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Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

[F.C.A. 197]

SUBCHAPTER F—BANKS FOR COOPERATIVES

PART 70—LOAN INTEREST RATES AND SECURITY

Amendment

Section 70.34 of Title 6, Code of Federal Regulations, is amended to read as follows:

§ 70.34 *Eligible commodities.* Until further notice and within the limits of § 70.33, farm products and farm supplies coming within the general classifications listed below may be accepted as security for loans entitled to the interest rate prescribed in subsection (a) of section 8 of the Agricultural Marketing Act, as amended (Sec. 8, 46 Stat. 14, sec. 11, 49 Stat. 316; 12 U.S.C. 1141f, and Sup.), for loans made upon the security of commodities, when the products or supplies are marketable and generally are in bulk storage.

Loans made on the security of commodities or supplies not coming within the general classifications listed below shall not be entitled to the interest rate prescribed in subsection (a) of section 8 of the Agricultural Marketing Act, as amended, for loans made upon the security of commodities.

Grains.

Fibers (such as Cotton, Wool, Mohair, etc.).

Tobacco.

Grass Seeds.

Legume Seeds (Alfalfa, Clover, etc.).

Other Seeds (Vegetable, Cottonseed, etc.).

Dairy Products.

Poultry Products.

Livestock Products.

Grapes to be immediately converted into grape juice, wine, or brandy.

Wines and Brandies.

Processed Fruits and Vegetables, as well as the following fresh fruits and vegetables held in storage:

Winter Apples and Pears.

Citrus Fruits.

Potatoes.

Sweet Potatoes.

Beans (Edible, Soy, etc.).

Nuts.

Maple Food Products.

Sugar.

Oil (Cottonseed, Bean, Olive, etc.)

Honey.

Coffee.

Hay.

Naval Stores.

Pelts of fur-bearing animals produced under fully controlled conditions.

Farm Supplies (In bulk and held in storage):

Fertilizer.

Fertilizer Materials.

Feeds.

Binder Twine.

(Secs. 13, 14, 49 Stat. 317; 12 U.S.C., Sup., 1134j, 1134c; 6 CFR 70.33) [Loan Guide, subj. 3, exh. 4, Feb. 19, 1938, as amended June 24, 1940, and September 13, 1940]

[SEAL]

S. D. SANDERS,

Cooperative Bank Commissioner.

[F. R. Doc. 40-4043; Filed, September 27, 1940; 11:42 a. m.]

TITLE 8—ALIENS AND CITIZENSHIP

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE

[Eighth Supplement to General Order No. C-2]

DESIGNATION OF HOULTON MUNICIPAL AIRPORT AS A TEMPORARY PORT OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

SEPTEMBER 25, 1940.

Pursuant to the authority contained in section 7 (d) of the Air Commerce Act of 1926 (Act of May 20, 1926, 44 Stat. 572; 49 U.S.C. 177 (d)) and section 1 of Reorganization Plan No. V (5 F.R. 2223), the Houlton Municipal Airport, Houlton,

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Maine, is hereby designated as a temporary port for the entry into the United States of aliens arriving by aircraft.

Section 3.3 (b), Title 8, Code of Federal Regulations (Rule 3, subdivision A, paragraph 3 (b) of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936) is amended by inserting Houlton, Maine, Houlton Municipal Airport, between Havre, Montana, Havre Municipal Air-

port, and Juneau, Alaska, Juneau Airport, in the list of temporary ports of entry for aliens arriving by aircraft.

[SEAL] ROBERT H. JACKSON,
Attorney General.

Approval recommended:

LEMUEL B. SCHOFIELD,
Special Assistant to the Attorney General.

[F. R. Doc. 40-4033; Filed, September 26, 1940; 3:58 p. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T. D. 5011]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

In order to conform Regulations 103¹ [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to the Revenue Act of 1940 (Public, No. 656, 76th Cong., 3d Sess.), approved June 25, 1940, such regulations are amended as follows:

PARAGRAPH 1. Section 19.1-1 is amended by inserting at the end thereof a new paragraph reading as follows:

As used in these regulations to describe a section of the Internal Revenue Code, the term "prior to its amendment" has reference only to amendment by the Revenue Act of 1939, and the term "as amended" has reference to amendment by any act.

PAR. 2. The first sentence of § 19.11-1 is amended to read as follows: "Chapter 1 of the Internal Revenue Code, which applies only to taxable years beginning after December 31, 1938 (see section 1), imposes an income tax on individuals, including a normal tax (section 11), a surtax (section 12), and a defense tax for taxable years beginning after December 31, 1939, and before January 1, 1945 (section 15 added by section 201 of the Revenue Act of 1940)."

PAR. 3. The following is inserted immediately preceding § 19.12-1:

SEC. 2. SURTAX ON INDIVIDUALS. (Revenue Act of 1940, Title I.)

Section 12 (b) of the Internal Revenue Code is amended to read as follows:

(b) RATES OF SURTAX. There shall be levied, collected, and paid for each taxable year upon the surtax net income of every individual a surtax as follows:

Upon a surtax net income of \$4,000 there shall be no surtax; upon surtax net incomes in excess of \$4,000 and not in excess of \$6,000, 4 per centum of such excess.

\$80 upon surtax net incomes of \$6,000; and upon surtax net incomes in excess of \$6,000 and not in excess of \$8,000, 6 per centum in addition of such excess.

\$200 upon surtax net incomes of \$8,000; and upon surtax net incomes in excess of \$8,000 and not in excess of \$10,000, 8 per centum in addition of such excess.

\$360 upon surtax net incomes of \$10,000; and upon surtax net incomes in excess of \$10,000 and not in excess of \$12,000, 10 per centum in addition of such excess.

\$560 upon surtax net incomes of \$12,000; and upon surtax net incomes in excess of \$12,000 and not in excess of \$14,000, 12 per centum in addition of such excess.

\$800 upon surtax net incomes of \$14,000; and upon surtax net incomes in excess of \$14,000 and not in excess of \$16,000, 15 per centum in addition of such excess.

\$1,100 upon surtax net incomes of \$16,000; and upon surtax net incomes in excess of \$16,000 and not in excess of \$18,000, 18 per centum in addition of such excess.

\$1,460 upon surtax net incomes of \$18,000; and upon surtax net incomes in excess of \$18,000 and not in excess of \$20,000, 21 per centum in addition of such excess.

\$1,880 upon surtax net incomes of \$20,000; and upon surtax net incomes in excess of \$20,000 and not in excess of \$22,000, 24 per centum in addition of such excess.

\$2,360 upon surtax net incomes of \$22,000; and upon surtax net incomes in excess of \$22,000 and not in excess of \$26,000, 27 per centum in addition of such excess.

\$3,440 upon surtax net incomes of \$26,000; and upon surtax net incomes in excess of \$26,000 and not in excess of \$32,000, 30 per centum in addition of such excess.

\$5,240 upon surtax net incomes of \$32,000; and upon surtax net incomes in excess of \$32,000 and not in excess of \$38,000, 33 per centum in addition of such excess.

\$7,220 upon surtax net incomes of \$38,000; and upon surtax net incomes in excess of \$38,000 and not in excess of \$44,000, 36 per centum in addition of such excess.

\$9,380 upon surtax net incomes of \$44,000; and upon surtax net incomes in excess of \$44,000 and not in excess of \$50,000, 40 per centum in addition of such excess.

\$11,780 upon surtax net incomes of \$50,000; and upon surtax net incomes in excess of \$50,000 and not in excess of \$60,000, 44 per centum in addition of such excess.

\$16,180 upon surtax net incomes of \$60,000; and upon surtax net incomes in excess of \$60,000 and not in excess of \$70,000, 47 per centum in addition of such excess.

\$20,880 upon surtax net incomes of \$70,000; and upon surtax net incomes in excess of \$70,000 and not in excess of \$80,000, 50 per centum in addition of such excess.

\$25,880 upon surtax net incomes of \$80,000; and upon surtax net incomes in excess of \$80,000 and not in excess of \$90,000, 53 per centum in addition of such excess.

\$31,180 upon surtax net incomes of \$90,000; and upon surtax net incomes in excess of \$90,000 and not in excess of \$100,000, 56 per centum in addition of such excess.

\$36,780 upon surtax net incomes of \$100,000; and upon surtax net incomes in excess of \$100,000 and not in excess of \$150,000, 58 per centum in addition of such excess.

\$65,780 upon surtax net incomes of \$150,000; and upon surtax net incomes in excess of \$150,000 and not in excess of \$200,000, 60 per centum in addition of such excess.

\$95,780 upon surtax net incomes of \$200,000; and upon surtax net incomes in excess of \$200,000 and not in excess of \$250,000, 62 per centum in addition of such excess.

\$126,780 upon surtax net incomes of \$250,000; and upon surtax net incomes in excess of \$250,000 and not in excess of \$300,000, 64 per centum in addition of such excess.

\$158,780 upon surtax net incomes of \$300,000; and upon surtax net incomes in excess of \$300,000 and not in excess of \$400,000, 66 per centum in addition of such excess.

\$224,780 upon surtax net incomes of \$400,000; and upon surtax net incomes in excess of \$400,000 and not in excess of \$500,000, 68 per centum in addition of such excess.

\$292,780 upon surtax net incomes of \$500,000; and upon surtax net incomes in excess of \$500,000 and not in excess of \$750,000, 70 per centum in addition of such excess.

¹ 5 F. R. 348, 437, 569.

\$467,780 upon surtax net incomes of \$750,000; and upon surtax net incomes in excess of \$750,000 and not in excess of \$1,000,000, 72 per centum in addition of such excess.

\$647,780 upon surtax net incomes of \$1,000,000; and upon surtax net incomes in excess of \$1,000,000 and not in excess of \$2,000,000, 73 per centum in addition of such excess.

\$1,377,780 upon surtax net incomes of \$2,000,000; and upon surtax net incomes in excess of \$2,000,000 and not in excess of \$5,000,000, 74 per centum in addition of such excess.

\$3,597,780 upon surtax net incomes of \$5,000,000; and upon surtax net incomes in excess of \$5,000,000, 75 per centum in addition of such excess.

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 4. Section 19.12-1 is amended by inserting at the end thereof the following: "For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 5. Section 19.12-2 is amended as follows:

(A) The first sentence is amended to read: "The following tables show the surtax (1) for taxable years beginning after December 31, 1938, and before January 1, 1940, and (2) for taxable years beginning after December 31, 1939, upon certain specified amounts of surtax net income."

(B) The heading of the surtax table following the fourth sentence is changed to read:

Table I—Taxable Years Beginning After December 31, 1938, and Before January 1, 1940

(C) There is inserted immediately after the existing table the following additional table:

Table II—Taxable Years Beginning After December 31, 1939

Surtax net income	Percent	Total surtax
\$0 to \$4,000		
\$4,000 to \$6,000	4	\$80
\$6,000 to \$8,000	6	200
\$8,000 to \$10,000	8	360
\$10,000 to \$12,000	10	560
\$12,000 to \$14,000	12	800
\$14,000 to \$16,000	15	1,100
\$16,000 to \$18,000	18	1,460
\$18,000 to \$20,000	21	1,880
\$20,000 to \$22,000	24	2,360
\$22,000 to \$26,000	27	3,440
\$26,000 to \$32,000	30	5,240
\$32,000 to \$38,000	33	7,220
\$38,000 to \$44,000	36	9,380
\$44,000 to \$50,000	40	11,780
\$50,000 to \$60,000	44	16,180
\$60,000 to \$70,000	47	20,880
\$70,000 to \$80,000	50	25,880
\$80,000 to \$90,000	53	31,180
\$90,000 to \$100,000	56	36,780
\$100,000 to \$150,000	58	65,780
\$150,000 to \$200,000	60	95,780
\$200,000 to \$250,000	62	126,780
\$250,000 to \$300,000	64	158,780
\$300,000 to \$400,000	66	224,780
\$400,000 to \$500,000	68	292,780
\$500,000 to \$750,000	70	467,780
\$750,000 to \$1,000,000	72	647,780
\$1,000,000 to \$2,000,000	73	1,377,780
\$2,000,000 to \$5,000,000	74	3,597,780
\$5,000,000 up	75	

(D) The last sentence of the last paragraph is amended to read as follows: "Accordingly, the surtax due for taxable years beginning after December 31, 1939, upon a surtax net income of \$63,128 would be \$17,650.16, computed as follows:

Surtax on \$60,000 from table	\$16,180.00
Surtax on \$3,128 at 47 percent	1,470.16
Total	17,650.16

PAR. 6. The following is inserted immediately preceding § 19.13-1:

SEC. 3. CORPORATION TAX. (Revenue Act of 1940, Title I.)

(a) **TAX ON CORPORATIONS IN GENERAL.** Section 13 (b) of the Internal Revenue Code is amended to read as follows:

(b) **IMPOSITION OF TAX.** There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every corporation the normal-tax net income of which is more than \$25,000 (except a corporation subject to the tax imposed by section 14, section 231 (a), Supplement G, or Supplement Q) whichever of the following taxes is the lesser:

(1) **GENERAL RULE.** A tax of 19 per centum of the normal-tax net income or

(2) **ALTERNATIVE TAX (CORPORATIONS WITH NORMAL-TAX NET INCOME SLIGHTLY MORE THAN \$25,000).** A tax of \$3,775, plus 33 per centum of the amount of the normal-tax net income in excess of \$25,000.

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 7. Section 19.13-5 is amended by adding at the end thereof the following: "For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 8. Section 19.13-6 is amended by striking out "18 percent", "\$16,470", and "16,470", wherever they appear and inserting in lieu thereof "19 percent", "\$17,385", and "17,385", respectively.

PAR. 9. Section 19.13-7 is amended by striking out "\$3,525", "32 percent", "\$3,893", "3,893", "18 percent", and "4,707", wherever they appear, and inserting in lieu thereof "\$3,775", "33 percent", "\$4,154.50", "4,154.50", "19 percent", and "4,968.50", respectively.

PAR. 10. The following is inserted immediately preceding § 19.14-1:

SEC. 3. CORPORATION TAX. (Revenue Act of 1940, Title I.)

(b) **TAX ON SPECIAL CLASSES OF CORPORATIONS.** Sections 14 (b) and (c) (1) of the Internal Revenue Code are amended to read as follows:

(b) **CORPORATIONS WITH NORMAL-TAX NET INCOMES OF NOT MORE THAN \$25,000.** If the normal-tax net income of the corporation is not more than \$25,000, and if the corporation does not come within one of the classes specified in subsection (c), (d), or (e) of this section, the tax shall be as follows:

Upon normal-tax net incomes not in excess of \$5,000, 13½ per centum.

\$675 upon normal-tax net incomes of \$5,000, and upon normal-tax net incomes in excess of \$5,000 and not in excess of \$20,000, 15 per centum in addition of such excess.

\$2,925 upon normal-tax net incomes of \$20,000, and upon normal-tax net incomes in excess of \$20,000, 17 per centum in addition of such excess.

(c) **FOREIGN CORPORATIONS.**

(1) In the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein, the tax shall be an amount equal to 19 per centum of the normal-tax net income, regardless of the amount thereof.

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 11. Section 19.14-2 is amended as follows:

(A) By striking out in the table following the fifth paragraph: "12½", "14", "16", "\$625", "2,725", and "3,525", and by inserting in lieu thereof: "13½", "15", "17", "\$675", "2,925", and "3,775", respectively.

(B) By striking out in the example "\$1,430", "625", "805", "1,430", "12½ percent", and "14 percent", wherever they appear, and inserting in lieu thereof "\$1,537.50", "675", "862.50", "1,537.50", "13½ percent", and "15 percent", respectively.

(C) By striking out in the first sentence of the last paragraph "18 percent" and inserting in lieu thereof "19 percent".

PAR. 12. Section 19.15-1 is stricken out and there is inserted in lieu thereof the following:

SEC. 201. INCOME TAX. (Revenue Act of 1940, Title II.)

Chapter 1 of the Internal Revenue Code is amended by inserting after section 14 the following new section:

SEC. 15. DEFENSE TAX FOR FIVE YEARS.

In the case of any taxpayer, the amount of tax under this chapter for any taxable year beginning after December 31, 1939, and before January 1, 1945, shall be 10 per centum greater than the amount of tax computed without regard to this section. In no case shall the effect of this section be to increase the tax computed without regard to this section by more than 10 per centum of the amount by which the net income exceeds such tax. For the purposes of this section, the tax computed without regard to this section shall be such tax before the application of the credit provided in section 31 ("foreign tax credit"), and the credit provided in section 32 (taxes withheld at the source).

§ 19.15-1 *Defense tax.* For taxable years beginning after December 31, 1939, and before January 1, 1945, the tax computed in accordance with chapter 1 of the Internal Revenue Code as amended without regard to section 15 (added by section 201 of the Revenue Act of 1940¹) is increased by 10 percent thereof. For the purposes of this 10 percent increase, the

¹Section 201 of the Revenue Act of 1939 amended sections 13, 14, and 15 by enacting new sections 13 and 14 imposing taxes on the income of corporations for taxable years beginning after December 31, 1939, and eliminating section 15. A new section 15, providing for a defense tax, was added by section 201 of the Revenue Act of 1940.

tax which is to be increased is computed before the application of the foreign tax credit and the credit for taxes withheld at the source.

Section 15 also provides that in no case shall its effect be to increase the tax by more than 10 percent of the amount by which the net income exceeds the tax computed without regard to section 15. This limitation applies to taxpayers whose income tax, computed without regard to the defense tax provisions, amounts to more than 50 percent of their net income. It is provided that such taxpayers shall pay a defense tax of not more than 10 percent of their income remaining after deduction of income tax computed without regard to the defense tax provisions. This limitation may be illustrated by the following example:

Example. The net income of an individual entitled to the maximum earned income credit and having no capital gains or losses is \$752,800. He is entitled to credits for personal exemption and dependents amounting to \$2,800. His tax liability computed without regard to section 15 is \$497,724. The difference between the net income and the tax liability is \$255,076. The tax after applying section 15 is \$497,724 plus 10 percent of \$255,076, or \$523,231.60. If such a limitation had not been provided for, the tax after the application of section 15 would have been \$547,496.40.

A further effect of the limitation on the 10 percent increase is to prevent any increase in the tax of a taxpayer who under existing law, as amended by Title I of the Revenue Act of 1940, has no net income because he has a net long-term capital loss, but is subject to tax under section 117 (c) (2) of the Internal Revenue Code.

PAR. 13. The following is inserted immediately preceding § 19.25-1, relating to credits of individuals against net income:

SEC. 6. PERSONAL EXEMPTION. (Revenue Act of 1940, Title L.)

(a) Section 25 (b) (1) of the Internal Revenue Code is amended to read as follows:

(1) PERSONAL EXEMPTION. In the case of a single person or a married person not living with husband or wife, a personal exemption of \$800; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of \$2,000. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be \$2,000. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 14. The first two sentences of § 19.25-3 are amended to read as follows: "A single person or a married person not living with husband or wife is entitled to a personal exemption of \$800 (\$1,000 for a taxable year beginning be-

fore January 1, 1940) and the head of a family or a married person living with husband or wife, to \$2,000 (\$2,500 for a taxable year beginning before January 1, 1940). A husband and wife living together have but one personal exemption, which is \$2,000 (\$2,500 for a taxable year beginning before January 1, 1940)."

PAR. 15. Section 19.25-7 is amended by adding at the end thereof the following paragraph:

If the change of status shown by the preceding examples occurs in any taxable year beginning after December 31, 1939, the apportionment of the personal exemptions will be based upon an allowance of \$800 instead of \$1,000 to a single person or a married person not living with husband or wife, and \$2,000 instead of \$2,500 in the case of a head of a family or a married person living with husband or wife.

PAR. 16. The first sentence of the example in section 19.47-1 is amended to read as follows: "A citizen of the United States made a return for a 10-month period ended October 31, 1939, by reason of a change in accounting period."

PAR. 17. The following is inserted immediately preceding § 19.51-1, relating to individual returns:

SEC. 7. RETURNS OF INCOME TAX. (Revenue Act of 1940, Title I.)

(a) INDIVIDUAL RETURNS. Section 51 (a) of the Internal Revenue Code is amended to read as follows:

(a) REQUIREMENT. The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this chapter and such other information for the purpose of carrying out the provisions of this chapter as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual who is single or who is married but not living with husband or wife, if having a gross income for the taxable year of \$800 or over.

(2) Every individual who is married and living with husband or wife, if no joint return is made under subsection (b) and if—

(A) Such individual has for the taxable year a gross income of \$2,000 or over, and the other spouse has no gross income; or

(B) Such individual and his spouse each has for the taxable year a gross income and the aggregate gross income is \$2,000 or over.

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 18. Section 19.51-1 is amended as follows:

(A) The heading of the paragraph designated as "(a) *In General.*—" is changed to read as follows: "(a) *In general—For taxable years beginning before January 1, 1940.*—"

(B) Immediately preceding the paragraph designated as "(b) *Joint returns.*—" the following is inserted:

(b) *In general—For taxable years beginning after December 31, 1939. For*

taxable years beginning after December 31, 1939, such individuals shall make a return of income—

(1) If single or married but not living with husband or wife for any part of the taxable year, and if having for the taxable year a gross income (as defined in sections 22 and 116) of \$800 or over.

(2) If married and living with husband or wife for the entire taxable year, if no joint return is made, and if—

(a) having for the taxable year a gross income of \$2,000 or over, and the other spouse has no gross income; or

(b) such individual and his or her spouse each has for the taxable year a gross income and the aggregate gross income of the two is \$2,000 or over.

(3) If married and living with husband or wife for any part of the taxable year but not at the close thereof, or if married and living with husband or wife at the close of the taxable year, but not during the entire taxable year, if no joint return is made, and if—

(a) having for the taxable year a gross income equal to, or in excess of, the credit allowed him or her by section 25 (b) (1) and (3) (computed without regard to any credit to which he or she may be entitled as the head of a family (see § 19.25-7)), and the other spouse has no gross income; or

(b) such individual and his or her spouse each has for the taxable year a gross income, and their aggregate gross income is \$2,000 or over, or is equal to, or in excess of, the credit allowed them by section 25 (b) (1) and (3) (computed without regard to any credit to which either or both may be entitled as the head of a family (see § 19.25-7)).

(C) The paragraph now designated as "(b) *Joint returns.*—" is changed to "(c) *Joint returns.*—"

PAR. 19. Section 19.51-2 is amended by inserting in the first sentence after "\$5,000," the following: "or, for taxable years beginning after December 31, 1939, if the gross income does not exceed \$5,000."

PAR. 20. Section 19.51-3 is amended as follows:

(A) There are stricken out of the first sentence the words "the taxable year", and inserted in lieu thereof the following: "a taxable year beginning before January 1, 1940, and for a taxable year beginning after December 31, 1939, if he has a gross income of \$800 or over, regardless of the amount of his net income".

(B) There is inserted in the second sentence after "\$5,000," the following: "or \$800 or over, regardless of the amount of his net income, for a taxable year beginning after December 31, 1939."

PAR. 21. Section 19.102-1 is amended by adding at the end thereof the following: "For the defense tax imposed for taxable years beginning after December

31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 22. Section 19.104-1 is amended by adding at the end thereof the following: "For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 23. Section 19.131-8 is amended by substituting for Example (2) (with respect to corporations), the following example:

Example (2): The net income for the calendar year 1940 and the income and profits taxes paid or accrued to foreign countries and possessions of the United States in the case of a domestic corporation were as follows:

Country	Net income	Loss	Income and profits taxes (paid or accrued)
United States	\$200,000		
Great Britain	30,000		\$7,500
Canada	20,000		1,800
Brazil	40,000		2,400
Argentine Republic	60,000		None
Mexico		\$100,000	None
Puerto Rico	10,000		1,250
France (dividend)	50,000		19,000
France (branch)	20,000		3,000

Net income	\$330,000
Less:	
85 percent of dividends received from domestic corporations (\$50,000)	\$42,500
Interest on obligations of the United States	25,000
	67,500
Normal-tax net income	262,500
Total foreign net income	130,000
United States tax (not including tax imposed under section 102) before allowance of credit for foreign taxes	54,862.50

The income and losses from all foreign countries and possessions of the United States, except the dividend from sources within France, were derived from branch operations. Dividends of \$50,000 were received from a French corporation, a majority of the voting stock of which was owned by the domestic corporation. The French corporation paid to France income and profits taxes on income earned by it and in addition a dividend tax for the account of its shareholders on income distributed to them, the latter tax being withheld and paid at the source.

The computation of the credit is as follows:

Great Britain

Income and profits tax paid or accrued	\$7,500
Limitation under section 131(b)(1)	30,000
	(of \$54,862.50)
Tentative credit	6,270

Canada

Income and profits tax paid or accrued	\$1,800
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Limitation under section 131 (b) (1)	($\frac{20,000}{262,500}$ of \$54,862.50)	4,180
Tentative credit		1,800

Brazil

Income and profits tax paid or accrued	\$2,400	
Limitation under section 131 (b) (1)	($\frac{40,000}{262,500}$ of \$54,862.50)	8,360
Tentative credit		2,400

Argentine Republic

Tentative credit		None
Tentative credit		None

Mexico

Tentative credit		None
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Puerto Rico

Income and profits taxes paid or accrued	\$1,250	
Limitation under section 131 (b) (1)	($\frac{10,000}{262,500}$ of \$54,862.50)	2,090
Tentative credit		1,250

France

Dividend tax paid at source	\$9,000
Income and profits taxes paid or accrued on branch operations	3,000
Income and profits taxes deemed under section 131 (f) to have been paid, computed as follows:	

Dividend received on December 31 of the taxable year

\$50,000

Income of French corporation earned during taxable year

200,000

Income and profits taxes paid to France on \$200,000

30,000

Accumulated profits (\$200,000 minus \$30,000)

170,000

French taxes applicable to accumulated profits distributed

($\frac{50,000}{170,000}$ of ($\frac{170,000}{200,000}$ of \$30,000))

7,500

Limitation under section 131

(f) ($\frac{50,000}{262,500}$ of \$54,862.50)

10,450

Income and profits taxes deemed to have been paid (French taxes applicable to accumulated profits distributed to domestic corporation, reduced in accordance with the limitation under section 131 (f))

7,500

Total income and profits taxes paid or accrued and deemed to have been paid to France

19,500

Limitation under section 131 (b) (1)

($\frac{70,000}{262,500}$ of \$54,862.50)

14,630

Tentative credit

14,630

Sum of tentative credits

Great Britain	\$6,270
Canada	1,800
Brazil	2,400
Puerto Rico	1,250
France	14,630
	26,350

Limitation on sum of tentative credits under section 131 (b) (2) to determine credit

($\frac{130,000}{262,500}$ of \$54,862.50)

27,170

Total amount of credit allowable (sum of tentative credits or the limitation under section 131 (b) (2), whichever is the lesser)

26,350

PAR. 24. The following is inserted immediately preceding § 19.142-1, relating to fiduciary returns:

SEC. 7. RETURNS OF INCOME TAX. (Revenue Act of 1940, Title I.)

(b) FIDUCIARY RETURNS. Section 142 (a) of the Internal Revenue Code is amended to read as follows:

(a) REQUIREMENT OF RETURN. Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this chapter and such other information for the purpose of carrying out the provisions of this chapter as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual having a gross income for the taxable year of \$800 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a gross income for the taxable year of \$2,000 or over, if married and living with husband or wife;

(3) Every estate the gross income of which for the taxable year is \$800 or over;

(4) Every trust the net income of which for the taxable year is \$100 or over, or the gross income of which for the taxable year is \$800 or over, regardless of the amount of the net income; and

(5) Every estate or trust of which any beneficiary is a nonresident alien.

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 25. Section 19.142-1 is amended as follows:

(A) There is stricken out immediately after "(a)" in the paragraph so designated the word "For", and there is inserted in lieu thereof the following: "For taxable years beginning before January 1, 1940—Returns for individuals. For a taxable year beginning before January 1, 1940, for".

(B) There is stricken out immediately after "(b)" in the paragraph so designated the word "For", and there is inserted in lieu thereof the following: "For taxable years beginning before January 1, 1940—Returns for estates and trusts. For a taxable year beginning before January 1, 1940, for".

(C) There is inserted immediately after the paragraph designated as "(b)" the following:

(c) For taxable years beginning after December 31, 1939—Returns for individuals. For a taxable year beginning after December 31, 1939, for the individual whose income is in his charge, if the gross income of such individual is \$800 or over, if single, or if married and not living with husband or wife for any part of the taxable year; or if such individual is married and was living with husband or wife for any part of the taxable year but not at the close of the taxable year and his gross income for the taxable year is equal to, or in excess of, the credit allowed him by section 25 (b) (1) and (3) (computed without regard to his status as head of a family); or if such individual is married and was living

with husband or wife for the entire taxable year and the aggregate gross income of both husband and wife is \$2,000 or over; or if such individual is married and was living with husband or wife at the close of the taxable year but not during the entire taxable year and the aggregate gross income of both husband and wife is \$2,000 or over, or the aggregate gross income of both husband and wife is equal to, or in excess of, the credit allowed them by section 25 (b) (1) and (3) (computed without regard to the status of either of them as head of a family), or

(d) For taxable years beginning after December 31, 1939—Returns for estates and trusts. For a taxable year beginning after December 31, 1939, for the estate for which he acts if the gross income of such estate is \$800 or over, and for the trust for which he acts if the gross income of such trust is \$800 or over, or the net income of such trust, as computed under section 162, is \$100 or over, or if any beneficiary of such estate or trust is a nonresident alien.

(D) The first and second sentences in the second from the last paragraph are changed to read as follows: "The return in case (a) or (c) shall be on Form 1040 or 1040 A. In case (b) or (d) a return is required on Form 1041."

(E) The next to the last sentence in the second from the last paragraph is stricken out and there is inserted in lieu thereof the following: "For a taxable year beginning before January 1, 1940, if the net income of a decedent from the beginning of the taxable year to the date of his death was equal to, or in excess of, the credit allowed him by section 25 (b) (1) and (3) (computed without regard to his status as head of a family), or if his gross income for the same period was \$5,000 or over, the executor or administrator shall make a return for such decedent. For a taxable year beginning after December 31, 1939, if the gross income of the decedent from the beginning of the taxable year to the date of his death was equal to, or in excess of, the credit allowed him by section 25 (b) (1) and (3) (computed without regard to his status as head of a family), the administrator shall make a return for such decedent."

PAR. 26. Section 19.142-2 is amended by striking out in the first sentence "A" and inserting in lieu thereof the following: "For a taxable year beginning prior to January 1, 1940, a", and by adding after the first sentence the following: "For a taxable year beginning after December 31, 1939, such a return must be made if the gross income of such person is equal to, or in excess of, the credit allowed him by section 25 (b) (1) and (3), as so computed."

PAR. 27. Section 19.142-5 is amended as follows:

(A) In the second sentence of paragraph (b) there is inserted immediately after "\$21,600" the following: ", or more

than \$24,000 for a taxable year beginning after December 31, 1939,".

(B) In the third sentence of paragraph (b) there is inserted immediately after "\$21,600 or less," the following: "or \$24,000 or less for a taxable year beginning after December 31, 1939,".

(C) In the next to the last sentence of paragraph (b) there is inserted immediately after "10 percent" the following: ", or at 16½ percent for a taxable year beginning after December 31, 1939, and before January 1, 1945, or at 15 percent for a taxable year beginning after December 31, 1944,".

PAR. 28. The following is inserted immediately preceding § 19.147-1:

SEC. 7. RETURNS OF INCOME TAX. (Revenue Act of 1940, title I.)

(c) Information returns. Section 147 (a) of the Internal Revenue Code (relating to information at the source) is amended by striking out "\$1,000" wherever occurring therein and inserting in lieu thereof "\$800".

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 29. Section 19.147-1 is amended as follows:

(A) The heading of the section is amended to read as follows: "Return of information as to payments of \$1,000 for 1939, and \$800 for years thereafter.—".

(B) The first sentence is amended to read as follows: "All persons making payment to another person of fixed or determinable income of \$1,000 or more in the calendar year 1939, or of \$800 or more in any subsequent year, must render a return thereof to the Commissioner for such year on or before February 15 of the following year, except as specified in §§ 19.147-3 to 19.147-5, inclusive."

PAR. 30. Section 19.147-2 is amended by inserting immediately after the words "are made" in the first sentence the following: "during the calendar year 1939, or of \$800 or over during a subsequent calendar year".

PAR. 31. Section 19.147-3 is amended as follows:

(A) By inserting in the first sentence immediately after "over \$1,000" the following: "during the calendar year 1939, or over \$800 during a subsequent calendar year".

(B) The part designated as "(e)" is amended to read as follows: "(e) Payments of rent made to real estate agents (but the agent must report payments to the landlord if the amount paid during the calendar year 1939 was \$1,000 or more, or \$800 or more during a subsequent calendar year);".

(C) The part designated as "(h)" is amended to read as follows: "(h) Payments of salaries, or other compensation for personal services aggregating less than \$2,500 for the calendar year 1939, or less than \$2,000 for subsequent calendar

years, made to a married individual (citizen or resident);".

PAR. 32. The first sentence of § 19.147-7 is amended by striking out "in any taxable year" and by inserting immediately after "\$1,000 or more" the following: "within 1939, or \$800 or more within a subsequent year".

PAR. 33. The second paragraph of § 19.147-8 is amended by striking out "10 percent" immediately before the word "tax".

PAR. 34. Section 19.163-1 is amended by striking out "of \$1,000" in the first sentence.

PAR. 35. Section 19.201 (b)-1 is amended by adding at the end thereof the following: "For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 36. Section 19.204 (a)-1 is amended by adding at the end thereof the following: "For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 37. Section 19.207-1 is amended by adding at the end thereof the following: "For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 38. The following is inserted immediately preceding § 19.211-1, relating to taxation of aliens in general:

SEC. 4. TAX ON NONRESIDENT ALIEN INDIVIDUALS. (Revenue Act of 1940, title I.)

(a) Tax in general. Section 211 (a) (1) (A) of the Internal Revenue Code (relating to tax on nonresident alien individuals not engaged in trade of business within the United States and not having an office or place of business therein) is amended by striking out "10 per centum" and inserting in lieu thereof "15 per centum".

(b) Aggregate receipts more than \$24,000. Section 211 (a) (2) of the Internal Revenue Code is amended to read as follows:

(2) Agregate more than \$24,000. The tax imposed by paragraph (1) shall not apply to any individual if the aggregate amount received during the taxable year from the sources therein specified is more than \$24,000.

(c) Tax where gross income of more than \$24,000. Section 211 (c) of the Internal Revenue Code (relating to tax on certain nonresident alien individuals) is amended by striking out "\$21,600" wherever occurring therein and inserting in lieu thereof \$24,000; and by striking out "10 per centum" and inserting in lieu thereof "15 per centum".

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 39. Section 19.211-7 is amended as follows:

(A) By inserting in the first and third paragraphs immediately after "\$21,600" wherever it appears the following: "(\$24,000 during a taxable year beginning after December 31, 1939)".

(B) By inserting in the first sentence of the third paragraph immediately after

the words "is taxable at the rate of 10 percent" the following: "for a taxable year beginning prior to January 1, 1940, at the rate of 16½ percent for a taxable year beginning after December 31, 1939, and before January 1, 1945 (see § 19.15-1), and at the rate of 15 percent thereafter."

(C) By inserting in the next to the last sentence in the third paragraph immediately after "at the rate of 10 percent" the following: ", or 15 percent, or 16½ percent, as the case may be."

(D) The heading of the paragraph designated as "(b)" is changed to read as follows: "(b) No United States business or office—Aggregate more than \$21,600 (\$24,000 for a taxable year beginning after December 31, 1939)."

(E) By inserting in the third sentence of the paragraph designated as "(b)", and in the first sentence of the paragraph designated as "(c)", immediately after "10 percent", wherever it occurs, the following: ", or 15 percent for a taxable year beginning after December 31, 1939."

(F) By inserting immediately after the second sentence of the paragraph designated as "(c)" the following: "For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 40. Section 19.213-1 is amended as follows:

(A) By changing the heading of subparagraph (2) of the paragraph designated as "(a)" to read as follows: "Aggregate more than \$21,600 (\$24,000 for a taxable year beginning after December 31, 1939)."

(B) By inserting in the first sentence of subparagraph (2) of the paragraph designated as "(a)" immediately after "\$21,600" the following: ", or more than \$24,000 for a taxable year beginning after December 31, 1939."

PAR. 41. The following is inserted immediately preceding section 19.214-1:

SEC. 6. PERSONAL EXEMPTION. (Revenue Act of 1940, title I.)

(b) Section 214 of the Internal Revenue Code (relating to personal exemption of nonresident alien individuals) is amended by striking out "\$1,000" and inserting in lieu thereof "\$800".

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue act of 1940, title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 42. Section 19.214-1 is amended as follows:

(A) By changing the heading in subparagraph (2) of the paragraph designated as "(a)" to read as follows: "Aggregate more than \$21,600 (\$24,000 for a taxable year beginning after December 31, 1939)."

(B) By inserting in the first sentence of subparagraph (2) of paragraph (a) immediately after "\$21,600" the following: ", or more than \$24,000 for a tax-

able year beginning after December 31, 1939."

(C) By inserting in the first sentence in paragraph (b) immediately after "\$1,000," the following: "or \$800 for a taxable year beginning after December 31, 1939."

PAR. 43. Section 19.215-1 is amended as follows:

(A) By changing the heading in subparagraph (2) of paragraph (a) to read as follows: "Aggregate more than \$21,600 (\$24,000 for a taxable year beginning after December 31, 1939)."

(B) By inserting immediately after "\$21,600" wherever it occurs in subparagraph (2) of paragraph (a) the following: ", or more than \$24,000 for a taxable year beginning after December 31, 1939."

PAR. 44. Section 19.217-2 is amended as follows:

(A) By changing the heading in subparagraph (2) of paragraph (a) to read as follows: "Aggregate more than \$21,600 (\$24,000 for a taxable year beginning after December 31, 1939)."

(B) By inserting in the first sentence in subparagraph (2) of paragraph (a) immediately after "\$21,600" the following: ", or more than \$24,000 for a taxable year beginning after December 31, 1939."

(C) By striking out in the second sentence in paragraph (b) the words "the taxable year" and by inserting in lieu thereof the following: "a taxable year beginning prior to January 1, 1940, or \$800 during a taxable year beginning after December 31, 1939."

PAR. 45. The second sentence of § 19.219-1 is amended by inserting immediately after "\$21,600," the following: "or more than \$24,000 for a taxable year beginning after December 31, 1939."

PAR. 46. The following is inserted immediately before § 19.231-1:

SEC. 3. CORPORATION TAX. (Revenue Act of 1940, Title I.)

(c) TAX ON NONRESIDENT FOREIGN CORPORATIONS. Section 231 (a) (1) of the Internal Revenue Code is amended by striking out "except that in the case of dividends the rate shall be 10 per centum, and" and by striking out "of 10 per centum".

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 47. Section 19.231-1 is amended as follows:

(A) The third paragraph is amended to read as follows:

The fixed or determinable annual or periodical income from sources within the United States, including royalties, of a nonresident foreign corporation is taxable at the rate of 15 percent, except that for taxable years beginning after December 31, 1939, and before January 1, 1945, the rate is 16½ percent (see § 19.15-1), and except further for a taxable year

beginning before January 1, 1940, dividends are taxable at the rate of 10 percent. In the case of dividends received by a nonresident foreign corporation organized under the laws of a contiguous country, the rate shall be reduced to such rate (not less than 5 percent) as may be provided by treaty with such country.

(B) By striking out in the fourth sentence of the paragraph designated as "(b)", "18 percent" and inserting in lieu thereof "19 percent".

(C) By inserting at the end of the paragraph designated as "(b)" the following: "For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1."

PAR. 48. The following is inserted immediately preceding § 19.251-1:

SEC. 6. PERSONAL EXEMPTION. (Revenue Act of 1940, Title I.)

(c) Section 251 (f) of the Internal Revenue Code (relating to personal exemption of citizens entitled to benefits of section 251) is amended by striking out "\$1,000" and inserting in lieu thereof "\$800".

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 49. Section 19.262-2 is amended by substituting for Example (2) the following:

Example (2). Assume that for the calendar year 1940 the facts are the same as in example (1) except that a special dividend of \$45,100 is distributed on February 15, 1941. Since, under section 13, as amended, the rate of income tax for 1940 is 19 percent and (by section 15, added by section 201, Revenue Act of 1940) there is added to the tax thus computed 10 percent thereof, the income tax for such year is \$38,000 plus \$3,800, or a total of \$41,800. Since the special dividend (\$45,100) exceeds the diminution of the income tax (\$41,800) on account of the allowance of the special credit against net income, the entire amount of the special credit is allowable and the corporation has no income tax liability for 1940. Since the special dividend exceeds the amount of the income tax by the sum of \$3,300, which sum equals the amount of the diminution of the excess-profits tax (\$3,000 plus 10 percent thereof under section 204, Revenue Act of 1940) on account of the allowance of the special credit against net income, the entire amount of the special credit (\$200,000) is allowable for excess-profits tax purposes for 1940 and hence the corporation has no excess-profits tax liability for that year.

PAR. 50. The following is inserted immediately preceding § 19.362-1:

SEC. 3. CORPORATION TAX. (Revenue Act of 1940, Title I.)

(d) TAX ON MUTUAL INVESTMENT COMPANIES. Section 362 (b) of the Internal Revenue Code is amended to read as follows:

(b) IMPOSITION OF TAX. There shall be levied, collected, and paid for each taxable year upon the Supplement Q net income of every mutual investment company a tax equal to 19 per centum of the amount thereof.

SEC. 9. TAXABLE YEARS TO WHICH APPLICABLE. (Revenue Act of 1940, Title I.)

The amendments made by this title, except the amendments made by section 5, shall be applicable only with respect to taxable years beginning after December 31, 1939.

PAR. 51. Section 19.362-1 is amended by striking out in the first sentence "18 percent." and inserting in lieu thereof "19 percent. (For the defense tax imposed for taxable years beginning after December 31, 1939, and before January 1, 1945, see § 19.15-1.)"

PAR. 52. The following is inserted immediately preceding § 19.500-1:

SEC. 203. PERSONAL HOLDING COMPANIES. (Revenue Act of 1940, Title II.)

Section 500 of the Internal Revenue Code is amended by inserting "(a) GENERAL RULE.—" before the first paragraph and inserting at the end thereof the following new subsection:

(b) DEFENSE TAX FOR FIVE YEARS. In the case of every personal holding company, the amount of surtax under this subchapter for any taxable year beginning after December 31, 1939, and before January 1, 1945, shall be 10 per centum greater than the amount of surtax computed without regard to this subsection.

PAR. 53. The last sentence in the first paragraph of § 19.500-1 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: " , except that for any taxable year beginning after December 31, 1939, and before January 1, 1945, such surtax is increased 10 percent."

(This Treasury Decision is issued under the authority contained in sections 1 to 4, inclusive, 6 to 9, inclusive, 201, and 203 of the Revenue Act of 1940 (Public, No. 656, 76th Cong., 3d Sess.), and section 62 of the Internal Revenue Code (53 Stat. 32).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, September 24, 1940.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 40-4032; Filed, September 26, 1940;
2:45 p. m.]

TITLE 30—MINERAL RESOURCES
CHAPTER III—BITUMINOUS COAL
DIVISION

[Order No. 296]

PART 309—REPORTS; CODE MEMBERS

Sec.	
309.41	Persons required to maintain and file reports and other data.
309.42	Mine of less than 50 tons daily capacity.
309.43	Mine of more than 50 tons daily capacity.
309.44	Retail sales.
309.45	Confidential information.

Sec.	
309.46	Penalties.
309.47	Order No. 14 still in effect.
309.48	Provision of Order No. 156 relating to truck or wagon shipments suspended.

AN ORDER DIRECTING CODE MEMBERS, THEIR SALES AGENTS, REGISTERED DISTRIBUTORS AND REGISTERED FARMERS' COOPERATIVE ORGANIZATIONS TO MAINTAIN AND FILE, AND TO REQUIRE PERSONS UNDER THEIR CONTROL TO MAINTAIN AND FILE, WITH THE DIVISION, RECORDS, SALES SLIPS, OTHER MEMORANDA, AND REPORTS RELATING TO CERTAIN SALES AND SHIPMENTS OF COAL BY TRUCK OR WAGON

The Director being of the opinion that in order to carry out the provisions of the Bituminous Coal Act of 1937, it is necessary that the information hereinafter described be maintained and filed with the Division; therefore,

Pursuant to the provisions of Sections 2 (a), 4 II (a), and 4 II (g) of the Act, the Rules and Regulations for the Registration of Distributors and Farmers' Cooperative Organizations, and other authority granted by law,

It is ordered, That:

§ 309.41 *Persons required to maintain and file reports and other data.* (a) Each code member or his sales agent, each registered distributor and each registered farmers' cooperative organization, for the transactions hereinafter designated and engaged in by them or by persons under their control,¹ shall, and shall require such persons under their control, beginning on October 1, 1940, to:

(1) Make in triplicate and number serially sales slips, invoices, or other memoranda for all sales, resales, consignments, shipments, or other disposals or movements of coal by truck or wagon from the mine or storage facility (other than docks), including sales to mine employees and coal used for mine operating or other purposes, occurring on or after the above date and file copies thereof with the Division, as hereinafter provided;

(2) Maintain and keep on file in chronological order, in the mine or business office, copies of all mine bulletins, and work, earning and production sheets, loading sheets or other records for a period of 12 months after the date of such bulletins or records, for inspection by or for transmittal to the Division upon request;

(3) File, upon receipt of this Order, with the Division, an Order authorizing all state, municipal, and private scales reporting the weight of coal sold, consigned, or delivered by them, to make available to the Division upon its request, the records of such weighings.

¹The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(b) *Where filings shall be made.* The filings provided for by § 309.41 (a) (1) and (3) above shall be made at the statistical bureau of the Division for the district in which the coal involved in such transactions was produced.*

§ 309.42 *Mine of less than 50 tons daily capacity.* (a) Where the coal involved in the transaction is produced at a mine having a daily actual capacity of less than 50 tons, the copies of the sales slips, invoices or other memoranda, required by § 309.41 (a) (1) above, filed with the Division, and kept on file for inspection, shall set forth the following information:

(1) The sales slip, invoice or other memorandum number and the name and address of the seller or shipper, designating the proper description thereof, such as "producer," "sales agent," "registered distributor," or "registered farmers' cooperative organization." If such coal is shipped from a storage pile or loading facility, other than at the mine, show the name and address of such storage pile or loading facility.

(2) The name and mine index number of the mine at which the coal is produced, or, if invoiced from a central preparation plant, the name of such central preparation plant, and the number of the producing district.

(3) The name and address of the purchaser, designating proper description thereof, such as "consumer," "retailer," "registered distributor," or "registered farmers' cooperative organization."

(4) The date of sale and shipment.

(5) The name of the owner or lessee and the license number of the truck or wagon in which the coal is shipped. Name the state where the truck or wagon is registered.

(6) The destination of the coal by city, or town, and state. If destination is not known by seller, so state, but effort shall be made to ascertain this information.

(7) The actual sizes loaded (in inches or fractions thereof), the net weight of the coal (in pounds), the price in cents per net ton f. o. b. the truck or wagon at the mine or storage facility, and the total amount charged for the coal. If coal is sold on a delivered basis, show also the delivered price in cents per net ton and the distance in miles, or fractions thereof, which the coal is hauled. Where no scales are available, the capacity of the truck or wagon should be given in addition to the estimated weight.

(8) The signature of the person making out the sales slip or invoice.

(b) *Time for filing and disposition of sales slips and invoices.* The original of each sales slip or invoice may be issued to the purchaser of such coal; the triplicate copy shall be retained by the Code member, the sales agent, the registered distributor, or the registered farmers' cooperative organization, making such sale or resale, and not later than five days after the first day and the 15th day

of each month, the duplicate copies covering the sales or resales for the preceding half-month period shall be filed with the statistical bureau of the Division for the district in which the coal is produced. The triplicate copies shall be retained in the office of the code member, or in the main office of the sales agent, registered distributor, or registered farmers' cooperative organization, in numerical sequence as issued, for a period of one year after issuance, and shall be available for inspection by the Division.

(c) *Total number of tons shipped.* On the copy filed with the Division of the last sales slip or invoice issued in each month by the code member or his sales agent, there shall be reported the total number of tons sold and shipped by truck or wagon from the reporting mine, during the month, and the total dollars charged for such coal. In the event no coal has been shipped by truck or wagon from the mine during the month, such fact shall be reported.

(d) *Supply of sales slips.* Upon application to the statistical bureaus of the Division, a supply of sales slips (Form B. C. D. 354) may be obtained for the purpose of filing the information required under this section.*

§ 309.43 *Mine of more than 50 tons daily capacity.* (a) Where the coal involved in the transaction is produced at a mine having a daily actual capacity of 50 tons or MORE, the copies of the sales slips, invoices or other memoranda required by § 309.41 (a) (1) above, filed with the Division, and kept on file for inspection, shall set forth the following information:

(1) The same information as is required in the case of coal produced at mines having a daily capacity of less than 50 tons, as provided by § 309.42 above, and in addition the following information:

(2) If the person filing the sales slip or other memorandum is a registered distributor or registered farmers' cooperative organization which has resold coal purchased from a code member or his sales agent, the copy filed with the Division shall also show the number of such code member's or sales agent's invoices or other memorandum to such registered distributor or registered farmers' cooperative organization.

(3) The vendor's or seller's contract number or order number, and the customer's order number.

(4) The terms of the sale shall be stated, and if the sale is made by a producer or his sales agent to a registered distributor or registered farmers' cooperative organization to whom a discount is allowed, the amount of the discount in cents per ton shall be stated.

(5) If substitution is permitted, give permit number and designate the size

ordered, the size billed, and the size shipped.

(6) A description of preparation by number as follows:

1. Mechanically cleaned, not treated.
2. Mechanically cleaned, treated.
3. Raw coal, not treated.
4. Raw coal, treated.

("Raw coal" is coal not washed or air-cleaned. It includes hand-picked coal not otherwise cleaned or washed. "Mechanically cleaned coal" is coal subjected to mechanical cleaning, such as washing, air cleaning, or other method except hand-picking. See price schedule for further description. When raw and mechanically cleaned coals are mixed, coals are to be designated as mechanically cleaned. When treated and untreated coals are mixed, the coal is to be designated as treated.)

(7) In case sizes or grades are altered, modified, or mixed, give complete information covering sizes removed or added and percentage removed or added.

(8) The specific use for which the coal is sold, consigned, or shipped, by letter and number as follows:

U-3. *Smithing coal.*

U-4. *Storage or consignment account.*

U-5. *Industrial.* (Coal sold or resold to consumers except as accounted for in U-3, U-7 and U-9.)

U-6. *Domestic.* (Coal sold, consigned, or shipped to retail dealers or retail departments or divisions for sale or resale in retail transactions.)

U-7. *Water, gas, vertical, or horizontal retort.*

U-9. *By-product.*

(b) *Disposition and filing of sales slips and invoices.* The original of each such sales slip or invoice may be issued to the purchaser of such coal, the triplicate copy shall be retained by the code member, the sales agent, the registered distributor or the registered farmers' cooperative organization making such sale or resale, and the duplicate copies shall be filed currently as issued with the statistical bureau of the Division for the district in which the coal is produced. The triplicate copies shall be maintained in the mine office of the code member, or in the main office of the sales agent, registered distributor or registered farmers' cooperative organization, in numerical sequence as issued, for a period of one year after issuance, and shall be available for inspection by the Division.

(c) *Supply of sales slips.* Upon application to a statistical bureau of the Division, a supply of sales slips (Form B.C.D. 355) may be obtained for the purpose of filing the information required under this section.*

§ 309.44 *Retail sales.* (a) The provisions of §§ 309.41, 309.42, and 309.43 of this Order relating to the making and filing of sales slips shall not be applicable to sales, resales, shipments, or other dis-

posals or movements of coal from retail yards or retail departments of persons subject to the provisions of this Order, or of persons under their control; Provided:

(1) The transaction is a sale or resale at retail of all or part of a quantity of coal previously sold, consigned or transferred to such retail yard or department by any person who has filed with the Division an invoice or other memorandum evidencing such sale, consignment or transfer to such retail yard or department.

(2) That such retail yard or retail department maintains records in chronological order, of all sales, consignments, resales, shipments, transfers and other disposals or movements, including coal consumed or processed by it, which records are available for inspection by the Division or transmittal to it upon request.*

§ 309.45 *Confidential information.* All data filed in conformity with this Order, except the authorizations required by § 309.41 (a) (3) shall, to the extent provided in the Act, be held by the Division and its statistical bureaus as the confidential information of the person filing such information.*

§ 309.46 *Penalties.* Persons failing to comply with the requirements of this Order shall be subject to the appropriate penalties prescribed by the Act, the Bituminous Coal Code and the Rules and Regulations for Registration of Distributors and Registration of Farmers' Cooperative Organizations. Persons filing false or incomplete data or reports are subject to criminal penalties as provided in Section 35 of the Criminal Code, as amended by the Act of June 18, 1934, Chap. 587, Stat. 996. (U.S.C. Title 18, Sec. 80), and other provisions of law.*

§ 309.47 *Order No. 14 still in effect.* The provisions of this Order are not intended to modify or revoke the provisions of Order No. 14 concerning the filing of contracts and spot orders as required therein; such Order remains in full force and effect, except that the instructions relating thereto issued by the National Bituminous Coal Commission, as "C. I. 1-14" dated July 26, 1937, be and the same are hereby rescinded.*

§ 309.48 *Provisions of Order No. 156 relating to truck or wagon shipments suspended.* The provisions of Order No. 156, in so far as they relate to shipments by truck or wagon, be and they are hereby suspended.*

Dated September 23, 1940.

[SEAL]

DAN H. WHEELER,
Acting Director.

[F. R. Doc. 40-4048; Filed, September 27, 1940; 11:53 a. m.]

*Issued pursuant to the authority contained in Section 2 (a), 50 Stat. 72, 15 U.S.C. Supp. 829 (a); Section 4 II (a), 50 Stat. 77, U.S.C. Supp. 833 (a); and Section 4 II (g), 50 Stat. 81, 15 U.S.C. Supp. 833 (g).

[General Docket No. 12]

PRESCRIBING DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES BY CODE MEMBERS TO "DISTRIBUTORS" UNDER SECTION 4, PART II (H), OF THE BITUMINOUS COAL ACT OF 1937, AND ESTABLISHMENT OF RULES AND REGULATIONS FOR THE MAINTENANCE AND OBSERVANCE BY DISTRIBUTORS IN THE RESALE OF COAL, OF THE PRICES AND MARKETING RULES AND REGULATIONS PROVIDED BY SECTION 4 OF THE ACT

FINDINGS OF FACT, CONCLUSIONS AND ORDER RELATING TO AND MODIFYING MAXIMUM DISCOUNTS ALLOWABLE TO REGISTERED DISTRIBUTORS

On June 19, 1940, I made and entered Findings of Fact, Conclusions and Opinion and my Order¹ in the above-entitled matter prescribing maximum discounts and establishing rules and regulations for distributors and bona fide and legitimate farmers' cooperative organizations. Various parties filed exceptions with the Secretary of the Interior, pursuant to Orders dated December 8, 1939, and April 11, 1940. The Secretary has reviewed the maximum discounts and the rules and regulations established by me, and has made and entered Findings of Fact, Conclusions and Opinion and an Order generally adopting my own Findings and Conclusions but ordering that the schedule of maximum discounts be changed so as to provide the following:

"In addition to the allowance of a discount not in excess of the maximum prescribed herein, a Code member may reimburse a registered distributor for such tax upon the resale of the coal by the registered distributor as has actually been paid by the latter under the Retailers' Occupation Tax of the State of Illinois, such reimbursement to be made, however, only upon satisfactory showing to the Code member by the registered distributor that such payment has actually been made by him."

I have reconsidered such portions of my Findings and Conclusions as relate to the change ordered by the Secretary and, with the aid of his Findings and Conclusions thereon, I have satisfied myself that his Findings and Conclusions thereon are correct and that my own Findings should be modified as indicated by him. Accordingly, I adopt as my own the Findings of Fact, Conclusions and Opinion of the Secretary in this matter.

It is therefore ordered, That the schedule of maximum discounts prescribed in my Order of June 19, 1940, be hereby modified by adding thereto the following provision:

"In addition to the allowance of a discount not in excess of the maximum prescribed herein, a Code member may reimburse a registered distributor for such tax upon the resale of the coal by the registered distributor as has actually

¹ 5 F.R. 2345.

been paid by the latter under the Retailers' Occupation Tax of the State of Illinois, such reimbursement to be made, however, only upon satisfactory showing to the Code member by the registered distributor that such payment has actually been made by him."

It is further ordered, That the said schedule of maximum discounts, as so modified, and the aforesaid rules and regulations shall become effective at 12:01 a. m., October 1, 1940.

Dated September 25, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-4047; Filed, September 27, 1940; 11:52 a. m.]

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

FINDINGS OF FACT, CONCLUSIONS AND ORDER RELATING TO AND MODIFYING EFFECTIVE MINIMUM PRICES AND MARKETING RULES AND REGULATIONS ESTABLISHED PURSUANT TO SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937

On August 8, 1940, I made and entered Findings of Fact and Conclusions and my Order in the above-entitled matter, establishing effective minimum prices and marketing rules and regulations. Various parties took appeals to the Secretary of the Interior, pursuant to Orders dated December 8, 1939, and April 23, 1940. The Secretary has reviewed the minimum prices and the marketing rules and regulations established by me, and has made and entered findings and an order generally adopting, but in some respects supplementing and modifying my own findings and conclusions.

As my Findings stated, and as the Secretary's Findings also state, in a proceeding of this magnitude no man can hope for perfection, however meticulous his labor and however assiduous his application. The statute expressly contemplated the inevitability of imperfection in the prices originally established and provided machinery in section 4 II (d) for more intensive study of particular situations and for improvement of specific results. Review of the present findings by the Secretary afforded an opportunity for recheck of the conclusions in this general proceeding.

I have considered such portions of my findings and conclusions as are specifically discussed by the Secretary, with the aid of his findings and conclusions. I have satisfied myself that his findings and conclusions are correct, and that my own findings should be supplemented, modified or supplanted as indicated by him. Accordingly, I adopt as my own the Findings of Fact and Conclusions of the Secretary in this matter, modifying or supplementing those which I set forth in my Findings of Fact, Conclusions and Order of August 8, 1940.

It is therefore ordered, That the minimum prices set forth in the Schedules of Effective Minimum Prices, and the marketing rules and regulations set forth in the Schedule of Effective Marketing Rules and Regulations, established by my Order of August 8, 1940,¹ are hereby modified as shown in the Supplements to said Schedules, annexed to and made a part of this Order;² and

It is further ordered, That said effective minimum prices and marketing rules and regulations, as so modified, shall become effective at and after 12:01 a. m. on October 1, 1940; subject, however, to modification, alteration, addition, or any other change made from time to time in accordance with the provisions of said Act, of section 4 II (d) thereof, and of the rules and regulations issued pursuant thereto.

Dated, September 25, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-4049; Filed, September 27, 1940; 11:53 a. m.]

TITLE 41—PUBLIC CONTRACTS

CHAPTER II—DIVISION OF PUBLIC CONTRACTS

PART 202—MINIMUM WAGE DETERMINATIONS

EXTENSION OF DETERMINATION OF PREVAILING MINIMUM WAGE IN PHOTOGRAPHIC SUPPLIES INDUSTRY TO INCLUDE PRODUCTS OF BLUEPRINT PAPER COATING INDUSTRY

This matter is before me pursuant to section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. Sup. III 35), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes."

On February 15, 1940, the Administrator, Division of Public Contracts, released to all known interested parties a notice of opportunity to show cause³ (1) why the Secretary of Labor's decision of July 28, 1939 (4 F.R. 3496), in the matter of the determination of the prevailing minimum wages for the Photographic Supplies Industry should not be extended to include the manufacture or supply of blueprint, brownprint, blackprint, blackline and other similarly sensitized papers and cloths, and (2) why the minimum wage for employees engaged in the performance of contracts with agencies of the United States subject to the provisions of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. Sup. III 35), for the manufacture or supply of these products should not be determined to be 40 cents

¹ 5 F.R. 2961.² These modifications were published in 5 Federal Register 3830 under the caption "Schedule A—Schedule of Modifications of Effective Minimum Prices and Marketing Rules and Regulations," annexed to Order of the Secretary of the Interior in General Docket No. 15, dated September 24, 1940.³ 5 F.R. 708.

an hour or \$16.00 per week of forty hours, arrived at either upon a time or piece work basis.

The notice of opportunity to show cause was based upon evidence before this Department showing that the above-named products of the Blueprint Paper Coating Industry and other similarly sensitized papers and cloths are produced by manufacturing processes similar to those involved in the sensitizing of photographic papers and that similar minimum wages prevail in the production of such papers and cloths.

After the time for filing briefs expired, all matters of record were referred to the Public Contracts Board, and in the light of all facts the Board recommended that 40 cents an hour or \$16.00 per week of forty hours be found to be the prevailing minimum wage in the manufacture of blueprint, brownprint, blackprint, black-line, and other similarly sensitized papers and cloths.

I have reviewed the Board's recommendations and the briefs filed in response to the notice of opportunity to show cause, and upon consideration of all the facts, I adopt the Board's recommendation and

I hereby determine:

The prevailing minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. Sup. III 35), for the manufacture or supply of blueprint, brownprint, blackprint, black-line, and other similarly sensitized papers and cloths to be 40 cents an hour or \$16.00 per week of forty hours, arrived at either upon a time or piece work basis.

This determination shall be effective and the minimum wage hereby established shall apply to all such contracts, bids for which are solicited on or after October 11, 1940.

September 26, 1940.

FRANCES PERKINS,
Secretary of Labor.

[F. R. Doc. 40-4044; Filed, September 27, 1940; 11:45 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Order No. 304]

DIRECTING ALL DISTRICT BOARDS TO AID IN ENFORCEMENT AND NOT TO DISCLOSE CONFIDENTIAL INFORMATION OBTAINED IN THE COURSE THEREOF

The Division having worked out in cooperation with a committee representing the various District Boards a program for participation by the Boards in the work of securing compliance with the Bituminous

Coal Act of 1937 and rules and regulations thereunder, which program appears in Section V of the Confidential Manual of Instructions for Compliance Officers; Now, therefore:

1. The District Boards are directed to aid in obtaining compliance with the Act and rules and regulations thereunder, including the minimum prices and the Marketing Rules and Regulations, the Rules and Regulations for the Registration of Distributors, the Rules and Regulations for the Registration of Bona Fide and Legitimate Farmers' Cooperative Organizations, and other rules and regulations of the Division. In giving effect to this order, the District Boards shall conform as nearly as possible to the enforcement program contained in the Compliance Manual, and particularly in Section V thereof, entitled "Collaboration of the District Boards", and for such purpose the District Boards may appoint enforcement or compliance committees and employ such personnel as reasonably may be necessary to discharge their functions in this respect.

2. The District Boards, their members and employees, are directed to keep confidential all records and information obtained by them in the enforcement of the Act and rules and regulations thereunder, except as absolutely necessary in the conduct of investigations, and except that all such records and information shall be available to officials of the Division and shall be reported to the Division from time to time, and except that such information and records may be disclosed as required in the conduct of hearings on complaints filed with the Division, unless the Division otherwise orders. The District Boards shall require their employees to take oaths that they will keep all such records and information confidential except as provided herein.

Dated, September 27, 1940.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 40-4046; Filed, September 27, 1940; 11:52 a. m.]

[Docket No. 963-FD]

IN THE MATTER OF THE APPLICATION OF THE CHESAPEAKE & OHIO RAILWAY COMPANY FOR EXEMPTION, PURSUANT TO SECTION 4-A OF THE BITUMINOUS COAL ACT OF 1937

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

Upon the request of the applicant, the Director consents to the withdrawal of the application of the above-named applicant upon the condition that the withdrawal of said application shall constitute a waiver of any exemption which may otherwise become effective during the pendency of a subsequent applica-

tion, except upon a showing of a material change of facts, and to that effect It is so ordered.

Dated September 27, 1940.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 40-4045; Filed, September 27, 1940; 11:52 a. m.]

DEPARTMENT OF AGRICULTURE.

Surplus Marketing Administration.

[Docket No. A-143 O-143]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIFORNIA; AND IN THAT PART OF RIVERSIDE COUNTY, CALIFORNIA, SITUATED SOUTH AND EAST OF THE SAN GORGONIO PASS

Whereas, under Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture of the United States has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to such handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of the San Gorgonio Pass, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce:

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating such handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of the San Gorgonio Pass, in the Yuma High School Auditorium, Yuma, Arizona, at 10:00 a. m., P. s. t., October 15, 1940.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each provides, in similar terms, a plan for the regulation of such handling of the aforesaid grapefruit as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce. Among other matters relating to such regulation, the proposed marketing agreement and order provide for: (a) establishment of an Administrative Committee consisting of eight (8) grower members; (b) levying of assessments by the Administrative Committee to cover expenses of administration; (c) regulation of shipments by grade and size; (d) inspection of shipments by an authorized representative of the Federal-State Inspection Service during periods when regulations are in effect; and (e) reports to Administrative Committee by shippers.

Copies of the proposed marketing agreement and order may be procured from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, in Room 0310 South Building, Washington, D. C., or may be there inspected.

[SEAL] **CLAUDE R. WICKARD,**
Secretary of Agriculture.

Dated September 27, 1940.

[F. R. Doc. 40-4038; Filed, September 27, 1940;
11:02 a. m.]

DEPARTMENT OF COMMERCE.

Civil Aeronautics Authority.

STRIKING OF RULE RESTRICTING AIR TRAFFIC WITHIN VICINITY OF WASHINGTON NATIONAL AIRPORT ON SEPTEMBER 25, 1940

At a session of the Civil Aeronautics Board of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 25th day of September 1940.

The Board having had under consideration the air traffic rule promulgated on September 21, 1940, restricting the operation of aircraft within the vicinity of the Washington National Airport during the ceremonies incident to the dedication of the Airport on September 25, 1940, and finding that such ceremonies have been postponed until September 28, 1940, such air traffic rule is hereby stricken.

By the Civil Aeronautics Board.

[SEAL] **THOMAS G. EARLY,**
Acting Secretary.

[F. R. Doc. 40-4035; Filed, September 27, 1940;
10:23 a. m.]

RESTRICTION OF AIR TRAFFIC IN VICINITY OF WASHINGTON NATIONAL AIRPORT ON SEPTEMBER 28, 1940

At a session of the Civil Aeronautics Board of the Civil Aeronautics Authority

held at its office in Washington, D. C., on the 25th day of September 1940.

It appearing that:

(a) On Saturday, September 28, 1940, certain ceremonies in connection with the dedication of the Washington National Airport will be attended by the President of the United States and that part of the ceremonies will include the operation of numerous aircraft from such airport;

(b) The nature of this occasion is such that it will tend to attract other aircraft, the presence of which would create a hazard to air commerce.

The Board finds that:

Its action in this matter is required in the public interest and is necessary to promote safety in air commerce.

Now, therefore, the Civil Aeronautics Board, acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 601 (a) thereof, issues the following regulation:

"Between 2:00 and 2:45 p. m. on Saturday, September 28, 1940, no aircraft except those given special permission by the Administrator of Civil Aeronautics shall be operated within that area lying within a radius of 10 miles, horizontally, from the center of the Washington National Airport."

By the Civil Aeronautics Board.

[SEAL] **THOMAS G. EARLY,**
Acting Secretary.

[F. R. Doc. 40-4036; Filed, September 27, 1940;
10:23 a. m.]

[Docket No. SA-21]

IN THE MATTER OF INVESTIGATION OF ACCIDENT INVOLVING AIRCRAFT OF UNITED STATES REGISTRY NC 14067, WHICH OCCURRED NEAR MILWAUKEE, WISCONSIN, ON SEPTEMBER 22, 1940.

NOTICE OF HEARING¹

Notice is hereby given that a public hearing in connection with the above entitled matter will be held in Room 372, Post Office Building, Milwaukee, Wisconsin, at 9:00 A. M. (C. S. T.), Monday, September 30, 1940, before the undersigned Examiner.

Dated, Washington, D. C., September 25, 1940.

[SEAL] **ROBERT W. CHRISP,**
Examiner.

[F. R. Doc. 40-4037; Filed, September 27, 1940;
10:23 a. m.]

¹ Issued by Civil Aeronautics Board.

DEPARTMENT OF LABOR.

Wage and Hour Division.

SUPPLEMENTARY DETERMINATION No. 8, IN MATTER OF APPLICATION FOR EXEMPTION OF QUARRYING OF CRUSHED STONE FROM SURFACE OR OPEN CUTS FROM MAXIMUM HOURS PROVISIONS OF FAIR LABOR STANDARDS ACT OF 1938, PART 526, AS AMENDED, OF REGULATIONS ISSUED THEREUNDER, AND PARAGRAPH (8) OF ORIGINAL DETERMINATION MADE IN MATTER OF CRUSHED STONE INDUSTRY PURSUANT TO HEARING HELD JUNE 19, 1939

Whereas the Administrator determined after a public hearing held before Harold Stein, Presiding Officer, on June 19, 1939 that:

1. There is a branch of the crushed stone industry wherein the plants normally shut down for about six months each year, except for an insubstantial amount of production that may be produced shortly before or shortly after the main production season. This branch is located in the colder and, in general, more northerly parts of the United States; and

3. The plants in the northern branch cease operation annually at a regularly recurring season of the year, except for sales, maintenance, and similar work, because the materials used by the industry are not available for excavation, handling and processing in the form in which they must be excavated, handled, and processed, i. e., as unfrozen ledges and banks of blasted rock, because of climatic factors; and

4. The northern branch of the crushed stone industry is an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Act and Part 526 of regulations issued thereunder; and

Whereas paragraph (8) of the above Determination provides that it shall be without prejudice to a supplementary determination enlarging the scope of the northern branch by the inclusion therein of such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the plants in the northern branch described in paragraphs 1 and 3 above; and

Whereas, the National Crushed Stone Association, Inc., filed an application with the Wage and Hour Division, United States Department of Labor, on behalf of Abram Cleason of Palmyra, New York, pursuant to paragraph (8) of the above cited original determination in the matter of the crushed stone industry, to include the excavating, hauling, and processing of crushed stone by Abram Cleason at Sodus, Wayne County, New York; and

Whereas it appeared from the application filed by the National Crushed Stone Association, Inc., on behalf of Abram Cleason of Palmyra, New York, that the

crushed stone plant of the aforesaid company in Wayne County New York, operates in the same manner and for the same reason as the plants in the northern branch described in paragraphs 1 and 3 of the original determination; and

Whereas, the Administrator caused to be published in the FEDERAL REGISTER on September 12, 1940 (5 F.R. 3635), a notice setting forth the above matters which stated that, upon consideration of the facts stated in the said application for supplementary determination, the Administrator determined, pursuant to § 526.5 (b) (ii), as amended, of the regulations, that a *prima facie* case had been shown for enlarging the scope of the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder to include the crushed stone plant of Abram Cleason, in Wayne County, New York, and which notice stated further that, if no objection and request for hearing was received within fifteen days, the Administrator would make a finding upon the *prima facie* case shown on the application; and

Whereas no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

Now, therefore, pursuant to § 526.5 (b) (ii), of the regulations, as amended, the Administrator hereby finds, upon the *prima facie* case shown in the said application that the crushed stone plant of Abram Cleason in Wayne County, New York, should be and it is hereby included within the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to Section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder.

Signed at Washington, D. C., this 13th day of September 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-4040; Filed, September 27, 1940; 11:24 a. m.]

SUPPLEMENTARY DETERMINATION No. 9, IN MATTER OF APPLICATION FOR EXEMPTION OF QUARRYING OF CRUSHED STONE FROM SURFACE OR OPEN CUTS FROM MAXIMUM HOURS PROVISIONS OF FAIR LABOR STANDARDS ACT OF 1938, PART 526, AS AMENDED, OF REGULATIONS ISSUED THEREUNDER, AND PARAGRAPH (8) OF ORIGINAL DETERMINATION MADE IN MATTER OF CRUSHED STONE INDUSTRY PURSUANT TO HEARING HELD JUNE 19, 1939

Whereas the Administrator determined after a public hearing held before Harold Stein, Presiding Officer, on June 19, 1939 that:

1. There is a branch of the crushed stone industry wherein the plants nor-

mally shut down for about six months each year, except for an insubstantial amount of production that may be produced shortly before or shortly after the main production season. This branch is located in the colder and, in general, more northerly parts of the United States; and

3. The plants in the northern branch cease operation annually at a regularly recurring season of the year, except for sales, maintenance, and similar work, because the materials used by the industry are not available for excavation, handling and processing in the form in which they must be excavated, handled, and processed, i. e., as unfrozen ledges and banks of blasted rock, because of climatic factors; and

4. The northern branch of the crushed stone industry is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of regulations issued thereunder; and

Whereas paragraph (8) of the above Determination provides that it shall be without prejudice to a supplementary determination enlarging the scope of the northern branch by the inclusion therein of such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the plants in the northern branch described in paragraphs 1 and 3 above; and

Whereas the National Crushed Stone Association, Inc., filed an application with the Wage and Hour Division, United States Department of Labor, on behalf of the Genesee Stone Products Corporation of Batavia, New York, pursuant to paragraph (8) of the above cited original determination in the matter of the crushed stone industry, to include the excavating, hauling, and processing of crushed stone by the Genesee Stone Products Corporation at Stafford, Genesee County, New York; and

Whereas, it appeared from the application filed by the National Crushed Stone Association, Inc. on behalf of the Genesee Stone Products Corporation of Batavia, New York, that the crushed stone plant of the aforesaid company in Genesee County, New York, operates in the same manner and for the same reason as the plants in the northern branch described in paragraphs 1 and 3 of the original determination; and

Whereas, the Administrator caused to be published in the FEDERAL REGISTER on September 12, 1940 (5 F.R. 3636), a notice setting forth the above matters which stated that, upon consideration of the facts stated in the said application for supplementary determination, the Administrator determined, pursuant to § 526.5 (b) (ii), as amended, of the regulations, that a *prima facie* case had been shown for enlarging the scope of the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938, and Part 526, as amended, of the regulations is-

sued thereunder to include the crushed stone plant of the Genesee Stone Products Corporation, in Genesee County, New York, and which notice stated further that, if no objection and request for hearing was received within fifteen days, the Administrator would make a finding upon the *prima facie* case shown on the application; and

Whereas, no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

Now, therefore, pursuant to § 526.5 (b) (ii), of the regulations, as amended, the Administrator hereby finds, upon the *prima facie* case shown in the said application that the crushed stone plant of the Genesee Stone Products Corporation in Genesee County, New York, should be and it is hereby included within the northern branch of the crushed stone industry in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder.

Signed at Washington, D. C., this 13th day of September, 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-4041; Filed, September 27, 1940; 11:24 a. m.]

SUPPLEMENTARY DETERMINATION No. 10, IN MATTER OF APPLICATION FOR EXEMPTION OF QUARRYING OF CRUSHED STONE FROM SURFACE OR OPEN CUTS FROM MAXIMUM HOURS PROVISIONS OF FAIR LABOR STANDARDS ACT OF 1938, PART 526, AS AMENDED, OF REGULATIONS ISSUED THEREUNDER, AND PARAGRAPH (8) OF ORIGINAL DETERMINATION MADE IN MATTER OF CRUSHED STONE INDUSTRY PURSUANT TO HEARING HELD JUNE 19, 1939

Whereas, the Administrator determined after a public hearing held before Harold Stein, Presiding Officer, on June 19, 1939 that:

1. There is a branch of the crushed stone industry wherein the plants normally shut down for about six months each year, except for an insubstantial amount of production that may be produced shortly before or shortly after the main production season. This branch is located in the colder and, in general, more northerly parts of the United States; and

3. The plants in the northern branch cease operation annually at a regularly recurring season of the year, except for sales, maintenance, and similar work, because the materials used by the industry are not available for excavation, handling and processing in the form in which they must be excavated, handled, and processed, i. e., as unfrozen ledges and banks of blasted rock, because of climatic factors; and

4. The northern branch of the crushed stone industry is an industry of a sea-

sonal nature within the meaning of section 7 (b) (3) of the Act and Part 526 of regulations issued thereunder; and

Whereas, paragraph (8) of the above Determination provides that it shall be without prejudice to a supplementary determination enlarging the scope of the northern branch by the inclusion therein of such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the plants in the northern branch described in paragraph 1 and 3 above; and

Whereas, the National Crushed Stone Association, Inc., filed an application with the Wage and Hour Division, United States Department of Labor, on behalf of the Rowe Contracting Company of Malden, Massachusetts, pursuant to paragraph (8) of the above cited original determination in the matter of the crushed stone industry, to include the excavating, hauling, and processing of crushed stone by the Rowe Contracting Company at Revere, Suffolk County, and Malden, Middlesex County, Massachusetts; and

Whereas, it appeared from the application filed by the National Crushed Stone Association, Inc., on behalf of the Rowe Contracting Company of Malden, Massachusetts, that the crushed stone plant of the aforesaid company in Suffolk County and Middlesex County, Massachusetts, operates in the same manner and for the same reason as the plants in the northern branch described in paragraphs 1 and 3 of the original determinations; and

Whereas, the Administrator caused to be published in the FEDERAL REGISTER on September 12, 1940 (5 F.R. 3636), a notice setting forth the above matters which stated that, upon consideration of the facts stated in the said application for supplementary determination, the Administrator determined, pursuant to § 526.5 (b) (ii), as amended, of the regulations, that a prima facie case had been shown for enlarging the scope of the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder to include the crushed stone plant of the Rowe Contracting Company in Suffolk and Middlesex Counties, Massachusetts, and which notice stated further that, if no objection and request for hearing was received within fifteen days, the Administrator would make a finding upon the prima facie case shown on the application; and

Whereas, no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

Now, therefore, pursuant to § 526.5 (b) (ii), of the regulations, as amended, the Administrator hereby finds, upon the prima facie case shown in the said application that the crushed stone plant of

the Rowe Contracting Company in Suffolk County and Middlesex County, Massachusetts, should be and it is hereby included within the northern branch of the crushed stone industry, in accordance with paragraph (8) of the original determination and pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526, as amended, of the regulations issued thereunder.

Signed at Washington, D. C., this 13th day of September 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-4042; Filed, September 27, 1940;
11:24 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5649]

IN THE MATTER OF PUGET SOUND POWER &
LIGHT COMPANY

ORDER TO SHOW CAUSE

SEPTEMBER 24, 1940.

The Commission, having under consideration the failure of Puget Sound Power & Light Company of Seattle, Washington, to comply with the Commission's Order of February 28, 1940;

It appearing to the Commission that:

(a) Pursuant to the authority granted by the Federal Power Act the Commission, by its Order No. 42, dated June 16, 1936, adopted a Uniform System of Accounts for Public Utilities and Licensees subject to the provisions of the Federal Power Act, and by its Orders Nos. 42-A, 43, and 45 amended and supplemented the provisions of said Uniform System of Accounts;

(b) By Order adopted May 11, 1937, the Commission directed all public utilities and licensees subject to its jurisdiction to submit certain data, statements, and information pursuant to Electric Plant Accounts Instruction 2-D of the Commission's Uniform System of Accounts, said data, statements and information to be submitted on or before January 1, 1939;

(c) All of the Orders above described were duly served upon Puget Sound Power & Light Company;

(d) Puget Sound Power & Light Company is a Class A Licensee under the provisions of this Commission's Uniform System of Accounts;

(e) Puget Sound Power & Light Company may be a public utility under the provisions of the Federal Power Act, its status as such being an issue in a proceeding now pending before this Commission, Nelson J. Ambrose, et al., Docket No. ID-127, et al., Puget Sound Power & Light Company, Intervener;

(f) By Order adopted February 28, 1940, the Commission denied the application of Puget Sound Power & Light Company for an extension of time until January 1, 1941, in which to comply with the said Electric Plant Accounts Instruction

2-D and with the Commission's Order adopted May 11, 1937, and ordered compliance therewith on or before March 31, 1940;

(g) Puget Sound Power & Light Company, by petition dated March 20, 1940, made application to the Commission for reconsideration and modification of the said Order adopted February 28, 1940;

(h) No action was taken by the Commission on the said petition and application for reconsideration and modification and no proceeding to review the Order of the Commission adopted February 28, 1940, has been brought by Puget Sound Power & Light Company or anyone on its behalf within the time prescribed by the provisions of the Federal Power Act;

(i) Puget Sound Power & Light Company has failed to comply with the said Order of February 28, 1940, and has failed to file the data, statements and information required by Electric Plant Accounts Instruction 2-D of the Commission's Uniform System of Accounts and by the Commission's order adopted May 11, 1937;

The Commission orders that:

(A) Puget Sound Power & Light Company, under oath, show cause, if any there be, at a public hearing:

Why the Commission should not institute appropriate proceedings against it, its officers, or directors for failure to comply with the Commission's Order adopted February 28, 1940, with Electric Plant Accounts Instruction 2-D of the Commission's Uniform System of Accounts, and with the order of the Commission adopted May 11, 1937;

(B) Said public hearing be held commencing on November 12, 1940, at 10 a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.;

(C) Nothing contained in this Order shall be construed as a waiver or a stay of any of the requirements of any Orders of the Commission which may be applicable to Puget Sound Power & Light Company.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40-4034; Filed, September 27, 1940;
9:27 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4093]

IN THE MATTER OF WHOLESALE LIQUOR DISTRIBUTORS' ASSOCIATION OF NORTHERN CALIFORNIA, INC., A CORPORATION, ITS OFFICERS, DIRECTORS AND MEMBERS; LIQUOR TRADES' STABILIZATION BUREAU, INC., A CORPORATION, ITS OFFICERS, DIRECTORS AND MEMBERS; RATHJEN BROS., INC., A CORPORATION; GOODERHAM & WORTS, LTD., A CORPORATION; SOMERSET

IMPORTERS, LTD., A CORPORATION; PARROT & Co., A CORPORATION; MCKESSON & ROBBINS, INC., A CORPORATION; BROWNE VINTNERS Co., INC., A CORPORATION; SEAGRAM-DISTILLERS CORPORATION, A CORPORATION; BROWN-FORMAN DISTILLERS Co., INC., A CORPORATION; THE FLEISCHMANN DISTILLING CORPORATION, A CORPORATION; NATIONAL DISTILLERS' PRODUCTS CORPORATION, A CORPORATION; SCHENLEY DISTILLERS, INC., A CORPORATION; FRANKFORT DISTILLERIES, INC., A CORPORATION; HIRAM WALKER & SONS, INC., A CORPORATION; HAAS BROS., A CORPORATION; TONKIN DISTRIBUTING Co., A CORPORATION; COFFIN-REDINGTON Co., A CORPORATION; J. M. TONKIN, INDIVIDUALLY, AND AS PRESIDENT, A MEMBER AND AS A DIRECTOR OF THE WHOLESALE LIQUOR DISTRIBUTORS' ASSOCIATION OF NORTHERN CALIFORNIA, INC.; MAX SOBEL, INDIVIDUALLY AND AS SECRETARY-TREASURER, A MEMBER AND A DIRECTOR OF THE WHOLESALE LIQUOR DISTRIBUTORS' ASSOCIATION OF NORTHERN CALIFORNIA, INC.; SANTE QUATTRIN, INDIVIDUALLY AND AS EXECUTIVE SECRETARY OF THE WHOLESALE LIQUOR DISTRIBUTORS' ASSOCIATION OF NORTHERN CALIFORNIA, INC.; J. F. FERRARI, AS VICE PRESIDENT AND AS A MEMBER AND DIRECTOR OF THE WHOLESALE LIQUOR DISTRIBUTORS' ASSOCIATION OF NORTHERN CALIFORNIA, INC.; A. M. BERBERIAN, CHARLES BIGLEY, J. J. BOTTARO, H. L. HANSON, THOMAS LENEHAM, R. F. JOSE, FLOYD TROMBETTA, ANDREW ROSAIA, C. L. SAUER, JOHN PINGREE, AND SHERWOOD COFFIN, AS INDIVIDUALS, AND AS MEMBERS AND DIRECTORS OF WHOLESALE LIQUOR DISTRIBUTORS' ASSOCIATION OF NORTHERN CALIFORNIA, INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of September, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade

Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That Randolph Preston, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 7, 1940, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 542, Federal Office Building, San Francisco, California.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-4039; Filed, September 27, 1940; 11:18 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-162]

IN THE MATTER OF THE CENTRAL KANSAS POWER COMPANY

NOTICE REGARDING FILING SUBJECT TO RULE U-8

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1940.

Notice is hereby given that an application and declaration have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named party; and

Notice is further given that any interested person may, not later than October 12, 1940 at 1:00 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may re-

quest that he be notified if the Commission should order a hearing thereon. At any time thereafter such application and declaration, as filed or as amended, may become effective or may be granted, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said application and declaration, which are on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

The Central Kansas Power Company, a subsidiary of United Utilities, Incorporated, a registered holding company, proposes to issue and sell 5,821 shares of its 4¾% Cumulative Preferred Stock, \$100 par value, to an underwriting syndicate at a price of \$97 per share. The underwriting syndicate, which includes The United Trust Company, an associate company, proposes to offer to exchange such 4¾% Cumulative Preferred Stock with the holders of the outstanding 7% and 6% Cumulative Preferred Stock of The Central Kansas Power Company residing in the State of Kansas on a share for share basis. The unexchanged shares of 4¾% Cumulative Preferred Stock will then be offered to residents of the State of Kansas at a price of \$100 per share. The funds to be derived from the sale of such 4¾% Cumulative Preferred Stock, together with other funds, will be used to call and retire the outstanding 7% and 6% Cumulative Preferred Stock of The Central Kansas Power Company at its call price of \$100 per share.

The Central Kansas Power Company also proposes to issue 30,000 shares of common stock, \$9 par value, in exchange for the 3,000 shares of its common stock, no par value, now outstanding.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4050; Filed, September 27, 1940; 12:02 p. m.]