

THE NATIONAL ARCHIVES  
LITTERA SCRIPTA MANET  
OF THE UNITED STATES  
1934

# FEDERAL REGISTER

VOLUME 6 NUMBER 237

Washington, Saturday, December 6, 1941

## The President

### EXECUTIVE ORDER

#### DESIGNATION OF MRS. RUTH W. TALLEY TO SIGN LAND PATENTS

By virtue of and pursuant to the authority vested in me by section 450 of the Revised Statutes, as amended (U.S.C., title 43, sec. 8), Mrs. Ruth W. Talley, an employee of the General Land Office, Department of the Interior, is hereby designated to sign my name to land patents.

Executive Order No. 7703<sup>1</sup> of September 10, 1937 is hereby revoked.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
December 4, 1941.

[No. 8959]

[F. R. Doc. 41-9149; Filed, December 5, 1941; 10:07 a. m.]

## Rules, Regulations, Orders

### TITLE 7—AGRICULTURE

#### CHAPTER IX—SURPLUS MARKETING ADMINISTRATION

[O-3-1]

#### PART 903—MILK IN THE ST. LOUIS, MISSOURI, MARKETING AREA

#### AMENDMENT TO ORDER NO. 3 REGULATING THE HANDLING OF MILK IN THE ST. LOUIS, MISSOURI, MARKETING AREA

Paul H. Appleby, Acting Secretary of Agriculture of the United States of America, issued, effective December 1, 1940, Order No. 3, as amended,<sup>2</sup> regulating the handling of milk in the St. Louis, Missouri, marketing area.

Paul H. Appleby, Acting Secretary of Agriculture, tentatively approved, on October 17, 1940, a marketing agreement, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area.

There being reason to believe that the execution of amendments to the tentatively approved marketing agreement, as amended, and to the order, as amended, would tend to effectuate the declared policy of said act, notice was given August 25, 1941, of a hearing<sup>3</sup> which was held in St. Louis, Missouri, on the 8th and 9th days of September 1941, at which time and place all interested parties were afforded an opportunity to be heard upon a proposal to amend the order, as amended.

After such hearing handlers of more than fifty (50) percent of the volume of milk covered by this order, as amended, which is marketed within the St. Louis, Missouri, marketing area, refused or failed to sign such marketing agreement, as amended, relating to milk.

The requirements of sec. 8c (9) of the act have been complied with.

It is found upon the evidence introduced at the above-mentioned hearing, such findings being in addition to the findings made upon the evidence introduced at the original hearings on the order and on amendments to the order, and being in addition to the other findings and determinations made prior to or at the time of the original issuance of the order and of amendments thereto (which findings are hereby ratified and affirmed save only as such findings are in conflict with the findings hereinafter set forth):

§ 903.0 Findings. 1. That the enlargement of the area included in the marketing area within which handlers are subject to the order is reasonable and necessary.

2. That prices calculated to give milk produced for sale in the marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to Sec. 2 and 8e, 50 Stat. 246; 7 U.S.C. 602, 608e are not reasonable in view of the available supplies of feeds, the price of feeds, and other economic conditions which affect the supply of and demand for such milk and that the minimum prices set forth in the amendments to this order are such prices

## CONTENTS

### THE PRESIDENT

	Page
Executive Order:	
Talley, Mrs. Ruth W., designation to sign land patents...	6265
<b>RULES, REGULATIONS, ORDERS</b>	
<b>TITLE 7—AGRICULTURE:</b>	
Surplus Marketing Administration:	
St. Louis, Mo., Marketing Area, handling of milk...	6265
<b>TITLE 10—ARMY: WAR DEPARTMENT:</b>	
Personnel; officers appointed in Army under provisions of act of September 22, 1941...	6269
<b>TITLE 18—CONSERVATION OF POWER:</b>	
Federal Power Commission:	
Rules of practice amended; ruling on evidence (2 documents).....	6269
<b>TITLE 30—MINERAL RESOURCES:</b>	
District No. 8, correction of minimum price schedule...	6270
<b>TITLE 32—NATIONAL DEFENSE:</b>	
Office of Production Management:	
Preference rating orders, amendments, etc.:	
Cobalt.....	6271
Freight car construction materials.....	6270
Trucks, trailers, and passenger carriers, interpretation of limitation order...	6270
<b>TITLE 37—PATENTS AND COPYRIGHTS:</b>	
Patent Office:	
Interferences, amendments to regulations governing declaring .....	6271
<b>TITLE 43—PUBLIC LANDS: INTERIOR:</b>	
Grazing Service:	
Grazing districts established and modified, Colorado...	6271
<b>TITLE 45—PUBLIC WELFARE:</b>	
Civilian Conservation Corps:	
Enrollment, discharge, hospitalization, etc.; withdrawals and repayments of deposits.....	6272

(Continued on next page)

<sup>1</sup> 2 F. R. 1832.

<sup>2</sup> 5 F. R. 4525.

<sup>3</sup> 6 F. R. 4427.



Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.25 per month or \$12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

## CONTENTS—Continued

## TITLE 46—SHIPPING:

Bureau of Marine Inspection and Navigation:	Page
Documentation of vessels, forms of oath of owner and master.....	6272

## TITLE 47—TELECOMMUNICATION:

Federal Communications Commission:	
License renewals, suspension of regulations requiring showing of service or use.....	6274

## NOTICES

## Department of Agriculture:

Agricultural Adjustment Administration:	
Northeast region, supplement to special 1941 conservation program.....	6290
Surplus Marketing Administration:	
St. Louis, Mo., Marketing Area, handling of milk.....	6290

## Department of the Interior:

Bituminous Coal Division:	
District Board No. 8, relief denied.....	6287
Hearings, postponements, etc.:	
District Board No. 1.....	6285
Galbraith, Claude, & Son Coal Co.....	6286
Gulf, Mobile and Ohio Railroad Co.....	6286
Haer, S. C., and Haer, Fred B.....	6283
Hartwell, H. N., & Son, Inc.....	6281
Howard Coal and Coke Co., Inc.....	6282
Mammoth Block Coal Co.....	6282
Maurer Coal Co.....	6281
Mohawk Mining Co.....	6282
Pitcher, J. O., Coal Co.....	6282
Ryals, L. O.....	6284
Somerset Retail Coal Dealer's Association.....	6284
Wyatt, Inc.....	6282

## CONTENTS—Continued

Department of the Interior—Con.	
Bituminous Coal Division—Con.	Page
Island Run Coal Co., petition dismissed.....	6286
Peterson Coal Co., restoration of code membership.....	6285
Petitions denied:	
Morris & Campbell.....	6288
Patik Coal Co.....	6288
Relief granted, etc.:	
District Board No. 1.....	6280
District Board No. 4 (3 documents).....	6278, 6279
District Board No. 6.....	6286
Sheban Mining Co., revocation of code membership.....	6284
Bureau of Reclamation:	
Advertisement of lands for lease, California:	
Iron Canyon Reservoir Site.....	6289
Round Valley Reservoir Site.....	6289
General Land Office:	
Los Angeles District, five-acre tract classification No. 10.....	6290
Department of Labor:	
Wage and Hour Division:	
Tobacco industry, appointment of committee.....	6291
Securities and Exchange Commission:	
Filing notices:	
American Utilities Service Corp., et al.....	6293
West Texas Utilities Co.....	6293
Western Public Service Co., et al., hearing.....	6292
United States Civil Service Commission:	
Apportionment, condition at close of business on November 29, 1941.....	6294
War Department:	
Contract summaries:	
Fleetwings, Inc.....	6276
Jones, J. A., et al.....	6275
Rice, G. P.....	6274
Stedfast & Roulston.....	6277
Stifel, J. L., & Sons, Inc.....	6276
Studebaker Corp.....	6277

as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and that the fixing of such prices does not have for its purpose the maintenance of prices to producers above the levels which are declared in the act to be the policy of Congress to establish;

3. That the order, as amended by this amendment, regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement upon which a hearing has been held; and

4. That the issuance of this amendment, and all of its terms and conditions, tends to effectuate the declared policy of the act.

It is hereby ordered, That such handling of milk in the St. Louis, Missouri, marketing area as is in the current of interstate commerce or as directly burdens, obstructs, or affects interstate commerce shall from the effective date hereof, be in compliance with the following terms and conditions:

A. Add to § 903.1 (a) (3) before the phrase "East St. Louis" the following phrase "Scott Field Military Reservation, and".

B. Add to § 903.1 (a) (6) the following:

## § 903.1 Definitions—(a) Terms.

(6) \* \* \* This definition shall not be deemed to include any person who is a handler under another Federal milk marketing agreement or order if such handler does not operate a plant from which bottled milk is distributed in the St. Louis marketing area.

C. Add as § 903.1 (a) (9) the following:

(9) The term "nonhandler" means any person who is not a handler but who distributes fluid milk on retail or wholesale routes or who engages in the manufacture of milk products: *Provided*, That a handler operating a plant or plants from which no milk is disposed of for fluid consumption in the marketing area shall be a nonhandler with respect to such plant or plants.

D. Delete § 903.2 (d) (6) and substitute therefor the following:

## § 903.2 Marketing administrator.

## (d) Duties.

(6) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation hereof as does not reveal confidential information.

## E. Add as § 903.2 (e) the following:

(e) *Announcement of prices.* The market administrator shall compute and publicly announce prices as follows:

(1) Not later than the 5th day after the end of each delivery period, the price for each class of milk pursuant to § 903.4 and the differential pursuant to § 903.8 (c).

(2) Not later than the 10th day after the end of each delivery period, the uniform prices for handlers computed pursuant to § 903.7 (b) with the differentials applicable pursuant to § 903.8 (d).

F. Delete § 903.3 and substitute therefor the following:

§ 903.3 *Classification of milk—(a) Basis of classification.* Milk received by each handler from producers, from other handlers, and from his own production, shall be classified, subject to the conditions of paragraphs (c), (d), and (e) of

this section, in the classes set forth in paragraph (b) of this section:

(b) *Classes of utilization.* The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk disposed of in the form of milk containing not less than one-half of 1 percent of butterfat and all milk not specifically accounted for as Class II milk.

(2) Class II milk shall be all milk specifically accounted for (i) as being used or disposed of in any form other than as milk containing not less than one-half of 1 percent of butterfat, and (ii) as actual plant shrinkage, but not to exceed 3 percent of the total receipts of milk from producers.

(c) *Interhandler and nonhandler transfers of milk.* Milk or skim milk received by a handler from another handler shall be classified as Class I milk, and cream so received shall be classified as Class II milk: *Provided*, That if a different classification is agreed upon in writing between the receiving handler and the selling handler and is submitted to the market administrator on or before the 5th day after the end of the delivery period, then the milk, skim milk or cream shall be classified according to such written agreement: *And provided further*, That the amount so reported in any class shall not be greater than the amount used in that class by the receiving handler.

Milk moved from a handler's plant to a nonhandler's plant from which no milk is disposed of for fluid consumption shall be Class II milk. Milk moved as fluid milk from a handler's plant to a nonhandler's plant from which fluid milk is distributed shall be Class I milk, except that any of this milk in excess of the amount of Class I milk, proved to the satisfaction of the market administrator to have been distributed by the nonhandler during the delivery period, shall be classified as Class II milk: *And provided further*, That all milk moved as fluid milk to plants more than 110 airline miles from the City Hall in St. Louis shall be classified as Class I milk. Milk disposed of from a handler's plant to retail establishments which dispose of milk for both fluid and other uses shall be Class I milk.

(d) *Purchases of milk from persons who are handlers under other Federal milk agreements or orders.* Milk approved by the proper health authorities for consumption as milk in the marketing area which has been received from a person who is a handler as defined under another Federal marketing agreement or order shall be deducted from each class in the proportion that the quantity of milk used in each class by the receiving handler bears to the total quantity of milk received by him, after excluding such handler's receipts of milk from other handlers.

(e) *Computation of the volume of milk in each class.* For each delivery period, the market administrator shall compute

for each handler the hundredweight of milk in each class, as follows:

(1) To determine the total receipts of milk: Add into one sum the hundredweight of milk received from producers, including such handler's own production, from other handlers, and from persons described under paragraph (d) of this section.

(2) To determine the hundredweight of Class I milk: Convert to gallons the quantity of milk disposed of in the form of milk and multiply by 0.026: *Provided*, That there shall be added any excess of milk determined under subparagraph (1) of this paragraph over the Class I milk thus far determined, plus the hundredweight of Class II milk determined pursuant to subparagraph (3) of this paragraph.

(3) To determine the hundredweight of Class II milk:

(i) Multiply the hundredweight of milk received, computed under subparagraph (1) of this paragraph, by its average butterfat test;

(ii) Multiply the hundredweight of Class I milk computed prior to the proviso in subparagraph (2) of this paragraph by its average butterfat test;

(iii) Subtract the hundredweight of Class I butterfat computed pursuant to (ii) of this subparagraph from the hundredweight of butterfat in milk received, as computed under (i) of this subparagraph;

(iv) Subtract the hundredweight of Class I milk, computed prior to the proviso in subparagraph (2) of this paragraph, from the hundredweight of milk received, computed under subparagraph (1) of this paragraph;

(v) Divide the quantity of butterfat computed under (iii) of this subparagraph by the hundredweight of milk computed under (iv) of this subparagraph;

(vi) Multiply the actual weight of each of the several products of Class II milk by its average butterfat test, and add together the resulting amounts;

(vii) Add to the sum obtained in (vi) of this subparagraph the amount which represents the butterfat loss by actual plant shrinkage, but in no event shall such plant shrinkage allowance exceed 3 percent of the total receipts of milk from producers multiplied by the average test of such milk; and

(viii) Divide the sum computed under (vii) of this subparagraph by the average test of Class II milk computed under (v) of this subparagraph, and divide the resulting amount by 100.

(4) To determine the classification of milk received from producers:

(i) Subtract from the hundredweight of milk in each class the hundredweight of milk received from other handlers and apportioned to each class in accordance with paragraph (c) of this section;

(ii) Subtract from the hundredweight of milk in each class a further amount computed in accordance with § 903.6; and

(iii) Subtract in the manner provided in paragraph (d) of this section the hundredweight of milk received from persons described under such paragraph.

G. Delete § 903.4 and substitute therefor the following:

§ 903.4 *Minimum prices*—(a) *Class prices.* Except as set forth in paragraphs (b), (c), and (d) of this section, each handler shall pay at the time and in the manner set forth in § 903.8 not less than the following prices per hundredweight of milk:

(1) Class I milk. The price for Class I milk shall be the average price per hundredweight, determined under subparagraph (3) of this paragraph, plus the following amount per hundredweight:

*Delivery Period and Amount in Dollars per Cwt.*

April through June, 0.80; July through November, 1.00; December through March, 0.90.

(2) Class II milk. The price for Class II milk shall be the average price per hundredweight, determined under subparagraph (3) of this paragraph, plus the following amount per hundredweight:

*Delivery Period and Amount in Dollars per Cwt.*

April through June, 0.20; July through November, 0.30; December through March, 0.25.

*Provided*, That during the delivery periods of January through June the price of milk used by such handler for evaporated milk in hermetically sealed containers, or disposed of by such handler to the plant of any other person where such milk is manufactured into evaporated milk and placed in hermetically sealed containers, shall be the average of the basic, or field, prices per hundredweight determined for the plants listed in subparagraph (3) of this paragraph.

(3) *Basic formula price.* The basic formula price to be used in determining the prices for Class I and Class II milk pursuant to subparagraphs (1) and (2) of this paragraph shall be the price resulting from the following computation by the market administrator: determine the arithmetic average of the basic, or field, prices per hundredweight, as reported to the United States Department of Agriculture, paid f. o. b. plant during the delivery period for milk of 3.5 percent butterfat content, to all farmers at each of the following plants for which prices are reported.

*Concerns and Locations of Plants*

Carnation Company, Ava, Missouri.  
Carnation Company, Seymour, Missouri.

Pet Milk Company, Greenville, Illinois.  
Litchfield Creamery Company, Litchfield, Illinois.

Indiana Condensed Milk Company, Bunker Hill, Illinois.

Borden Company, Mt. Pleasant, Michigan.

Carnation Company, Sparta, Michigan.

Pet Milk Company, Hudson, Michigan.

Pet Milk Company, Wayland, Michigan.

Pet Milk Company, Coopersville, Michigan.

Borden Company, Greenville, Wisconsin.

Borden Company, Black Creek, Wisconsin.

Borden Company, Orfordville, Wisconsin.

Carnation Company, Chilton, Wisconsin.

Carnation Company, Berlin Wisconsin.

Carnation Company, Richland Center, Wisconsin.

Carnation Company, Oconomowoc, Wisconsin.

Carnation Company, Jefferson, Wisconsin.

Pet Milk Company, New Glarus, Wisconsin.

Pet Milk Company, Belleville, Wisconsin.

Borden Company, New London, Wisconsin.

White House Milk Company, Manitowoc, Wisconsin.

White House Milk Company, West Bend, Wisconsin.

*Provided*, That if the price so determined is less than the price computed by the market administrator in accordance with the following formula, such formula price shall be used: multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof.

(b) *Price of Class I milk disposed of outside the marketing area.* (1) Except as provided in subparagraph (2) of this paragraph, 20 cents per hundredweight shall be deducted from the price determined pursuant to subparagraph (1) of paragraph (a) of this section with respect to all Class I milk disposed of prior to December 1, 1942, by such handler in all markets outside the marketing area, except Bonhomme Township, Missouri, on any wholesale or retail route from which no milk is disposed of in the marketing area on the same trip.

(2) The price to be paid by such handler for Class I milk disposed of outside the marketing area to Government institutions and establishments on the basis of bids shall be the price for Class I milk determined pursuant to subparagraph (1) of paragraph (a) of this section: *Provided*, That until January 1, 1942, the price to be paid pursuant to this subparagraph shall be subject to a reasonable adjustment on account of transportation with respect to Class I milk moved from the handler's plant in the marketing area to the plant outside

the marketing area where such milk was loaded on wholesale and retail routes.

(c) *Price of Class I milk for relief distribution.* For Class I milk disposed of by such handler under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be the Class I price determined pursuant to subparagraph (1) of paragraph (a) of this section less 46 cents.

(d) *Location differentials to handlers.* With respect to milk received from producers at a handler's plant located outside the marketing area, such handler shall be allowed the amount per hundredweight of milk set forth in the schedule below for the mileage range in which falls the air-line distance of the plant where the milk was first received, from the City Hall in St. Louis:

*Mileage Range and Amount per Hundredweight of Milk*

Not more than 10 miles, 6 cents.

More than 10 but not more than 20 miles, 12 cents.

More than 20 but not more than 30 miles, 14 cents.

More than 30 but not more than 40 miles, 16 cents.

Within each 10 miles thereafter, an additional 1 cent.

*Provided*, That if any of such milk is moved to a plant where milk is received for manufacturing purposes only, the maximum differential under the above schedule to be allowed with respect to the quality of milk so moved shall be 15 cents per hundredweight.

H. Delete § 903.5 and substitute therefor the following:

§ 903.5 *Reports of handlers*—(a) *Submission of reports.* Each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the 5th day after the end of each delivery period, (i) the receipts of milk at each plant from producers, from handlers, from own production, if any, and from any other source, and the average butterfat test of milk received from each source; (ii) the receipts of cream at each plant from producers, from handlers, and from any other source, and the average butterfat test of cream from each source; (iii) the utilization of all milk and cream received, computed pursuant to § 903.3, including a separate statement of the disposition of Class I milk outside the marketing area as to (a) the amount of such milk, (b) the date or dates of such disposition, (c) the point of use, (d) the plant from which such milk was shipped, and (e) such other information with respect thereto as the market administrator may request; (iv) the name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; (v) the name and address of each producer who

discontinues deliveries of milk and the date on which the milk of such producer was last received; and (vi) the amount and category of any payments to be made pursuant to § 903.8 (e) with respect to milk received during such delivery period.

(2) On or before the 10th day after the request of the market administrator, a schedule of transportation rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant or plants. Any changes made in this schedule of transportation rates and the effective dates thereof shall be reported to the market administrator within 10 days.

(3) Within 20 days after the end of each delivery period, his producer pay roll, or a report, which shall show for such delivery period and for each and every producer (i) his total delivery of milk with the average butterfat test thereof and (ii) the net amount of the payment made to him with the prices, deductions, and charges involved.

(b) *Verification of reports.* (1) Each handler shall permit the market administrator or his representative, during the usual hours of business, to (i) verify the information contained in reports submitted by such handler pursuant to this section, and (ii) weigh and sample milk and test milk for butterfat.

(2) If, in the verification of the report of purchases and sales of the handler for any previous delivery period, the market administrator finds that differences occur between the reported and actual quantities of milk received or between the reported and actual quantities of milk disposed of in each class, he shall make an adjustment in the following manner: (i) recompute for such handler his class use value of milk for the delivery period for which the report of purchases and sales of milk is being verified, after making the adjustments for the differences in such reported and actual quantities of milk, and (ii) add to, or subtract from, the uniform price of milk in the current pool for such handler, computed pursuant to § 903.7 (b), an amount representing the per hundredweight value of milk accounted for by such adjustment, such addition to, or subtraction from, the current pool to be separately set forth in such manner as to clearly state the amount of the adjustment for each delivery period or delivery periods verified pursuant to this paragraph.

I. Delete from § 903.7 (b) (2) the semicolon and substitute therefor a period (.)

J. Delete § 903.7 (b) (3).

K. Delete § 903.7 (b) (4).

L. Delete § 903.8 (d) and substitute therefor the following:

§ 903.8 *Payment for milk.*

(d) *Location differentials to producers.* In making payments pursuant to paragraph (a) of this section, each handler shall deduct with respect to milk received

from producers at a plant located outside the marketing area, the amount per hundredweight of milk set forth in the schedule below for the mileage range in which falls the air-line distance of the plant where the milk was first received, from the City Hall in St. Louis:

*Mileage Range and Amount per Hundredweight of Milk*

- Not more than 10 miles, 6 cents.
- More than 10 but not more than 20 miles, 12 cents.
- More than 20 but not more than 30 miles, 14 cents.
- More than 30 but not more than 40 miles, 16 cents.
- Within each 10-mile zone thereafter, an additional 1 cent.

It is hereby determined that an emergency exists which requires a shorter period of notice than that specified in the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, and that the notice herewith given is reasonable under the circumstances.

(48 Stat. 31, 670, 675 (1933); 49 Stat. 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. and Sup., 601 et seq.)

Issued at Washington, D. C., this 3rd day of December 1941, to become effective on and after the 5th day of December 1941. Witness my hand and the official seal of the Department of Agriculture.

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

[F. R. Doc. 41-9130; Filed, December 4, 1941; 12:32 p. m.]

**TITLE 10—ARMY: WAR DEPARTMENT**

**CHAPTER VII—PERSONNEL**

**PART 73—APPOINTMENT OF COMMISSIONED OFFICERS AND CHAPLAINS<sup>1</sup>**

OFFICERS APPOINTED IN THE ARMY OF THE UNITED STATES UNDER THE PROVISIONS OF THE ACT OF SEPTEMBER 22, 1941

§ 73.205 *Appointments not made from certain classes.*

(f) Any person whose services will not be immediately available to the War Department upon acceptance of a commission.

This will not be construed as requiring officers appointed in the Army of the United States, for assignment to affiliated units or positions, or officers appointed in the Medical Administrative Corps, Army of the United States, from among bona fide matriculated students in recognized medical schools, who have completed the first two years of their medical education; or medical students at recognized medical schools who seek

<sup>1</sup> § 73.205 (f) is amended.

commissions upon graduation therefrom and prior to entering upon their internship, to be immediately ordered to extended active duty. Where it is found impracticable to submit with the applications for appointment in those categories, a report of physical examination of the final type, as specified in § 73.217, a report of the type required for appointment in the Officers' Reserve Corps may be submitted. (Act of Sept. 22, 1941, Public Law 252, 77th Congress) [Par. 7f, AR 605-10, Oct. 27, 1941, and letter AG 210.1 (11-8-41) RB-A, dated Dec. 1, 1941]

[SEAL] E. S. ADAMS,  
*Major General,  
The Adjutant General.*

[F. R. Doc. 41-9135; Filed, December 5, 1941; 9:53 a. m.]

**TITLE 18—CONSERVATION OF POWER**

**CHAPTER I—FEDERAL POWER COMMISSION**

[Order No. 88]

**PART 1—ADMINISTRATION**

AMENDING THE "RULES OF PRACTICE AND REGULATIONS WITH APPROVED FORMS, EFFECTIVE JUNE 1, 1938" (UNDER THE FEDERAL POWER ACT)

NOVEMBER 28, 1941.

The Commission, acting pursuant to authority vested in it by the Federal Power Act, particularly sections 308 and 309 thereof, and finding such action appropriate and necessary for carrying out the purposes of the said Act, hereby adopts, promulgates and prescribes the following amendment to the "Rules of Practice and Regulations with Approved Forms, Effective June 1, 1938" (under the Federal Power Act), as heretofore prescribed by Order No. 50, adopted April 19, 1938:

Amend § 1.154 to read as follows:

§ 1.154 *Evidence, ruling on, additional may be called for.* The presiding Commissioner, examiner, or other representative before whom the hearing is held, shall rule upon the admission or exclusion of any evidence proffered by any party to such proceeding in accordance with the opinions, orders, and rules of the Commission, unless he shall determine upon the basis of, and only after, a substantial showing made by any party to such proceeding that a necessity exists for certifying the questions relating thereto to the Commission for instructions. At any stage of the hearing, or after the close of testimony, the presiding Commissioner, examiner, or other representative may call for further evidence upon any issue, and require such evidence to be presented by the party or parties concerned or by the staff of the Commission, either at that hearing or at a further

hearing. At the hearing, the Commissioner, examiner, or other representative presiding, if he deems advisable, may authorize any party to the proceeding to file specific documentary evidence as a part of the record within a time to be fixed by him, but which shall expire not less than 10 days before the date fixed for filing and serving briefs. (Secs. 301 (b), 308, 309, 49 Stat. 854, 858; 16 U.S.C., Sup., 825 (b), 825g, 825h)

The amendment to the "Rules of Practice and Regulations with Approved Forms, Effective June 1, 1938" (under the Federal Power Act) adopted, promulgated and prescribed by this order, shall become effective on December 20, 1941; and the Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] J. H. GUTRIDE,  
*Acting Secretary.*

[F. R. Doc. 41-9147; Filed, December 5, 1941; 10:05 a. m.]

[Order No. 89]

**PART 50—ADMINISTRATION**

AMENDING THE "PROVISIONAL RULES OF PRACTICE AND REGULATIONS UNDER THE NATURAL GAS ACT, WITH APPROVED FORMS, EFFECTIVE JULY 11, 1938"

NOVEMBER 28, 1941.

The Commission, acting pursuant to authority vested in it by the Natural Gas Act, particularly sections 15 and 16 thereof, and finding such action appropriate and necessary for carrying out the purposes of the said Act, hereby adopts, promulgates and prescribes the following amendment to the "Provisional Rules of Practice and Regulations under the Natural Gas Act, Effective July 11, 1938," as heretofore prescribed by Order No. 52, adopted July 5, 1938.

Amend § 50.64 to read as follows:

§ 50.64 *Evidence, ruling on, additional may be called for.* The presiding Commissioner, examiner, or other representative before whom the hearing is held, shall rule upon the admission or exclusion of any evidence proffered by any party to such proceeding in accordance with the opinions, orders, and rules of the Commission, unless he shall determine upon the basis of, and only after, a substantial showing made by any party to such proceeding that a necessity exists for certifying the questions relating thereto to the Commission for instructions. At any stage of the hearing, or after the close of testimony, the presiding Commissioner, examiner, or other representative may call for further evidence upon any issue, and require such evidence to be presented by the party or parties concerned or by the staff of the Commission, either at that hearing or a further hearing. At the hearing, the Commissioner, examiner, or other representative

presiding, if he deems advisable, may authorize any party to the proceeding to file specific documentary evidence as a part of the record within a time to be fixed by him, but which shall expire not less than 10 days before the date fixed for filing and serving briefs. (Sec. 16, 52 Stat. 830; 15 U.S.C., Sup. 7170)

The amendment to the "Provisional Rules of Practice and Regulations under the Natural Gas Act" adopted, promulgated and prescribed by this order shall become effective on December 20, 1941; and the Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 41-9146; Filed, December 5, 1941;  
10:05 a. m.]

### TITLE 30—MINERAL RESOURCES

#### CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-1094]

#### PART 328—MINIMUM PRICE SCHEDULE, DISTRICT NO. 8

ORDER CORRECTING TYPOGRAPHICAL ERROR IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 8 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 8

An Order Granting Temporary Relief and Conditionally Providing for Final Relief having been issued in the above-entitled matter on November 5, 1941, 6 F.R. 6038; and

It appearing that a typographical error occurred in the Schedule marked Supplement T, § 328.34 (*General prices for high volatile coals in cents per net ton for shipment into all market areas*), annexed to and made a part of the Order, in that the Mine Index No. 3808 of the Napier & Hensley No. 3 Mine of Napier & Hensley (John L. Napier), was written as Mine Index No. 3803:

Now, therefore, it is ordered, That the typographical error occurring in the Order Granting Temporary Relief and Conditionally Providing for Final Relief dated November 5, 1941, be, and the same hereby is, corrected to the extent that the Mine Index No. 3803 shown therein in Supplement T for the Napier & Hensley No. 3 Mine of Napier & Hensley (John L. Napier), is changed to Mine Index No. 3808.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9173; Filed, December 5, 1941;  
11:23 a. m.]

### TITLE 32—NATIONAL DEFENSE

#### CHAPTER IX—OFFICE OF PRODUCTION MANAGEMENT

##### SUBCHAPTER B—PRIORITIES DIVISION

#### PART 941—MATERIAL AND EQUIPMENT ENTERING INTO FREIGHT CAR CONSTRUCTION INCLUDING RAILROAD, INDUSTRIAL AND MINE FREIGHT CARS

##### Extension and Amendment of Preference Rating Order No. P-8

It is hereby ordered, That § 941.1 (*Preference rating order No. P-8*<sup>1</sup>), issued June 18, 1941, and all Preference Rating Certificates issued thereunder, shall continue in effect until December 31, 1941 unless sooner revoked by the Office of Production Management.

Section 941.1, paragraph (c) (2), is hereby amended to read as follows:

§ 941.1 *Preference rating order No. P-8.*

(c) \* \* \*

(2) Furnish information respecting matters covered by (c) (1) and respecting any other pertinent matters to the Automotive, Transportation and Farm Equipment Branch, Division of Civilian Supply, Office of Production Management, from time to time, as required by said Branch. Until further order, such information shall be so furnished not later than the 15th day of each month for the next preceding calendar month, as required by Form PD-38 hereto attached, or on any other form of report which may be prescribed by the Office of Production Management; which report *must be sworn to* by an authorized officer or agent of the Producer or Rated Subcontractor furnishing the same; or, *in the alternative*, a Producer or Rated Subcontractor shall send to the Automotive Transportation and Farm Equipment Branch, Division of Civilian Supply, Office of Production Management, not later than the 15th day of each month, copies of all purchase orders to which said preference rating has been applied in the next preceding month: *Provided, however*, That such purchase orders contain the following information: Vendor's name, description, unit quantities, and dollar value of the products ordered, together with the delivery or delivery schedule thereof. Such purchase orders shall be accompanied by the certification under oath, of an authorized officer or individual of the Producer or Rated Subcontractor furnishing the same in the form set forth in Form PD-38a hereto attached.

Section 941.1, paragraph (c) (3), is hereby amended to read as follows:

(3) Submit, from time to time, to an audit and inspection by representatives of the Office of Production Management

<sup>1</sup> 6 F.R. 3009.

respecting matters covered by (c) (1) and (2).

Section 941.1, paragraph (d), is hereby amended to read as follows:

(d) This Order shall not continue effective as to any Producer or Rated subcontractor unless he shall regularly file with the Automotive, Transportation and Farm Equipment Branch, Division of Civilian Supply, Office of Production Management, Social Security Building, Washington, D. C., the report as required in (c) (2), above. (P.D. Reg. 1, Aug. 27, 1941, 6 F.R. 4489; O.P.M. Reg. 3, March 8, 1941, 6 F.R. 1596, as amended Sept. 12, 1941, 6 F.R. 4865; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; E.O. 8875, Aug. 28, 1941, 6 F.R. 4483; sec. 2 (a), Public No. 671, 76th Congress, Third Session, as amended by Public No. 89, 77th Congress, First Session; Sec. 9, Public No. 783, 76th Congress, Third Session)

Issued this 29th day of November 1941.

DONALD M. NELSON,  
Director of Priorities.

[F. R. Doc. 41-9150; Filed, December 5, 1941;  
11:09 a. m.]

#### PART 976—MOTOR TRUCKS, TRUCK TRAILERS AND PASSENGER CARRIERS

##### Interpretation No. 1 of General Limitation Order L-1-a

The following official interpretation is hereby issued by the Director of Priorities with respect to § 976.1 (*General limitation order L-1-a*<sup>1</sup>) issued September 12, 1941:

Section 976.1, subsection (b) (3), excludes from each Producer's quota vehicles or parts produced "under contracts or orders for delivery to or for the account of" the Army or Navy of the United States, certain designated Governments, and certain designated Governmental Agencies. Under this subsection, vehicles or parts to which the Army, Navy, designated Governments or designated Governmental Agencies take title or contract to take title at the time of the sale are excluded from the Producer's quota, regardless of whether the vehicles or parts are sold directly by the Producer or indirectly through the Producer's dealers or other channels of distribution. All vehicles or parts which the Producer can identify as going to the Army, Navy, designated Governments, or designated Governmental Agencies are excluded from the quota.

Issued this 5th day of December 1941.

J. S. KNOWLSON,  
Acting Director of Priorities.

[F. R. Doc. 41-9151; Filed, December 5, 1941;  
11:09 a. m.]

<sup>1</sup> 6 F.R. 4732, 5676.

PART 987—COBALT

Supplementary Order No. M-39-a

§ 987.2 *Supplementary order No. M-39-a.* (a) It is hereby ordered by the Director of Priorities that, subject to all the other provisions, restrictions and limitations of General Preference Order M-39, issued November 4, 1941, any person is authorized to receive delivery of cobalt in any of the forms included in the definition thereof, as set forth in paragraph (a) (1) of General Preference Order M-39, up to but not exceeding an aggregate of 50 pounds contained cobalt during any calendar month without filing the forms required by the provisions of paragraph (d) of said order.

(b) This order shall take effect immediately upon its issuance, and unless sooner terminated by direction of the Director of Priorities, shall expire on the 31st day of March 1942. (P.D. Reg. 1, Aug. 27, 1941, 6 F.R. 4489; O.P.M. Reg. 3, as amended September 2, 1941, 6 F.R. 4865; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; E.O. 8875, Aug. 28, 1941, 6 F.R. 4483; sec. 2 (a), Public No. 671, 76th Congress, Third Session; as amended by Public No. 89, 77th Congress, First Session; sec. 9, Public No. 783, 76th Congress, Third Session)

Issued this 5th day of December 1941.

J. S. KNOWLSON,

Acting Director of Priorities.

[F. R. Doc. 41-9152; Filed, December 5, 1941; 11:09 a. m.]

TITLE 37—PATENTS AND COPYRIGHTS

CHAPTER I—PATENT OFFICE

[Order No. 173]

PART 1—RULES OF PRACTICE

INTERFERENCES

Section 1.94, first paragraph, is amended to read as follows:

§ 1.94 *When declared; copying claims.* Interferences will be declared between applications by different parties for patent or for reissue when such applications contain claims for substantially the same invention which are allowable in the application of each party, and interferences will also be declared between applications for patent, or for reissue, and unexpired original or reissued patents, of different parties, when such applications and patents contain claims for substantially the same invention which are allowable in all of the applications involved: *Provided*, That where the filing date of any applicant is subsequent to the filing date of any patentee, the applicant shall file an affidavit that he made the invention in controversy, in this country, before the filing date of the patentee; and, when required, the applicant shall file an affidavit setting forth facts showing that he completed the in-

vention in controversy, in this country, before the filing date of the patentee.

Section 1.94 third paragraph, is amended to read as follows:

Where an applicant presents a claim copied or substantially copied from a patent, he must, at the time he presents the claim, identify the patent, give the number of the patented claim, and specifically apply the terms of the copied claim to his own disclosure. (R.S. 483; 35 U.S.C. 6)

[SEAL] CONWAY P. COE,  
Commissioner.

Approved: December 4, 1941.

To take effect immediately.

WAYNE C. TAYLOR,  
Acting Secretary of Commerce.

[F. R. Doc. 41-9132; Filed, December 4, 1941; 4:03 p. m.]

TITLE 43—PUBLIC LANDS:  
INTERIOR

CHAPTER III—GRAZING SERVICE

PART 502—LIST OF ORDERS CREATING OR MODIFYING GRAZING DISTRICTS<sup>1</sup>

ORDER ESTABLISHING GRAZING DISTRICT NO. 8 AND MODIFYING GRAZING DISTRICT NO. 3 IN THE STATE OF COLORADO

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269, 43 U. S. Code, sec. 315, et seq.), as amended, commonly known as the Taylor Grazing Act, and subject to the limitations and conditions therein contained, Colorado Grazing District No. 8 is hereby established. The district shall embrace all vacant, unappropriated, and unreserved public lands within the following-described legal subdivisions, which are hereby transferred from Colorado Grazing District No. 3; all lands within the said areas withdrawn for other purposes which have heretofore been included therein or may hereafter be included in the district in accordance with the provisions of section 1 of the Taylor Grazing Act by approval of the head of the Department having jurisdiction thereover; and all lands within the said areas heretofore or hereafter acquired by lease under the provisions of the act of June 23, 1938 (52 Stat. 1033, 43 U. S. Code, sec. 315m-1, 2, 3, 4), commonly known as the Pierce Act; not excluding lands withdrawn by Executive Order of November 26, 1934 (No. 6910), within the following-described legal subdivisions:

COLORADO

*New Mexico Principal Meridian*

- T. 40 N., R. 3 E.,  
Secs. 25 to 28 and secs. 33 to 36, inclusive;
- T. 39 N., R. 4 E.,  
Secs. 1, 2, and 3;
- T. 40 N., R. 4 E.,  
Secs. 20 to 36, inclusive;

<sup>1</sup>This affects the tabulation in § 502.1d.

- T. 44 N., R. 4 E.,  
Secs. 1 and 2;  
Sec. 3, S $\frac{1}{2}$ ;  
Sec. 4, S $\frac{1}{2}$ ;  
Secs. 9 to 12, inclusive;  
Sec. 13, W $\frac{1}{2}$ ;  
Secs. 14, 15, and 16;
- T. 45 N., R. 4 E.,  
Secs. 1, 12, 13, 24, 25, 26, 35, and 36;
- T. 46 N., R. 4 E.,  
Sec. 36;
- T. 34 N., R. 5 E.,  
Secs. 1 to 3 and secs. 10 to 13, inclusive;  
Sec. 24, all;  
Sec. 25, N $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;
- T. 35 N., R. 5 E.,  
Secs. 1 and 2 and secs. 11 to 14, inclusive;  
Sec. 15, Tract 37;  
Sec. 16, Tract 37;  
Sec. 21, Tracts 37 and 38;  
Sec. 22, Tract 38 in W $\frac{1}{2}$ ;  
Secs. 23 to 26, inclusive, and secs. 35 and 36;
- T. 36 N., R. 5 E.,  
Secs. 25, 26, 35, and 36;
- T. 39 N., R. 5 E.,  
Secs. 1 to 12, inclusive;
- T. 40 N., R. 5 E.,  
Secs. 7 to 36, inclusive;
- T. 42 N., R. 5 E.,  
Secs. 1 and 2, secs. 11 to 15, inclusive, and secs. 23 and 24;
- T. 44 N., R. 5 E.,  
Secs. 6 and 7;
- T. 45 N., R. 5 E.,  
Secs. 1 to 31, inclusive;  
Sec. 32, W $\frac{1}{2}$ ;
- T. 46 N., R. 5 E.,  
Sec. 20, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
Secs. 21, 22, and 23;  
Secs. 25 to 29, inclusive;  
Sec. 30, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
Secs. 31 to 36, inclusive;
- T. 34 N., R. 6 E.,  
Secs. 1 to 30, inclusive;
- T. 35 N., R. 6 E.,  
Sec. 7, all;  
Sec. 12, SE $\frac{1}{4}$ ;  
Sec. 13, all;  
Sec. 14, SE $\frac{1}{4}$ ;  
Secs. 18 to 36, inclusive;
- T. 36 N., R. 6 E.,  
Sec. 8, Tract 38 in S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
Sec. 9, Tract 38 in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 14, lots 1 and 3, Tracts 40 and 41, NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 15, lots 5, 7, 9, and 10, Tracts 39, 41, 42, and 43;  
Sec. 16, lots 2, 3, 5, and 6, Tracts 38, 39, 43, and 48, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 17, lot 1, Tract 38;  
Sec. 22, Tract 41;  
Sec. 23, lots 1, 2, 3, 4, 6, and 7, Tracts 40 and 41;  
Sec. 24, lots 5, 6, 7, 8, 9, 10, and 11, Tract 44, N $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 25, Tract 44;
- T. 37 N., R. 6 E.,  
Secs. 1, 2, and 3;  
Sec. 10, NE $\frac{1}{4}$ ;  
Sec. 11, N $\frac{1}{2}$ ;  
Sec. 12, N $\frac{1}{2}$ ;
- T. 38 N., R. 6 E.,  
Secs. 1 to 3, secs. 10 to 15, secs. 22 to 27, and secs. 34 to 36, inclusive;
- T. 39 N., R. 6 E.,  
Secs. 1 to 15, secs. 22 to 27, and secs. 34 to 36, inclusive;
- T. 40 N., R. 6 E.,  
Secs. 1 to 3 and secs. 7 to 36, inclusive;
- T. 41 N., R. 6 E.,  
Secs. 1 to 3, secs. 10 to 15, secs. 22 to 27, and secs. 34 to 36, inclusive;
- T. 42 N., R. 6 E.,  
Secs. 1 to 30 and secs. 34 to 36, inclusive;
- T. 43 N., R. 6 E.,  
Secs. 1 and 2, secs. 11 to 16, secs. 21 to 28, and secs. 32 to 36, inclusive;
- T. 44 N., R. 6 E.,  
Secs. 1, 2, 25, and 36;
- T. 45 N., R. 6 E., all;
- T. 46 N., R. 6 E.,  
Secs. 3, 10, 13, 14, 15, and secs. 20 to 36, inclusive;
- T. 32 N., R. 7 E.,  
Secs. 1 and 2;

T. 32 N., R. 7 E.—Continued.  
 Sec. 3, E $\frac{1}{2}$ ;  
 Sec. 11, E $\frac{1}{2}$ ;  
 Sec. 12, 13, and 24;  
 T. 33 N., R. 7 E.,  
 Secs. 1 to 5, secs. 8 to 17, secs. 21 to 28, and  
 secs. 34 to 36, inclusive;  
 T. 34 N., R. 7 E.,  
 Secs. 1 to 30 and secs. 32 to 36, inclusive;  
 Tps. 35 to 44 N., inclusive, R. 7 E.;  
 T. 45 N., R. 7 E.,  
 Secs. 4 to 11 and secs. 13 to 36, inclusive;  
 T. 46 N., R. 7 E.,  
 Secs. 1 and 2;  
 Sec. 12, N $\frac{1}{2}$ ;  
 Secs. 18 and 19;  
 T. 47 N., R. 7 E.,  
 Secs. 25, 35, and 36;  
 Tps. 32 to 44 N., R. 8 E., all;  
 T. 45 N., R. 8 E.,  
 Secs. 12, 13, 14, and secs. 19 to 36, inclusive;  
 T. 46 N., R. 8 E.,  
 Secs. 7 and 8;  
 Sec. 12, S $\frac{1}{2}$ ;  
 Sec. 13, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ -  
 SW $\frac{1}{4}$ ;  
 Sec. 16, all;  
 Sec. 17, E $\frac{1}{2}$ , NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 18, N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 Sec. 20, NE $\frac{1}{4}$ ;  
 Sec. 21, all;  
 Sec. 22, S $\frac{1}{2}$ ;  
 Sec. 23, S $\frac{1}{2}$ ;  
 Sec. 24, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
 Secs. 25 to 28, inclusive;  
 Sec. 33, N $\frac{1}{2}$ ;  
 Sec. 34, N $\frac{1}{2}$ ;  
 Sec. 35, N $\frac{1}{2}$ ;  
 T. 47 N., R. 8 E.,  
 Sec. 1, all;  
 Sec. 2, N $\frac{1}{2}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 11, E $\frac{1}{2}$ E $\frac{1}{2}$ ;  
 Secs. 12 and 13;  
 Sec. 14, E $\frac{1}{2}$ E $\frac{1}{2}$ ;  
 Sec. 24, E $\frac{1}{2}$ ;  
 T. 48 N., R. 8 E.,  
 Secs. 9 and 10, those parts in Saguache  
 County;  
 Sec. 11, all;  
 Sec. 13, W $\frac{1}{2}$ ;  
 Secs. 14, 15, 16, and secs. 21 to 27, inclusive;  
 Secs. 35 and 36;  
 Tps. 32 to 44 N., inclusive, R. 9 E.;  
 T. 45 N., R. 9 E.,  
 Secs. 1 to 5 and secs. 7 to 36, inclusive;  
 T. 46 N., R. 9 E.,  
 Secs. 1 to 30 and secs. 32 to 36, inclusive;  
 T. 47 N., R. 9 E.,  
 Secs. 4 to 10, inclusive;  
 Sec. 11, S $\frac{1}{2}$ ;  
 Secs. 13 to 36, inclusive;  
 T. 48 N., R. 9 E.,  
 Sec. 19, W $\frac{1}{2}$ ;  
 Sec. 29, W $\frac{1}{2}$ ;  
 Secs. 30, 31, and 32;  
 Sec. 33, SW $\frac{1}{4}$ ;  
 Tps. 32 to 40 N., inclusive, R. 10 E.;  
 Tps. 41 to 43 N., inclusive, R. 10 E., exclusive  
 of the Luis Maria Baca Grant No. 4;  
 Tps. 44 and 45 N., R. 10 E., all;  
 T. 46 N., R. 10 E.,  
 Sec. 1, SW $\frac{1}{4}$ ;  
 Sec. 2, S $\frac{1}{2}$ ;  
 Sec. 3, S $\frac{1}{2}$ ;  
 Secs. 4 to 36, inclusive;  
 T. 47 N., R. 10 E.,  
 Sec. 19, W $\frac{1}{2}$ ;  
 Sec. 29, W $\frac{1}{2}$ ;  
 Secs. 30, 31, and 32;  
 Sec. 33, W $\frac{1}{2}$ ;  
 Tps. 32 to 36 N., inclusive, R. 11 E., exclusive  
 of the Sangre de Cristo Grant;  
 Tps. 37 to 40 N., inclusive, R. 11 E.;  
 Tps. 41 and 43 N., R. 11 E., exclusive of the  
 Luis Maria Baca Grant No. 4;  
 T. 44 N., R. 11 E.,  
 Sec. 4, W $\frac{1}{2}$ ;  
 Secs. 5 to 9 and secs. 16 to 21, inclusive;  
 Sec. 22, W $\frac{1}{2}$ ;  
 Sec. 26, S $\frac{1}{2}$ ;  
 Secs. 27 to 35, inclusive;  
 Sec. 36, W $\frac{1}{2}$ ;  
 T. 45 N., R. 11 E.,  
 Sec. 6, W $\frac{1}{2}$ ;  
 Sec. 7, W $\frac{1}{2}$ ;  
 Secs. 18 and 19;  
 Sec. 29, W $\frac{1}{2}$ ;  
 Secs. 30, 31, and 32;

T. 46 N., R. 11 E.,  
 Sec. 18, W $\frac{1}{2}$ ;  
 Sec. 19, W $\frac{1}{2}$ ;  
 Sec. 30, W $\frac{1}{2}$ ;  
 Sec. 31, W $\frac{1}{2}$ ;  
 T. 36 N., R. 12 E., fractional (unsurveyed),  
 exclusive of the Sangre de Cristo Grant;  
 T. 37 N., R. 12 E., exclusive of the Sangre de  
 Cristo Grant;  
 Tps. 38 and 39 N., R. 12 E.;  
 T. 40 N., R. 12 E.,  
 Secs. 3 to 10, inclusive;  
 Sec. 11, NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Secs. 14 to 23 and secs. 26 to 36, inclusive;  
 T. 41 N., R. 12 E.,  
 Secs. 16 to 21 and secs. 28 to 33, inclusive;  
 T. 43 N., R. 12 E.,  
 Secs. 6 and 7;  
 T. 37 N., R. 13 E., fractional, exclusive of the  
 Sangre de Cristo Grant;  
 Tps. 38 and 39 N., R. 13 E., fractional.

Sixth Principal Meridian

T. 27 S., R. 73 W.,  
 Secs. 28 to 33, inclusive;  
 T. 28 S., R. 73 W.,  
 Secs. 4 to 9, secs. 16 to 21, and secs. 29 to  
 32, inclusive;  
 T. 29 S., R. 73 W.,  
 Secs. 5 to 8, inclusive, and secs. 17, 18, and  
 19;  
 Secs. 16, 20, 21, 29, 30, and 31, all exclusive  
 of the Sangre de Cristo Grant.

E. K. BURLEW,

Acting Secretary of the Interior.

NOVEMBER 25, 1941.

[F. R. Doc. 41-9134; Filed, December 5, 1941;  
 9:53 a. m.]

TITLE 45—PUBLIC WELFARE

CHAPTER II—CIVILIAN CONSERVA-  
 TION CORPS

PART 203—ENROLLMENT, DISCHARGE, HOS-  
 PITALIZATION, DEATH AND BURIAL OF  
 ENROLLEES<sup>1</sup>

§ 203.10 Allotments and deposits.<sup>2</sup>

(1) *Withdrawals and repayments of deposits.* (1) Enrollees will be permitted, upon approval of the company commander, to withdraw deposits prior to completion of or release from final enrollment in cases of emergency only, provided that, in all such cases, the enrollee making the request furnishes evidence satisfactory to his company commander that the need for withdrawal exists. The procurement of articles or services which are properly payable from Civilian Conservation Corps funds will not be classed as emergency situations or obligations. Emergency withdrawals will be made in even dollars, except in the case of the purchase of United States Savings Bonds, and will be limited to emergencies such as the following:

(v) To purchase United States Savings Bonds.

(a) Enrollees will execute the request for withdrawal in the usual manner, indicating the purpose of the withdrawal; for example, "for purchase of United States Savings Bonds" in the denomination desired, accompanied by Treasury

<sup>1</sup> § 203.10 (1) (1) is amended.

<sup>2</sup> 6 F.R. 130.

Department Form P.D. 1423 (Request for Safekeeping) properly executed. A supply of these forms may be obtained from the Division of Savings Bonds, Treasury Department, Washington, D. C. Withdrawals for the purchase of United States Savings Bonds will be limited to not more than 50 percent of the total amount of the enrollee's deposit.

(b) Upon receipt of the request for withdrawal, the disbursing officer concerned will draw check payable to the Treasurer of the United States, indicating under object for which drawn, "Purchase of United States Savings Bonds, John Doe, CCC enrollee, \_\_\_\_\_" (Serial No.)

(c) The check referred to in (b) above, accompanied by Request for Safekeeping, will be forwarded directly to the Treasurer of the United States, Washington, D. C.

(d) The Treasury Department will issue the bond, to be held by the Treasurer of the United States, and will forward to the enrollee concerned a Safekeeping Receipt to be held by him until such time as he desires to withdraw the bond.

(e) The bond or bonds will be withdrawn from safekeeping and forwarded to the owner by registered mail upon receipt by the Treasurer of the United States of written request from the owner for such withdrawal, accompanied by the Safekeeping Receipt or Receipts pertaining to the particular bonds desired. (50 Stat. 319; 16 U.S.C., Sup., Chapter 3A) [Par. 36, C.C.C. Regs., W.D., Dec. 1, 1937, as amended by C 86, Nov. 24, 1941]

[SEAL]

E. S. ADAMS,  
 Major General,  
 The Adjutant General.

[F. R. Doc. 41-9145; Filed, December 5, 1941;  
 10:04 a. m.]

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE  
 INSPECTION AND NAVIGATION

SUBCHAPTER A—DOCUMENTATION, EN-  
 TRANCE AND CLEARANCE OF VESSELS, ETC.

[Order No. 174]

PART 1—DOCUMENTATION OF VESSELS

DECEMBER 4, 1941.

Pursuant to the authority contained in R.S. 161, the following changes in the regulations contained in Part 1—Documentation of Vessels are hereby made:

§ 1.27 *Master's oath on licensing vessel.* [Rescinded]

Section 1.24 (*Forms of oath*) is amended to read as follows:

§ 1.24 *Forms of oath of owner and master for documentation.* (a) In the case of a vessel owned by an individual, a partnership, unincorporated company, association, or the United States of America, the oath of ownership required



No. -----; and that the license bearing No. -----, and date -----, 19-- granted to said vessel by the Collector of Customs for the District of ----- Port of -----, shall not be used for any other vessel or for any other employment than the -----, or in any trade or business whereby the revenue of the United States may be defrauded.

Master.

Subscribed and sworn to before me this day of -----, 19--

Deputy Collector of Customs.

<sup>1</sup> Strike out if native-born citizen.

<sup>2</sup> Strike out this section in case of registered vessel.

<sup>3</sup> Insert "coasting trade," "coasting trade and mackerel fishery," "whale fishery," "mackerel fishery," "cod fishery," "pleasure" (in case of a yacht), or "coasting and foreign trade" (in case of enrolled and licensed for foreign and coasting trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea).

The oath prescribed by this paragraph shall not be used for renewals of licenses by endorsement.

(e) In order for the renewal of the license of a vessel, the master shall make oath in the following form:

District of -----

Port of -----

I, -----, master of the ----- called the -----, official No. -----, swear that I am a citizen of the United States, having been born in ----- (City) (State or -----) on -----, 1-----, and naturalized before the ----- for ----- (Name of court) (District) ----- on -----, 1-----, having

been issued Naturalization Certificate No. -----; that the license, bearing No. -----, and date of -----, 1-----, granted to said vessel by the Collector of Customs for the District of -----, Port of -----, shall not be used for any other vessel, or for any other employment than the -----, or in any trade or business whereby the revenue of the United States may be defrauded; and that all equipments or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses of repairs made in any foreign country upon said vessel, within the year immediately preceding the date of this application, to wit, the ----- day of -----, 19--, have been duly reported and accounted for under the provisions of sections 3114 and 3115 R.S., as amended by the Tariff Act of 1930, and of section 4330 R.S., and the duties thereon have been duly paid.

Master.

Subscribed and sworn to before me this day of -----, 19--

Deputy Collector of Customs.

<sup>1</sup> Strike out this section if native-born citizen.

<sup>2</sup> Insert "coasting trade," "coasting trade and mackerel fishery," "whale fishery," "mackerel fishery," "cod fishery," "pleasure" (in case of a yacht), or "coasting and foreign trade" (in case of enrolled and licensed for foreign and coasting trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea).

(R. S. 161; 5 U.S.C. 22)

Section 1.31 (*Renewal of license*) is amended by the addition at the end thereof, of a new paragraph lettered (f) reading as follows:

### § 1.31 *Renewal of license.*

(f) When a license is presented for renewal, the master shall make oath in the form prescribed by § 1.24 (e) of this chapter. (R.S. 161; 5 U.S.C. 22)

Section 1.37 (*Exchange of documents*) is amended by the addition at the end thereof, of a new paragraph lettered (g) reading as follows:

### § 1.37 *Exchange of documents.*

(g) In order for the exchange of a register for an enrollment and license, or license, or for the exchange of an enrollment and license, or license for a register, the master shall make oath in the following form:

District of -----

Port of -----

I, -----, master of the vessel called the -----, official No. -----, do swear that, according to the best of my knowledge and belief, the property of the said vessel remains the same as expressed in the ----- thereof, granted by the (Register or enrollment)

----- Collector of Customs at the Port of -----, District of -----, State of -----, on the ----- day of -----, 19--,

which I now deliver up; and I also swear that all equipments, or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses of repairs made in any foreign country upon said vessel, within the year immediately preceding the date of this application, to wit, the ----- day of -----, 19--, have been duly reported and accounted for under the provisions of Sections 3114 and 3115 R.S., as amended by the Tariff Act of 1930, and of Section 4330 R.S., and the duties thereon have been duly paid.

Master.

Subscribed and sworn to before me this day of -----, 19--

Deputy Collector of Customs.

<sup>1</sup> Strike out this section in case of vessel to be registered.

(R.S. 161; 5 U.S.C. 22)

The above changes shall become effective January 1, 1942.

[SEAL] WAYNE C. TAYLOR,  
Acting Secretary of Commerce.

[F. R. Doc. 41-9133; Filed, December 4, 1941; 4:28 p. m.]

## TITLE 47—TELECOMMUNICATION

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Order No. 77-A]

#### PART 12—RULES GOVERNING AMATEUR RADIO: STATIONS AND OPERATORS

#### PART 13—RULES GOVERNING COMMERCIAL RADIO OPERATORS

#### SUSPENSION OF REGULATIONS REQUIRING SHOWING OF SERVICE OR USE FOR LICENSE RENEWALS

At a session of the Federal Communications Commission held at its offices in

Washington, D. C., on the 3d day of December, 1941.

The Commission having under consideration its Rules Governing Amateur Radio Stations and Operators and its Rules Governing Commercial Radio Operators, with particular reference to the provisions concerning renewals; and

It appearing, that present conditions render it difficult for commercial radio operators and for amateur radio station licensees and operators to make a showing of service or use required for renewal of license; and that such difficulty will be accentuated in many instances due to military service:

It is ordered, That §§ 12.26 and 12.66 of the Rules Governing Amateur Radio and § 13.28 of the Rules Governing Commercial Radio Operators, in so far as the required showing of service or use of license is concerned, be and they are hereby, suspended until further order of the Commission, but in no event beyond January 1, 1943.

This Order shall become effective January 1, 1942.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 41-9136; Filed, December 5, 1941; 9:53 a. m.]

## Notices

### WAR DEPARTMENT.

[Contract No. W-569-eng. 2556]

#### SUMMARY OF COST-PLUS-A-FIXED-FEE CONTRACT FOR ARCHITECT-ENGINEER SERVICES

ARCHITECT-ENGINEER: GEORGE P. RICE, CONSULTING ENGINEER, BARONNE BUILDING, NEW ORLEANS LOUISIANA

Amount fixed fee: \$51,546.00.

Estimated cost of construction project: \$8,591,000.

Type of construction project: Aviation Mechanics School.

Location: Near Biloxi, Mississippi.

Type of Service: Architectural—Engineering.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. Eng. 891 P 99 A-0540.068-N the available balance of which is sufficient to cover the cost of same.

This contract,<sup>1</sup> entered into this 13th day of May 1941.

Description of the work. The Architect-Engineer shall perform all the necessary service provided under this contract for the following described project: Designs; preparation of contract plans, specifications, and estimates of cost; and

<sup>1</sup> Approved by the Under Secretary of War May 29, 1941.

supervision of all construction at the Aviation Mechanics School near Biloxi, Mississippi, to include necessary buildings, temporary structures, and other facilities including utilities and appurtenances (hereinafter referred to as "the project") and estimated to cost \$8,591,000.00.

*Data to be furnished by the Government.* The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

*Fixed-fee and reimbursement of expenditures.* In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following: A fixed fee in the amount of Fifty-one thousand, five hundred forty-six Dollars (\$51,546.00) which shall constitute complete compensation for the Architect-Engineer's services.

*Reimbursement for the following expenditures.* The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract.

*Method of payment.* Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned. Upon completion of the project, the Architect-Engineer shall be paid the unpaid balance of any money due the Architect-Engineer hereunder.

All drawings, specifications, and blue prints are to become the property of the Government.

*Changes in scope of project.* The Contracting Officer may at any time, by a written order, make changes in the scope of the work contemplated by this contract.

*Termination for cause or for convenience of the Government.* The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws: Fourth Supplemental National Defense Appropriation Act, 1941, March 17, 1941; Act Approved July 2, 1940 (Public No. 703, 76th Congress).

FRANK W. BULLOCK,  
Lt. Col., Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-9139; Filed, December 5, 1941;  
10:02 a. m.]

[Contract No. W-569-eng. 2615]

SUMMARY OF COST-PLUS-A-FIXED-FEE  
CONSTRUCTION CONTRACT

CONTRACTOR: J. A. JONES CONSTRUCTION  
COMPANY, CHARLOTTE, NORTH CAROLINA,  
AND NEWTON, GLENN AND KNOTS<sup>2</sup>

Fixed fee: \$265,000.00.

Contract for: Construction of Aviation Mechanics Training School, including necessary buildings and housing facilities, temporary structures, hangars, utilities, and appurtenances thereto.

Place: Biloxi Airport, near Biloxi, Mississippi.

Estimated cost of Project: \$11,748,620.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same:

Eng. 891 P. 99 A 0540-12  
Eng. 921 P. 99 A 0540-12  
Eng. 1027 P. 99 A 0540-12

This contract,<sup>1</sup> entered into this 13th day of June, 1941.

*ARTICLE I. Statement of work.* The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the construction of Aviation Mechanics Training School near Biloxi, Mississippi.

It is estimated that the total cost of the construction work covered by this contract will be approximately nine million three hundred sixty three thousand two hundred dollars (\$9,363,200.00) exclusive of the contractor's fee.

In consideration for his undertaking under this contract, the Contractor shall receive the following:

- (a) Reimbursement for expenditures as provided in Article II.
- (b) Rental for Contractor's equipment as provided in Article II.
- (c) A fixed fee in the amount of two hundred sixty five thousand dollars (\$265,000.00) which shall constitute complete compensation for the contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

<sup>1</sup> Approved by the Under Secretary of War July 15, 1941.

<sup>2</sup> A partnership of Hattiesburg, Miss., constituting a joint venture and acting both jointly and severally.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work, or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment, and supplies, for which the Contractor shall be entitled to be reimbursed under Article II, shall vest in the Government.

*ART. III. Payments — Reimbursement for cost.* 1. The Government will currently reimburse the contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

*Rental for contractor's equipment.* 2. Rental as provided in article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

*Payment of the fixed-fee.* 3. The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer.

*Final payment.* 5. Upon completion of the work and its final acceptance in writing by the Contracting Officer, the Government shall pay to the Contractor the unpaid balance of the cost of the work determined under Article II hereof, and of the fee.

*ART. VI. Termination of contract by Government.* 1. Should the contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following law: Act approved July 2, 1940 (Public No. 703—76th Congress).

FRANK W. BULLOCK,  
Lt. Col., Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-9140; Filed, December 5, 1941;  
10:02 a. m.]

[Contract No. W 669 qm-13723]

## SUMMARY OF CONTRACT FOR CLOTH, COTTON, HERRINGBONE TWILL

CONTRACTOR: J. L. STIFEL & SONS, INC.,  
WHEELING, WEST VIRGINIA

Amount: \$1,073,700.00.

Place: Philadelphia Quartermaster Depot, Philadelphia, Pa.

This contract, entered into this fourteenth day of October 1941.

*Scope of this contract.* The contractor shall furnish and deliver \* \* \* yards Cloth, Cotton, Herringbone Twill for the consideration stated totaling one million, seventy-three thousand, seven hundred dollars (\$1,073,700.00) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

*Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

*Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

The supplies and services to be obtained by this instrument are authorized by, and for the purpose set forth in, and are chargeable to procurement authority QM 323 P 2-02 A 0515-2 the available balance of which is sufficient to cover cost of same.

This contract authorized by Procurement Directive No. P-C-265 (42).

FRANK W. BULLOCK,  
Lt. Col., Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-9141; Filed, December 5, 1941;  
10:03 a. m.]

[Contract No. W 535 ac-20857 (5454)]

SUMMARY OF COST-PLUS-A-FIXED-FEE  
SUPPLY CONTRACTCONTRACTOR: FLEETWINGS INCORPORATED,  
BRISTOL, PENNSYLVANIAContract for: \* \* \* spare parts,  
airplanes and data.

Estimated airplane cost.....	\$3,504,100.00
Estimated spares cost.....	523,500.00
Fixed fee.....	241,656.00
Defense plant corporation rental.....	96,058.26
Development costs.....	190,300.51

Total..... 4,555,614.77

The supplies and services to be obtained by this instrument are authorized by, and for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover the cost of the same:

AC 32 P 12-30 A0705-2  
AC 18 P 82-30 A0705-2

This contract, entered into this 22d day of September 1941.

ARTICLE 1. *Statement of work.* The Contractor shall, within the time specified in Article 4 hereof, manufacture, furnish and deliver to the Government the following articles:

\* \* \* Airplanes \* \* \*

Certain Spare Parts for all of the airplanes called for under the terms of this contract.

\* \* \* airplane of type called for under the terms of this Article.

\* \* \* Data

ART. 2. *Estimated costs.*

Quantity	Estimated cost
* * * airplanes.....	\$3,504,100.00
Spare parts for above airplanes.....	523,500.00
Data (included in estimated costs of above items).....	-----
Estimated cost of above items.....	4,027,600.00

Expenditures of the Contractor as set out below for Rental and Development costs shall constitute allowable items of costs under this contract for all purposes except the computation of the fee to be earned by the Contractor:

Defense plant corporation rental.....	\$ 96,058.26
Development costs.....	190,300.51

Total aggregate estimated price.....	4,313,958.77
--------------------------------------	--------------

ART. 3. *Consideration.* The Government will pay the Contractor upon satisfactory delivery of all items specified in the contract subject to partial payments as outlined in Article 6 hereof, the cost, including Defense Plant Corporation Rental in the approximate sum of ninety-six thousand fifty-eight and 26/100 dollars (\$96,058.26), the Development cost in the sum of one hundred ninety thousand three hundred and 51/100 dollars (\$190,300.51), plus a fixed fee of two hundred forty-one thousand six hundred fifty-six and 00/100 dollars (\$241,656.00).

Any cost incurred by the Contractor under the terms of the contract which would constitute an allowable item of cost under the provisions of paragraph (b) of this article shall be included in determining the amount payable under this contract.

ART. 5. *Changes.* The Contracting Officer may, at any time, by a written order make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

<sup>1</sup> Approved by the Under Secretary of War, October 8, 1941.

ART. 6. *Payments—(a) Reimbursement for cost.* The Government will currently reimburse the Contractor subject to the provisions of paragraph (c) of this Article 6, for such expenditures made in accordance with Article 3 as may be approved or ratified and upon certification to and verification by the Contracting Officer of the original signed payrolls for labor, the original paid invoices for materials or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

(b) *Payment of the fixed fee.* Ninety percent (90%) of the fixed fee set forth in paragraph (a) of Article 3 hereof, shall be paid as it accrues. Upon completion of the work and its final acceptance, any unpaid balance of the fee, including the additions thereto, if any, to which the Contractor may be entitled, as provided in said paragraph (a) of Article 3, shall be paid to the Contractor.

(c) *Advance payments.* Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the national defense: *Provided, however,* That the total amount of money so advanced shall not exceed thirty percentum (30%) of the estimated cost of the articles called for, and that such advances, if made, shall be upon such terms and conditions and with such adequate security as the Secretary of War shall prescribe.

ART. 9. *Termination of contract by Government.* Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government that work be discontinued under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

ART. 22. *Title to property.* The title to all work under this contract, completed or in the course of manufacture or assembly at the Contractor's plant, shall be in the Government. Upon deliveries at the Contractor's plant, or at an approved storage site, title to all purchased materials, parts, assemblies, sub-assemblies, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed hereunder shall vest in the Government.

ART. 24. *Fire insurance.* The Contractor agrees unless and until otherwise directed in writing by the Contracting Officer to insure against fire all property in its possession upon which an advance payment or a payment in reimbursement for cost is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other advance payment or payments in reimbursement for cost, if any, theretofore made thereon, and further agrees to keep such property so insured until the same is delivered to the Government.

This contract authorized under the provisions of Section 2 (a) Act of June 28, 1940, Section 1 (a), Act of July 2, 1940 and Section 9, Act of June 30, 1941.

FRANK W. BULLOCK,  
Lt. Col., Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-9142; Filed, December 5, 1941;  
10:03 a. m.]

[Contract No. W-952-Ord-4550]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: STEDFAST & ROULSTON, INC.,  
156 OLIVER STREET, BOSTON, MASS.

Contract for: \* \* \* Gun Boring  
and Turning Lathes.  
Amount: \$1,352,262.00.

Place: Watertown Arsenal, Water-  
town, Massachusetts.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority: ORD 27007 P2-32 AO141-02 the available balances of which are sufficient to cover the cost thereof.

This contract,<sup>1</sup> entered into this 9th day of September, 1941.

*Scope of this contract.* The contractor shall furnish and deliver \* \* \* Gun Boring and Turning Lathes for the consideration stated One Million, three hundred fifty-two thousand two hundred sixty-two dollars (\$1,352,262.00) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

*Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

*Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

*Payments.* Contractor shall be paid seventy-five percent (75%) of the contract price upon complete delivery of each machine, and provisional acceptance of the equipment, and final payment of twenty-five percent (25%) of the contract price of each machine upon complete installation and final acceptance by the contracting officer: *Provided*, That upon the completion of the first payment of seventy-five percent (75%) of the contract price of each machine the

title to said equipment upon which the payment is made shall vest in, and said equipment shall become the sole property of the United States, and shall so remain unless and until the equipment be rejected under the provisions of the Contract.

*Performance bond.* The Contractor shall furnish a Performance Bond, with surety approved by the Secretary of War, in the amount of One hundred and thirty-five thousand, two hundred and twenty-seven dollars (\$135,227.00) guaranteeing the performance and fulfillment of all the undertakings, covenants, terms, conditions and agreements of this contract.

*Termination for convenience of the Government.* Should conditions arise which, in the opinion of the Secretary of War, make it desirable that the contract be terminated, the Government may, at any time after the commencement of performance by the Contractor, terminate this contract in whole or in part by a notice in writing from the Contracting Officer to the Contractor that the contract is terminated under this Article.

FRANK W. BULLOCK,  
Lt. Col., Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-9143; Filed, December 5, 1941;  
10:03 a. m.]

[Supplemental Contract to Contract  
No. W 535 ac-17399]

SUMMARY OF SUPPLEMENTAL CONTRACT TO  
COST-PLUS-A-FIXED-FEE SUPPLY CON-  
TRACT<sup>1</sup>

CONTRACTOR: THE STUDEBAKER CORPORA-  
TION, SOUTH BEND, INDIANA

Contract for: \* \* \* Engines, Spare  
Parts & Data.

Estimated Cost: \$69,635,420.00.

Fixed fee: \$4,703,363.00.

The supplies and services to be obtained by this instrument are authorized by, and for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover the cost of same. The funds quoted on the contract are cancelled and are superseded by the funds quoted hereon:

AC 26 P 81-3037 A 0705-01

AC 31 P 12-30 A 0705-2

AC 17 P 81-30 A 0705-2

AC 18 P 82-30 A 0705-2

This supplemental contract to contract No. W 535 ac-17399,<sup>2</sup> entered into this 24th day of September 1941.

Under date of December 21, 1940, the parties hereto entered into a contract, Contract No. W 535 ac-17399, by the terms of which the Contractor was to manufacture, furnish and deliver to the

<sup>1</sup> 6 F.R. 821.

<sup>2</sup> Approved by the Under Secretary of War, October 10, 1941.

Government \* \* \* engines, spare parts and data.

Under the terms of Article 5 of said contract the Government reserved the right to make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

At the time the Contractor entered into the aforesaid contract, it expected to enter into a contract with a third party for the manufacture of \* \* \* engines of the same type and model as those being manufactured for the Government under said contract, for which reason certain reference to said third party contract and certain conditions predicated upon said third party contract were included in said contract.

Due to causes beyond the control of the Contractor, said third party contract has not been entered into; and the Contractor hereby consents to the change in the type and model of engines to be manufactured by it under the terms of said contract and to an increase in the number of engines to be manufactured by it under said contract.

In consideration of the premises the parties hereto agree that Contract No. W 535 ac-17399 be, and the same is hereby, amended, modified and supplemented as follows:

*First:* Article 1. *Statement of work*, of said contract is amended by striking therefrom Items 1 and 2 of Paragraph 1 thereof, and substituting in lieu thereof, the following:

"Item (1) \* \* \* aeronautical engines."

"Item (2) Spare parts \* \* \*."

*Third:* Article 3. *Consideration*, is amended by striking paragraph (a) thereof and inserting in lieu thereof the following:

"(a) The Government will pay the Contractor for the items specified in the contract in the manner set forth in Article 6 hereof, the cost, plus a fixed fee of four million, two hundred twenty-five thousand, eight hundred and thirty dollars (\$4,225,830.00), exclusive of the elements of cost excepted by paragraph (b) of article 2 hereof, for the engines, and the cost plus a fixed fee for spare parts, which fee shall be approximately four hundred twenty-two thousand, five hundred and eighty-three dollars (\$422,583.00) and the cost plus a fixed fee of fifty-four thousand nine hundred fifty dollars (\$54,950.00).

*Eleventh:* Article 32. *Special provision*, is amended by the deletion of the words "and the third party contract" appearing in the second line of the Article.

*Twelfth:* Article 33 is amended by the deletion of the words "and of the third party contract" appearing at the end of the first and the beginning of the second line of the Article.

*Thirteenth:* Article 34. *Options*, is amended by substituting the words and

<sup>1</sup> Approved by the Under Secretary of War, November 4, 1941.

figures \* \* \* for the words and figures \* \* \* appearing in the last line of paragraph (a) of the Article and by adding at the end of said paragraph the following sentence:

"The Government is granted the further option at any time within \* \* \* days of the effective date of this supplemental contract to increase the quantity of spare parts called for under the terms of Item 2 of Article 1 by an amount equal to approximately \* \* \* complete engines."

This contract is authorized under the provisions of section 1 (a) Act of July 2, 1940, section 2 (a) Act of June 28, 1940, and section 9 Act of June 30, 1941.

FRANK W. BULLOCK,  
Lt. Col., Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-9144; Filed, December 5, 1941;  
10:04 a. m.]

## DEPARTMENT OF THE INTERIOR.

### Bituminous Coal Division.

[Docket Nos. A-1105; A-1105, Part II]

PETITIONS OF DISTRICT BOARD 4 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 4, AND FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF MINE INDEX NOS. 2870, 306, 2907, 310, 4, AND 200, IN DISTRICT 4

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1105, GRANTING, IN PART, TEMPORARY RELIEF IN DOCKET NO. A-1105 PART II, AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1105 PART II

An original petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 was filed by District Board 4 in Docket No. A-1105 proposing price classifications and minimum prices for the coals of certain mines and proposing additional loading points for certain other mines in that district. In its petition the District Board proposed price classifications and minimum prices for shipment from more than one loading point for the coals of the mines listed in Supplement R attached hereto.<sup>1</sup> The District Board also proposed that the price classifications and minimum prices heretofore established for the coals of the Allen Mine (Mine Index No. 4) of Allen Coal Co. and the Jacobs Mine (Mine Index No. 200) of Pearl Jacobs be made applicable to shipments from additional loading points.

<sup>1</sup> Not filed as part of the original document.

No showing has been made to justify granting these mines permission to make rail shipments from more than one loading point. The Director, therefore, deems it appropriate that price classifications and minimum prices be established at this time for coals of the mines listed in Supplement R attached hereto for shipment from only one loading point and on only one railroad; that no relief be granted as to the Allen Mine (Mine Index No. 4) and the Jacobs Mine (Mine Index No. 200) preceding a hearing on this matter; and that a hearing be held to determine the propriety of granting permission to Mine Index Nos. 2870, 306, 2907, 310, 4, and 200 to make rail shipments from more than one loading point.

*It is, therefore, ordered,* That the portion of Docket No. A-1105 relating to the mines listed in Supplement R attached hereto and to the mines specifically named above be severed from the remainder of the docket and that it be designated hereafter as Docket No. A-1105 Part II.

*It is further ordered,* That a hearing be held under the applicable provisions of the Act and the rules of the Division on January 5, 1942, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street, NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

*It is further ordered,* That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is

sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 30, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of intervention or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to (1) the establishment of price classifications and minimum prices for coals produced at the following mines for all shipments except truck, applicable to rail shipments from more than one loading point:

Darst Mine (Mine Index No. 2870) of Darst Bros. (Kenneth Earl Darst); Brilliant No. 2 Mine (Mine Index No. 306) of C. C. Fay (Fay Collieries Company); Lucky Mine (Mine Index No. 2907) of Luck Coal Company (E. L. Luckadoo); Black Betsy Mine (Mine Index No. 310) of Peacock Coal Company;

(2) application of the price classifications and minimum prices effective for the coals of the Allen Mine (Mine Index No. 4) of Allen Coal Company for rail shipments from Crooksville on the New York Central Railroad to such shipments from McLuney, Ohio, on the Pennsylvania Railroad and application of the price classifications and minimum prices effective for the coals of the Jacobs Mine (Mine Index No. 200) for rail shipments from Pomeroy on the Chesapeake & Ohio Railroad to such shipments from Hobson, Ohio, on the New York Central Railroad.

*It is further ordered,* That a reasonable showing of necessity having been made, pending final disposition of the above matter, temporary relief be and the same is hereby granted as follows: Commencing forthwith, the Schedule of Effective Minimum Prices for District No. 4 for All Shipments Except Truck is supplemented by including the price classifications and minimum prices set forth in the Schedule marked Supplement R annexed hereto and hereby made a part hereof.

Notice is hereby given that applications to stay, modify or terminate the temporary relief granted in this Order may be filed in accordance with the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Act.

Dated: November 21, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-9111; Filed, December 4, 1941;  
10:02 a. m.]

[Docket Nos. A-1147, A-1147 Part II]

PETITIONS OF DISTRICT BOARD NO. 4 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 4, AND FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF MINE INDEX NOS. 256, 1301, 1016, AND 1436, AND FOR THE ESTABLISHMENT OF ADDITIONAL SHIPPING POINTS FOR COALS OF MINE INDEX NOS. 877, 938, AND 2739, IN DISTRICT NO. 4, FOR ALL SHIPMENTS EXCEPT TRUCK

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1147 PART II FROM DOCKET NO. A-1147, GRANTING TEMPORARY RELIEF IN DOCKET NO. A-1147 PART II, AND NOTICE OF AN ORDER FOR HEARING IN DOCKET NO. A-1147 PART II

A petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, was filed with this Division in Docket A-1147 for the establishment of temporary and permanent price classifications and minimum prices, change of shipping points, and establishment of additional shipping points for coals of certain mines in District No. 4. As was found in an order issued in Docket No. A-1147 a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner except as to the coals of Mine Index Nos. 256, 1301, 1016, 1436, 877, 938, and 2739.

The petition proposes that price classifications and minimum prices be established for the coals of Mine Index Nos. 256, 1301, 1016, and 1436 for all shipments except truck. In addition, the original petition proposed that the price classifications and minimum prices effective:

(1) For the coals of Mine Index No. 877 of the Ebenezer Coal Company (M. F. Cannon) for all shipments except truck from Crooksville, Ohio, on New York Central Railroad shall also be applicable for such shipments from Roseville, Ohio, on Pennsylvania Railroad; and

(2) For the coals of Mine Index No. 938 of R. E. Wallace for all shipments except truck from Roseville, Ohio, on Pennsylvania Railroad shall be also applicable for such shipments from Crooksville, Ohio, on New York Central Railroad; and

(3) For the coals of Mine Index No. 2739 of W. A. Linton (Sewellsville Coal Company) from Freeport, Ohio, on Baltimore & Ohio Railroad shall be also applicable for such shipments from Barnesville, Ohio, on Baltimore & Ohio Railroad.

While it appears that an adequate showing has been made of the necessity for the granting of temporary relief for the coals of Mine Index Nos. 256, 1301, 1016 and 1436 for all shipments except truck from one shipping point, the Acting Director is of the opinion that the original petition does not set forth facts sufficient to warrant the establishment of the addi-

tional shipping points or the change of shipping points requested therein without a hearing.

Now, therefore, it is ordered, That the portion of Docket No. A-1147 relating to the coals of Mine Index Nos. 256, 1301, 1016, 1436, 877, 938 and 2739 be, and the same hereby is, severed from the remainder of Docket No. A-1147 and designated as Docket No. A-1147 Part II.

It is further ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 8, 1942, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Joseph A. Huston or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 3, 1942.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 4 to establish price classifications and minimum prices for the coals of Mine Index Nos. 256, 1301, 1016 and 1436 for

all shipments except truck from two or more shipping points and to make the price classifications and minimum prices effective:

(1) For the coals of Mine Index No. 877 for all shipments except truck from Crooksville, Ohio, on New York Central Railroad also applicable for such shipments from Roseville, Ohio, on Pennsylvania Railroad; and

(2) For the coals of Mine Index No. 938 from Roseville, Ohio, on Pennsylvania Railroad also applicable for such shipments from Crooksville, Ohio, on New York Central Railroad; and

(3) For the coals of Mine Index No. 2739 for all shipments except truck from Freeport, Ohio, on Baltimore & Ohio Railroad also applicable for such shipments from Barnesville, Ohio, on Baltimore & Ohio Railroad.

It is further ordered, That, a reasonable showing of necessity therefor having been made, temporary relief, pending final disposition of the matter designated Docket No. A-1147 Part II, be, and it is, granted as follows: Commencing forthwith, the Schedule of Effective Minimum Prices for District No. 4 For All Shipments Except Truck is supplemented to include the price classifications and minimum prices set forth in the temporary supplement marked "Supplement R" attached hereto<sup>1</sup> and made a part hereof.

It is further ordered, That applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 2, 1941.

[SEAL]

DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9112; Filed, December 4, 1941, 10:02 a. m.]

[Dockets Nos. A-1076; A-1076, Part II]

PETITIONS OF DISTRICT BOARD NO. 4 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 4; AND FOR THE ESTABLISHMENT OF ADDITIONAL SHIPPING POINTS FOR THE COALS OF FRED S. GEER, INC., JIMTOWN MINE, MINE INDEX NO. 299, IRISH RIDGE COAL CO., IRISH RIDGE-DEEP MINE, MINE INDEX NO. 234, IRISH RIDGE COAL CO., IRISH RIDGE-STRIP MINE, MINE INDEX NO. 247, GEORGE LANTZ, LANTZ COAL CO. MINE, MINE INDEX NO. 2465, AND MINERAL CITY COAL CO., BLACK MINE, MINE INDEX NO. 278, IN DISTRICT NO. 4

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1076 PART II FROM DOCKET NO. A-1076, GRANTING TEMPORARY RELIEF

<sup>1</sup> Not filed as part of the original document.

IN PART IN DOCKET NO. A-1076 PART II AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1076 PART II

The original petition in the above-entitled matters filed with this Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, request the issuance of orders establishing temporary and permanent price classifications and minimum prices for the coals of certain mines in District No. 4.

As indicated in an order issued in Docket No. A-1076, a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner, except with respect to the establishment of price classifications and minimum prices for the coals of Fred S. Geer, Inc., Jimtown Mine, Mine Index No. 299, Irish Ridge Coal Co., Irish Ridge-Deep Mine, Mine Index No. 234, Irish Ridge Coal Co., Irish Ridge-Strip Mine, Mine Index No. 247, George Lantz, Lantz Coal Co. Mine, Mine Index No. 2465, and Mineral City Coal Co., Black Mine, Mine Index No. 278, for all shipments except truck.

The original petition requests the establishment of such price classifications and minimum prices for the above-named code members for all shipments except truck from two shipping points. While it appears that temporary relief should be granted establishing temporary price classifications and minimum prices for the coals of the above-named mines, for one shipping point only, the Director is of the opinion that the original petitioner has not set forth sufficient facts to warrant the establishment of additional shipping points for the above-mentioned mines without a hearing. The shipping points hereinafter established for such mines are those which appear to be nearest to such mines, and therefore appropriate for the granting of temporary relief.

Now, therefore, it is ordered, That the portion of Docket No. A-1076 relating to the establishment of additional shipping points for the coals of Fred S. Geer, Inc., Jimtown Mine, Mine Index No. 299, Irish Ridge Coal Co., Irish Ridge-Deep Mine, Mine Index No. 234, Irish Ridge Coal Co., Irish Ridge-Strip Mine, Mine Index No. 247, George Lantz, Lantz Coal Co. Mine, Mine Index No. 2465, and Mineral City Coal Co., Black Mine, Mine Index No. 278 be, and the same hereby is, severed from Docket No. A-1076 and designated as Docket No. A-1076 Part II.

It is further ordered, That a hearing in Docket No. A-1076 Part II under the applicable provisions of said Act and the rules of the Division be held on December 16, 1941 at 10 o'clock in the forenoon of that day at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Division duly designated for that

purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendations of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 11, 1941.

The matter concerned herewith is in regard to the petition of District Board No. 4 for the establishment of permanent price classifications and minimum prices for the coals of Fred S. Geer, Inc., Jimtown Mine, Mine Index No. 299, Irish Ridge Coal Co., Irish Ridge-Deep Mine, Mine Index No. 234, Irish Ridge Coal Co., Irish Ridge-Strip Mine, Mine Index No. 247, George Lantz, Lantz Coal Co. Mine, Mine Index No. 2465, and Mineral City Coal Co., Black Mine, Mine Index No. 278, for All Shipments Except Truck.

It is further ordered, That, pending final disposition of Docket No. A-1076 Part II, temporary relief is granted as follows: Commencing forthwith, the Schedule of Effective Minimum Prices for District No. 4 for All Shipments Except Truck is supplemented to include the price classifications and minimum prices set forth in the schedule marked "Supplement R" annexed hereto<sup>1</sup> and hereby made a part hereof.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 18, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-9113; Filed, December 4, 1941; 10:03 a. m.]

<sup>1</sup> Not filed as part of the original document.

[Docket No. A-1149; A-1149, Part II]

PETITIONS OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 1; AND FOR THE ESTABLISHMENT OF AN ADDITIONAL SHIPPING POINT FOR THE COALS OF ALBERT STRIPPING MINE AND POTOMAC NO. 4 & NO. 6 MINE, MINE INDEX NOS. 1006 AND 397, RESPECTIVELY, FOR THE ESTABLISHMENT OF TWO SHIPPING POINTS FOR THE COALS OF CUSHNER NO. 1 MINE, MINE INDEX NO. 3159, AND FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE MIXING OF THE COALS OF CHICKASAW, MOHICAN, CADOGAN NOS. 1 AND 2 MINES, MINE INDEX NOS. 93, 329, 76, AND 976, RESPECTIVELY, AND OF THE COALS OF CHERRY RUN NOS. 1, 2, 3A, AND 4 MINES, MINE INDEX NOS. 88, 688, 3189 AND 3187, RESPECTIVELY

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1149 PART II FROM DOCKET NO. A-1149 GRANTING IN PART TEMPORARY RELIEF AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1149 PART II

A petition, pursuant to the Bituminous Coal Act of 1937, was duly filed with this Division in Docket No. A-1149, requesting the establishment of price classifications and minimum prices for the coals of certain mines in District No. 1. As the Director found in an Order issued in Docket No. A-1149, a reasonable showing of necessity has been made for the granting of the relief prayed for by the petitioner, except as to the coals of Albert Stripping Mine, Potomac No. 4 and No. 6 Mine, Cushner No. 1 Mine, Chickasaw, Mohican, Cadogan Nos. 1 and 2 Mines, Cherry Run Nos. 1, 2, 3A, and 4 Mines, Mine Index Nos. 1006, 397, 3159, 93, 329, 76, 976, 88, 688, 3189, and 3187, respectively.

The petitioner proposes that the price classifications and minimum prices effective:

1. For the coals of Albert Stripping Mine, Mine Index No. 1006, for rail shipments from Morrisdale, Pennsylvania, on New York Central Railroad, shall also be applicable for such shipments from Munson, Pennsylvania, on the said railroad; and

2. For the coals of Potomac No. 4 & 6 Mine, Mine Index No. 397, for rail shipments from Lonaconing, Maryland, on Western Maryland Railroad, shall also be applicable for such shipments from Barton, Maryland, on Cumberland & Pennsylvania Railroad.

Since the petition does not allege any facts in support of these proposals, the Director is of the opinion that no temporary relief should be granted as to these proposals, and that the necessity therefor should be clearly shown at a hearing.

The petition further proposes that price classifications and minimum prices be established for the coals of Cushner

No. 1 Mine, Mine Index No. 3159, for rail shipments from North Philipsburg, Pennsylvania, on New York Central Railroad, and Philipsburg, Pennsylvania, on Pennsylvania Railroad. The petition does not allege sufficient facts for the establishment of price classifications and minimum prices for rail shipments from two shipping points, without a hearing. Accordingly, the Director is of the opinion that temporary relief should be granted at this time only for shipments from North Philipsburg, Pennsylvania on New York Central Railroad, and that the necessity for an additional shipping point should be clearly shown at a hearing.

The petition further proposes that minimum prices be established for the mixing of the coals of Chickasaw, Mohican, Cadogan Nos. 1 and 2 Mines, Mine Index Nos. 93, 329, 76, and 976, respectively, and for the mixing of the coals of Cherry Run Nos. 1, 2, 3A, and 4 Mines, Mine Index Nos. 88, 688, 3189, and 3187, respectively, for all shipments except truck. The petition does not, however, allege any facts in support of these proposals. The Director is of the opinion that no temporary relief should be granted as to these proposals until the necessity therefor has been clearly shown at a hearing.

Now, therefore, it is ordered, That the portion of Docket No. A-1149 relating to the coals of Albert Stripping Mine, Potomac No. 4 & No. 6 Mine, Cushner No. 1 Mine, Chickasaw, Mohican, Cadogan Nos. 1 and 2 Mines, Cherry Run Nos. 1, 2, 3A, and 4 Mines, Mine Index Nos. 1006, 397, 3159, 93, 329, 76, 976, 88, 688, 3189, and 3187, be, and it hereby is, severed from the remainder of Docket No. A-1149 and designated as Docket No. A-1149 Part II.

It is further ordered, That a hearing in Docket No. A-1149 Part II under the applicable provisions of said Act and the rules of the Division be held on December 19, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That W. A. Shipman or any other officer or officers of the Division duly designated for the purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appro-

appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 13, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matter's specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of intervention or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 1 for the application of the price classifications and minimum prices effective for the coals of Albert Stripping Mine, Mine Index No. 1006, for rail shipments from Morrisdale, Pennsylvania, on New York Central Railroad, to such shipments from Munson, Pennsylvania, on New York Central Railroad, and for the coals of Potomac No. 4 & 6 Mine, Mine Index No. 397, for rail shipments from Lonaconing, Maryland, on Western Maryland Railroad, to such shipments from Barton, Maryland, on the Cumberland & Pennsylvania Railroad and for the establishment of price classifications and minimum prices for the coals of Cushner No. 1 Mine, Mine Index No. 3159, for rail shipments from North Philipsburg, Pennsylvania, on New York Central Railroad, and Philipsburg, Pennsylvania, on Pennsylvania Railroad, and for the establishment of price classifications and minimum prices for the mixing of the coals of Chickasaw, Mohican, Cadogan Nos. 1 and 2 Mines, Mine Index Nos. 93, 329, 76, and 976, respectively, and for the mixing of the coals of Cherry Run Nos. 1, 2, 3A, and 4 Mines, Mine Index Nos. 88, 688, 3189, and 3187, for all shipments except truck.

It is further ordered, That, pending final disposition of Docket No. A-1149, temporary relief is granted as follows: Commencing forthwith, Price Schedule No. 1 for District No. 1 For All Shipments Except Truck is supplemented to include the price classifications and minimum prices set forth in the schedule marked

"Temporary Supplement R", annexed hereto<sup>1</sup> and hereby made a part hereof.

Notice is hereby given that application to stay, terminate or modify the temporary relief granted herein may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 17, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-9114; Filed, December 4, 1941;  
10:03 a. m.]

[Docket No. B-47]

IN THE MATTER OF MAURER COAL COMPANY,  
REGISTERED DISTRIBUTOR, REGISTRATION  
No. 6065, RESPONDENT

ORDER POSTPONING HEARING AND EXTENDING  
TIME TO ANSWER

The above-entitled matter having been scheduled for hearing at Washington, D. C., on December 12, 1941, by Order of the Director dated October 24, 1941;

It appearing to the Acting Director that it is advisable to postpone hearing in this matter;

Now, therefore, it is ordered, That hearing in the above-entitled matter be and the same is hereby postponed to a time and place to be determined by subsequent order issued by the Acting Director;

It is further ordered, That time to file answer by respondent is extended for a period of twenty (20) days from the date of this order; and

It is further ordered, That Notice of and Order for Hearing dated October 24, 1941, and Order Amending Notice of and Order for Hearing dated November 22, 1941, shall in all other respects remain in full force and effect.

Dated: December 4, 1941.

[SEAL]

DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9153; Filed, December 5, 1941;  
11:16 a. m.]

[Docket No. B-42]

IN THE MATTER OF H. N. HARTWELL &  
SON, INC., REGISTERED DISTRIBUTOR,  
REGISTRATION No. 4055, RESPONDENT

ORDER POSTPONING HEARING AND EXTENDING  
TIME TO ANSWER

The above-entitled matter having been scheduled for hearing at Washington, D. C., on December 8, 1941, by Order of the Director dated October 22, 1941;

It appearing that respondent having filed written motion dated November 27, 1941, for extension of time in which to file answer until December 30, 1941, and

<sup>1</sup> Not filed as part of the original document.

also request that hearing in its docket be indefinitely postponed to a time and place to be determined by the Acting Director after the filing of said answer; and

It appearing to the Acting Director that it is advisable to extend the time in which to file answer and to postpone hearing;

*Now therefore it is ordered*, That hearing in the above-entitled matter be and the same hereby is postponed to a time and place to be determined by subsequent order of the Acting Director and

*It is further ordered*, That time to file answer of respondent be extended for a period of twenty (20) days from the date of this order; and

*It is further ordered*, That Notice of and Order for Hearing dated October 22, 1941, and Order Amending Notice of and Order for Hearing dated November 22, 1941, shall in all other respects remain in full force and effect.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9154; Filed, December 5, 1941;  
11:16 a. m.]

[Docket No. B-43]

IN THE MATTER OF WYATT, INC., REGISTERED DISTRIBUTOR, REGISTRATION No. 9907, RESPONDENT

ORDER POSTPONING HEARING AND EXTENDING TIME TO ANSWER

The above-entitled matter having been scheduled for hearing at Washington, D. C., on December 10, 1941, by order of the Director dated October 24, 1941;

It appearing to the Acting Director that it is advisable to postpone hearing on this matter;

*Now, therefore, it is ordered*, That hearing in the above-entitled matter be and the same is hereby postponed to a time and place to be determined by subsequent order issued by the Acting Director;

*It is further ordered*, That time to file answer by respondent is extended for a period of twenty (20) days from the date of this order; and

*It is further ordered*, That Notice of and Order for Hearing dated October 24, 1941, and Correction of Error in Notice of and Order for Hearing dated November 22, 1941, shall in all other respects remain in full force and effect.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9155; Filed, December 5, 1941;  
11:17 a. m.]

[Docket No. B-44]

IN THE MATTER OF J. O. FITCHER COAL COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION No. 7341, RESPONDENT.

ORDER POSTPONING HEARING AND EXTENDING TIME TO ANSWER

The above-entitled matter having been scheduled for hearing at Washington, D. C., on December 11, 1941, by order of the Director dated October 24, 1941;

It appearing that counsel for respondent having filed written motion dated November 24, 1941, for extension of time in which to file answer until December 1, 1941; and

It appearing to the Acting Director that it is advisable to extend the time in which to file answer and to postpone hearing;

*Now therefore it is ordered*, That hearing in the above-entitled matter be and the same hereby is postponed to a time and place to be determined by subsequent order of the Acting Director; and

*It is further ordered*, That time to file answer of respondent be extended for a period of twenty (20) days from the date of this order; and

*It is further ordered*, That Notice of and Order for Hearing dated October 24, 1941, and Correction of Error in Notice of and Order for Hearing dated November 22, 1941, shall in all other respects remain in full force and effect.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9156; Filed, December 5, 1941;  
11:17 a. m.]

[Docket No. B-46]

IN THE MATTER OF HOWARD COAL AND COKE COMPANY, INC., REGISTERED DISTRIBUTOR REGISTRATION No. 4541, RESPONDENT

ORDER POSTPONING HEARING AND EXTENDING TIME TO ANSWER

The above-entitled matter having been scheduled for hearing at Washington, D. C., on December 13, 1941, by order of the Director dated October 24, 1941;

It appearing to the Acting Director that it is advisable to postpone hearing in this matter;

*Now, therefore, it is ordered*, That hearing in the above-entitled matter be and the same is hereby postponed to a time and place to be determined by subsequent order issued by the Acting Director;

*It is further ordered*, That time to file answer by respondent is extended for a period of twenty (20) days from the date of this order; and

*It is further ordered*, That Notice of and Order for Hearing dated October 24,

1941, and Order Amending Notice of and Order for Hearing dated November 22, 1941, shall in all other respects remain in full force and effect.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9157; Filed, December 5, 1941;  
11:17 a. m.]

[Docket No. B-95]

IN THE MATTER OF MOHAWK MINING COMPANY, A CORPORATION, A CODE MEMBER, DEFENDANT

ORDER POSTPONING HEARING AND REDESIGNATING TRIAL EXAMINER

The above-entitled matter having been heretofore scheduled for hearing at 10 o'clock in the forenoon of December 15, 1941 at a hearing room of the Division at the Armstrong County Court House, Kittanning, Pennsylvania; and

It appearing to the Acting Director that it is advisable to postpone said hearing;

*It is ordered*, That said hearing in this matter be postponed to January 8, 1942 at 10 o'clock a. m., at Room 323, Post Office Building, Altoona, Pennsylvania;

*It is further ordered*, That Joseph D. Dermody, or any other officer of the Division duly designated, shall preside at the hearing in the above-entitled matter, vice Edward J. Hayes.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9158; Filed, December 5, 1941;  
11:18 a. m.]

[Docket No. B-133]

IN THE MATTER OF ISAAC COLLINS, BRYANT MOORE, THOMAS WILLIAMS, SR., AND THOMAS WILLIAMS, JR. (MAMMOTH BLOCK COAL COMPANY), ALSO KNOWN AS ISAAC COLLINS, BRYANT MOORE, THOMAS WILLIAMS, SENIOR, AND THOMAS WILLIAMS JUNIOR, INDIVIDUALLY AND AS CO-PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF MAMMOTH BLOCK COAL COMPANY, CODE MEMBER, DEFENDANTS

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 5, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on November 5, 1941, by Bituminous Coal Producers Board for District No. 8, a district board, complainant, with the Bituminous Coal Division alleging wilful violation by the defendants of the Bituminous Coal Code or rules and regulations thereunder;

*It is ordered*, That a hearing in respect to the subject matter of such complaint be held on January 19, 1942, at 10 a. m. at a hearing room of the Bituminous Coal Division at the Federal Building, Catlettsburg, Kentucky.

*It is further ordered*, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division duly designated for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendants and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendants; and that any defendant failing to file an answer within such period, unless otherwise ordered, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging wilful violation by the above named defendants of the Bituminous Coal Code or rules and regulations thereunder as follows: That the

defendants, whose addresses are Rush, Kentucky, and whose code membership became effective November 24, 1940, during the period from March 8, 1941 to April 14, 1941, both dates inclusive, sold, delivered and offered to sell approximately 87.02 tons of ¾" nut and slack coal, High Volatile, Size Group 8, produced at the defendant's mine, Mine Index No. 3167, located in Boyd County, Kentucky, to Ray Rife, Rush, Kentucky, at a price of 40 cents per net ton f. o. b. said mine, whereas said coal was classified as Size Group No. 8 and priced at \$1.45 per net ton f. o. b. said mine in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments, as amended by Order of the Director entered in Docket No. A-528, dated January 31, 1941; which transactions constituted sales, deliveries and offers for sale of bituminous coal at prices below the minimum established therefor by the Division and a violation of the Act and the Code.

Dated: December 3, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9159; Filed, December 5, 1941;  
11:18 a. m.]

[Docket No. B-112]

IN THE MATTER OF SAMUEL C. HAER AND FRED B. HAER, INDIVIDUALLY AND AS CO-PARTNERS DOING BUSINESS UNDER THE NAME AND STYLE OF SAMUEL C. HAER AND FRED B. HAER, DEFENDANTS

NOTICE OF AND ORDER FOR HEARING

A complaint dated October 13, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on October 16, 1941, by Bituminous Coal Producers Board for District No. 1, a District Board, complainant, with the Bituminous Coal Division alleging wilful violation by the defendants of the Bituminous Coal Code or rules and regulations thereunder;

*It is ordered*, that a hearing in respect to the subject matter of such complaint be held on January 9, 1942, at 10 a. m. at a hearing room of the Bituminous Coal Division at Room 323, Post Office Building, Altoona, Pennsylvania.

*It is further ordered*, That Joseph D. Dermody or any other officer or officers of the Bituminous Coal Division duly designated for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by an-

nouncement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendants and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under Section 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendants; and that any defendant failing to file an answer within such period, unless otherwise ordered, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging wilful violation by the above named defendants of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendants, Samuel C. Haer and Fred B. Haer, individually and as co-partners doing business under the name and style of Samuel C. Haer and Fred B. Haer, of 16 South Ninth Street, Indiana, Pennsylvania, subsequent to September 30, 1940 sold and delivered to McCreary Rubber Company, Indiana, Pennsylvania, substantial quantities of run of mine coal produced at their Haer Mine, Mine Index No. 1464, located at Marion Center, Subdistrict 15 of District No. 1, Indiana County, Pennsylvania, at the delivered price of \$2.25 per net ton which was less than the effective minimum f. o. b. mine price established therefor of \$2.20 per net ton f. o. b. said mine, plus an amount at least equal, as nearly as practicable to the actual transportation charges, handling charges, or incidental charges of whatsoever kind or character, from the transportation fa-

cilities at the mine to the point of delivery of said coal at which point all such charges were assumed and directly paid by the purchaser. Said point of delivery was approximately 15 miles from said transportation facilities at the mine. Hence said sales and deliveries were made contrary to the provisions of Price Instruction No. 6 of Schedule No. 1, of the Effective Minimum Prices for District No. 1 For Truck Shipments as amended by Supplement No. 1 of said Schedule and, therefore, the above transactions constituted sales and deliveries of coal at a price below the minimum established therefor and in violation of section 4 Part II (e) (g) of the Act and Part II (e) (g) of the Code.

Dated: December 3, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9160; Filed, December 5, 1941;  
11:18 a. m.]

[Docket No. A-1129]

PETITION OF SOMERSET RETAIL COAL DEALER'S ASSOCIATION FOR THE REVISION OF PRICE INSTRUCTION 6 IN THE SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1 FOR TRUCK SHIPMENTS INTO SOMERSET TOWNSHIP, SOMERSET COUNTY, PENNSYLVANIA, IN MARKET AREA 6

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered,* That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 27, 1942, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered,* That Charles O. Fowler or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be ad-

mitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 21, 1942.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of Somerset Retail Coal Dealers' Association for the revision of Price Instruction 6 in the Schedule of Effective Minimum Prices for District No. 1 For Truck Shipments into Somerset Township, Somerset County, Pennsylvania, in Market Area 6, and, more particularly, for the amendment of Price Instruction 6 in the said Schedule to provide that not less than 100 cents per net ton shall be added to the effective minimum prices f. o. b. mines for truck shipments into Somerset Township, County of Somerset, Commonwealth of Pennsylvania, in Market Area 6.

Dated: December 3, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9161; Filed December 5, 1941;  
11:19 a. m.]

[Docket No. A-1177]

L. O. RYALS, A CODE MEMBER PRODUCER IN DISTRICT NO. 15 FOR A REDUCTION IN THE EFFECTIVE MINIMUM PRICE FOR MINE RUN COAL PRODUCED FROM THE RYALS MINE (MINE INDEX NO. 935) FOR TRUCK SHIPMENTS TO ALL MARKET AREAS

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered,* That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 27, 1942, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered,* That Joseph D. Dermody or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated

to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 22, 1942.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of L. O. Ryals, a code member producer in District No. 15, for a reduction in the effective minimum price, from \$2.30 per ton to \$2.10 per ton, for mine run coal produced from the Ryals Mine (Mine Index No. 935) for shipment by truck into all market areas.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9162; Filed, December 5, 1941;  
11:19 a. m.]

[Docket No. 1708-FD]

IN THE MATTER OF SHEBAN MINING COMPANY, DEFENDANT

ORDER REVOKING AND CANCELLING CODE MEMBERSHIP

A complaint having been filed with the Bituminous Coal Division on June 11, 1941, by District Board 4, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, alleging wilful violations by the Sheban Mining Company, a code member in District 4, the defendant, of the Bituminous Coal Code and rules and regulations thereunder, as follows:

That during October, November, and December 1940, the defendant sold for truck shipment 2' lump coal and mine-run coal produced at the defendant's mine (Mine Index No. 2314) at prices of \$2.50 per net ton for the lump coal and \$2.25 per net ton for the mine-run coal, which prices were below the effective minimum prices for such coals;

Pursuant to an Order of the Acting Director dated July 17, 1941, a hearing in this matter having been held before a duly designated Examiner of the Division at a hearing room thereof in Youngstown, Ohio, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard and the defendant having appeared at the hearing;

The preparation and filing of a report by the Examiner having been waived and the record in the proceeding having thereupon been submitted to the undersigned;

The undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion in this matter which are filed herewith;

Now, therefore, it is ordered, That the code membership of the defendant, Karam Sheban (Sheban Mining Company), operating in Mahoning County, Ohio, in District 4, be, and it hereby is, revoked and cancelled.

It is further ordered, That prior to any reinstatement of the defendant, Karam Sheban (Sheban Mining Company), to membership in the Code, the defendant shall pay to the United States a tax in the amount of \$4117.16 as provided in Section 5 (c) of the Bituminous Coal Act of 1937.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9163; Filed, December 5, 1941; 11:19 a. m.]

[Docket No. A-1135]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 1

[Docket No. A-1135, Part II]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF ADDITIONAL SHIPPING POINTS FOR MINE INDEX NOS. 863, 864 AND 501, IN DISTRICT NO. 1, FOR ALL SHIPMENTS EXCEPT TRUCK

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1135 PART II FROM DOCKET NO. A-1135 AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1135 PART II

A petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, was filed with the Division in Docket No. A-1135 for the establishment of price classifications and minimum prices for

the coals of certain mines in District No. 1. As was found in an order issued in Docket No. A-1135, a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner except as to the coals of Mine Index Nos. 863, 864, and 501, for all shipments except truck.

The petition proposes that the price classifications and minimum prices effective:

(1) for the coals of Mine Index Nos. 863 and 864 for all shipments except truck from Barnum, West Virginia, on Western Maryland Railroad shall also be applicable for such shipments from Westernport, Maryland, on Cumberland & Pennsylvania Railroad; and

(2) For the coals of the Saylor Mine (Mine Index No. 501) of Leonard L. Romesburg for all shipments except truck from Rockwood, Maryland, on Baltimore & Ohio Railroad shall also be applicable for such shipments from Rockwood, Maryland, on Western Maryland Railroad.

Since the petition does not allege any facts in support of these proposals, the Acting Director is of the opinion that no temporary relief should be granted upon the basis of such proposals until the necessity therefor has been shown at a hearing.

Now, therefore, it is ordered, That the portion of Docket No. A-1135 relating to the coals of Mine Index Nos. 863, 864, and 501 be, and the same hereby is, severed from the remainder of Docket No. A-1135 and designated as Docket No. A-1135 Part II.

It is further ordered, That a hearing in Docket No. A-1135 Part II under the applicable provisions of said Act and the rules of the Division be held on January 6, 1942, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street, N. W., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit proposed findings of fact and conclusions and the recommendations of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 2, 1942.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 1 to make the price classifications and minimum prices effective:

(1) For the Coals of Mine Index Nos. 863 and 864 of Brown and Lawrence (Melvin L. Brown) for all shipments except truck from Barnum, West Virginia, on Western Maryland Railroad also applicable for such shipments from Westernport, Maryland, on the Cumberland & Pennsylvania Railroad.

(2) For the coals of the Saylor Mine (Mine Index No. 501) of Leonard L. Romesburg for all shipments except truck from Rockwood, Maryland, on Baltimore & Ohio Railroad also applicable for such shipments from Rockwood, Maryland, on Western Maryland Railroad.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9164; Filed, December 5, 1941; 11:19 a. m.]

[Docket No. 1705-FD]

IN THE MATTER OF PETERSON COAL COMPANY, DEFENDANT

ORDER GRANTING APPLICATION FOR RESTORATION OF CODE MEMBERSHIP

A written complaint dated June 2, 1941, having been filed herein by the Bituminous Coal Producers' Board for District No. 4, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act"), alleging wilful violation by the Peterson Coal Company, Deerfield, Ohio, of the Bituminous Coal Code and rules and regulations thereunder; and

The Director having made Findings of Fact, Conclusions of Law and Opinion and entered an Order based thereon revoking the code membership of the Peterson Coal Company, dated November 10, 1941, respectively, after a hearing held in the above-entitled matter on September 5, 1941, at Akron, Ohio, pursuant to an Order of the Acting Director dated July 17, 1941; and

Said Peterson Coal Company, having filed with the Division, as provided in section 5 (c) of the Act, its application dated November 25, 1941, for restoration of code membership to become effective from and after the payment of the tax provided in said Order of November 10, 1941; and

It appearing from said application that the Peterson Coal Company, on November 19, 1941, paid to the Collector of Internal Revenue at Cleveland, Ohio, the sum of nine hundred two dollars and sixty cents (\$902.60), as provided in said Order of November 10, 1941, as a condition precedent to restoration of its code membership.

It is, therefore, ordered, That said application of the Peterson Coal Company, dated November 25, 1941, for restoration of its code membership be granted and that the code membership of the Peterson Coal Company, be and it hereby is restored as of November 19, 1941.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9165; Filed, December 5, 1941;  
11:20 a. m.]

[Docket No. B-9]

IN THE MATTER OF CLAUDE GALBRAITH & SON COAL COMPANY A PARTNERSHIP, CODE MEMBER, DEFENDANT

ORDER POSTPONING HEARING

The above-entitled matter having been heretofore scheduled for hearing at 10 o'clock in the forenoon of December 15, 1941, at a hearing room of the Bituminous Coal Division, Room 216, Post Office Building, Terre Haute, Indiana; and

The Acting Director deeming it advisable that said hearing should be postponed;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be postponed from 10 o'clock in the forenoon of December 15, 1941, until 10 o'clock in the forenoon of December 18, 1941, at a hearing room of the Bituminous Coal Division, at Room 216, Post Office Building, Terre Haute, Indiana, and before the officers previously designated to preside at said hearing.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9166; Filed, December 5, 1941;  
11:20 a. m.]

[Docket No. 1836-FD]

IN THE MATTER OF THE APPLICATION OF GULF, MOBILE AND OHIO RAILROAD COMPANY FOR A DETERMINATION OF THE STATUS OF THE COAL PRODUCED AT ITS ILLIMO MINE IN RANDOLPH COUNTY, ILLINOIS, PURSUANT TO THE SECOND PARAGRAPH OF SECTION 4-A OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING

The original petitioner having moved that the hearing in the above-entitled matter, heretofore scheduled for December 8, 1941, be postponed, and having shown good cause why said motion should be granted;

Now, therefore, it is ordered, That the hearing in the above entitled matter be and it hereby is postponed from 10 o'clock in the forenoon of December 8, 1941, until 10 o'clock in the forenoon of January 19, 1942, at the place and before the officers heretofore designated.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9167; Filed, December 5, 1941;  
11:20 a. m.]

[Docket No. A-1096]

IN THE MATTER OF THE PETITION OF ISLAND RUN COAL COMPANY, A CODE MEMBER IN DISTRICT NO. 3, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF ITS ISLAND RUN NO. 1 MINE, (MINE INDEX NO. 377)

ORDER DISMISSING PETITION

An original petition, pursuant to the Bituminous Coal Act of 1937, having been filed with the Division, by the above-named party, for the establishment of price classifications and minimum prices for the coals of its Island Run No. 1 Mine, (Mine Index No. 377), in District No. 3; and

The Director, by a communication of October 18, 1941, having informed the above-named party that its petition was not in proper form for consideration as a petition duly filed pursuant to section 4 II (d) of the Act, and no further communication having been received from the above-named party; and

District Board No. 3 having duly filed a petition in Docket No. A-1113 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 3, including the said Mine Index No. 377; and

The Director by his Order of November 7, 1941, in Docket No. A-1113, having established, among other matters, price classifications and minimum prices for the coals of Mine Index No. 377, as prayed for in the petition therein; and

It appearing, accordingly, that in view of the foregoing circumstances the origi-

nal petitioner has no further interest in the above-entitled matter;

Now, therefore, it is ordered, That the petition in the above-entitled matter be, and it hereby is, dismissed, without prejudice.

Dated: December 3, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9168; Filed, December 5, 1941;  
11:21 a. m.]

[Docket No. A-1169]

IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 6 FOR CHANGE IN LOADING POINT OF DEVENNEY NO. 2 MINE, MINE INDEX NO. 31, IN DISTRICT NO. 6, FOR ALL SHIPMENTS EXCEPT TRUCK

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting a change in the loading point of the Devenney No. 2 Mine, Mine Index No. 31, of Wheeling Valley Coal Corporation, in District No. 6, from Wellsburg, West Virginia, on Pennsylvania Railroad to Beech Bottom, West Virginia, on the said railroad, for rail shipments; and

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

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

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

Now, therefore, it is ordered, That pending final disposition of the above-entitled proceeding, temporary relief is granted as follows: Commencing forthwith, the price classifications and minimum prices effective for the coals of the Devenney No. 2 Mine, Mine Index No. 31, of Wheeling Valley Coal Corporation, for rail shipments, shall be applicable only for shipments on Pennsylvania Railroad from Beech Bottom, West Virginia, and shall no longer be applicable for shipments on Pennsylvania Railroad from Wellsburg, West Virginia. All allowances or adjustments required or permitted mines in Freight Origin Group No. 30 shall be applicable to all shipments of the coals of the Devenney No. 2 Mine, Mine Index No. 31, of Wheeling Valley Coal Corporation from Beech Bottom, West Virginia, on Pennsylvania Railroad.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Gov-

erning Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

*It is further ordered*, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: December 3, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9169; Filed, December 5, 1941;  
11:21 a. m.]

[Docket No. A-529]

IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 8 FOR REDUCTION IN CLASSIFICATION IN SIZE GROUPS 18-21 OF COALS FROM THE DABNEY - MACBETH MINES OF HUTCHINSON COAL COMPANY

MEMORANDUM OPINION AND ORDER DENYING FURTHER RELIEF AFTER RECONSIDERATION

This proceeding was instituted upon an original petition filed with the Bituminous Coal Division by District Board No. 8, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, requesting a reduction from "D" to "E" of the classification of the coals produced by the Dabney Mine (Mine Index No. 150) and the Macbeth Mine (Mine Index No. 304) of Hutchinson Coal Company (Hutchinson) in Size Groups 18 to 21. Hutchinson intervened, claiming that the reduction should be to an "F" classification.

Following an informal conference, the Director, by Order of January 18, 1941, allowed a temporary reduction in price classification from "D" to "F" for the Dabney and Macbeth Mines, but limited relief to destinations other than the Great Lakes.

District Board No. 2, Island Creek Coal Company, Mallory Coal Company, Amherst Coal Company and the Lorado Coal Mining Company intervened generally and Boone County Coal Corporation and Monitor Coal & Coke Company filed written appearances. West Virginia Coal & Coke Corporation intervened, claiming that its Earling Mine (Mine Index No. 181) produced similar coal to that of the Dabney and Macbeth Mines, and praying for the same relief as granted to them.

Pursuant to Orders of the Director, a hearing was held in Washington, D. C., beginning on February 20, 1941, in conjunction with Dockets Nos. A-538, A-579, and A-594 which involved petitions of other producers in Logan County, West Virginia, for reductions in the classification of their coals in Size Groups 18 to 21 and in some other sizes. Following the hearing, Hutchinson again requested temporary relief for shipments for Great Lakes cargo. This was granted by Order of April 30, 1941, which provided for a temporary reduction in classification from "D" to "E" for Great Lakes cargo only. On May 13, The Lorado Coal Mining Company by motion expressed fur-

ther opposition to a reduction of the classification of the coals of Hutchinson's mines to "F" (for shipments to the Great Lakes).

In accordance with the waivers of the report of the Examiner filed by all parties, the Director filed his Findings of Fact, Conclusions of Law, and Opinion and issued his final Order on September 19, 1941. The final Order reduced the classification of the Dabney and Macbeth Mines in Size Groups 18 to 21 from "D" to "E" for shipment to all destinations, instead of to "F" as prayed by Hutchinson, and granted relief to eight other mines. The question of the classification of the Dabney and Macbeth Mines is now raised by a motion for reconsideration filed by Hutchinson on October 22, 1941, in which it urges a further reduction to "F."

In granting final relief, the Director found that since original classification of their coals, mechanization of the Dabney and Macbeth Mines, and important changes in the character of the seam mined had resulted in increased impurities and reduced B.t.u. in the coal from both mines in Size Groups 18 to 21, and in particular increased moisture in Dabney coal. Coals from both show a high percentage of fines and excessive coking. The deterioration appeared from proximate analyses, complaints and loss of customers and reduced running time. The Director found that the record supported the request of District Board No. 8 for a 5 cent reduction to "E", but failed to prove sufficient additional deterioration to justify the 10 cent reduction to "F" claimed by Hutchinson.

In its motion for reconsideration Hutchinson stresses an alleged failure of the Director to attach proper weight to a decrease in B. t. u. of about 300 for coals of each mine, shown by official District Board analyses, and an apparent inequality in classifying the coals at "E" when their B. t. u. value more nearly resembles the average of "F" coals in District No. 8 as shown by an exhibit in the case. At the hearing, Hutchinson and other parties overstressed the value of B. t. u. rating in the classification of coal, even urging the theory that a drop of 300 B. t. u. justified a reduction of 10 cents per ton. The question was discussed at several points in the finding. B. t. u. is only one element of a proximate analysis, and, as appeared in the testimony of witnesses McAllister and Wyatt and as the Director has often ruled, analyses are not the sole basis for classification. On fixing a price for the coals of the Hutchinson mines analyses were considered, along with the seam, physical properties, burning characteristics and market experience shown. Hutchinson's testimony regarding the amount of further deterioration of Dabney Mine coals was inadequate, for it was based on incomplete analyses, primarily of ash content, from which only an estimate of the alleged B. t. u. reduction could be made. It covered a brief

period, and, as admitted by Hutchinson's witness J. L. Finkenbinder, all coals may vary a few hundred B. t. u. at times.

Hutchinson argues that its market experience justifies a 10 cent reduction, pointing to former interchangeability with the Chilton seam coals from its Argyle Mine and its sales experience before and after temporary relief, and denying the serious effect of the close of the lake season upon its sales. These matters were all carefully considered in the first instance. Only Detroit Edison Company was shown to have evaluated the coals of the Dabney and Macbeth Mines definitely at "F", and that represents the opinion of an interested party, though of value. On the other hand it was admitted that Macbeth and Dabney coals were sold to Detroit Edison Company in the summer of 1940 at a contract price of \$1.45 to \$1.50. Witness Gleaves testified that coals of Stirrat No. 19 Mine of West Virginia Coal & Coke Corporation, classified "E", sold there at \$1.35 to \$1.45, and the record shows they were practically interchangeable with those of its Earling Mine, reduced to "E" as a result of the joint hearing herein. Witnesses for both West Virginia Coal & Coke Corporation and The Lorado Coal Mining Company insisted that a reduction below "E" for the Hutchinson coals would injure their business.

In the period of January through September 1940, about 30 per cent of the production of the Dabney Mine and 33 per cent of the production of the Macbeth Mine were shipped via the Great Lakes. The proportion was even greater in 1939. This being so, it is difficult to conclude that reduced sales between October 1940, and the hearing in February 1941 were due to an excessive lake price, and not to the close of the lake season early in November 1940, or to conclude that the price was 10 cents and not 5 cents too high. The fact that in the period between the granting of a temporary "F" classification and the hearing—January 18 to February 20—no new customers were obtained, and that from February 1 to 15 running time was below average, is not persuasive proof that the "F" price classification was proper, for the test period was too short.

In reexamining the record in this proceeding, the undersigned has borne in mind the difficulty of establishing the amount of reduction necessary to restore to Hutchinson its existing fair competitive opportunities, but is unable to reach upon the record a different conclusion than that previously reached. If it shall appear to Hutchinson from its additional market experience subsequent to the hearing, the burning characteristics and further complete analyses of its coals, and other pertinent factors, that they are still improperly classified, the remedy provided by section 4 II (d) of the Act will then be open to it.

*Now, therefore, it is ordered*, That the motion of Hutchinson Coal Company seeking a modification of the Director's

Order of September 19, 1941, herein granting permanent relief in part be and it hereby is denied.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9170; Filed, December 5, 1941;  
11:21 a. m.]

[Docket No. 1759-FD]

IN THE MATTER OF MORRIS & CAMPBELL,  
A PARTNERSHIP, DEFENDANT

MEMORANDUM OPINION AND ORDER DENYING  
PETITION OF DISTRICT BOARD 11 TO VA-  
CATE ORDER OF DIRECTOR AND FOR RECON-  
SIDERATION OF THE MATTER

This proceeding was instituted upon a complaint filed with the Bituminous Coal Division on May 15, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 11, the complainant, alleging that Morris & Campbell, the defendant, had wilfully violated the Bituminous Coal Code or rules and regulations thereunder and the effective minimum prices, and praying that an order be entered requiring the defendant to cease and desist from such violations.

Pursuant to an Order of the Director and after due notice to interested persons, a hearing in this matter was held at which the complainant and the defendant appeared. The parties waived the preparation and filing of a Report by the Examiner, and the matter was thereupon submitted to the Director who, on October 31, 1941, issued his Findings of Fact, Conclusions of Law, and Opinion, and entered an Order revoking and cancelling the defendant's code membership and directing that prior to any reinstatement of the defendant or any partner therein to membership in the Code, there shall be paid to the United States a tax in the amount of \$1,213.51, as provided in section 5 (c) of the Act.

On November 24, 1941, District Board 11 filed a petition to vacate the Order of the Director of October 31, 1941, and for a reconsideration of the matter. District Board 11 asks that a cease and desist order be issued in lieu of the order of revocation and cancellation of code membership.

In its petition District Board 11 indicates that since the complaint filed by it herein did not pray for the revocation or cancellation of the defendant's code membership but merely requested that a cease and desist order be entered against the defendant, the defendant was led to believe that the penalty attendant upon its violations could be only a cease and desist order. This belief, if actually entertained by the defendant, was erroneous. In determining the penalties which may be visited upon a code member for a wilful violation of the Code, the Division is governed by the Act, particularly section 5 (b) thereof, and is not controlled or limited by the prayers or requests of the complainant. Under section

5 (b) of the Act, it is the Division, in the exercise of its discretion, which determines, in a case where a violation of the Code has been proved, whether an Order shall be entered providing for revocation of the defendant's code membership or an Order requiring the defendant to cease and desist from its violations.

The District Board strongly urges, however, that "without considering whether or not the Division is controlled by the prayers or the requests of the complainant in determining the penalties to be visited upon a code member for a violation of the Code . . . in view of the penalty concomitant with revocation of the defendant's code membership, it is only fair and reasonable that the defendant should have had clear notice that the final determinations to be resolved by the Director involved the revocation or cancellation of its code membership." The District Board appears to indicate that had the defendant been advised of the possibility of the revocation of its code membership as the result of this proceeding, the defendant might have introduced evidence in its defense or evidence of mitigating circumstances.

In the light of the petition of the District Board, I have reviewed the entire record in this proceeding and upon the basis thereof I find no reason to modify the order of code membership revocation entered against the defendant. I shall therefore deny the petition.

In the circumstances, however, it appears that an opportunity might well be afforded the parties to introduce additional evidence herein, either concerning the violations of the defendant or relevant to the penalties attendant thereon, to show why the Order of the Director of October 31, 1941, should be vacated. If the District Board sees fit, it may file a motion to reopen the hearing. Such motion, if filed, should be accompanied by the affidavit of at least one of the partners in the defendant setting forth whether or not the defendant understood that code membership revocation would result from the proceeding herein; if not, what evidence the defendant would have introduced at the hearing had it understood otherwise; and what evidence the defendant is prepared to introduce at a reopened hearing. On the basis of such affidavit, the undersigned will give due consideration to a motion to reopen the hearing should District Board 11 see fit to file same.

Now, therefore, it is hereby ordered, That the petition of District Board 11, filed herein on November 24, 1941, to vacate the Order of the Director revoking and cancelling code membership and for reconsideration of the matter, be and it hereby is denied.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9171; Filed, December 5, 1941;  
11:22 a. m.]

[Docket No. 1688-FD]

IN THE MATTER OF F. T. PATIK (PATIK COAL  
COMPANY) DEFENDANT

MEMORANDUM OPINION AND ORDER DENYING  
PETITION AND APPLICATION TO REOPEN  
CASE, ETC.

This proceeding was instituted upon a complaint filed with the Bituminous Coal Division, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 12 against the Patik Coal Company (F. T. Patik), the defendant, a code member in District 12. The complaint alleged that the defendant wilfully violated the Bituminous Coal Code or the rules and regulations thereunder, and prayed that the Division either cancel and revoke the defendant's code membership or, in its discretion, direct the defendant to cease and desist from violations of the Code or the rules and regulations thereunder.

Pursuant to Orders of the Director and after notice to all interested persons, a hearing in this matter was held on September 8, 1941, before W. A. Shipman, a duly designated Examiner of the Division, in Oskaloosa, Iowa. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. The defendant appeared. The preparation and filing of a report by the Examiner was waived.

On October 22, 1941, the Director issued Findings of Fact and Conclusions of Law and rendered an Opinion in this matter and entered an Order in accordance therewith revoking and cancelling the defendant's code membership and providing that prior to any reinstatement of the defendant to membership in the Code the defendant, in accordance with section 5 (c) of the Act, should pay to the United States a tax in the amount of \$830.25.

On November 8, 1941, the defendant filed a Petition and Application to Reopen Case and to Reconsider the Findings of Fact, Conclusions of Law, and Order of the Director, and for Entry of Modified Order Relative Thereto, and for Reinstatement of Code Membership and Stay of Cancellation Thereof Pending Hearing Hereon.

In his Findings of Fact herein, the Director found that the defendant had wilfully violated section 4 II (e) of the Act by selling during the period from January 16, 1941, to April 10, 1941, 1,097.35 tons of coal (20 cars) for delivery to the Des Moines Electric Light Company in Des Moines, Iowa, at delivered prices ranging from \$2.30 to \$2.42 per ton, whereas the effective minimum price for such coal was \$2.54 per ton delivered. The f. o. b. mine price for such coal was found to be \$1.94 per ton and, on the basis of 1,097.35 tons, the tax required to be paid by the defendant in order to obtain reinstatement to membership in the Code is \$830.25.

The defendant contends that the tax should not have been computed upon 11 cars of said coal. It is claimed that three

of these cars were sold by the defendant before he was advised that minimum prices for his mine had been established, and that at the time when he was so advised, eight cars of coal had already been loaded and that it was the defendant's understanding from a conversation with a compliance officer of the Division concerning those eight cars that code prices did not apply thereto. Thus the defendant contends that as to the sale of the 11 cars of coal, aggregating 627.65 tons, the defendant did not wilfully violate the Act. Accordingly the defendant requests that the tax required for his reinstatement to membership in the Code be computed on the basis of 469.7 tons of coal rather than 1097.35 tons.

These contentions of the defendant were considered by the Director in his Findings of Fact issued herein on October 22. It was there pointed out by the Director that the duty was upon the defendant to ascertain the date upon which minimum prices were established for his coals, that this fact should have been determined from the order itself, and that the defendant's pretended reliance upon oral statements made by third persons was unwarranted. After a reconsideration of the record, the undersigned is of the opinion that the Director's findings in this regard are proper and fully justified by the record. Moreover, as stated by the Director in his Findings of Fact, the contention of the defendant that he sold some of the coal without knowing that minimum prices had been established must be considered in connection with the fact that he continued to sell coal below the effective minimum prices after he admittedly knew of the establishment of those prices.

The defendant's petition for reconsideration also contains statements to the effect that the defendant is an elderly man with little education, that he did not understand the procedure to obtain permission to dispose of the aforesaid eight cars of coal, which had become heated, and that to require the defendant to pay a tax in the amount of \$830.25 as a condition of reinstatement to membership in the Code would deprive him of his only means of livelihood. There was no evidence as to these matters presented at the hearing, except a mere statement by the defendant that he did not know that an application could be made for permission to sell coal in order to prevent its deterioration. The undersigned has, however, further considered the record in the light of these statements, but is of the opinion that they afforded no justification for altering the views heretofore expressed. While some hardship may be incurred by some producers who violate the Code, and while this is regrettable, the provisions of the Act must nevertheless be impartially administered without regard to the unfortunate circumstances of any particular producer involved. Only by such administration of the Act can a sound price

structure be maintained, and the policies of the Act be effectuated.

I therefore conclude that the Findings of Fact, Conclusions of Law, Opinion, and Order issued herein on October 22, 1941, are proper and should remain unchanged and that the petition of the defendant filed herein on November 8, 1941, should be denied.

Now, therefore, it is hereby ordered, That the Petition filed herein by the defendant on November 8, 1941, be and it hereby is in all respects denied.

Dated: December 4, 1941.

[SEAL] DAN H. WHEELER,  
Acting Director.

[F. R. Doc. 41-9172; Filed, December 5, 1941; 11:22 a. m.]

Bureau of Reclamation.

[169100]

ROUND VALLEY RESERVOIR SITE,  
CALIFORNIA

ADVERTISEMENT OF LANDS FOR LEASE

NOVEMBER 26, 1941.

1. Sealed proposals will be received at the office of the General Supervisor of Operations and Maintenance, Bureau of Reclamation, 910 U. S. National Bank Building, Denver, Colorado, until 2 o'clock, P. M., December 18, 1941, for the lease for grazing or agricultural purposes of all or any tract or tracts of the land shown on the accompanying list.

2. The lands will be leased for grazing purposes for a one-year period ending December 31, 1942, the lessee having an option to renew the lease from year to year, but not beyond December 31, 1946, provided the United States does not, by written notice, 90 days prior to the expiration of any annual period, notify the lessee that the lease cannot be renewed.

3. The bidder shall state in the proposal (a) the legal description of the subdivisions or tracts which he proposes to lease, (b) the area in acres, and (c) the total annual rental price he proposes to pay, and shall state whether the land is to be used for grazing or agricultural purposes. The bidder may make such stipulations as he may desire regarding combinations of tracts he is willing to accept. Please use attached proposal blank.<sup>1</sup>

4. Bids must be accompanied by a payment in full for the calendar year 1942. Funds so remitted by unsuccessful bidders will be returned on making of award. Subsequent payments for the purpose of exercising the yearly option renewals must be received in the office of the General Supervisor of Operation and Maintenance, Bureau of Reclamation, Denver, Colorado, 30 days in advance of the termination of the lease and must be accompanied by a notice to the effect that the lessee desires to exercise

<sup>1</sup> Filed as part of the original document.

such option. In case the necessary payment, accompanied by the notice of the lessee of his desire to exercise the option, is not made on or before the due date, as herein set forth, the lease and the right of occupancy of the lessee terminate at the expiration of the period for which rental has theretofore been paid, without further notice or action. All remittances should be in the form of certified check, bank draft, or money order, drawn in favor of the "Treasurer of the United States".

5. Those desiring to bid should first consult a copy of lease form 7-523-A-G, which lease must be promptly executed by successful bidders before possession of land is given, and which describes various rights reserved by the United States, and other details not herein enumerated, to which the lessee must agree. Copies of the lease form may be inspected at the bulletin boards of the post offices at Adin, Bieber, Alturas, Canby, and Lookout, California.

6. Envelopes containing bids must be sealed, marked and addressed as follows:

Bid for Lease of Land, Round Valley Reservoir Site, California, to be Opened at 2 P. M., Mountain Standard Time, December 18, 1941.

Mr. J. S. MOORE,  
General Supervisor of Operation and Maintenance,  
Bureau of Reclamation,  
910 U. S. National Bank Building,  
Denver, Colorado.

JOHN C. PAGE,  
Commissioner.

List of Lands Available for Lease

MOUNT DIABLO MERIDIAN	
Description	Acres
T. 39 N., R. 9 E.:	
Sec. 2—E $\frac{1}{2}$ SE $\frac{1}{4}$ -----	80
Sec. 3—W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ -----	120
Sec. 4—S $\frac{1}{2}$ NW $\frac{1}{4}$ -----	80
Sec. 9—S $\frac{1}{2}$ SE $\frac{1}{4}$ -----	80
Sec. 11—NE $\frac{1}{4}$ NE $\frac{1}{4}$ -----	40
Sec. 12—NW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ -----	120
Sec. 13—NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ -----	200
Sec. 14—S $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ -----	160
Sec. 15—SE $\frac{1}{4}$ -----	160
Sec. 21—W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ -----	120
Sec. 22—E $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ -----	160
Sec. 23—W $\frac{1}{2}$ -----	320
Sec. 27—N $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ -----	240
T. 40 N., R. 9 E.:	
Sec. 33—N $\frac{1}{2}$ SW $\frac{1}{4}$ -----	80
Sec. 34—NW $\frac{1}{4}$ SW $\frac{1}{4}$ -----	40

[F. R. Doc. 41-9137; Filed, December 5, 1941; 10:00 a. m.]

[169101]

IRON CANYON RESERVOIR SITE, CALIFORNIA

ADVERTISEMENT OF LANDS FOR LEASE

NOVEMBER 26, 1941.

1. Sealed proposals will be received at the office of the General Supervisor of Operation and Maintenance, Bureau of Reclamation, 910 U. S. National Bank Building, Denver, Colorado, until 2 o'clock, P. M., December 18, 1941, for the lease for grazing or agricultural purposes of all or any tract or tracts of the land shown on the accompanying list.

2. The lands will be leased for grazing purposes for a one-year period ending December 31, 1942, the lessee having an option to renew the lease from year to year, but not beyond December 31, 1946, provided the United States does not, by written notice, 90 days prior to the expiration of any annual period, notify the lessee that the lease cannot be renewed.

3. The bidder shall state in the proposal (a) the legal description of the subdivisions or tracts which he proposes to lease, (b) the area in acres and (c) the total annual rental price he proposes to pay, and shall state whether the land is to be used for grazing or agricultural purposes. The bidder may make such stipulations as he may desire regarding combinations of tracts he is willing to accept. Please use attached proposal blank.<sup>1</sup>

4. Bids must be accompanied by a payment in full for the calendar year 1942. Funds so remitted by unsuccessful bidders will be returned on making of award. Subsequent payments for the purpose of exercising the yearly option renewals must be received in the office of the General Supervisor of Operation and Maintenance, Bureau of Reclamation, Denver, Colorado, 30 days in advance of the termination of the lease and must be accompanied by a notice to the effect that the lessee desires to exercise such option. In case the necessary payment, accompanied by the notice of the lessee of his desire to exercise the option, is not made on or before the due date, as herein set forth, the lease and the right of occupancy of the lessee terminate at the expiration of the period for which rental has theretofore been paid, without further notice or action. All remittances should be in the form of certified check, bank draft, or money order, drawn in favor of the "Treasurer of the United States".

5. Those desiring to bid should first consult a copy of lease form 7-523-A-G, which lease must be promptly executed by successful bidders before possession of land is given, and which describes various rights reserved by the United States, and other details not herein enumerated, to which the lessee must agree. Copies of the lease form may be inspected at the bulletin boards of the post offices at Red Bluff and Redding, California.

6. Envelopes containing bids must be sealed, marked and addressed as follows:

Bid For Lease of Land, Iron Canyon Reservoir Site, California, to be Opened at 2 P. M., Mountain Standard Time, December 18, 1941.

Mr. J. S. MOORE,  
General Supervisor of Operation and Maintenance,  
Bureau of Reclamation,  
910 U. S. National Bank Building,  
Denver, Colorado.

JOHN C. PAGE,  
Commissioner.

<sup>1</sup> Filed as part of the original document.

List of Lands Available for Lease

MOUNT DIABLO MERIDIAN

Description	Acres
T. 28 N., R. 2 W.:	
Sec. 6—N $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ -----	480
Sec. 8—E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ -----	280
Sec. 18—NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ -----	320
Sec. 20—NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ -----	320
T. 27 N., R. 3 W.:	
Sec. 2—NE $\frac{1}{4}$ -----	160
Sec. 4—NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ -----	120
Sec. 6—SE $\frac{1}{4}$ NE $\frac{1}{4}$ -----	40
T. 28 N., R. 3 W.:	
Sec. 10—N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ -----	200
Sec. 12—N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Lots 1 and 2-----	560
Sec. 14—NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ -----	80
Sec. 24—NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ -----	440
Sec. 26—N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ -----	120

[F. R. Doc. 41-9138; Filed, December 5, 1941; 10:02 a. m.]

General Land Office.

FIVE-ACRE TRACT CLASSIFICATION No. 10

NOVEMBER 26, 1941.

On November 4, 1941, the vacant public lands in the following-described areas, in the Los Angeles, California, land district, were classified and opened by the Secretary of the Interior under the five-acre act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), for lease as home, cabin, health, convalescent, and recreational sites. The classification does not include any of the lands for use as camp or business sites.

CALIFORNIA No. 7

San Bernardino Meridian

T. 4 S., R. 6 E.,
Sec. 12, N $\frac{1}{2}$ NW $\frac{1}{4}$ ;
Sec. 14, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;
Sec. 30, W $\frac{1}{2}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ .

These tracts involve about 24 applications under the above-mentioned act, and are located in the Coachella Valley.

The portions of the lands described not covered by applications under the five-acre act are subject to application for lease under that act, based on the above-mentioned classification, by any qualified person, in accordance with 43 CFR 257.1-257.25 (Circ. 1470, June 10, 1940).

The Register of the Los Angeles district land office will make appropriate notations upon the records of his office and acknowledge receipt hereof.

FRED W. JOHNSON,  
Commissioner.

[F. R. Doc. 41-9148; Filed, December 5, 1941; 10:05 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[NER-500-A-3]

SPECIAL 1941 AGRICULTURAL CONSERVATION PROGRAMS FOR THE NORTHEAST REGION

SUPPLEMENT NO. 3

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended, item 2, subsection F, section II of the Special 1941 Agricultural Conservation Programs for the Northeast Region, as previously amended by NER-500-A, Supplement No. 1, is hereby further amended to read as follows:

Windham and New London Counties, Connecticut. Each farm on which there are at least five bovine animal units may be furnished triple or 20% superphosphate and ground limestone in accordance with the following schedule for improving open pasture land at the rate of 2,000 pounds of ground limestone and 200 pounds of triple superphosphate or its equivalent per acre.

	Pasture improvement allowance		
	Superphosphate		Limestone
	Triple	20 percent	
	Pounds	Pounds	Pounds
5 to 9, inclusive.....	100	300	1,000
10 to 14, inclusive.....	200	500	2,000
15 to 19, inclusive.....	300	800	3,000
20 to 24, inclusive.....	400	1,000	4,000
25 to 29, inclusive, etc....	500	1,300	5,000

Done at Washington, D. C., this 5th day of December, 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,  
Assistant Secretary of Agriculture.

[F. R. Doc. 41-9174; Filed, December 5, 1941; 11:30 a. m.]

Surplus Marketing Administration.

DETERMINATION PURSUANT TO SECTION 608C (9) AND (17), TITLE 7, U. S. C., WITH RESPECT TO THE ISSUANCE OF ORDER NO. 3, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE ST. LOUIS, MISSOURI, MARKETING AREA<sup>1</sup>

Paul H. Appleby, Acting Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and

<sup>1</sup> See also Title 7, Agriculture, Chapter IX, Surplus Marketing Administration, *supra*.

as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, issued, effective December 1, 1940, Order No. 3, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area.

Paul H. Appleby, Acting Secretary of Agriculture, tentatively approved, on October 17, 1940, a marketing agreement, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area.

There being reason to believe that the execution of amendments to the tentatively approved marketing agreement, as amended, and to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area would tend to effectuate the declared policy of said act, notice was given, on August 25, 1941, of a public hearing which was held in St. Louis, Missouri, on September 8 and 9, 1941, on certain proposals to amend such marketing agreement, as amended, and such order, as amended, and at such time and place all interested parties were afforded an opportunity to be heard on the proposals to amend such marketing agreement, as amended, and such order, as amended.

After such hearing handlers of more than fifty (50) percent of the volume of milk covered by this order, as amended, which is marketed within the St. Louis, Missouri, marketing area, refused or failed to sign such marketing agreement, as amended, relating to milk.

It is hereby determined, pursuant to the powers conferred upon the Secretary of Agriculture by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, that:

1. The refusal or failure of said handlers to sign said marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

2. The issuance of Order No. 3, as amended, is the only practical means pursuant to such policy of advancing the interests of the producers of milk which is produced for sale in the St. Louis, Missouri, marketing area; and

3. The issuance of Order No. 3, as amended, is approved or favored by over two-thirds of the producers, as shown by their approval now in the hands of the Secretary, who, during the month of July 1941, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

Done at Washington, D. C., this 29th day of November 1941. Witness my hand and the seal of the Department of Agriculture.

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

Approved:  
FRANKLIN D. ROOSEVELT,  
The President of the United States.

Dated: November 29, 1941.

[F. R. Doc. 41-9129; Filed, December 4, 1941; 12:32 p. m.]

## DEPARTMENT OF LABOR.

## Wage and Hour Division.

[Administrative Order No. 132]

## APPOINTMENT OF INDUSTRY COMMITTEE NO. 38 FOR THE TOBACCO INDUSTRY

1. By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor, do hereby appoint and convene for the tobacco industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

*For the Public*

Thomas L. Norton, Chairman, Buffalo, New York.

Douglas B. Maggs, Durham, North Carolina.

Robert Patton, Columbus, Ohio.

Elmo Hohman, Evanston, Illinois.

Charles S. Johnson, Nashville, Tennessee.

*For the Employees*

S. E. Blane, Durham, North Carolina.

J. E. Lentie, Washington, D. C.

John O'Hare, Richmond, Virginia.

G. H. Smith, Louisville, Kentucky.

Robert Himmaugh, Richmond, Virginia.

*For the Employers*

J. W. Abbott, New York, New York.

E. J. O'Brien, Jr., Louisville, Kentucky.

James S. Ficklen, Greenville, North Carolina.

William T. Reed, Jr., Richmond, Virginia.

W. H. Ogsbury, Durham, North Carolina.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. For the purpose of this order the term "tobacco industry" means the manufacture of cigarettes, snuff, chewing tobacco, and smoking tobacco from any types of tobacco; and the preparation or marketing (including wholesaling) of non-cigar types of leaf tobacco (as defined by the Bureau of Agricultural Economics of the United States Department of Agriculture) and the scrap tobacco therefrom for use in the manufacture of tobacco products, including cigars.

(a) The term "cigar" wherever used in this definition comprehends all types of cigars including cheroots, stogies, and little cigars.

(b) The manufacture of cigarettes, snuff, chewing tobacco, and smoking tobacco from cigar types of leaf tobacco and scrap tobacco therefrom includes the preliminary processing of such tobacco which is performed at the manufacturing plant as an integral part of the manufacturing operation.

(c) The term "preparation" as used herein includes all operations involved in making con-cigar leaf tobacco and the scrap tobacco therefrom suitable for sale

or for use in the manufacture of all types of tobacco products including cigars whether performed by employees of warehousemen, manufacturers, leaf dealers, or others. It does not include sales operations that are customarily performed on the sales floor of loose leaf tobacco auction warehouses or the direct loading of tobacco off the floor of such warehouses for shipment. It includes the production of Black Fat, Water Baler, and Dark African. It includes, but not by way of limitation, the operations of grading, sorting, conditioning, redrying, stemming, packing and storing. It does not include, however, such preliminary processing of non-cigar types of tobacco and scrap tobacco therefrom as is performed in the manufacturing plant as an integral part of the manufacturing operations attending the production of cigars; nor does it include operations performed by a farmer or on a farm as an incident to or in conjunction with farming operations.

3. The definition of the tobacco industry covers all occupations in the industry which are necessary to the production of the articles enumerated in the definition or to the preparation or marketing of non-cigar types of leaf tobacco and scrap tobacco therefrom, including clerical, maintenance, shipping, and selling occupations: *Provided, however,* That this definition does not include employees of an independent wholesaler or manufacturer who are engaged in marketing and distributing the manufactured products of the industry which have been purchased by said wholesaler or manufacturer for resale and who perform no functions other than those relating to marketing and distributing. Where an employee covered by this definition is employed during the same workweek at two or more different minimum rates of pay, he shall be paid the highest of such rates for such workweek unless records concerning his employment are kept by his employer in accordance with applicable regulations of the Wage and Hour Division.

4. The industry committee herein created shall meet in Room 3229, United States Department of Labor Building, Washington, D. C., on December 15, 1941 at 10 A. M. The committee, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder, shall proceed to investigate conditions in the industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said Act are "engaged in commerce or in the production of goods for commerce," excepting employees exempted by virtue of the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

Signed at Washington, D. C., this third day of December 1941.

PHILIP B. FLEMING,  
Administrator.

[F. R. Doc. 41-9175; Filed, December 5, 1941; 11:47 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-453]

## IN THE MATTER OF THE WESTERN PUBLIC SERVICE COMPANY AND ENGINEERS PUBLIC SERVICE COMPANY

## NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of December, A. D. 1941.

Applications and declarations having been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by The Western Public Service Company, a registered holding company, and its parent company, Engineers Public Service Company, likewise a registered holding company, to which a new corporation (hereinafter called "New Corporation") will join as a party by amendment when such a corporation is organized;

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

On December 1, 1941 said Engineers Public Service Company (hereinafter called "Engineers") signed a contract with Consumers Public Power District (hereinafter referred to as "District") for the sale of 500,000 shares of common stock of The Western Public Service Company (hereinafter called "Western"), and a supplemental agreement was executed on December 2, 1941. The transactions covered by said applications and declarations as set forth in Plan I and Plan II are briefly described below:

## Plan I

Step 1. Disposition by Western of properties in Wyoming to New Corporation

a. Transfer by Western to New Corporation of the Wyoming properties in Huntley, Hawk Springs and LaGrange and connecting 13.2 KV. line (hereinafter called "Huntley-LaGrange line") and in Laramie and Burns, together with certain miscellaneous assets allocated thereto subject to liabilities plus cash for working capital.

b. Acquisition by New Corporation of such assets, subject to liabilities.

c. Issuance of 5% Income Notes and Capital Stock by New Corporation and assumption of \$258,000 municipal bonds.

d. Acquisition of 5% Income Notes and Capital Stock of New Corporation by Western.

Step 2. Contribution by Engineers to Western

a. Engineers contributes to capital of Western the following securities issued by Western and owned by Engineers:

31,341 shares of Preferred Stock, Series A.

10,000 shares of Preferred Stock, Series B.  
\$1,032,000 principal amount of First Mortgage Bonds.

b. Acquisition by Western of securities mentioned in Step 2-a.

c. Surrender by Western for cancellation of \$1,612,000 principal amount First Mortgage Bonds (being the \$1,032,000 contributed by Engineers and \$580,000 held in Western's treasury) and 31,708 shares of its Preferred Stock, Series A (being the 31,341 shares contributed by Engineers and 367 shares held in Western's treasury) and 10,000 shares of its Preferred Stock Series B (being the 10,000 shares contributed by Engineers).

Step 3. Change in par value of Western's Common Stock

a. Western changes Common Stock from No Par to \$1 Par Value and reduces capital represented by Common Stock to \$500,000.

Step 4. Redemption of publicly owned securities of Western

a. Call for redemption by Western of 8,292 shares of Preferred Stock, Series A, at \$27.50 per share, plus accrued dividends.

b. Advance by District to Western of amount sufficient to pay principal, premium and interest to redemption date of \$3,909,000 First Mortgage Bonds.

c. Call for redemption by Western of First Mortgage Bonds, at 104 plus accrued interest.

d. Cancellation of First Mortgage Bonds and Preferred Stock.

Step 5. Dividend in partial liquidation by Western to Engineers of all securities and assets not to be acquired by the District.

a. Distribution as dividend in partial liquidation to Engineers of stock and bonds of Missouri Service Company, stock of Northern Kansas Power Company, securities of New Corporation, accounts and notes receivable from those companies due Western, cash of Western on hand and other specified properties.

b. Acquisition by Engineers of stock and bonds of Missouri Service Company, stock of Northern Kansas Power Company, securities of New Corporation and other assets distributed by Western as a dividend.

Step 6. Sale by Engineers of Common Stock of Western to District

a. Engineers sells 500,000 shares of Common Stock of \$1 Par Value of Western to District.

b. Engineers executes \$300,000 bond of indemnity to Western and District covering liability for payment of \$258,000 principal amount of municipal bonds.

c. Engineers furnishes surety bond to Western and District in the amount of \$50,000 for taxes accrued to closing date.

d. Engineers furnishes surety bond to District to save District harmless from

(1) any suits filed against Western between date of agreement and closing date affecting titles to properties of Western, (2) any liens filed against the properties of Western, (3) any defects in title to Western's properties not disclosed to the District and discovered by the District prior to the closing date and (4) any other matters required to consummate the transaction.

## Plan II

Engineers hereby applies for approval of the acquisition and retirement of a maximum of 35,000 shares of its Preferred Stock outstanding in the hands of the public. Engineers hereby applies for permission to acquire such shares for a period of six months from the date of the Order issued by the Commission subject to the right of the Company to apply for an extension or extensions of such period.

The securities of Engineers presently outstanding are as follows:

156,001 shares \$5 Dividend Convertible Preferred Stock.  
192,046 shares \$5.50 Cumulative Dividend Preferred Stock.  
69,968 shares \$6 Cumulative Dividend Preferred Stock.  
1,909,968 shares Common Stock.

The \$5 Dividend Convertible Preferred Stock is redeemable at \$105 per share and accrued dividends and the other two series of Preferred Stock are redeemable at \$110 per share and accrued dividends.

The final bid and asked prices on the New York Stock Exchange for the above-named three series of Preferred Stock on November 27, 1941 were as follows:

	Bid	Asked
\$5 Dividend Convertible Preferred Stock	70½	74
\$5.50 Cumulative Dividend Preferred Stock	74	77½
\$6 Cumulative Dividend Preferred Stock	83½	85

In the Preferred Stock Capital Accounts of Engineers the three series of Preferred Stock above named are set up at \$100 per share, representing the amount per share to which said shares are entitled in involuntary liquidation.

It is estimated that the adjusted price which the District will pay the Engineers for the 500,000 shares of Western will be approximately \$7,000,000.

It appearing to the Commission that it is appropriate in the public interest and the interest of investors and consumers that a hearing be held with respect to said declarations and applications, and that said declarations shall not become effective or said applications be granted except pursuant to further order of the Commission, and that at said hearing there be considered, among other things, the various matters hereinafter set forth:

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the Rules of the Commission thereunder be held on December 22, 1941 at 10 o'clock A. M. at the offices of

the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing cause shall be shown why the declarations as filed shall become effective;

*It is further ordered,* That Richard Townsend, or any other officer or officers of the Commission designated by it for that purpose, shall preside in the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice;

*It is further ordered,* That, without limiting the scope of issues presented by said applications and declarations as filed or as amended, particular attention will be directed at said hearing to the following matters and questions:

- (1) What conditions, if any, are necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of the Public Utility Holding Company Act of 1935 or any rules, regulations or orders thereunder;
- (2) Whether or not the New Corporation should be permitted to issue evidences of indebtedness, and, if so, in what amount;
- (3) Whether the New Corporation should be permitted to issue No Par Common Stock;
- (4) In what manner the accounting entries are to be made on the books of Engineers with respect to the acquisition of the securities of Missouri Service Company, Northern Kansas Power Company, and the New Corporation;
- (5) Whether the acquisitions by Engineers of the securities of Missouri Service Company, Northern Kansas Power Company, and the New Corporation comply with the terms and provisions of section 10 (c) (2) of the Act;
- (6) Whether all actions proposed to be taken comply with the requirements of such Act and rules, regulations or orders promulgated thereunder.

Notice of such hearing is hereby given to such declarants and applicants and to any other person whose participation in such proceeding may be in the public interest and for the protection of investors and consumers;

*It is further ordered,* That such notice shall be given further by general release of the Commission distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935. Further notice shall be given to all persons by publication in the FEDERAL REGISTER, not later than fifteen days prior to the date hereinbefore fixed for the hearing, of a copy of this Notice of and Order for Hearing.

It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to

that effect to the Commission on or before the eighteenth day of December, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-9177; Filed, December 5, 1941;  
11:50 a. m.]

[File No. 70-449]

IN THE MATTER OF WEST TEXAS UTILITIES  
COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of December, A. D. 1941.

Notice is hereby given that a declaration or application (or both), has 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 December 22, 1941, at 4:30 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 request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

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

West Texas Utilities Company proposes to issue and sell the following securities:

\$18,000,000 principal amount of First Mortgage Bonds, due December 1, 1971; and

\$2,900,000 principal amount of unsecured notes due serially over a period of approximately six and one-half years from date of issue.

Proceeds from such sale, together with treasury funds of the company to the extent required, would be applied to the redemption and retirement of the company's \$18,000,000 principal amount of outstanding First Mortgage Bonds, Series A, 3¾%, due May 1, 1969 and \$2,930,000 principal amount of outstanding 3¾% unsecured notes, due serially June 13, 1942 to December 13, 1947.

The application states that the bonds will be sold by competitive bidding pursuant to the provisions of Rule U-50 and that the sale of the notes is to be pri-

vately negotiated. Interest rates, the prices to be received, and the purchasers of the proposed securities are to be supplied by amendment.

West Texas Utilities Company is a direct subsidiary of American Public Service Company, a registered holding company, and an indirect subsidiary of Central and South West Utilities Company and The Middle West Corporation, both registered holding companies.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-9178; Filed, December 5, 1941;  
11:50 a. m.]

[File Nos. 70-419, 70-426]

IN THE MATTERS OF AMERICAN UTILITIES  
SERVICE CORPORATION; AND AMERICAN  
UTILITIES SERVICE CORPORATION AND  
NORTHWESTERN ILLINOIS UTILITIES

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 5th day of December, A. D. 1941.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named parties; and

Notice is further given that any interested person may, not later than December 16, 1941, at 4:45 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 request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

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

American Utilities Service Corporation, a registered holding company, is the owner of all of the issued and outstanding capital stock of its subsidiary Northwestern Illinois Utilities consisting of 123,862 shares of common stock, par value of \$5 per share for a total of \$619,310. Said company proposes to make a capital contribution of \$219,310 to Northwestern Illinois Utilities through the cancellation and surrender of 43,862 shares of such stock for the purpose of providing, among other things, a reserve available for the disposition of certain amounts reclassified in the adjustment accounts,

cost and original cost studies, losses on the sale or retirement of properties, with possible deficiencies and depreciation reserves.

Said American Utilities Service Corporation proposes to acquire \$150,000 of common stock consisting of 30,000 shares of the par value of \$5 per share of its subsidiary Northwestern Illinois Utilities in exchange for and upon the conversion of one year promissory notes of Northwestern Illinois Utilities in the principal amount of \$150,000 now held by said American Utilities Service Corporation.

Said Northwestern Illinois Utilities proposes to issue and deliver 30,000 shares of its common stock in the par value of \$5 per share to its parent company, American Utilities Service Corporation, in exchange for \$150,000 principal amount of the one year 4% promissory notes of the company now held by said American Utilities Service Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-9179; Filed, December 5, 1941; 11:54 a. m.]

**UNITED STATES CIVIL SERVICE COMMISSION.**

**CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS SATURDAY, NOVEMBER 29, 1941**

*Important.* Although the apportioned classified Civil Service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal civilian positions in the District of Columbia. Positions in local post offices,

customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his state of original residence. Certifications of eligibles are first made from states which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
<b>IN ARREARS</b>		
1. Puerto Rico.....	1,125	51
2. Virgin Islands.....	15	1
3. Hawaii.....	255	23
4. Alaska.....	44	14
5. California.....	4,156	1,381
6. Louisiana.....	1,422	651
7. Michigan.....	3,163	1,485
8. Texas.....	3,860	2,016
9. Arizona.....	300	161
10. Georgia.....	1,880	1,119
11. South Carolina.....	1,143	701
12. Kentucky.....	1,712	1,053
13. Alabama.....	1,705	1,093
14. Mississippi.....	1,314	864
15. Ohio.....	4,157	2,849
16. North Carolina.....	2,149	1,479
17. New Mexico.....	320	223
18. Arkansas.....	1,173	849
19. New Jersey.....	2,503	1,839
20. Tennessee.....	1,755	1,425
21. Florida.....	1,142	946
22. Nevada.....	66	55
23. Indiana.....	2,063	1,769
24. Illinois.....	4,752	4,209
25. Delaware.....	160	142
26. Oregon.....	656	554
27. Connecticut.....	1,028	948
28. Idaho.....	316	293
29. Wisconsin.....	1,888	1,751
30. Pennsylvania.....	5,957	5,685
31. Vermont.....	216	211
32. Rhode Island.....	429	424

State	Number of positions to which entitled	Number of positions occupied
<b>IN EXCESS</b>		
33. New Hampshire.....	296	298
34. Massachusetts.....	2,598	2,656
35. West Virginia.....	1,145	1,186
36. Washington.....	1,045	1,100
37. Maine.....	510	543
38. Missouri.....	2,277	2,459
39. Oklahoma.....	1,406	1,393
40. Utah.....	331	352
41. Iowa.....	1,527	1,753
42. Colorado.....	876	791
43. Minnesota.....	1,680	2,037
44. Wyoming.....	151	185
45. New York.....	8,111	10,241
46. Montana.....	337	459
47. Kansas.....	1,084	1,524
48. North Dakota.....	386	572
49. South Dakota.....	387	591
50. Virginia.....	1,611	2,486
51. Nebraska.....	792	1,424
52. Maryland.....	1,096	2,676
53. District of Columbia.....	399	9,448

<b>GAINS</b>	
By Appointment.....	699
By Transfer.....	37
By Reinstatement.....	1
<b>Total.....</b>	<b>737</b>
<b>LOSSES</b>	
By Separation.....	130
By Transfer.....	65
By Correction.....	3
<b>Total.....</b>	<b>198</b>
<b>Total Appointments.....</b>	<b>80,669</b>

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Sec. 3, Rule VII, and the Attorney General's Opinion of August 25, 1934: 19,855.

By direction of the Commission.  
[SEAL] L. A. MOYER,  
Executive Director  
and Chief Examiner.

[F. R. Doc. 41-9131; Filed, December 4, 1941; 1:25 p. m.]