1) Nothing in this order shall be construed to relieve any person from complying with any applicable regulation or order of the War Production Board (including orders in the "E", "L", and "M" series) or with any order of any other competent authority.

(2) No operator may acquire material by use of any preference rating or allotment symbol assigned by any order in the "P" series except this order, by CMP Regulation No. 5 or No. 5A, or on Form PD-408.

(i) *Records.* Each person acquiring materials, parts, or products, pursuant to this order, shall keep and preserve for a period of not less than two years accurate and complete records of all such supplies so acquired and used, which shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(j) *Communications.* All communications concerning this order should be addressed to: War Production Board, Washington 25, D. C., Ref. P-47.

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-12635; Filed, August 4, 1943; 11:16 a. m.]

PART 3281—PULP AND PAPER[1]

[General Conservation Order M-241 as amended August 4, 1943]

PAPER AND PAPERBOARD

Section 3096.1 *General Conservation Order M-241,* as amended July 14, 1943, is hereby amended to read as follows:

§ 3281.63[1] *General Conservation Order M-241*—(a) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of the War Production Board, as amended from time to time.

(b) *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) "Produce" includes all operations involved in the manufacture of paper or paperboard in primary roll or sheet form, and only includes secondary operations when such operations are performed by an integral part of the paper machine (Yankee, Harper, Fourdrinier, Cylinder, or Wet Machine).

(c) *Restrictions on production of paper and paperboard.* Unless specifically authorized by the War Production Board, no person shall produce paper or paperboard on any machine which did not produce paper or paperboard in the period May 1, 1943 to July 15, 1943, inclusive.

(d) *Reserve production.* Each manufacturer of paper or paperboard shall

[1] Formerly part 3096, § 3096.1.

reserve in the production schedule of each of his mills for the month of August 1943, and for each calendar month thereafter, time and supplies sufficient to produce and deliver within such month, at the order of the War Production Board 2% of such mill's potential production for the current calendar quarter. In general this should amount to approximately 6% of each month's production. The War Production Board may on or before the 15th day of any month direct any manufacturer to employ such reserve to produce any kind of paper or paperboard usually produced at such mill, and in any quantity thereof, not to exceed in the aggregate for any one month 2% of such mill's potential production for the current quarter, and sell and deliver the same within the month to any person named by the War Production Board. The manufacturer may refuse so to produce and deliver only for the reasons specified for the refusal of rated orders in § 944.2 (b) Priorities Regulation No. 1. If the manufacturer does not on or before the 15th day of any month receive from the War Production Board directions as to the disposition of such reserve (or has received directions as to the disposition of a part but not of the remainder) he may employ the same (or such remainder) as he may desire, consistent with the other provisions of this order.

(e) *Restrictions on inventory.* Unless specifically authorized by the War Production Board or excepted by paragraph (e) (4):

(1) *Consumers inventories.* (i) Prior to January 1, 1944, no person shall knowingly deliver to any person except a paper merchant and no person except a paper merchant shall accept delivery of, any quantity of any grade of paper or paperboard (other than newsprint) if the inventory of such grade in the hands of the person accepting delivery is, or will by virtue of such acceptance become, either (*a*) in excess of two carloads or (*b*), if in excess of two carloads, greater than forty-five days' supply, on the basis of either his average rate of consuming such grade of paper or paperboard for the preceding quarter or his average rate of consuming such grade of paper or paperboard as projected for the then current quarter.

(ii) After January 1, 1944, no person shall knowingly deliver to any person except a paper merchant and no person except a paper merchant shall accept delivery of, any quantity of any grade of paper or paperboard (other than newsprint) if the inventory of such grade in the hands of the person accepting delivery is, or will by virtue of such acceptance become, either (*a*) in excess of two carloads or (*b*), if in excess of two carloads, greater than thirty days' supply, on the basis of either his average rate of consuming such grade of paper or paperboard for the preceding quarter or his average rate of consuming such grade of paper or paperboard as projected for the then current quarter.

(2) *Merchants inventories.* (i) Prior to January 1, 1944, no person shall knowingly deliver to a paper merchant, and no paper merchant shall accept delivery of any quantity of any grade of paper or paperboard (other than newsprint) if the inventory of such grade in the hands of such paper merchant is, or will by virtue of such acceptance become, either (*a*) in excess of two carloads, or (*b*), if in excess of two carloads, greater than sixty days' supply, on the basis of either his average rate of distributing such grade of paper or paperboard for the preceding quarter or his average rate of distributing such grade of paper or paperboard as projected for the then current quarter.

(ii) After January 1, 1944, no person shall knowingly deliver to a paper merchant, and no paper merchant shall accept delivery of any quantity of any grade of paper or paperboard (other than newsprint) if the inventory of such grade in the hands of such paper merchant is, or will by virtue of such acceptance become, either (*a*) in excess of two carloads, or (*b*), if in excess of two carloads, greater than forty-five days' supply, on the basis of either his average rate of distributing such grade of paper or paperboard for the preceding quarter or his average rate of distributing such grade of paper or paperboard as projected for the then current quarter.

(3) *Mill Inventories.* No person shall produce at any mill any quantity of paper or paperboard, if his inventory at such mill is, or will by virtue of such production, become, in excess of (*a*) two carloads or (*b*), if in excess of two carloads, greater than sixty days' supply, on the basis of either the average rate of shipment of paper or paperboard from such mill for the preceding quarter or the average rate of shipment of paper or paperboard from such mill as projected for the then current quarter.

(4) *Item Inventories.* The term "grade of paper or paperboard" refers to the classification on United States Department of Commerce (Census) Form WPB–514, as revised February 24, 1943, each caption (except those which are further broken down by following captions) representing a separate grade. If a person's gross inventory of a grade is in excess of two carloads or the specific number of days supply as specified in (e) (1), (2), or (3), but his inventory of a particular item within that grade is less than thirty days' supply (or, in the case of a paper merchant, less than forty-five days' supply) he may accept delivery of or produce, and others may deliver to him, any quantity of such item as may be required to provide him with thirty days' supply (or in the case of a paper merchant forty-five days' supply). The restrictions of this paragraph (e) apply equally to paper and paperboard of foreign and domestic origin, and apply to intra company deliveries as defined in § 944.12 of Priorities Regulation No. 1. They do not, however, apply to those papers commonly reported on United States Department of Commerce (Census) Form WPB–514 as revised February 24, 1943 under the captions "Blueprint and similar base stock" (07610); "Photographic and other sensitizing stock" (07611); and "Cigarette" (08512), or to any paper or paperboard after it is printed or converted beyond waxing or coating.

(f) *Miscellaneous provisions* — (1) *Records.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales.

(2) *Audit and inspection.* All records required to be kept by this order shall upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(3) *Reports.* 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, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(4) *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 materials under priority control and may be deprived of priorities assistance.

(5) *Appeals.* Any 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.

(6) *Communications.* All communications concerning this order shall unless otherwise directed be addressed to War Production Board, Pulp and Paper Division, Washington 25, D. C., Ref.: M–241.

Issued this 4th day of August 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43–12636; Filed, August 4, 1943; 11:16 a. m.]

Chapter XI—Office of Price Administration

PART 1302—ALUMINUM

[MPR 2,[1] Amdt. 2]

ALUMINUM SCRAP AND SECONDARY ALUMINUM INGOT

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. 2 is amended in the following respects:

1. The provisos in paragraphs (a) and (b) of section 2, permitting contracts entered into prior to June 23, 1943 at prices in conformance with Revised Price

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 8495, 8948.

Schedule No. 2, as amended, to be carried out at contract prices until July 23, 1943, are amended by extending the expiration date for the carrying out of such contracts to August 23, 1943.

2. The proviso in section 4 is amended to read as follows:

Provided, That any person may sell and deliver, or deliver secondary aluminum ingot until August 1, 1943, and may carry out until August 23, 1943 contracts entered into before August 1, 1943, at prices no higher than the maximum prices heretofore established for secondary aluminum ingot, so long as the quantity of secondary aluminum ingot delivered by such person at such prices between June 1, 1943 and August 23, 1943, inclusive, does not exceed the quantity of aluminum scrap and secondary aluminum ingot which such person had on hand in his plant at the close of business on May 31, 1943 and which he reported to the War Production Board on Form PD-272, plus the amount of scrap purchased under contract or other firm commitment prior to June 23, 1943, and which was not included on said inventory reported to the War Production Board on Form PD-272.

This amendment shall become effective August 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12619; Filed, August 3, 1943; 3:05 p. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[MPR 229,[1] Amdt. 7]

RETAIL AND WHOLESALE PRICES FOR VICTORY LINE WATERPROOF RUBBER FOOTWEAR

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 229 is amended in the following respects:

1. Section 1315.1705b is added to read as follows:

§ 1315.1705b *Terms and conditions of sale.* (a) The maximum prices established by this regulation shall not be increased by any charges for the extension of credit unless (1) the seller during the period February 11 to September 29, 1941, required payment of a separately stated additional charge for the extension of credit by purchasers of the same class on sales of the same or similar types of commodities, and (2) the amount charged for the extension of credit is not in excess of the charge in effect during the period February 11 to September 29, 1941, for extension of credit involving the same amount and term.

(b) In the case of sales at wholesale a service charge of 5 cents a pair may be added to the maximum price on all orders of six pairs or less. However, the maximum prices established by this regulation shall not be increased by any other additional charges for services rendered to the purchaser by the seller unless (1) the seller during the period February 11 to September 29, 1941, required the payment of a separately stated additional charge for the rendition of services to purchasers of the same class, and (2) the amount charged for the rendition of services is not in excess of the charge in effect during the period February 11 to September 29, 1941, to purchasers of the same class for the rendition of the same or similar services.

2. Section 1315.1706a (b) is revoked.

3. Section 1315.1713 is amended by adding the following items to the table under the heading "Severe occupational".

Item	Sales at wholesale	Class I	Class II	Class III	Class IV	Class V
Men's black 10" no-lace mine pac	$3.30	$4.95	$4.09	$4.42	$4.19	$3.96
Men's black 10" no-lace mine pac, safety toe	3.60	5.40	5.11	4.82	4.57	4.32
Men's black 10" no-lace mine pac, steel toe	3.80	5.70	5.40	5.09	4.83	4.56

This amendment shall become effective Aug. 10, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12620; Filed, August 3, 1943; 3:07 p. m.]

PART 1316—COTTON TEXTILES

[MPR 11,[1] Amdt. 8]

FINE COTTON GOODS

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. 11 is amended in the following respects:

1. Section 1316.4 (d) Table I reference number AK10 is amended to read as follows:

AK10 40" 88 x 88 11.00 (Mule Spun Fill)---------- 20.50

2. Section 1316.4 (d) Table I reference number AO2 is amended by adding the following footnote.

AO2 [2a]

[2a] The maximum price for 37" 102 x 48 3.15 poplin on subcontracts entered into prior to July 3, 1943 under any prime contract with a war procurement agency is the maximum price in effect for the fabric on July 2, 1943.

3. Section 1316.4 (d) Table I reference number AV1 is amended by deleting the parenthetical phrase "(Ply Warp)".

4. Section 1316.4 (d) Table I reference number AZ1 is amended to read as follows:

AZ1 54" 70 x 216 1.24 (Combed-Ply Warp, Carded Fill)---------- 95.20

5. Section 1316.4 (d) Table I reference number BD8 under Printer's Blanket Fabric is added to read as follows:

BD8 42" 54 x 60 2.02 (Ply Yarn)------ 56.48

6. Section 1316.4 (d) Table I reference number BE1 is amended by adding after the numerals "1.93" the following parenthetical phrase: "(40/1 combed cotton yarn twisted with 20/1 carded spun rayon warp)".

7. Section 1316.4 (d) Table I reference number BE2 is amended by adding after the numerals "1.66" the following parenthetical phrase: "(40/1 combed cotton yarn twisted with 20/1 carded spun rayon warp)".

8. Section 1316.4 (d) Table I reference numbers BR1, BR2 and BR3 are amended to read as follows:

BR1 39"-40" 50 x 52 8.00 [4]---------- 14.57
BR2 45-1/2" 50 x 52 6.85 [4]---------- 16.94
BR3 49-1/2" 50 x 52 6.28 [4]---------- 17.75

[4] The maximum prices for the above insect nettings on contracts entered into prior to July 3, 1943, with a war procurement agency or on subcontracts entered into prior to July 3, 1943, under any prime contract with a war procurement agency are the maximum prices in effect for the respective fabrics on July 2, 1943.

9. Section 1316.4 (d) Table I reference numbers BT1 and BT2 are amended by adding after the title "madras" the following parenthetical phrase: "(Dobby Weave)".

10. Section 1316.4 (d) Table I reference number BT1, is amended to read as follows:

BT1 38" 92 x 88 4.62---------- 24.50

11. Section 1316.4 (d) Table I is amended by adding to the colored shirting and seersuckers group the following footnote:

Colored shirting and seersuckers [5]

[5] The maximum prices listed above for colored shirting and seersuckers are for plain weave single beam patterns with plain draw-in of not more than one color and greige in the warp, or pattern draw-in, of not more than two colors and greige in the warp, whichever is indicated, and in warp lengths of not less than 50 pieces.

For patterns or constructions of colored shirting and seersuckers varying from those for which maximum prices are established above, the maximum price shall be the maximum price for the nearest related pattern or construction listed in Table I adjusted in accordance with the premiums provided in paragraph (c) of this section and the following:

(A) Color or yarn changes:

For a substitution in the warp of a color, shade or greige for another color, shade or greige, or a substitution of one yarn size for another yarn size (the total change not to involve more than 12½ % of the total count

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 7740, 7738, 8701, 8936, 10289, 10844, 8 F.R. 8843.

[1] 8 F.R. 361, 2206, 4628, 4725, 5477, 8065, 8615, 8937.

of warp ends); or for the addition of extra warp ends (colored and/or greige) for the purpose of producing pattern effects, (the total change not to exceed 5% of the total count of warp ends):

(1) Deduct from the maximum price of the listed construction the entire cost of its warp as calculated from the following table and to the result add the new warp cost calculated in accordance with the same table.

	40/1	50/1	60/1	40/2	40/3	40/4	50/2	60/2
Greige per 100 ends	.00210	.00195	.00173	.0042	.0063	.0084	.0039	.00346
Pastel 27¢ color per 100 ends	.00302	.00268	.00234					
Medium 46¢ color per 100 ends	.00367	.00320	.00277					
Dark 66¢ color per 100 ends	.00435	.00374	.00323					

To determine the cost of each 100 ends of 40s, 50s or 60s colored ply yarns, use single yarn table for 40s, 50s and 60s respectively times the ply.

For any substitution involving a color of a cost other than the above listed costs, the warp cost shall be obtained by interpolation between or extrapolation from the costs listed above.

(B) Draw-in changes:

Where a listed pattern draw-in construction is converted to a plain draw-in construction deduct ½¢ per yard.

Where a listed plain draw-in construction is converted to a fancy draw-in construction, in addition to the premium provided in paragraph (c) of this section for fancy draw, add ⅛ of a cent per yard for each additional color, shade or equivalent in excess of two colors and greige. For the purposes of determining this premium tapes, ply cords, bunched ends, skip dents, double draw (2 ends or more weaving as 1), reverse twist warp stripes, or any other novelty draw, shall each be considered the equivalent of a color or shade.

(C) Pickage changes:

For each pick (not exceeding 4 picks per inch) added to or omitted from a listed construction for the purpose of producing pattern effects add or subtract 0.15 cent per pick for greige filling yarns number 30 to 60, and 0.25 cent per pick for greige filling yarn number 60 and above.

(D) Short warps:

For short warps of any construction of colored shirting or seersucker subject to the maximum prices set in this regulation the following premiums may be added:

32 to 49 pieces to a warp, add 1¢ per yard
20 to 31 pieces to a warp, add 1¾¢ per yard
12 to 19 pieces to a warp, add 3¾¢ per yard

Where any one sale of a given pattern is for various size warps of different colors or shades with a resulting variation in the maximum prices for such warps the seller may, after computing the maximum price separately for each warp, determine and use as his maximum price for that sale a weighted average of such varying prices: *Provided,* That (1) The contract of sale or invoice shall contain the data from which the weighted average price is obtained; (2) Each delivery shall be accompanied by an invoice or similar document which shall either contain the information required by (1) above or make reference to the contract in which such information is set forth.

12. Section 1316.4 (d) Table I reference number KC16 is amended by deleting the maximum price "26.90" and inserting the maximum price "27.60" under the column headed "50% color, medium."

13. Section 1316.4 (d) Table I reference number KC17 is amended by deleting the maximum price "27.59" and inserting the maximum price "28.28" under the column headed "50% color, medium."

This amendment shall become effective on the 9th day of August, 1943.

(Pub. Laws 421 and 729 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12621; Filed, August 3, 1943; 3:06 p. m.]

PART 1340—FUEL

[RPS 88,[1] Amdt. 118]

PETROLEUM AND PETROLEUM 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.*

Revised Price Schedule No. 88 is amended in the following respects:

1. Section 1340.159 (a) (2) is amended as follows:

(2) Where on October 1, 1941, there was for any given pool no posted purchase price, or more than one posted purchase price, the maximum price for a particular producer at the receiving tank for crude petroleum from such pool shall be the price paid for crude petroleum at any receiving tank of the same producer as of October 1, 1941 unless this price is below the lower or lowest of the posted purchase prices, if any, and in that case, the maximum price shall not be in excess of such lower or lowest posted purchase price: *Provided, however,* That a price paid pursuant to a contract in effect on October 1, 1941 and entered into prior to that date, shall not be considered in determining the maximum price for crude petroleum unless the contract price reflected current market conditions on or about October 1, 1941.

2. Section 1340.159 (a) (4) is amended to read as follows:

(4) Where the maximum price for any sale of crude petroleum at the receiving tank cannot be determined under (1) through (3) above, the seller or purchaser shall set a tentative price for the crude petroleum at the particular receiving tank or tanks which shall be in line with the maximum prices for comparable crude petroleum in the same general area. Within ten days after setting such a tentative price the seller or purchaser shall file with the Petroleum Branch of the Office of Price Administration, Washington, D. C., a written request for approval of such tentative price. The person filing such request, shall file in connection therewith a statement setting forth:

(i) Such tentative price,

(ii) An explanation as to why it is impossible to determine his maximum price under subparagraphs (1), (2) or (3) of this paragraph (a),

(iii) A description of the available transportation facilities, and a description of the gravity, characteristics and source of the crude petroleum in question.

Such tentative price shall be the maximum price for crude petroleum produced from the same pool until a substitute maximum price is set in writing by the Petroleum Branch of the Office of Price Administration, Washington, D. C. If a seller and purchaser have agreed upon a price for the sale of crude petroleum subject to the approval of the Office of Price Administration, a maximum price determined in accordance with this subparagraph (4) shall be effective retroactively to February 2, 1942 or the date of the agreement whichever is later.

3. Section 1340.159 (c) (1) (vii) (g) is added to read as follows:

(vii) The maximum price at the receiving tank for crude petroleum produced in the Woodsboro Field, Refugio County, Texas, and sold by owners of royalty interests shall be $1.35 flat per barrel.

4. Section 1340.159 (c) (1) (xiii) (*a*) is amended to read as follows:

(xiii) *Kentucky* (*a*). The maximum prices at the receiving tank for crude oil produced in the areas, in the State of Kentucky, designated below shall be:

Area:	*Price per 42 gallon barrel*
Big Sandy River (Somerset crude)	$1.43
Sebree Field, Webster County	1.37
Belton Field,, Muhlenberg County	1.37
Spottsville, Henderson County	1.37
Owensboro Area	1.37
Bowling Green Area	1.17
Butler County	1.32

Maximum prices established herein may be charged any purchaser who agreed on or prior to June 1, 1943 to pay a price determined in accordance with the disposition of a petition filed with the Office of Price Administration.

5. In § 1340.159 (c) (3) (xi) the words, "at seller's yard for deliveries in containers in quantities of 10 gallons or over," are corrected to read, "at seller's yard for deliveries in containers in quantities of 10 gallons or less."

6. In § 1340.159 (a) (5) (ii) the word "may" in the phrase, "the seller may establish a tentative differential for a sale of crude petroleum at such point," is corrected to "shall," and will now read, "the seller shall establish a tentative differential for a sale of crude petroleum at such point."

This amendment shall become effective August 9, 1943.

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 3718.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12616; Filed, August 3, 1943; 3:04 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 259,[1] Amdt. 2]

DOMESTIC MALT BEVERAGES

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. 259 is amended in the following respects:

1. Section 1420.66 (h) is amended to read as follows:

(h) If the seller's maximum price for a domestic malt beverage to be priced cannot be determined under any of the above paragraphs of this section, the seller's maximum price for a domestic malt beverage shall be:

(1) *For manufacturers.* (i) The maximum price established by the manufacturer under the provisions of this regulation for the similar domestic malt beverage most nearly like it, for sales to purchasers of the same class: *Provided,* That if the maximum price established under this regulation for the manufacturer's similar domestic malt beverage most nearly like the domestic malt beverage to be priced, does not include the increases, or any part thereof, permitted under § 1420.66 (a) and (c), the maximum price established under this paragraph may include such permitted increases or part thereof.

(ii) If the manufacturer's maximum price cannot be determined under (i), he shall apply to the Office of Price Administration for authorization to determine his maximum price in accordance with the maximum price established under this regulation by his most closely competitive seller of the same class for the similar domestic malt beverage most nearly like it, for sales to purchasers of the same class: *Provided,* That if the maximum price established by the most closely competitive seller of the same class for his domestic malt beverage most nearly like the domestic malt beverage to be priced, does not include the increases, or any part thereof, permitted under § 1420.66 (a) and (c), the maximum price established under this paragraph may include such permitted increases or parts thereof.

(*a*) *Form and contents of application.* The application shall be in writing, signed by the manufacturer or his authorized agent and sent to the Office of Price Administration, Beverage Section, Washington, D. C., by registered mail. It shall contain information presented in the following way:

1. Brand name and description of item to be priced _____

_____

_____

2. Maximum price which applicant seeks to establish for new item _____ per (specify unit) _____.

3. For all other domestic malt beverages manufactured and sold by applicant, give: Brand name and description _____

_____

Total raw material costs _____ per (same unit as given in 2) _____. Maximum price _____ per (same unit as given in 2) _____.

4. For most closely competitive seller's similar item, give: Brand name and description _____

_____

Maximum price _____ per (same as unit as given in 2) _____.

5. Explanation of reasons applicant is unable to establish maximum price for new item according to maximum price of any of his own brands.

(*b*) *Approval of or objection to application.* If within 30 days after receipt of the application by the Office of Price Administration, the manufacturer shall not receive notice of objection to the maximum price proposed in the application by letter from the Office of Price Administration, he shall be deemed authorized to establish such maximum price for sales of the item: *Provided,* That if within the 30-day period the Office of Price Administration shall by letter request supplemental information with respect to any matter set forth in the application, that period shall be figured from the date on which the requested supplemental information is received in writing by the Office of Price Administration. The authority so granted may be revoked at any time by the Price Administrator. Upon written request of the manufacturer received by the Office of Price Administration within 30 days after the date of a notice of objection given under this paragraph, the Office of Price Administration will issue a formal order denying authority to establish the maximum price requested in his application.

(*c*) *New products priced since March 31, 1942 and prior to August 9, 1943.* A manufacturer who since March 31, 1942 and prior to August 9, 1943 has established a maximum price for a domestic malt beverage newly produced by him, according to the maximum price of a competitor's similar item, shall within 30 days after the latter date apply to the Office of Price Administration for authorization to use the established price, in the manner prescribed under (*a*) and subject to the method of approval or objection prescribed under (*b*): *Provided,* That with respect to a domestic malt beverage for which an application is required to be filed pursuant to this paragraph, the manufacturer may not sell or deliver such item after August 8, 1943 until a maximum price is authorized under this paragraph, except under an agreement with the purchaser to adjust the selling price to a figure not higher than the maximum price which is later authorized under this paragraph. The maximum prices authorized under this paragraph may be revoked or amended at any time.

(2) *For wholesalers and retailers.* (i) The maximum price established by the wholesaler or retailer under the provisions of this regulation for the similar domestic malt beverage most nearly like it, for sales to purchasers of the same class: *Provided,* That if the maximum price established under this regulation for the wholesaler's or retailer's similar domestic malt beverage most nearly like the domestic malt beverage to be priced, does not include the increases, or any part thereof, permitted under § 1420.66 (a), (b) and (c), the maximum price established under this paragraph may include such permitted increases or part thereof.

(ii) If the wholesaler's or retailer's maximum price cannot be determined under (i), the maximum price established by the most closely competitive seller of the same class for (*a*) the same domestic malt beverage, or, if the same domestic malt beverage is not sold or offered for sale, then (*b*) the similar domestic malt beverage most nearly like it, for sales to purchasers of the same class: *Provided,* That if the maximum price established by the most closely competitive seller of the same class for such seller's same domestic malt beverage or similar domestic malt beverage most nearly like the domestic malt beverage to be priced, does not include the increases, or any part thereof, permitted under § 1420.66 (a), (b) and (c), the maximum price established under this paragraph may include such permitted increases or part thereof.

(iii) *New items priced since March 31, 1942 and prior to August 9, 1943.* A wholesaler or retailer who since March 31, 1942 and prior to August 9, 1943 has established a maximum price for a new domestic malt beverage according to the maximum price of a competitor's similar domestic malt beverage, shall within 30 days after the latter date establish a maximum price for such new domestic malt beverage under (i) or, if he cannot establish a maximum price for such item under that paragraph, the wholesaler or retailer shall continue the maximum price established according to his competitor's maximum price for the same or similar item: *Provided,* That if the manufacturer of such new domestic malt beverage is required under this section for any reason to decrease his maximum price therefor in accordance with any determination of the Office of Price Administration, the wholesaler or retailer shall re-examine the basis of his original determination in establishing a maximum price for such domestic malt beverage and establish a new maximum price for such item in accordance with the pricing methods of this section.

2. Section 1420.66 (d) is hereby revoked.

This amendment shall become effective August 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12622; Filed, August 3, 1943; 3:06 p. m.]

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 8950, 9495, 9621.

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 444]

COTTONSEED OIL MEAL, CAKE, SIZED CAKE AND PELLETS; AND COTTONSEED HULLS AND HULL BRAN

Maximum Price Regulation 444 is a revision and amendment as to the above named cottonseed products of former § 1499.75 (a) (50) of Supp. Reg. 14 to the General Maximum Price Regulation. (The present section is section 1.8 of Revised Supp. Reg. 14 to the General Maximum Price Regulation.

In the judgment of the Price Administrator, the maximum prices established by this regulation are generally fair and equitable and comply with all provisions and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended, and of E.O. 9250 and E.O. 9328.

The statement of the considerations involved in the issuance of this regulation has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

§ 1351.364 *Maximum prices for cottonseed oil meal, cake, sized cake and pellets; and cottonseed hulls and hull bran.* Under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, Executive Order 9250 and Executive Order 9328, Maximum Price Regulation 444 (Cottonseed oil meal, sized cake and pellets; and cottonseed hulls and hull bran), which is annexed hereto and made a part hereof, is hereby issued.

AUTHORITY: § 1351.364 issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681.

MAXIMUM PRICE REGULATION 444—COTTONSEED OIL MEAL, CAKE, SIZED CAKE AND PELLETS; AND COTTONSEED HULLS AND HULL BRAN

ARTICLE I—SCOPE OF THIS REGULATION

Sec.

1. Geographical applicability.
2. Effect of maximum prices.

ARTICLE II—DEFINITIONS, MAXIMUM PRICES AND TERMS OF SALE

3. Definitions.
4. Maximum prices for sale of domestic cottonseed oil meal, cake, sized cake and pellets other than that specified in section 5 hereof by processors.
5. Maximum prices for sale of domestic cottonseed oil meal, cake, sized cake or pellets owned or under contract by a processor or produced from cottonseed owned or under contract by a processor on July 31, 1943.
6. Maximum prices for the sale of domestic cottonseed hulls and hull bran by processors.
7. Maximum prices for the sale of domestic cottonseed oil meal, sized cake or pellets by grinders.
8. Maximum prices for the sale of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by jobbers.
9. Maximum prices for the sale of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by wholesalers.
10. Maximum prices for sales of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by retailers.
11. Maximum prices for sales of imported cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran.
12. Maximum prices in other cases.
13. Increases for sacks.
14. Sales of cottonseed oil meal, cake, sized cake or pellets on basis of guaranteed minimum percentage of protein and adjustment for deficiencies.
15. Maximum prices for export sales.

ARTICLE III—MISCELLANEOUS PROVISIONS

16. Adjustable pricing.
17. Evasion.
18. Records and reports.
19. Enforcement.
20. Protests and petitions for amendment.

Article I—Scope of This Regulation

SECTION 1. *Geographical applicability.* 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 cottonseed oil meal, cake, sized cake and pellets; and cottonseed hulls and cottonseed hull bran whether produced from domestic or imported cottonseed.

SEC. 2. *Effect of maximum prices.* (a) While this regulation remains in effect, regardless of any contract or obligation, no person shall in the course of trade or business sell, deliver, buy or receive any cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or cottonseed hull bran at prices above the maximum prices established by this regulation; nor shall any person agree, offer, solicit or attempt to do any of the foregoing.

(b) However, prices lower than the maximum prices established by this regulation may be charged and paid.

Article II—Definitions, Maximum Prices and Terms of Sale

SEC. 3. *Definitions.* When used herein the following terms shall have the following meanings:

"Person" means an individual, corporation, partnership, association or other organized group of persons or the legal successor or representative of any of the foregoing, and includes the United States or any other government or any political subdivision or agency of any of the foregoing.

"Processor" is a person who processes cottonseed by expeller, extraction or hydraulic process into cottonseed oil and cottonseed oil cake or meal, sized cake, pellets, cottonseed hulls, hull bran and linters.

"Grinder" is a person who buys cottonseed oil cake and processes or procures the processing of such cake into cottonseed oil meal, sized cake or pellets and sells such oil meal, sized cake or pellets It includes a processor who buys cottonseed oil cake and processes such cake into cottonseed oil meal, sized cake or pellets and sells such oil meal, sized cake or pellets.

"Cottonseed oil meal, cake, sized cake and pellets" refer to the products produced by a processor or grinder from cottonseed as above described. The cottonseed used must not contain screenings or other foreign materials except in such quantities as might have occurred in good production practice as in vogue prior to price control. Further, screenings or other foreign materials must not be added to the meal, or cake, sized cake or pellets after the crushing of the oil from the cottonseed.

"Cottonseed hulls and hull bran" refer to the by-products produced by a processor from cottonseed as above described.

"Jobber" is a person other than a processor, grinder or retailer who distributes cottonseed oil meal, cake, sized cake, pellets, cottonseed hulls or hull bran owned by him without unloading into a warehouse.

"Wholesaler" is a person who buys cottonseed oil meal, cake, sized cake or pellets, or cottonseed hulls or hull bran, unloads it into a warehouse and resells the same to a retailer or a person who processes the same further. It includes a processor or grinder where he 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.

"Retailer" is a person who buys cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran and resells the same to a feeder. It includes a processor or grinder where he transports and unloads the aforesaid products into a store operated as a place of business separate from the production plant and thereafter sells the same to a feeder.

"Feeder" is a person who feeds any cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran to animals or poultry.

"Carload lot" means a lot of cottonseed oil meal, cake, sized cake or pellets of 30 tons or more and for cottonseed hulls or hull bran the minimum established in official railroad tariffs.

"Less than carload lots" means a quantity other than a carload or pool car lot, and includes truck quantities.

"Pool car lot" means a railroad car lot in which two or more buyers have combined for the purpose of obtaining a carload rail freight rate.

"North-South dividing line" consists of a line extending along the following state boundary lines: the boundary line between North Carolina and Virginia; the boundary lines between Tennessee and Virginia, Kentucky and Missouri; the boundary line between Arkansas and Missouri; the boundary lines between Oklahoma and Missouri, Kansas and Colorado; the boundary line between New Mexico and Colorado; the boundary line between Arizona and Utah and Nevada; and the boundary line between California and Nevada and Oregon.

"Transportation charges" shall be computed at:

(i) The lowest common carrier rate (including the 3 per cent tax provided for in section 620 of the Revenue Act of 1942, as amended) for the billing or shipment in question; or

(ii) If there is no such rate, the reasonable value of the service (including said 3 per cent tax, if any) not exceeding any maximum price established therefor.

*Copies may be obtained from the Office of Price Administration.

SEC. 4. *Maximum prices for sale of domestic cottonseed oil meal, cake, sized cake and pellets, other than that specified in section 5 hereof by processors.* (a) The maximum price for the sale and delivery of domestic cottonseed oil meal, and sized cake (other than that specified in section 5 hereof) per ton, in carload lots or pool car lots, bulk, 41 per cent up to 43 per cent of protein, at production plant, by a processor shall be as follows:

State where production plant is located:	*Maximum price*
Mississippi	$45.00
Tennessee	45.50
Arkansas (east of White River)	45.50
Arkansas (other points)	46.00
Missouri	46.00
Illinois	46.25
Louisiana	46.00
Oklahoma	47.00
Texas (exclusive of El Paso)	47.00
Texas (El Paso)	48.00
Alabama	46.00
Georgia	46.50
Florida	46.50
South Carolina	47.00
North Carolina	47.50
New Mexico	48.00
Arizona	48.00
California	48.00
Any other state	The maximum price of the state wherein is located the production plant nearest to the plant in question.

(b) The foregoing maximum prices shall be decreased at the rate of 75 cents per ton for a like sale and delivery of a like quality of cottonseed oil cake.

(c) The maximum prices specified in paragraph (a) of this section shall be increased at the rate of $1.50 per ton for a like sale and delivery of a like quality of cottonseed oil meal pellets.

(d) The foregoing maximum prices shall be decreased for the sale of lots of cottonseed oil meal, cake, sized cake or pellets containing less than 41 per cent protein at the rate of 75 cents per ton for each 1 per cent or fraction thereof of protein below 41 per cent of protein.

(e) The foregoing maximum prices shall be increased at the rate of $2.00 per ton for the sale of any lot of cottonseed oil meal, cake, sized cake or pellets containing 43 per cent or more of protein.

(f) The foregoing maximum prices shall be increased at the rate of $1.00 per ton for a sale of any cottonseed oil meal, cake, sized cake or pellets in a less than carload lot.

(g) The foregoing maximum prices shall be increased for a sale and delivery of any cottonseed oil meal, cake, sized cake or pellets by a processor at any point other than the plant where produced by transportation charges from said production plant to such point by a usual route and method of transportation; plus, in the case of a sale and delivery by any processor in carload lots of any cottonseed oil meal, cake, sized cake or pellets produced at any production plant to a point north of the North-South dividing line, a further increase at the rate of $1.00 per ton.

SEC. 5. *Maximum prices for sale of domestic cottonseed oil meal, cake, sized cake or pellets owned or under contract by a processor or produced from cottonseed owned or under contract by a processor on July 31, 1943.* (a) The maximum price for the sale and delivery of domestic cottonseed oil meal, cake, sized cake or pellets, which is owned or under contract by a processor or which is produced from cottonseed of the 1942 crop owned or under contract by a processor on July 31, 1943, per ton, in carload lots or pool car lots, bulk, 41 per cent up to 43 per cent of protein at production plant, by a processor shall be $2.00 per ton above the maximum trade prices specified in Schedule A of the Processor Contract, 1942 Cottonseed Program, of the Commodity Credit Corporation.

(b) The foregoing maximum prices shall be increased at the rate of $1.00 per ton for a sale of any cottonseed oil meal, cake, sized cake or pellets in a less than carload lot.

(c) The maximum prices established by this section shall be applicable to all processors irrespective of whether or not the above named Processor Contract is in effect.

SEC. 6. *Maximum prices for the sale of domestic cottonseed hulls and hull bran for processors.* (a) The maximum price for the sale of domestic cottonseed hulls, per ton, bulk, by the processor shall be $12.00 per ton for sales in carload lots, and $13.00 per ton for sales in less than carload lots, plus transportation charges from plant where produced to the buyer's receiving point by a usual route and method of transportation.

(b) The foregoing maximum prices shall be increased at the rate of $4.00 per ton for a sale of any cottonseed hull bran.

SEC. 7. *Maximum prices for the sale of domestic cottonseed oil meal, sized cake or pellets by grinders.* (a) The maximum price for the sale or delivery of cottonseed oil meal, sized cake or pellets by a grinder shall be the maximum price of the processor (from whom the cottonseed oil cake was obtained) for a like sale of such oil meal, sized cake or pellets (that is, the maximum price of the processor determined according to the applicable provisions of section 5 or 6) plus an addition at the rate of 50 cents per ton plus actual or reasonable transportation charges, if any, incurred by the seller in respect to the lot sold.

(b) Where a processor makes a sale as a grinder, the burden shall always rest upon him to establish by clear evidence that he in fact actually performed the functions of a grinder.

SEC. 8. *Maximum prices for the sale of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by jobbers.* The maximum price for the sale of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by a jobber shall be:

(a) 50 cents per ton (maximum markup) for all sales in carload lots; and

(b) $1.00 per ton (maximum markup) for sales in less than carload lots or pool car lots, over the maximum price which he could lawfully have paid a processor or grinder for the quantity or quality of the commodity as purchased by him and which he is reselling plus transportation charges actually incurred by the seller in respect to the lot sold.

SEC. 9. *Maximum prices for the sale of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by wholesalers.* The maximum price for the sale of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by a wholesaler shall be:

(a) $2.50 per ton (maximum markup) for sales of cottonseed oil meal, cake, sized cake or pellets; and

(b) $2.00 per ton (maximum markup) for sales of cottonseed hulls or hull bran, over the maximum price which he could lawfully have paid the processor, grinder or jobber for the quantity or quality purchased (from out of which lot the sale in question is made) delivered at his warehouse plus transportation charges actually incurred by the seller from said warehouse to the buyer's receiving point.

SEC. 10. *Maximum prices for sales of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by retailers.* The maximum price for the sale of domestic cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by a retailer shall be:

(a) $5.50 per ton (maximum markup) for sales of cottonseed oil meal, cake, sized cake or pellets; and

(b) $4.00 per ton (maximum markup) for sales of cottonseed hulls or hull bran over the maximum price which he could lawfully have paid the processor, grinder, jobber or wholesaler for the quantity and quality purchased (from out of which lot the sale in question is made) delivered at his receiving point plus transportation charges actually incurred by the seller from his receiving point to his buyer's receiving point.

SEC. 11. *Maximum prices for sales of imported cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran.* (a) The basic maximum price for the sale (within the 48 states and the District of Columbia of the United States) of any imported cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls shall be the maximum price for a like sale by a processor of a like quantity and quality of the domestic product produced at that domestic production plant located nearest the port of entry: *Provided,* That:

(1) If the port of entry is located in Oregon or Washington said basic maximum price for such sale thereof shall be the maximum price for a like sale by a processor of a like quantity and quality of the domestic product produced at San Francisco, California; or

(2) If the port of entry is not located in a state specifically named in section 4 (a) hereof or in Oregon or Washington said basic maximum price for such sale thereof shall be the maximum price for a like sale by a processor of a like quantity and quality of the domestic product produced at Memphis, Tennessee.

(b) Jobbers, wholesalers and retailers making sales (within the 48 states and the District of Columbia of the United

States) of any such imported products shall add their respective permitted markups as provided as to domestic products over the basic maximum price of the imported products as provided in paragraph (a) of this section.

(c) A mixed feed manufacturer in determining his maximum prices under Maximum Price Regulation 378 on his mixed feed for animals and poultry shall calculate his "cost" of any such imported products at the maximum price thereof as above provided if he purchased the same within the 48 states and the District of Columbia of the United States; and if he did not then at the maximum price thereof as specified in paragraph (a) of this section.

SEC. 12. *Maximum prices in other cases.* (a) The maximum price for the sale of any cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran by any other person of a class of seller not hereinbefore specifically provided for shall be the maximum price which the person from whom he purchased could lawfully have charged for a like sale: *Provided,* That no grower or ginner of cottonseed shall sell or deliver cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran obtained from a processor in exchange for cottonseed at a higher price than the maximum price of the processor with whom he traded for a like sale or delivery.

(b) Notwithstanding any other provision of this regulation, sales between persons of one of the classes of sellers hereinbefore specifically provided for shall be permissible: *Provided,* That no such sales, nor sales to a person of a different class, shall be at a higher price than the maximum price hereinbefore prescribed for said class of sellers.

SEC. 13. *Increases for sacks.* When any seller has bulk domestic or imported cottonseed oil meal, cake, sized cake or pellets or cottonseed hulls or hull bran and desires to sell the same sacked the foregoing maximum prices where determined on a bulk basis shall be increased at the following rates per ton:

(a) For sales of cottonseed oil meal, cake, sized cake or pellets:

(1) In seller's sacks, the reasonable market value of the sacks, not exceeding any maximum price thereon at the time of the sale or delivery: *Provided,* That if the sacks were purchased from the buyer by the seller, the seller shall not charge more than the price he paid for such sacks.

(2) In buyer's new or recleaned sacks, $0.50.

(3) In buyer's sacks of any other kind, $1.00.

(b) For sales of cottonseed hulls and hull bran:

(1) In seller's sacks, the reasonable value of the sacks, not exceeding any maximum price thereon at the time of the sale or delivery.

(2) In buyer's sacks, 50 cents per ton for the sacking.

SEC. 14. *Sales of cottonseed oil meal, cake, sized cake or pellets on basis of guaranteed minimum percentage of protein and adjustment for deficiencies.* (a) No person shall sell any domestic or imported cottonseed oil meal, cake, sized cake or pellets except on the basis of a specified guaranteed minimum percentage of protein therein.

(b) If an actual analysis of any lot of domestic or imported cottonseed oil meal, cake, sized cake or pellets differs from the guaranteed minimum percentage of protein therein then:

(1) If above said guaranteed minimum percentage of protein, no increase in the maximum price is permitted.

(2) If below said guaranteed minimum percentage of protein, the deficiency shall be adjusted and settled in accordance with the applicable rules of the National Cottonseed Crushers Association and the resulting figure is the adjusted maximum price thereof.

SEC. 15. *Maximum prices for export sales.* The maximum price for export sales of cottonseed oil meal, cake, sized cake or pellets shall be determined in accordance with the provisions of the Second Revised Maximum Export Price Regulation.[1]

Article III—Miscellaneous Provisions

SEC. 16. *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 any official of the Office of Price Administration to whom the authority to grant such authorization has been delegated. The authorization will be given by order, except that it may be given by letter or telegram when the contemplated revision will be the granting of an individual application for adjustment.

SEC. 17. *Evasion.* The provisions of this regulation shall not be evaded whether by direct or indirect methods in connection with any offer, solicitation, agreement, sale, delivery, purchase or receipt of any commodity covered by this regulation alone or in connection with any other commodity or by way of commission, service, transportation or other charge, or discount, premium or other privilege or by tying-agreement or other trade understanding or otherwise.

SEC. 18. *Records and reports.* (a) Every seller subject to this regulation shall keep for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942, as amended, remains in effect his customary records including, if any, all bills, invoices and other documents relating to every sale or delivery of cottonseed oil meal, cake, sized cake or pellets after the effective date of this regulation.

(b) Upon demand every such seller shall submit such records to the Office of Price Administration and keep such further records as the Office of Price Administration may from time to time require.[2]

SEC. 19. *Enforcement.* Persons violating any provision of this regulation are subject to the license revocation or suspension provisions, civil enforcement actions, suits for treble damages, and criminal penalties as provided in the Emergency Price Control Act of 1942, as amended.

SEC. 20. *Protests and petitions for amendment.* Any person desiring to file a protest against or seeking an amendment of any provisions of this regulation may do so in accordance with Revised Procedural Regulation No. 1 issued by the Office of Price Administration.[3]

Effective Date

This regulation shall become effective July 31, 1943.

NOTE: The record keeping provisions of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 31st day of July 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12456; Filed, July 31, 1943; 2:40 p. m.]

[1] 8 F.R. 4132, 5987, 7662.

PART 1363—FEEDINGSTUFFS

[Rev. MPR 74, Amdt. 1]

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.*

Revised Maximum Price Regulation 74 is amended in the following respects:

1. Section 4 is amended to read as follows:

SEC. 4. *Maximum prices for sales by all persons of dry rendered tankage.* (a) The maximum price for the sale of domestic dry rendered tankage, per ton, bulk, by any person shall be at the rate of $1.25 for each percentage of protein therein plus transportation charges from production plant thereof to the buyer's receiving point by a usual route and method of transportation.

(b) The maximum price for the sale of imported dry rendered tankage, per ton, bulk, by any person shall be at the rate of $1.25 for each percentage of protein therein delivered at any point within the 48 states and the District of Columbia of the United States.

2. Section 5 is amended to read as follows:

SEC. 5. *Maximum prices for sales by all persons of wet rendered tankage and dried blood.* (a) The maximum price for the sale of domestic wet rendered tankage and dried blood, per ton, bulk,

*Copies may be obtained from the Office of Price Administration.

[2] Subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

[3] 7 F.R. 8961; 8 F.R. 3313, 3533, 6173.

by any person shall be at the rate of $5.53 for each percentage of ammonia therein plus transportation charges from production plant thereof to the buyer's receiving point by a usual route and method of transportation.

(b) The maximum price for the sale of imported wet rendered tankage and dried blood, per ton, bulk, by any person shall be at the rate of $5.53 for each percentage of ammonia therein delivered at any point within the 48 States and the District of Columbia of the United States.

3. Section 6 (b) (2) is amended to read as follows:

(2) For digester tankage, blood meal and blood flour, $5.53 for each percentage of ammonia in the dry or wet rendered tankage or dried blood used to produce the same, plus $6.50 per ton and plus transportation charges from production plant of the digester tankage, blood meal or blood flour (or if imported, from port of entry thereof) to buyer's receiving point by a usual route and method of transportation.

This amendment shall become effective August 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12623; Filed, August 3, 1943; 3:06 p. m.]

PART 1364—FRESH, CURED AND CANNED MEAT AND FISH PRODUCTS

[MPR 389,[1] Amdt. 5]

CEILING PRICES FOR CERTAIN SAUSAGE ITEMS 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.*

Section 12 (c) (3) is added to read as follows:

(3) *All meat products.* On frankfurters and bologna meeting the requirements for Grade AA and containing no extender there may be added $0.50 per cwt.: *Provided*, That the seller states on his invoice that the product is an all meat product containing no extender. Manufacturers of frankfurters and bologna containing no extender may, in addition to the label required by section 4, mark such products, and their containers, "All Meat."

This amendment shall become effective August 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E. O. 9250; 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12624; Filed, August 3, 1943; 3:05 p. m.]

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 5983, 6953, 6958, 6945, 8185, 8677.

PART 1418—TERRITORIES AND POSSESSIONS

[Rev. MPR 183,[1] Amdt. 1]

PUERTO RICO

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 183 is amended in the following respects:

1. Section 14 is hereby revoked.

2. Section 20 Table 3 is amended by adding the category "Canned apples" and two new items to the category "Canned pears: Bartlett (Halves)" all to read as follows:

Items and brand names	Unit	Price to wholesaler	Price at wholesale	Retail price
				Per can
Canned apples:				
Reddi Maid	Case 24/#2 cans	$3.45	$3.95	$0.21
Washington	Case 6/#10 cans	3.85	4.40	.95
Canned pears: Bartlett (Halves):				
Tolo	Case 24/#2½ cans	6.40	7.35	.30
Penwald	Case 24/#2½ cans	6.00	6.90	.37

3. Section 24 Table 8 is amended by adding two brands to the category "Tomato sauce" to read as follows:

Items and brand names	Unit	Price to wholesaler	Price at wholesale	Retail price
				Per container
Tomato sauce:				
Libby Buffet	Case 72/8 oz. cans	$3.63	$4.17	$0.08
S & W	Case 72/8 oz. cans	3.72	4.28	.08

4. Section 25 Table 10 is amended by adding four new categories to read as follows:

Items and brand names	Unit	Price to wholesaler	Price at wholesale	Retail price per container
Lima beans, small, S & W	Case 24/#2 cans	$6.03	$6.93	$0.37
String beans, cut, S & W	Case 24/#2 cans	4.98	5.73	.31
Stringless green beans, cut, Chilford	Case 24/#2 cans	3.42	3.95	.21
Spinach, Maryland, chief	Case 24/#2½ cans	4.00	4.60	.25

5. Section 25a Table 10a is added to read as follows:

SEC. 25a *Maximum prices for certain canned vegetable juices sold or delivered in the Territory of Puerto Rico.*

TABLE 10A.—MAXIMUM PRICES FOR CERTAIN CANNED VEGETABLE JUICES

Items and brand names	Unit	Price to wholesaler	Price at wholesale	Retail price per can
V-Eight	Case 12/18 oz. cans	$1.80	$2.07	$0.22
	Case 12/46 oz. cans	3.83	4.40	.48

6. Section 36 Table 23 is amended by adding a new item to the category "Quaker" to read as follows:

Items and brand names	Unit	Price to wholesaler	Price at wholesale	Retail price per package
Quaker: Farina Vito	Case 24/28 oz. pkgs	$3.26	$3.60	$0.18

7. Section 42 Table 33 is amended by adding a new brand to the table to read as follows:

		Sales to wholesalers	Sales at wholesale	Sales at retail
				Price per pkg.
National Starch Co. (edible)	Case 40/1# pkgs	$2.58	$2.85	$0.10
	Case 144/1# pkgs	9.30	10.25	.10
	Case 96/1# pkgs	6.20	6.80	.10

This amendment shall become effective as of July 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12625; Filed, August 3, 1943; 3:08 p. m.]

[1] 8 F.R. 9532.

PART 1499—COMMODITIES AND SERVICES

[MPR 188,[1] Amdt. 18]

PLASTIC PIPE AND TUBING

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. 188 is amended in the following respect:

1. The list of commodities in § 1499.166 (a) (1) (iv) under the heading "Plumbing" is amended by adding a new commodity as set forth below:

Plastic pipe and plastic tubing manufactured from co-polymer vinyl and vinylidene chlorides commercially known as "Saran B 11."

This amendment shall become effective August 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12626; Filed, August 3, 1943; 3:05 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 87 Under SR 15 to GMPR]

LAWRENCE E. BOND, ET AL.

Order No. 87 under § 1499.75 (a) (3) of Supplementary Regulation No. 15 to the General Maximum Price Regulation; Docket No. GF3-3174.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1387 *Adjustment of maximum prices for contract carrier services supplied by Lawrence E. Bond, Baltimore, Maryland, et al.* (a) Lawrence E. Bond, doing business as Bond Transfer, of Baltimore, Maryland; Catherine B. Moser, doing business as C. B. Moser, of Owings Mill, Maryland; Hiram G. Wineberger, doing business as Valley Transport Lines, of Owings Mill, Maryland; and Liberty Transfer Company, Inc., of Baltimore, Maryland, may sell and deliver contract carrier services to the Chesapeake Paperboard Company, of Baltimore, Maryland, at prices not to exceed prices established by them in schedules issued January 2, 1943, filed with the Interstate Commerce Commission, and made effective February 1, 1943.

(b) All requests of the application not granted herein are denied.

(c) This Order No. 87 (§ 1499.1387) may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 87 (§ 1499.1387) shall become effective as of February 1, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12615; Filed, August 3, 1943; 3:04 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 583 Under § 1499.3 (b) of GMPR]

WARREN LEE PARKINSON

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, *It is ordered:*

§ 1499.2121 *Approval of a maximum price for a sale at retail of hand loaded ammunition manufactured by Warren Lee Parkinson.* (a) Warren Lee Parkinson, 806 McKinley Avenue, Boise, Idaho, may sell and deliver at retail his hand loaded ammunition described in his application dated March 1, 1943, at a price no higher than $4.30 per box of twenty shells, f. o. b. Boise, Idaho.

(b) This Order No. 583 may be revoked or amended by the Price Administrator at any time.

This Order No. 583 shall become effective on the 16th day of July 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 15th day of July 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12631; Filed, July 15, 1943; 2:18 p. m.]

PART 1364—FRESH, CURED AND CANNED MEAT AND FISH PRODUCTS

[MPR 389,[1] Amdt. 6]

CEILING PRICES FOR CERTAIN SAUSAGE ITEMS AT WHOLESALE

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. 389 is amended in the following respects:

1. Item 1 of the table contained in section 12 (a) is amended by the addition of footnote "[1]" to follow the word "Pork" and to appear below the table, to read as follows:

[1] On sales of pork sausage in sheep casings, packaged in 1 pound wax paper cartons, seller may add $1.00 per hundredweight.

2. Section 7 is amended to read as follows:

SEC. 7. *Indirect price increases.* No person shall evade any of the provisions of this regulation by any scheme or device and no person shall indirectly charge or receive for sausage subject to this regulation a price higher than the maximum prices permitted by this regulation. No person shall as a condition of selling any such sausage require a purchaser to buy any other meat or any other product: *Provided,* That a payment by a buyer to a seller for icing services performed by the seller after June 1, 1943, and before delivery of sausage to a railroad whose charges are paid directly to such railroad by the buyer shall not be constituted as an evasion of such price limitations, if the charge for such icing services is no higher than the cost actually incurred by the seller in performing such service and in no event higher than the charge which could lawfully have been made by the railroad if such services had been performed by the railroad.

This amendment shall become effective August 3, 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 August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12651; Filed, August 4, 1943; 11:57 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 593 Under § 1499.3 (b) of GMPR]

WELLS MANUFACTURING CO.

For the reasons set forth in an opinion issued simultaneously herewith, and filed with the Division of the Federal Register, *It is hereby ordered:*

§ 1499.2131 *Approval of maximum prices for the sale of cherry blocking wood by Wells Manufacturing Company.* (a) Wells Manufacturing Company, South Bend, Indiana, may sell and deliver, and any person may buy from said company, 18 and 21 gauge cherry blocking wood at prices no higher than those hereinafter set forth.

Size and description:	*Maximum price Per square foot delivered*
18 and 21 gauge, paneled cherry	$0.40
18 and 21 gauge, random width	0.24
18 and 21 gauge, glued	0.29

(b) All customary discounts and allowances in use by applicant during March 1942 shall apply to the prices authorized herein.

(c) This Order No. 593 may be revoked or amended by the Price Administrator at any time.

This order shall become effective August 5, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 4th day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12652; Filed, August 4, 1943; 11:57 a. m.]

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 5872, 7967, 8943, 10155, 8 F.R. 537, 1815, 1980, 3105, 3788, 3850, 4140, 4931, 5759, 7107, 8751, 8754, 9836.

[1] 8 F.R. 5903, 6958, 6945, 8185, 8677.

PART 1499—COMMODITIES AND SERVICES

[Order 594 Under § 1499.3 (b) of GMPR]

CURTICE BROTHERS CO.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.2132 *Authorization of maximum prices for sales of "Tasty 7," a liquid product containing vinegar, spices, sugar, salt and spice oils, packed in 8-ounce bottles, 24 bottles to the case, manufactured by Curtice Brothers Co., Rochester, New York.* (a) On and after August 5, 1943, the maximum selling price for sales by Curtice Brothers Co., Rochester, New York, of "Tasty 7," a liquid product containing vinegar, spices, sugar, salt and spice oils, shall be $1.38 per dozen 8-ounce bottles, f. o. b. factory, packaged 24 bottles to the case.

(b) Curtice Brothers Co. is not required to apply any discounts to the maximum price authorized by paragraph (a).

(c) This Order No. 594 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 594 shall become effective August 5, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 4th day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12653; Filed, August 4, 1943; 11:57 a. m.]

Chapter XIII—Petroleum Administration for War

[PAO 11, Amdt. 1]

PART 1515—PETROLEUM PRODUCTION OPERATIONS

ELIMINATION OF CERTAIN LOUISIANA FIELDS

Section 1515.6 *Petroleum Administrative Order No. 11* is hereby amended by eliminating from Exhibit A thereof the Lake Chicot field, located in St. Martin Parish, South Louisiana, and the Schuler Lime pool of the Sligo field, located in Bossier Parish, North Louisiana.

(E.O. 9276, 7 F.R. 10091; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 2d day of August 1943.

R. K. DAVIES,
Deputy Petroleum Administrator for War.

[F. R. Doc. 43-12630; Filed, August 3, 1943; 3:23 p. m.]

PART 1527—MARKETING ASPHALT

[Petroleum Dir. 66 as Amended May 22, 1943, Amdt. 1]

CERTAIN TEST REQUIREMENTS

Section 1527.1 *Petroleum Directive No. 66* is hereby amended by changing paragraph (c) (1) to read as follows:

(c) *Special provisions.* (1) At the option of the purchaser, the Oliensis Spot Test, A.A.S.H.O. designation T102-38 may be required in addition to Federal Specifications only for asphalt for use on surfaces on which aircraft travel. For all other surfaces, at the option of the purchaser, the Heptane-Xylene Equivalent Spot Test, A.A.S.H.O. designation T102-42, using 35% Xylene and 65% normal Heptane may be required in addition to Federal Specifications.

(E.O. 9276, 7 F.R. 10091; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 5th day of August 1943.

RALPH K. DAVIES,
Deputy Petroleum Administrator for War.

[F. R. Doc. 43-12646; Filed, August 4, 1943; 11:25 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Reclamation, Department of the Interior

PART 451—BOAT AND WHARF PRIVILEGES ON CERTAIN RESERVOIRS [1]

GREEN MOUNTAIN RESERVOIR, COLORADO-BIG THOMPSON PROJECT

1. *Permits.* Any person desiring to keep or operate a boat or to construct and maintain a wharf or boathouse on the Green Mountain Reservoir will first be required to obtain a permit to do so from the Project Engineer of the Bureau of Reclamation, Estes Park, Colorado. For the issuance of such a permit there will be charged the sum of $1.50 per calendar year for each rowboat or canoe, the sum of $3.00 per calendar year for each sailboat or power boat, and the sum of $7.50 per calendar year for each houseboat: *Provided,* That where any such boat is used for hire or for the carriage of persons or property for compensation, a charge shall be fixed according to the capacity thereof, but in no case less than $3.00 per calendar year for each rowboat or canoe, $7.50 per calendar year for each sailboat or power boat, and $15.00 per calendar year for each houseboat. Permits will continue in force until the end of the calendar year in which issued, unless sooner terminated by the permittee or revoked by the Project Engineer with refund of the unearned portion of the charge paid: *Provided,* That if revoked by the Project Engineer for a violation of law or of these regulations no refund will be made. The Project Engineer will furnish the permittee license numbers for each boat, which must be displayed in a conspicuous place on each of the outer sides of the boat, and the permittee shall keep in his possession and available for inspection the permit granted to him.

2. *Use of land for wharfs and boathouses.* Where desired and if deemed by the Project Engineer not detrimental to the interest of the United States, there may be granted to a permittee, in addition to the general landing privilege conferred as an accompaniment to the boating permit contemplated by paragraph 1 hereof, the exclusive privilege to use and occupy, in connection with such boating permit, a certain described tract of land belonging to the United States and abutting the reservoir shoreline. A charge of $7.50 per calendar year will be made for the use of such land where the same is to be used only for a private wharf or as combined private wharf and boathouse site: *Provided,* That, when any wharf or combined wharf and boathouse site is used for hire, a charge shall be fixed according to the capacity of such improvements, but in no case less than $15.00 per calendar year for each wharf; and $30.00 per calendar year for each combined wharf and boathouse site. All wharves and boathouses shall be constructed in a substantial and workmanlike manner satisfactory to the Project Engineer. Neither the use nor occupation of the land shall be transferred or sublet by the permittee without the consent of the Project Engineer, and the permit shall terminate and all right or interest of the permittee thereunder shall cease upon the service of notice on the permittee because of failure to observe such condition. The Project Engineer will furnish the permittee license numbers which must be displayed in a conspicuous place on the wharf or on the outer side of the boathouse.

3. *Rates to be charged by permittees.* Where boats, wharves or boathouses are used for hire or for the carriage or accommodation of persons or property for compensation, the permittee shall file with the Project Engineer certified copies of schedule of rates: *Provided,* That the rates to be charged persons engaged in the survey, construction, and operation and maintenance of the Green Mountain

[1] Affects tabulation in part 451.

Reservoir and Dam or any works in connection therewith shall not exceed one-half of such rates.

4. *Rowboats and canoes.* Each boat shall, when in use at any time between sunset and sunrise, carry a lantern or other suitable light visible all around the horizon.

5. *Sailboats and power boats.* (a) From sunset to sunrise, boats under way shall carry signal lights, and during such time no other lights that may be mistaken for those prescribed shall be exhibited. Each boat shall carry a white light aft, to show around the horizon, and a combination lantern in the fore part of the boat to show green to the right and red to the left so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides. In addition, a white light may be used in the center of the boat near the bow, but the aft light shall be higher than the forward lights and so placed as to form a range therewith and shall be clear of house, awnings and other obstructions.

(b) From sunset to sunrise, a boat at anchor while in use shall carry forward, where it can best be seen, at a height not exceeding 20 feet above the hull, a white light visible all around the horizon.

(c) Each boat shall be provided with an anchor of sufficient size and rope of sufficient length and strength to hold the boat in case of accident; with two or more oars; and with efficient life preservers equal in number to the maximum number of persons to be carried.

(d) Each boat shall be provided with a whistle or other sound-producing mechanical appliance capable of producing a blast of two seconds', or more, duration. A mouth whistle that can be heard at least one-half mile will be held in compliance with this rule.

6. *Rules of travel.* (a) When boats are approaching each other head-on or so nearly as to endanger collision, it shall be the duty of each to turn to the right and to pass to the port, or left, side of the other.

(b) Whenever power boats are so approaching, either boat shall give, as a signal of her intention, one short and distinct blast of her whistle which the other boat shall answer promptly by a similar blast of her whistle, and thereupon each boat shall pass on the port, or left, side of the other.

(c) If the course of the approaching boats is so far to the starboard, or right, side of each other as not to endanger collision, either boat shall give two sharp and distinct blasts of her whistle as an indication of her intention to continue on her course, which the other boat shall answer promptly by two similar blasts of her whistle, and thereupon each boat shall pass on the starboard, or right, side of the other.

(d) When two boats are crossing so as to involve risk of collision, the boat which has the other on her starboard, or right, side shall keep out of the way of the other boat.

(e) A boat overtaking any other boat shall keep out of the way of the overtaken boat.

(f) No boat shall approach, pass, or be located within five hundred (500) feet of any structure or other appliance constructed, operated or maintained by the United States in connection with the Green Mountain Reservoir, nor within twenty-five hundred (2,500) feet of the Green Mountain Dam or appurtenant works.

7. *Responsibility of owners.* Boats, which in the opinion of the Project Engineer, whose opinion shall be final and conclusive, are not properly constructed, operated or maintained, shall not be permitted to be placed or remain on the waters of the reservoir. All boats shall be securely anchored or tied up when not in use. Boats found floating loose on the reservoir will be taken up and the permittee shall be liable to the United States for any expense incurred in making the boat secure. Owners of power boats shall not permit the operation thereof for passenger service by any person not competent to handle the machinery.

8. *Order.* No intoxicated person shall be permitted upon land within the reservoir area belonging to the United States or wharves or boathouses constructed thereon, or boats on the waters of the reservoir, nor shall any person take any intoxicating liquor upon such land, wharf, boathouse or boat. The person in charge of such boat, wharf or boat house shall preserve order therein or thereon and shall extend courteous treatment to passengers and persons therein or thereon.

9. *Firearms.* The carrying of firearms in or upon the land within the reservoir area belonging to the United States or in or on any boat, boathouse or wharf by any person shall not be permitted.

10. *Sanitation.* No bottles, cans, garbage, rubbish or refuse of any kind shall be thrown into the waters of the reservoir, but the same shall be disposed of as directed by the Project Engineer, and the permittee shall locate and construct outhouses and cesspools as directed by the Project Engineer, and shall observe all sanitary regulations for the reservoir area which may be promulgated by the Project Engineer.

11. *Fishing and hunting.* Fishing in the waters of the reservoir will be permitted upon compliance with the laws, rules and regulations prescribed by the State of Colorado but subject to such additional regulations as it may be necessary for the United States to make for the protection of the reservoir, canals, diversion works, buildings or structures belonging to the United States. Hunting of any kind is prohibited on the reservoir or the lands bordering thereon.

12. *Camp fires.* The building of camp fires or any other fires within the reservoir area is prohibited except as may be permitted in accordance with existing Forest Service or other regulations, or regulations which may be promulgated by the Project Engineer.

13. *Violation of regulations.* The permit of any person, violating any of the foregoing regulations, may be revoked by the Project Engineer and such person shall remove his boat, wharf or boathouse from the reservoir and lands belonging to the United States; failing to do so, the boat may be impounded and sold or otherwise disposed of, or the boathouse or wharf may be removed or destroyed by the United States without liability of the United States to the owner.

14. *Waiver of liability.* The main purpose of the Green Mountain Reservoir is to impound water for irrigation and other regulatory purposes. Accordingly, any person at any time going in or upon the waters thereof or upon any of the structures or lands upon the margin thereof or upon adjacent lands belonging to the United States and held or reserved for the use in connection therewith, whether as licensee or permittee of the United States or otherwise, thereby assumes all risk of injury to or death of himself or damage to or destruction of property resulting directly or indirectly, wholly or in part, from said reservoir or appurtenant structures or their construction, operation and control by the United States.

Approved: July 26, 1943.

MICHAEL W. STRAUS,
First Assistant Secretary.

[F. R. Doc. 43-12632; Filed, August 4, 1943; 9:59 a. m.]

TITLE 46—SHIPPING

Chapter IV—War Shipping Administration

[General Order 29,[1] Supp. 4]

PART 341—SHIP WARRANT RULES AND REGULATIONS

SUSPENSION OF RATE CEILINGS FOR CERTAIN VESSELS

General Order 29 (§ 341.75 *Suspension of rate ceilings with respect to vessels of less than 1,000 gross tons*), as amended, is amended by striking out the word, "August", and inserting in lieu thereof the word, "October."

(E.O. 9054, 7 F.R. 837)

[SEAL] E. S. LAND,
Administrator.

AUGUST 3, 1943.

[F. R. Doc. 43-12645; Filed, August 4, 1943; 11:13 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[Service Order 142]

PART 95—CAR SERVICE

SAND OR GRAVEL SHIPMENTS TO DAINGERFIELD, TEXAS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 3d day of August, A. D. 1943.

It appearing that shipments of sand and gravel in carloads originating at Jury, Texas (billing point Texarkana, Texas), and destined to Daingerfield, Texas, for use by the Austin Bridge Company are being weighed on railroad track scales, thus impeding the use, control, supply, movement, and distribution of cars; in the opinion of the Commission an emergency exists requiring immediate action to avoid a shortage of equipment and congestion of traffic:

It is ordered, That:

§ 95.24 *Carloads of sand or gravel destined to Daingerfield, Texas, for use by Austin Bridge Company, not to be weighed.* (a) No common carrier by railroad subject to the Interstate Commerce Act shall weigh, or permit to be weighed, any shipment of sand or gravel in either straight or mixed carloads, on any railroad track scales when such traffic originates on or after the effective date of this order at Jury, Texas (billing point Texarkana, Texas), and is destined to Daingerfield, Texas, for use by the Austin Bridge Company, except that a limited number of cars may be weighed as is necessary to obtain average weights. The operation of all tariff rules or regulations insofar as they conflict with the provisions of this order is hereby suspended.

(b) *Announcement of suspension.* Each of such railroads shall publish, file, and post a supplement to each of its tariffs affected hereby, in substantial accordance with the provisions of Rule 9 (k) of the Commission's Tariff Circular No. 20 (§ 141.9 (k) of this chapter) announcing the suspension of any of the provisions therein.

(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 order shall become effective at 12:01 a. m., August 4, 1943, and that a copy of this order and direction shall 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 under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 43-12634; Filed, August 4, 1943; 10:50 a. m.]

Chapter II—Office of Defense Transportation

[General Order ODT 17, Amdt. 5]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART K—MOTOR CARRIERS OF PROPERTY

Pursuant to Executive Orders 8989 and 9156, *It is hereby ordered*, That, subparagraph (3) of paragraph (a) of § 501.76 of General Order ODT 17, as amended (7 F.R. 5678, 7694, 9623; 8 F.R. 8278, 8377), is amended by adding thereto subdivisions (viii), (ix), and (x), to read as follows:

§ 501.76 *Number of wholesale and retail deliveries limited.* (a) * * *:

(3) * * *:

(viii) To deliveries of property sold upon orders received by mail, telephone, or any other system of public communication;

(ix) To deliveries of property to the address of a person, other than the purchaser, which person is to retain possession of the property;

(x) To deliveries made to return or replace property delivered in error or property damaged in delivery.

This Amendment 5 to General Order ODT 17 shall become effective on August 5, 1943.

(E.O. 8989, 9156; 6 F.R. 6725, 7 F.R. 3349)

Issued at Washington, D. C., this 4th day of August, 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

[F. R. Doc. 43-12650; Filed, August 4, 1943; 11:37 a. m.]

Notices

CIVIL AERONAUTICS BOARD.

[Docket No. 854]

UNITED AIR LINES TRANSPORT CORPORATION

NOTICE OF ORAL ARGUMENT

In the matter of the application of United Air Lines Transport Corporation for approval of the acquisition by United Air Lines Transport Corporation of control of Lineas Aereas Mineras, S. A. (Lamsa), a Mexican corporation.

Notice is hereby given, pursuant to sections 1001 and 408 of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on August 13, 1943, 10 a. m. (eastern war time) in Room 5042 Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated Washington, D. C., August 3, 1943.

By the Civil Aeronautics Board.

[SEAL] FRED A. TOOMBS,
Secretary.

[F. R. Doc. 43-12633; Filed, August 4, 1943; 10:02 a. m.]

[1] 8 F.R. 1597, 2605, 4525, 9230.

OFFICE OF ALIEN PROPERTY CUSTODIAN.

[Vesting Order 1825]

ABANDONED PATENT APPLICATIONS OF NATIONALS OF ENEMY-OCCUPIED COUNTRIES

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 of the persons to whom reference is made in the column headed "Owner" in Exhibit A attached hereto and made a part hereof if an individual, is a citizen and resident of, or, if a business organization, is organized under the laws of and has its principal place of business in, the country represented by the code number set forth after its respective name in said Exhibit A under the heading "Nat" in accordance with the following:

17 Czechoslovakia.
27 France.
49 The Netherlands.
51 Norway.

and is therefore a national of such foreign country or countries respectively;

2. Finding that the patent applications and other property related thereto described in subparagraph 3 hereof are property of the persons whose names appear in the column headed "Owner" opposite the respective numbers thereof in said Exhibit A;

3. Finding, therefore, that the property described as follows:

Patent applications identified in Exhibit A attached hereto and made a part hereof, together with the entire right, title and interest throughout the United States and its territories in and to, including the right to file applications in the United States Patent Office for Letters Patent for, the invention or inventions shown or described in such applications,

is property of nationals of foreign countries (Czechoslovakia, France, The Netherlands, and Norway);

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in subparagraph 3 hereof, 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 account or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the powers 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 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. 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 said Executive Order.

Executed at Washington, D. C., on July 17, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

EXHIBIT A

Patent applications in the United States Patent Office which are identified as follows:

Serial No.	Filing date	Owner	Inventor	Title	Nat. code
13,760	3/29/35	Etablissements Expert-Bezanson.	J. Expert-Bezancon	Process for the manufacture of metallic powders.	27
76,088	4/28/36	Compagnie de Produits Chimiques et Electrometallurgiques Alais, Froges et Camarque.	M. Fournier	Process for obtaining 1,1,2 trichlorethane.	27
125,633	2/13/37	Eduard Fischer & Bruno Donath.	E. Fischer et al	Synthesis of hydrocarbons under ultra-pressure.	17
178,600	12/ 7/37	Edouard F. M. R. Lege	E. Lege	Method for preparing products of the hydrocarbon type.	27
222,451	8/ 1/38	Han Hoog	H. Hoog	Production of aromatic hydrocarbons.	49
249,748	1/ 7/39	Societe Des Usines Chimiques Rhone-Poulene.	I. Scriabine	Manufacture of diphenylamine	27
251,040	1/14/39	Clair Seal	C. Seal	Process for combining elementary nitrogen with hydrogen.	27
265,242	3/31/39	Andre Girard & Georges Sandulesco.	A. Girard et al	Process for quantitatively obtaining hydroxy compounds.	27
291,101	8/19/39	Norsk Hydro-Elekstrisk Kvaelstofaktieselskab.	C. Andersen	Treatment of waste sulphite liquor.	51
293,622	9/ 6/39	Schneider & Cie	F. Walckenaer	Ingot moulds and the castings of ingots.	27
306,41	11/27/39	Societe Anonyme des Manufactures Des Glaces et Produits Chimiques De Saint-Gobain, Chauny & Cirey.	A. Cornillot	Process for the production of the acrylic esters and their polymerizable substitution derivatives.	27
314,444	1/18/40	Etablissement Mouneyrat	A. Mouneyrat	Production of salts o. paraaminophenylsulfamides.	27
320,517	2/23/40	Carl Sandel Neuberg	C. Neuberg	Process for the production of saccharic acid.	49

[F. R. Doc. 43-12578; Filed, August 3, 1943; 10:31 a. m.]

[Vesting Order 1827]

ABANDONED PATENT APPLICATIONS OF NATIONALS OF ENEMY COUNTRIES

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 of the persons to whom reference is made in the column headed "Owner" in Exhibit A attached hereto and made a part hereof if an individual, is a citizen and a resident of, or if a business organization, is organized under the laws of and has its principal place of business in, the country represented by the code number set forth after its respective name in said Exhibit A under the heading "Nat" in accordance with the following:

28 Germany.
34 Hungary.
38 Italy.
39 Japan.

and is therefore a national of such foreign country or countries, respectively;

2. Finding that the patent applications and other property related thereto described in subparagraph 3 hereof are property of the persons whose names appear in the column headed "Owner" opposite the respective numbers thereof in said Exhibit A;

3. Finding, therefore, that the property described as follows:

Patent applications identified in Exhibit A attached hereto and made a part hereof, together with the entire right, title and interest throughout the United States and its territories in and to, including the right to file applications in the United States Patent Office for Letters Patent for, the invention or inventions shown or described in such applications,

is property of nationals of foreign countries (Germany, Hungary, Italy and Japan);

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in subparagraph 3 hereof, 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 account or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the powers 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 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. 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 said Executive Order.

Executed at Washington, D. C., on July 17, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

EXHIBIT A

Patent applications in the United States Patent Office which are identified as follows:

Serial No.	Filing date	Owner	Inventor	Title	Nat. code
46,334	10/23/35	Henkel & Cie, G.m.b.H.	W. Hentrich et al.	Hydrogenated aryl compounds containing hydroxyl groups.	28
53,713	12/10/35	Leonid Andrussow	L. Andrussow	Production of alkyl halides	28
54,321	12/13/35	Friedrich Muth	F. Muth	Ortho - hydroxycarboxylic acids of the diphenylene series.	28
71,264	3/27/36	Antonia Lilienfeld	L. Lilienfeld	Manufacture of cellulose derivatives.	28
90,897	7/16/36	Fritz Guenther	F. Guenther	Production of water-soluble poly-oxy-alkylene compounds.	28
109,549	11/6/36	Karl Koeberle and Otto Schlichting.	K. Koeberle et al.	High-molecular organic compounds.	28
119,471	1/7/37	Martin Mueller-Cunradi and Heinz Krekeler.	M. Cunradi et al.	Manufacture of crotonaldehyde.	28
122,085	1/23/37	Karl Dachlauer and Erwin Schnitzler.	K. Dachlauer et al.	Process of preparing higher chlorinated methanes.	28
140,694	5/4/37	Gerhard Balle and Karl Horst.	G. Balle et al.	Polybasic oxygen-containing mineral acid esters of isocyclic alcohols.	28
140,695	5/4/37	Gerhard Balle and Karl Horst.	G. Balle et al.	Polybasic oxygen containing mineral acid esters of isocyclic thioethers.	28
154,012	7/16/37	Karl Daimler and Carl Platz	K. Daimler et al.	Esters derived from isocyclic compounds and process of making them.	28
155,002	7/22/37	Henkel & Cie G. m. b. H.	O. Lainau et al.	Preparation of hydroaromatic nitrogen compounds.	28
158,819	8/12/37	Edmund Waldmann and August Chwala.	E. Waldmann et al.	Quaternary amino compounds and process of preparing them.	
162,279	9/3/37	Detlef Delfs	D. Delfs	Sulphones	28
172,989	11/5/37	Heraens Vacuum-schmelze A. G.	W. Hessenbruch	Beryllium-copper alloys	28
176,914	11/27/37	Walter Schulze and Hans Alekelln.	W. Schulze et al.	Process of preparing alkyl chlorides.	28
180,155	12/16/37	Heinrich Ulrich	H. Ulrich	Process for the purification of alkylene oxides.	28
180,611	12/18/37	Karl Koeberle and Otto Schlichting.	K. Koeberle et al.	High-molecular organic compounds.	28
180,915	12/20/37	Seishichi Shikata and Yoshiyuki Inoue.	S. Shikata	Manufacturing process of aromatic and aliphatic aldehydes or alcohols.	39
183,458	1/5/38	Bruno Christ	B. Christ	Process of producing tertiary aliphatic amines.	28
184,679	1/12/38	Walter Klempt	W. Klempt	Method for producing amino-nitriles.	28
190,223	2/12/38	Chemical Works of Gedeon Richter, Ltd.	L. Vargha et al.	Derivatives of aromatic amino-sulfamids and a method for their production.	34
192,554	2/25/38	Adolf Steindorff, Gerhard Balle, Karl Horst and Johann Rosenbaeh.	A. Steindorff et al.	Water - soluble urethane - like compounds.	28
195,958	3/15/38	Gerhard Balle and Heinz Schild.	G. Balle et al.	Process of preparing aryl fatty acids substituted in the nucleus.	28
203,509	4/22/38	Alfred Kreidler	A. Kreidler	Apparatus for the continuous casting of ingots.	28
211,562	6/3/38	Heinz Hunsdiecker, Heinrich Erlbach and Egon Vogt.	H. Hunsdiecker et al.	Preparation of lactones	28
221,394	7/26/38	Wilhelm Rohn, Franz Bollenrath and Heinrich Cornelius.	W. Rohn et al.	Cobalt-niekel-chromium-iron alloys.	28
221,716	7/28/38	Wilhelm Fitzky and Gerhard Cramer.	W. Fitzky et al.	Acetals of halogenated alkoxy-aldehydes and a process of preparing them.	28
225,990	8/20/38	Vereinigte Oelfabriken Hubbe and Farenholtz.	K. Blass et al.	Process for the purification of organic acids obtained by the oxidation of hydrocarbons.	28
232,854	10/1/38	Carl T. Kautter	C. Kautter	Alcoholysis of esters	28
235,906	10/19/38	Friedrich Boedecker and Heinrich Gruber.	F. Boedecker et al.	Process for preparing a trisubstituted barbituric acid.	28

EXHIBIT A—Continued

Serial No.	Filing date	Owner	Inventor	Title	Nat. code
236,119	10/20/38	Zoltan Foldi and Rezso Konig.	Z. Foldi et al.	Process for preparing water soluble derivatives of amino-benzene sulphamide.	34
236,911	10/25/38	Walter Reppe, Otto Hecht and Adolf Steinhofer.	W. Reppe et al.	Process for the production of tetrahydrofuranes.	28
238,061	10/31/38	Chemische Werke Albert	E. Eidebenz	Production of tetrahydro-p-oxazinoalkyl-aryl oxygen compounds.	28
240,075	11/12/38	Konrad Keller	K. Keller	Method for producing chlorinated aliphatic hydrocarbons.	28
243,656	12/2/38	Osamu Kamata	O. Kamata	Process for manufacturing propylene glycol amines.	39
245,148	12/12/38	Ruetgerswerke, A. G.	K. Lang	Process of producing pure naphthalene.	28
245,754	12/14/38	Walter Hengstmann and Alfred Keil.	W. Hengstmann et al.	Method of producing thermoplastic artificial resins and device for performing such method.	28
245,868	12/15/38	Giorgio Martin Wedard	G. Wedard	Process for the manufacture of synthetic liquid or gaseous products, obtainable from gaseous constituents.	38
246,092	12/16/38	Wilhelm Rohn, Franz Bollenrath and Heinrich Cornelius.	W. Rohn et al.	Parts of apparatus resistant to high stresses and temperatures.	28
247,035	12/21/38	Christian Steigerwald and Karl Koeberle.	C. Steigerwald et al.	Pyridinoanthraquinones	28
250,164	1/10/39	Edmund Waldmann and August Chwala.	E. Waldmann et al.	Sulfonates of organic compounds and a process of preparing them.	28
250,927	1/14/39	Ludwig Orthner, Carl Platz, Hans Keller and Heinz Sonke.	L. Orthner et al.	Capillary active compounds and process of preparing them.	28
252,069	1/21/39	Carl August Hornung	C. Hornung	Aliphatic-aromatic amines and process for their production.	28
252,630	1/24/39	Hanns Ufer, Willi Schmidt, and Max Mattauch.	H. Ufer et al.	High-molecular compounds of the type of polyamides and process of producing same.	28
253,806	1/31/39	Walter Reppe and Richard Schnabel.	W. Reppe et al.	Process for the production of dihydrofuranes.	28
253,807	1/31/39	Walter Reppe & Richard Schnabel.	W. Reppe et al.	Process for the production of dihydrofuranes.	28
254,237	2/2/39	Wolfgang Winkelmuller	W. Winkelmuller	Extraction of phenols	28
255,556	2/9/39	Heinrich Groh and Albert Mag.	H. Groh et al.	Process of distilling wood	28
255,783	2/10/39	Heko-Werk Chemische Fabrik Dr. Hengstmann & Co.	A. Keil	Method of producing artificial teeth, dental fillings, and dental bridges.	28
255,876	2/11/39	Willy Braun	W. Braun	Carboxylic acids of the phthalocyanine series.	28
256,558	2/15/39	Hermann Schuette and Max Wittwer.	H. Schuette et al.	Condensation products	28
261,316	3/11/39	Arnaldo Corbellini	A. Corbellini	Process for the production of esters of the 2-keto-levo-gulonic acid.	38
263,292	3/21/39	Bayerische Stickstoff-Werke A. G.	H. Franek et al.	Method of producing resin-like condensation products.	28
264,233	3/25/39	Ludwig Zechner	L. Zechner	Process for obtaining and purifying glycosides.	28
265,942	4/4/39	Bakelite G. m. b. H.	R. Muller et al.	Process for the production of magnesium phenolates.	28
274,034	5/16/39	Heinz v. Leibitz-Piwnicki	H. Leibitz Piwnicki	Alkali alcoholates	28
275,513	5/24/39	Deutsche Gold und Silber Scheideaustalt vormals Roessler.	M. Weimann	Extraction of aliphatic acids	28
276,248	5/27/39	Wilhelm Bauer Georg Rosch and Bernhard Bollweg.	W. Bauer et al.	Leuco sulfuric acid ester	28
277,892	6/7/39	Curt Schuster and Adolf Hartmann.	C. Schuster et al.	Production of pyrroles	28
278,982	6/13/39	Carl Blank K. G.	A. Antropoff et al.	Process for the production of polysulphides of organic bases and of their solutions.	28
279,050	6/14/39	Fritz Guenther, Rudolf Beaumler and Hans Haussmann.	F. Guenther et al.	Sulfonic acids	28
280,347	6/21/39	Bruno Hennig	B. Hennig	Manufacture of ethylene perchloride and hexachlorethane.	28
284,218	7/13/39	Arthur Greth	A. Greth	Softening agents and textile assistants.	

EXHIBIT A—Continued

Serial No.	Filing date	Owner	Inventor	Title	Nat. code
287, 112	7/28/39	Giorgio Purkardhofer and Gualtiero Battilana.	G. Purkardhofer et al.	Solder	38
290, 496	8/16/39	August Bellefontaine, Max L. Coenen and Ludwig Muller.	A. Bellefontaine et al.	Aromatic hydroxy carboxylic acids with unsaturated side chains and a process for the manufacture of the same.	28
319, 462	2/17/40	Heinrich Ulrich and Hans Stanger.	H. Ulrich et al.	Process for the production of n-alkylene carbamic acid esters.	28
322, 479	3/6/40	Gottfried Becker, Karl Daeves and Fritz Steinberg.	G. Becker et al.	Method for producing articles with high tensile strength at elevated temperatures and resistance to scaling.	28
323, 138	3/9/40	Gedeon Richter Vegyeszeti Gyar R. T.	L. Vargha et al.	Process for production of progesterone.	34
326, 757	3/29/40	Kohle-und Eisenforschung G. m. b. H.	W. Bischof	Method for the sintering of powdery substances.	28
347, 294	7/24/40	Wilhelm Rohn, Franz Bollenrath and Heinrich Cornelius.	W. Rohn et al.	Articles having a high creep resistance at elevated temperatures.	28
351, 106	8/3/40	Albert W. Schroeder, A. Hermann Hemesath and Ernst Hammel.	Schroder et al.	Method of producing soap	28
352, 324	8/12/40	Troponwerke Dinklage & Co.	F. Kulz et al.	Production of tetrahydroisoquinoline compounds.	28
355, 810	9/7/40	Heinrich Ulrich and Gustav Steinbrunn.	H. Ulrich et al.	Alkylurea derivatives	28
365, 105	11/9/40	Kurt Hess	K. Hess	Method of manufacturing viscose.	28
368, 913	12/6/40	Kohle-und Eisenforschung G. m. b. H.	K. Daeves	Method for increasing the durability of highly stressed winding cables.	28
383, 039	3/12/41	Phrix Arbeitsgemeinschaft	O. Molden-Hauer et al.	Polycondensation or polymerization products and method for producing the same.	28
386, 941	4/4/41	Tahi-Ichiro Shimizu	T. Shimizu	Synthetic resins and the process for making the same.	89

[F. R. Doc. 43-12581; Filed, August 3, 1943; 10:31 a. m.]

[Vesting Order 1828]

R. AVENARIUS AND CO. AND/OR AVENARIUS BROS.

Re: Trade-marks owned by R. Avenarius & Company and/or Avenarius Brothers.

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 Carbolineum Wood Preserving Company, a Wisconsin corporation of Milwaukee, Wisconsin, is a business enterprise within the United States;

2. Finding that R. Avenarius & Company and Avenarius Brothers, also known as Gebruder Avenarius, are partnerships organized under the laws of Germany and therefore are nationals of a foreign country (Germany);

3. Finding that the property described in subparagraph 5-a hereof is held by said Carbolineum Wood Preserving Company as agent for the beneficial interest of said R. Avenarius & Company and/or Avenarius Brothers who are the equitable owners thereof;

4. Finding that the property described in subparagraphs 5-b and 5-c hereof is the property of said R. Avenarius & Company and/or Avenarius Brothers;

5. Finding that the property described as follows:

a. The trade-mark registered in the United States Patent Office under the number and on the date set out in Exhibit A Part I attached hereto and made a part hereof and the registration thereof, together with

(1) The goodwill of the business in which the United States and all its possessions to which the trade-mark is appurtenant,

(2) Any and all indicia of such goodwill (including but not limited to formulae, whether secret or not, secret processes, methods of manufacture and procedure, customers' lists, labels, machinery, and other equipment);

(3) Any interest of any nature whatsoever in, and any rights and claims of every character and description to, said business, goodwill and trade-mark and registration thereof, and

(4) All accrued royalties payable or held with respect to said trade-mark and all damages and profits recoverable at law or in equity from any person, firm, corporation or government for past infringement thereof,

b. The trade-marks registered in the United States Patent Office under the numbers and on the dates set out in Exhibit A Part II attached hereto and made a part hereof and the registrations thereof, together with

(1) The respective good-will of the business in the United States and all its possessions to which the trade-marks are appurtenant,

(2) Any and all indicia of such good-will (including but not limited to formulae, whether secret or not, secret processes, methods of manufacture and procedure, customers' lists, labels, machinery, and other equipment).

(3) Any interest of any nature whatsoever in, and any rights and claims of every character and description to, said business, goodwill and trade-marks and registrations thereof, and

(4) All accrued royalties payable or held with respect to said trade-marks and all damages and profits recoverable at law or in equity from any person, firm, corporation or government for past infringement thereof.

c. All interests and rights (including all royalties and other monies payable or held with respect to such interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in R. Avenarius & Company and/or Avenarius Brothers by virtue of an agreement dated July 17, 1922 (including all modifications and supplements thereto, including, but not by way of limitation, supplemental agreement of September 9, 1922, letter of December 11, 1939 from R. Avenarius & Company to Carbolineum Wood Preserving Company and cable of January 6, 1940 and letter of January 10, 1940 from Carbolineum Wood Preserving Company to R. Avenarius & Company) by and between R. Avenarius & Company and Carbolineum Wood Preserving Company, which agreement relates, among other things, to the trade-marks "Carbolineum", "Avenarius Carbolineum", "Carbolineum Avenarius" and "Avenarius",

is property of, or is property payable or held with respect to trade-marks, or rights related thereto, in which interests are held by, and such property itself constitutes interests held therein by, nationals of a foreign country (Germany);

6. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

7. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 5, 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. 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", "designated enemy country" and "business enterprise within the United States" as used herein shall have the meaning prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on July 17, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

EXHIBIT A—PART I

Trade-mark which is identified as follows and the title to which stands of record in the United States Patent Office in the name of Carbolineum Wood Preserving Company.

Reg. No.	Date	Character of goods
400, 890	4/6/43	Liquid wood preservative used as a fungicide and an insecticide.

PART II

Trade-marks which are identified as follows and the titles to which stand of record in the United States Patent Office in the names of the registrants indicated respectively, except where other record owner is shown:

Reg. No.	Date	Registrant	Character of goods
14,048	2/ 8/87 (Renewed)	Avenarius Brothers. Record title in R. Avenarius & Co.	Preservative liquids.
161,402	11/14/22 (Expired)	R. Avenarius & Co	Preserving paint.
271,868	6/17/30	R. Avenarius & Co	Chemical preparations for the protection of trees, etc.
341,056	12/ 1/36	R. Avenarius & Co	Chemical preparations for the protection of trees, etc.

[F. R. Doc. 43-12580; Filed, August 3, 1943; 10:32 a. m.]

OFFICE OF PRICE ADMINISTRATION.

LIST OF INDIVIDUAL ORDERS GRANTING ADJUSTMENTS, ETC., UNDER PRICE REGULATIONS

The following orders were filed with the Division of the Federal Register on August 2, 1943.

Order number:	*Name*
RPS 10, Order 7, Amendment 1.	Eastern Gas & Fuel Associates Inc.
RPS 6, Order 45	Knoxville Iron Co.
MPR 134, Order 9	North Carolina Equipment Co.
MPR 136, as amended, Order 83.	Atlas Engine Co.

Copies of these orders may be obtained from the Office of Price Administration.

ERVIN H. POLLACK,
Head, Editorial & Reference Section.

[F. R. Doc. 43-12629; Filed, August 3, 1943; 3:09 p. m.]

[Amdt. 8 to Order A-1 Under MPR 188]

PLASTIC PIPE TUBING, PIPE FITTINGS AND TUBING FITTINGS

MODIFICATION OF MAXIMUM PRICES

Amendment No. 8 to Order No. A-1 under § 1499.159b of Maximum Price Regulation No. 188—Manufacturers' Maximum Prices for Specified Building Materials and Consumers' Goods, Other Than Apparel.

An opinion accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.

Paragraph (a) (9) is added to read as follows:

(9) *Modification of maximum prices of plastic pipe, plastic tubing, plastic pipe fittings, and plastic tubing fittings*—(i) *Scope of this amendment.* This subparagraph (9) sets maximum prices for sales and deliveries of plastic pipe, plastic tubing, plastic pipe fittings, and plastic tubing fittings manufactured from Co-Polymer Vinyl and Vinylidene chlorides commercially known as "Saran B 11."

(ii) *Maximum prices.* On and after the 9th day of August, 1943, regardless of any contract, agreement, lease or other obligation, no person shall sell and deliver, and no person shall buy and receive any plastic pipe, plastic tubing, plastic pipe fittings, and/or plastic tubing fittings, in the course of trade or business at prices higher than those set forth below. Lower than maximum prices may be charged or paid. The maximum prices computed under this subparagraph shall be subject to all cash discounts, allowances, and price differentials established by the seller and in effect to his various classes of customers during the month of March 1942 for similar commodities such as brass pipe, copper tubing, brass fittings and/or copper fittings.

(a) *Manufacturer's maximum prices*—(1) *Manufacturer to jobber.* The maximum prices for sales by manufacturers to jobbers, f. o. b. point of manufacture, shall be the prices contained in subdivision (d) subject to a discount of 50%. Upon shipments of 200 pounds and over, freight on the entire shipment shall be allowed to destination.

(2) *Manufacturer to all purchasers other than jobbers.* (i) The maximum prices for sales by manufacturers to all purchasers other than jobbers on direct shipments of 200 pounds and over, from point of manufacture, shall be the prices contained in subdivision (d) subject to successive discounts of 17% and 25% and 10%. Such maximum prices shall include free delivery to point of destination designated by the purchaser.

(ii) The maximum prices for sales by manufacturers to all purchasers other than jobbers (1) out of warehouse stock or (2) on direct shipments of less than 200 pounds from point of manufacture, shall be the prices contained in subdivision (d) subject to successive discounts of 17% and 20%. Such maximum prices shall include free delivery within customary free delivery zones.

(b) *Jobber's maximum prices*—(1) *Jobber to installer or retailer.* (i) The maximum prices for sales by jobbers to installers or retailers on direct shipments of 200 pounds and over, from point of manufacture, shall be the prices contained in subdivision (d) subject to successive discounts of 17% and 25% and 10%. Such maximum prices shall include free delivery to point of destination designated by the purchaser.

(ii) The maximum prices for sales by jobbers to installers or retailers out of stock or on direct shipments of less than 200 pounds from point of manufacture shall be the prices contained in subdivision (d) subject to successive discounts of 17% and 20%. Such maximum prices shall include free delivery within customary free delivery zones.

(2) *Jobber to industrial or commercial user.* The maximum prices for all sales by jobbers to industrial or commercial users shall be the prices contained in subdivision (d) subject to successive discounts of 17% and the customary differential discount allowed during the month of March 1942 to that particular class of purchaser for purchases of similar commodities.

(3) *Jobber to ultimate consumer (sales at retail).* The maximum prices for all sales by jobbers to ultimate consumers (sales at retail) shall be the prices contained in subdivision (d). Such maximum prices shall include free delivery within customary free delivery zones.

(c) *Maximum prices for other sellers*—(1) *Retailer's and installer's maximum prices (on an uninstalled basis).* The maximum prices for all sales by retailers and installers on an uninstalled basis shall be the prices contained in subdivision (d). Such maximum prices shall include free delivery within customary free delivery zones.

(2) *Automotive installer's maximum buying and selling prices.* (i) The maximum prices for all sales to automotive installers by any person shall be the prices contained in subdivision (d) subject to a discount of 25%. Such maximum prices shall include free delivery within customary free delivery zones.

(ii) The maximum prices for all sales by automotive installers, whether installed or uninstalled, shall be the prices contained in subdivision (d). Such installation charges as are established by any applicable regulation issued by the Office of Price Administration may be added to the maximum prices listed herein provided such installation charges are stated separately on the invoice.

(d) *Tables of maximum list prices.*

TABLE 1.—MAXIMUM LIST PRICES FOR PLASTIC PIPE

[List prices are per foot]

Size	½"	¾"	1"	1¼"	1½"
List price	$0.58	$0.78	$1.12	$1.33	$1.67
Size	2"	2½"	3"	3½"	4"
List price	$2.24	$3.53	$4.68	$5.62	$7.22

TABLE 2—MAXIMUM LIST PRICES FOR PLASTIC PIPE FITTINGS

Size	½"	¾"	1"	1¼"	1½"	2"
90° Elbow	$1.25	$1.50	$1.75	$2.00	$2.25	$2.50
Tee, straight	1.50	1.70	2.00	2.40	2.80	3.20
Coupling	.50	.60	.70	.80	.95	1.20
Reducer	-----	.65	.75	.85	1.00	1.40
Cap	.50	.60	.70	.80	.95	1.20
Companion Flange	1.35	1.55	1.75	2.00	2.40	3.00
Blind Flange	1.35	1.55	1.75	2.00	2.40	3.00

TABLE 3—MAXIMUM LIST PRICES FOR PLASTIC TUBING FITTINGS

	List price
Half-union coupling size O. D. tube to male I. P. thread, exclusive of coupling nut (size):	
1/8 x 1/8"	$0.09
3/16 x 1/8"	0.09
1/4 x 1/8"	0.09
1/4 x 1/4"	0.10
5/16 x 1/8"	0.11
5/16 x 1/4"	0.11
3/8 x 1/4"	0.13
3/8 x 3/8"	0.14
7/16 x 1/4"	0.15
1/2 x 3/8"	0.16
1/2 x 1/2"	0.17
5/8 x 1/2"	0.36
3/4 x 3/4"	0.42
Half-union coupling size O. D. tube to female I. P. thread, exclusive of coupling nut (size):	
3/8 x 3/8"	$0.23
1/2 x 1/2"	0.26
Tube-pipe elbow size O. D. tube to I. P. thread, exclusive of coupling nut (size):	
1/8 x 1/8"	$0.18
3/16 x 1/8"	0.18
1/4 x 1/8"	0.19
5/16 x 1/8"	0.20
3/8 x 1/4"	0.23
3/8 x 3/8"	0.24
7/16 x 1/4"	0.25
1/2 x 3/8"	0.28
5/8 x 1/2"	0.40
3/4 x 1/2"	0.50
Tee, reducing size O. D. tube exclusive of coupling nuts (size):	
1/2"	$0.28
3/4"	0.41
Plug size male I. P. thread (size):	
1/8"	$0.10
1/4"	0.11
3/8"	0.13
1/2"	0.18
3/4"	0.20
Union coupling size O. D. tube to O. D. tube, exclusive of coupling nuts (size):	
1/8 x 1/8"	$0.09
3/16 x 3/16"	0.09
1/4 x 1/4"	0.09
5/16 x 5/16"	0.11
3/8 x 3/8"	0.13
7/16 x 7/16"	0.15
1/2 x 1/2"	0.16
5/8 x 5/8"	0.36
3/4 x 3/4"	0.42
Coupling nut for flare fittings, size O. D. tube (size):	
1/8"	$0.10
3/16"	0.10
1/4"	0.10
5/16"	0.12
3/8"	0.14
7/16"	0.15
1/2"	0.16
5/8"	0.25
3/4"	0.30
Tee, straight size O. D. tube, exclusive of coupling nuts (size):	
1/8"	$0.18
3/16"	0.18
1/4"	0.20
5/16"	0.21
3/8"	0.25
7/16"	0.28
1/2"	0.32
5/8"	0.45
3/4"	0.59

TABLE 4.—MAXIMUM LIST PRICES FOR PLASTIC TUBING

[List prices are per 100 ft.]

O. D. Size	1/8"	3/16"	1/4"	5/16"	3/8"	7/16"	1/2"	5/8"	3/4"
.015 wall thickness	$1.50	$2.30							
.031 wall thickness	$2.60	$4.40	$6.10	$7.80	$9.60	$11.30	$13.10	$16.50	$20.00
.045 wall thickness	------	5.70	8.30	10.80	13.30	15.80	18.30	23.40	28.40
.062 wall thickness	------	7.00	10.50	14.00	17.40	20.90	24.30	31.30	38.20
.093 wall thickness	------	------	------	------	------	------	33.90	44.30	54.70
.125 wall thickness	------	------	------	------	------	------	------	------	69.90

For Tubing, Boxed, 25' per box, above list prices may be increased by $0.75 per hundred lineal feet.

(iii) *Notification of purchasers of existence of this subparagraph* (9). Every person selling plastic pipe, plastic tubing, plastic pipe fittings, and /or plastic tubing fittings subject to this subparagraph (9) shall, before making an initial sale to each purchaser, notify such purchaser of the existence of this subparagraph, and, upon request of such purchaser, make available a copy of it for examination.

(iv) *New products.* The maximum list price of any article of plastic pipe, plastic tubing, plastic pipe fittings, and/or plastic tubing fittings, for which prices are not established in subdivision (*d*) of this subparagraph (9) shall be the price determined in accordance with the appropriate method contained in Maximum Price Regulation No. 188 as amended.

(v) *Records.* Every person selling plastic pipe, plastic tubing, plastic pipe fittings, and/or plastic tubing fittings subject to this subparagraph (9), shall have available for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942, as amended, remains in effect, a record of each sale made under this subparagraph showing the date of the sale, the name and address of the purchaser, the manufacturer's plate number or the jobber's plate number, the list price of each unit, the discount allowed, and the point of delivery of the shipment.

(vi) *Reports.* All persons making sales subject to the provisions of this subparagraph (9) shall submit such reports as the Office of Price Administration may at any time request, subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(vii) *Definitions.* For the purpose of this subparagraph (9) the term:

"Manufacturer" means a person who manufactures or extrudes synthetic organic thermoplastic into plastic pipe, plastic tubing, plastic pipe fittings or plastic tubing fittings.

"Jobber" means a person other than a "manufacturer" who purchases plastic pipe, plastic tubing, plastic pipe fittings, or plastic tubing fittings from a "manufacturer" for resale, customarily receives physical possession, and who sells primarily to an installer, industrial user or retailer.

"Installer" means any person customarily engaged in the installation of plumbing, heating, refrigeration, and/or air-conditioning systems and furnishes an installation service, but does not include automotive installers.

"Automotive installer" means any person who is engaged in the repair or maintenance of automotive vehicles.

"Retailer" means any person who sells to the ultimate consumer.

"Industrial or commercial user" means any person who customarily purchases for use in an industrial plant or commercial enterprise, such as an oil or sugar refinery, a chemical plant, shipyard, or railroad.

"Ultimate consumer" means a person who purchases for use rather than resale, other than an industrial or commercial user.

This Amendment No. 8 shall become effective August 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12618; Filed, August 3, 1943; 3:09 p. m.]

[Amdt. 10 to Order A-1 Under MPR 188]

ASPHALT

MODIFICATION OF MAXIMUM PRICES

Amendment No. 10 to Order No. A-1 under § 1499.159b of Maximum Price Regulation No. 188—Manufacturer's Maximum Prices for Specified Building Materials and Consumers' Goods Other Than Apparel.

Modification of maximum prices in Maximum Price Regulation 188. An opinion accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.

Paragraph (a) (11) is added to read as follows:

(a) *Modification of maximum prices in Maximum Price Regulation No. 188.* The provisions of Maximum Price Regulation No. 188 as applied to certain commodities subject thereto are modified in accordance with § 1499.159b of Maximum Price Regulation No. 188 as hereinafter provided.

* * * * *

(11) *Modification of maximum prices for asphalt and/or tar base roof coatings and cements in containers*—(i) *Explanation.* The purpose of the new method of pricing provided by this subparagraph (11) is to permit a manufacturer who is now packing asphalt and/or tar base roof coatings and cements in containers which have increased in cost to adjust his maximum prices and add the exact amount of the increase in the cost of the containers and in receiving delivery of them. The method permits him to account for differences in container costs without permitting him to increase the price per unit of the asphalt and/or tar

base roof coatings and cement packed in the container. The method is formulated for low-price sellers of these products who are unable to sell them at their established maximum prices because of the increased cost of the containers. Subdivision (ix) specifies the maximum prices in excess of which no manufacturer may sell asphalt and/or tar base roof coatings and cements if he adjusts his established maximum prices in accordance with this subparagraph. Any manufacturer whose established maximum prices for these commodities are higher than the prices itemized in subdivision (ix) may continue to sell at his established maximum prices without any adjustment.

(ii) *Pricing method.* To figure the adjusted maximum price to any class of purchasers for the commodity in containers, the manufacturer shall:

(*a*) *Determine the base container cost.* The manufacturer shall take as the "base container cost" his average direct cost of each type or size of container during March 1942. "Direct cost" means the net cost, at the manufacturer's plant, of the container and closure, but it does not include costs of filling, closing, labeling, or packing. If a manufacturer is unable to compute his base container cost because of lack of purchases during March 1942, he shall determine his base container cost by any purchase during the period December 1941 through February 1942, or if no purchases were made during this period, by the offering price during that period by the manufacturer's usual source of supply.

(*b*) *Determine the current container cost.* The manufacturer shall take as the "current container cost" his average direct cost of each type or size of container for any quarterly period subsequent to January 1, 1943. "Direct cost" means the net cost, at the manufacturer's plant, of the container and closure, but it does not include cost of filling, closing, labeling, or packing.

(*c*) *Determine the increased container cost.* Taking his "current container cost" the manufacturer shall then subtract the "base container cost." The difference, if any, represents the "increased container cost."

(*d*) *Determine the adjusted maximum price.* The manufacturer shall next add the "increased container cost" to his established maximum price. If the result is less than the prices itemized in subdivision (ix), such result shall be the adjusted maximum price. If the result is the same as or higher than the prices itemized in subdivision (ix), the prices in subdivision (ix) shall be his adjusted maximum prices. No manufacturer may sell in excess of the sum of his "increased container cost" plus his established maximum prices, even if such total does not equal the prices contained in subdivision (ix).

(*e*) *Changes in current container cost.* Each manufacturer must redetermine his "current container cost" upon a quarterly basis. If the manufacturer has determined his "current container cost" in accordance with subdivision (ii) (*b*), he may, if the redetermination of "current container cost" reflects an increase over his previous "current container cost", readjust his maximum prices for the ensuing quarterly period to include such increases provided such readjusted maximum prices do not exceed the prices contained in subdivision (ix). If the redetermination reflects a decrease of his "increased container cost", the manufacturer must readjust his maximum prices and reduce his adjusted maximum prices by the amount of the decrease for the ensuing quarterly period.

(iii) *Commodity and geographical coverage.* This subparagraph (11) applies to all sales of asphalt and/or tar base roof coatings and cements in containers in the forty-eight states of the United States and the District of Columbia. The only commodities covered by the subparagraph are plastic cement, asbestos roof coating and roof coating without asbestos fiber.

(iv) *Container deposits.* If the container used by any manufacturer is one which is capable of reuse, and if the manufacturer made a deposit charge for containers during March 1942, he shall not be permitted to adjust his maximum prices. If any manufacturer made no deposit charge during March 1942, and now desires to do so, he must reduce his established maximum price of his product by an amount equal to ⅓ of his "base container cost". If a manufacturer adjusts his established maximum prices to recover his "increased container cost" and desires to charge a container deposit, he must reduce his adjusted maximum price in the amount of his "increased container cost" plus ⅓ of the "base container cost".

(v) *Wholesalers, jobbers and retailers.* This subparagraph (11) permits adjustments by manufacturers. Other levels of distribution are permitted to adjust their maximum prices to the same extent as the manufacturer. Any purchaser who buys asphalt and/or tar base roof coatings and cement in containers for the purpose of resale, may increase his established maximum price by the exact amount which he is required to pay his supplier in excess of the maximum price previously charged by the said supplier. It is the purpose of this subdivision to permit wholesalers, jobbers and retailers to increase their maximum prices by the exact amount of the "increased container cost", provided such "increased container cost" is paid by them to their supplier.

(vi) *Mode of pricing.* The amount of the increase may be reflected in the mode of pricing which each seller used during the month of March 1942.

(vii) *Notification to purchasers by manufacturers.* All manufacturers selling asphalt and/or tar base roof coatings and cements in containers under the authority of this subparagraph shall send the following notice to every purchaser thereof at the time of the first sale:

We have increased our established maximum price for _____ from _____ to _____. The difference represents our increased container cost. This increase is permitted by Amendment No. 10 to Order No. A-1 under Maximum Price Regulation No. 188, issued by the Office of Price Administration.

You may increase your established maximum price to the same extent, namely, _____. Our increase and adjusted maximum price does not exceed the amount permitted by the Order of the Office of Price Administration.

If our container cost decreases, you will be notified and must reduce your established maximum price accordingly on these commodities you purchase from us at the reduced prices.

(viii) *Records and reports—(a) Records.* Manufacturers shall keep records showing how they compute their adjusted or readjusted maximum prices.

(*b*) *Reports.* Within 20 days after any adjustment or readjustment of maximum prices under this subparagraph, each manufacturer shall submit a report to the Building Materials Branch, Office of Price Administration, Washington, D. C., showing:

(*1*) The "base container cost";

(*2*) The "current container cost", including a description of the current containers, quantity purchased, and the name and address of the supplier or suppliers;

(*3*) The adjusted or readjusted maximum price and the method by which such price was established;

(*4*) Whether, in the case of a readjustment which results in a decrease, the manufacturer has notified his purchasers of the decreased prices applying on sales for the ensuing quarterly period, and the amount of the decrease.

(ix) *Adjusted maximum prices.* The following table of prices are those prices in excess of which no manufacturer may sell or deliver his products after he has adjusted his established maximum prices.

	Freight equalized with competitive shipping points		F. o. b. shipping point (No freight equalization)	
	LCL	CL	LCL	CL
Plastic cement (prices in lbs.)				
Bbl. (approximately 500 to 600 lbs.) containers	.027	.024	.025	.022
½ bbl. (approximately 300 lbs.) up to barrel containers	.029	.026	.27	.024
100 lb. up to ½ barrel containers	.035	.032	.033	.030
50 lb. up to 100 lb. containers	.038	.035	.036	.033
25 lb. up to 50 lb. containers	.043	.04	.041	.038
10 lb. up to 25 lb. containers	.049	.045	.047	.043
5 lb. up to 10 lb. containers	.057	.052	.055	.050
1 lb. up to 5 lb. containers	.077	.07	.075	.068
Asbestos roof coating (prices per gallon)				
Bbl. (approximately 50 to 60 gallons) containers	.263	.235	.243	.215
½ bbl. (approximately 30 gallons) up to barrel containers	.288	.262	.268	.242
5 gallon up to ½ barrel containers	.322	.289	.302	.269
1 gallon up to 5 gallon containers	.394	.356	.374	.336
Roof coating without asbestos fiber (prices per gallon)				
Bbl. (approximately 50 to 60 gallons) containers	.246	.226	.226	.206
½ bbl. (approximately 30 gallons) up to barrel containers	.28	.253	.26	.233
5 gallon up to ½ barrel containers	.314	.28	.294	.260
1 gallon up to 5 gallon containers	.382	.349	.362	.329

NOTE: The term "up to" does not mean inclusive of the next listed number following the word "to." For example, 1 gallon up to 5 gallon containers, does not include 5 gallon containers.

This Amendment No. 10 shall become effective August 4, 1943.

NOTE: The reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12617; Filed, August 3, 1943; 3:08 p. m.]

[2d Rev. Gen. Order 20]

DELEGATION OF AUTHORITY TO ACT FOR THE ADMINISTRATOR

AUTHORIZATION OF DIRECTOR FOR THE TERRITORY OF PUERTO RICO

Revised General Order 20 is amended to read as follows:

Pursuant to the authority conferred upon the Administrator by Executive Order No. 9125, Executive Order No. 9280, Executive Order No. 9322, Executive Order No. 9334, War Production Board Supplementary Directive No. 1–J, Food Distribution Administration Food Directive No 3 and Food Directive No. 9, the following order is prescribed:

(a) The Director of the Office of Price Administration for the Territory of Puerto Rico is authorized and directed to exercise the functions, duties, powers, authority and discretion conferred upon the Administrator for the purpose of permitting the efficient rationing of all material in the Territory of Puerto Rico. *Provided, however,* That any program initiated pursuant to this authorization shall be subject to the approval of the Administrator for the Ninth Region of the Office of Price Administration.

(b) Any order issued by the Director pursuant to this delegation of authority shall have the same force and effect as it issued by the Administrator.

(c) The authority delegated hereby shall not include the power or authority to ration farm machinery and equipment. As used herein the term farm machinery and equipment shall have the same meaning as is given it in paragraph (b) of War Production Board Supplementary Directive No. 1–K.

Issued and effective August 3, 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12627; Filed, August 3, 1943; 3:09 p. m.]

[2d Rev. Gen. Order 21]

DELEGATION OF AUTHORITY TO ACT FOR THE ADMINISTRATOR

AUTHORIZATION OF DIRECTOR FOR THE TERRITORY OF THE VIRGIN ISLANDS

Revised General Order 21 is amended to read as follows:

Pursuant to the authority conferred upon the Administrator by Executive Order No. 9125, Executive Order No. 9280, Executive Order No. 9322, Executive Order No. 9334, War Production Board Supplementary Directive No. 1–J, Food Distribution Administration Food Directive No. 3 and Food Directive No. 9, the following order is prescribed:

(a) The Director of the Office of Price Administration for the Territory of the Virgin Islands is authorized and directed to exercise the functions, duties, powers, authority and discretion conferred upon the Administrator for the purpose of permitting the efficient rationing of all material in the Territory of the Virgin Islands. *Provided, however,* That any program initiated pursuant to this authorization shall be subject to the approval of the Administrator for the Ninth Region of the Office of Price Administration.

(b) Any order issued by the Director pursuant to this delegation of authority shall have the same force and effect as if issued by the Administrator.

(c) The authority delegated hereby shall not include the power or authority to ration farm machinery and equipment. As used herein the term farm machinery and equipment shall have the same meaning as is given it in paragraph (b) of War Production Board Supplementary Directive No. 1–K.

Issued and effective August 3, 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-12628; Filed, August 3, 1943; 3:09 p. m.]

Regional, State and District Office Orders.

[Region III Order G–1 Under Rev. MPR 122]

COAL IN MT. VERNON, IND.

Order No. G–1 under Revised Maximum Price Regulation 122. Order adjusting maximum prices for coal sold at retail at Mt. Vernon, Indiana. (Formerly Order No. CV–122–19.)

In the exercise of the power and authority delegated to the Regional Administrator under § 1340.259 (a) (1) of Revised Maximum Price Regulation No. 122 and upon the facts found and for the reasons stated in the annexed opinion, *It is hereby ordered:*

1. This order applies only to dealers in solid fuel as defined by Revised Maximum Price Regulation No. 122 located at Mt. Vernon, Indiana, and to sales and deliveries of coal in transactions governed by such regulation to purchasers situated in the City of Mt. Vernon and portions of Posey County, Indiana within five miles of the corporate limits of the City of Mt. Vernon.

2. This order further applies only to coal of equivalent or comparable quality to that sold during the base period provided by the regulation which is received by such dealers by rail shipment, or which is transported by truck from mines located more than fifteen miles from the corporate limits of Mt. Vernon, Indiana.

3. Any such dealer whose maximum price for such coal delivered upon the premises of any purchaser within the area mentioned established under the provisions of Revised Maximum Price Regulation No. 122, is less than $5.00 per ton for lump, nut and intermediate sizes, or $4.50 per ton for stoker coal, or $3.00 per ton for slack coal, is hereby permitted and authorized to increase his prices to the foregoing amounts.

4. This order shall take effect upon the execution hereof and remain in force until modified or revoked by the Regional Administrator.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Dated at Cleveland, Ohio, March 11th, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12603; Filed, August 3, 1943; 11:50 a. m.]

[Region III Order G–1 Under MPR 280]

BULK MILK IN CUYAHOGA, WAYNE AND SUMMIT COUNTIES, OHIO

Order No. G–1 under Maximum Price Regulation 280. Order adjusting the maximum prices of bulk milk sold in the counties of Cuyahoga, Wayne, and Summit, in the State of Ohio. (Formerly Order No. III, MPR 280, § 1351.-807–1.)

For the reasons set for in the opinion attached hereto and made part hereof, and pursuant to the authority vested in the Regional Administrator of Region III under the provisions of § 1351.807 of Maximum Price Regulation No. 280 and notwithstanding the provisions of § 1351.803 thereof, *It is hereby ordered,* That:

(1) The maximum price for any bulk milk supplier in the counties of Cuyahoga, Wayne, and Summit, in the State of Ohio shall be $3.76 per cwt. or $3.20 per 10 gallon can for bulk milk of 3.5% butterfat content.

(2) Any bulk milk supplier who sells and delivers milk testing over 3.5% butterfat content may charge and receive not more than 4¢ per cwt. additional for each point of butterfat contained in said milk in excess of 3.5%, and bulk milk suppliers selling milk testing below 3.5% butterfat content must reduce their maximum price 4¢ or more per cwt. for each point of butterfat content below 3.5% contained in said milk.

(3) Each bulk milk supplier shall notify each fluid milk distributor in the Counties of Cuyahoga, Wayne, and Summit, in the State of Ohio to whom he sells milk, by letter, of the adjustment permitted in this order.

(4) *Definitions*—(a) *Bulk milk.* For the purpose of this order, bulk milk is defined to mean all cows' milk produced and then assembled and cooled at a country plant, a milk processing plant, or a milk cooling station and then sold to either (1) fluid milk distributors or (2) bulk milk suppliers in the Counties of Cuyahoga, Wayne, and Summit in the State of Ohio.

(b) *Bulk milk suppliers.* For the purpose of this order bulk milk suppliers is

defined to mean any individual, corporation, partnership, or any other organized group of persons or successors of the foregoing who operates (1) a country plant (2) a milk processing plant or (3) a milk cooling station, and who purchases raw fluid milk from producers and then sells or offers for sale such fluid milk in bulk lots to either (1) fluid milk distributors or (2) other (bulk milk suppliers in the counties of Cuyahoga, Wayne, and Summit in the State of Ohio).

(5) This order shall remain in effect until modified or revoked by the Regional Administrator.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 16th day of December 1942.
Effective December 16, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12607; Filed, August 3, 1943; 11:52 a. m.]

[Region III Order G-2 Under Rev. MPR 122]

SOLID FUEL IN VANDERBURG COUNTY, IND.

Order No. G-2 under Revised Maximum Price Regulation 122. Order adjusting maximum prices for solid fuel sold by dealers in the county of Vanderburg, State of Indiana. (Formerly Order No. CV-122-20.)

For the reasons set forth in the opinion attached hereto, and pursuant to the authority vested in the Regional Administrator of Region III under the provisions of § 1340.259 (a) (1) of Revised Maximum Price Regulation No. 122 and notwithstanding the provisions of § 1340.254 thereof, *It is hereby ordered*, That:

1. *Sales by dealers of solid fuel* in the county of Vanderburg, State of Indiana. Any dealer located in the County of Vanderburg State of Indiana may add to the maximum prices established for him under the provisions of § 1340.254 of Revised Maximum Price Regulation No. 122 for sales and deliveries of solid fuel, an amount not to exceed 25¢ per ton on quantities of one ton or more for each type and grade of solid fuel sold and delivered by such dealer.

II. *Exceptions.* Notwithstanding the provisions of paragraph I, this order shall not apply to any sales and deliveries of solid fuel made by a producer or distributor at or from a mine, a preparation plant operated as an adjunct of any mine, a coke oven, or a briquette plant.

III. *Each dealer subject to the provisions of this order* shall maintain all his customary allowances, discounts and other price differentials.

IV. *Definitions.* A. "Dealer" means a person, corporation, partnership, organization, or any other organized group of persons selling solid fuels, subject to the provisions of Revised Maximum Price Regulation No. 122.

B. "Solid fuel" means all solid fuel including all kinds of anthracite and semi-anthracite; bituminous and semi-bituminous, sub-bituminous and cannel coal; lignite; all coke, including low temperature coke (except by-product foundry and blast furnace coke, and beehive oven furnace coke produced in the State of Pennsylvania); briquettes made from coke or coal; and sea coal used for foundry facings. The term does not include wood or wood products.

V. This order shall remain in effect until modified or revoked by the Regional Administrator.

Issued March 16, 1943.
Effective March 16, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12604; Filed, August 3, 1943; 11:50 a. m.]

[Region III Order G-2 Under MPR 154 as Amended]

ICE IN INDIANAPOLIS, IND.

Order No. G-2 under Maximum Price Regulation 154, as amended. Order on application of certain ice manufacturing and distributing companies of Indianapolis, Indiana, for adjustment of their maximum prices for ice. (Formerly Order No. CV-154-18.)

For the reasons set forth in the opinion attached hereto, and pursuant to the authority vested in the Regional Administrator of Region III by virtue of § 1398.8 (a) and (b) of Maximum Price Regulation No. 154 and General Order No. 32, and notwithstanding the provisions of § 1393.12 of Maximum Price Regulation No. 154, *It is hereby ordered*, That:

I. *Sales of ice at retail.* Capital Ice Refrigerating Company, Irvington Ice and Coal Company, Broad Ripple Ice and Manufacturing Company, National Ice and Coal Company and Indianapolis Ice and Fuel Company, and all distributors or peddlers purchasing ice from them for resale at retail are granted the following adjusted maximum prices for sales of ice at retail:

Type of ice sold—class sold to:	*Adjusted maximum price for 100 pounds*
A. Block ice:	
Domestic retail delivered:	
(100 lbs. or less)	$0.60
Commercial retail delivered:	
Water coolers only	0.60
100 lbs. or less	0.50
125 to 500 lbs	0.40
525 to 1900 lbs	0.35
Domestic retail platform:	
25 lbs	0.60
50, 75 (to next even cent) and 100 lbs	0.50
Commercial retail platform:	
100 lbs	0.40
	Per ton
Carload	$4.50

Type of ice sold—class sold to	Adjusted maximum price		
B. ICE CUBES	*Per ½ bushel*	*Per box of 52*	*Per box of 100*
Domestic retail delivered or platform	$0.60	$0.20	$0.60
Commercial retail delivered or platform	0.35	0.15	0.45
C. CRUSHED ICE	*Per bushel*	*Per 18 lb. bag*	
Domestic retail delivered or platform	$0.30	$0.20	-------
Commercial retail delivered or platform	0.25	-------	-------
D. SNOW	*Per bushel*		
Commercial retail delivered or platform	$0.20	-------	-------

The above prices are applicable both to sales on a coupon basis and on a cash basis.

II. *Sales of ice at wholesale.* Capital Ice Refrigerating Company, Irvington Ice and Coal Company, Broad Ripple Ice and Manufacturing Company, National Ice and Coal Company and Indianapolis Ice and Fuel Company are hereby granted the following adjusted maximum prices for sales of ice to ice manufacturers, distributors and peddlers for resale at retail:

Type of ice sold—class sold to:	*Adjusted maximum price per ton*
A. Block ice:	
Wholesale delivered to peddlers, distributors or stations	$6.00
Wholesale platform to peddlers, distributors or stations	5.50
Wholesale platform to ice manufacturers	5.00
B. Crushed ice:	
Wholesale delivered or platform to peddlers, distributors and stations	6.00
C. Snow:	
Wholesale delivered to peddlers, distributors or stations	6.00
Wholesale platform to peddlers, distributors or stations	5.50

III. *Fractional sales.* Whenever the seller's maximum price, as established under this order, results in a figure containing a fraction of a cent, the seller may adjust such price to the next highest full cent.

IV. *Definition.* 1. "Delivery," for the purpose of this order, means delivery to a purchaser at a point other than the seller's place of business.

2. "Platform" means delivery to a purchaser at the seller's place of business.

3. "Sale at retail" means a sale or selling to an ultimate consumer.

4. "Sale at wholesale" means a sale to any person other than an ultimate consumer.

This order shall remain in effect until modified or revoked by the Regional Administrator of Region III.

Effective March 9, 1943.
Issued March 8, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12611; Filed, August 3, 1943; 11:47 a. m.]

[Region III Order G-3 Under Rev. MPR 122]

COAL IN CLINTON, IND.

Order No. G-3 under Revised Maximum Price Regulation 122. Order adjusting maximum prices for sales of coal by dealers at Clinton, Indiana. (Formerly Order No. CV-122-23.)

Pursuant to § 1340.259 (a) (1) of Revised Maximum Price Regulation No. 122 and upon the facts found and for the reasons stated in the annexed opinion, *It is hereby ordered:*

1. This order applies only to "dealers in solid fuels" as defined by Revised Maximum Price Regulation No. 122 making sales and deliveries of coal in transactions subject to said regulation in the City of Clinton, Indiana, and surrounding territory within the State of Indiana

within five (5) miles of the corporate limits of the City of Clinton.

2. Any such dealer whose maximum prices established under Revised Maximum Price Regulation No. 122 for coal delivered upon the premises of any purchaser located within the above described area are insufficient to permit the following gross margins over cost to him f. o. b. mine of origin of the coal sold and federal transportation tax, if any, may increase his maximum prices to the extent necessary to provide such margin between his net cost at the mines plus tax, if any, and amount charged the purchaser:

A. Where the dealer is required to transport the coal eight (8) or less miles from point of loading delivery vehicle to purchaser's premises—$1.25.

B. Where the dealer is required to transport the coal more than eight (8) miles but not more than fifteen (15) miles from point of loading delivery vehicle to purchaser's premises—$1.50.

C. Where the dealer is required to transport the coal more than fifteen (15) miles from point of loading delivery vehicle to purchaser's premises—$1.75.

3. This order shall take effect upon the execution hereof and remain in force until modified, rejected or superseded by order or regulation issued by the Administrator or Regional Administrator.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Dated at Cleveland, Ohio this 31st day of March 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12606; Filed, August 3, 1943; 11:52 a. m.]

[Region III Order G-3 Under MPR 154, as Amended]

GREENSBURG ICE COMPANY, GREENSBURG, IND.

Order No. G-3 under Maximum Price Regulation 154, as amended—Ice. Order and opinion on application of the Greensburg Ice Company of Greensburg, Indiana for adjustment of its maximum prices for ice. (Formerly Order No. CV-154-17.)

On September 8, 1942, the Greensburg Ice Company of Greensburg Indiana, filed an application for adjustment of its maximum prices for ice as established by Maximum Price Regulation No. 154, and has requested that any adjustment granted be made applicable to all distributors purchasing ice from it for resale. After due consideration of the application and other available information, it has been decided that the application should be granted in part for the reasons set forth below.

The applicant is the sole remaining manufacturer of ice in the County of Decatur in the State of Indiana, and sells both at retail and at wholesale. As the result of a protracted and enervating price war between applicant and a former competitor, the prices existing at the time of the promulgation of the General Maximum Price Regulation and Maximum Price Regulation No. 154 were abnormally low. Labor, operating and delivery costs have risen appreciably since that time, and applicant's financial position is not sufficiently strong to absorb such increased costs. It is established to the satisfaction of the Regional Administrator of Region III that the perpetuation of such prices would force the applicant to discontinue operations.

By reason of the foregoing, it is found by the Regional Administrator of Region III that the maximum prices for ice established for the Greensburg Ice Company of Greensburg, Indiana, under the provisions of § 1393.12 of Maximum Price Regulation No. 154, as amended, are so low as to cause it substantial hardship and make it impossible for said company to continue selling or supplying ice; that such discontinuance will cause its customers substantial inconvenience disproportionate to the needs of the national or local economy.

Accordingly, pursuant to the authority vested in the Regional Administrator of Region III by virtue of the provisions of § 1393.8 (a) and (b) of Maximum Price Regulation No. 154 and General Order 32, the Greensburg Ice Company of Greensburg, Indiana, and all distributors purchasing ice from the Greensburg Ice Company for resale at retail are granted the following adjusted maximum prices for sales of ice at retail:

DELIVERED OR PLATFORM PRICES

1. For sales in units of 100 pounds or more:

Class of purchaser	Price per ton when monthly purchase is—	
	Less than 4000#	4000# or more
City domestic consumers	$9.00	$8.00
City commercial consumers	8.00	7.50
Rural domestic consumers	10.00	9.00
Rural commercial consumers	9.00	8.50

2. For sales in units of less than 100 pounds:

Weight	When ton price is—		
	$8.00	$9.00	$10.00
Maximum price for 75# shall be	20¢	40¢	40¢
Maximum price for 50# shall be	20¢	25¢	30¢
Maximum price for 25# shall be	10¢	15¢	15¢

The above prices are applicable both to sales on a coupon basis and on a cash basis.

The Greensburg Ice Company is hereby further granted on adjusted maximum price of $5.25 per ton for its platform sales to distributors who purchase for resale at retail.

Definitions

"Delivered," for the purposes of this order, means delivered to a purchaser at a point other than the seller's place of business.

"Platform" means delivery to purchaser at the seller's place of business.

To the extent that this application has been denied, the applicant may within 15 days after the date on which this order was mailed to it, request the Price Administrator to review such Order of Denial in the manner provided by Revised Procedural Regulation No. 1.

This order shall remain in effect until modified or revoked by the Regional Administrator of Region III.

This order shall become effective March 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued March 3, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12612; Filed, August 3, 1943; 11:49 a. m.]

[Region III Order G-3 Under MPR 154, as Amended, Amdt 1]

GREENSBURG ICE COMPANY, GREENSBURG, IND.

Amendment No. 1 to Order No. G-3 under Maximum Price Regulation 154, as amended—Ice. (Formerly Order No. CV-154-17.)

For the reasons set forth in the opinion attached hereto, paragraphs 1 and 2 in the schedules of delivered or platform prices in order No. G-3 are hereby revoked, and new Paragraphs 1 and 2, as set forth below, are substituted therefor.

DELIVERED OR PLATFORM PRICES

1. For all sales in 100# units in excess of the first 100# and including sales in 100# units only when made on the basis of the 2,000# coupon book:

Class of purchaser	Price per ton when monthly purchase is—	
	Less than 4,000# and in excess of 100# (but including 100# when sold under 2,000# coupon book)	4,000# or more
City domestic consumers	$9.00	$8.00
City commercial consumers	8.00	7.50
Rural domestic consumers	10.00	9.00
Rural commercial consumers	9.00	8.50

2. For sales in units of 100# and less. The prices applying to sales in units of 100#, however, shall be permitted only when sales are made either for cash or on the basis of the 1,000# or 500# coupon book.

Number of pounds	Domestic city	Domestic rural	Commercial city	Commercial rural
100	$0.50	$0.55	$0.45	$0.50
75	.40	.45	.35	.40
50	.25	.30	.25	.25
25	.15	.20	.15	.15
12½	.10	------	.10	------
25 (crushed or sized)	.25	.25	------	------

This amendment No. 1 shall remain in effect until modified or revoked by the Regional Administrator of Region III.

This amendment shall become effective March 27, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 27th day of March, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12613; Filed, August 3, 1943; 11:49 a. m.]

[Region III Order G-12 Under 18 (c) of GMPR, Amdt. 2]

FLUID WHOLE MILK IN INDIANA

Amendment No. 2 to Order No. G-12 under § 1499.18 (c), as amended, of the General Maximum Price Regulation. (Formerly Order No. III-1499.18 (c)-15.) Adjustment of 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 Administrator of the Office of Price Administration by § 1499.18 (c) of the General Maximum Price Regulation, *It is hereby ordered*, That subparagraph B of paragraph VII be amended to read as set forth below.

VII. *Definitions.* * * *

B. Approved fluid milk is defined to mean fluid cows' milk, whether raw or pasteurized meeting the minimum butterfat content, sanitary and health requirements for fluid milk for human consumption in the particular area wherein it is delivered, including standards set by the army or navy purchasing officer making purchases for the armed forces of the United States.

This amendment no. 2 shall become effective April 23, 1943.

Issued April 22, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12605; Filed, August 3, 1943; 11:53 a. m.]

[Region III Order G-19 Under 18 (c) of GMPR]

RAW MILK IN INDIANA, KENTUCKY, MICHIGAN, OHIO AND WEST VIRGINIA

Order No. G-19 (Formerly Order No. III-1499.18 (c)-30) under § 1499.18 (c), as amended, of the General Maximum Price Regulation adjusting the maximum rates of haulers of raw milk in the States of Indiana, Kentucky, Michigan, Ohio, and West Virginia.

For the reasons set forth in the opinion attached hereto, and pursuant to the authority vested in the Regional Administrator of Region III under the provisions of § 1499.18 (c) and 1499.75 (a) (3) of the General Maximum Price Regulation, and notwithstanding the provisions of § 1499.2 thereof, it is hereby ordered that any carrier other than a common carrier operating in the states of Indiana, Kentucky, Michigan, Ohio and West Virginia may add 5¢ per cwt. to the maximum rate established for him under § 1499.2 of the General Maximum Price Regulation for the hauling of raw milk from farmers or other producers to milk depots, dairies, cooling stations, manufacturing plants or any other receiving point.

Effective February 3, 1943.

(Pub. Laws 421 and 729, 77th Cong., E.O. 9250, and F.R. 7871)

Issued January 30, 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12608; Filed, August 3, 1943; 11:53 a. m.]

[Region III Order G-19 Under 18 (c) of GMPR, Amdt. 1]

RAW MILK IN INDIANA, KENTUCKY, MICHIGAN, OHIO AND WEST VIRGINIA

Amendment No. 1 to Order No. G-19 (Formerly Order No. III-1499.18 (c)-30) under § 1499.18 (c), as amended, of the General Maximum Price Regulation adjusting the maximum rates of haulers of raw milk in the states of Indiana, Kentucky, Michigan, Ohio, and West Virginia.

For the reasons set forth in the opinion attached hereto, order No. G-19 adjusting the maximum rates of haulers of raw milk in the states of Indiana, Kentucky, Michigan, Ohio, and West Virginia, is amended by the addition of two new paragraphs, as set forth below:

Notwithstanding the provisions of the preceding paragraph, this order shall not apply to any carrier hauling raw milk from a farmer or other producer thereof to processing plants located in Coldwater, Ohio, or Holgate, Ohio.

This order shall remain in effect until modified or revoked by the Regional Administrator of Region III.

This amendment No. 1 to Order No. G-19 shall become effective at 12:01 a. m. March 18, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 17th day of March 1943.

BIRKETT L. WILLIAMS,
Regional Administrator.

[F. R. Doc. 43-12609; Filed, August 3, 1943; 11:54 a. m.]