EXECUTIVE ORDER

AUTHORIZING THE SECRETARY OF WAR TO PRESCRIBE MILITARY AREAS

WHEREAS the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense to national-defense material, protection against espionage and against the war requires every possible protection against espionage and against


NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any person may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever the Secretary of War or the appropriate Military Commanders may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commanders may impose in their discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commanders, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Department of Justice under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commanders may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinafter authorized to be designated, including the use of Federal troops and other Federal agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
February 19, 1942.

[No. 9066]

[6 FR Doc. 42-1563; Filed, February 21, 1942; 12:51 p.m.]

EXECUTIVE ORDER

PROVIDING FOR THE TRANSFER OF PERSONNEL TO WAR AGENCIES

By virtue of the authority vested in me by the Civil Service Act (52 Stat. 409), and by Section 175 of the Revised Statutes of the United States (U.S.C., title 5, § 6 F.R. 6420.

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sec. 631, and in order to expedite the transfer of personnel to war agencies, it is hereby ordered as follows:

1. For the purpose of facilitating transfers of employees under the provisions of this Order, the Director of the Bureau of the Budget shall from time to time establish priority classifications of
the several Executive departments and agencies, or of parts or activities thereof, in respect to their relative importance to the war program, and such classifications shall be controlling as to transfers under the provisions of this Order.

2. The Civil Service Commission is authorized to secure information as to employees of Executive departments and agencies who are deemed competent to perform war work in departments or agencies having a higher priority classification, and, with the consent of the employee concerned, to effect the transfer of any such employee to meet the personnel needs of a department or agency having a higher priority classification.

3. Whenever a transfer is proposed under the provisions of section 2, it shall become effective not later than ten days after notification to the department or agency in which the employee is serving. If, within that period, the employing department or agency presents to the Civil Service Commission evidence that its work will be jeopardized by the loss of the employee's services, the Civil Service Commission shall consider such evidence and make a final decision. Transfers to departments and agencies having the same or lower classifications, shall not be effected without the consent of the department or agency in which the employee is serving.

4. Any employee transferred pursuant to this Order shall be entitled to all the reemployment benefits provided by Executive Order No. 8973 of December 12, 1941.

5. The Civil Service Commission is authorized to adopt such rules and regulations as may be necessary to carry out its responsibilities under this Order. Each Executive department and agency shall promptly furnish the Civil Service Commission such information regarding its employees as the Commission may require for the effectuation of this Order.

6. This Order shall supercede any provisions of Executive Order No. 8973 of December 12, 1941, or of any other Executive Order or Rule of the Civil Service Commission which is in conflict therewith.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
February 20, 1942.

[No. 9068]

[FR. Doc. 42-1545; Filed, February 21, 1942; 16:05 a.m.]

EXECUTIVE ORDER

CONSOLIDATING CERTAIN AGENCIES WITHIN THE DEPARTMENT OF AGRICULTURE

By virtue of the authority vested in me by Title I of the First War Powers Act, 1941 (Public Law 354, 77th Congress), approved December 18, 1941, and to further the successful prosecution of the war through the better utilization of agricultural resources and industries, it is hereby ordered as follows:

1. (a) The Surplus Marketing Administration (including the Federal Surplus Commodities Corporation as an agency of the Department of Agriculture), the Agricultural Marketing Service (except the Agricultural Statistics Division), and the Commodity Exchange Administration of the Department of Agriculture and their functions, personnel, property, and records are consolidated into an agency to be known as the Agricultural Marketing Service, Department of Agriculture, which agency shall be administered under the direction and supervision of such officer as the Secretary of Agriculture shall designate.

(b) The Agricultural Statistics Division of the Agricultural Marketing Service, Department of Agriculture, and its functions and personnel, property, and records used primarily in the administration of its functions are transferred to the Bureau of Agricultural Economics of the Department of Agriculture.

2. The Agricultural Adjustment Administration, the Agricultural Experiment Service, the Federal Crop Insurance Corporation, and the Sugar Division of the Department of Agriculture and their functions, personnel, property, and records are consolidated into an agency to be known as the Agricultural Conservation and Adjustment Administration of the Department of Agriculture, which agency shall be administered under the direction and supervision of such officer as the Secretary of Agriculture shall designate.

3. The Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, the Bureau of Agricultural Chemistry and Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Home Economics, the Office of Experiment Stations, and the Beltsville Research Center of the Department of Agriculture and their functions, personnel, property, and records are consolidated into an agency to be known as the Agricultural Research Administration of the Department of Agriculture, which agency shall be administered under the direction and supervision of such officer as the Secretary of Agriculture shall designate.

4. All libraries administered by agencies of the Department of Agriculture and all units of the Department providing library and bibliographical service and their functions, personnel, property, and records are consolidated and shall be administered by the Agricultural Research Administration of the Department as the Secretary of Agriculture shall designate.

5. So much of the unexpended balances, appropriations, allocations, or other funds available (or to be made available) for the use of any agency in the exercise of any function transferred or consolidated by this order or for the use of the head of any agency in the exercise of any function so transferred or consolidated, as the Director of the Bureau of the Budget and the approval of the President shall determine, shall be transferred for use in connection with the exercise of the function so transferred or consolidated. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to prepay for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer.

6. This order shall remain in force during the continuance of the present war and for six months after termination thereof.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
February 23, 1942.

[No. 9069]

[FR. Doc. 42-1617; Filed, February 24, 1942; 10:53 a.m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER No. 6793 OF JULY 26, 1934, WITHDRAWING PUBLIC LANDS

Wyoming

By virtue of the authority vested in me by the act of June 25, 1910, c. 421, 38 Stat. 547, Executive Order No. 6793 of July 26, 1934, withdrawing public lands in Wyoming pending a resurvey, is hereby revoked as to the following-described townships:

Sixth Principal Meridian
Tps. 12, 13, and 14 N., R. 95 W.
Tps. 15, 16, and 17 N., R. 94 W.
Tps. 18, 19, and 20 N., R. 96 W.

This order shall become effective upon the date of the official filing of the plats of the resurvey of the above-described townships.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
February 20, 1942.

[No. 9068]

[FR. Doc. 42-1545; Filed, February 21, 1942; 16:05 a.m.]

EXECUTIVE ORDER

CONSOLIDATING CERTAIN AGENCIES WITHIN THE DEPARTMENT OF AGRICULTURE

By virtue of the authority vested in me by Title I of the First War Powers Act, 1941 (Public Law 354, 77th Congress), approved December 18, 1941, and to further the successful prosecution of the war through the better utilization of agricultural resources and industries, it is hereby ordered as follows:

1. (a) The Surplus Marketing Administration (including the Federal Surplus Commodities Corporation as an agency of the Department of Agriculture), the Agricultural Marketing Service (except the Agricultural Statistics Division), and the Commodity Exchange Administration of the Department of Agriculture and their functions, personnel, property, and records are consolidated into an agency to be known as the Agricultural Marketing Service, Department of Agriculture, which agency shall be administered under the direction and supervision of such officer as the Secretary of Agriculture shall designate.

(b) The Agricultural Statistics Division of the Agricultural Marketing Service, Department of Agriculture, and its functions and personnel, property, and records used primarily in the administration of its functions are transferred to the Bureau of Agricultural Economics of the Department of Agriculture.

2. The Agricultural Adjustment Administration, the Agricultural Experiment Service, the Federal Crop Insurance Corporation, and the Sugar Division of the Department of Agriculture and their functions, personnel, property, and records are consolidated into an agency to be known as the Agricultural Conservation and Adjustment Administration of the Department of Agriculture, which agency shall be administered under the direction and supervision of such officer as the Secretary of Agriculture shall designate.

3. The Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, the Bureau of Agricultural Chemistry and Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Home Economics, the Office of Experiment Stations, and the Beltsville Research Center of the Department of Agriculture and their functions, personnel, property, and records are consolidated into an agency to be known as the Agricultural Research Administration of the Department of Agriculture, which agency shall be administered under the direction and supervision of such officer as the Secretary of Agriculture shall designate.

4. All libraries administered by agencies of the Department of Agriculture and all units of the Department providing library and bibliographical service and their functions, personnel, property, and records are consolidated and shall be administered by the Agricultural Research Administration of the Department as the Secretary of Agriculture shall designate.

5. So much of the unexpended balances, appropriations, allocations, or other funds available (or to be made available) for the use of any agency in the exercise of any function transferred or consolidated by this order or for the use of the head of any agency in the exercise of any function so transferred or consolidated, as the Director of the Bureau of the Budget and the approval of the President shall determine, shall be transferred for use in connection with the exercise of the function so transferred or consolidated. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to prepay for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer.

6. This order shall remain in force during the continuance of the present war and for six months after termination thereof.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
February 23, 1942.

[No. 9069]

[FR. Doc. 42-1617; Filed, February 24, 1942; 10:53 a.m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER No. 6793 OF JULY 26, 1934, WITHDRAWING PUBLIC LANDS

Wyoming

By virtue of the authority vested in me by the act of June 25, 1910, c. 421, 38
CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION  
[ACP—1942—7]

PART 701—AGRICULTURAL CONSERVATION PROGRAM  
SUBPART D—1942

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; 16 U.S.C. 590g to 590q), as amended, the 1942 Agricultural Conservation Program, as amended, is further amended as follows:

1. Section 701.301 (1) (i) is amended by adding the following item to the list of cropland uses shown therein:

§ 701.301 Allotments, yields, grazing capacities, payments, and deductions.

(1) Minimum soil-conserving and soil-building requirements

(1) Minimum conserving acreage.

(11) New seedings of perennial grasses or legumes, or biennial legumes, seeded in accordance with good farming practice with flax, peas or small grains as a nurse crop. The maximum acreage which may qualify under this item shall be limited to 40 percent of the sum of the 1942 achenes of the following crops on the farm: Soybeans for beans, peanuts for oil, flax, hemp, castor beans, sugar beets, dry field peas, dry beans, canning peas, and canning tomatoes.

2. Section 701.301 (2) is amended by adding the following item to the list of crops and uses shown therein:

(2) Minimum acreage of erosion-resistant crops.

(2) Winter legumes, ryegrass, and small grains (except wheat) seeded in the fall of 1942 on land from which peanuts are harvested in 1942. The maximum acreage which may qualify under this item shall be limited to 12 1/2 percent of the cropland but not in excess of the amount by which the 1942 acreage of peanuts exceeds the 1942 peanut allotment.

Done at Washington, D. C., this 23d day of February 1942. Witness my hand and the seal of the Department of Agriculture.

[SEAL]  
CLAUDE R. WICKARD, Secretary of Agriculture.  
[F. R. Doc. 42-1596; Filed, February 23, 1942; 3:37 p. m.]

TITLE 7—AGRICULTURE  
CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION  
PART 775—MEDICAL AND DENTAL ATTENDANCE  
§ 77.15 Persons who may be admitted to Army hospitals—(a) General. When suitable facilities for hospitalization are available, sick and injured persons enumerated in paragraph (b) of this section may be admitted to Army hospitals, except that admissions to the Army and Navy General Hospital, Hot Springs, Ark., and to the Fitzsimons General Hospital, Denver, Colo., will be governed by special provisions relating to those hospitals, as published in §§ 77.24 and 77.27, respectively.

(b) List. (1) Officers, Army nurses, warrant officers, cadets of the United States Military Academy, and enlisted men in the Army; also contract surgeons serving full time. The admission of retired personnel on inactive status will be limited to cases selected by the judgment of the commanding officer of the hospital, will be benefited by hospitalization for a reasonable time. Those requiring merely domiciliary care by reason of age or chronic invalidism will not be admitted. Officers on the Emergency Officers' Retired List and officers retired under the provisions of the act of April 3, 1939 (33 Stat. 557; 10 U.S.C. 456), are not admissible except under the provisions of subparagraphs (16) or (20) of this paragraph.

(2) Members of the Officers' Reserve Corps, and of the Enlisted Reserve Corps of the Army who suffer personal injury or contract disease while on active duty under proper orders; or who are injured while voluntarily participating in aerial flights in Government owned aircraft by proper authority as an incident to their military training, but not on active duty; or who are readmitted under proper authority for further treatment of injuries or diseases incurred in line of duty.

(3) Officers, warrant officers, and enlisted men of the National Guard who suffer personal injury or contract disease in line of duty while en route to or from, or during attendance at encampments, maneuvers, or other exercises, or at service schools, under the provisions of sections 94, 97, and 99 of the National Defense Act of June 3, 1916, as amended; or who suffer personal injury in line of duty when participating in aerial flights prescribed under the provisions of section 92 of the National Defense Act, as amended, and members of the National Guard of the United States who suffer injury or contract disease in line of duty while on active duty under proper orders;

1 §§ 77.15 to 77.21 are superseded. The regulations contained in §§ 77.15 to 77.30 are also contained in AR 40—599, dated February 2, 1942, the particular paragraphs being shown in brackets at the end of sections.

or who are readmitted under proper authority for further treatment thereof. Hospitalization must be authenticated in each case by the National Guard Bureau, subject to the report of a line of duty board convened by the camp or school commander, or the State adjutant general.

(4) Members of the Reserve Officers' Training Corps, and members of the Citizens' Military Training Camps who suffer personal injury or contract disease in line of duty while en route to or from, or during attendance at encampments, maneuvers, or other exercises, or at service schools, under the provisions of the National Defense Act of June 3, 1916, as amended, or who are readmitted under proper authority for further treatment of the same.

(5) Officers, commissioned warrant officers, warrant officers, and enlisted men of the Navy or Marine Corps, and members of the Navy Nurse Corps, in active service or on inactive, inactive, or leave (furlough) status, including enlisted men transferred to the Fleet Naval Reserve after 16 or more years of service, as follows:

(i) In active service. On the request of their commanding officers, or on their own request if the commanding officer of the hospital concerned deems their admission necessary. Whenever authority has not been received from the commanding officer of such active duty personnel, a report of hospitalization should be made immediately to the Bureau of Medicine and Surgery, Navy Department, Washington, D. C., and authorization for such hospitalization requested.

(ii) On inactive status. On the request of the proper representative of the Navy Department, or on their own request if their admission be deemed necessary by the commanding officer of the hospital concerned, provided beds are available in the hospital concerned. In emergency admission involving personnel admitted from a leave (furlough) status, reports should be made immediately to the Bureau of Medicine and Surgery, Navy Department, Washington, D. C., and authorization for such hospitalization requested.

The admission of patients requiring merely domiciliary care by reason of age or chronic invalidism is not authorized.

(6) (i) Commissioned officers of the United States Public Health Service on active duty, disabled on account of sickness or injury, upon the individual officer's own written request.

(ii) Officers or enlisted personnel of the United States Public Health Service on duty at any national quarantine station or on a national quarantine vessel, or detached for duty in foreign ports, suffering from sickness or injury, upon written authorization by a responsible officer of the United States Public Health Service.

(7) Officers, cadets, and enlisted men of the United States Coast Guard, on active duty, including those on shore duty,
and those on detached duty, upon written authorization of the responsible Coast Guard officer.

(8) Commissioned officers, ship officers, and members of the crew of vessels of the Coast and Geodetic Survey, on active duty, including those on shore duty, and those on detached duty, upon written authorization of the responsible Coast and Geodetic Survey officer.

(9) The wife and dependent children of officers, warrant officers, and enlisted men, and other dependent members of the family when residing with such persons, provided, they are not legally dependent upon an individual not in the military service, requiring hospital treatment or isolation, when suitable accommodations for their care are available. Application in each case will be made to the commanding officer of the hospital concerned by the officer, warrant officer, or enlisted man with evidence, satisfactory to the commanding officer, showing the relationship, dependency, residence, and, also, the nature of the illness and the need for hospital treatment. Dependents of military personnel should not undertake travel to a military hospital without first ascertaining whether and where accommodations will be available. If the case is under the care or within the province of an attending surgeon of the Army, the application will be made by him; otherwise, it will be made direct.

(10) Civilian employees compensable by the United States Employees' Compensation Commission who suffer personal injury while in the performance of official duty, or who acquire a disease as a natural result of such injury, or who acquire an occupational disease in the performance of official duty, are entitled to hospitalization or treatment in conformity with circular letters issued from time to time by The Surgeon General.

(11) Any civilian employed at a military post and paid from an exchange, mess, company, or similar unit fund, provided civilian hospital service is not available.

(12) Recently discharged soldiers needing hospital treatment who arrive in the United States on Government transports may be sent to one of the military hospitals in the vicinity of the port of debarkation, and communication of refusals drawn for them while undergoing treatment.

(13) A civilian seaman or river boatman or any other individual discharged from a military hospital upon request of the proper representatives of the United States Veterans' Administration.

(17) Prisoners of war, persons undergoing internment, and other persons in military custody or confinement.

(18) Civilian Conservation Corps enrollees and former enrollees when undergoing hospitalization at the expense of CCC funds, provided beds are available.

(19) Civilians not in the public service (other than those enumerated above) may be admitted only in case of extreme necessity, and when in the opinion of the commanding officer of the hospital or his authorized representative such admission is necessary to save life or prevent greater suffering. Under these circumstances, a written report will be submitted immediately to the post commandant.

(20) Such other persons as may be designated by the Secretary of War. [Par. 6]

*§§ 77.15 to 77.20, inclusive, issued under authority contained in R.S. 161; 5 U.S.C. 22.

77.16 Disposition of patients.—(a) General. Unless directed by higher authority, the commanding officer of a hospital will not order a patient discharged or transferred from the hospital until, in such commanding officer's opinion, the discharge or transfer in question would not endanger the life of the patient concerned. The commanding officer may appoint a board composed of three or more medical officers, to be known as a disposition board, to advise him in such cases as he considers necessary. The report of the disposition board will be forwarded with his recommendations to higher authority in appropriate cases. For disposition of the insane see §§ 76.1 and 76.2 and AR 690-565.1

(b) Discharge. (1) Persons other than those in the public service will, in the discretion of the commanding officer of the hospital, be discharged from hospital upon completion of hospital treatment.

(2) Civilians admitted to Army hospitals as patients must, in all particulars, conform to the rules and regulations governing the operation of such hospitals, and, in the event of failure or refusal to comply therewith, the patient at once becomes liable to discharge from the hospital in the discretion of the commanding officer. A patient so discharged from hospital for disregard or disobedience of rules and regulations will be refused admission thereto or to any other Army hospital for at least 90 days after such discharge, except when, in the opinion of the commanding officer, earlier admission is necessary to save life or to prevent extreme suffering. Whenever beneficiaries of the United States Veterans' Administration are discharged from hospital under the preceding conditions, the commanding officer of the hospital involved will forward to the Director of the United States Veterans' Administration, through the National Commander, a report giving the reasons for the patient's discharge, together with his full name and address, and condition at the time of discharge.

(c) Transfer. Patients may be transferred, under proper military authority, from one hospital to another, for observation or to obtain better treatment or hospital accommodations. See AR 40-600.

(d) Discharge of members of civilian components. Members of the civilian components, hospitalized or rehospitalized under provisions of § 77.15 (b), (3), or (4) for personal injury or for disease requiring treatment after expiration of the period of active duty during which contracted, will be brought before the hospital boards for final disposition when hospital treatment is no longer necessary, or when discharged upon their own request before maximum improvement has been reached. The hospital boards authorized to examine individuals remaining in hospital subsequent to completion of the period of active duty in which their disability was incurred will recommend final disposition of the patients, and will incorporate in the proceedings the diagnosis, line of duty status, physical condition on completion of hospitalization, statement of further hospitalization not required, and a concise medical history of the case. If further medical or surgical treatment will be required after return home, the reasons therefor, and the probably duration of such treatment will be included in the proceedings. Arrangement for such treatment as is required after return home will be made by the local commanding officer in accordance with § 77.3, and with the approval of the corps area commander. The proceedings of the disposition board will be recorded in duplicate. The corps area commander, stating the date upon which hospitalization was terminated, and, in the case of Reserve personnel, will be accompanied by the report of physical examination made by the board of W.D. A.G.O. Form No. 63 (Report of Physical Examination). Any claim for injuries sustained while en route to or from, or while at camps of instruction will be acted on by a board of officers convened by the military commander having immediate jurisdiction. * [Par. 7]

77.17 Patients' effects.—(a) General. These provisions have particular application to and are intended to cover the ordinary requirements of peace and conditions. In time of war, when large numbers of patients are being received daily, strict adherence to the procedures herein prescribed may be impracticable; therefore, such deviations as the commanding officer of the hospital concerned may deem necessary may be made to assure the safeguarding of patients' effects.

1Administrative regulations of the War Department relative to Army Commitment Boards.

2Administrative regulations of the War Department relating to hospitals.
(b) Responsibility. The commanding officer of a hospital is responsible that due care is observed in safeguarding the money, valuables, clothing, and other effects of patients admitted to hospital. The registrar ordinarily will be the custodian of money and valuables turned over to the hospital by patients for safekeeping.

(c) Money and valuables. Patients will be informed by the admitting officer that the hospital will keep money and valuables, including watches, trinkets, personal papers, keepsakes, etc., and that receipts will be given for such articles by a commissioned officer. If a patient is unconscious, he will be searched by the admitting officer, in the presence of a witness, for money and valuables, which will be receipted for by a commissioned officer and properly safeguarded. Money and valuables will be received and receipted for without condition or other evasion of complete responsibility by the command. At the discretion of the commanding officer, a medical warrant officer or by an officer designated by him. Money and valuables of considerable intrinsic value, such as watches and jewelry, will be deposited in a bank or locked in the hospital safe.

Watches and jewelry, will be deposited in the hospital fund at stations in Alaska against actual loss, the station commander may prescribe an additional charge for each patient not to exceed 25 cents a day, except in the case of retired enlisted men of the Army, Navy, and Marine Corps.

(b) Medicine charges; rates. Per diem charges of 50 cents for medicines and dressings will be collected from civilian employees and other civilians who are patients in Medical Department establishments and who are not entitled to medical relief at the expense of public funds. [Par. 12]

§ 77.19 Civilian hospital employees—

(a) General. The employment of civilians necessary for the proper care of sick officers and enlisted men is authorized in the Army, Navy, and Marine Corps.

(b) Medicine charges; rates. Per diem charges for sick officers of the Army, Navy, and Marine Corps, active or retired, an amount per day equal to the commutation of rations for enlisted men, the same rate as that prescribed for enlisted patients plus 10 cents a day, except in the case of Filipino civilians as will cover the cost of their subsistence. The surgeon will determine medical warrant officer or the commanding officer, in the presence of a witness, for money and valuables, which will be receipted for by a commissioned officer and properly safeguarded. Money and valuables will be received and receipted for without condition or other evasion of complete responsibility by the command. At the discretion of the commanding officer, a medical warrant officer or by an officer designated by him. Money and valuables of considerable intrinsic value, such as watches and jewelry, will be deposited in a bank or locked in the hospital safe.

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§ 77.19 Civilian hospital employees—

(a) General. The employment of civilians necessary for the proper care of sick officers and enlisted men is authorized in the Army, Navy, and Marine Corps.

(b) Medicine charges; rates. Per diem charges for sick officers of the Army, Navy, and Marine Corps, active or retired, an amount per day equal to the commutation of rations for enlisted men, the same rate as that prescribed for enlisted patients plus 10 cents a day, except in the case of Filipino civilians as will cover the cost of their subsistence. The surgeon will determine medical warrant officer or the commanding officer, in the presence of a witness, for money and valuables, which will be receipted for by a commissioned officer and properly safeguarded. Money and valuables will be received and receipted for without condition or other evasion of complete responsibility by the command. At the discretion of the commanding officer, a medical warrant officer or by an officer designated by him. Money and valuables of considerable intrinsic value, such as watches and jewelry, will be deposited in a bank or locked in the hospital safe.

Watches and jewelry, will be deposited in the hospital fund at stations in Alaska against actual loss, the station commander may prescribe an additional charge for each patient not to exceed 25 cents a day, except in the case of retired enlisted men of the Army, Navy, and Marine Corps.

(b) Medicine charges; rates. Per diem charges of 50 cents for medicines and dressings will be collected from civilian employees and other civilians who are patients in Medical Department establishments and who are not entitled to medical relief at the expense of public funds. [Par. 12]

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PART 78—DECORATIONS, MEDALS, RIBBONS, AND SIMILAR DEVICES

AMERICAN DEFENSE SERVICE MEDAL

§ 78.40 American Defense Service Medal; how earned.—(a) Service required. The Secretary of War has authorized the issuance of American Defense Service Medals to military personnel for honorable service by those who entered upon a period of active Federal service of 12 months or longer and who, at any time between September 8, 1939, and December 7, 1941, both dates inclusive:

(b) Organizations in which service required. (1) American Defense Service Medals are awarded for rendition of the prescribed service in any one or more of the following only:

(1) Regular Army, including the Philippine Scouts and the Regular Army Reserve while serving on active duty.

(2) Volunteer forces duly mustered into the Federal service.

(3) National Guard called or ordered into the Federal service.

(4) Organizations in which service rendered, including the Enlisted Reserve Corps, while serving on active duty to which ordered or on which placed by the President.

(2) An American Defense Service Medal will not be awarded by the War Department for service in any one or more of the following:

(i) United States Navy.

(ii) United States Marine Corps.

(iii) United States Coast Guard.

(iv) National Guard not called or ordered into Federal service.

(v) Philippine Constabulary.

(vi) Home defense organizations.

(c) Bronze stars. Bronze stars will be awarded for wear on the suspension ribbons of the medals in cases where personnel were exposed to hostile attack during the period for which the medal may be awarded, one star for each separate hostile attack. *(Pars. 2, 3, 4, and 5)*

§ 78.41 Award of m.Jals.—(a) Limitation on number of medals awarded. Not more than one American Defense Service Medal will be awarded to any individual regardless of the number of periods of honorable active service rendered subsequent to September 7, 1939.

(b) Original supply. Original issue of American Defense Service Medals, accompanying ribbons, and lapel buttons will be made gratuitously.

(c) To whom furnished. American Defense Service Medals are furnished only to:

(1) Members and former members of the Army who have rendered the required service.

(2) Next of kin of those deceased who shall have the lost the required service. By next of kin is meant the first of the following who are living: widow (if not remarried), eldest son, eldest daughter, father, mother, eldest brother, eldest sister, eldest grandchild.

(d) By whom furnished; method of delivery. (1) American Defense Service Medals are furnished by the quartermaster of the nearest military post or station upon requisition therefor submitted by organization commanders or other officers of the Army who have custody of records upon which such awards may be based.

(2) Officers, warrant officers, nurses, enlisted men, and other personnel of the Army detached from commands and at places where a supply of the medals is not available will make application for the medal on W.D. A.G.O. Form No. 0714 to The Adjutant General, Washington, D.C.

(3) Officers, warrant officers, nurses, enlisted men, and other personnel of the Army who have been honorably separated from the service on account of ineligibility or inactive status should make application for the medal on W.D. A.G.O. Form No. 0714 to The Adjutant General, Washington, D.C.

(4) In case an individual dies before delivery has been made to him of an American Defense Service Medal the medal will be returned to the issuing quartermaster for cancellation or delivery to the next of kin, as the case may be.* *(Pars. 6, 7, 8, and 9)*

§ 78.42 Action to be taken in case of loss. In case of loss of an American Defense Service Medal, the loser will at once make all reasonable efforts to recover it. If in the service he will also inform his immediate commanding officer, who will cause an investigation to be made with a view to determining the circumstances of loss and with a view to recovering the medal. *(Par. 12)*

§ 78.43 Action to be taken in case of loss. *(a) When furnished. Under authority contained in the act of May 12, 1928 (45 Stat. 500; 10 U.S.C. 1415b), a duplicate of an American Defense Service Medal will be furnished in case the original has been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom originally presented.

(1) By application. To persons in the military service.

(2) By sale. To all others.

(b) How obtained.—(1) Application for; when made. In the cases of persons in the military service, and in other cases where the loss is the result of fire, tornado, earthquake, shipwreck, or similar catastrophe, application may be made immediately; otherwise, the application should not be made until after the lapse of 3 months.

(2) To whom application addressed. Applications should be addressed to The Adjutant General.

§ 78.44 Exhibition purposes. Upon approval by the Secretary of War, samples of American Defense Service Medals may be furnished by the War Department for entertainment purposes and for sale or manufacture and sell service medals, etc., by exhibiting some official paper or document, such as a discharge certificate or true copy thereof, or a letter from an officer of the War Department or a governmental agency, to museums, libraries, historical, numismatic, and military societies, or institutions of such a public nature as will insure an opportunity to the public to view the exhibits. Except for a War Department or a governmental agency exhibit, all sample American Defense Service Medals so furnished will be engraved at the expense of the purchaser with the words "For exhibition purposes only." *(Par. 14)*

[SEAL]

E. S. ADAMS, Assistant Adjutant General.

[FR Doc. 42-1538 Filed February 21, 1942; 11:11 a.m.]

TITLE 12—BANKS AND BANKING

CHAPTER II—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 204—RESERVES OF MEMBER BANKS

Part 204 is amended in the following respects, effective with the reserve computation period beginning February 28, 1943:

Section 204.3 (a) is changed to read as follows:

§ 204.3 Deficiencies in reserves.—(a) Computation of deficiencies. (1) Deficiencies in reserve balances of member banks in central reserve cities and in reserve cities shall be computed on the basis of average daily net deposit bal-
ances covering weekly periods. Deficiencies in reserve balances of other member banks shall be computed on the basis of average daily net deposit balances covering semimonthly periods.

(2) In computing such deficiencies the required reserve balance of each member bank at the close of business each day shall be based upon its net deposit balances at the opening of business on the same day; and the weekly and semimonthly periods referred to in subparagraph (1) of this paragraph shall end at the close of business on days to be fixed by the Federal Reserve banks with the approval of the Board of Governors of the Federal Reserve System.

Section 204.4 is changed to read as follows:

§ 204.4 Loans and dividends while reserves are deficient. It is unlawful for any member bank the reserves of which are deficient to make any new loan or pay any dividends unless and until the total reserves required by law are fully restored, and the payment of penalties for deficiencies in reserves does not exempt member banks from this prohibition of law. As provided in § 204.3, penalties for deficiencies in reserves are computed on the basis of the average reserve balances for weekly or semimonthly periods; but this prohibition of law applies whenever the reserves are deficient for one day or more, regardless of whether or not the average reserve balances for the weekly or semimonthly period are deficient. (Sec. 11 (c), (e), (1), 33 Stat. 262, sec. 10, 40 Stat. 239, sec. 4, 40 Stat. 970, sec. 297, 49 Stat. 706, sec. 325, 49 Stat. 714, 12 U.S.C. 245 (c), (e), (1), 462, 466, 12 U.S.C. Sup., 462b, 461, 462a1, 465)

Board of Governors of the Federal Reserve System.

[SEAL] S. R. Carpenter, Assistant Secretary.

[F. R. Doc. 42-1567; Filed, February 23, 1942; 4:16 p.m.]

TITLE 14—CIVIL AVIATION
CHAPTER I—CIVIL AERONAUTICS BOARD

[Amendments 40-6, 40-0, Civil Air Regulations]

PART 40—AIR CARRIER OPERATING CERTIFICATES

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 10th day of February, 1942.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 601 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective March 6, 1942, Part 40 of the Civil Air Regulations is amended as follows:

1. By striking §§ 40.4 to 40.79, inclusive, and inserting in lieu thereof the following:

§ 40.4 Air carrier operating certificate.

§ 40.40 Application for and issuance of air carrier operating certificate. (a) Application for an air carrier operating certificate shall be made upon the applicable forms prescribed and furnished by the Administrator.

(b) An air carrier operating certificate may be issued by the Administrator to an applicant after approval of application made and proof submitted in connection therewith, if the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of the Act and the applicable rules, regulations and standards prescribed therefor under such operation.

§ 40.41 Display. The air carrier operating certificate shall be presented for inspection upon request of any duly authorized representative of the Administrator or Board.

§ 40.42 Duration. An air carrier operating certificate shall be of indefinite duration unless cancelled, suspended, or revoked.

§ 40.43 Surrender. Upon the cancellation, suspension, or revocation of an air carrier operating certificate, or part thereof, the holder shall, upon request, surrender such certificate, or part thereof, to any officer or employee of the Administrator.

§ 40.44 Non-transferability. An air carrier operating certificate is not transferable except with the written consent of the Administrator.

§ 40.45 Inspection. A duly authorized representative of the Administrator shall be permitted at any time and place to make such inspection or examination as may be deemed necessary to determine the operator's compliance with the requirements of the Civil Air Regulations and the Civil Aeronautics Act of 1938, as amended.

§ 40.45 Amendment. Application by the air carrier to amend the air carrier operating certificate shall be made upon the applicable form prescribed and furnished by the Administrator.

2. By amending the Table of Contents of Part 40 to conform with paragraph No. 1 of this amendment.

By the Civil Aeronautics Board.

[SEAL] Darwin Charles Brown, Secretary.

[F. R. Doc. 42-1547; Filed, February 21, 1942; 9:47 a.m.]

[Amendments 60-53, Civil Air Regulations]

PART 60—AIR TRAFFIC RULES

AIR CARRIER OPERATING CERTIFICATES

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 10th day of February, 1942.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 601 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective March 6, 1942, Part 60 of the Civil Air Regulations is amended as follows:

By striking from the first paragraph of § 60.351 the words "competency letters" and inserting in lieu thereof the words "air carrier operating certificate." By the Civil Aeronautics Board.

[SEAL] Darwin Charles Brown, Secretary.

[F. R. Doc. 42-1548; Filed, February 21, 1942; 9:47 a.m.]

[Amendments 61-21 through 61-31, Civil Air Regulations]

PART 61—SCHEDULED AIR CARRIER RULES

AIR CARRIER OPERATING CERTIFICATES

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 10th day of February, 1942.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 601 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective March 6, 1942, Part 61 of the Civil Air Regulations is amended as follows:

1. By striking § 61.00 and inserting in lieu thereof a new section to read as follows:

§ 61.00 Certificate required. No air carrier shall operate aircraft in scheduled interstate air transportation within the continental limits of the United States carrying mail, goods or persons, or any combination thereof unless such air carrier is possessed of a valid air carrier operating certificate issued by the Administrator of Civil Aeronautics.

2. By striking § 61.01 and inserting in lieu thereof the following:

§ 61.01 (Unassigned).

3. By amending § 61.10 to read as follows:

§ 61.10 Service performed. No scheduled air carrier shall perform or render any service, as related to the carriage of
mail, goods or persons, or to day or night operations, until rated competent to operate such service in the air carrier operating certificate issued by the Administrator.

4. By amending § 61.20 to read as follows:

§ 61.20 Route operation. No scheduled air carrier shall operate over any route or part thereof until rated competent to operate thereon in the air carrier operating certificate issued by the Administrator.

5. By striking the phrase “route competency letter” in §§ 61.21, 61.22, 61.23, and 61.24 and inserting in lieu thereof the phrase “air carrier operating certificate”.

6. By striking the phrase “an appropriate competency letter” in § 61.24 and inserting in lieu thereof the phrase “air carrier operating certificate”.

7. By amending § 61.30 to read as follows:

§ 61.30 Aircraft operation. No scheduled air carrier shall operate any aircraft until rated competent with respect thereto in the air carrier operating certificate issued by the Administrator.

8. By striking the phrase “aircraft and maintenance competency letters” in § 61.3500 and inserting in lieu thereof the phrase “air carrier operating certificate”.

9. By striking the phrase “the current maintenance competency letter” in § 61.41 and inserting in lieu thereof the phrase “that portion of the air carrier operating certificate pertaining to maintenance”.

10. By amending § 61.453 (d) to read as follows:

§ 61.453 (d) Any data not issuing from the Administrator may be changed by the operator without the approval of the Administrator, provided such change is not inconsistent with any Federal regulation, the air carrier operating certificate, or safe maintenance practice. Notice of any such change shall be promptly given in accordance with § 61.450.

11. By striking the last sentence of § 61.50.

12. By striking the phrase “airmen competency letter” in §§ 61.511, 61.513, 61.515, and 61.517 and inserting in lieu thereof the phrase “air carrier operating certificate”.

13. By amending § 61.5304 (e) to read as follows:

§ 61.5304 (e) He shall be familiar with all portions of the air carrier operating certificate pertaining to enroute operations and airport specifications for the route or part thereof for which qualification is sought.

14. By striking the phrase “route and weather competency letter” in § 61.5516 (q) and inserting in lieu thereof the phrase “air carrier operating certificate”.

15. By striking the phrase “airmen competency letter” in § 61.564 and inserting in lieu thereof the phrase “air carrier operating certificate”.

16. By striking the phrase “weather competency letter” in §§ 61.555, 61.71070 therein prescribed are now necessary to clarify the intention of the Board with respect thereto; and

The Board finding that its action is in the public interest and is necessary to carry out the provisions of the Civil Aeronautics Act of 1938, as amended, and to enable the Board to exercise and perform its powers and duties under that Act;

It is ordered, That the Uniform System of Accounts for Domestic Air Carriers be and the same is amended as set forth in Exhibit A attached hereto, by the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN, Secretary.

[F. R. Doc. 42-1676; Filed, February 25, 1942; 9:47 a. m.]

[Regulations, Serial No. 206]

PART 248—INTERLOCKING DIRECTORS AND OFFICERS

APPROVALS OF INTERLOCKING RELATIONSHIPS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 18th day of February, 1942.

The Civil Aeronautics Board, acting pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 409 (a) thereof, and deeming its action necessary to carry out the provisions of said Act and to exercise its powers and perform its duties thereunder, hereby makes and promulgates the following regulation:

Effective March 10, 1942, § 248.1 of the Economic Regulations is hereby amended in its entirety to read as follows:

§ 248.1 Approvals of interlocking relationships—(a) Application. If approval by the Board is desired of an interlocking relationship which would otherwise be prohibited by section 409 (a) of the Act (hereinafter referred to as an “interlocking relationship”) an application for such approval shall be filed with the Board by the individual (hereinafter referred to as the “individual applicant”) occupying or seeking to occupy the interlocking relationship, and by each air carrier applicant) in which such individual holds or seeks to hold the position of officer or director. At their election such applicants may join in a single application.

If separate applications are submitted it is desirable that all shall be filed at the same time. An application may incorporate by specific reference current information contained in another application in the same matter or in any document then or file with the Board.

(b) Formal requirements. Applications filed pursuant to this section shall conform generally to the outline set forth in paragraph (c) hereof and the requirements of rule 3 of § 263.1 of the Economic Regulations, with the additional requirement that each individual verifying the application shall include in his verification a statement that

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he has personally made a careful investigation of the proposed interlocking relationship and that the application includes all of the information required by this section of the Economic Regulations and that it contains no misleading statement and does not omit information which would tend to show that the public interest would be adversely affected by the approval of the proposed interlocking relationship. If a joint application is filed, it shall be verified by the individual applicant and by a responsible officer of each air carrier applicant. However, any individual applying any such joint application may disclaim responsibility for any statements therein except statements concerning matters which are peculiarly within his knowledge. In any such case, however, every allegation contained in the application shall be verified by one or more qualified individuals.

(c) General provisions concerning contents. Each application (except one filed pursuant to paragraph (d) hereof) shall, among other things, include the following:

(1) The full name, place of residence and citizenship of the individual applicant.

(2) The name and address of the major business or professional activity of the individual applicant.

(3) A complete description of the interlocking relationship for which approval is sought, as well as a description of any other interlocking relationship occupied by the individual applicant which has been approved by the Board. This description shall include the date and manner of the individual applicant’s election or appointment to the position or positions which he occupies or seeks to occupy, and shall state the name or names of the persons primarily responsible, directly or indirectly, for his election to or appointment to these positions. It shall also include a statement of his present or contemplated duties in connection with the interlocking relationship for which approval is sought and the approximate amount of time devoted or expected to be devoted thereto.

(4) The name of the person or persons, if any, whom the individual applicant represents or will represent on the board of directors of each air carrier applicant, together with a statement as to any financial interest held by such person or persons in any air carrier, common carrier, person, or corporation in any phase of aeronautics other than as an air carrier, or person whose principal business, in purpose or in fact, is the holding of stock in, or control of any other person engaged in any phase of aeronautics.

(5) The name and address of each business (including but not limited to corporations, partnerships, trusts, in which the individual applicant is an officer, director, partner, trustee, receiver, manager, attorney, agent, or controlling stockholder or employee, the general character or purpose of such business and a description of the individual applicant’s financial interest therein.

(6) A complete description of any benefit and of the amount of and basis for any money or thing of value (i) received by the individual applicant during the last year from each air carrier applicant with whom the individual applicant has or seeks to have an interlocking relationship, whether for services, reimbursement of expenses or otherwise; and (ii) which the applicant contemplates receiving from any such person during the continuance of the interlocking relationship.

(7) The names and titles of all officers and directors of each air carrier applicant, and of each person with whom the individual applicant has or seeks to have an interlocking relationship.

(8) With respect to each officer and director (including the individual applicant) of each air carrier applicant, a statement that the information contained in the most recent reports filed with the Board pursuant to §280.1 of the Economic Regulations for each of such individuals is the same as of the date within 30 days of the filing of the application pursuant to this section, or, if such information has changed, a statement setting forth the details of such changes. If no such report is on file with respect to any such officer or director (including the individual applicant), it shall be verified concurrently with the application pursuant to this section.

(9) The name of each stockholder, but not exceeding the twenty largest stockholders of each air carrier applicant, holding 1 per centum or more of the voting capital stock of at least one air carrier applicant, and the name of each person with whom the individual applicant has or seeks to have an interlocking relationship, together with the number of shares of each class of stock held by each of such stockholders and the percentage which such shares bear to the total authorized and outstanding shares of the same class. If all or any part of such shares are held for the account of any person other than the holder the names of such other persons shall be disclosed.

(10) A description of the shares of stock or other interests held by each air carrier applicant for its account in persons other than itself.

(11) A full description of any professional, financial or other business transactions or arrangements which have been entered into within one year prior to the date of the filing of the application by each air carrier applicant with the individual applicant and by each air carrier applicant or individual applicant with any person with whom the individual applicant has or seeks to have an interlocking relationship, together with a full statement as to any such transactions or arrangements which it is contemplated may be entered into or, if such interlocking relationship continues.

Each application shall state fully such further facts as the applicants respectively deem desirable in order to show that the public interest will not be adversely affected by the approval by the Board of the interlocking relationship.

(d) System of affiliated and subsidiary companies. In the event that an individual occupies or seeks to occupy an interlocking relationship within the purview of section 409 (a) of the Act which involves only the holding by him of the position of officer or director in two or more companies within the same system of affiliated and subsidiary companies (as hereinafter defined), an application for approval of such relationships need not comply with the requirements of paragraphs (c) (1) of this section, but shall comply with all other requirements of that paragraph. Such application shall also include:

(1) Such information as is necessary to disclose the fact that the companies in which the individual applicant occupies or seeks to occupy the interlocking relationships are members of the system of affiliated and subsidiary companies as defined herein, and

(2) A statement that the individual applicant does not occupy any other positions which would tend to show that the existence of the proposed relationship for which approval is sought and the approximate amount of time devoted or expected to be devoted thereto.

Each application shall state fully such further facts as the applicants respectively deem desirable in order to show that the public interest will not be adversely affected by the approval by the Board of the interlocking relationship.

(e) Supplements. Applicants under this section shall, upon requests of the Board and within such time as may be allowed, supplement any application with such information as may be required by the Board. In the event of any substantial change in the information set forth in the application prior to a decision by the Board upon such application, either by reason of the individual applicant’s election or appointment to another position or positions involving an interlocking relationship or otherwise, the application shall be supplemented by such information as will fully describe such change. Such supplements shall contain with the formal requirements of paragraph (b) hereof.

(f) Uninterrupted tenure. After the individual applicant has been authorized
CHAPTER II—ADMINISTRATOR OF CIVIL AERONAUTICS, DEPARTMENT OF COMMERCE

PART 600—DESIGNATION OF CIVIL AIRWAYS

February 6, 1942.

Acting pursuant to the authority vested in me by section 302 of the Civil Aeronautics Act of 1938, as amended, I hereby suspend the designation of civil airways as follows:

1. By striking Part 300 of the Regulations of the Administrator of Civil Aeronautics, "Designation of Civil Airways."

2. By adopting the following regulations:

§ 600.1 Civil airway designation. The following described paths through the navigable airspace of the United States are suitable for interstate, overseas, or foreign air commerce and are hereby designated as civil airways:

§ 600.10 Scope. (a) Each civil airway shall include the navigable air space of the United States above all that area on the surface of the earth lying within 10 miles of the center line prescribed for each such airway, but shall not include any of the air space of an air-space reservation set apart as provided in section 4 of the Air Commerce Act of 1926. (b) The center line of each civil airway shall be a line extended in the manner heretofore prescribed through the center of the points specified for such airway.

§ 600.100 Green civil airways:

§ 600.1000 Green civil airway No. 1 (United States-Canadian Border to Forest City, Maine), From the intersection of the center line of the on course signal of the east leg of the Megantic, Quebec, Canada, radio range and the United States-Canada line at the Megantic, Maine, radio range station; to Forest City, Maine. (United States-Canadian Border.)

§ 600.1001 Green civil airway No. 2 (San Francisco, Calif., to Boston, Mass.), From Boeing Field, Seattle, Wash., via the Seattle, Wash., radio range station; Ellensburg, Wash., radio range station; Ephrata, Wash., radio range station; Spokane, Wash., radio range station; Spokane, Wash., radio range station; Coeur D'Alene, Idaho, radio range station; Mullan Pass, Idaho, radio range station; Superior, Mont., radio range station; Missoula, Mont., radio range station; Drummond, Mont., radio range station; Helena, Mont., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Helena, Mont., radio range and the northwest leg of the Belgrade, Mont., radio range; Belgrade, Mont., radio range station; Livingston, Mont., radio range station; Billings, Mont., radio range station; Custer, Mont., radio range station; Miles City, Mont., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Miles City, Mont., radio range and the west leg of the Golva, N. Dak., radio range; Golva, N. Dak., radio range station; Dickinson, N. Dak., radio range station; Bismarck, N. Dak., radio range station; Jamestown, N. Dak., radio range station; Fort Myer, Va., radio range station; Alexandria, Minn., radio range station; Minneapolis, Minn., radio range station; La Crosse, Wis., radio range station; Lone Rock, Wis., radio range station; Madison, Wis., radio range station; Milwaukee, Wis., radio range station; Muskegon, Mich., radio range station; Grand Rapids, Mich., radio range station; Lansing, Mich., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Lansing, Mich., radio range and the northwest leg of the Detroit, Mich., (Wayne County Airport), radio range, and the Detroit, Mich., (Wayne County Airport), radio range station; to the intersection of the center line of the on course signal of the east leg of the Detroit, Mich., (Wayne County Airport), radio range and the U. S.-Canadian Border. From the intersection of the center line of the on course signal of the west leg of the Buffalo, N. Y., radio range and the Buffalo, N. Y., radio range station; Syracuse, N. Y., radio range station; Utica, N. Y., radio range station; Albany, N. Y., radio range station; Westfield, Mass., radio range and the intersection of the center lines of the on course signals of the southeast leg of the Westfield, Mass., radio range and the southwest leg of the Boston, Mass., radio range station; and the Boston, Mass., radio range station; to the Municipal Airport, Boston, Mass.

§ 600.1002 Green civil airway No. 3 (San Francisco, Calif., to New York, N. Y.), From the Municipal Airport, San Francisco, Calif., via the San Francisco, Calif., radio range station; Oakland, Calif., radio range station; Sacra-
§ 600.10004 Green civil airway No. 5

(Los Angeles, Calif., to Wash., D. C.).

From the Los Angeles, Calif., radio range station, via the Riverside, Calif., radio range station; the intersection of the center lines of the on course signals of the east leg of the Riverside, Calif., radio range and the west leg of the Blythe, Calif., radio range station; the intersection of the center lines of the on course signals of the southwest leg of the Phoenix, Ariz., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Phoenix, Ariz., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Tucson, Ariz., radio range station; the intersection of the center lines of the on course signals of the southwest leg of the Tucson, Ariz., radio range and the west leg of the Cochise, N. Mex., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Cochise, N. Mex., radio range and the southwest leg of the Kingman, Ariz., radio range station; to the Oakland, Calif., radio range station.
§ 600.10101 Amber civil airway No. 2
(Daggett, Calif., to U. S.—Canadian Border)
From the Daggett, Calif., radio range station, via the Silver Lake, Calif., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Silver Lake, Calif., radio range and the southwest leg of the Las Vegas, Nev., radio range; Las Vegas, Nev., radio range station; Mormon Mesa, Nev., radio range station; Enterprise, Utah, radio range station; Milford, Utah, radio range station; Delta, Utah, radio range station; Tintic, Utah, radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Silver Lake, Calif., radio range and the southwest leg of the Las Vegas, Nev., radio range station; to the Salt Lake City, Utah, radio range station. From the Ogden, Utah, radio range station, via the Plymouth, Utah, radio range station; Pocatello, Idaho, radio range station; Idaho Falls, Idaho, radio range station; Dopolon, Mont., radio range station; Dillon, Mont., radio range station; Whitehall, Mont., radio range station; Helena, Mont., radio range station; the intersection of the center lines of the on course signals of the north leg of the Helena, Mont. range radio and the southwest leg of the Great Falls, Mont., radio range: Great Falls, Mont., radio range station; to the intersection of the center line of the on course signals of the northeast leg of the Lethbridge, Alberta, Canada, radio range and the U. S.—Canadian Border.

§ 600.10102 Amber civil airway No. 3
(El Paso, Tex., to Great Falls, Mont.)
From the intersection of the center lines of the on course signals of the west leg of the El Paso, Tex., radio range and the south leg of the El Paso, N. Mex., radio range via the Engle, N. Mex., radio range station; to the Albuquerque, N. Mex., radio range station. From the intersection of the center line of the on course signals of the east leg of the Otto, N. Mex., radio range and the southwest leg of the Las Vegas, N. Mex., radio range, via the Las Vegas, N. Mex., radio range and the south leg of the El Paso, Tex., radio range via the Engle, N. Mex., radio range station; to the Albuquerque, N. Mex., radio range station.
the northeast leg of the Gordonsville, Va., radio range and the southeast leg of the Westfield, Mass., radio range station; via the intersection of the center lines of the on course signals of the northeast leg of the Washington, D.C., radio range and the southwest leg of the Philadelphia, Pa., radio range station; via the intersection of the center lines of the on course signals of the east leg of the Washington, D.C., radio range station; the Intersection of the center lines of the on course signals of the Norfolk, Va., radio range and the south leg of the Boston, Mass., radio range. From the Boston, Mass., radio range station, via the Portland, Maine, radio range station; Augusta, Maine, radio range station; the intersection of the center lines of the on course signals of the northeast leg of Augusta, Maine, radio range and the southwest leg of the Bangor, Maine, radio range; Bangor, Maine, radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Portland, Maine, radio range and the southwest leg of the Millinocket, Maine, radio range; Millinocket, Maine, radio range station; Augusta, Maine, radio range station to the Fort Bridger, Wyo., radio range station.

§ 600.10203 Red civil airway No. 4 (Dallas, Tex., to Shreveport, La.). From the intersection of the center lines of the on course signals of the east leg of the Dallas, Tex., radio range and the northwest leg of the Tyler, Tex., radio range; via the Tyler, Tex., radio range station; to the intersection of the center lines of the on course signals of the north leg of the Tyler, Tex., radio range and the west leg of the Shreveport, La., radio range station.

§ 600.10204 Red civil airway No. 5 (Sioux Falls, S. Dak., to Minneapolis, Minn.). From the Sioux Falls, S. Dak., radio range station to the Minneapolis, Minn., radio range station.

§ 600.10205 Red civil airway No. 6 (Parco, Wyo., to Omaha, Neb.). From the intersection of the center lines of the on course signals of the northwest leg of the Laramie, Wyo., radio range and the northwest leg of the Cheyenne, Wyo., radio range; via the Laramie, Wyo., radio range station; to the intersection of the center lines of the southeast leg of the Laramie, Wyo., radio range and the north leg of the Denver, Colo., radio range. From the Denver, Colo., radio range station, via the Yampa, Colo., radio range station and the Hayden Center, Neb., radio range station; to the intersection of the center lines of the on course signals of the northeast leg of the Millinocket, Maine, radio range and the southeast leg of the Caribou, Maine, radio range to the Caribou, Maine, radio range station.

§ 600.10206 Red civil airway No. 7 (Spartanburg, S. C., to Greensboro, N. C.). From the intersection of the center lines of the on course signals of the northeast leg of the Spartanburg, S. C., radio range and the west leg of the Charlotte, N. C., radio range, via the Charlotte, N. C., radio range station; to the intersection of the center lines of the on course signals of the north leg of the Charlotte, N. C., radio range and the southwest leg of the Greensboro, N. C., radio range station.

§ 600.10207 Red civil airway No. 8 (Concord, N. H., to Portland, Maine). From the Concord, N. H., radio range station; to the Portland, Maine, radio range station.

§ 600.10208 Red civil airway No. 9 (Tallahassee, Fla., to Alma, Ga.). From the intersection of the center lines of the on course signals of the east leg of the Tallahassee, Fla., radio range and the southwest leg of the Alma, Ga., radio range station; to the Alma, Ga., radio range station.

§ 600.10209 Red civil airway No. 10 (Amarillo, Tex., to Charleston, S. C.). From the intersection of the center lines of the on course signals of the east leg of the Amarillo, Tex., radio range and the northwest leg of the Clarendon, Tex., radio range; via the Clarendon, Tex., radio range station; to the intersection of the center lines of the on course signals of the southeast leg of the Wichita Falls, Tex., radio range and the northeast leg of the Fort Worth, Tex., radio range.

§ 600.10210 Red civil airway No. 11 (Louisiana, La., to New York, N. Y.). From the intersection of the center lines of the on course signals of the northwest leg of the Shreveport, La., radio range and the south leg of the Shreveport, La., radio range station; Monroe, La., radio range station; Jackson, Miss., radio range station; Meridian, Miss., radio range station; and the Natchez, Miss., radio range station; to the Atlanta, Ga., radio range station. From the intersection of the center lines of the on course signals of the northeast leg of the Atlanta, Ga., radio range and the west leg of the Augusta, Ga., radio range, via the Augusta, Ga., radio range station; to the Charleston, S. C., radio range station.

§ 600.10211 Red civil airway No. 12 (Kansas City, Mo., to Detroit, Mich.). From the Kansas City, Mo., radio range station, via the Kirksville, Mo., radio range station; to the intersection of the center lines of the on course signals of the east leg of the Moline, Ill., radio range and the southwest leg of the Chicago, Ill., radio range station; to the intersection of the center lines of the on course signals of the southeast leg of the Chicago, Ill., radio range and the southeast leg of the Green Bay, Wis., radio range to the Chicago, Ill., radio range station, via the South Bend, Ind., radio range station; to the Detroit, Mich., (Wayne County Airport), radio range station.

§ 600.10212 Red civil airway No. 13 (Westfield, Mass., to Boston, Mass.). From the Westfield, Mass., radio range station, via the intersection of the center lines of the on course signals of the southeast leg of the Westfield, Mass., radio range and the northwest leg of the Hartford, Conn., radio range station; Hartford, Conn., radio range station; and the Providence, R. I., radio range station; to the Boston, Mass., radio range station.

§ 600.10213 Red civil airway No. 14 (Lone Rock, Wis., to Louisville, Ky.). From the Lone Rock, Wis., radio range station, via the Rockford, Ill., radio range station; to the intersection of the center lines of the on course signals of the southeast leg of the Rockford, Ill., radio range and the northwest leg of the Chicago, Ill., radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Chicago, Ill., radio range and the south leg of the Milwaukee, Wis., radio range station; to the Green Bay, Wis., radio range station; and the Carlin, Ill., radio range station; to the Goshen, Ind., radio range, via the Lafayette, Ind., radio range station.
§ 600.10214 Red civil airway No. 15 (Las Vegas, Nev., to Phoenix, Ariz.). From the Las Vegas, Nev., radio range station; the Phoenix, Ariz., radio range station. From the intersection of the center lines of the on course signals of the southeast leg of the Scottsbluff, Neb., radio range and the northwest leg of the Rapid City, S. Dak., radio range station; to the Rapid City, S. Dak., radio range station. From the Rapid City, S. Dak., radio range station; via the Scottsbluff, Neb., radio range station; to the Minot, N. Dak., radio range station; via the Minot, N. Dak., radio range station; to the Oklahoma City, Okla., radio range station.

§ 600.10219 Red civil airway No. 20 (Sault Ste. Marie, Mich., to Washington, D. C.). From the Sault Ste. Marie, Mich., radio range station; via the intersection of the center lines of the on course signals of the northeast leg of the Traverse City, Mich., radio range; Traverse City, Mich., radio range station; and the northeast leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the northwest leg of the Sault Ste. Marie, Mich., radio range and the northeast leg of the Traverse City, Mich., radio range; Traverse City, Mich., radio range station; and the northeast leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the southeast leg of the Sault Ste. Marie, Mich., radio range; Traverse City, Mich., radio range; and the northwest leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the northeast leg of the Sault Ste. Marie, Mich., radio range; Traverse City, Mich., radio range; and the northwest leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the southeast leg of the Lansing, Mich., radio range and the northwest leg of the Detroit, Mich. (Wayne County Airport), radio range. From the intersection of the center line of the on course signal of the northwest leg of the Cleveland, Ohio, radio range and the east leg of the Toledo, Ohio, radio range station; to the intersection of the center lines of the on course signals of the southeast leg of the Detroit, Mich. (Wayne County Airport), radio range; and the northwest leg of the Detroit, Mich. (Wayne County Airport), radio range. From the intersection of the center lines of the on course signals of the northwest leg of the Cleveland, Ohio, radio range and the west leg of the Columbus, Ohio, radio range station; via the Toledo, Ohio, radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Akron, Ohio, radio range station; and the Akron, Ohio, radio range station, to the intersection of the center lines of the on course signals of the southeast leg of the Cleveland, Ohio, radio range and the west leg of the Pittsburgh, Pa., radio range. From the intersection of the center lines of the on course signals of the northwest leg of the Columbus, Ohio, radio range and the west leg of the Columbus, Ohio, radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Akron, Ohio, radio range station; and the Akron, Ohio, radio range station, to the intersection of the center lines of the on course signals of the northwest leg of the Akron, Ohio, radio range station; and the Akron, Ohio, radio range station, to the intersection of the center lines of the on course signals of the northeast leg of the Traverse City, Mich., radio range; Traverse City, Mich., radio range station; and the northeast leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the northwest leg of the Sault Ste. Marie, Mich., radio range and the northeast leg of the Traverse City, Mich., radio range; Traverse City, Mich., radio range station; and the northeast leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the southeast leg of the Sault Ste. Marie, Mich., radio range; Traverse City, Mich., radio range; and the northwest leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the northeast leg of the Sault Ste. Marie, Mich., radio range; Traverse City, Mich., radio range; and the northwest leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the southeast leg of the Lansing, Mich., radio range and the northwest leg of the Detroit, Mich. (Wayne County Airport), radio range. From the intersection of the center line of the on course signal of the northwest leg of the Cleveland, Ohio, radio range and the east leg of the Toledo, Ohio, radio range station; to the intersection of the center lines of the on course signals of the southeast leg of the Detroit, Mich. (Wayne County Airport), radio range; and the northwest leg of the Detroit, Mich. (Wayne County Airport), radio range. From the intersection of the center lines of the on course signals of the northwest leg of the Cleveland, Ohio, radio range and the west leg of the Columbus, Ohio, radio range station; via the Toledo, Ohio, radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Akron, Ohio, radio range station; and the Akron, Ohio, radio range station, to the intersection of the center lines of the on course signals of the northeast leg of the Traverse City, Mich., radio range; Traverse City, Mich., radio range station; and the northeast leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the southeast leg of the Sault Ste. Marie, Mich., radio range and the northeast leg of the Traverse City, Mich., radio range; Traverse City, Mich., radio range station; and the northeast leg of the Traverse City, Mich., radio range; to the intersection of the center lines of the on course signals of the southwest leg of the Sault Ste. Marie, Mich., radio range and the northwest leg of the Detroit, Mich. (Wayne County Airport), radio range; to the intersection of the center lines of the on course signals of the southeast leg of the Lansing, Mich., radio range and the northwest leg of the Detroit, Mich. (Wayne County Airport), radio range. From the intersection of the center line of the on course signal of the northwest leg of the Cleveland, Ohio, radio range and the east leg of the Toledo, Ohio, radio range station; to the intersection of the center lines of the on course signals of the southeast leg of the Detroit, Mich. (Wayne County Airport), radio range; and the northwest leg of the Detroit, Mich. (Wayne County Airport), radio range. From the intersection of the center lines of the on course signals of the northeast leg of the Scottsbluff, Neb., radio range and the northwest leg of the Rapid City, S. Dak., radio range station; to the Rapid City, S. Dak., radio range station. From the Rapid City, S. Dak., radio range station; via the Scottsbluff, Neb., radio range station; to the Minot, N. Dak., radio range station; via the Minot, N. Dak., radio range station; to the Oklahoma City, Okla., radio range station.

§ 600.10223 Red civil airway No. 24 (Amarillo, Tex., to Oklahoma City, Okla.). From the Amarillo, Tex., radio range station; to the Oklahoma City, Okla., radio range station.

§ 600.10224 Red civil airway No. 25 (Daytona Beach, Fla., to Miami, Fla.). From the Daytona Beach, Fla., radio range station, via the Orlando, Fla., radio range station; Tampa, Fla., radio range station; to the Miami, Fla., radio range station.

§ 600.10225 Red civil airway No. 26 (New York, N. Y., to Syracuse, N. Y.). From the intersection of the center lines of the on course signals of the southeast leg of the Elmira, N. Y., radio range; and the northeast leg of the Syracuse, N. Y., radio range station; to the Syracuse, N. Y., radio range station.

§ 600.10226 Red civil airway No. 27 (Dayton, Ohio, to Detroit, Mich.). From the intersection of the center lines of the on course signals of the northeast leg of the Dayton, Ohio, radio range and the west leg of the Columbus, Ohio, radio range station; via the Toledo, Ohio, radio range station; to the Dayton, Ohio, radio range station; and the Dayton, Ohio, radio range station; to the Miami, Fla., radio range station.
§ 600.10231 Red civil airway No. 32
(San Antonio, Tex., to Houston, Tex.). From the intersection of the center lines of the on course signals of the southeast leg of the San Antonio, Tex., radio range and the west leg of the Yoakum, Tex., radio range, via the Yoakum, Tex., radio range station; to the intersection of the center lines of the on course signals of the northeast leg of the Yoakum, Tex., radio range and the west leg of the Pittsburgh, Pa., radio range.

§ 600.10232 Red civil airway No. 33
(Huntington, W. Va., to New York, N. Y.). From the intersection of the center lines of the on course signals of the east leg of the Huntington, W. Va., radio range and the southwest leg of the Allentown, Pa., radio range station; to the intersection of the center lines of the on course signals of the southeast leg of the Allentown, Pa., radio range and the southwest leg of the New York, N. Y. (LaGuardia Field), radio range.

§ 600.10233 Red civil airway No. 34
(Rochester, N. Y., to Pulaski, Va.). From the Rochester, N. Y., radio range station; via the Greensboro, N. C., radio range station; to the Pulaski, Va., radio range station.

§ 600.10234 Red civil airway No. 35
(Pueblo, Col., to Wichita, Kan.). From the Pueblo, Col., radio range station, via the La Junta, Col., radio range station; Garden City, Kan., radio range station; Hutchinson, Kan., radio range station; the intersection of the center lines of the on course signals of the east leg of the Hutchinson, Kan., radio range and the north leg of the Wichita, Kan., radio range, to the Wichita, Kan., radio range station.

§ 600.10235 Red civil airway No. 36
(Rochester, N. Y., to U. S.-Canadian Border). From the Rochester, N. Y., radio range station; to the intersection of the center lines of the on course signals of the northeast leg of the Rochester, Minn., radio range and the northwest leg of the Minneapolis, Minn., radio range station; via the Grand Forks, N. D., radio range station, via the Pembina, N. D., radio range station; to the intersection of the center line of the on course signals of the north leg of the Pembina, N. D., radio range, and the U. S.-Canadian Border.

§ 600.10301 Blue civil airway No. 1
(Birmingham, Ala., to Muscle Shoals, Ala., radio range station). From the intersection of the center lines of the on course signals of the east leg of the Birmingham, Ala., radio range and the northwest leg of the Muscle Shoals, Ala., radio range, via the Muscle Shoals, Ala., radio range station; to the intersection of the center lines of the on course signals of the southeast leg of the Muscle Shoals, Ala., radio range and the north leg of the Birmingham, Ala., radio range; Birmingham, Ala., radio range station; Gunter Field, Montgomery, Ala.; and the Dothan, Ala., radio range station, via the intersection of the center lines of the on course signals of the northeast leg of the Dothan, Ala., radio range and the southwest leg of the Tallahassee, Fla., radio range.

§ 600.10302 Blue civil airway No. 3
(Galveston, Tex., to Wichita, Kans.). From the intersection of the center lines of the on course signals of the southwest leg of the Galveston, Tex., radio range and the north leg of the Elkins, W. Va., radio range station; to the intersection of the center lines of the on course signals of the northeast leg of the Elkins, W. Va., radio range and the south leg of the Muscle Shoals, Ala., radio range; and the intersection of the center lines of the on course signals of the northeast leg of the Muscle Shoals, Ala., radio range and the north leg of the Elkins, W. Va., radio range station.

§ 600.10303 Blue civil airway No. 4
(Memphis, Tenn., to Tampa, Fla.). From the intersection of the center lines of the on course signals of the northeast leg of the Memphis, Tenn., radio range and the northwest leg of the Muscle Shoals, Ala., radio range; via the Cross City, Fla., radio range station; and the intersection of the center lines of the on course signals of the southeast leg of the Cross City, Fla., radio range and the north leg of the Tampa, Fla., radio range; to the Tampa, Fla., radio range station.

§ 600.10304 Blue civil airway No. 5
(Galveston, Tex., to Wichita, Kans.). From the Municipal Airport, Galveston, Tex., via the Galvalton, Tex., radio range station; Houston, Tex., radio range station; Navasota, Tex., radio range station; Waco, Tex., radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Waco, Tex., radio range and the north leg of the Concord, N. H., radio range; Concord, N. H., radio range station; and the Burlington, Vt., radio range station; to Rouses Point, N. Y., radio range station.

§ 600.10305 Blue civil airway No. 6
(Abilen, Tex., to Oklahoma City, Okla.). From the Abilene, Tex., radio range station; via the Wichita Falls, Tex., radio range station; to the intersection of the center lines of the on course signals of the northeast leg of the Wichita Falls, Tex., radio range and the south leg of the Oklahoma City, Okla., radio range station.

§ 600.10306 Blue civil airway No. 7
(Springfield, Ill., to Morse, Ill.). From the Springfield, Ill., radio range station, via the Peoria, Ill., radio range station; to the intersection of the center lines of the on course signals of the northeast leg of the Peoria, Ill., radio range and the southwest leg of the Chicago, Ill., radio range.

§ 600.10307 Blue civil airway No. 8
(Fargo, N. Dak., to U. S.-Canadian Border.) From the Fargo, N. Dak., radio range station, via the Grand Forks, N. Dak., radio range station; and the Pembina, N. Dak., radio range station; to the intersection of the center line of the on course signals of the north leg of the Pembina, N. D., radio range and the northeast leg of the Des Moines, Iowa, radio range; Des Moines, Iowa, radio range station; and the intersection of the center lines of the on course signals of the northwest leg of the Des Moines, Iowa, radio range and the southeast leg of the Minneapolis, Minn., radio range.

§ 600.10308 Blue civil airway No. 9
(Columbia, Mo., to Duluth, Minn.). From the Columbia, Mo., radio range station; via the Kirksville, Mo., radio range station; and the Northdalles, Wash., radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Kirksville, Mo., radio range and the southwest leg of the Des Moines, Iowa, radio range; and the intersection of the center lines of the on course signals of the northwest leg of the Minneapolis, Minn., radio range and the southeast leg of the Duluth, Minn., radio range.

§ 600.10309 Blue civil airway No. 10
(Modesto, Calif., to Williams, Calif.). From the Modesto, Calif., radio range station; via the intersection of the center lines of the on course signals of the northeast leg of the Modesto, Calif., radio range and the southeast leg of the Sacramento, Calif., radio range; and the Sacramento, Calif., radio range station; to the Williams, Calif., radio range station.

§ 600.10310 Blue civil airway No. 11
(Muscle Shoals, Ala., to Nashville, Tenn.). From the Muscle Shoals, Ala., radio range station; to the intersection of the center lines of the on course signals of the northeast leg of the Muscle Shoals, Ala., radio range and the southwest leg of the Nashville, Tenn., radio range.

§ 600.10311 Blue civil airway No. 12
(Northdalles, Wash., to Ellensburg, Wash.). From the Northdalles, Wash., radio range station; via the Yakima, Wash., radio range station; to the Ellensburg, Wash., radio range station; and the intersection of the center lines of the on course signals of the north leg of the Ellensburg, Wash., radio range and the southwest leg of the Lake Charles, La., radio range station.

§ 600.10312 Blue civil airway No. 13
(Lake Charles, La., to Texarkana, Ark.).
From the Lake Charles, La., radio range station, via the intersection of the center lines of the on course signals of the north leg of the Lake Charles, La., radio range and the southeast leg of the Shreveport, La., radio range and the Shreveport, La., radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Shreveport, La., radio range station and the southwest leg of the Texarkana, Ark., radio range.

§ 600.10313 Blue civil airway No. 14 (Riverside, Calif., to Bakersfield, Calif.). From the Riverside, Calif., radio range station, via the intersection of the center lines of the on course signals of the northwest leg of the Riverside, Calif., radio range and the southeast leg of the Palmdale, Calif., radio range; and the Palmdale, Calif., radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Riverside, Calif., radio range and the southwest leg of the Bakersfield, Calif., radio range.

§ 600.10314 Blue civil airway No. 15 (Cortland, N. Y., to Burlington, Vt.). From the Cortland, N. Y., radio range station, via the intersection of the center lines of the on course signals of the east leg of the Columbus, Ohio, radio range and the southwest leg of the Akron, Ohio, radio range, to the Akron, Ohio, radio range station; to the intersection of the center lines of the on course signals of the northwest leg of the Akron, Ohio, radio range and the southwest leg of the Erie, Pa., radio range station, via the intersection of the center lines of the on course signals of the north leg of the Erie, Pa., radio range and the southeast leg of the Grand Rapid, Mich., radio range.

§ 600.10315 Blue civil airway No. 16 (Dillon, Mont., to Helena, Mont.). From the Dillon, Mont., radio range station, via the intersection of the center lines of the on course signals of the west leg of the Dillon, Mont., radio range and the southwest leg of the Butte, Mont., radio range; Butte, Mont., radio range station; to the Helena, Mont., radio range station.

§ 600.10316 Blue civil airway No. 17 (Blythe, Calif., to Kingman, Ariz.). From the Blythe, Calif., radio range station, via the intersection of the center lines of the on course signals of the north leg of the Needles, Calif., radio range and the southwest leg of the Kingman, Ariz., radio range.

§ 600.10317 Blue civil airway No. 18 (Newark, N. J., to Burlington, Vt.). From the intersection of the center lines of the on course signals of the northwest leg of the Newark, N. J., radio range and the south leg of the New Hackensack, N. Y., radio range, via the New Hackensack, N. Y., radio range station; and the Albany, N. Y., radio range station, to the Burlington, Vt., radio range station.

§ 600.10318 Blue civil airway No. 19 (Melbourne, Fla., to Orlando, Fla.). From the Melbourne, Fla., radio range station; to the Orlando, Fla., radio range station.

§ 600.10319 Blue civil airway No. 20 (Philadelphia, Pa., to Allentown, Pa.). From the Philadelphia, Pa., radio range station, to the Allentown, Pa., radio range station.

§ 600.10320 Blue civil airway No. 21 (Grand Rapids, Mich., to Traverse City, Mich.). From the Grand Rapids, Mich., radio range station to the Traverse City, Mich., radio range station.

§ 600.10321 Blue civil airway No. 22 (Wichita, Kansas, to Oklahoma City, Okla.). From the Wichita, Kansas, radio range station, via the intersection of the center lines of the on course signals of the southeast leg of the Wichita, Kansas, radio range and the northwest leg of the Tulsa, Okla., radio range to the Tulsa, Okla., radio range station.

§ 600.104 Additional civil airways:

§ 600.10403 Anchorage, Alaska, to Nome, Alaska, Civil Airway. From the center of Anchorage, Alaska, via the center of Seward, Alaska; the center of Kodiak, Alaska; the center of Chignik, Alaska; the center of King Cove, Alaska, to the center of Unalaska, Alaska.

§ 600.10404 Bismarck, N. Dak., to Minot, N. Dak., Civil Airway. From the Municipal Airport, Bismarck, N. Dak., to the Municipal Airport, Minot, N. Dak.

§ 600.10405 Anchorage, Alaska, to Nome, Alaska, Civil Airway. From the center of Anchorage, Alaska, to the center of King Cove, Alaska, to the center of Unalaska, Alaska.

§ 600.10406 Fairbanks, Alaska, to Fairbanks, Alaska, Civil Airway. From the Center of Fairbanks, Alaska, via the center of Seward, Alaska; the center of Kodiak, Alaska; the center of Chignik, Alaska; the center of King Cove, Alaska, to the center of Unalaska, Alaska.

§ 600.10407 Cordova, Alaska, to Big Delta, Alaska, Civil Airway. From the center of Cordova, Alaska, via the center of Valdez, Alaska; the center of Copper Center, Alaska; and the center of Paxson, Alaska, to the center of Big Delta, Alaska.

§ 600.10408 Dubois, Idaho, to West Yellowstone, Mont., Civil Airway. From the Dubois, Idaho, Intermediate Field of the Civil Aeronautics Administration to the Municipal Airport, West Yellowstone, Mont., via the center of Butte, Mont., radio range.

§ 600.10409 Fairbanks, Alaska, to Bethel, Alaska, Civil Airway. From the center of Fairbanks, Alaska, via the center of Ninena, Alaska; the center of McGrath, Alaska; and the center of Aniak, Alaska, to the center of Bethel, Alaska.

§ 600.10410 Fairbanks, Alaska, to Nome, Alaska, Civil Airway. From the center of Fairbanks, Alaska, via the center of Tanana, Alaska; the center of Ruby, Alaska; and Moses Point, Alaska, (Lat. 64° 42' N.; Long. 161° 57' W.), to the center of Nome, Alaska.

§ 600.10411 Junction City, Oregon, to Anchorage, Alaska, Civil Airway. From the center of Juneau, Alaska, via Cape Spencer, Alaska, (Lat. 58° 13' N.; Long. 137° 13' W.); the center of Yakutak, Alaska; the center of Yakataga, Alaska; the center of Cordova, Alaska; and the center of Portage, Alaska, to the center of Anchorage, Alaska.

§ 600.10412 Ketchikan, Alaska, to Haines, Alaska, Civil Airway. From the center of Ketchikan, Alaska, via the center of Petersburg, Alaska; and the center of Juneau, Alaska, to the center of Haines, Alaska.

§ 600.10413 Kodiak, Alaska, to Nome, Alaska, Civil Airway. From the center of Kodiak, Alaska, via the center of Nenana, Alaska; the center of Goodnews Bay, Alaska; and the center of Bethel, Alaska, to the center of Nome, Alaska.

§ 600.10414 Los Angeles, Calif., to San Francisco, Calif., Civil Airway (Coastal Route). From the Municipal Airport, Los Angeles, Calif., via the Goleta Airport, Santa Barbara, Calif.; Santa Maria Airport, Santa Maria, Calif.; Paso Robles Airport, Paso Robles, Calif., and the Municipal Airport, Salinas, Calif.; to Mills Field, San Francisco, Calif.

§ 600.10415 Nome, Alaska, to Point Barrow, Alaska, Civil Airway. From the center of Nome, Alaska, via the center of Kotzebue, Alaska, to the center of Point Barrow, Alaska.

§ 600.10416 Norfolk, Va., to Washington, D. C., Civil Airway. From the Municipal Airport, Norfolk, Va., to the National Airport, Washington, D. C.

§ 600.10417 Petersburg, Alaska, to Cape Spencer, Alaska, Civil Airway. From the center of Petersburg, Alaska, via the center of Sitka, Alaska, to Cape Spencer, Alaska, (Lat. 58° 13' N.; Long. 137° 13' W.);

§ 600.10418 Rapid City, S. Dak., to Spearfish, S. Dak., Civil Airway. From the Municipal Airport, Rapid City, S. Dak., to the Municipal Airport, Spearfish, S. Dak.

§ 600.10419 St. Louis, Mo., to Des Moines, Iowa, Civil Airway. From the Municipal Airport, St. Louis, Mo., via the Municipal Airport, Quincy, Ill., and the Municipal Airport, Davenport, Iowa, to the Municipal Airport, Des Moines, Iowa.

§ 600.10420 St. Louis, Mo., to Louisville, Ky., Civil Airway. From the Municipal Airport, St. Louis, Mo., via the Municipal Airport, Evansville, Ind., to the Municipal Airport, Louisville, Ky.

§ 600.10421 Tallahassee, Fla., to Atlanta, Ga., Civil Airway. From the Municipal Airport, Tallahassee, Fla., via the Municipal Airport, Albany, Ga., to Candler Field, Atlanta, Ga.

§ 600.10422 Winslow, Ariz., to Las Vegas, Nev., Civil Airway. From the Smithsonian Institution, December 13, 1942.
The foregoing designation of civil airways shall become effective, and all other redesignations of civil airways heretofore made by the Administrator of Civil Aviation shall be repealed at 00:01, E.S.T. March 1, 1942. (Sec. 302, 52 Stat. 985; 49 U.S.C. 452)

AREAS AND DELETION OF CERTAIN CONTROL ZONES OF INTERSECTION

In the Matter of John J. Schocket, Individual and Trading as Consumers Mercantile Service

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of February, A. D. 1942

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before W. W. Sheppard and A. B. Duvall, trial examiners of the Commission, and the findings of the Commission having been duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiners upon the evidence and objections filed thereto, and briefs filed in support of the complaint and in opposition thereto; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, John J. Schocket, an individual trading as Consumers Mercantile Service, his representatives, agents, and employees, do forthwith cease and desist from:

1. Supplying, or placing in the hands of others, push cards or other devices which are to be used, or may be used, in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme;

2. Shipping, etc., to agents or distributors, etc., push cards or other devices which are to be used or may be used in the sale and distribution of said merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme;

3. Selling, etc., any merchandise by means of a game of chance, gift enterprise, or lottery scheme; prohibited. (Sec. 3, 38 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) Cease and desist order, Consumers Mercantile Service, Docket 4242, February 16, 1942

In the Matter of Consumers Mercantile Service

IN THE MATTER OF CONSUMERS MERCANTILE SERVICE

§ 3.99 (b) Using or selling lottery devices—In merchandising. In connection with offer, etc., in commerce of cameras, silverware, broilers, fishing tackle, clocks, pens, pencils, and other articles of merchandise, (1) supplying others with push cards or other devices which are to be used, or may be used, in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme; (2) shipping, etc., to agents or distributors, etc., push cards or other devices which are to be used or may be used in the sale and distribution of said merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme; and (3) selling, etc., any merchandise by means of a game of chance, gift enterprise, or lottery scheme; prohibited. (Sec. 3, 38 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) Cease and desist order, Consumers Mercantile Service, Docket 4242, February 16, 1942

In the Matter of John J. Schocket, Individual and Trading as Consumers Mercantile Service

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of February, A. D. 1942

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before W. W. Sheppard and A. B. Duvall, trial examiners of the Commission, and the findings of the Commission having been duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiners upon the evidence and objections filed thereto, and briefs filed in support of the complaint and in opposition thereto; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, John J. Schocket, an individual trading as Consumers Mercantile Service, his representatives, agents, and employees, do forthwith cease and desist from:

1. Supplying, or placing in the hands of others, push cards or other devices which are to be used, or may be used, in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme;
§ 3.6 (c) Advertising falsely or misleadingly—Composition of goods: § 3.6 (n) Advertising falsely or misleadingly—Nature—Product: § 3.6 (1) Advertising falsely or misleadingly—Qualities or properties of product: § 3.6 (x) Advertising falsely or misleadingly—Results: § 3.6 (y) Advertising falsely or misleadingly—Project: § 3.71 (e) Neglecting, unfairly or deceitfully, to make material disclosure—Safety. In connection with offer, etc., of respondents’ “BonKora”, or any other similar product, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said product, which advertisements represent, directly or through inference, that their said preparation “BonKora” is a popular cocktail preparation; that it is a preparation which, if taken as directed, will relieve or overcome obesity or reduce excess fat without dieting; that the use of said preparation will reduce fat from designated parts of the body such as the hips, waist and bust and reduce the measurements of such parts of the body; that said preparation contains no dangerous drugs and may be taken repetitiously with safety; or which advertisements fail to reveal that said preparation should not be used by persons suffering from nausea, vomiting, abdominal pains or other symptoms of appendicitis; prohibited, subject to the provision, however, that if the directions for use, wherever they appear on the label, in the labeling, or both on the label and in the labeling, contain a warning of the potential dangers in the use of said preparation as hereinabove set forth, such advertisements need contain only the cautionary statement: Caution, Use Only as Directed. (Sec. 5, 38 Stat. 710, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) (Cease and desist order, Battle Creek Drugs, Inc., et al., Docket 37, February 17, 1942)

In the Matter of Battle Creek Drugs, Inc., a Corporation, and Consolidated Royal Chemical Corporation, a Corporation, Trading and Doing Business as Consolidated Drug Trade Products, and as BonKora Company

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C. on the 17th day of February, A. D. 1942.

This proceeding having been heard by the Federal Trade Commission upon the complaint and the stipulation as to the facts entered into by counsel for respondents herein and counsel for the Commission, which provided, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon the respondents herein findings as to the facts and its conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents Battle Creek Drugs, Inc., a corporation, and Consolidated Royal Chemical Corporation, a corporation, trading as Consolidated Drug Trade Products, and as BonKora Company, or under any other name, their officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their product now named BonKora or any other product containing, in which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in Paragraph (1) hereof, or which fails to reveal the affirmative cautionary statement required in Paragraph (1) hereof.

It is further ordered, That respondents shall within sixty (60) days after service of this order and delivery thereof to the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[Seal]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 42-1636; Filed, February 24, 1942; 11:32 a.m.]

[Docket No. 3418]

PART 3—DIGEST OF CEASE AND DESIST ORDERS
IN THE MATTER OF BATTLE CREEK DRUGS, INC., ET AL.

§ 3.7 Aiding, assisting and abetting unfair or unlawful act or practice—Combining or conspiring—To eliminate competition—In conspirators’ goods: § 3.27 (d) Combining or conspiring—To enhance, maintain or unify prices. In connection with offer, etc., in commerce, of hardwood lumber, or products thereof, and on the part of respondent Hardwood Institute, and twenty-one corporate respondents, and on the part of any other persons, partners, or combination, or conspiracy or cooperation or concert of action (to produce harmonious individual action) between and among any two or more of said respondents and any other persons, partnerships, or corporations, for the purpose of or with the effect of restricting, restraining or eliminating competition in price; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) (Cease and desist order, The Hardwood Institute, et al., Docket 4541, February 17, 1942)

§ 3.7 Aiding, assisting and abetting unfair or unlawful act or practice—Combining or conspiring—To eliminate competition—In conspirators'
§ 3.27 (d) Combing or conspiring in fixing, maintaining or unifying prices. In connection with offer, etc., in commerce, of hardwood lumber, or products thereof, and on the part of respondent hardwood lumber trade, and any one or more of said respondents, or between any one or more of said respondents and any other person, partnership or corporation, (a) fixing, establishing, maintaining prices, terms or conditions of sale, or offering to adhere to prices, terms or conditions of sale, or attempting to adhere to prices, terms, or conditions of sale of hardwood lumber or products thereof so fixed; (b) adopting, maintaining, or using a method or system for calculating and quoting prices predicated upon the use of figures or rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of matching or making the same the delivered price quotations of any two or more sellers of hardwood lumber or products thereof at any given destination; (c) preparing, calculating, or circulating a compilation or compilations of delivery charges, freight factors, or other price lists, or adoption or using a method or system of basing point—delivered price—quotations for the purpose or with the effect of matching or making the delivered price quotations of any two or more sellers of hardwood lumber or products thereof at any given destination; (d) quoting prices, terms, and conditions of sale determined under a method or system of basing point—delivered price—quotations for the purpose or with the effect of matching or making the delivered price quotations of any two or more sellers of hardwood lumber or products thereof at any given destination; (e) selling or otherwise, information regarding the prices therein with the price quotations previously announced by any seller of hardwood lumber or products thereof; (f) filing, or exchanging among themselves or with others, through a common agent or otherwise, statistical or other intimate details of sales made by any one seller of hardwood lumber or products thereof for the purpose or with the effect of aiding or abetting in eliminating or restraining competition in the sale of hardwood lumber or the products thereof; (g) formulating, adopting or using price quotations, business practices, terms, or conditions of sale, including discounts or other amounts to be allowed wholesalers, retailers, or other tradesmen, for the purpose or with the effect of producing uniformity in such quotations, business practices, terms, and conditions of sale and discounts among competitors in their sale of or offers to sell hardwood lumber or the products thereof; and (j) discussing or collaborating in the course of meetings or otherwise, among themselves or with others, or cooperating among themselves or with others, for the purpose or with the effect of continuing or carrying on or aiding in the continuing or the carrying out of any of the methods or practices specified and set forth in the immediately preceding prohibitions lettered (a) to (j) inclusive; prohibited, subject to the provision, however, that said first prohibition shall not be construed as one against seller selling to a customer price lists on a market involved in sales by such seller to such customer. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112, 15 U.S.C. Sup. IV, sec. 45b) [Cease and desist order, The Hardwood Institute, et al., Docket 3418, February 20, 1942]

§ 3.27 (e) Aiding, assisting and abetting unfair or unlawful act or practice: § 3.27 (b) Combining or conspiring—To eliminate competition—in conspirators' goods, prices, methods or practices—To enhance, maintain or unify prices. In connection with offer, etc., in commerce, of hardwood lumber, or products thereof, and on the part of respondent hardwood lumber trade, and twenty-one corporate respondents, and on the part of their representatives, officers, etc., and among other things, as in order set forth, (1) reporting, filing, or exchanging, among themselves or with other competing sellers of hardwood lumber or the products thereof, base or other price lists, or adhering or agreeing to adhere to any extent to the prices quoted or included in such or other price lists, or among themselves or with other competing sellers, concerning any price quotations included in such lists; (g) the opening of books or other records for examination by a common agent, or the reporting, filing, or exchanging among themselves or with others through a common agent or otherwise, information regarding the sales of any individual seller of hardwood lumber or products thereof, including the prices at which such sales are made, for the purpose or with the effect of securing a collective or cooperative comparison, through a common agent or otherwise, of prices with price quotations previously announced by any seller of hardwood lumber or products thereof; prohibited, subject to the provision, however, that said first prohibition shall not be construed as one against seller selling to a customer price lists on a market involved in sales by such seller to such customer. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112, 15 U.S.C. Sup. IV, sec. 45b) [Cease and desist order, The Hardwood Institute, et al., Docket 3418, February 20, 1942]

At a regular session of the Federal Trade Commission, held at Washington, D. C. on the 20th day of February, A. D. 1942.

In the Matter of The Hardwood Institute, an Unincorporated Association; A. L. Osborn, Individually, and as Manager and Secretary of The Hardwood Institute, and Members of The Hardwood Institute.

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, the answers of respondents, testimony and other evidence taken before Robert S. Hall, a trial examiner of the Commission therefore duly designated by it,
in support of and in opposition to the allegations of said complaint, and a stipulation as to certain facts entered into between Edward J. Dempsey, attorney for the respondents (except respondents A. L. Osborn, Kinzel Lumber Company, Menominee and Bay Shore Lumber Company and Northwestern Cooperage and Lumber Company), and W. T. Kelley, Chief Counsel for the Commission, which provided, among other things, that the Commission might proceed upon the entire record, including such statement of stipulated facts, to make its report, stating its findings as to the facts (including inferences which it might draw from the entire record, the admissions made by representatives of respondents in their pleadings and as otherwise disclosed by the record, and by such statement of stipulated facts), and its conclusion based thereon, and might enter its order disposing of the proceeding without the filing of additional briefs, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:


1. Entering into, carrying out, or aiding in the carrying out or the continuing of any agreement, understanding, combination or conspiracy or cooperation or concerted action to produce harmonious individual action) between and among any two or more of said respondents or between any one or more of said respondents and any other persons, partnerships or corporations, for the purpose or with the effect of restrict-

2. Fixing, establishing, or maintaining prices, terms and conditions of sale or promising or attempting to adhere to prices, terms and conditions of sale of hardwood lumber or products thereof so fixed;

3. Reporting, filing, or exchanging among themselves, or with other competing sellers of hardwood lumber or the products thereof, base or other price lists, or adhering or agreeing to adhere to prices so fixed or the making of the same delivered price quotations at any given destination;

4. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

5. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

6. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

7. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

8. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

9. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

10. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination.


1. Entering into, carrying out, or aiding in the carrying out or the continuing of any agreement, understanding, combination or conspiracy or cooperation or concerted action to produce harmonious individual action) between and among any two or more of said respondents or between any one or more of said respondents and any other persons, partnerships or corporations, for the purpose or with the effect of restrict-

2. Fixing, establishing, or maintaining prices, terms and conditions of sale or promising or attempting to adhere to prices, terms and conditions of sale of hardwood lumber or products thereof so fixed;

3. Reporting, filing, or exchanging among themselves, or with other competing sellers of hardwood lumber or the products thereof, base or other price lists, or adhering or agreeing to adhere to prices so fixed or the making of the same delivered price quotations at any given destination;

4. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

5. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

6. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

7. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

8. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination;

9. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination.

10. Preparing, calculating, or circulating a compilation or compilations of data, figures, charges, freight factors, or so-called freight rates for use by sellers of hardwood lumber or products thereof for the purpose or with the effect of making or aiding in making the delivered price quotations of any two or more sellers of hardwood lumber or the products thereof at any given destination.

Wednesday, February 25, 1942
4. Opening of books or other records for examination by a common agent, or reporting, filing or exchanging among themselves or with others through a common agent or otherwise, information regarding the sales of any individual seller of hardwood lumber or products thereof, including the prices at which such sales are made, for the purpose or with the effect of securing a collective or cooperative comparison, through a common agent or otherwise, of prices with price quotations previously announced by any seller of hardwood lumber or products thereof.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

The respondent corporations Kinzel Lumber Company, Menominee and Bay Shore Lumber Company and Northwestern Cooperage and Lumber Company having been dissolved:

It is further ordered, That this proceeding be, and it hereby is, dismissed as to said respondents.

The individual respondent A. L. Osborn having died subsequent to the institution of this proceeding:

It is further ordered, That this proceeding be, and it hereby is, dismissed as to said respondent.

By the Commission.

[T.D. 50568]

PRESQUE ISLE AIR BASE, PRESQUE ISLE, MAINE, DESIGNATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR 1

February 20, 1942.

The Presque Isle Air Base, Presque Isle, Maine, is hereby designated as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the Air Commerce Act of 1926 (U.S.C. title 49, sec. 179 (b)), for a period of one year from February 20, 1942. (Sec. 7 (b), 44 Stat. 572; 49 U.S.C. 177 (b)).

Herbert E. Gaston,
Acting Secretary of the Treasury.

February 17, 1942.

Pursuant to the authority of sections 2 and 3 of the Federal Tea Act (29 Stat. 604; 35 Stat. 163; as amended 41 Stat. 712; 21 U.S.C. 41), the following standards prepared and submitted by the Board of Tea Experts are hereby fixed and established as standards under the Tea Act for the year beginning May 1, 1942, and ending April 30, 1943: § 170.19 (b) is hereby amended to read as follows:

§ 170.19 Tea standards.

* * * * *

(b) The following standards prepared and submitted by the Board of Tea Experts are hereby fixed and established as standards under the Tea Act for the year beginning May 1, 1942, and ending April 30, 1943:

(1) Java (to be used for all fully fermented East India type teas).

(2) China Congou (to be used for all fully fermented teas of similar type or manufacture).

(3) China Gunpowder (to be used for all green [unfermented] teas).

(4) Canton Oolong (to be used for all oolong [semifermented] teas).

(5) Scented Canton (to be used for all scented teas).

These standards apply to tea shipped from abroad on or after May 1, 1942. Tea shipped prior to May 1, 1942, will be governed by the standards which became effective May 1, 1941. (Secs. 2, 3, 29 Stat. 605, 41 Stat. 712; 21 U.S.C. 42, 43)

Poul V. McNutt,
Administrator.

February 17, 1942.

*[This document affects the tabulation in 19 CFR 4.13.]*
The provisions of this subchapter are hereinafter referred to as—

Part I—Introductory provisions.

Part II—Citizens or residents of the United States.

Part III—Nonresidents not citizens of the United States.

Part IV—Supplemental provisions.

§ 81.1 Scope of regulations. The regulations in this part relate and shall apply only to estate taxes imposed by chapter 3 of the Internal Revenue Code (53 Stat. 11, Part I) on the estates of decedents dying after February 10, 1939, the due date of the enactment of the Code. They do not supersede or otherwise affect estate tax regulations (including Treasury decisions) applicable under any provision of law in effect prior to February 11, 1939. Such prior regulations remain in full force and effect and continue to apply to estate taxes on the estates of decedents dying prior to February 11, 1939.

Each section, subsection, or paragraph of the Internal Revenue Code set forth in the regulations in this part shall be considered as a part of the respective regulations sections to which it corresponds.*

*§§ 81.1 to 81.105, inclusive, issued under section 812 or 861; section 802; chapter 3 of the Internal Revenue Code.
A tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 812) shall be imposed upon the transfer of the net estate of every decedent, citizen or resident of the United States, dying after the date of the enactment of this title.

1. per centum of the amount of the net estate not in excess of $1,000;
2. per centum of the amount of the net estate exceeding $1,000 and not exceeding $10,000;
3. per centum of the amount of the net estate exceeding $10,000 and not exceeding $50,000;
4. per centum of the amount of the net estate exceeding $50,000 and not exceeding $100,000;
5. per centum of the amount of the net estate exceeding $100,000 and not exceeding $1,000,000;
6. per centum of the amount of the net estate exceeding $1,000,000 and not exceeding $2,000,000;
7. per centum of the amount of the net estate exceeding $2,000,000 and not exceeding $4,000,000;
8. per centum of the amount of the net estate exceeding $4,000,000 and not exceeding $6,000,000;
9. per centum of the amount of the net estate exceeding $6,000,000 and not exceeding $8,000,000;
10. per centum of the amount of the net estate exceeding $8,000,000 and not exceeding $10,000,000;
11. per centum of the amount of the net estate exceeding $10,000,000 and not exceeding $12,500,000;
12. per centum of the amount of the net estate exceeding $12,500,000 and not exceeding $15,000,000;
13. per centum of the amount of the net estate exceeding $15,000,000 and not exceeding $20,000,000;
14. per centum of the amount of the net estate exceeding $20,000,000 and not exceeding $30,000,000;
15. per centum of the amount of the net estate exceeding $30,000,000 and not exceeding $40,000,000;
16. per centum of the amount of the net estate exceeding $40,000,000 and not exceeding $50,000,000;
17. per centum of the amount of the net estate exceeding $50,000,000 and not exceeding $75,000,000;
18. per centum of the amount of the net estate exceeding $75,000,000 and not exceeding $100,000,000;
19. per centum of the amount of the net estate exceeding $100,000,000 and not exceeding $300,000,000;
20. per centum of the amount of the net estate exceeding $300,000,000 and in excess of $600,000,000;
21. per centum of the amount of the net estate not in excess of $1,000,000 and not in excess of $200,000,000;
22. per centum of the amount of the net estate exceeding $200,000,000 and not exceeding $400,000,000;
23. per centum of the amount of the net estate exceeding $400,000,000 and not exceeding $800,000,000;
24. per centum of the amount of the net estate exceeding $800,000,000 and not exceeding $1,000,000,000;
25. per centum of the amount of the net estate exceeding $1,000,000,000 and not exceeding $2,000,000,000;
26. per centum of the amount of the net estate exceeding $2,000,000,000 and not exceeding $3,500,000,000;
27. per centum of the amount of the net estate exceeding $3,500,000,000 and not exceeding $5,000,000,000;
28. per centum of the amount of the net estate exceeding $5,000,000,000 and not exceeding $6,000,000,000;
29. per centum of the amount of the net estate exceeding $6,000,000,000 and not exceeding $8,000,000,000;
30. per centum of the amount of the net estate exceeding $8,000,000,000 and not exceeding $10,000,000,000.

For the purposes of this section the value of the net estate shall be determined as provided in section 812, except that in lieu of the exemption of $100,000 provided in section 812 (a), the exemption shall be $40,000.

(c) For the purposes of this section the value of the net estate shall be determined as provided in section 812, except that in lieu of the exemption of $100,000 provided in section 812 (a), the exemption shall be $40,000.

Sec. 895. (As enacted on February 10, 1939.) The tentative tax referred to in subsection (a) (1) of this section shall equal the sum of the following percentages of the value of the net estate:

Upon net estates not in excess of $10,000, $2 per centum.
Upon net estates of $10,000, but not over $10,000, $200.
Upon net estates of $10,000, but not over $1,000,000.
Upon net estates of $1,000,000, but not over $1,250,000.
Upon net estates of $1,250,000, but not over $1,500,000.
Upon net estates of $1,500,000, but not over $2,000,000.
Upon net estates of $2,000,000, but not over $2,500,000.
Upon net estates of $2,500,000, but not over $3,000,000.
Upon net estates of $3,000,000, but not over $3,500,000.
Upon net estates of $3,500,000, but not over $4,000,000.
Upon net estates of $4,000,000, but not over $5,000,000.
Upon net estates of $5,000,000, but not over $6,000,000.
Upon net estates of $6,000,000, but not over $7,000,000.
Upon net estates of $7,000,000, but not over $8,000,000.
Upon net estates of $8,000,000, but not over $10,000,000.

The tentative tax shall be:

3 per centum of the net estate.

$150, plus 7% of excess over $1,000.

$1,000, plus 14% of excess over $20,000.

$3,000, plus 18% of excess over $30,000.

$9,500, plus 25% of excess over $60,000.

$26,700, plus 39% of excess over $1,000,000.

$382,600, plus 42% of excess over $1,250,000.

$423,200, plus 45% of excess over $1,500,000.

$763,200, plus 49% of excess over $2,000,000.

$1,468,200, plus 67% of excess over $3,000,000.

$777,600, plus 73% of excess over $3,500,000.

$1,172,600, plus 85% of excess over $4,000,000.

$1,172,600, plus 85% of excess over $4,000,000.

$593,600, plus 77% of excess over $5,000,000.

$998,200, plus 53% of excess over $2,500,000.

$2,468,200, plus 67% of excess over $5,000,000.

$6,097,600, plus 78% of excess over $7,000,000.

$6,984,200, plus 76% of excess over $8,000,000.

$1,838,200, plus 63% of excess over $4,000,000.

$3,072,600, plus 61% of excess over $7,000,000.

$3,682,600, plus 61% of excess over $8,000,000.

$3,072,600, plus 61% of excess over $7,000,000.

$753,200, plus 53% of excess over $5,000,000.

$1,200,600, plus 63% of excess over $4,000,000.

$2,172,600, plus 63% of excess over $3,500,000.

$3,072,600, plus 61% of excess over $7,000,000.

$753,200, plus 53% of excess over $5,000,000.

$1,200,600, plus 63% of excess over $4,000,000.

$2,172,600, plus 63% of excess over $3,500,000.

$3,072,600, plus 61% of excess over $7,000,000.

$753,200, plus 53% of excess over $5,000,000.

$1,200,600, plus 63% of excess over $4,000,000.
and not in excess of $9,000,000, 65 per centum in addition of such excess.

$9,662,000 upon net estates of $10,000,000; and upon net estates in excess of $10,000,000 and not in excess of $20,000,000, 67 per centum in addition of such excess.

$23,362,600 upon net estates of $50,000,000; and upon net estates in excess of $60,000,000, 70 per centum in addition of such excess.

(Defense Tax; Effective After June 25, 1940, and Before September 21, 1941)

Exc. 951. [Subchapter C, as added by section 206 of the Revenue Act of 1940.] Defense Tax.

In the case of a decedent dying after the date of the enactment of the Revenue Act of 1940 and before the expiration of five years after the amount of any payable under this chapter shall be 10 per centum greater than the amount of tax which would be applicable without reference to this section. For the purposes of this section, the tax computed without regard to this section after the application of the credits provided for in section 818 and section 956.

Exc. 401. (b) [Revenue Act of 1941.] Defense Tax repealed.

Subchapter C of Chapter 3 of the Internal Revenue Code is repealed.

Exc. 401. (c) [Revenue Act of 1941; enacted September 20, 1941.] Effective date.

Subsections (a) and (b) shall be effective only so far as applicable to estates of decedents dying after the date of the enactment of this Act.

DESCRIPTION OF THE TAX

§ 81.2 General description. Federal estate taxation under the Internal Revenue Code (chapter 3), applicable to estates of decedents dying on or after February 11, 1939, consists of: first, the basic tax, second, the additional tax, and, third, if the decedent died after June 25, 1940, and before September 21, 1941, the defense tax.

The basic estate tax is imposed under subchapter B (section 390), the defense tax, under subchapter C (section 951), as added by the Revenue Act of 1940 and repealed by the Revenue Act of 1941, is applicable to estates of decedents who died after June 25, 1940, and before September 21, 1941.

A credit is authorized against the basic estate tax (not in excess of 80 per cent of the credit is allowable against the additional tax for estate, inheritance, legacy, or succession taxes paid a State, Territory, the District of Columbia, or any possession of the United States. A specific exemption of $40,000 is authorized for the purpose of the additional estate tax in the case of a resident or citizen of the United States.

The term "net estate" has a distinct meaning in the statute, since it is the difference between the total value of the gross estate and the total amount of the authorized deductions. There is no basis for tax if the value of the gross estate does not exceed the total amount of the authorized deductions, but whether taxable or not, a return must be filed for every estate, unless the case of a resident or citizen of the United States at the date of death does not exceed the specific exemption of $40,000.

§ 81.5 Definition of "resident" and "nonresident." A resident is one who, at the time of his death, had his domicile in the United States; or one who was a citizen of the United States at the time of his death and with respect to whose property any probate or administration proceedings are had in the United States Court for China. (See sections 851.) A missionary who, at the time of death, was serving as such under a foreign missionary benefit organization, and who was domiciled in the United States, will be presumed to have died resident of the United States, if domiciled therein at the time of his or her commission in such service, and not a nonresident merely by reason of his or her intention to remain permanently in such service. (See section 860.) All persons not residents of the United States as above defined, or to whom the presumption just stated does not apply, are nonresidents.

Section 3797 (a) (9) of the Internal Revenue Code provides that (where not otherwise distinctly expressed or mandatory incapable of operation thereunder) the term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

A citizen of the United States is a nonresident if his domicile is in Puerto Rico, the Philippine Islands, or otherwise outside the United States as defined in sections 3797 (a) (9), whereas a subject or citizen of a foreign country is a resident if his domicile is in the United States.

The relationship of the beneficiary to the decedent has no bearing on the question of liability or the extent thereof. The transfer of property is taxable although it escheats to the State for lack of heirs.

§ 81.3 Credit to the general provisions of subsection (a) of section 811 requiring the inclusion in the gross estate of property (except real property situated outside the United States) to the extent of the interest therein of the decedent, other subsections of section 811 more specifically include in the gross estate for the purpose of the estate tax, as more fully explained hereafter in these regulations, certain transfers made during the decedent's life without an adequate and full consideration in money or money's worth, joint estates with right of survivorship, tenancies by the entirety, life insurance even though payable to beneficiaries other than the estate, property over which the decedent exercised a general power of appointment and dower or courtesy of the surviving spouse or statutory estate in lieu thereof.

§ 81.4. Net estate. The term "net estate" has a distinct meaning in the statute, since it is the difference between the total value of the gross estate and the total amount of the authorized deductions. There is no basis for tax if the value of the gross estate does not exceed the total amount of the authorized deductions, but whether taxable or not, a return must be filed for every estate, unless the case of a resident or citizen of the United States at the date of death does not exceed the specific exemption of $40,000.

§ 81.5 Definition of "resident" and "nonresident." A resident is one who, at the time of his death, had his domicile in the United States; or one who was a citizen of the United States at the time of his death and with respect to whose property any probate or administration proceedings are had in the United States Court for China. (See section 851.) A missionary who, at the time of death, was serving as such under a foreign missionary benefit organization, and who was domiciled in the United States, will be presumed to have died resident of the United States, if domiciled therein at the time of his or her commission in such service, and not a nonresident merely by reason of his or her intention to remain permanently in such service. (See section 860.) All persons not residents of the United States as above defined, or to whom the presumption just stated does not apply, are nonresidents.

Section 3797 (a) (9) of the Internal Revenue Code provides that (where not otherwise distinctly expressed or mandatory incapable of operation thereunder) the term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

A citizen of the United States is a nonresident if his domicile is in Puerto Rico, the Philippine Islands, or otherwise outside the United States as defined in section 3797 (a) (9), whereas a subject or citizen of a foreign country is a resident if his domicile is in the United States; i.e., in any of the States, the Territory of Alaska or Hawaii, or the District of Columbia.

A person required during a period of ten years after such date, the total amount of tax payable if computed without regard to defense tax. Prior estate tax statutes are applicable to estates of decedents who died after June 29, 1939, a statutory estate in lieu thereof.

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The net basic tax is obtained by subtracting any authorized credits for gift, estate, and inheritance taxes from the amount of the gross basic tax. The net additional tax is obtained by subtracting further authorized credits for gift tax from the amount of the gross additional tax.

The total estate tax payable is the sum of the net basic tax and the net additional tax, unless the decedent died after June 25, 1940, and before September 21, 1941. The defense tax, applicable if the decedent died after June 25, 1940, and before September 21, 1941, is obtained by computing 10 per cent of the total of the net basic and net additional taxes. If the decedent died within such period, the sum of the net basic and net additional taxes, plus the defense tax, is the total estate tax payable.

There is provided below a table for the computation of the estate tax imposed by the provisions of the Code, together with an explanation thereof:

Table for computation of estate tax

<table>
<thead>
<tr>
<th>Net estate equaling—</th>
<th>Rate of tax on excess of amount in column (A)</th>
<th>Rate of tax on excess of amount in column (A)</th>
<th>Rate of tax on excess of amount in column (A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,000</td>
<td>$100</td>
<td>5%</td>
<td>3%</td>
</tr>
<tr>
<td>$10,000</td>
<td>200</td>
<td>10%</td>
<td>6%</td>
</tr>
<tr>
<td>$20,000</td>
<td>400</td>
<td>20%</td>
<td>12%</td>
</tr>
<tr>
<td>$50,000</td>
<td>1000</td>
<td>50%</td>
<td>30%</td>
</tr>
<tr>
<td>$100,000</td>
<td>2000</td>
<td>100%</td>
<td>60%</td>
</tr>
<tr>
<td>$200,000</td>
<td>4000</td>
<td>200%</td>
<td>120%</td>
</tr>
<tr>
<td>$500,000</td>
<td>10,000</td>
<td>500%</td>
<td>300%</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>20,000</td>
<td>1000%</td>
<td>600%</td>
</tr>
<tr>
<td>$2,000,000</td>
<td>40,000</td>
<td>2000%</td>
<td>1200%</td>
</tr>
<tr>
<td>$5,000,000</td>
<td>100,000</td>
<td>5000%</td>
<td>3000%</td>
</tr>
<tr>
<td>$10,000,000</td>
<td>200,000</td>
<td>10000%</td>
<td>6000%</td>
</tr>
<tr>
<td>$25,000,000</td>
<td>500,000</td>
<td>50000%</td>
<td>30000%</td>
</tr>
</tbody>
</table>

Column (A) of the table sets forth the net estates of specified amounts to which the taxes shown in the first subcolumn of each of the numbered columns relate. Column (B) indicates the respective maximum limits to which the rates shown in the second subcolumn of each of the numbered columns are applicable. Column (1) of the table sets forth the gross basic tax on net estates of specified amounts and the rate for the gross basic tax upon the excess of such amounts. Column (2) of the table sets forth the total gross basic and additional taxes for net estates of specified amounts in the case of decedents dying on or after September 21, 1941, and the rate for the total gross basic and additional taxes upon the excess of such amounts. Column (3) of the table sets forth the total gross basic and additional taxes for net estates of specified amounts in the case of decedents dying on or after September 21, 1941, and the rate for the total gross basic and additional taxes upon the excess of such amounts.

An illustration of the table’s use is as follows: The net estate for the basic estate tax amounts to $1,240,000. By reference to the table it will be seen that the specified amount is $400,000. Column (1) opposite $400,000 gives $35,700, the gross additional tax computed at the rate of 7 per cent. The gross estate tax is $700,000, the gross basic tax is computed at the rate of 20 per cent, the rate shown in column (1) opposite $700,000 gives $140,000, the gross basic tax. Column (2) opposite $1,240,000 gives $35,700, as the rate shown in column (1) opposite $400,000.

Example (1) (estate subject to both the basic tax and the additional tax, and the gross basic tax computed under section 120 (a)) A resident deceased July 15, 1939, leaving a net estate of the value of $210,000 after deducting the specific exemption of $150,000 allowed by section 122 (a). The gross estate tax was $3,920, or 80 per cent of $4,900, the excess to the value of the decedent's net estate but less than such value is $1,000,000. The tax upon this amount as indicated in column (1) opposite $1,000,000 in column (A) is $48,500. Upon the remainder of the net estate, $290,000, the tax is computed at the rate of 8 per cent set out in the second subcolumn of column (1) opposite $1,000,000 in column (A). The tax on this remainder is, consequently, $19,200. The following result is thus obtained:

```
<table>
<thead>
<tr>
<th>Tax on</th>
<th>$1,000,000</th>
<th>$48,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax on</td>
<td>$290,000</td>
<td>$23,360</td>
</tr>
<tr>
<td>Total</td>
<td>$1,290,000</td>
<td>$71,860</td>
</tr>
</tbody>
</table>
```
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$35,700, results in a total estate tax payable of $36,680. A tabulation of this example is as follows:

| Gross basic tax | $4,900 |
| Credit for gift tax | 0 |
| Gross basic tax, less credit for gift tax | $4,900 |
| Credit for estate or inheritance tax | 3,990 |

Net basic tax | $980

Total gross taxes (basic and additional taxes) | $40,600

Gross basic tax | $4,900

Gross additional tax | $35,700

Credit for gift tax | 0

Net additional tax | $35,700

Total estate tax payable | $36,680

Example (2) (estate subject only to the additional tax imposed by section 825).

The gross estate of a resident decedent who died August 1, 1939, amounts to $85,000. Deductions for administration expenses and claims against the estate are allowed in the amount of $10,000, leaving $75,000 before the deduction of the specific exemption authorized by section 812 (a). As that exemption is $100,000, it is apparent that the estate is not subject to the basic tax under section 810.

However, as the specific exemption authorized by subsection (c) of section 935 is only $40,000, the estate is subject to the additional tax imposed by that section. For the purpose of such additional tax the net estate amounts to $35,000. The tax shown in the first subcolumn of column (2) of the table is the net estate of $35,000 less $1,925, or $33,075. A tabulation of this example is as follows:

| Gross basic tax | $5,500 |
| Credit for gift tax | 1,225 |
| Gross basic tax, less gift tax credit | $4,275 |
| Credit for estate or inheritance tax | 3,775 |

Net basic tax | $712

Total gross taxes (basic and additional taxes) | $43,600

Gross basic tax | $5,500

Gross additional tax | $1,225

Credit for estate or inheritance tax | 3,775

Net additional tax | $712

Total estate tax payable (net basic and additional taxes) | $33,540

Example (3) (estates subject to both the basic tax and the additional tax, and involving credits for State inheritance tax and for gift tax).

The gross estate of a resident decedent who died April 15, 1940, is $400,000 and the value of the net estate for the purpose of the basic tax is $225,000. The gross basic tax computed on that net estate is $5,275. (See illustration for use of table in computing the tax.) On January 15, 1940, the decedent, in contemplation of death, transferred certain real estate to his daughter as a gift. The value of the real estate as of the date of the gift, and as of the time of death, was $144,000. As a result of this gift, a gift tax was paid in the amount of $7,200 on a net gift of $100,000 after deducting an exclusion of $4,000 and the $40,000 specific exemption allowed by provisions of the gift tax chapter. As the value of the transferred real estate is included in the decedent’s gross estate, a credit for gift tax is allowed against the gross basic tax in such amount as does not exceed an amount which bears the same ratio to the gross basic tax as the value at which the taxable gift ($144,000 less the gift tax exclusion of $4,000) is included in the gross estate bears to the value of the entire gross estate. (See section 81.5.) This ratio, which is ascertained by dividing $140,000 by $400,000, is 0.35. The credit for gift tax is, therefore, allowed in the amount which results from multiplying $3,500 by 0.35, or $1,215.

The gross basic tax $5,275, less the credit for gift tax, is $3,575. It will be assumed that State inheritance taxes paid equal or exceed the maximum amount which could be charged against the estate for the purpose of the gift tax, and is, therefore, $5,275 (90 per cent of the difference between the gross basic tax and the gift tax credit). Accordingly, $2,000 is allowed as the credit for State inheritance taxes. The difference between $3,575 and $2,860 is $715, which is the net basic tax.

The net estate for the purpose of the additional tax is $285,000. The total gross basic and additional taxes computed in accordance with the table are $43,900. The difference between such total gross taxes and $5,500, the gross basic tax, is $38,400. The credit for estate or inheritance tax and for gift tax (credit for estate or inheritance taxes) is 2,860. The $38,400 is divided by $2,860, giving a ratio of 13.35 to 1. The basic tax of $5,500 bears the same ratio to the gross additional tax as the value at the time of the death of the decedent under the provisions of this subchapter to be included in the gross estate bears to the value of the entire gross estate. (See section 319 with respect to such gift; and in the event there has in any case been paid on account of such gift the tax imposed by said section 319 with respect to such gift or gifts which upon the death of the donor the amount thereof is required to be so included, then the amount of the tax which shall be deemed to have been paid with respect to the gift or gifts required to be so included shall be that proportion of the entire tax paid on account of all such gifts which bears the same ratio to the value of the entire gross estate as the amount of gifts in that year.

(B) (As amended by Joint Resolution, approved March 17, 1941, Public Law 17, Seventy-seventh Congress, effective as of February 11, 1939.) Revenue Act of 1932, chapter 4 or Chapter 4. (A) If a tax has been paid under chapter 4 or under Title III of the Revenue Act of 1932, 47 Stat. 245, on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this subchapter, then there shall be credited against the tax imposed by section 810 or 860 the amount of the tax paid after upon the death of the donor any amount in respect of such gift is required to be included in the value of the entire gross estate, except that the amount of such credit shall not exceed an amount which bears the same ratio to the tax imposed by section 810 or 860 as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate.

The amount of the tax paid after upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this subchapter is $33,540.

Total estate tax payable of $36,894.

If the decedent died after September 20, 1941, the date of the enactment of the Revenue Act of 1941, column (2) in this example is to be used in computing the total gross basic and additional taxes, and the defense tax is not applicable to such an estate.

Credits Against Estate Tax

[A) (Revised 1992)]

Credits Against Basic Tax

Gift Tax Credit

Credit for estate or inheritance tax

Gift Tax

Total estate tax payable of $36,894.
ARY 11, 1939) (1) If a tax has been paid under chapter 4 or under Title III of the Revenue Act of 1932, 47 Stat. 245, on a gift, and thereafter of the property, the amount in respect of such gift is required to be included in the value of the gross estate of the decedent, in computing the tax imposed by section 935 the amount of the tax imposed by section 810 on any such property included in the gross estate bears to the value of the entire gross estate, and (2) shall not exceed the amount by which the gift tax paid under chapter 4 or under Title III of the Revenue Act of 1932 with respect to so much of the property which constituted the gift as is included in the gross estate, exceeds the amount of the credit under subsection 813 (a) (2).

For the purposes of paragraph (1), the amount of tax paid for any year under chapter 4 or under Title III of the Revenue Act of 1932, on any property shall be the amount which bears the same ratio to the tax imposed for such year as the value of such property bears (computed without deduction of the specific exemption) to the value of the entire gross estate. In computing this ratio, the value of four-fifths thereof is $72,000. Since $72,000 is the lower of the two values ($80,000 and $72,000), this amount is used in computing the ratio.

If only a part of the property, included for the purpose of a gift tax imposed upon transfers made during a certain calendar year, is included in the decedent's gross estate for the purpose of the estate tax, the gift tax paid in respect of such part of the property is included in the gross estate of the decedent for the purpose of the estate tax, whichever is the lower.

In accordance with section 813 (a) (1) of the Internal Revenue Code, credit for the entire amount of gift tax paid under the Revenue Act of 1924 in respect of property transferred upon death of the decedent for the purpose of the estate tax, is allowed against the basic tax.

(b) Credit against the additional tax imposed by section 935. Credit against the additional tax imposed by section 935 for Federal gift tax paid on gifts made by the decedent cannot exceed an amount which bears the same ratio to the gross additional tax as the value of the property which was included for the purpose of the gift tax and also included in the gross estate bears to the value of the entire gross estate. For the purpose of computing this ratio, the value of such property is the value determined for the purpose of the gift tax or the value determined for the purpose of the estate tax, whichever is the lower. Furthermore, the credit cannot exceed the difference between the total amount of such gift taxes paid and the amount of the credit therefor against the gross basic tax imposed by section 810 or section 860. No credit for gift tax paid under the Revenue Act of 1924 is allowed against the additional tax imposed by section 935.

Property included for the purpose of the gift tax and also included in the gross estate does not embrace any portion of the gift, excluded under paragraph (a) of the provisions of the statute imposing the gift tax, and due allowance must be made for any such exclusions when computing the credit in accordance with the limitations set forth in the foregoing paragraphs (a) and (b).

For example: A donor, in contemplation of death, transferred property valued at $100,000 to his five children subsequent to the effective date of the gift tax imposed by chapter 4 of the Internal Revenue Code, and paid the resulting tax. The property is thereafter included in his gross estate for the purpose of the estate tax imposed by the Internal Revenue Code at a value of $90,000. As the total value of the property at the time of the gift was $150,000 and the amount of $25,000 was excluded under the provisions of section 103 (b) (2), the amount of $80,000, or four-fifths of the property, was included for the purpose of the gift tax. As the total value of the property determined for the purpose of the estate tax is $90,000, the value of four-fifths thereof is $72,000. Since $72,000 is the lower of the two values ($80,000 and $72,000), this amount is used in computing the ratio.
of the three donees being excluded from the total gifts under the provisions of chapter 4 of the Internal Revenue Code. After deducting $40,000 specific exemption and $8,000 for the gift of the real property transferred in contemplation of death was included in his gross estate for the purpose of the estate tax. The gift tax paid in respect of the property transferred is one of the conditions a credit is authorized with respect to the amount which bears the same ratio to $7,710 as $96,000 bears to $144,000 or $5,140. Note that $96,000 is the portion of the real property subject to gift tax ($100,000 less the excluded $4,000) and that $144,000 is the amount of the net gifts computed without deduction of the specific exemption, $40,000.

The credit is allowable even though the gift tax is paid by the executor after the decedent's death and the amount of the gift tax is deductible from the gross estate as a debt of the decedent.

For a further illustration of the computation of gift tax credit, see example (3) in § 81.7.*

§ 81.9 Credit for estate, inheritance, legacy, or succession taxes. Under certain conditions a credit is authorized against the basic Federal estate tax for estate, inheritance, legacy, or succession taxes actually paid with respect to the estate of the decedent to any State or Territory of the United States. If the decedent died after June 29, 1939, the credit against the basic Federal estate tax, is, under the same conditions, authorized against the estate tax imposed by section 935. The credit is limited to such taxes as were actually paid and credit therefor claimed prior to the expiration of 60 days after the termination of the preceding interest.

Refund based on the credit, despite the provisions of sections 931 and 915, will be made if claim therefor is filed within the period provided for filing claim for credit. Such refunds will be made without interest.

Before the Commissioner allows any credit for any estate, inheritance, legacy, or succession taxes, there must be submitted to him the following:

(a) Certificate of the proper officer of the taxing State, Territory, District of Columbia, or possession of the United States showing: (1) the total amount of tax imposed (before adding interest and penalties and before allowing discount); (2) the amount of discount allowed; (3) the amount of penalties and interest imposed or charged; (4) the total amount actually paid in cash; and (5) the date of payment.

(b) A certificate of the above-mentioned officer showing whether (1) a claim for refund of such taxes or part thereof is pending and (2) whether a refund of such taxes or any part thereof has been allowed. In case a refund has been made, the date, the amount thereof, and a description of the property or interest in respect to which such refund was made must be shown in the certificate.

The evidence described above should be filed with the return, but if that is not convenient or possible, then it should be submitted as soon thereafter as practicable.

The Commissioner may require the submission of such additional proof as is deemed necessary to establish the right to the credit. For example, he may require an itemized list of the property included in the gross estate, inheritance, legacy, or succession taxes paid to any State or Territory, the District of Columbia in respect of property included in the gross estate of the decedent for Federal estate tax purposes.

The credit is also limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return required by section 602 except as otherwise provided in this paragraph. If a petition was filed with the Board of Tax Appeals for the redetermination of the deficiency with respect to which the taxes were imposed by the Board, the date, the amount thereof, and a description of the property or interest in respect to which such refund was made must be shown in the certificate.

The evidence described above should be filed with the return, but if that is not convenient or possible, then it should be submitted as soon thereafter as practicable.

If, subsequent to the allowance of a credit by the Commissioner, a refund is made of any such estate, inheritance, legacy, or succession taxes, the executor, or the person to whom the refund is made, if the executor is discharged, then any person or persons to whom the refund is made, is required to advise the Commissioner of the date and the amount thereof, to furnish the Commissioner with a description of the property or interest in respect of which the refund was made, and to pay the Federal estate tax, if any, due as a result of such refund, together with interest.*

GROSS ESTATE—VALUATION

§ 811. (Part II, Subchapter A) Gross Estate.

The value of the gross estate of the decedent shall be determined by the value at the time of the decedent's death of all real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States.

Sec. 811. (Part II, Subchapter A) Gross Estate.

The value of the gross estate of the decedent shall be determined by the value at the time of the decedent's death of all real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States.

Sec. 811. (Part II, Subchapter A) Gross Estate.

The value of the gross estate of the decedent shall be determined by the value at the time of the decedent's death of all real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States.

Sec. 811. (Part II, Subchapter A) Gross Estate.

The value of the gross estate of the decedent shall be determined by the value at the time of the decedent's death of all real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States.

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Sec. 811. (Part II, Subchapter A) Gross Estate.

The value of the gross estate of the decedent shall be determined by the value at the time of the decedent's death of all real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States.
4366 FEDERAL REGISTER, Wednesday, February 25, 1942

§19.10 Valuation of property.—(a) General. The value of every item of property includible in the gross estate is the fair market value thereof at the time of the decedent's death; or, if the executor has control of listed stocks and bonds, the fair market value thereof at the date therein prescribed or such value adjusted as therein set forth; or, if the decedent held the property in a particular kind of trust, the fair market value of the property as of the valuation date at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The fair market value of property includible in the gross estate is not to be determined by a forced sale price. Such value is to be determined by ascertaining as a basis the fair market value as of the applicable valuation date of each unit of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. The fair market value as of the applicable valuation date should be considered in every case.

(b) Real estate. The property should not be returned at the local assessed value, or such value as of any other date. Such value as of the applicable valuation date should be considered. (See §81.12 for manner of listing and describing real estate.)

c) Stocks and bonds. The value of stocks and bonds, within the meaning of the Internal Revenue Code, is the fair market value per share or bond on the applicable valuation date. In the case of stocks and bonds listed on a stock exchange the mean between the highest and lowest quoted selling prices on the valuation date shall be considered as the fair market value per share or bond. If there were no sales on the valuation date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the valuation date. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the executor should procure such evidence of furnishing such quotations or evidence of sale as is available to verify the return. The actual sales that occurred on the nearest date before and the nearest date after the valuation date, or vice versa, then the mean between such sales shall be the basis on which the value of the stock shall be determined.

If actual sales are not available during a reasonable period before and after the valuation date, the value of the stock shall be determined by taking the mean between the bona fide bid and asked prices on the nearest date before and the nearest date after the valuation date. If, however, returns are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the executor shall procure such evidence of furnishing such quotations, or evidence of sale as is available to verify the return. If actual sales that occurred two days before (June 13) and after (June 18) the valuation date were $10 and $15, respectively, the price of $12 shall be taken as representing the value of the stock. Complete financial data concerning the company's net worth, earning power, and other relevant factors shall be considered in determining the fair market value of the stock. The full value of securities pledged to secure an indebtedness of the decedent should be included in the gross estate. If the decedent had a trading account and held securities pledged to a broker or other person, the securities held by the broker at the date of death must be included at their fair market value as of the applicable valuation date. Securities purchased for the decedent's account and held by a broker should also be returned at their fair market value as of the applicable valuation date. The creditor of the decedent, or any other person with whom securities were pledged will be allowed as a deduction from the gross estate in accordance with §§81.29, 81.36, and 81.53. (See §81.12 for manner of listing and describing stocks and bonds.)

(d) Interest in business. Care should be taken to arrive at an accurate valuation of any business in which the decedent was interested, whether as partner or proprietor. A fair appraisal as of the applicable valuation date should be made of all the assets of the business, tangible and intangible, includable in the gross estate, and the business should be given a value equal to the amount which a willing purchaser, whether an individual or corporation, would pay therefor to a willing seller in view of the net value and the demonstrated earning capacity. Special attention should be given to fixing an adequate figure for the value of the good will of the business in the cases in which the decedent has not agreed, for an adequate and full consideration in money or money's worth, that his interest therein shall pass at his death to his surviving partner or partners.

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

c) Notes, secured and unsecured. The value of notes, whether secured or unsecured, will be presumed to be the amount of unpaid principal, plus interest, unless the executor establishes a lower value, or it is shown that they are worthless. However, items of interest should be separately listed on the estate tax return. Unless returned at face value, together with accrued interest, it must be shown by satisfactory evidence that the note is worth less than the unpaid amount because of the interest rate, or date of maturity, or other cause, or that it is uncollectible, either in whole or in part, by reason of the insolvency of any parties liable, or for other cause, and that the property, if any, pledged or mortgaged as security is insufficient to satisfy it. For example, if the note is at 7% and the amount of cash belonging to the decedent, either in his possession at the date of death or in the possession of another, or deposited with a bank, should be included. If bank checks outstanding at
the time of the decedent's death, given in discharge of bona fide, legal obligations of the decedent for property involved, and full consideration in money or money's worth, and not as transferee coming to the estate of another, the present worth of the remainder interest at the time of death should be obtained by multiplying the value of the property at the time of death by the figure in column 3 of Table A opposite the number of years in column 1 nearest to the actual age of the life tenant.

Example. The decedent was entitled to receive property worth $50,000 upon the death of his elder brother, to whom the income for life had been bequeathed. The brother at the time of the decedent's death was 31 years 5 months old. By reference to Table A, it is found that the figure in column 3, opposite 31 years, is 0.31262. The present worth of the remainder interest at the date of death is, therefore, $15,631 ($50,000 multiplied by 0.31262).

(5) In case the decedent was entitled to receive an annuity of a definite amount during the lifetime of another person, payable at the end of annual periods, the present worth of the decedent's death should be computed upon the basis of the value of a life annuity at the age of the other person. The amount payable annually should be multiplied by the figure in column 3 of Table A opposite the number of years in column 1 nearest to the actual age of the other person.

Example. The decedent received under the terms of his father's will an annuity of $10,000 for the life of his elder brother. The brother at the decedent's death was 40 years 8 months old. By reference to Table A, the figure in column 2 opposite 41 years, the number nearest to the brother's actual age, is found to be 14.86102. The present worth of the annuity at the date of the decedent's death is, therefore, $148,610.20.

(6) In the case of an annuity under which the decedent was entitled to receive payments at the end of each semiannual, quarterly, or monthly period, the value of the annuity is to be determined by multiplying the aggregate amount to be paid within a year by the figure in column 2 of Table A opposite the number of years in column 1 nearest the actual age of the person whose life measures the duration of the annuity, and then multiplying the product by 1.01820 for monthly payments, by 1.04688 for quarterly payments, or by 1.00990 for semianual payments.

Example. If, in the example given in paragraph (5), the annuity is payable in semianual installments of $500 at the end of each semiannual period, the aggregate annual amount, $10,000, should be multiplied by the factor 14.86102, and the product should be multiplied by 1.00990. The present worth of the annuity at the date of death is, therefore, $148,610.20 ($10,000 X 14.86102 X 1.00990).

(7) If the first payment of an annuity for the life of an individual is to be paid at once, the value of the annuity is the present worth of the payments to be made during the life of the annuitant, discounted upon the basis of compound interest at the rate of 4 per cent per annum.
The decedent was entitled to receive an annuity of $50 a month payable during the life of another. The decedent died on the day a payment was due. At the date of the decedent's death the person whose life measures the duration of the annuity was 50 years of age. The value of the annuity at the date of decedent's death is $50 plus the product of $50 x 12 x 12.47032 (see Table A) x 1.01820 (see preceding paragraph). The decedent died 30 years prior to such date. The present value of the annuity as of the date of the decedent's death is the product of $50 x 2 x 8.11089 (see Table B) x 1.00990, or $8,191.19.

Table A—Table, single life, 4 per cent, showing the present worth of an annuity, or a life interest, and of a reversionary interest

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<th>Reversion</th>
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Table B—Table showing the present worth at 4 per cent of an annuity for a term-certain, or a reversionary interest postponed for a term-certain

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<th>Age</th>
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<th>Reversion</th>
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Note: The value of the annuity at the date of the decedent's death is the product of $50 x 2 x 8.11089 (see Table B) x 1.00990, or $8,191.19.

(11) If the first payment of an annuity for a definite number of years is to be paid at once, the applicable factor is the product of the factor shown in the following Table B multiplied by 1.02154 for monthly payments, by 1.02488 for quarterly payments, by 1.04 for annual payments.
The executor may, by an election upon his return, Form 706, if filed within the time prescribed by law or prescribed by the Commissioner in pursuance of law, have the property which was included in the gross estate under the date of the decedent's death valued as of the applicable dates, as follows:

(a) Any property distributed, sold, exchanged, or otherwise disposed of within one year after the decedent's death, valued as of the date of such distribution, sale, exchange, or other disposition, whichever first occurs;

(b) Any property not distributed, sold, exchanged, or otherwise disposed of within such 1-year period, valued as of the date one year after the date of decedent's death;

(c) Any property, interest, or estate which is affected by mere lapse of time, valued as of the date of the decedent's death; except that an adjustment is to be made for any difference in its value, not due to such lapse of time, as of the date of the decedent's death, or as of the date of its distribution, sale, exchange, or other disposition, whichever date first occurs.

Property "distributed" is limited to distributions thereof by the executor, or by the trustee in the case of property included in the gross estate under subsection (c), (d), or (f) of section 811. Distribution may be effected by the entry of the order or decree of distribution, or, in the case of a court order or decree, by the segregation or separation of the property from the estate or the trust, or by the actual paying over or delivery of the property." The sale, exchange, or other disposition, to which subsection (c) refers, may be (1) made by the executor, or by the trustee of property included in the gross estate under subsection (c), (d), or (f) of section 811, or by any other person to whom the property had not been distributed, or (2) made by the executor or by such a trustee, or to whom it had not passed from the gross estate as the result of a sale, exchange, or other disposition, as, for example, a sale, exchange, or other disposition by an heir, devisee, donee, or grantee to whom the decedent in his lifetime transferred the property, or by the survivor of the decedent if the property had been held by them subject to the right of survivorship.

Property, in the case of a sale, exchange, or other disposition within the 1-year period, is to be valued as of the date when it ceases to form a part of the gross estate, that is, the date when the title passes as the result of a sale, exchange, or other disposition. The terms "distributed," "sold," "exchanged," and "otherwise disposed of" comprehend all possible ways by which property may be separated or passed from the gross estate and included in the decedent's death which is thereafter used in the payment of the funeral expenses, or in settlement of claims against the estate, or is invested, fails within the term "otherwise disposed of."

In valuing the gross estate under the optional valuation method, all of the property included in the gross estate as of the date of death which are a part of the gross estate as determined under the subsections of section 811 constitute the property to be valued as of one year after the date of the decedent's death, or as of the date of the decedent's death, or as of some intermediate date. Such property is hereinafter referred to as "included property." "Included property" as of the date of the decedent's death remains "included property" for the purpose of valuing the gross estate under the optional valuation method even though it is exchanged in form during the optional valuation period by being actually received, or disposed of, in whole or in part, by the estate. However, property exchanged (whether received before or after death) is to be valued as of the date of the decedent's death and during the optional valuation period with respect to any property interest existing at the date of death, which does not represent a form of "included property" itself or the receipt thereof, is to be excluded in valuing the gross estate at the subsequent valuation date and is hereinafter referred to as "excluded property." Among the items of "included property" to be valued in accordance with these principles are the following:

(1) Interest-bearing obligations. Interest-bearing obligations, such as bonds and notes, may, at the date of death, comprise two elements of "included property," the principal of the obligation itself and interest accrued to the date of death, and each is to be separately valued as of the applicable valuation date. The bond or note is to be valued as of the applicable valuation date without regard to accrued interest. Interest accrued after the date of death and prior to the subsequent valuation date do not constitute "included property" of the estate. The operation of this section may be further illustrated by the following example in which the death of the decedent will take place to have occurred on January 1, 1940:

Stock of a corporation. Shares of stock in a corporation and dividends declared to stockholders of record on or before the date of death, and not collected at the date of death constitute "included property" of the estate. Ordinary dividends out of earnings and profits, whether in cash or in shares of stock of the estate or other property, declared to stockholders of record after the date of the decedent's death are "excluded property" and are not to be included in the gross estate under the optional valuation method. If, however, dividends are declared to stockholders of record after the date of the decedent's death with the effect that the shares of stock at the subsequent valuation date do not reasonably represent the same "included property" of the gross estate as existed at the date of the decedent's death, such dividends are "included property," except to the extent that such dividends are out of earnings of the corporation after the date of the decedent's death. For example, if a corporation makes a distribution of its accumulated earnings and profits equal to its paid-in capital, distributed all of its accumulated earnings and profits as a cash dividend to shareholders of record during the optional valuation period, the amount of such distribution received on stock included in the gross estate is itself "included property," except to the extent that the distribution was out of earnings and profits since the date of the decedent's death. Another example is where a corporation, in which the decedent owned 50 percent of the shares and which possessed at the date of the decedent's death accumulated earnings and profits equal to its paid-in capital, distributed all of its accumulated earnings and profits as a cash dividend to shareholders of record during the optional valuation period. In such a case the amount of the dividends received on stock in the gross estate will be included in the gross estate under the optional valuation method.

The operation of this section may be further illustrated by the following example in which the death of the decedent will take place to have occurred on January 1, 1940:
Bond, par value $1,000, bearing interest at 4 percent payable quarterly on Mar. 1, June 1, Sept. 1, and Dec. 1, and termed to mature on Mar. 1, 1960. Interest coupon of $40 attached to bond and not paid due at date of death although due and payable Nov. 1, 1939. Cashed by executor on Feb. 1, 1940. Interest earned from Nov. 1, 1939, to Jan. 1, 1940, collected on Feb. 1, 1940...

Real estate. Not disposed of within year following death. Rent of $200 due at the end of each quarter, Feb. 1, May 1, Aug. 1, and Nov. 1, 1940. Rent due for quarter ending Nov. 1, 1939, but not collected until Jan. 10, 1940...


Properties, interests, or estates which are affected by mere lapse of time include patents, estates for the life of a person other than the decedent, remainders, reversions, and other like properties, interests, or estates. The phrase "affected by mere lapse of time" has no reference to obligations for the payment of money, whether or not interest-bearing, the value of which changes with the passing of time. However, such an obligation, like any other property, may become affected by lapse of time when made the subject of a bequest or transfer which itself is creative of an interest or estate affected.

The date of valuation of any property, interest, or estate so affected, is, as prescribed by subsection (c), the date of decedent's death, but with an adjustment to be made of the value then obtaining, which adjustment, while disregarding any later increase or decrease in value due solely to lapse of time, adds to or subtracts from the value at death any difference between that value and the value as of the date one year after the decedent's death, or the applicable intermediate date, if, and to the extent that, such difference was due to a cause or causes other than lapse of time. Accordingly, in the valuation of any property, interest, or estate affected by lapse of time, the difference between its value at decedent's death and its value as of the later date must be analyzed to determine the portion of such difference attributable to other cause or causes, and that portion only is to be applied in adjusting the value as of the date of the decedent's death. If, for example, the decedent owned a patent which on the date of his death had an unexpired term of 10 years and a value of $100,000, and if the patent was sold 6 months after the decedent's death, at a time because of the lapse of time and other causes, only $65,000 was realized therefor, the value would be determined as follows:

Value of patent on date of decedent's death. $100,000.00

Difference between value on date of death and date of sale ($100,000 minus $65,000). 35,000.
ence. The Commissioner may require the submission of additional evidence as is deemed necessary.

§ 81.12 Description of property listed on return. In listing upon the return the property constituting the gross estate (other than household effects as to which see § 81.10 (g)), the description thereof should be such that the property may be readily identified. Thus, a legal description should be given if the property is real estate. The location of the principal business office of the corporation, if unlisted. Description of stocks should include number held, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number if there is more than one issue, the exchange upon which listed, or the principal business office of the corporation, if unlisted. Description of notes should include name of maker, date on which given, date of maturity, amount of principal, amount of principal unpaid, rate of interest and whether simple or compound, date or dates to which interest has been paid and amount of unpaid interest. Description of land contracts received should include number of shares, whether common, preferred, or preferred if preferred stock of such corporation. Description of bonds should include number held, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number if there is more than one issue, the exchange upon which listed, or the principal business office of the corporation, if unlisted. Description of mortgage notes should include number held, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number if there is more than one issue, the exchange upon which listed, or the principal business office of the corporation, if unlisted. Description of bank accounts should include number of shares, whether common, preferred, or preferred if preferred stock of such corporation. Description of property listed should be given, or, if the annuity is payable to, the property or interest so created may differ from dower or curtesy. The estate or interest so created may differ from dower or curtesy. The above provisions of the Internal Revenue Code include in the gross estate dower and curtesy and all interests created by statute in lieu thereof, although the estate or interest so created may differ in character from dower or curtesy. The effect of the provision is to require the inclusion of the full value of the property, without deduction of the value of the interest of the surviving husband or wife, and without regard to the time when to such an interest arose.

§ 81.13 Property of decedent at time of death. It is designed by the foregoing provisions of the Internal Revenue Code that there shall be included in the gross estate all property of the decedent, whether real or personal, tangible or intangible, the beneficial ownership of which was vested in the decedent at the time of his death, except real property situated outside the United States.

All property situated in the United States and owned by the decedent at the date of his death is included in the gross estate, whether the decedent was a resident or a nonresident, a citizen or not a citizen, and whether the property came to the possession and control of the executor or administrator or passed directly to heirs or devisees. All personal property owned by the decedent at the date of his death is included in the gross estate, except real property situated outside the United States. The court in which rendered, date of judgment, date of his death, date of his birth is included in the gross estate, except real property situated outside the United States.

A cemetery lot owned by the decedent is part of his gross estate, but its value is limited to the salable value of such part of it as is not designed for the interment of the decedent or members of his family. Property subject to homestead, or other exemptions under local law must be included in the gross estate. Notes or other claims held by the decedent should be included, though they are canceled by his will, as to the status, form, and number of notes and claims, see § 81.50.

Interest and rents accrued at the date of the decedent's death and dividends declared to stockholders of record on or before the date of the decedent's death and not collected at such date constitute part of the gross estate. Various statutory provisions, which exempt bonds, notes, bills, and certificates of indebtedness of the Federal Government or its agencies and the interest thereon from taxation, are not applicable to the state tax, since this tax is an excise or the property transferred. In the case of the decedent was a nonresident who was not a citizen and not engaged in business in the United States, bonds, notes, and certificates of indebtedness of the United States, beneficially owned by such decedent should not be included; however, bonds, notes, and certificates of indebtedness of the United States, issued before 1941, which such decedent beneficially owned, should be included in the gross estate.
money’s worth. Any transfer of a material part of his property or interest so transferred to any one person is in excess of $5,000, then, to the extent of such excess, such transfer or transfers shall be deemed and held to have been made in contemplation of death within the meaning of this title.

(4) Relinquishment of power in contemplation of death. The relinquishment of any such power, not admitted or shown to have been made in contemplation of death within the meaning of this title, made within two years prior to his death, shall be deemed to have been made in contemplation of death within the meaning of this title.

(5) For the purposes of this subsection the power to alter, amend, revoke, or terminate, or where any such power was relinquished in contemplation of death of the decedent’s death, made within two years prior to his death, shall be deemed to have been made in contemplation of death within the meaning of this title.

Sec. 302. (d) Revenue Act of 1926 (as originally enacted). To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death even though the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, revoke, or terminate, or where any such power was relinquished in contemplation of death of the decedent’s death, made within two years prior to his death, shall be deemed to have been made in contemplation of death within the meaning of this title.

Sec. 401. Revenue Act of 1934. Section 302 (d) of the Revenue Act of 1926 is amended to read as follows:

(d) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, the transfer shall be deemed to have been made in contemplation of death within the meaning of this title.

Sec. 303. Revenue Act of 1932. Section 302 (d) of the Revenue Act of 1926, as amended by the Joint Resolution of March 3, 1931, is amended to read as follows:

(c) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, the transfer shall be deemed to have been made in contemplation of death within the meaning of this title.

Sec. 802. [Part II, Subchapter A] APPLICATION OF PARITIES. Part II shall apply to the estates of citizens or residents of the United States and, except as otherwise provided, to the estates of nonresidents not citizens of the United States, subject to the exceptions and additional provisions contained in Part III.
(5) The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent’s death, made within two years prior to his death without consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of trusts) of any one beneficiary of one or more trusts) of any one beneficiary of the gross estate under such section 302(d)(1) of the Revenue Act of 1936, as amended, is to be scrutinized to determine whether or not such transfer was made in contemplation of death within the meaning of this title.

§ 81.16 Transfers during life. The following classes of transfers made by the decedent prior to his death, whether in trust or otherwise, if not constituting bona fide sales for an adequate and full consideration in money or money’s worth, are subject to the tax: (1) transfers in contemplation of death (see § 81.15); (2) transfers conditioned upon the decedent’s death (see § 81.17); (3) transfers under which the decedent reserved or retained (in whole or in part) the use, possession and enjoyment of the transferred property, for his life, or for a period not ascertainable without reference to his death, or for a period of such duration as to evidence an intention that it should extend to the date of his death; including also the reservation or retention of the use, possession, rents, or other income, the actual enjoyment of which was to await the termination of a transferred precedent interest or estate (see § 81.18); (4) transfers under which the decedent retained the right, either alone or in conjunction with another person, to designate the person who should possess or enjoy the property or the income therefrom (see § 81.19); and (5) transfers under which the enjoyment of the transferred property was subject at the decedent’s death to the exercise, either by the decedent alone or in conjunction with another person or persons, of a power to alter, amend, revoke or terminate, or where such a power was relinquished in contemplation of death made by the decedent after September 8, 1916, other than bona fide sales for an adequate and full consideration in money or money’s worth, must be included in the gross estate. A transfer in contemplation of death is subject to the tax although the decedent parted absolutely and immediately with his title to, and possession and enjoyment of, the property.

The phrase “contemplation of death,” as used in the statute, means, on the one hand, that general expectation of death such as all persons entertain, or, on the other, its meaning restricted to an apprehension that death is imminent or near. A transfer in contemplation of death is a disposition of property prompted by the thought of death (though it need not be solely so prompted). A transfer is prompted by the thought of death if it is made with the purpose of avoiding the tax, or as a substitute for a testamentary disposition of the property, or for any other motive associated with death. The bodily and mental condition of the donor and all other attendant facts and circumstances are to be scrutinized to determine whether or not such transfer was made in contemplation of death.

§ 81.17 Transfers conditioned upon survivorship. The statutory phrase, “a transfer intended, to take effect in possession or enjoyment at or after his death,” includes a transfer by the decedent prior to his death (other than a bona fide sale for an adequate and full consideration in money or money’s worth) whereby the enjoyment of the transferred property, for his life, or for a period not ascertainable without reference to his death, or for a period of such duration as to evidence an intention that it should extend to the date of his death; including also the reservation or retention of the use, possession, rents, or other income, the actual enjoyment of which was to await the termination of a transferred precedent interest or estate (see § 81.18); (4) transfers under which the decedent retained the right, either alone or in conjunction with another person, to designate the person who should possess or enjoy the property or the income therefrom (see § 81.19); and (5) transfers under which the enjoyment of the transferred property was subject at the decedent’s death to the exercise, either by the decedent alone or in conjunction with another person or persons, of a power to alter, amend, revoke or terminate, or where such a power was relinquished in contemplation of death made by the decedent after September 8, 1916, other than bona fide sales for an adequate and full consideration in money or money’s worth, must be included in the gross estate. A transfer in contemplation of death is subject to the tax although the decedent parted absolutely and immediately with his title to, and possession and enjoyment of, the property.

The phrase “contemplation of death,” as used in the statute, means, on the one hand, that general expectation of death such as all persons entertain, or, on the other, its meaning restricted to an apprehension that death is imminent or near. A transfer in contemplation of death is a disposition of property prompted by the thought of death (though it need not be solely so prompted). A transfer is prompted by the thought of death if it is made with the purpose of avoiding the tax, or as a substitute for a testamentary disposition of the property, or for any other motive associated with death. The bodily and mental condition of the donor and all other attendant facts and circumstances are to be scrutinized to determine whether or not such transfer was made in contemplation of death.
regard to the time when the transfer was made, whether before or after the enactment of the Revenue Act of 1915. Thus, upon a transfer by a decedent of property in which an estate for life is given to one and an estate in remainder to another, but with a provision added that the estate in remainder shall revest in the decedent should he survive the owner of the life estate, there is to be included, in determining the value of the decedent's gross estate following his death, the value as of the date of his death of the estate in remainder to be outstanding. The value of the outstanding life estate is not to be included in determining the value of the gross estate, unless that estate had been transferred in contemplation of the decedent's death, or otherwise as to render it a part of the gross estate. If by reason of an election by the executor the valuation of the gross estate is governed by the provisions of § 81.11, adjustments in the values of such transferred estates may be required. (See § 81.15.)

If the transfer was made during the period between November 11, 1935 (that being the date upon which the Supreme Court of the United States rendered its decisions in the cases of Hefterson v. St. Louis Union Trust Co. (286 U. S., 39) and Becker v. St. Louis Union Trust Co. (286 U. S., 48)), and January 29, 1940 (that being the date upon which the Court rendered its decision in Hefterson v. Hall and company cases (399 U. S., 106)), and the Commissioner, whose determination therein shall be conclusive, determines that such transfer is classifiable with the transfers involved in such two cases decided on November 11, 1935, rather than with the transfer involved in the case of Klein v. United States (283 U. S., 231), previously decided by such Court, then the property so transferred shall not be included in the decedent's gross estate under the provisions of this section, if the following condition is also met: Such transfer shall have been finally treated for all gift tax purposes, both as to the calendar year of such transfer and subsequent years, as a gift given an amount measured by the value of the property undiminished by reason of a provision in the instrument of transfer by which the property, in whole or in part, is to revert to the decedent should he survive the donee or another person, or the reversion thereof is conditioned upon some other contingency terminable by decedent's death.†

§ 81.18 Transfers with possession or enjoyment retained. Except in the case of a bona fide sale for an adequate and full consideration in money or money's worth, the gross estate shall embrace all property transferred by the decedent, whether in trust or otherwise, if there is retained by or reserved to him for his life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period, or for a period not ascertainable without reference to his death.

A transfer of the kind dealt with in this section, when not also falling within the provisions of some other subsection of section 811, requires the inclusion of the transferred property within the gross estate, if the transfer was made—

(1) At any time after 10:30 p. m., eastern standard time, March 3, 1931, and such retention or reservation is for his life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period; or

(2) At any time after 5 p. m., eastern standard time, June 6, 1932, and the right so designated was retained by or reserved to the decedent alone or in conjunction with any other person or persons for decedent’s life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period.

The use, possession, right to the income, or other enjoyment of the property will be considered as having been retained by or reserved to the decedent to the extent that during any such period it is to be applied towards the discharge of a legal obligation of the decedent, or otherwise for his pecuniary benefit.

If such retention or reservation is of a part of the income, or of a right to the income, or of any other enjoyment of the property, then only a corresponding proportion of the value of the transferred property is included in determining the value of the gross estate. (See § 81.51.) *

§ 81.19 Transfers with right retained to designate who shall possess or enjoy. The Internal Revenue Code (section 811 (c)) provides that, except in the case of a bona fide sale for an adequate and full consideration in money or money’s worth, the gross estate shall embrace all property transferred by the decedent, whether in trust or otherwise, if there is retained by or reserved to him for his life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period, or for a period not ascertainable without reference to his death.

A transfer of the kind dealt with in this section, when not also falling within the provisions of some other subsection of section 811, requires the inclusion of the transferred property within the gross estate, if the transfer was made—

(1) At any time after 10:30 p. m., eastern standard time, March 3, 1931, and the right so designated was retained by or reserved to the decedent alone or in conjunction with any other person or persons for decedent’s life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period.

(2) At any time after 5 p. m., eastern standard time, June 6, 1932, and the right so designated was retained by or reserved to the decedent alone or in conjunction with any other person or persons for decedent’s life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period.

§ 81.20 Transfers with power to change the enjoyment—(a) Transfers included. Subsection (d) of section 811 embraces a transfer by trust or otherwise (if not amounting to a bona fide sale for an adequate and full consideration in money or money’s worth) when at the time of decedent’s death the enjoyment of the transferred property or interest therein, was subject to any change through a power exercisable either by the decedent alone, or by him in conjunction with some other person or persons to alter, or to appropriate, revoke, or terminate. (See § 81.15.) *

The addition to subdivision (d) (1) of the Revenue Act of 1926, by section 805 of the Revenue Act of 1936, of the phrase “subject to any exchange through the exercise of a power by the decedent alone or in conjunction with any other person or persons to alter, or to appropriate, revoke, or terminate.”, is considered merely declaratory of the meaning of the subdivision prior to the addition of the phrase.

The second phrase added to this subdivision of the Revenue Act of 1926 by amendment B, 1933 (also embodied in subdivision (d) (1) of the Internal Revenue Code), namely, “subject to any exchange through the exercise of a power by the decedent alone or in conjunction with any other person or persons to alter, or to appropriate, revoke, or terminate.”, is not considered declaratory of the meaning of the subdivision prior to the amendment in a case.
in which no one of the powers enumerated in the subdivision was reserved at the time of the making of the transfer, but one or more persons, some or all of whom either having or not having a substantial adverse interest, or interests in the transferred property, or in conjunction with persons one or more of whom had and one or more of whom had not such an adverse interest.

As used in this and in the next succeeding section, the expression "reserved at the time of the transfer" refers to a power to which the transfer was subject when made, whether the power arose by implication of law or by the express terms of the instrument of transfer, and which continued to the date of decedent's death (see the paragraph next following as to the conditions under which the power will be considered as existent at decedent's death) to be exercisable by decedent alone or by him in conjunction with some other person or persons, and includes any understanding, expressed or implied, had in connection with the making of the transfer that the power should later be created or conferred.

The power to alter, amend, revoke, or terminate will be considered to have existed on the date of the decedent's death, though the exercise of the power was subject to a precedent giving of notice, or though the alteration, amendment, revocation, or termination would take effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent's death notice had been given or the power had been exercised, or though the exercise of the power was restricted to a particular time which had not arrived, or the happening of a particular event which had not occurred, at decedent's death.

In determining the value of the gross estate in such cases the full value of the property transferred subject to the power should be discounted for the period required to elapse between the date of decedent's death and the date upon which the alteration, amendment, revocation, or termination could take effect. (See § 81.10(d) (3)).

The provisions of this section do not apply to a power to alter, amend, revoke, or terminate a transfer made after the enactment of the Revenue Act of 1924 (4:01 p.m., eastern standard time, June 2, 1924), and the power was reserved at the time of the transfer and was exercisable by the decedent alone or in conjunction with a person or persons one or more of whom had and one or more of whom had not such an adverse interest.

(b) If the transfer was made after the enactment of the Revenue Act of 1924 (4:01 p.m., eastern standard time, June 2, 1924), and the power was reserved at the time of the transfer and was exercisable by the decedent alone or in conjunction with a person or persons either having or not having a substantial adverse interest or interests in the transferred property, or in conjunction with persons one or more of whom had and one or more of whom had not such an adverse interest.

(3) If the transfer was made after June 22, 1936, and the power was reserved at the time of the transfer and was exercisable by the decedent alone or in conjunction with persons one or more of whom had and one or more of whom had not such an adverse interest.

§ 81.21 Power relinquished in contemplation of death.

If the decedent had previously held, either alone or in conjunction with another person or persons, a power to alter, amend, revoke, or terminate a transfer made by him, and the power was subsequently relinquished in contemplation of the decedent's death (the relinquishment not amounting to a bona fide sale for an adequate and full consideration in money or money's worth), then to the extent that the transferred property or any interest therein had been subject to such relinquished power it is to be included in the gross estate if coming within any one of the following categories:

(a) If the transfer was made prior to the enactment of the Revenue Act of 1924 (4:01 p.m., eastern standard time, June 2, 1924), and the power was reserved at the time of the transfer and was relinquished after the enactment of the Revenue Act of 1916 (September 8, 1916), and the power was reserved at the time of the transfer and was exercisable by the decedent alone or in conjunction with a person or persons having no substantial adverse interest or interests in the transferred property, or if exercisable in conjunction with a person having a substantial adverse interest or with several persons some or all of whom held such an adverse interest, then to the extent of any interest of the decedent alone or in conjunction with a person or persons either having or not having a substantial adverse interest or interests in the transferred property, or in conjunction with persons one or more of whom had and one or more of whom had not such an adverse interest.

(b) If the transfer was made after the enactment of the Revenue Act of 1924 (4:01 p.m., eastern standard time, June 22, 1936), and the power was reserved at the time of the transfer and was exercisable by the decedent alone or in conjunction with a person or persons either having or not having a substantial adverse interest or interests in the transferred property, or in conjunction with persons one or more of whom had and one or more of whom had not such an adverse interest.

(c) If the transfer was made after June 22, 1936, and the power was reserved at the time of the transfer and was exercisable by the decedent alone or in conjunction with persons one or more of whom had and one or more of whom had not such an adverse interest.
value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States—

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Section 812. [Part II, Subchapter A] Net Estate.

(b) (5) * * * For the purposes of this subchapter, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration "in money or money's worth."


Part II shall apply to the estates of citizens or residents of the United States and, except as otherwise provided, to the estates of nonresidents of the United States subject to the exceptions and additional provisions contained in Part III. * * *

§ 81.22 Property held jointly or by the entirety. The foregoing provisions of the Internal Revenue Code extend to joint ownerships wherein the right of survivorship exists, regardless of when such ownership was created. They specifically reach property held jointly by the decedent and any other person or persons, or by the decedent and spouse as tenants by the entirety, or deposited with any person or institution carrying on a banking business, in their joint names or in the names of either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and which, if so received, was acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth; Provided, That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: Provided further, That where any property has been acquired by gift, bequest, devise, or inheritance by the entirety, or deposited with any person carrying on a banking business, in their joint names, or in the names of either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and which, if so received, was acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted such other person's entire interest therein by right of survivorship.

§ 81.23 Taxable portion. The entire property is prima facie a part of the decedent's property, in the absence of the proof to the contrary, provided that in no case shall the intent of the statute that there should be so included a greater part or proportion thereof than is represented by an outlay of funds, which, in the first instance, were deceased's or a fractional part equal to that of the other joint owner should neither have parted with any consideration in its acquirement. Facts which in a given case bring it within any one of the exceptions enumerated in the statute may be submitted by the executor.

Whether the entire property, or only a part, or none of it, enters into the make-up of the gross estate depends upon the following considerations:

1. So much of the property (whether the whole, or a part thereof) as originally belonged to the other joint owner which at no time in the past had been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth, forms no part of the decedent's gross estate.

2. If the facts are otherwise the same as in (1), but the decedent paid to such other joint owner a consideration for the interest by him (the decedent) acquired in the property, then such portion of the property, proportionate to the consideration so paid, constitutes a part of the gross estate.

3. If the property, or a part thereof, or a part of the consideration wherewith it was acquired, had at any time been acquired by the other joint owner from the decedent as a gift, or for less than an adequate and full consideration in money or money's worth, then such portion of the entire property, proportionate to the consideration, if any, which in the first instance was paid from such other joint owner's own funds, forms no part of the gross estate. If the property was acquired by the decedent and the other joint owner as joint tenants by gift, bequest, devise, or inheritance, and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants, a part of the gross estate.

The value of the gross estate of the decedent shall be determined by including the following:

(a) The value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States.

(b) If the decedent furnished a part only of the purchase price, no part of the property should be included; (c) if the decedent furnished all of the purchase price, one-half of the property should be included; (d) If the other joint owner, prior to the acquisition of the property, received from the decedent, for less than an adequate and full consideration in money or money's worth, property which thereafter became, as such, or in a converted form, part of the purchase price of the property, the entire property should be included.

For the purposes of the estate tax, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, is not to any extent a consideration in money or money's worth.

**Gross Estate—Property Passing Under Power of Appointment.**

The value of the gross estate of the decedent, as determined in the first instance, shall be reduced by the amount of property which is a part of the gross estate, if it is properly determined that the executor has or will have a power of appointment over such property. The amount of such property shall be determined by subtracting the value of the property over which the executor has or will have a power of appointment at the date of death of the decedent from the value of such property as determined in the first instance.

The value of such property shall be determined by including the following:

(a) Property passing under general power of appointment. To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of the future succession or enjoyment at or after his death, or (3) by deed under which he has retained, for his life, or for life of any period not ascertainable without reference to his death or for any period which does not in fact end before his death, (A) the power to dispose of, or the right to the income from, the property, or (B) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and

(b) Transfers for insufficient consideration. If any one of the transfers, trusts, interests, rights, or powers, described in subsections (c), (d), and (f) is made, created, exercised, or relinquished for a consideration in money or money's worth, but is not a bona fide sale for an adequate and full consideration in money or money's worth, there shall be included in the gross estate only the excess of the fair market value at the date of the property otherwise to be included on account of such transaction, over the value of the consideration received therefor by the decedent.
estate. Property or estate, shall not be considered to any extent a consideration "in money or money's worth".

Sec. 602. [Part I, Subchapter A.] APPLICATION TO PARTS.
Part II shall apply to the estates of citizens or residents of the United States and, except as provided in paragraph (a), to the estates of nonresidents not citizens of the United States, subject to the exceptions and additional provisions contained in Part III.

Sec. 603. (1) Revenue Act of 1926 (as originally enacted). To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of death or at or after his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and * * *

Sec. 602. (1) Revenue Act of 1926 (as amended by (b) of the Revenue Act of 1930). To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of death or at or after his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and * * *

Sec. 603. (1) Revenue Act of 1929 (as amended by (b) of the Revenue Act of 1930). To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of death or at or after his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and * * *

§ 61.24 Property passing under general power of appointment. Property passing under a general power of appointment is includible in the gross estate of the person exercising the power (known as the donee, or appointor), if the power is exercised by will. It shall also be so included if the power is exercised by deed or other instrument either (1) in contemplation of death, (2) with the intent that the transfer shall take effect in possession or enjoyment at or after the death of the donee of the power, (3) with the retention or reservation by the decedent of the use, possession, right to the income, or other enjoyment of the transferred property, or (4) with the retention or reservation by the decedent of the right to designate the person or persons who shall possess or enjoy the transferred property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and *

§ 61.25 Taxable insurance. Section 811 (g) of the Internal Revenue Code provides for the inclusion in the gross estate of insurance taken out by the decedent upon his own life, as follows: (a) All insurance receivable by, or for the benefit of, the estate of the decedent, to the extent that it exceeds $40,000. The term "insurance" refers to life insurance in the United States, subject to the exceptions and additional provisions contained in Part III.

§ 61.26 Insurance in favor of the estate. The Internal Revenue Code requires the inclusion in the gross estate of all insurance receivable by the executor or administrator or payable to the decedent's estate, and all insurance which is in fact receivable by, or for the benefit of, the estate. It includes insurance effected to provide funds to meet the estate tax, and any other taxes, debts, or charges which are enforceable against the estate. The manner in which the proceeds are produced is not material as long as there is an obligation, legally binding upon the beneficiary, to use the proceeds in payment of such taxes, debts, or charges. The full amount of the proceeds so receivable, with the benefit of any exemption, forms a part of the gross estate, though all the premiums or other consideration wherein the insurance was acquired may have been paid by a person other than the decedent. If the decedent procured insurance in favor of another person or corporation as collateral security for a loan or other accommodation, the insurance is considered to be receivable for the benefit of the estate. The amount of the loan outstanding at decedent's death will be deductible in determining the net estate, and the interest thereon will be deductible in accordance with the provisions of § 61.36.

§ 61.27 Insurance receivable by other beneficiaries. The aggregate proceeds of $40,000 of the aggregate proceeds of all insurance on the decedent's life not receivable by or for the benefit of his estate must be included in his gross estate, as follows: (a) To the extent to which such insurance was taken out by the decedent upon his own life (see § 81.25) after January 10, 1941, the date of Treasury Decision 5053, and (b) To the extent to which such insurance was taken out by the decedent upon his own life (see § 81.25) on or before January 10, 1941, and with respect to which the decedent possessed any of the incidents of ownership at any time after such date, or in the case of a decedent dying on or before such date, at the time of his death.

Legal incidents of ownership in the policy include, for example, the right of possession or income in the policy benefits, the power to change the beneficiary, to surrender or cancel the policy, to assign it, to revoke an assignment, to pledge it for a loan, or to obtain from the insurance company a loan against the surrender value of the policy, etc. The insured possesses a legal incident of ownership if
his death is necessary to terminate his interest in the insurance, as, for example, if the proceeds would become payable to his estate after his death, the decedent, should he predecease his beneficiary, would preclude him.

The estate is entitled to only one exemption of $40,000 upon insurance receivable by beneficiaries other than the estate. For instance, if the decedent left a life insurance otherwise includible under the provisions of this section and payable to that policy, such beneficiaries in amounts of $10,000, $20,000, and $50,000 (total, $80,000), the full amount should be listed on the return and theretofore subtracted the $10,000 exemption as provided in the appropriate schedule of Form 706. The word “beneficiaries,” as used in reference to this $40,000 exemption, means persons entitled to the actual enjoyment of the insurance money.

Example. Insurance on the life of the decedent who died after the date of Treasury Decision 5032 totaled $200,000. It was payable to his son as beneficiary and the decedent possessed none of the legal incidents of ownership therein. Premiums aggregating $100,000 were paid for the insurance, of which the decedent paid $50,000 after the date of that decision. The remaining premiums of $50,000 were paid by the son. The extent to which the insurance was taken out by the decedent after the date of the Treasury decision is the proportion of $200,000 that the amount of the premiums paid by him after such date, $50,000, bears to the total amount of the premiums paid for the insurance, $100,000. Such proportion is three-tenths of $200,000, or $60,000. As the decedent possessed none of the legal incidents of ownership in the insurance at any time after the date of the Treasury decision, $100,000 of the insurance, the extent to which it was taken out by the decedent before such date $50,000, is excluded from the gross estate.

$50,000 \times \frac{200,000}{100,000} = 100,000$

is also excluded from the gross estate. The amount of $40,000, the extent to which the insurance was not taken out by the decedent

\[
\left( 200,000 \times \frac{200,000}{100,000} \right) - 100,000
\]

is also excluded from the gross estate. The amount of the insurance taken out by the decedent after the date of the Treasury decision, $50,000, is reduced by $50,000, the special insurance exemption, and the amount of the insurance included in the gross estate is $20,000.*

§ 81.28 Valuation of insurance. The amount to be returned if the policy is payable to or for the benefit of the estate is the amount receivable. If the proceeds of a policy are payable to a beneficiary otherwise than the estate, and not to or for the benefit of the estate, the amount of the insurance is the full amount receivable. For taxable portion see § 81.27.) In case the proceeds of a policy are payable to a beneficiary in the form of an annuity for life or for a period of years, there should be listed in the appropriate schedule of the return the one sum payable at death under an option which could have been exercised either by the insured or by the beneficiary, or if no option was granted, the sum used by the insurance company in determining the amount of the annuity.

With respect to each policy there should be filled a certificate, Form 712, from the insurance company showing the following:

(a) The face amount of the policy.

(b) The amount of any indebtedness to the company which reduced the amount otherwise payable.

(c) The amount of accumulated dividends.

(d) The amount of postmortem dividends.

(e) Any other facts affecting the value. (See next paragraph.)

(f) The value as of the date of death of the insured of the benefits payable under the policy.

In the case of any policy providing for deferred payments (other than payments measured by the facts disclosed under (a), (b), (c), (d), (e), (f), and (g) above), the certificate should include the following information:

(g) The provisions with respect to the deferred payments or to the installments.

(h) The amounts of the deferred payments or installments.

(i) If the number of installments to be paid may be measured by the life of any individual, the date of birth of such individual.

(j) The amount applied by the insurance company as a single premium representing the purchase of the installment benefits.

(k) The basis (Mortality Table and rate of interest) employed by the insurance company in valuing the installment benefits.

Gross Estate—Retrospective Provisions


(b) Prior interests. Except as otherwise specifically provided therein, subsections (b), (c), (d), (e), (f), and (g) shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishments, as severally enumerated and described therein, whether made, created, arising, existing, exercised, or relinquished before or after February 26, 1926.


Part II shall apply to the estates of citizens or residents of the United States and, except as otherwise provided, to the estates of nonresidents not citizens of the United States, subject to the exceptions and additional provisions contained in Part III.

Deductions—Estates of Citizens or Residents Administration Expenses, Claims, Etc.


For the purpose of the tax the value of the net estate shall be determined, in the case of a citizen or resident of the United States by deducting from the value of the gross estate—

(a) Expenses, losses, indebtedness, and taxes.

(1) For funeral expenses.

(2) For administration expenses.

(3) For claims against the estate.

(4) For unpaid mortgages upon, or any indebtedness in respect of, the value of decedent’s interest therein, undiminished by such mortgage or indebtedness included in the value of the gross estate, and

(5) Reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent, as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or property taxes not accrued before his death, or any estate, succession, legacy, or inheritance taxes. The deduction herein allowed in the case of claims against the estate, unpaid mortgages, or any indebtedness shall, when founded upon a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money’s worth.

For the purposes of this subsection, a relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent’s property or estate, shall not be considered to any extent a consideration “in money or money’s worth.”

§ 812.19 Deduction of administration expenses, claims, etc. In order to be deductible under the foregoing provisions of the Internal Revenue Code, the item must fall within one of the several classes of deductions specifically provided therein, and must also, except in the case of deductible losses incurred during the administration of estates arising from fires, storms, shipwrecks, or other casualties, and claims against the estate, an unpaid mortgage, or an indebtedness included in the value of the gross estate, be limited to the extent that they were con­

§ 81.29 Administration expenses, claims, etc. In order to be deductible under the foregoing provisions of the Internal Revenue Code, the item must fall within one of the several classes of deductions specifically provided therein, and must also, except in the case of deductible losses incurred during the administration of estates arising from fires, storms, shipwrecks, or other casualties, and claims against the estate, an unpaid mortgage, or an indebtedness included in the value of the gross estate, be limited to the extent that they were con­
An item may be entered on the return for deduction though the exact amount thereof is not then known, provided it is based on a reasonable estimate, and will be paid. No deduction may be taken upon the basis of a vague or uncertain estimate. In the event the amount of the liability was uncertain at the time of final audit of the return by the Commissioner, and, as a consequence, deduction was not allowed therefor in such audit, and subsequently the liability became ascertainable, a reasonable estimate of such liability may be sought as provided by §§ 81.73 and 81.96.*

§ 81.30 Effect of court decree. The decision of a local court as to the amount of a claim or administration expense will ordinarily be accepted if the court passes upon the facts upon which deductibility depends. If the court does not pass upon such facts, its decree will, of course, not be followed. For example, if the question before the court is whether a claim should be allowed, the decree allowing it will ordinarily be accepted as establishing the right to the deduction. The decree will not necessarily be accepted even though it purports to decide the facts upon which deductibility depends for that, if it does not actually pass upon the merits of the case. This will be presumed in all cases of an active and genuine contest. If the result reached appears to be unreasonable, this is some evidence that there was not such a contest, but it may be rebutted by proof to the contrary. If the decree was rendered by consent, it will be accepted, provided the consent was a bona fide recognition of the validity of the claim—not a mere cloak for a gift—and was accepted by the court as satisfactory evidence upon the merits. It will be presumed that the consent was of this character, and was so accepted, if given by all parties having an interest adverse to the claimant. The decree was, or accepted it is, in variance with the law of the State as, for example, an allowance made to an executor in excess of that prescribed by statute.

§ 81.31 Funeral expenses. An executor may deduct such amounts for funeral expenses as are actually expended by him and, under the laws of the local jurisdiction, are payable out of the decedent's estate. A reasonable expenditure by the executor for a tombstone, monument, or mausoleum, or for a burial lot, either for the decedent or his family, may be deducted under this heading, provided such an expenditure is allowable by the local law. Included in funeral expenses is the cost of transportation of the body to the place of final resting place where the burial is to be interred.

§ 81.32 Administration expenses. The amounts deductible from the gross estate as “administration expenses” are such expenses as are actually and necessarily incurred in the administration of the estate; that is, in the collection of assets, payment of debts, and distribution among the persons entitled. The expenses contemplated in the law are such only as attend the settlement of an estate by the legal representative preliminary to the transfer of the property to individual beneficiaries or to a trustee. That is to say, whether such trustee is the executor or some other person. Expenditures not essential to the proper settlement of the estate, but incurred for the individual benefit of the heirs, legatees, or devisees, or otherwise, may not be taken as deductions. Administration expenses include (1) executor's commissions; (2) attorney's fees; and (3) miscellaneous expenses. Each of these categories is separately deductible. See §§ 81.33 to 81.35, inclusive.*

§ 81.33 Executor's commissions. The executor or administrator, in filing the return, may deduct his commissions in such an amount as has actually been paid, or in an amount which at the time of such filing it is reasonably expected will be paid, but no deduction may be taken if no commissions are to be collected. In case the amount of the commissions has not been fixed by decree of the proper court, the deduction will be allowed on the return only if the facts are as provided: (1) That the Commissioner is reasonably satisfied that the commissions claimed will be paid; (2) that the amount entered as a deduction is within the amount of the commission allowed in the jurisdiction wherein the estate is being administered; and (3) that it is in accordance with the usually accepted practice in said jurisdiction to allow such an amount in estates of similar size and character. If the deduction is disallowed in whole or in part on final audit, the disallowance will be subject to modification as the facts may later require. If the deduction is allowed in advance of payment and payment is thereafter waived, it shall be the duty of the executor to notify the Commissioner and to pay the resulting tax, together with interest. Executors should note that the commissions received as compensation for their services constitute taxable income and that the amounts received or reasonably expected to be compensation are cross-referenced for income-tax purposes.

A bequest or devise to the executor in lieu of commissions is not deductible. If, however, the executor fixed his claim at a reasonable amount, which is due him by the terms of the will or the trust, he is entitled to payment of such amount. If, when his claim is fixed, he receives payment of the full amount he claimed as commissions, the estate ceases to have any liability for payment. This provision is applicable only to commissions. A brokerage fee for selling property of the estate is deductible if the sale is necessary in order to pay the decedent's debts, the expenses of administration, or to effect distributions. Other expenses attending the sale are deductible, such as the fees of an auctioneer, if it is reasonably necessary to employ one.

§ 81.36 Claims against the estate. The amounts that may be deducted under this heading are such only as represent personal obligations of the decedent existing at the time of his death, whether or not then matured, and interest thereon which had accrued at the time of death. Only interest accrued at the date of the decedent's death is allowable even though the executor, in accordance with the provision of the Internal Revenue Code, elects to have the gross estate valued as of a date or dates subsequent to the decedent's death. Only claims enforceable against the decedent's estate may be deducted. If the claim is founded upon a promise or agreement, the deduction thereof is limited to the extent that the liability therefor was not only for the property itself but also for a part of the estate, the value of which was given to the creditor. The determination of the extent of such property is, therefore, governed by the circumstances of the particular case and by the applicable law. The property taxes must, in order to be deductible, constitute enforceable obligations.
tions of the decedent existing at the time of death. Unpaid taxes upon income received during the decedent’s lifetime are deductible but taxes upon income received after death are not deductible. No estate, succession, legacy, or inheritance tax is deductible. § 81.38 Unpaid mortgages. Deduction is allowed of the full unpaid amount of a mortgage upon, or of an indebtedness in respect of, any property of the gross estate, including interest which had accrued thereon at the time of death, provided the value of the property, undiminished by the amount of the mortgage or indebtedness, is returned as part of the value of the gross estate. If decedent’s estate is liable for the amount of the mortgage or indebtedness, the full value of the property subject to the mortgage or indebtedness must be included as part of the value of the gross estate; the amount of the mortgage or indebtedness, being in such case allowed as a deduction. But if decedent’s estate is not so liable, only the value of the equity of redemption (or value of the property, less the indebtedness) need be returned as part of the value of the gross estate. In no case may the deduction on account of the mortgage or indebtedness exceed the liability therefor contracted bona fide and for an adequate and full consideration in money or money’s worth. Only interest accrued at the date of the decedent’s death is allowable even though the executor, in accordance with the provisions of section 811(f) of the Internal Revenue Code, elects to have the gross estate valued as of a date or dates subsequent to the decedent’s death. Inasmuch as real property situated outside of the United States does not form a part of the gross estate, no deduction may be taken of any mortgage thereon or any indebtedness in respect thereof.

§ 81.39 Losses from casualties or theft. There may be deducted under this heading losses incurred during the settlement of the estate arising from fires, floods, hurricanes, or other calamities, or from theft, if such losses are not compensated for by insurance or otherwise. Such losses are not deductible if, at the time of the filing of the estate tax return, they have been claimed as a deduction for income tax purposes in an Income tax return. If the loss is partly compensated for, the excess of the loss over such compensation may be deducted. Losses not of the nature described are not deductible. In order to be deductible a loss must occur during the settlement of the estate. If a loss or deduction from a previously taxed asset occurs after distribution thereof to the distributee it may not be deducted.

§ 81.40 Support of dependents. The support of dependents of the decedent during the settlement of the estate is deductible pursuant to the following rules:

(a) In order to be deductible, the allowance must be authorized by the laws of the jurisdiction in which the estate is being administered, and not in excess of what is reasonably required.

(b) The allowance for which deduction may be made is limited to support during the settlement of the estate. An allowance for a more extended period is not deductible.

(c) There must be an actual disbursement from the estate to the dependents, but after payment has been made the right of deduction is not affected by the fact that the dependents do not expend the entire amount for their support during the settlement of the estate.

DEDUCTIONS—PROPERTY PREVIOUSLY TAXED


For the purpose of the tax the value of the net estate shall be determined, in the case of a citizen or resident of the United States by deducting from the value of the gross estate:


(c) (as amended by Joint Resolution, approved March 17, 1941, Public Law 18, Seventy-seventh Congress, effective as of February 11, 1941, is deleted. A deduction of the amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by the donor within five years prior to his death, where such property has actually been identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, estate, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax is imposed under chapter 4, or under Title III of the Revenue Act of 1932, 47 Stat. 249, or as otherwise provided under this subchapter; the Revenue Act of 1926, 44 Stat. 69, or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent’s gross estate, and only if in determining the value of the net estate of the prior decedent no deduction was made in the paragraph respecting which the deduction is sought for the value of any property or property given in exchange therefor.

Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent’s death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this subsection shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under subsections (a), (b) and (d) as the amount otherwise deductible under this subsection bears to the value of the decedent’s gross estate. When as referred to in this subsection consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

§ 81.41 Deduction of the value of transfers previously taxed. If there is included in the decedent’s gross estate property received by him by gift from any person who died within five years prior to his death, or received by gift, bequest, devise, or inheritance from any person who died within five years prior to his death, or property acquired in exchange for property so received, the Internal Revenue Code authorizes a deduction in respect thereof, subject to the following conditions and limitations, namely:

(a) Conditions. (1) The property respectively which the deduction is sought must have been received by the decedent as a gift within five years prior to his death, or received by him by gift, bequest, devise, or inheritance from a prior decedent who died within five years of the decedent’s death.

(2) The property must be identified either as the same property which the decedent so received or as property acquired in exchange therefor.

(3) The property must have formed a part of the gross estate, situated in the United States, of such prior decedent, or included in the total amount of the donor’s gifts made within five years prior to the decedent’s death.

(4) An estate tax by or on behalf of the estate of such prior decedent, or a gift tax by or on behalf of the donor which have actually been paid (the mere filing of a return for such estate or donor not being sufficient).

(5) No such deduction, in respect of the property or property given in exchange therefor, must have been allowable in determining the value of the net estate of the prior decedent.

(b) Limitations. (1) The deduction is limited to the value of the property, or the aggregate value of such property if more than one item, as finally determined for the purpose of the gift tax or for the purpose of the prior estate tax, or to the value of such property or aggregate items thereof (or property acquired in exchange therefor) included in the decedent’s gross estate, whichever is the lower.

(2) The deduction, as limited in (1), is reduced by the total amount paid prior to the decedent’s death on any mortgage or other lien on the property previously taxed, provided such mortgage or other lien was deducted in determining the estate tax of the prior decedent or the gift tax of the donor.

(3) The deduction is further reduced on account of the deductions allowed under subsections (a), (b), and (d) of section 812. The amount of this further reduction is that proportion of such deductions which bears to the aggregate amount of the deduction allowable for property previously taxed bears to the value of the decedent’s gross estate.

Property included in the total amount of gifts of a donor for the purpose of the gift tax and also included in the donee’s gross estate does not result in the deduction of the gifts excluded under the provisions of section 1003 (b) of the Internal Revenue Code or corresponding provisions of prior Acts of Congress, provided the donee’s deduction allowance must be made for any such exclusions when computing the deduction for property previously taxed.
For example: A donor gave his daughter a house and lot valued at $24,000, of which only $20,000 was included in the total amount of his gifts for the purpose of the gift tax. This property was included in the daughter’s gross estate at a value of $18,000. As only 20,000/24,000 of the property was included for the purpose of the gift tax, in accordance with the third condition previously set forth in this section, the amount of the property previously taxed which is also included in the daughter’s gross estate is 20,000/24,000 X $18,000 or $15,000.

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

Example. The decedent died June 15, 1940. The value of his gross estate for the purpose of the estate tax is $1,000,000, of which $500,000 is the value of insurance in excess of $40,000 payable to beneficiaries other than the estate, $600,000 is the value of property previously taxed, and $200,000 is the value of stocks and bonds not so taxed. The property previously taxed was inherited from the decedent’s father, who died on June 1, 1939. The tax on the father’s estate was paid. The amount of the deduction previously taxed may be set forth as follows:

<table>
<thead>
<tr>
<th>Decedent's estate</th>
<th>Prior estate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item 1 150,000</td>
<td>100,000</td>
</tr>
<tr>
<td>Item 2 40,000</td>
<td>60,000</td>
</tr>
<tr>
<td>Item 3 120,000</td>
<td>125,000</td>
</tr>
<tr>
<td>Item 4 130,000</td>
<td>120,000</td>
</tr>
<tr>
<td>Item 5 50,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Item 6 50,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Total 600,000</td>
<td>550,000</td>
</tr>
</tbody>
</table>

Item 1, $150,000, is specifically bequeathed to a charitable organization free of estate, inheritance, legacy, or succession taxes. Administration expenses and debts of the decedent amount to $150,000. At the time of the father’s death there was an unpaid mortgage of $30,000 on item 5 which was set forth in the estate as a liability of the father’s estate. This mortgage was entirely paid before the son’s death.

The deduction for property previously taxed is limited to the aggregate value of the items constituting such property as finally determined in the case of the prior decedent or donor, or to the aggregate value of such property included in the decedent’s gross estate, whichever is the lower. Accordingly, the amount of the deduction for property previously taxed thus ascertained is $550,000. In accordance with (b) (2) of this section this deduction is reduced by $30,000, the amount paid in the discharge of the mortgage on item 5. The deduction thus reduced is $535,000.

The deduction is further reduced by the proportionate amount computed under the provisions of (b) (3) of this section. As the amount of the specific exemption authorized by subchapter A is greater than the amount of the specific exemption authorized by subchapter B, the amount so computed in determining the deduction for the purpose of the basic tax imposed by subchapter A differs from the amount so computed in determining the deduction for the purpose of the additional tax imposed by subchapter B.

In this example the deductions, except for property previously taxed, amount to $400,000, as follows: $150,000 for the charitable bequest, $150,000 for administration expenses and debts, and $100,000 for the specific exemption authorized by subchapter A. The proportionate amount by which the deduction for property previously taxed is further reduced for the purpose of the basic tax imposed by subchapter A is determined by multiplying the above mentioned $400,000 by 0.535, the ratio which the said $335,000 bears to the value of the gross estate, $1,000,000, and amounts to $214,000. The difference between $855,000 and $214,000, or $641,000, is $321,000, the amount in which the deduction for property previously taxed is allowable in determining the tax imposed by subchapter A. The total amount of the deductions, $721,000, subtracted from the value of the gross estate, $1,000,000, leaves a net estate of $279,000, the transfer of which is subject to the tax imposed by subchapter B.

Subchapter B provides for a specific exemption of $40,000. Accordingly, the deductions, other than the deduction for property previously taxed, allowable under that subchapter, amount to $390,000, and 0.535 of that amount is $181,900, the proportionate amount by which the deduction for property previously taxed is further reduced for the purpose of the additional tax. The difference between $853,000 and $181,900 is $351,100, the amount in which the deduction for property previously taxed is allowable in determining the additional tax. The total amount of the deductions, $893,100, subtracted from the value of the gross estate, $1,000,000, leaves a net estate of $150,000, the transfer of which is subject to the additional tax imposed by subchapter B. * * * *

§ 81.42 Property originally received. If the property originally received from the donor or prior decedent is included in the decedent’s gross estate, the executor must describe it fully and prove its identity.*

§ 81.43 Property acquired in exchange. The deduction for substituted property is not limited to property acquired by a single exchange of property received from the donor or the prior decedent, but extends to substituted property acquired by the process of exchange, whether through the medium of money or otherwise, irrespective of the number of conversions involved, including the proceeds of the sale or other disposition of property so received or acquired, as well as property acquired by purchase with the proceeds of the sale or other disposition of such property so substituted. It is conclusive evidence that such and clearly traced to the property originally so received.

The executor must describe and fully identify all property originally received from the donor or the prior decedent and the substituted property for which deduction is claimed, giving the date and stating the nature of the transaction by which the substituted property was acquired, together with the name and address of the transferee. * * * If the transaction was evidenced by written instrument of public record, such record must be produced, and if by instrument not of record, a verified copy thereof must be supplied. If there was no written instrument, it must have been stated by all of one or more persons having personal knowledge of the matter, setting forth the facts in connection therewith.

The burden of identifying property as acquired in exchange for property included in the gross estate of the prior decedent for Federal estate tax purposes rests upon the executor.*

DEEDS—TRANSFERS FOR PUBLIC, CHARITABLE, RELIGIOUS, ETC., USES.

SEC. 812. [Part II, Subchapter A.] NET ESTATE.

For the purpose of the tax the value of the net estate shall be determined, in the case of an heir or resident of the United States by deducting from the value of the gross estate:

* * * *

(d) Transfers for public, charitable, and religious uses. The amount of all bequests, legacies, devises, or transfers by the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusive public purposes, or for the use or benefit of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the encouragement of art and the prevention of cruelty to children or animals, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, or to bring to trustees, or a fraternal society, order, or association operating under the banner system, but only if such contributions or gifts are to be used by such trusts or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the prevention of cruelty to children or animals, or for the prevention of cruelty to children or animals, or for the prevention of cruelty to children or animals.

§ 81.44 Transfers for public, charitable, religious, etc., uses. Deduction may be taken of the value of all property transferred by will or by the decedent in the same manner and subject to the same limitations as provided in subchapter A, except that in lieu of the exemption of $100,000 provided in section 810 (a), the exemption shall be $40,000.

§ 81.43 Transfers for public, charitable, religious, etc., uses. Deduction may be taken of the value of all property transferred by will or by the decedent in the same manner and subject to the same limitations as provided in subchapter A, except that in lieu of the exemption of $100,000 provided in section 810 (a), the exemption shall be $40,000.
subjected to a State inheritance tax of

The estate is not deprived of the right to
deduct the value of property so trans-
ferred by reason of the fact that private
individuals may exercise the benefits
which the corporation or association
dispenses. Such right is, however, lost
if any part of the net earnings of the
corporation or association are retained.

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deduct the value of property so trans-
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dispenses. Such right is, however, lost
if any part of the net earnings of the
corporation or association are retained.
Revenue Code (subchapter A) is $100,000. The specific exemption deductible in determining the net estate of a citizen or nonresident upon which the additional tax is imposed by section 935 of the Internal Revenue Code (subchapter B) is $40,000. No specific exemption is authorized in the case of the estate of a nonresident not a citizen of the United States.

**ESTATES OF NONRESIDENTS NOT CITIZENS**

SEC. 866. [Part III, Subchapter A.] PROPERTY WITHIN THE UNITED STATES.

For the purposes of this subchapter-(a) Stock in a domestic corporation owned and held by a nonresident not a citizen of the United States shall be deemed property within the United States; and

(b) Transfers in contemplation of death. Any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of section 811 (a) or (d), shall be deemed to be situated in the United States, if so situated either at the time of the transfer, or at the time of the decedent’s death.

Sec. 865. [Part III, Subchapter A.] PROPERTY WITHOUT THE UNITED STATES.

The following items shall not, for the purposes of this subchapter, be deemed property within the United States:

(a) Proceeds of life insurance. The amount receivable as insurance upon the life of a nonresident not a citizen of the United States, and (b) Bank deposits. Any moneys deposited with any person carrying on the banking business, by or for a nonresident not a citizen of the United States who was not engaged in business in the United States at the time of his death, with any person carrying on the banking business, shall not be deemed property within the United States.

Property of which the decedent has made a transfer taxable under the provisions of § 81.15 is deemed to be situated in the United States if so situated either at the time of the transfer or at the time of the decedent’s death. (See §§ 81.15 to 81.21, inclusive.)

**DEDUCTIONS—ESTATES OF NONRESIDENTS NOT CITIZENS**

SEC. 861. [Part III, Subchapter A.] NET ESTATE.

(a) Deductions allowed. For the purpose of the tax the value of the net estate shall be determined, in the case of a nonresident not a citizen of the United States, as consisting of two or more parts, one part being the value of that part of his gross estate which at the time of his death is situated in the United States.

(1) Expenses, losses, indebtedness, and taxes. That proportion of the deductions specified in subsection (b) of section 819 which can be identified as having been received by the decedent from or attributable to the value of his entire gross estate, wherever situated.

(2) (as amended by Joint Resolution, approved March 17, 1941, Public Law 18, Seventy-seventh Congress, effective as of February 11, 1939) Property previously faxed. An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the date of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, as having been received by the decedent from the donor by gift, or from such prior decedent by bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received.

(b) Condition of allowance of deductions. No deduction shall be allowed in the case of a nonresident not a citizen of the United States unless the executor includes in the return required to be filed under section 864 the value at the time of his death of that part of the decedent’s net estate which is situated in the United States.

**§ 81.49 Gross estate.** The gross estate of a nonresident not a citizen is made up in the same way as that of a citizen or resident of the United States. For purposes of the net estate of a nonresident not a citizen, see § 81.51. For meaning of the terms “residents” and “nonresidents,” and of the presumption applying as to the residence of missionaries, see § 81.55.

**§ 81.50 Situs of property.** Real estate, tangible personal property, and the written evidence of intangible personal property which is treated as being the property itself, are, for the purposes of this subchapter, situated physically therein. For example, a bond for the payment of money is not within the United States unless physically situated therein. Stock of a domestic corporation, however, constitutes property within the United States, irrespective of where the certificates thereof are physically located.

Intangible personal property the written evidence of which is not treated as being the property itself constitutes property within the United States if situated either at the time of a property right issuing from or enforceable against a resident of the United States or a domestic corporation (public or private), if not subject to the exceptions of subsections (a) and (b). Under the provisions of that section the amount receivable as insurance upon the life of a decedent who was a nonresident not a citizen, and who was not engaged in business in the United States at the time of his death, with any person carrying on the banking business, shall be deemed property within the United States.

Property of which the decedent has made a transfer taxable under the provisions of § 81.15 is deemed to be situated in the United States if so situated either at the time of the transfer or at the time of the decedent’s death. (See §§ 81.15 to 81.21, inclusive.)

**§ 81.51 Net estate.** The Internal Revenue Code imposes the tax upon the transfer of only the portion of the estate of a nonresident not a citizen that was situated in the United States. In determining the net estate, the deductions finally allowable in respect of the gross estate of a nonresident not a citizen may be taken from the portion of the gross estate situated in the United States.

**§ 81.52 Deductions of administration expenses, claims, etc.** In estates of non-
residents not citizens, deductions from the gross estate may be taken, subject to the limitation of section 81.40, inclusive, and to the limitations hereinafter stated, for the following:

- Funeral expenses; administration expenses; claims against the estate; unpaid mortgages incurred during administration; losses relating to the settlement of the estate arising from fires, storms, shipwrecks, or other casualties, or from theft, if such losses are not for the protection of property by insurance, or otherwise; and amounts reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent.
- If, in the opinion of the executor, the amounts to be deducted were incurred or expended within or without the United States, but certain limitations are imposed which do not apply to estates of residents or citizens, namely:
  - Only that proportion of the aggregate thereof is deductible which the value of that part of the gross estate situated (within the meaning of the statute) in the United States, bears to the value of the entire gross estate, wherever situated. (See § 81.55.)
  - No deduction whatever may be taken unless the executor includes in the return the value of the part of the gross estate not situated in the United States. Such part of the gross estate must be valued as of the date of the decedent's death; or, if the option authorized by section 811 (j) is exercised, such part must be valued in accordance with the provisions of § 81.11.

In order that the Bureau may properly pass upon the items claimed as deductions, the executor should submit a certified copy of the schedule of liabilities, claims against the estate, and expenses of administration filed under the foreign death-duty act; or, if no such schedule was filed, a certified copy of the schedule of such liabilities, claims, and expenses filed with the foreign court in which administration was had, or, if items of deduction are filed under sections 811 (a) or 811 (e), section 811 (j) is exercised, such part must be valued in accordance with the provisions of § 81.11.

Deduction of the value of property previously taxed.

Deduction of the value of property previously taxed.

(a) The right to deduct the value of property transferred by nonresidents not citizens for public, religious, charitable, scientific, literary, educational, or other purposes governed by the same rules as those applying to estates of citizens or residents (§§ 81.44 to 81.47, inclusive), subject, however, to the following exceptions:
  - The right is limited to transfers to corporations and associations created or organized in the United States, or to trustees for use within the United States.
  - The right is available only if the executor includes in the return the value of that part of the gross estate situated in the United States. Such part of the gross estate must be valued as of the date of the decedent's death; or, if the option authorized by section 811 (j) is exercised, such part must be valued in accordance with the provisions of § 81.11.

Instead of duplicate copies of the documents specified in § 81.47, only one copy is required to be filed.

(b) For the purposes of this section the value of the net estate shall be determined as provided in subchapter A, except that in lieu of the exemption of $100,000 provided in section 812 (a), the exemption shall be $40,000.

When notice required.

When notice required.

For the manner of computing the tax on the net estate, see § 81.7.

Payment of tax.

Except as provided in section 936, the tax imposed by section 935 shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by subchapter A, except that in the case of a citizen or resident of the United States a return shall be required if the value of the gross estate at the date of death exceeds the amount of the specific exemption provided in section 935 (a).

For preliminary notice—Estates of citizens or residents

SEC. 850. (Part II, Subchapter A.) EXECUTOR’S NOTICE.

The executor, within two months after the decedent’s death, or within a like period after qualifying as an executor for the purpose of tax payment, and is liable for the tax to the extent of the property so in his possession. (See §§ 81.75 to 81.82, inclusive.)

All checks, drafts, or money orders should be made payable to the order of the collector of internal revenue.

PRELIMINARY NOTICE—ESTATES OF CITIZENS OR RESIDENTS

SEC. 860. (Part II, Subchapter A.) EXECUTOR’S NOTICE.

When notice required.

When notice required.

The executor, within two months after the decedent’s death, or within a like period after qualifying as an executor for the purpose of tax payment, and is liable for the tax to the extent of the property so in his possession. (See §§ 81.75 to 81.82, inclusive.)

All checks, drafts, or money orders should be made payable to the order of the collector of internal revenue.
is doubt as to whether the gross estate exceeded $40,000, the notice should be filed as a matter of precaution in order to avoid the possibility of penalties attaching.*

§ 81.55 Notice by executor or administrator. The duly qualified executor or administrator is required to file such preliminary notice on Form 704, copies of which may be obtained from the collector, or within two months after qualifying as such, if notice has not already been filed. The primary purpose of the notice is to advise the Government of the existence of taxable estates, and filing should not be delayed beyond the two months' period because of uncertainty as to the exact value of the assets. The filing of the notice within the prescribed period is mandatory, and the estimate of the gross estate called for by the notice should be the best approximation of value which can be made within the time allowed. The instructions upon the back of Form 704 are read carefully before executing the notice. The signature of one executor or administrator upon Form 704 is sufficient. For penalties for delinquency in filing notice or for filing a false or fraudulent notice, see §§ 81.88, 81.89, and 81.91.*

§ 81.59 Notice by others than duly qualified executor or administrator. The term "executor" embraces any person in actual or constructive possession of any property of the decedent at or after the time of the latter's death, if within two months after the decedent's death, no executor or administrator has qualified, and the notice on Form 704 must be filed by such persons in every case in which an executor or administrator has not duly qualified within such period. If, within the period mentioned, an executor or administrator qualifies, the duty of filing the notice devolves upon him, and all other persons are relieved therefrom.*

Preliminary Notice—Estates of Nonresidents of Citizens

Sec. 820. [Part II, Subchapter A] Executor's notice. The executor, within two months after the death of the decedent, or within a like time after qualifying as such, shall give written notice thereof to the collector.


Part II shall apply to the estates of citizens or residents of the United States and, except as otherwise provided, to the estates of nonresidents not citizens of the United States, subject to the exceptions and provisions contained in Part III.*

§ 81.60 Estates of nonresidents not citizens of the United States. Notice. In estates of nonresidents not citizens, notice on Form 705, copies of which may be obtained from the Commissioner of Internal Revenue, D.C., from any collector of internal revenue, is required if any part of the gross estate was situated (see § 81.50) in the United States. The notice must be filed in duplicate, by or for an appointed, qualified, and acting executor or administrator within the United States with the collector of internal revenue of the district in which such part of the gross estate was situated, or, if such part of the gross estate was situated in more than one district, it must be filed with the collector for the second district of New York or with such collector as the Commissioner may designate. The notice is necessary if any part of the decedent's estate is situated, for the purpose of determining within the meaning of the statute, in the United States, regardless of the value of that part of the entire gross estate. If no executor or administrator has qualified, notice must be filed within two months after the date of death by every person in either the actual or constructive possession of any property of the decedent situated in the United States at or after the time of his death. If such person has no knowledge of the decedent's death within two months following its occurrence, he should file the notice immediately upon obtaining such knowledge. The term "person in actual or constructive possession of any property of the decedent" (section 930) includes, among others, the decedent's executors, agents and representatives; safe-deposit companies, warehouse companies, and other custodians of property in this country; brokers holding, as collateral, securities belonging to the decedent or investment funds owned by the decedent, and debtors of the decedent in this country. As to any money deposited by or for a decedent or for any person or corporation, or association carrying on the banking business, no notice is required, unless, however, the decedent was engaged in business in the United States at the time of his death.

§ 81.61 Information return by corporation or transfer agent. Upon notification from the Bureau of Internal Revenue, a corporation (organized or created in the United States), or its transfer agent will be required to file a return disclosing the following information pertaining to stocks or bonds registered in the name of a nonresident decedent (regardless of citizenship): (1) Name of decedent as registered; (2) date of death, residence, place of death, and names and addresses of executor or other representatives, within and without the United States, if known; and (3) a description of the securities and the number of shares or bonds and the par values. Treasury Department Form 714, which will be supplied by the Bureau upon request, may be used for the return.*

§ 81.62 Transfer certificates. Certificates permitting the transfer of property of nonresident decedents (regardless of citizenship) without liability will be issued by the Commissioner when he is satisfied that the tax imposed upon the estate has been paid, or is being paid, and the tax has not been exonerated. No change of domicile in the United States, or transfer to or for the use of a nonresident not a citizen if it is known that such change of domicile will not physically situate the estate in the United States at the time of death. Corporations, transfer agents, banks, trust companies, or other custodians cannot inure avoidance of liability for tax and penalties only by demanding and receiving transfer certificates, as herein provided, prior to transfer of property of nonresident decedents.

The return—Estates of Citizens or Residents

Sec. 831. [Part II, Subchapter A] Returns. (a) Requirement—(1) Returns by executor. In all cases where the gross estate at the death of a citizen or resident exceeds the amount of the specific exemption provided in section 812 (a), the executor shall make a return under oath in duplicate, setting forth (1) the value of the gross estate of the decedent at the time of his death, the deductions allowed under section 812; (2) the value of the net estate of the decedent as defined in section 812; and (4) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

(2) Returns by beneficiaries. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the names and addresses of executor or other representatives, within and without the United States, if known; and (3) a description of the securities and the number of shares or bonds and the par values. Treasury Department Form 714, which will be supplied by the Bureau upon request, may be used for the return.*

(3) Cross references. For provision requiring a return where the gross estate exceeds $40,000, see section 927.

(b) Time for filing. The return required of the executor under subsection (a) shall be filed at such times and in such manner as may be required by regulations made pursuant to law.

(c) Place for filing. The return required of the executor under subsection (a) shall be filed with the collector of the district in which the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which the estate is situated, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the Commissioner.*

Sec. 832. [Subchapter B] Assessment, collection, and payment of tax.

Except as provided in section 936, the tax imposed by section 812 shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties) as are imposed upon persons deriving income from a United States source, except that in the case of a
citizen or resident of the United States a return shall be required if the value of the gross estate at the time of the decedent’s death exceeds the amount of the specific exemption provided in section 935 (c). 
§ 81.66 [Subchapter B] Rate of tax.

(c) For the purposes of this section the value of the net estate shall be determined in the manner prescribed by section 935 (c).

§ 81.63 When return required; date of filing. A return on Form 706 is required in the case of every citizen or resident, whose gross estate, as defined in the statute, exceeded $40,000 in value at the date of death. The duty to file a return depends upon the value of the gross estate on the date of the decedent’s death.

§ 81.65 Preparación of return. The return must be made on Form 706, copies of which will be supplied by the collector of the district in which the decedent had his domicile at the time of death. The return on Form 706 must be filed in duplicate within 15 months after death. The return is the total of the net basic estate tax, the additional estate tax imposed by subsection (a) of this section, and the tax payable thereon. The return is required to be filed by the executor of the estate of the decedent, whose gross estate, as defined in section 935 (c), amounted to $40,000 or more, for delinquency in filing the return, or for any fraud therein.

(b) Dates of return. If a return is required to be filed, it shall be made and placed in the mails in due form by the executor or administrator for the estate of the decedent, whose gross estate, as defined in section 935 (c), exceeded the amount of the specific exemption provided in section 935 (c), and is required to make and file a return as provided by section 821. If, in any case, the executor desires to make a complete return as to any part of the gross estate, he is required to give all the information he has as to such property, including a full description, and the name of every person holding a legal or beneficial interest in the property. If the executor is unable to make a return as to any property, the Internal Revenue Code requires that every person holding a legal or beneficial interest therein shall, upon notice from the collector, make return as to such part of the gross estate.

Persons having possession or control of any records or documents containing or supposed to contain any information concerning the estate of the decedent, or having knowledge of or information of any fact or facts of a material bearing upon the liability, or the extent of liability, of the estate to the tax, or the request of the Commissioner or any revenue agent or inspector designated by him for that purpose, make disclosure thereof. Failure on the part of any person to comply with such request will render such person liable to penalties (§ 81.90), and compliance with the request may be enforced in the proper court of the United States (section 3633 (a)).

THE RETURN—ESTATES OF NONRESIDENTS NOT CITIZENS.


(a) Requirement—1. Returns by execu­tor. In the case of the estate of every nonres­ident not a citizen of the United States, and of whose gross estate in the United States the amount of whose estate in the United States, the executor shall make a return under oath in duplicate, setting forth: (1) the value of that part of the gross estate of the decedent situated in the United States at the time of his death; (2) the deductions allowed under section 861; (3) the value of the net estate, and (4) the tax paid or payable thereon. The return shall set forth (1) the value of the gross estate (see § 81.10—81.28), (2) the deductions allowed (see §§ 81.29—81.46), (3) the value of the net estate, and (4) the tax paid or payable thereon. The return must set forth (1) both the net estate determined in accordance with the provisions of subchapter A imposing the basic tax and the net estate for the purposes of the additional estate tax imposed by subchapter B and (2) the basic tax and the additional tax, and, when applicable, the deferral of the tax on the return, the total of the net basic and net additional taxes, unless the decedent died after June 25, 1940 and before September 21, 1841. If the deceased died after June 25, 1940 and before September 21, 1841, the return is the total of the net basic and net additional taxes, unless the decedent died testate, one of which shall be filed with the collector of the district in which the decedent died testate, one of which should be submitted, must be submitted with the return, together with copies of such other documents as are required in Form 706 and in the applicable sections of these regulations. There may also be filed in duplicate copies of any documents which the executor may desire to submit with the return in explanation thereof. In every case of an alien nonresi­dent citizen, the executor shall file the following documents with the return: (1) A copy of the inventory of property and the schedule of liabilities, claims against the estate and expenses of admin­istration filed with the foreign court of probate jurisdiction, certified by a proper official of such court; and (2) a copy of the return filed under the foreign tax act, certified by a proper official of the foreign tax department, if the estate is subject to a foreign tax.

§ 81.66 Supplemental data. The In­ternal Revenue Code provides that the executor, when filing the return, shall furnish such supplemental data as may be necessary to establish the correct tax (section 821). It is therefore the duty of the executor, or of the person having possession of the documents in his possession relating to the estate, or on file in any court having jurisdiction over the estate, to file in the return, copies of any documents in his possession relating to the estate, or on file in any court having jurisdiction over the estate, appraisal lists of any items included in the gross estate, copies of balance sheets or other financial statements relating to the value of stock, and any other information obtainable by him that may be found necessary in the determination of the tax. Failure to comply with such a request will render the executor liable to penalties (§ 81.90), and proceedings may be instituted in the proper court for enforcement of the request.

(b) Time for filing. The return required of the executor under subsection (a) shall be filed at such time as shall be prescribed in the statutes, or as may be required by regulations made pursuant to law.

(c) Place for filing. The return required of the executor under subsection (a) shall be filed with the collector of the district in which the decedent had his domicile at the time of death, except that such return may be filed in duplicate with the foreign court of probate jurisdiction or with the foreign tax department, if the estate is subject to a foreign tax.

§ 81.90 Returns not required.

Persons liable for return. The Internal Revenue Code provides that the duly qualified executor or admin­istrator shall file the return. If there is more than one executor or administra­tor, they shall joint­ly be held liable. If no executor or administrator has been appointed, every person in actual or constructive possession of any property of the decedent is constit­uted by the Internal Revenue Code an executor for the purposes of the tax (section 930), and is required to make and file a return as provided by section 821. If, in any case, the executor desires to make a complete return as to any part of the gross estate, he is required to give all the infor­mation he has as to such property, including a full description, and the name of every person holding a legal or beneficial interest in the property. If the executor is unable to make a return as to any property, the Internal Revenue Code requires that every person holding a legal or beneficial interest therein shall, upon notice from the collector, make return as to such part of the gross estate.

For penalties for delinquency in filing the return, or for any fraud therein, see §§ 81.88, 81.89, and 81.91.*
which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of such district as may be designated by the Commissioner.

Sec. 81.65 [Subchapter B] ASSESSMENT, COLLECTING, AND PAYMENT OF TAX.

Except as provided in section 936, the tax found due in a return shall be assessed, collected, and paid, in the same manner, and to the same extent, as the tax imposed by subchapter A, * * *

§ 81.67 Return of estates of nonresidents not citizens.

A return on Form 706, copies of which may be obtained from the Commissioner of Internal Revenue, Washington, D. C., or from any collector of internal revenue, is required in the case of every nonresident not a citizen any part of whose gross estate was situated (see § 81.50) in the United States, or, if such part of the gross estate was situated in more than one district, it must be filed with the collector for the second district of New York, or with such collector as the Commissioner may designate. The return must be filed in duplicate and under oath within 15 months from the date of death, unless an extension is obtained pursuant to § 81.69 or 81.70. If the due date for filing is a legal holiday, the due date for filing will be the day following such Sunday or legal holiday. If placed in the mails the return must be posted, under authority of law, to reach the office of the collector, under ordinary handling of the mails, on or before the date on which the return is required to be filed. If a return is made and placed in the mails in due course, properly addressed, and postage paid, in ample time to reach the office of the collector on or before the due date, the filing will not be regarded as delinquent should the return not be actually received by such officer until subsequent to that date. As to penalty for failure to file the return within the time prescribed, see § 81.69. As to time of filing, see §§ 81.55 and 81.58.

The return must set forth an itemized list of that part of the gross estate situated in the United States and the total value thereof (see § 81.51), the deductions claimed (see §§ 81.52-81.54), the value of the net estate (see § 81.55), and the tax paid or payable thereon. The return must set forth the basis tax imposed by subchapter A (see § 81.50) in the United States, or, if such part of the gross estate is situated in the United States, whatever its value. If the qualified executor or administrator is unable to make a complete return because any part of the gross estate, he is required to give all the information available to him as to such part, including a description thereof and the name of every person holding a legal or beneficial interest therein. As to the meaning of the term "person in actual or constructive possession of any property of the decedent," see § 81.60.

§ 81.68 Supplemental data. Pursuant to the provisions of section 864 (a) (1), with respect to furnishing supplemental data, if the decedent is a nonresident not a citizen, the executor is required to file with the return:

(a) A certified copy of the will, if decedent died testate, or, if the decedent left several wills to govern in different jurisdictions, a certified copy of each will.

(b) If any deductions are claimed, a copy of the inventory of property filed under the foreign death-duty act; or, if no such inventory was filed, a certified copy of the inventory filed with the foreign court of probate jurisdiction.

The Commissioner may require the documentation required in paragraph (b) regardless of whether deductions are claimed. For requirements dealing with the duty to furnish other documents or information relating to the tax liability of the estate, see § 81.66.

EXTENSION OF TIME FOR FILING RETURN

§ 8624. (Chapter 34.) EXTENSION OF TIME FOR FILING RETURNS.

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

§ 81.69 Extension of time by collector.

In case of sickness or absence, collectors are authorized to extend the time for filing the return for a period not in excess of 30 days from the due date. No such extension of time may be granted unless the application therefor is received by the collector prior to the expiration of the period for which the extension is requested and authorized. An extension of time for filing the return does not, in itself, operate to extend the time for the payment of the tax, which is due and payable 15 months after the date of death. For extension of time of payment, see § 81.70.

§ 81.70 Extension of time by Commissioner.

In case it is impossible for the executor to file a reasonably complete return within 15 months from the date of death, the Commissioner may, upon the written application submitted on or prior to the due date showing good and sufficient cause, grant an extension of time not to exceed 3 months from the due date. If the return is complete at the end of the extension period granted a return as complete as possible must be filed. The return thus filed will be the return required by section 821 (a) (1) or 864 (a) (1) and any tax shown thereon will be the "amount determined by the executor as the tax" referred to in section 822 (a) (2), or the "amount shown as the tax" referred to in section 864 (a), or the "amount shown as the tax" referred to in section 870 (1) (a), or the "amount shown as the tax" referred to in section 870 (1) (b). Such return cannot thereafter be amended, although supplemental information may subsequently be furnished that may result in a finally determined tax different from the amount shown as the tax by the executor upon his return. An extension of time for filing the return does not extend the time for payment of the tax, which is due 15 months after the date of death. An extension of time in which to make payment of the tax may be secured as provided in § 81.76.

DETERMINATION OF TAX BY COMMISSIONER

Sec. 824. [Part II, Subchapter A.] EXAMINATION OF RETURN AND DETERMINATION OF TAX.

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

Sec. 825. [Part II, Subchapter A.] DETERMINATION OF EXECUTOR'S PERSONAL LIABILITY.

(a) Application for discharge. If the executor makes written application to the Commissioner for determination of the amount of the tax and discharge from personal liability therefor, the Commissioner (as soon as practicable, and in any event within one year after the making of such application, or, if the application is made before the return is filed, within ten years after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in sections 874 and 875) shall notify the executor of the amount of the tax. The executor, upon payment of the amount which he is notified, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) Cross reference. For continuation of lien upon the gross estate after discharge of the executor, see section 827 (c).

Sec. 826. [Part I, Subchapter A.] APPLICATION OF PARTS.

Part II shall apply to the estates of citizens or residents of the United States and, except as otherwise provided, to the estates of nonresidents not citizens of the United States, subject to the exceptions and additional provisions contained in this subchapter.

§ 81.71 Examination of return and determination of tax by the Commissioner.

As soon as practicable after returns are filed, they will be examined and the amount of the tax determined by the Commissioner under such procedure as he may from time to time prescribe.

If the executor makes written application to the Commissioner for a determination of the tax and discharge from personal liability therefor, the Commissioner will, within one year after receipt of such application, or if the application is made before the return is filed, within ten years after the return is filed, notify the executor of the amount of the tax, and upon payment thereof, the executor will be discharged from personal liability for any deficiency in the tax thereafter found to be due.

§ 81.72 Authorization of attorneys and others required. If an attorney or other person asks a ruling on a question pending before the Commissioner, the Commissioner shall, as otherwise provided, to the estates of nonresidents not citizens of the United States, subject to the exceptions and additional provisions contained in this subchapter.
of law arising in a specific case, the Commissioner will, when satisfactory evidence of the right to obtain such ruling, Hypothetical questions cannot be answered.

In all cases in which information is sought regarding an estate, or an interview is asked, by an attorney or by an agent of the executor or administrator, the information or interview will be denied unless the attorney or agent presents a duly executed power of attorney from the executor or administrator authorizing the attorney or agent to act in his behalf. Powers of attorney should be filed in the office of the internal revenue agent in charge in which the case is under consideration.

No attorney or agent will be recognized as representing an estate or executor unless such attorney or agent is enrolled to represent claimants or others before the Treasury Department. Regulations governing enrollment, reference should be made to Treasury Department Circular No. 230, as revised, copies of which may be obtained upon application to the Secretary of the Committee on Finance, Treasury Department, Washington, D. C.

DEFICIENCY TAX

Sec. 870. [Part IV, Subchapter A.] Definition of terms.

As used in this subchapter in respect of the tax imposed by this subchapter the term "deficiency" means:

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

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


(a) (1) Petition to Board of Tax Appeals. If the Commissioner determines that there is a deficiency in respect of the tax imposed by this subchapter, the Commissioner is authorized to send notice of such deficiency to the executor by registered mail. Within 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the executor may by a petition submit to the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this subchapter and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until the date on which notice of the deficiency has been mailed to the executor, nor until the expiration of such 90-day period, nor, if a petition is filed with the Board of Tax Appeals, until the decision of the Board has become final. Notwithstanding the provisions of section 3658 (a) the making of such assessment or the proceeding on such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

(e) Increase of deficiency after notice mailed. If the Commissioner has mailed notice of a deficiency and the jurisdiction of the court to determine the correct amount of the deficiency even if the amount so determined is greater than the amount of the deficiency shown in such notice has been mailed to the executor, and to determine whether any additional amount or addition to the tax should be assessed, if the maker of the assessment, notice of which has been mailed to the executor, or previous determination made by the Commissioner at or before the hearing or a rehearing.

(f) Further deficiency letters restricted. If the Commissioner has mailed to the executor notice of a deficiency as provided in subsection (a), and the executor files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency, except in the case of fraud, and except as provided in subsection (b) or section 672 (c). If the executor is notified that on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that the amount of such excess tax has been or will be made on the basis of what would have been the correct amount of tax, a deficiency notice for the excess of such amount shall not be considered, for the purposes of this subsection or of subsection (e), if of section 911 (a) of the Internal Revenue Code, and the executor shall have no right to file a petition with the Board of Tax Appeals based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a).

Sec. 937. [Subchapter B.] Assessment, collection, and payment of tax. Except as provided in section 986, the tax imposed by section 938 shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by subsection A, except that in the case of a citizen or resident of the United States a return shall be required if the value of the gross estate at the time of decedent's death exceeds the amount of the specific exemption provided in section 925 (e).

Sec. 3760. [Chapter 26.] Closing agreements.

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

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

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

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

§ 81.73 Deficiency, petitions, and closing agreements. Section 870 by its definition of the term which will apply to any amount of tax determined to be due in excess of the amount of tax reported by the executor or in excess of the amount reported by the executor as adjusted by way of prior assessments, abatements, refunds, or collections without assessment. In defining the term "deficiency" section 870 recognizes the case in which the executor makes a return showing some tax liability; the other, in which the executor makes a return showing no tax liability, or in which the executor fails to make a return. Additional tax, resulting from supplemental information filed after the return has been filed, is a deficiency within the meaning of the Internal Revenue Code.

When a case is considered for the first time, the deficiency is the excess of the amount determined to be the correct amount of the tax over the amount shown as the tax by the executor on his return, or, if it is a case in which no tax was reported by the executor, the deficiency is the amount determined to be the correct amount of the tax over the amount of the deficiency disclosed by the previous determination. If in a case in which no tax was reported by the executor, the deficiency is the excess of the amount determined to be the correct amount of the tax over the amount of the deficiency disclosed by the previous determination. If the previous determination resulted in a refund to the executor, the deficiency upon the second determination is the excess of the amount determined to be the correct amount of the tax over the amount of the tax refunded.

In all cases in which a deficiency in respect of a tax (including any other additions to the tax provided by law) is determined by the Commissioner, a notice thereof will be sent to the executor by registered mail in accordance with the provisions of section 817 (a) of the Internal Revenue Code even though a jeopardy assessment (see § 81.74) is made. If, subsequent to the mailing of such notice, a jeopardy assessment is made in respect of the deficiency to which such notice relates no subsequent notice will be sent to the executor by the Commissioner, but if such jeopardy assessment is made and the amount thereof is in excess of the deficiency to which the notice relates, the Commissioner will mail a notice to the executor as required by section 817 (a) of the determination of such additional deficiency provided no petition has theretofore been filed with the Board of Tax Appeals. If a deficiency is determined in respect of the basic tax imposed by subsection A, the additional tax imposed by section B, and the defense tax imposed by subsection C (effective between June
the time prescribed in subsection (a) the deficiency so determined, or any additional deficiency, has been mailed to the executor, shall be assessed, and shall be paid upon notice and demand from the collector.

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

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

(f) Further deficiency letters restricted. If the Commissioner has mailed to the executor notice of a deficiency as provided in subsection (a), and the executor files a petition with the Board, and the Board, as described in such subsection, the Commissioner shall have no right to determine any additional deficiency, except in the case of fraud, or except as provided in subsection (c) or section 872 (e). If the executor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been, or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered, for the purposes of this subsection or of subsection (a), or of section 911, as a notice of a deficiency, and the executor shall have no right to a deficiency letter, or to any other deficiency determination, to the extent that he believes such amount to be erroneous.

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

(b) Extension of time for payment of deficiency. Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof results in undue hardship to the estate, the Commissioner, under regulations prescribed by the Secretary, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to evasion of this tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of four years. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of the decision of the Board is rendered, the amount of such bond and the interest thereon (if any) to be proportionately reduced.

(c) Same—Further conditions. If the bond is not filed within 30 days after the notice and demand to the date of the decision of the Board is rendered, the bond and all interest thereon (if any) shall at any time before the expiration of the period provided in such subsection, together with interest thereon at the rate of 6 per centum per annum from the date of the decision of the Board is rendered, be paid and demand to be proportioned.

SEC. 367 [Part IV, Subchapter A.] PROCEDURE IN GENERAL.

(a) Collection of deficiency found by Board. If the executor does not file a petition with the Board, the entire amount determined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disregarded in the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(b) Failure to file petition. If the executor does not file a petition with the Board within the time prescribed in subsection (a) the deficiency so determined, or any additional deficiency, has been mailed to the executor, shall be assessed, and shall be paid upon notice and demand from the collector.

Deficiency letters.

SEC. 372 [Part IV, Subchapter A.] JUDICIAL ASSESSMENTS.

(a) Authority for making. If the Commissioner is not satisfied with the collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (including, if any, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) Deficiency letters. If the jeopardy assessment is made before any notice in respect of any portion to which the jeopardy assessment relates has been mailed under section 871 (a), then the Commissioner shall mail a notice under section 871 (b) within 60 days after the making of the assessment.

(c) Amount assessable before decision of Board. The jeopardy assessment may be made in an amount of a deficiency in excess of such deficiency. In case the decision of the Board becomes final shall be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

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

(e) Expiration of right to assess. A jeopardy assessment may not be made after the expiration of the period provided in such subsection, the amount of which the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon (if any) to be proportionately reduced.

(f) Bond to stay collection. When a jeopardy assessment has been made the executor, within 30 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount of the deficiency and of all amounts assessed at the same time in connection therewith.

SEC. 822. [Part II, Subchapter A.] PAYMENT OF TAX.

(a) Time of payment.

(b) Extension of time. Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed ten years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the payment of the balance of the amounts of limitations for assessment and collection, as provided in section 874, shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may, if he deems it necessary, require the executor to furnish security for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension.
assessed, such excess shall be refunded. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

Sec. 874. [Part IV, Subchapter A.] Penalties upon assessment and collection.

(a) General rule. Except as provided in subsection (b) of section 871, the Commissioner will mail a jeopardy assessment at any time after the return was filed. If any amount of tax in excess of that shown upon the return is determined to be due as a result of the correction of a mathematical error appearing upon the face of the return, the executor will be duly notified and an assessment made of the tax which has been determined to be due and payable for the mathematical error. The notice that the correct amount of the tax has been assessed will not be a notice within the meaning of subsection (a) of section 871 or section 911 and the executor has no right to file a petition with the Board of Tax Appeals based upon such notice.

If a petition is filed with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final will be assessed, except such portion as may have been assessed within three years after the assessment of the tax, or (2) prior to the expiration of any period for assessment agreed upon by writing to the Commissioner and the executor.

Sec. 875. [Part IV, Subchapter A.] Suspension of running of statute of limitations.

The running of the statute of limitations provided in section 874 shall be suspended for the time covered by such assessment and the beginning of distraint or a proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the assessment of such tax may be begun without assessment at any time.

(2) Collection after assessment. Where the assessment of any tax imposed by this subchapter at the time of assessment, within the limited period of limitation properly applicable thereto, such tax may be collected by distraint or by proceeding in court, but only after the running of the statute of limitation (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for assessment agreed upon by writing to the Commissioner and the executor.

Sec. 877. [Part IV, Subchapter A.] Assessment, collection, and payment of tax.

Assessments, in the absence of collection or collection of a deficiency tax, will be jeopardized by delay, and no proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

The running of the statute of limitations provided in section 874 shall be suspended for the time covered by such assessment and the beginning of distraint or a proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

(2) Collection after assessment. Where the assessment of any tax imposed by this subchapter at the time of assessment, within the limited period of limitation properly applicable thereto, such tax may be collected by distraint or by proceeding in court, but only after the running of the statute of limitation (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for assessment agreed upon by writing to the Commissioner and the executor.

Sec. 875. [Part IV, Subchapter A.] Suspension of running of statute of limitations.

The running of the statute of limitations provided in section 874 shall be suspended for the time covered by such assessment and the beginning of distraint or a proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

The running of the statute of limitations provided in section 874 shall be suspended for the time covered by such assessment and the beginning of distraint or a proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

(2) Collection after assessment. Where the assessment of any tax imposed by this subchapter at the time of assessment, within the limited period of limitation properly applicable thereto, such tax may be collected by distraint or by proceeding in court, but only after the running of the statute of limitation (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for assessment agreed upon by writing to the Commissioner and the executor.

Sec. 877. [Part IV, Subchapter A.] Assessment, collection, and payment of tax.

Assessments, in the absence of collection or collection of a deficiency tax, will be jeopardized by delay, and no proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

The running of the statute of limitations provided in section 874 shall be suspended for the time covered by such assessment and the beginning of distraint or a proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

The running of the statute of limitations provided in section 874 shall be suspended for the time covered by such assessment and the beginning of distraint or a proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

(2) Collection after assessment. Where the assessment of any tax imposed by this subchapter at the time of assessment, within the limited period of limitation properly applicable thereto, such tax may be collected by distraint or by proceeding in court, but only after the running of the statute of limitation (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for assessment agreed upon by writing to the Commissioner and the executor.

Sec. 875. [Part IV, Subchapter A.] Suspension of running of statute of limitations.

The running of the statute of limitations provided in section 874 shall be suspended for the time covered by such assessment and the beginning of distraint or a proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

The running of the statute of limitations provided in section 874 shall be suspended for the time covered by such assessment and the beginning of distraint or a proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

(2) Collection after assessment. Where the assessment of any tax imposed by this subchapter at the time of assessment, within the limited period of limitation properly applicable thereto, such tax may be collected by distraint or by proceeding in court, but only after the running of the statute of limitation (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for assessment agreed upon by writing to the Commissioner and the executor.

Sec. 877. [Part IV, Subchapter A.] Assessment, collection, and payment of tax.

Assessments, in the absence of collection or collection of a deficiency tax, will be jeopardized by delay, and no proceeding in court for the collection of such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.
FEDERAL REGISTER, Wednesday, February 25, 1942

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gross estate at the time of decedent's death
exceeds the amount of the specific exemp-
tion provided in section 935 (c)."

§ 81.75 Payment of tax; general. The tax shall be paid within 15
months from the date of death unless an
extension of time for payment thereof
has been granted by the Commissioner.
(See also § 81.73) If the amount is
more than 10 years from the date of death, the
due date is the day of the fifteenth
calendar month after his death numerically
referred to. If the amount occurs in the
calendar month on which death occurred
either of which will be sufficient
to the person paying the tax duplicate
receipts, either of which will be sufficient
 evidence of such payment and entitle the
executor to be credited with the amount
by any court having jurisdiction to audit
or settle his account.

Following an investigation of the re-
turn, the tax liability will be determined
by the Commissioner. If the amount of
tax shown on the return has been paid
and exceed the amount of tax as
determined (see § 81.72) conclusively fixing
the amount of tax liability, or an estoppel.
If the amount of tax as determined ex-
cedes the amount of tax already paid but
is less than the amount shown on the
return, the executor shall be notified of
the amount of the unpaid tax and pay-
ment thereof should be made to the col-
lector. If the audit of the return defini-
tly determines such excess is barred by the
statute of limitations, or such excess is other-
wise not refundable, as in the case of a
compromise (see § 61.38), a closing agree-
ment (see § 81.73) conclusively fixing the
amount of tax liability, or an estoppel.
If the amount of tax as determined ex-
cedes the amount of tax already paid but
is less than the amount shown on the
return, the executor shall be notified of
the amount of the unpaid tax and pay-
ment thereof should be made to the col-
lector. If the audit of the return defini-
tively determines such excess is barred by the
statute of limitations, or such excess is other-
wise not refundable, as in the case of a
compromise (see § 61.38), a closing agree-
ment (see § 81.73) conclusively fixing the
amount of tax liability, or an estoppel.

§ 81.76 Payment with bonds or notes of the United States. Payment
of the tax may be made with certain bonds of the United States in accordance with sec-
ction 14 of the Second Liberty Bond Act, as amended (U.S.C. 1940 edition, Title
31, section 765), and Department Circular
235, as amended and supplemented, is-
cluded pursuant thereto. Such bonds
must bear interest at a higher rate than
4 per cent per annum, and are receivable
at par value, together with interest ac-
crued at the time of payment, provided
they were owned by the decedent con-
tinuously for at least six months prior to
the date of his death, and upon such date
constituted a part of his gross estate.

With respect to payment of tax with
United States Treasury notes, the latter
Treasury department should be consulted. (See Appendix.)

- Extension of time for payment of tax

Sec. 822. [Part II, Subchapter A.] PAYMENT OF TAX.

(a) Time of payment.

(2) Extension of time. Where the Com-
missioner finds that the payment on the
due date of any part of the amount deter-
mined by the executor as the tax would im-
pose undue hardship upon the estate, the
Commissioner may extend the time for pay-
ment of any such part of the tax so extended
in accordance with the terms of the exten-
sion. In such case the running of the statute of limitations for assessment and
collection, as provided in section 874, shall be suspended for the period of any such extension.

§ 8179 Extension of time—(a) For payment of tax shown on return. In any case in which the Commissioner finds that payment, on the due date, of any part of the tax shown on the return would impose undue hardship upon the estate, he may extend the time for payment thereof for a period or periods not to exceed in all 10 years from the due date.

The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means an inconvenience to the estate. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the estate from making payment of the tax at the due date. If a market exists, a sale of property at the current market price is not ordinarily considered as resulting in undue hardship.

An application for such an extension must be in writing and must contain, or be supported by, information under oath showing the undue hardship that would result to the estate if the requested extension were refused. The application, with the supporting information, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined; and, if possible, within 30 days will be denied, granted, or tentatively granted, subject to certain conditions of which the executor will be notified. The Commissioner will not consider an application for such an extension unless request therefor is made to the collector on or before the due date. If the executor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension. No single extension for more than one year will be granted. The granting of an extension for payment of the tax is discretionary with the Commissioner, and such authority will be exercised under such conditions as he may deem advisable.

If an extension is granted, the Commissioner may require the executor to furnish security for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension.

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

The granting of such an extension will not relieve the executor from the duty of filing the return on or before the date fixed by the regulations, nor will it operate to modify the statute of limitations.

§ 8179 Extension of time—(b) For payment of tax attributable to a reversionary or remainder interest. If the time for payment of the Federal estate tax attributable to a reversionary or remainder interest in property, the payment of the part of the tax attributable to such interest may be postponed, up to six months after the termination of the reversionary interest, on showing the undue hardship that would result to the estate if the tax were paid.

The running of the statute of limitations for assessment and collection, as provided in section 874, is suspended for the period of the extension.

For payment of tax shown on return. In cases in which the reversionary or remainder interest is included in the deceased's gross estate as such and does not extend to cases in which the decedent creates future estates by his own testamentary act.

Notice of the exercise of the election to postpone the payment of the tax attributable to a reversionary or remainder interest should be filed with the Commissioner before the date prescribed for payment of the tax. There should be filed with the notice of election a certified copy of the will or other instrument under which the reversionary or remainder interest is held. The Commissioner may require the submission of such additional proof as is deemed necessary to disclose the complete facts. If the duration of the interest is dependent upon the life of any person, the application must show the date of birth of such person.

As a prerequisite to the postponement of the payment of the tax attributable to a reversionary or remainder interest, a bond must be furnished in such an amount (at least double the amount of the tax and interest for the estimated duration of the precedent interest) and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the tax and interest accrued thereon within the estimated duration of the precedent interest. In case the duration of the precedent interest is dependent upon the life or lives of any person or persons, or is otherwise indefinite, the bond must be further conditioned upon the principal or surety promptly notifying the Commissioner when such precedent interest terminates and upon the principal or surety notifying the Commissioner during the month of September of each year as to the continuance of the precedent interest. If the acceptance of a bond it is determined that the amount of the tax attributable to the reversionary or remainder interest was understated in the bond, a new bond or a supplemental bond may be required, or such tax to the extent of the understatement may be collected.

If the decedent's gross estate consists of both a reversionary or remainder interest in property and other property, the running of the statute of limitations on the Federal estate tax attributable to a reversionary or remainder interest, within the meaning of section 823 and this section, is an amount which bears the same ratio to the total tax which the value of the reversionary or remainder interest bears to the entire gross estate, subject to the following qualification: In determining the ratio, the value of the reversionary or remainder interest shall be reduced by (1) the amount of claims, mortgages, and indebtedness which is a lien upon such interest; (2) losses in respect of such interest during the settlement of the estate which are allowed as a credit under the provisions of sections 812 (b) and 861 (a) (1); (3) any amount in respect of such interest identified as previously exempted; (4) any amount deductible under the provisions of sections 812 (c) and 861 (a) (2); and (5) any amount deductible on account of devises or bequests of such interests to charitable, etc., uses as described in sections 812 (d) and 861 (a) (3). In determining the ratio, the gross estate should likewise be reduced by such deductions having similar relationship to items in the gross estate other than the reversionary or remainder interest.

If the time for payment of the Federal estate tax attributable to a reversionary or remainder interest in property is postponed, all estate, inheritance, legacy, or succession taxes allowable as a credit under the provisions of section 813, as amended, which are paid and for which credit is claimed within the period provided in such sections, will be allowed not to exceed 80 percent respectively of that portion of the Federal basic tax which is attributable to such interest and to that portion attributable to the other property, and will be applied first to the respective portion of the Federal basic tax which is attributable to the same interests in property to which the estate, inheritance, legacy, or succession taxes are attributable. Estate, inheritance, legacy, or succession taxes, as described in section 813 (b), as amended, which are attributable to the reversionary or remainder interest and which are paid and for which credit is claimed after the expiration of the period provided in that section will also be allowed as a credit against the Federal basic tax attributable to such interest (limited by the requirement that the total credit may not exceed 80 percent of the total Federal basic tax) if such taxes are paid and credit therefor is claimed prior to the expiration of 60 days after the termination of the preceding interest or interests in the property.

Example. The Federal basic tax attributable to the reversionary or remainder interest is $5,000, and that attribut-
ble to all other property is $10,000. The estate, inheritance, legacy, or succession taxes paid to the $5,000 within the 4-year period are $9,000, all attributable to property other than the reversionary or remainder interest. Of this $9,000, the maximum of $4,000 (Federal basic tax of $10,000 attributable to property other than the reversionary or remainder interest, minus the credit of $6,000) at once, and an extension will be allowed for payment of $4,000 (Federal basic tax of $5,000 attributable to the reversionary interest, minus credit of $1,000). After expiration of the 4-year period, but before expiration of 60 days after termination of the life estate or precedent interest, the estate pays additional tax of 4 per centum per annum from the expiration of the 4-year period and the payment of $4,000 attributable to the reversionary or remainder interest. As the maximum credit is $12,000 (Federal basic tax of $20,000 attributable to the property other than the reversionary or remainder interest, and the credit of $8,000) has already been allowed, there will be an additional allowance of $5,000, and the estate will be required to pay $1,000 at the end of the extension period.

If any estate, inheritance, legacy, or succession taxes are imposed by any of the several States, Territories, or possessions of the United States, or the District of Columbia upon a reversionary or a remainder interest in property and other property, without definitely apportioning the tax between such classes of property, for the purposes of this section the amount of such estate, inheritance, legacy, or succession taxes which will be deemed to be attributable to the reversionary or remainder interest will be an amount which bears the same ratio to the total of such taxes as the value of such property bears to the value of the decedent's entire estate upon which the estate, inheritance, legacy, or succession tax was imposed. In determining the ratio, reduction will be made in the value of the reversionary or remainder interest, and the value of the gross estate as previously provided in this section for determining the Federal estate tax attributable to the reversionary or remainder interest.

The amount of tax the payment of which is postponed under the provisions of section 925 bears interest at the rate of 4 per cent per annum from the expiration of the 4-year period and the date of the decedent's death until such tax is paid. (See § 81.81 (b))

§ 81.80 Extension of time for payment of deficiency tax. If it is shown to the satisfaction of the Commissioner that the payment of the deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner may grant an extension of time for the payment of the deficiency or any part thereof for a period not to exceed in all four years from the date prescribed for the payment of the deficiency.

The extension of time for the payment of a deficiency, if granted upon a general statement of hardship. The term "undue hardship" means more than an inconvenience to the estate. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the estate from making payment of the deficiency at the due date. If a mark to market exists at the due date the current market price is not ordinarily considered as resulting in undue hardship. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.

An application for such an extension must be in writing and must contain, or be supported by, information under oath showing the undue hardship that would result to the estate were the requested extension refused. The application, with the supporting information, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When the Commissioner determines that the estate will be more at the end of the extension period than if the estate had paid the deficiency at the due date, if a mark to market exists at the due date the current market price is not ordinarily considered as resulting in undue hardship. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.

The amount of tax the payment of which is delayed as provided in section 925 (a) (2) shall be and is required to be paid in annual installments at the rate of 4 per cent per annum from the expiration of the period of the extension. If a mark to market exists at the due date the current market price is not ordinarily considered as resulting in undue hardship. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.

An application for such an extension must be in writing and must contain, or be supported by, information under oath showing the undue hardship that would result to the estate were the requested extension refused. The application, with the supporting information, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When the Commissioner determines that the estate will be more at the end of the extension period than if the estate had paid the deficiency at the due date, if a mark to market exists at the due date the current market price is not ordinarily considered as resulting in undue hardship. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.

The amount of tax the payment of which is delayed as provided in section 925 (a) (2) shall be and is required to be paid in annual installments at the rate of 4 per cent per annum from the expiration of the period of the extension. If a mark to market exists at the due date the current market price is not ordinarily considered as resulting in undue hardship. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.

The amount of tax the payment of which is delayed as provided in section 925 (a) (2) shall be and is required to be paid in annual installments at the rate of 4 per cent per annum from the expiration of the period of the extension. If a mark to market exists at the due date the current market price is not ordinarily considered as resulting in undue hardship. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.
day after the filing of such waiver or to the date the deficiency is assessed whichever is later.

Sec. 871. [Part IV, Subchapter A.] Procedure in General.

(1) 50 per cent addition treated as deficiency. The 50 per cent addition to the tax provided by section 3612 (d) (2) shall, when such addition is computed upon the tax payable by the executor, be treated as a deficiency, and no other interest shall be collected thereon at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.


(1) Bond to stay collection. When a jeopardy assessment may be made, the executor, within 30 days after notice and demand from the collector, if the amount assessed is not paid on or before the date of the jeopardy notice and demand, there shall be collected, as a part of the tax, interest at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under section 872 (1), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 891.

Sec. 882. [Part IV, Subchapter A.] Interest on Jeopardy Assessments.

In the case of the amount collected under section 872 (1) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 872 (1), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 891.

Sec. 893. [Part IV, Subchapter A.] Assessments to the Tax in Case of Nonpayment.

(a) Payment by bond. If the part of the deficiency the time for payment of which has been extended, and the interest thereon determined under section 890 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 6 per centum per annum shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) Deficiency—(1) Payment not extended. Where a deficiency, or any interest assessed in connection therewith under section 891, or any part thereof with respect to which a jeopardy assessment is made and collection are waived under section 891 (d), is not paid in full within 30 days from the date of notice and demand, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 6 per centum per annum from the due date until it is paid.

(2) Filing of jeopardy bond. If a bond is filed, as provided in section 872, the provisions of paragraph (1) of this subsection shall not apply to the amount covered by the bond.

(3) Payment extended. If the part of the deficiency the time for payment of which is extended as provided in section 871 (b) is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest upon such unpaid amount at the rate of 6 per centum per annum for the period of the extension for its payment until it is paid, and no other interest shall be collected on such amount for such period.

(4) Jeopardy assessment—Payment stayed by bond. If the amount included in the notice and demand from the collector under section 891 is paid in full within 30 days after such notice and demand, then there shall be collected, as a part of the tax, interest at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.


(a) Collection of unpaid amounts. When the petition has been filed with the Board and when the amount which should have been assessed is determined as the amount which should have been assessed, such amount bears interest from the due date until such amount is paid. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded.

(b) Interest at 4 or 6 per cent per annum. Except as provided in section 936, the amount of the tax shall bear interest from the due date until such amount is paid on or before the due date, and no other interest shall be collected thereon at the rate of 6 per centum per annum from the due date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(c) Collection of unpaid amounts. When the petition has been filed with the Board and when the amount which should have been assessed is determined as the amount which should have been assessed, such amount bears interest from the due date until such amount is paid. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded. If the amount determined as the amount which should have been assessed is greater than the amount which has been assessed, such excess shall be added to the amount as to which the stay is desired, and when the collector determines it to be necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond as is not abated, by a decision of the Board which has been made final, together with interest thereon as provided in section 892 or 893 (b) (4). If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall at the request of the taxpayer, be proportionately reduced.

(d) Same—Further conditions. If the bond is given before the executor has filed his petition with the Board under subsection (a) of section 871, the bond shall contain a further condition that if a petition is not filed with the Board before the executor has filed his petition with the Board under subsection (a) of section 871, the amount which is stayed by the bond will be paid on or before the due date of the amount determined as the amount which should have been assessed, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

§ 81.81 Interest on tax—(a) Shown on return. If any portion of the tax shown on the executor's return is not paid on or before the due date, and no extension of time for payment thereof has been granted, such unpaid portion bears interest from the due date until payment is received by the collector at the rate of 6 per cent per annum.

§ 81.82 Interest on deficiency tax. The Internal Revenue Code provides that any deficiency shall bear interest at the rate of 6 per cent per annum from the due date for payment of the tax 15 months after the date of death of the decedent. However, if the amount of the tax, the time for payment of which is so postponed, together with interest accrued thereon, is not paid in full on or before the date of the expiration of the period of the postponement (six months after the termination of the preceding interest or interests in the property), the unpaid amount bears interest at the rate of 6 per cent per annum from the date of the expiration of the period of the postponement until payment is received by the collector.

§ 81.83 Interest on deficiency tax. The Internal Revenue Code provides that any deficiency shall bear interest at the rate of 6 per cent per annum from the due date for payment of the tax 15 months after the date of death of the decedent. However, if the amount of the tax, the time for payment of which is so postponed, together with interest accrued thereon, is not paid in full on or before the date of the expiration of the period of the postponement (six months after the termination of the preceding interest or interests in the property), the unpaid amount bears interest at the rate of 6 per cent per annum from the date of the expiration of the period of the postponement until payment is received.
Interest at 6 per cent per annum is computed on the basis of 365 days to the year, or 366 days in a leap year.**

**COLLECTION OF TAX**

SEC. 862 [Part II, Subchapter A.] COLLECTION OF UNPAID TAX

(a) Sale of property. If the tax herein imposed is not paid on or before the due date thereof the collector shall, upon instruction from the Commissioner, proceed to collect said tax by distraint or sale of the tax under any general law or appropriate proceedings may be commenced in any court of the United States having jurisdiction of the property of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This subsection in so far as it applies to the collection of a deficiency shall be subject to the provisions of sections 871 and 891.

(b) Reimbursement out of estate. If the tax or any part thereof is paid by, or collected out of, an estate passing to, or in the possession of, any person other than the executor in his capacity as such, the person to whom reimbursement is made out of any part of the estate shall still be subject to the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this subsection that said tax be paid out of the estate before its distribution.

(c) Liability of life insurance beneficiaries. If any part of the gross estate consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax as the amount on any such policy bears to the net estate. If there is more than one such beneficiary the executor shall be entitled to recover from each beneficiary such portion of the total tax as the amount on any such policy bears to the net estate.
§ 81.85 Property subject to lien. The lien imposed by section 827 attaches at the date of the decedent’s death to every part of the gross estate, whether or not the property comes into the possession of the duly qualified executor or administrator. It attaches to the extent of the tax shown to be due by the return and of any deficiency tax found to be due upon review and audit.

The lien upon the entire property constituting the gross estate continues for a period of 10 years after the decedent’s death, except—

(a) If the tax is paid in full before the expiration of such period.

(b) Such portion of the gross estate as is used for the payment of charges against the estate and expenses of its administration, as authorized by section 825 (a) and 827 (c) (see § 81.77), but there is substituted a like lien upon the consideration received from such purchaser by the heirs, legatees, devisees, or distributees.

d) Such property as was received from the decedent as a transfer by trust or otherwise in contemplation of or intended to take effect in possession or enjoyment after his death, or under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from, the property, or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom (except in case the transfer was a bona fide sale for an adequate and full consideration in money or money’s worth), and was sold by the transferee or trustee to a bona fide purchaser for such a consideration. In such case the lien attaches to all the property of the transferee or trustee, except such property as may be sold to a bona fide purchaser for such a consideration.

e) If a certificate releasing such lien is issued. (See § 81.86.)

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

If the tax liability has been fully discharged a certificate may be issued releasing the lien as to any or all property of the estate. If the tax liability has not been fully discharged, no general release of all property of the estate will be granted, but certificates releasing the lien upon particular items of property may be issued by the Commissioner, who may require as a prerequisite, in such an amount as he may designate, a partial payment of tax or the furnishing of an indemnity bond with such surety or sureties as he deems necessary. In lieu of such surety or sureties, the bond may be secured by the deposit of bonds or notes of the United States, or any banks, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in total par value to the amount of the tax, or by the execution of a receipt or writing showing such a consideration. In such case the application for a release should be filed with the Commissioner and should explain the circumstances that require the release, fully describe the particular items for which the release is desired, and show the applicant’s relationship to the estate, such as executor, heir, devisee, legatee, beneficiary, transferee, or purchaser. If the provisions of paragraph (c) have not been fully discharged, an affidavit may be required showing the value of the property to be released, the basis for such valuation, the approximate value of the gross estate, the approximate value of the total real property included in the gross estate, and in case the property is to be sold or transferred, the name and address of the purchaser or transferee and the consideration to be received. 

Penalties

SEC. 804. [Part IV, Subchapter A.] Penalties.

(b) Specified.—(1) Offense. Whoever fails or refuses to comply with any duty imposed upon him by section 820, 821, or 824, or in having in possession to be held for control any record or paper, containing or supposed to contain any information concerning the estate of the decedent, or having in control any record or paper containing or supposed to contain any information concerning the estate of the decedent, fails to exhibit the same upon request of the collector or for the use of the collector or any authorized deputy or officer of the United States, or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this subsection, shall be liable to a penalty of not exceeding $500, to be recovered, with costs of suit, in a civil action in the name of the United States.

(2) Criminal. (A) Whoever knowingly makes any false statement in any notice or return required to be filed under this subchapter shall be liable to a penalty of not exceeding $5,000, or imprisonment not exceeding one year, or both.

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

(C) Any person required under this subchapter to collect, account for and pay over any tax imposed by this subchapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax, or the collection thereof, shall, in addition to other penalties provided by law, be liable to a fine of a like amount, and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

The term "person" as used in paragraphs (B) and (C) includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 3703. [Chapter 38.] Penalties and Forfeitures.

(b) Fraudulent returns, affidavits, and claims—(1) Assistance in preparation or presentation. Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any false return, affidavit, claim, or document, shall, whether or not he has with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) Person defined. The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 3710. [Chapter 38.] Surrender of property subject to tax.

(a) Requirement. Any person in possession of property, or rights to property, subject to tax, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender to the collector or his duly authorized deputy or agent, such property or rights, unless such property or rights are, at the time of such demand, subject to distraint, upon which a levy has been made, or subject to an attachment or execution under any judicial process.

(b) Penalty for violation. Any person who fails to respond to the demand of the collector or his duly authorized deputy or agent, or refuses to surrender such property or rights shall be liable to the same person and estate to the United States in a sum equal to the value of the property or rights so surrendered, but not exceeding the amount of the taxes (including penalties
§ 81.87 Nature of penalties. Two kinds of penalties are provided for delinquency with respect to the duties imposed by the statute: (1) A specific penalty, to be recovered by suit, unless previously paid or adjusted by the acceptance of an offer in compromise; and (2) A penalty of a certain percentage of the tax, to be added to and collected in the same manner as the tax.

In any case in which more than one penalty is provided and an assessment may assert any one or more thereof.* § 81.88 Penalties for false or fraudulent notice or return. In case any statement in the notice or return is knowingly false, the person making it is subject to a penalty not exceeding $5,000, or imprisonment for a period not exceeding one year, or both, and for a false or fraudulent return, $50 per centum of the amount of the tax added to the tax, in lieu of such addition as provided in section 935 (c).

§ 81.89 Penalty for failure to give notice or make and file return. For failure to give the notice required by section 820 or make and file the return required by section 821, 864, or 937 within the time prescribed in § 81.63 or § 81.67, the person in default is subject to a penalty not exceeding $500.

For failure to make and file such return within the time prescribed, or within an extension of time granted by the Commissioner or the collector, 5 per cent will be added to the tax if the failure is for not more than 30 days, with an additional 5 per cent for each 30 days or fraction thereof during which failure continues, not to exceed 25 per cent in the aggregate.

§ 81.90 Penalty for failure to pay tax, exhibit property, keep or exhibit records, etc., and for concealment of assets. Any person in possession or control of any record, file, or paper, containing or supposed to contain information relating to the estate of the decedent or any portion thereof, who fails to exhibit the same upon the request of the collector, or to deliver it to the collector for the payment of the amount of the assessment, may be assessed the costs and expenses of the assessment, and the costs and expenses of any suit to recover such penalty, or to collect any portion thereof, or to enforce any provision of this section. Any person who wilfully fails to pay the tax, keep any records, or supply such information, as required by the law or regulations, shall, in addition to other penalties, be subject to a penalty not exceeding $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

§ 81.91 Penalty for assisting, procuring, advising, or recommending the concealment or destruction of false or fraudulent documents. Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation of a false or fraudulent notice or return, or procures, counsels, or advises the preparation or presentation of such a notice or return, whether such falsity or fraud is with or without the knowledge or consent of the person required to make the notice or return, will be guilty of a felony and, upon conviction thereof, fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

§ 81.92 False statements in records. Any person who in connection with any compromise entered into or offer made under the provisions of section 3761, or who in connection with any closing agreement under section 3760, or the offer to enter into any such agreement, willfully conceals from any officer or employee of the United States any property belonging to the estate or any person liable in respect of the tax, or receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or its value or the financial condition of any person liable in respect of the tax, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both.* § 81.93 Bond to stay collection. When a jeopardy assessment has been made the executor, administrator, or any person having the authority to collect the tax, may, within 30 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of col-
section of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest at the rate of 6 per cent per annum from the date of notice and demand to the date of notice and demand under this subsection.

(g) Same—Further conditions. If the bond is given before the tax is assessed, and the decision of the Board of Tax Appeals which has become final, is rendered, the bond shall be proportionately reduced. If the bond is given before the petition is filed with the Board under subsection (h) of section 871, the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per cent per annum from the date of notice and demand to the date of notice and demand under this subsection.

(2) Waiver of stay. Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The collector shall have the option to waive such stay at any time in respect of the whole or any part of the amount covered by the bond; and shall have the option to withdraw such waiver and the amount of such part of the amount covered by the bond paid, then the bond shall, at the request of the executor, be proportionately reduced. If the amount already collected exceeds the amount determined as the amount which should have been assessed, then the difference shall be assessed as part of the tax assessed thereon as provided in section 892 or 893 (b) of the Internal Revenue Code, the collection of which is stayed by the bond, and the bond may be secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations unconditionally guaranteed as to both interest and principal by the United States equal in their par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 22, U.S.C. 1940 edition, Title 6, section 15.)

The petition with the Board of Tax Appeals for redetermination of the deficiency in respect of which the jeopardy assessment was made must be filed within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day) after the mailing by the Commissioner of the notice of deficiency. (See § 81.73.)

(f) Petition with the Board of Tax Appeals. If any portion of the jeopardy assessment is stayed by the Board of Tax Appeals before the decision of the Board is rendered, the bond will, upon request of the executor, be proportionately reduced. If the bond is given after the petition with the Board of Tax Appeals for redetermination of the deficiency in respect of which the jeopardy assessment was made must be filed within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day) after the mailing by the Commissioner of the notice of deficiency, then the decision of the Board which has become final, be credited or refunded to the executor when the decision of the Board has become final, as to whether such period had expired or not, and no suit for the recovery of any part of such tax shall be instituted in any court, except—

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

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

(g) As to any amount collected after the statutory period of limitations upon the basis of a deficiency in respect of which the jeopardy assessment was made and on which a suit for the recovery of tax has been instituted in any court, for the recovery of any part of such tax unless the Board determines as part of its decision that such portion was paid within three years before the filing of the claim or the filing of the petition, whichever is earlier, or that such portion was subsequently refunded.
be recovered by suit brought in the name of the United States, but only if such suit is begun before the expiration of two years after making of such refund.

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

(d) Interest. Erroneous refunds recoverable shall bear interest at the rate of 6 per centum per annum from the date of the payment of the refund from the date of the payment of such refund.

Sec. 3760. [Chapter 36.] CLOSING AGREEMENTS

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

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

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

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

Sec. 3770. [Chapter 37.] AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS.

(a) To taxpayers. (1) Assessments and collections generally (as amended by section 509 (b) of the Second Revenue Act of 1940).—Except as otherwise provided by law in the case of income, war-profits, excise, and estate and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary of the Treasury, is authorized to refund any tax, at any time before the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

(2) Damages and costs. All damages and costs recovered against any collector, deputy collector, agent, or inspector. In any suit brought against him by reason of anything done in the due performance of his official duty.

(3) Damages and costs. All damages and costs recovered against any collector, deputy collector, agent, or inspector. In any suit brought against him by reason of anything done in the due performance of his official duty.

Sec. 3772. [Chapter 37.] Suits FOR Refunds

(a) Limitations.—(1) Claim. No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been erroneously or illegally assessed or collected, if (A) to bar a suit or proceeding in any court, for any internal revenue tax, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date preceding the date of the refund check or any check by which such amount is paid to the creditor, or by the Commissioner of Internal Revenue, or of any penalty claimed to have been erroneously or illegally assessed or collected, if (B) to prevent the suspension of the statute of limitations for filing suit under section 3774 (b) (2).

(b) Protest or duress. Such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

Sec. 3777. [Chapter 37.] Judicial Code (as amended by section 908 of the Revenue Act of 1936, 49 Stat. 1747, 1936 edition, Title 28, section 282 (b) (1)).

(a) In any judgment of any court rendered (whether against the United States, a collector or deputy collector of internal revenue, a former collector or deputy collector, or the personal representative of such collector, or of any tax which the United States is authorized to assess or collect) for any overpayment in respect of any internal revenue tax, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to a date preceding the date of the refund check (or by not more than thirty days, such date to have the effect of a date of mailing) for the refund check (or by not more than thirty days, such date to be considered a date of mailing) for any such judgment, with interest as herein provided, at any time after such judgment becomes final, and not exceeding the portion of the tax paid during the period of limitation for filing suit for the recovery of such tax which has been underpaid.

(b) The judgment does not comply with the requirements of the preceding sentence will not be considered a final judgment for any purpose.

Sec. 3774. [Chapter 37.] Refunds After Payment of Limitation Period for Filing Claim

(a) Expireation of period for filing claim. If made after the expiration of the period of limitation for filing claim therefor, unless with such check is accepted by the judgment creditor.

(b) Disallowance of claim and expiration of period for filing suit. In the case of a claim filed within the proper time and allowed by the Commissioner if the refund was made after the expiration of the period of limitation for filing suit therefor, then the judgment does not comply with the requirements of the preceding sentence will not be considered a final judgment for any purpose.

§ 9196 Claim for refund. A claim for refund of estate tax, or for refund of interest or penalties, erroneously or illegally collected, should be made on the form prescribed by the Treasury Department (Form 848), and should be filed with the collector of internal revenue, although a claim will not be considered defect for defect solely by reason of the fact that it is not filed at the time it is first made. If such an agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of such an agreement.

§ 9196 Claim for refund. A claim for refund of estate tax, or for refund of interest or penalties, erroneously or illegally collected, should be made on the form prescribed by the Treasury Department (Form 848), and should be filed with the collector of internal revenue, although a claim will not be considered perfect for defect solely by reason of the fact that it is not filed at the time it is first made. If such a claim is made, the Commissioner may, with the consent of the claimant, extend the period within which suit may be brought to obtain the refund. When the claim is made, the Commissioner may, with the consent of the claimant, extend the period within which suit may be brought to obtain the refund. When the claim is made, the Commissioner may, with the consent of the claimant, extend the period within which suit may be brought to obtain the refund. When the claim is made, the Commissioner may, with the consent of the claimant, extend the period within which suit may be brought to obtain the refund.
all facts relied upon in support of the claim must be clearly set forth under oath. Every affidavit, argument, brief, or statement of facts, prepared or filed by an attorney or agent as an argument of fact or evidence in the matter of a protest, must have therein a statement signed by such attorney or agent showing whether or not he was prepared such document and whether or not he has acquired or obtained any knowledge that the facts contained therein are true. In case there is a hearing, should the executor not appear in person, the representative who appears must present a properly executed power of attorney and be enrolled to practice before the Treasury Department. (See § 61.72.)

(a) If the claim is made by an executor or administrator, a certificate of the court must be furnished showing that the appointment remains in full force and effect.

(c) If the executor or administrator has been discharged and no administrator de bonis non has been appointed and qualified, there should be submitted, in lieu of the certificate above mentioned, (a) a certificate of the court granting the discharge, and (2) a certified copy of the order of distribution, or, if such order does not fully disclose the identity of the person or persons entitled to receive any amount that may be refunded and the percentage or proportion thereof to which each, if more than one, is entitled, there should be submitted a certificate of the decedent's executor showing whether or not such executor was advised with respect thereto by the court, or other satisfactory evidence, as set out above, identifying the person or persons entitled to receive the refund will be required.

A refund is erroneous if made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed. In case a claim was filed for the refund of the tax within the proper time and was disallowed by the Commissioner, and the period of limitation for filing suit by the executor or administrator as such, or by the person or persons entitled to receive any amount to which each, if more than one, is entitled, was begun by the executor within the period of limitation for filing suit, unless within such period the executor and the Commissioner in writing mutually suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision of the executive officer, or such period as the Commissioner may determine before the Board of Tax Appeals or the courts. Erroneous refunds, as above, as described, may be recovered by suit brought in the name of the United States within two years after the making of such refunds. An erroneous refund, though not considered as erroneous under section 3774, may be recovered in the same manner if the suit is begun within two years after the date of such refund. Erroneous refunds, whether erroneous under the provisions of section 3774 or otherwise, may be recovered by the person or persons entitled to receive any amount that may be refunded and the percentage or proportion thereof to which each, if more than one, is entitled, whether or not such amount is refunded to him any additional overpayment and interest thereon. If a refund is based upon the credit for payment of estate, inheritance, legacy, or succession taxes allowed by subsection (b) of section 813 (see § 81.9), the refund will be made without interest.

INTEREST ON REFUNDS

SEC. 813. [Part II, Subchapter A.] CREDITS AGAINST TAX.

(b) Estate, succession, legacy, and inheritance, taxes.

(b) The amount of additional tax or penalty paid, whether or not such change is erroneous unless suit was begun by the executor within the period of limitation for filing suit, or unless within such period the executor and the Commissioner in writing mutually suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision of the executive officer, or such period as the Commissioner may determine before the Board of Tax Appeals or the courts. Erroneous refunds, as above, as described, may be recovered by suit brought in the name of the United States within two years after the making of such refunds. An erroneous refund, though not considered as erroneous under section 3774, may be recovered in the same manner if the suit is begun within two years after the date of such refund. Erroneous refunds, whether erroneous under the provisions of section 3774 or otherwise, may be recovered by the person or persons entitled to receive any amount that may be refunded and the percentage or proportion thereof to which each, if more than one, is entitled, whether or not such amount is refunded to him any additional overpayment and interest thereon. If a refund is based upon the credit for payment of estate, inheritance, legacy, or succession taxes allowed by subsection (b) of section 813 (see § 81.9), the refund will be made without interest.

§ 81.97 Payment of claims and interest.

Under the law, warrants in payment of claims allowed can only be drawn pay­able to attorneys or agents. The statutes provide for the payment of interest from the date of the refund check by not more than 30 days, such date to be determined by the Commissioner, whether or not such check is accepted by the taxpayer. Acceptance of such refund warrant or check will not prejudice the right of the claimant to have refunded to him any additional overpayment and interest thereon. If a refund is based upon the credit for payment of estate, inheritance, legacy, or succession taxes allowed by subsection (b) of section 813 (see § 81.9), the refund will be made without interest.

POWER TO COMPROMISE OR REMIT PENALTIES

SEC. 3781. [Chapter 38.] COMPROMISES.

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

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

(1) The amount of tax assessed,

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

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

§ 81.98 Compromise of taxes and penalties.

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

PERSONAL LIABILITY OF EXECUTOR, TRANSFEE, TRUSTEE, AND BENEFICIARY

SEC. 3467. Revised Statutes (as amended by section 618 (a) of the Revenue Act of 1939 [U.S.C., 1940 edition, Title 31, section 227.]

Upon the allowance of the claim for refund of annuity, the Commissioner, unless the refund results from the allowance of a credit for payment of estate, inheritance, legacy, or succession taxes, the statute provides for the payment of interest from the date of the refund check by not more than 30 days, such date to be determined by the Commissioner, whether or not such check is accepted by the taxpayer. Acceptance of such refund warrant or check will not prejudice the right of the claimant to have refunded to him any additional overpayment and interest thereon. If a refund is based upon the credit for payment of estate, inheritance, legacy, or succession taxes allowed by subsection (b) of section 813 (see § 81.9), the refund will be made without interest.
EXAMINATION OF RECORDS AND TAKING OF TESTIMONY

SEC. 3614. [Chapter 34.] EXAMINATION OF BOOKS AND WITNESSES

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

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

§ 81.100 Security evidence; taking testimony. In order to ascertain the correctness of a return, or to make a return if none has been made, the Commissioner has power to require the attendance, and to take the testimony, of the person rendering the return, or any officer or employee of such person, or any other person having knowledge in the premises. Such persons may be required to produce any relevant book, paper, or other record. The Commissioner also is authorized, for the purpose of determining the liability at law or in equity of a transferee of the property of any person with respect to any Federal taxes imposed upon such person, to examine any books, papers, records, or memoranda bearing upon such liability and may require the attendance of the transferee of such property and take his testimony with reference to the matter. The Commissioner has the authority to administer oaths to the persons required to testify. The power and authority herein described may be exercised by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by the Commissioner for that purpose. (For penalties, see § 81.90.)

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

REMEDIES FOR COLLECTION AND PROCEEDINGS FOR ENFORCING LIABILITY OF A TRANSFEREE OR PERSON.

SEC. 322. [Part II, Subchapter A.] PAYMENT OF TAX.

(a) Time of payment.

(b) Extension of time. Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part, * * *

General rule.

IN GENERAL.

PROCEDURE IN GENERAL.

(b) Extension of time for payment of deficiency. Where it is shown to the satisfaction of the Commissioner that the estate is under a commitment of a deficiency upon the date prescribed for the payment thereof it will result in undue hardship to the estate, the Commissioner, under regulations prescribed by the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency * * *

SEC. 874. [Part IV, Subchapter A.] PERIODS OF LIMITATION UPON ASSESSMENT AND COLLECTION.

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

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

(b) Liabilities of transferee or fiduciary. No suit shall be maintained in any court for the purpose of restraining the assessment or collection of any tax unless such suit is begun within the period of limitation for assessment or collection of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the executor. 

Sec. 900. [Part IV, Subchapter A.] TRANSFERRED ASSETS. 

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

(1) The liability, at law or in equity, of a transferee of property of a decedent, in respect of any estate tax, or of a transferee of property of a donor in respect of any gift tax, or (2) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes (U.S.C., Title 31, § 192) in respect of any such tax. 

(b) Remedies for collection and administrative proceedings for enforcing liability of a transferee or fiduciary.—(a) Remedies for remedies remedies are provided for the collection of the estate tax imposed by the Internal Revenue Code: (1) The collector may issue warrant of distraint authorizing the seizure and sale of any or all of the assets of the estate. (See section 3690 of the Internal Revenue Code.) (2) The collector may commence in any court of the United States proceedings, in the name of the United States, to subject the property of the decedent to sale under the judgment or decree of the court. (3) The personal liability of the executor and of certain transferees, trustees, and beneficiaries, set forth in § 81.99, may be enforced by any appropriate action. 

The period of limitation, except in case of fraud or in case no return was filed, for collection of the tax by distraint or suit is six years after assessment if assessment of the tax was made within the statutory period prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the executor. If an extension of time for payment of tax is granted under the provisions of section 322 (a) (2) or section 871 (b), the running of the statute of limitations on collection by distraint or suit is suspended for the period of such extension. 

(b) Administrative proceedings for enforcing liability of a transferee or fiduciary. The amount for which a transferee of the property of a decedent is liable, at law or in equity, and the amount of the personal liability of a fiduciary under section 3467 of the Revised Statutes, as amended, in respect of any estate tax imposed by the Internal Revenue Code, whether shown on the return of the executor or determined as a deficiency in the tax, shall be assessed as provided by law on the same terms and conditions as in the case of a deficiency, except as hereinafter provided. 

The term “transferee” as used in section 900 includes an heir, legatee, devisee, and distributee of an estate of a deceased person.

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

(1) Within one year after the expiration of the period of limitation for assessment against the executor. (See sections 871, 872, 874, and 875, and § 81.73.) 

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

If a notice of the liability of a transferee, or the liability of a fiduciary, has been mailed to such transferee or to such fiduciary under the provisions of section 871 (a) (see § 81.73), then the running of the statute of limitations shall be suspended for the period in which the Commissioner is procuring the assessment (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

If assessments have been made against several persons covering the same tax liability, and payment of such liability by one or more such persons, has been duly certified to the Commissioner, the Commissioner, for the purpose of temporarily relieving the collector from liability under section 351 (the Internal Revenue Code, may authorize him to take credit temporarily with respect to the assessments not specifically paid. Such action, however, shall not constitute an abatement and shall not discharge the liability of the persons concerned. 

Records, statements, and special returns. 

Sec. 921. [Part II, Subchapter A.] RETURNS. 

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

Sec. 3603. [Chapter 34.] NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS. 

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, under oath, of any matter affecting any record, statement, or return relating to any matter for which such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

Sec. 3632. [Chapter 34.] AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY. 

(a) Internal revenue personnel.—(1) Person authorized to administer internal revenue oath generally. Every collector, duly collector, internal revenue agent, and internal revenue examiner not to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are
authorized by law or regulation authorized by law to be taken.

(b) Others. Any oath or affirmation required or authorized by any Internal Revenue law or by any regulations made under authority of such law to be taken.

son authorized to administer oaths for general purposes by the law of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States Court for China, and taxes shall be collected by any person the powers, rights, duties, and privileges of such person under section (except that the liability shall be collected from the estate of the decedent as will enable the Commissioner to determine accurately the amount of the tax liability).*

§ 81.105 Executor's duty to keep records. It is the duty of the executor to keep such records as the Commissioner may require. Executors are required to keep such complete and detailed records of the affairs of the estate as will enable the Commissioner to determine accurately the amount of the tax liability.*

§ 81.104 Executor's duty to render sworn statement of his duty. The executor shall render not only to make the return, but also to render any other sworn statement which the Commissioner may require for the purpose of determining whether a tax liability exists and, if so, the extent thereof.

ESTATES ADMINISTERED IN THE UNITED STATES COURT FOR CHINA

SEC. 851. [Part II, Subchapter A.] CITIZENS OF THE UNITED STATES AND RESIDENTS IN CHINA

The term "resident" as used in this subchapter includes a citizen of the United States and any person who is subject to the jurisdiction thereof, and who has a fixed domicile in China.

SEC. 852. [Part IV, Subchapter A.] PAYMENT OF TAX

In the case of a resident within the meaning of section 851—

(a) To Clerk of United States Court for China. Where any part of the gross estate of the decedent is situated in the United States at the time of his death, the total amount of tax due under this subchapter shall be paid to or collected by the clerk of the United States Court for China;

(b) To Collector. Where any part of the gross estate of the decedent is situated in the United States at the time of his death, the provisions of this subchapter shall be paid to or collected by the collector of the district in which is situated the part of the gross estate in the United States, or, if such part is situated in more than one district, then the collector of such district as may be designated by the Commissioner.

SEC. 921. [Part IV, Subchapter A.] AUTHORITY OF CLERK OF UNITED STATES COURT FOR CHINA TO ACT AS COLLECTOR.

For the purpose of section 920 the clerk of the United States Court for China shall be a collector for the territorial jurisdiction of such court, and taxes shall be collected by and paid to him in the same manner and subject to the same provisions of law, including penalties, as the taxes collected by and paid to a collector in the United States.

SEC. 901. [Part IV, Subchapter A.] NOTICE OF PERSONS ACTING AS FIDUCIARY

Any oath or affirmation required or authorized by any Internal Revenue law or by any regulations made under authority of such law to be taken.

(b) Fiduciary of transference. Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 900, the fiduciary shall assume on behalf of such person the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of the decedent as will enable the Commissioner to determine accurately the amount of the tax liability).*

§ 81.105 Notice of persons acting as fiduciary. The "notice to the Commissioner" provided for in section 901 shall be in writing signed by the fiduciary and filed with the Commissioner, setting forth the name and address of the person for whom he is acting in a fiduciary capacity and also the nature of the liability of such person. Such notice shall be accompanied by satisfactory evidence of his authority to act for such person in the fiduciary capacity. If the fiduciary capacity exists by order of court, a certified copy of the order of the court in which the fiduciary capacity is granted may be regarded as such satisfactory evidence. The written notice to the Commissioner need not be accompanied by evidence of the authority of the fiduciary to act if there is on file with the Commissioner satisfactory evidence of the authority to act. Any such written notice which has been filed with the Commissioner since the order of the court in which the fiduciary capacity is granted has been filed shall be considered as sufficient notice to the Commissioner within the meaning of section 901 if and when there is or has been filed with the Commissioner the satisfactory evidence herein provided for. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as provided for in the subchapter, shall file with the Commissioner written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. Such written notice should state the name and address of the person, if any, who has been substituted as fiduciary.

This section, made under the provisions of section 901, shall not be taken to abridge in any way the powers and duties of fiduciaries provided for in other sections of the Internal Revenue Code.*

§ 901. MISCELLANEOUS PROVISIONS

SEC. 980. [Part II, Subchapter A.] OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the laws relating to the assessment of taxes, as applicable, shall be extended to and made a part of this subchapter.

FEDERAL REGISTER, Wednesday, February 25, 1942 1473

[SEAL]

NORMAN D. CANN,
Acting Commissioner of Internal Revenue.

Approved: February 18, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[FR Doc. 42-1851; Filed, February 28, 1942; 11:54 a.m.]
PART 2. By amending the first sentence of § 19.124-2, as added by Treasury Decision 5016 and amended by Treasury Decision 5104, to read as follows:

If the Secretary of the Department concerned makes the required certification of necessity, a corporation is entitled at its election, to a deduction with respect to the amortization of the adjusted basis of an emergency facility, such amortization to be based generally on a period of 65 months.

PART 3. By striking out § 19.124-9, as added by Treasury Decision 5016 and amended by Treasury Decisions 5049 and 5104. (This Treasury decision is issued under the authority contained in Public Law 5104. Amended by Treasury Decisions 5049 and added by Treasury Decision 5016 and 5104. December 29, 1938 (Appendix to Part 3176 (a), Internal Revenue Code, 53 Stat. 32 (26 U.S.C. 62))).

[SEAL]

NORMAN D. CANN, Acting Commissioner of Internal Revenue.

Approved: February 23, 1942.

JOHN L. SULLIVAN, Acting Secretary of the Treasury.

[F. R. Doc. 42-1631; Filed, February 24, 1942; 11:35 a.m.]

PART 182—INDUSTRIAL ALCOHOL

AMENDMENT OF APPENDIX TO REGULATIONS

NO. 3, REVISED 1938

Pursuant to authority in sections 3070 (a), 3105 (a), 3124 (a) (8), and 3176 (a), Internal Revenue Code, the Appendix to Regulations No. 3, approved December 29, 1938 (Appendix to Part 182, Code of Federal Regulations) is hereby amended by modifying Specially Denatured Alcohol Formula No. 27-B and by authorizing a new Specially Denatured Alcohol Formula No. 49-A, as follows:

Formula No. 27-B

To every 100 gallons of ethyl alcohol of not less than 190° proof add:
1 gallon Oil of Lavender Flowers U. S. P. or
1 gallon Oil of Cedar Leaf U. S. P. and
100 pounds Soft Soap U. S. P.

Formula No. 49-A

To every 100 gallons of ethyl alcohol of not less than 190° proof add:
5 pounds of Sucrose Octa Acetate, and
½ gallon Denaturing Grade Tertiary Butyl Alcohol.

[SEAL]

NORMAN D. CANN, Acting Commissioner of Internal Revenue.

Approved: February 23, 1942.

JOHN L. SULLIVAN, Acting Secretary of the Treasury.

[F. R. Doc. 42-1630; Filed, February 24, 1942; 11:35 a.m.]

TITLE 28—JUDICIAL ADMINISTRATION

CHAPTER 1—DEPARTMENT OF JUSTICE

PART 30—TRAVEL AND OTHER CONDUCT OF ALIENS OF ENEMY NATIONALITIES

Section 30.2 is amended by adding thereto paragraphs (c), (d) and (e).

§ 30.2 Classes of persons not required to comply with these regulations. * * *

(c) Subjects or citizens of Italy who were, prior to August 6, 1924 (1) Turkish subjects or persons of Greek extraction and (2) habitual residents of the Aegean, or Dodecanese Islands, or Islets dependent thereon, provided that said aliens have not at any time voluntarily become German, Italian or Japanese citizens or subjects.

(d) Aliens who became subjects or citizens of Italy by virtue of marriage or relationship to the persons described in paragraph (c) of this section, provided that said aliens have not at any time voluntarily become German, Italian or Japanese citizens or subjects.

(e) Aliens of enemy nationalities during their term of military service in the armed forces of the United States.

Dated: February 19, 1942.

FRANCIS BIDDLE, Attorney General.

[F. R. Doc. 42-1632; Filed, February 24, 1942; 10:48 a.m.]

PART 30—TRAVEL AND OTHER CONDUCT OF ALIENS OF ENEMY NATIONALITIES

Upon the recommendations of the Secretary of War, § 30.15 is amended by adding thereto as subparagraph (4), the following areas which are designated as prohibited areas in which no alien of enemy nationality (German, Italian, or Japanese) shall reside, enter upon, remain or be found after February 15, 1942 with such exceptions as hereafter may be provided by the Attorney General:

§ 30.15 Prohibited and restricted areas. * * *

4. Prohibiting Areas in State of California:

Prohibiting Area No. 3. Commencing at the mouth of the Mad River and following up Mad River to U. S. Highway No. 101; then southward on U. S. Highway No. 101 to the El River to the Pacific Ocean and up along the coast to the point of beginning.

Prohibited Area No. 6. Commencing at the mouth of South Fork Ten Mile River and thence up Ten Mile River to State Highway No. 1, turning south along State Highway No. 1 to the Navarro River, then down the Navarro River to the Pacific Ocean, thence north along the coast to the point of beginning.

Prohibited Area No. 8. Commencing at the mouth of Salmon Creek going up Almon Creek to State Highway No. 1, turning south on State Highway No. 1 to U. S. Highway No. 101, following south along U. S. Highway No. 101 to the northern boundary line of the military reservations of Forts Baker and Barry, along the northern boundary line of Forts Baker, Barry, and Cronkhite to the Pacific Ocean, then up the coast to the point of beginning.

Prohibited Area No. 10. Commencing at the north end of the Carquinez Toll Bridge, then north along United States Highway No. 40 to the intersection of Highway No. 40 and an unnamed highway which extends between Sulphur Springs and Flosden just north of Lake
Chabot, following the said unnamed highway westward to Fisodon, then southwest along State Highway No. 46 to the westerly boundary of the Mare Island, U.S. Navy Yard; continuing south along the shore line of Mare Island, U.S. Navy Yard to San Pablo Bay, and following in a southeasterly direction the shore line of Mare Island and across Mare Island Strait to the point of beginning.

Prohibited Area No. 12. Commencing on the bank of the Sacramento River just west of Middle Point. The boundary line of this area runs southwesterly along the western boundary of the Sacramento Reception Site, then westerly along the Suisun Channel, then easterly along the Contra Costa Canal to the point of beginning.

Prohibited Area No. 13. Commencing at the west end of Berkeley Municipal Pier. The line runs then east along said pier to University Avenue, then east along University Avenue to Grove Street, then north along Grove Street to Arlington Avenue, then continues north along Arlington Avenue to Barret Avenue to United States Highway No. 40, follows United States Highway No. 40 north to San Pablo Creek Road, then along San Pablo Creek Road easterly to the road across Srobarte Ridge which connects the San Pablo Creek Road and the Pinole Valley Road to the Alhambra Valley Road and easterly along the Alhambra Valley Road to a road running north to Muir, continues along said road to Muir then east along California State Highway No. 4 to the Sacramento Northern Ry., and continues north along the Sacramento Northern Ry. to Suisun Bay.

Prohibited Area No. 16. Alameda County. The area in Oakland bounded on the west by the Pacific Railroad tracks, on the north by the Bay Bridge Approach, on the south by 7th Street and on the west by the Outer Harbor from the intersection of Terminal and 7th Street Northeast to the Key System ferry slips.

Prohibited Area No. 18. Commencing at the north end of the San Leandro Bay Bridge. The line runs northeast from that point along High Street to East 12th Street, then northwest along East 12th Street and 8th Street to Harrison Street, then south along Harrison Street to Manchester Avenue and along Webster Street to San Francisco Bay at Neptune Beach, then along the shore to the point of beginning.

Prohibited Area No. 19. Commences the boundary line of Prohibited Area No. 18 at the intersection on the Southern Pacific Railroad and extends along said line to the intersection on the Southern Pacific Railroad with an oiled road at the Lowell Station, north along the Southern Pacific Railroad 150 yards, thence east to an improved road, thence south along the improved road to the intersection with an oiled road, thence west along the oiled road to the intersection with the Southern Pacific Railroad. All roads exclusive.

Prohibited Area No. 20. Commences on the western boundary of Prohibited Area No. 19 at Point 14, and the entire waterfront from China Basin to the Presidio Reservation boundary line.

Prohibited Area No. 26. Commencing at the point where the creek to State Highway No. 1, continuing north on State Highway No. 1 to Princeton, then due west from Princeton to the Pacific Ocean and following south along the shore line to the point of beginning.

Prohibited Area No. 28. Commencing at the mouth of Lagunitas Creek running up the Creek to State Highway No. 1, then, south on State Highway No. 1 to the Carmel River and along the Carmel River to the Pacific Ocean, then up the shore line to the point of beginning.

Prohibited Area No. 31. Commencing at Cambria on the Pacific Ocean and running south along State Highway No. 1 to the Santa Maria River, then following the Santa Maria River west to the Pacific Ocean and along the shore line up to the point of beginning.

Prohibited Area No. 32. The area bounded on the north by Stockton Channel, on the east by Lincoln Street (from 100 block to 1300 block), on the south by Charter Way Road to Santa Fe Railroad, then on the west by the San Joaquin River.

Prohibited Area No. 33. It is a rectangle which includes the Municipal Airport and is bounded by the shore line on the west, Rosecrans Avenue on the south, Western Avenue on the east and Manchester Avenue on the north.

Prohibited Area No. 34. The area in Santa Monica bounded by Centinela Street, Pico Street, Lincoln Blvd., and Venice Blvd.

Prohibited Area No. 36. The area in Inglewood bounded by Industrial Street, Centinela Blvd., Exton Street and Hazel Street.

Prohibited Area No. 48. Beginning at the water front along Beach Street east to Kettner Blvd., then north and northwest to Vine Street, then northwest on Hancock Street to Winder Street, then northwest on La Jolla Avenue to San Diego Avenue, then north along San Diego Avenue to Taylor Street turning west on Taylor Street to Rosecrans Street then southwest on Rosecrans Street to Mission Bay Causeway (Midway Road), then southeast to U. S. Marine Corps Base.

(5) Prohibited Areas in State of Arizona:

Prohibited Area No. 1. Cochise Radio Beam Tower. From the intersection of Highway 81 and a paved road to Manzoro, four miles south of Cochise, south 225 yards along Highway 81, thence 225 yards west along fence, thence north 225 yards along fence to paved road, thence 225 yards east along paved road to intersection with Highway 81. All roads exclusive.

Prohibited Area No. 2. KSUN Broadcasting Station, Bisbee, Arizona. From the intersection on the Southern Pacific Railroad and an oiled road at the Lowell Station, north along the Southern Pacific Railroad 150 yards, thence east to an improved road, thence south along the improved road to the intersection with an oiled road, thence west along the oiled road to the intersection with the Southern Pacific Railroad. All roads exclusive.

Prohibited Area No. 3. Central Arizona Light and Power Company Plant, Phoenix, Arizona. From the intersection of Lateral 16 and the Southern Pacific Railroad, south along Lateral 16 880 yards, thence west along Highway 80 880 yards thence north 880 yards to Southern Pacific Railroad thence east along Southern Pacific Railroad 880 yards to the intersection with Lateral 16. All roads exclusive.

Prohibited Area No. 4. KOY Broadcasting Station, Phoenix, Arizona. From the intersection of Buckeye Road and 24th Avenue, east along Buckeye Road 465 feet, thence south 465 feet, thence west 465 feet to 24th Avenue, thence along 24th Avenue 465 feet to the intersection with Buckeye Road. All roads exclusive.

Prohibited Area No. 5. KPHO Broadcasting Station, Phoenix, Arizona. From the intersection of Buckeye Road and 24th Avenue, east along Buckeye Road 500 feet, thence north 500 feet, thence east 500 feet to 11th Street, thence south along 11th Street to the intersection with Camel Back Road. All roads exclusive.

Prohibited Area No. 6. Water Users' Sub-station (Switching Point). From a point on the southbound railroad, south 300 feet east of 17th Avenue, east 165 feet along Buckeye Road, thence south 600 feet, thence west 165 feet, thence north 600 feet, thence west 165 feet to 1st Avenue, thence south 165 feet to Buckeye Road. All roads exclusive.

Prohibited Area No. 7. Phoenix Sub-station (Switching Point). From a point at the intersection of 1st Avenue and Southern Pacific Railroad, south along 1st Avenue to the intersection with West Lincoln Street, thence west along West Lincoln Street to the intersection with 3rd Avenue, thence north along 3rd Avenue to the intersection with Buchanan Street, thence east along West Buchanan Street to the intersection with 2nd Avenue, thence north along 2nd Avenue to the intersection with the Southern Pacific Railroad, thence east along the Southern Pacific Railroad to the intersection with 1st Avenue. All roads exclusive.

Prohibited Area No. 8. KTAR Broadcasting Station, Phoenix, Arizona. From the intersection of East Thomas Road and 36th Street, east on East Thomas Road, 440 yards, thence south 440 yards, thence west 440 yards to 36th Street, thence north along 36th Street 440 yards to the intersection with East Thomas Road. All roads exclusive.

Prohibited Area No. 9. Water Supply Reservoir, Phoenix, Arizona. A rectangular space 200 yards by 250 yards located on the north side of East Thomas Road 600 yards west of intersection of East Thomas Road with Ingleside Avenue.

Prohibited Area No. 10. Phoenix Radio Beam Tower. From a point on Hunter Drive, 1/4 mile north of 6th Street, Tempe, along Hunter Drive, thence 225 yards east along fence, thence 225 yards west along fence, thence 225 yards west along fence to Hunter Drive. All roads exclusive.

Prohibited Area No. 11. Apache-Cut Power Plant, Tempe, Arizona. From the intersection of the Overflow Canal and Highway 80, north 165 yards along Highway 80, thence west 165 yards to South-
ern Pacific Railroad, thence south along Southern Pacific Railroad 165 yards to Covina Canal, thence east 165 yards along Overflow Canal to the intersection with Highway 80.

Prohibited Area No. 12. Mesa Sub-Station (Switching Point). From a point on the north side of 4th Street, 1 mile east of Mesa Drive at the intersection of 4th Street and a paved road, east along 4th Street 400 feet, thence north 400 feet, thence west along said paved road, thence south 400 feet along said paved road to the intersection with 4th Street. All roads exclusive.

Prohibited Area No. 13. KVOA, Broadcasting Station, Tucson, Arizona. From the intersection of 12th Avenue and Lee Street, west along Lee Street 600 feet, thence north 600 feet, thence east 600 feet to 12th Avenue, thence south along 12th Avenue to the intersection with Lee Street. All roads exclusive.

Prohibited Area No. 14. KTUC, Broadcasting Station, Tucson, Arizona. From the intersection of 6th Avenue and 12th Street, west along 12th Street to intersection with Scott Street, thence north along Scott Street to the intersection with Broadway, thence east along Broadway to the intersection with 6th Avenue, thence along 6th Avenue to the intersection with 12th Street. All roads exclusive.

Prohibited Area No. 15. Imperial Dam, located at the southern end of Imperial Reservoir, on the Colorado River, 20 miles north of Yuma, Arizona.

Prohibited Area No. 17. Laguna Dam, located at the southern end of Laguna Reservoir, on the Colorado River, 15 miles north of Yuma, Arizona.

Prohibited Area No. 18. KYUM, Broadcasting Station, Yuma, Arizona. From the intersection of 1st Street and 19th Avenue, south along 19th Avenue to the intersection with the West Main Canal, thence west along the West Main Canal to the intersection with 20th Avenue, thence north along 20th Avenue to the intersection with 1st Street, thence east along 1st Street to the intersection with 19th Avenue. All roads exclusive.

Dated: February 21, 1942.

FRANCIS BIDDLE,
Attorney General.

PART 30—TRAVEL AND OTHER CONDUCT OF ALIENS OF ENEMY NATIONALITIES

Section 30.15 is amended by adding thereto as subparagraph (2) the following areas which are designated as restricted areas in which no aliens of enemy nationality (German, Italian, or Japanese) shall remain, enter upon, or be found within, except that permits may be issued to such aliens to be in such restricted areas under prescribed conditions:

§ 30.15 Prohibited and restricted areas.

(2) Restricted areas of California:

Restricted Area No. 1. The area comprised within the boundaries of the Oregon-California State Line on the north, the Pacific Ocean on the west, the boundary between the Northern California Sector and the Southern California Sector on the south and on the east by a line running north and south beginning at the point where the southerly boundary line of the right-of-way of U.S. Highway No. 99 crosses the Oregon-California State Line in Siskiyou County northerly of Fort Klamath ending at a point on Route No. 99 above Wheeler Ridge, Kern County. There is excluded from this area, Prohibited Areas Nos. 1 to 32, inclusive, which have been designated as Prohibited Areas. The north and south line representing the eastern boundary follows an irregular course and is described as follows: Commencing at the Oregon-California State Line and following the easterly boundary line of the right-of-way of U.S. Highway No. 99 in a southerly direction to the point where the southerly boundary line of the right-of-way of the California State Highway No. 96, projected. The line then runs in a westerly and southerly direction along the easterly boundary line of California State Highway No. 96 to the point that where Highway intersects the northern boundary of the right-of-way of U.S. Highway No. 299; then follows in a southeasterly direction along U.S. Highway No. 299 to the point where the northerly boundary line of the right-of-way of U.S. Highway No. 299 intersects the western boundary line of Humboldt County to the north boundary line of Mendocino County, California, then west along the north boundary of Mendocino County to the easterly boundary line of the right-of-way of U.S. Highway No. 101. The line then follows then in a southerly direction along the easterly boundary of U.S. Highway No. 101 where it intersects the northerly boundary line of California State Highway No. 20 and then in an easterly direction along the California State Highway No. 20 northerly boundary line of said highway where it intersects the easterly boundary line of the right-of-way of U.S. Highway No. 99 East at or near Marysville, California. The line then follows then in a southerly direction along the easterly boundary line of the right-of-way of U.S. Highway No. 99 East to the point where it intersects the easterly boundary line of the right-of-way of U.S. Highway No. 99 in or near the city of Sacramento, California, and then in a southerly direction along the easterly boundary line of the right-of-way of U.S. Highway No. 99 to the point where it intersects the southerly boundary line of California State Highway No. 120 in or near the town of Madera, California. It then runs in a westerly direction along the southerly boundary line of the right-of-way of California State Highway No. 120 to the point where the same intersects the southerly boundary line of the right-of-way of U.S. Highway No. 50. It then follows then in a westerly direction along the southerly boundary line of the right-of-
way of U.S. Highway No. 50 to the point where it intersects the easterly boundary line of the right-of-way of California State Highway No. 33, near Tracy, California. It follows then in a southerly direction along the easterly boundary line of California State Highway No. 33, near Tracy, California. It follows then in a southerly direction along the easterly boundary line of California State Highway No. 33 to the point where it, if projected, intersects the southerly boundary line of the right-of-way of California State Highway No. 152 in or near the town of Los Banos, California. It follows then in a westerly direction along the southerly boundary line of the right-of-way of California State Highway No. 152 to the point where it intersects the easterly boundary line of the right-of-way of California State Highway No. 156. It follows then in a southerly direction along the easterly boundary line of California State Highway No. 156 to the point where it intersects the easterly boundary line of the right-of-way of California State Highway No. 25 in or near the town of Hollister, California. It follows then in a southerly direction along the easterly boundary line of the right-of-way of California State Highway No. 25 to the point where it intersects the northerly boundary line of the right-of-way of California State Highway No. 25 at or near the town of Priest Creek, California. It follows then in an easterly direction along the northerly boundary line of the right-of-way of California State Highway No. 198 to the point where it intersects the easterly boundary line of the right-of-way of California State Highway No. 198 at or near the town of Coalinga, California. It follows then in a southerly direction along the easterly boundary line of the right-of-way of California State Highway No. 33 to the point where it intersects the northern boundary line of the right-of-way of California State Highway No. 198 in or near the town of Maricopa, California. It follows then in an easterly direction along the northerly boundary line of the right-of-way of California State Highway No. 166 to the point where it, if projected, intersects the easterly boundary line of the right-of-way of U.S. Highway No. 99 to the point where it intersects the southern boundary line of the right-of-way of U.S. Highway No. 99 slightly below Point Sal and follows in an east, northeast direction through Schuman, just below Lake View, just above Gates, just below Pattilie and ends at a point on U.S. Highway No. 99 slightly below California State Highway 101. The southern boundary of Restricted Area No. 1 commences at a point below 35 degrees latitude and extends west, northwesst so as to cross the line of 35 degrees latitude and ends at a point above 35 degrees latitude.

Restricted Area No. 2. Shasta County. The area within a distance of 500 ft. in any direction from the Hat Creek No. 1 Hydro Electric Generating Plant of the Pacific Gas and Electric Company. Postoffice address, Cassel, California.

Restricted Area No. 3. Shasta County. The area within a distance of 500 ft. in any direction from the Hat Creek No. 2 Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. address, Cassel, California.

Restricted Area No. 4. Shasta County. The area within a distance of 500 ft. in any direction from the Coleman Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. Address, Cottonwood, California.

Restricted Area No. 5. Butte County. The area within a distance of 500 ft. in any direction from the De Salba Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. Address, De Salba, California.

Restricted Area No. 6. Yuba County. The area within a distance of 500 ft. in any direction from the Colgate Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. Address, Dobbins, California.

Restricted Area No. 7. Nevada and Placer Counties. The area within a distance of 300 ft. in any direction from the Spaulding No. 1 Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. Address, Emigrant Gap, California.

Restricted Area No. 8. Nevada and Placer Counties. The area within a distance of 300 ft. in any direction from the Spaulding No. 2 Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. Address, Emigrant Gap, California.

Restricted Area No. 9. Nevada and Placer Counties. The area within a distance of 300 ft. in any direction from the Spaulding No. 3 Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. Address, Emigrant Gap, California.

Restricted Area No. 10. Placer County. The area within a distance of 500 ft. in any direction from the Halsey Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. Address, Auburn, California.

Restricted Area No. 11. Placer County. The area within a distance of 500 ft. in any direction from the Wise Hydro Electric Generating Plant of the Pacific Gas and Electric Company. P. O. Address, Auburn, California.

Restricted Area No. 12. Mono County. The area within a distance of 500 ft. in any direction from the Big Creek Hydro Electric Generating Plant of the California Electric Pacific Company located 7 miles north of Bishop, California. Effective date of these designations is February 24, 1942.

FRANCIS BIDDLE, Attorney General.
1940: Provided. That such persons have not at any time voluntarily become German, Italian, or Japanese citizens or subjects.

(c) Koreans who, under the Alien Registration Act of 1940, registered as Koreans, provided that such persons have not at any time voluntarily become German, Italian, or Japanese citizens or subjects.

§ 30.55 Modifications of time to apply. Provided that a person, who is subject to the regulations in this part and who falls into one of the following-described categories, has registered in compliance with the provisions of the Alien Registration Act of 1940, as evidenced by his possession of an Alien Registration Receipt Card, he shall be entitled to the following modifications of the requirements of the regulations in this part:

(a) Persons who are inmates of asylums, jails, penitentiaries, Federal or State, shall not be obliged to make application for a Certificate of Identification so long as they remain inmates of such institutions. Immediately upon their discharge from such institutions, however, such persons shall be under obligation to apply for such Certificates. Their applications shall be made either at (1) such institutions, if facilities therefor exist, or at (2) the first-class, second-class, or county-seat post office, or (3) such other place, nearest their residence, as may then be designated for the receiving of such applications.

(b) Persons who are so aged or infirm as to be confined permanently to their places of residence shall not be obliged to make application for a Certificate of Identification so long as they shall be physically incapable of making such application at a post office. However, such persons shall be under obligation to apply between the dates of December 7 and 8, 1941, and regulations hereinafter issued pursuant thereto.*

§ 30.56 Method of making application for certificate of identification. (a) Any postmaster in a first- or second-class post office at the seat of government of any county, parish, or equivalent subdivision in the United States, or in any other post office or other place which may hereafter be designated, or any postal employee designated by such postmaster, an identification official, authorized to receive applications for Certificates of Identification in accordance with these regulations.

(b) Any postmaster who shall designate any person as an Identification official shall certify that fact to the Department of Justice.

(c) Application shall be made by each person to apply hereunder upon Form AR-Æ-22, and the application shall in all respects conform to said form.

(d) A notice to all persons subject to these regulations, including abbreviated instructions and suggestions (Form ARÆ-21) shall be printed and placed in post offices and in such other places as may be deemed appropriate for general distribution; and, together with copies of these regulations, shall be posted at prominent places in post offices at which applications for Certificates of Identification shall be filed.

(e) The Identification official shall deliver to the applicant two copies of the form of application for Certificate of Identification (ARÆ-22).

(f) The applicant shall fill in the application forms (ARÆ-22) in duplicate, either personally or through a representative. If the applicant is unable to write or is unable to write clearly and legibly, the Identification official shall, upon request of such applicant, fill in the application forms, in duplicate, with information furnished him by the applicant.

(g) The Identification official shall request the applicant to produce his alien registration receipt card, and, upon its production, shall verify the number appearing thereon with the registration number inserted thereon for Certificate of Identification (Form ARÆ-22).

(h) After the application for Certificate of Identification (Form ARÆ-22) has been completed, the Identification official shall fill in the description of the applicant as the information is called for at the bottom of the Form ARÆ-22.

(i) The applicant shall furnish to the Identification official three unmounted photographs of the applicant, with light background, 2 by 2 inches in size, on thin paper. Such photographs, in order to be acceptable, must clearly show a front view of the face of the applicant without hat, and applicant must state, and such must appear to be the fact, that such photographs were taken not more than 30 days prior to the date on which the application is presented.

(j) The application forms (ARÆ-22) must be personally signed in duplicate
and sworn to (or affirmed) by the applicant, before an identification official.

(k) If the applicant is unable to write, he must make his mark in the signature space and the witness shall sign and affix his mark. He shall be witnessed by a witness other than the identification official. The witness shall sign his name and address on the application forms near the mark, and the words "witnessed by" shall precede the signature of the witness.

(l) If the applicant has conscientious scruples against taking an oath, he may make affirmation to the truth and completeness of his statements and answers in the application.

(m) All identification officials are hereby authorized to administer to applicants the oath or affirmation required herein. The oath is to be taken by the applicant's raising his right hand and swearing to the truth and completeness of the statements and answers made by him in the application. Affirmation may be made by applicant's raising his right hand and declaring that he solemnly affirms the truth and completeness of the statements and answers made by him in the application.

(n) The following information shall be furnished by each applicant:

(1) The applicant shall give in full his present legal name in the English alphabet.

(2) The applicant shall give the name (not including aliases) under which he registered in accordance with the provisions of the Alien Registration Act of 1940, providing that such name is different from the present legal name of applicant. If the name under which applicant registered in accordance with the provisions of the Alien Registration Act of 1940 is different from applicant's present legal name, applicant shall explain briefly the reason for the difference.

(3) The applicant shall give the location of his residence; that is, the place where the applicant habitually sleeps. If he has no such place, he shall so state. He shall give the address where his mail is regularly received or delivered. He shall also state the location of other residences since January 1, 1941, in each case stating the approximate period spent at each such residence.

(4) The applicant shall state the names and addresses of all persons, firms, or corporations by which he has been employed since January 1, 1941, together with a statement of the capacity in which he was so employed and the approximate dates covered by such employment. If the applicant, during said period, was himself engaged in some trade, business, or profession, he shall so indicate, stating his business address and the period covered.

(5) The applicant shall state the month, day, and year of his birth according to the American (that is, Gregorian) calendar. The applicant shall also name the country, if any, of which he is a citizen or subject, or to which he owes allegiance. If the applicant is not a citizen or subject of any such country, he shall, in such case, state the country of which he was last a citizen or subject, or to which he last owed allegiance.

(6) The applicant shall give the names, state the relationships, and give the addresses of parents, brothers or sisters, husband or wife, or children of the applicant living in the United States on the date of making the application.

(7) The applicant shall state whether or not he has any children serving, at the time of the application, in the armed forces of the United States, including the auxiliary arms of service. If the applicant has such children he shall state their names and indicate in each case the branch of service in which such child is serving.

(8) The applicant shall give the names, state the relationship and give the last known address or country of residence of all brothers or sisters, husband or wife, or children of the applicant living outside the United States. If any of said relatives are, or when last known to applicant, were serving in the armed forces of a foreign nation, the applicant shall state this fact.

(9) The applicant shall state whether or not, he has, since August 27, 1940, either applied for or received first citizenship papers in the United States or petitioned for naturalization in the United States. In the event that the applicant has so applied, received, or petitioned, he shall state which and give the place and date. The applicant shall state also whether or not he has ever been refused or denied naturalization in the United States. If he has been refused or denied naturalization he shall state the court, place, and reasons or causes given, and whether said reasons or causes have since been removed.

(10) If the applicant has at any time taken any steps toward naturalization in a country other than the United States, he shall so indicate and shall state when and where and in what country.

(11) If the applicant has at any time taken an oath of allegiance to any country, state, or nation other than the United States he shall so indicate and shall state the time, place, and country.

(12) The applicant shall state whether he has read or had read to him a summary of the provisions of Presidential proclamations and regulations concerning the conduct of persons of enemy nationalities, and he shall further state whether or not he has complied with such proclamations and regulations, and further whether any exemption of any kind has been granted to him.

(13) The applicant shall indicate whether he was registered for Selective Service, and if he was, the applicant shall state the place and his local draft board order number.

(14) The applicant shall list the clubs, organizations, or societies of which he has been a member as an officer, director, or in any capacity to which he has been affiliated, at any time during the period of 5 years preceding the date of such application either in the United States or abroad. In the event that any such listed membership or affiliation has ceased prior to the date of the application, the applicant shall give the approximate date thereof. If the applicant spent any part of said 5-year period outside the United States, he shall include a statement of his foreign political party or national organization affiliation during such portion of said 5-year period as he spent outside the United States.

(15) The applicant shall be given the opportunity, and space shall be provided on the form (AR-AE-22) for the purpose, to make any additional statement concerning himself, or his status, he may wish to make. But there shall be no obligation upon the applicant to insert any additional information in such space. In the event that the applicant uses such space to give the names and addresses of persons who might vouch for his applicant's loyalty to the United States, the applicant shall write either personally or through his representative, or the identification official shall write for him, a statement substantially as follows:

I have neither given anything of value nor obligatory myself in any manner whatsoever for permission to use the above names, and applicant shall be obliged to swear to or affirm the truth of such statement.

(o) Whenever an applicant states that he is unable to supply any of the information required by Form AR-AE-22, the identification official shall ask the applicant if he has exhausted all possible sources of information. If the applicant answers that he has done so, the applicant or the identification official shall write "Don't know" in the space reserved for such information in said form.

(p) After the applicant shall have duly executed and sworn to (or affirmed) his application in duplicate, the identification official shall transfer from such form to the Certificate of Identification (Form AR-AE-23) such information as is called for in said Form AR-AE-23. The identification official shall then affix one of said photographs to each of the executed applications (AR-AE-22) and one of such photographs to the Certificate of Identification (Form AR-AE-23). The applicant, if able to write, shall sign each of said three photographs of himself in such directed manner as not to obscure the features and identification and applicant shall affix his signature also at the place indicated in the Certificate of Identification (Form AR-AE-23).
The applicant shall place a single specified fingerprint on each of the forms of the applicant's fingerprint or cause the applicant's fingerprint to be taken by the fingerprint official in each case shall take the fingerprint or cause the same to be taken under his supervision.*

§ 30.57 Certificates of identification. (a) At the earliest practicable date after the filing of the application there shall be delivered to the applicant, in accordance with instructions issued by the Post Office Department, a Certificate of Identification (Form AR-AE-22). The issuance of such certificate shall not relieve the applicant or holder from full compliance with any and all laws and regulations of the United States now existing or which hereafter may exist, concerning aliens of enemy nationalities; nor shall it be construed to confer on the holder immunity from any liability, pain, penalty or punishment incurred by the holder for violation of any law of the United States either before or after its issuance.

(b) All persons, required to apply for and obtain Certificates of Identification, shall carry such certificates with them at all times and present them if required to do so by any police officer or other government officer. Any such person shall promptly report his loss of Certificate of Identification to the nearest United States attorney.

(c) A Certificate of Identification shall not be issued to any person who has already received one unless he surrenders his former certificate, except in case of loss as provided below. No person shall use a Certificate of Identification relating to any other person. If any person loses his Certificate of Identification he may make affidavit under oath (or affirmation) to that effect, and, upon proof thereof, there may be issued to him a copy, which shall be plainly marked as such. If the holder dies or permanently departs from the United States, his Certificate of Identification shall be returned to the Department of Justice. If any person finds a lost Certificate of Identification he shall forward it to the United States Department of Justice.*

§ 30.58 Disposal of application forms. (a) One copy of the completely executed application for Certificate of Identification (AR-AE-22) shall be sent promptly to the Alien Registration Division of the Department of Justice in accordance with the instructions of the Post Office Department.

(b) The second copy of the completely executed application for Certificate of Identification shall be sent to the nearest field office of the Federal Bureau of Investigation in accordance with the instructions of the Post Office Department.

§ 30.59 Nature of information. All information furnished by the applicant in connection with his application shall be secret and confidential and shall be available only to such persons or agencies as may be designated by the Attorney General. It shall be unlawful for any identification official to divulge any such information to any person or agency not so designated.*

§ 30.60 Changes of name, residence, or employment. (a) Whenever the holder of a Certificate of Identification changes his (1) name, under legal authority, (2) residence address, or (3) place of employment, written notices thereof shall immediately be given to (i) the Alien Registration Division of the Immigration and Naturalization Service, and (ii) the Federal Bureau of Investigation at the office shown in the holder's Certificate of Identification.

(b) Nothing herein contained shall relieve any alien or parent or guardian of any alien less than 14 years of age who is not a permanent resident of the United States, and who was or is required to register under the Alien Registration Act of 1940 from reporting to the Commissioner of Immigration and Naturalization the alien's residence at the end of each 3 months' residence in the United States, regardless of whether or not the alien has changed his residence.*

§ 30.61 Use of assumed name. No person to whom a Certificate of Identification has been issued shall, for any purpose, assume or use, or purport to assume or use, or continue the assumption or use, of any name other than that given as his legal name in his application for a Certificate of Identification, except such changes as may be duly authorized by or under the law.*

§ 30.62 Compliance with all regulations in this part or any other regulations governing the conduct of aliens of enemy nationalities, is subject to apprehension, detention, and internment for the duration of the war.

(b) Any alien of enemy nationality herein defined who fails to comply with the regulations in this part or any other regulations governing the conduct of aliens of enemy nationalities, is subject to apprehension, detention, and internment for the duration of the war.*

Dated: January 22, 1942.

FRANCIS BIDDLE, Attorney General.

[FR. Doc. 42-1524; Filed, February 24, 1942; 10:46 a.m.]

PART 30--TRAVEL AND OTHER CONDUCT OF ALIENS OF ENEMY NATIONALITIES

Section 30.61 is amended to read as follows:

§ 30.61 Use of assumed name. No person to whom a Certificate of Identification has been issued shall, for any purpose, assume or use, or purport to assume or use, or continue the assumption or use, of any name other than that given as his legal name in his application for a Certificate of Identification, except such changes as may be duly authorized by or under the law.*

Dated: February 21, 1942.

FRANCIS BIDDLE, Attorney General.

[FR. Doc. 42-1622; Filed, February 24, 1942; 10:47 a.m.]
CHAPTER III—BITUMINOUS COAL

ORDER AMENDING ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE 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

An order granting temporary relief and conditionally providing for final relief was issued in the above-entitled matter on December 13, 1941, 6 F. R. 3754, establishing price classifications and minimum prices for the coals of certain mines in District No. 1, including the establishment of price classifications and minimum prices for the coals of Bald Eagle #1 Mine, Mine Index No. 3206, and Bald Eagle #2 Mine, Mine Index No. 3207, of John D. Walker, code member, for all shipments except truck and for truck shipments.

The original petitioner in the above-entitled matter subsequently filed an amendment to its petition alleging that the prices established in the Division with forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That pleadings in opposition to the said amendment 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.

Dated: February 9, 1942.

[Seal] Dan H. Wheeler, Acting Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1

FOR TRUCK SHIPMENTS

<table>
<thead>
<tr>
<th>Code member index</th>
<th>Mine index No.</th>
<th>Mine</th>
<th>Sub-district No.</th>
<th>County</th>
<th>Seam</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walker, John D.</td>
<td>3206</td>
<td>Bald Eagle #1</td>
<td>12 Clearfield</td>
<td>D</td>
<td>265</td>
</tr>
<tr>
<td>Walker, John D.</td>
<td>3207</td>
<td>Bald Eagle #2</td>
<td>12 Clearfield</td>
<td>E</td>
<td>265</td>
</tr>
</tbody>
</table>

*Indicates coal in this size group previously classified and priced.

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: February 10, 1942.

[Seal] Dan H. Wheeler, Acting Director.
TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1.

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 321, Minimum Price Schedule for District No. 1 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 321.7 Alphabetical list of code members—Supplement R

[Alphabetical listing of code members having railway loading facilities, showing price classifications by size group numbers]

<table>
<thead>
<tr>
<th>Mine index number</th>
<th>Code member</th>
<th>Mine name</th>
<th>Sub-district No.</th>
<th>Seam</th>
<th>Shipping point</th>
<th>Railroad</th>
<th>Freight origin group number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2646</td>
<td>Bish, Guy</td>
<td>Bish</td>
<td>6</td>
<td>D</td>
<td>Punxsutawney, Pa</td>
<td>B&amp;O-PRR</td>
<td>65</td>
</tr>
<tr>
<td>3333</td>
<td>Enterprise Coal Mining Company</td>
<td>Commercial</td>
<td>20</td>
<td>W</td>
<td>Twin Rocks, Pa</td>
<td>PRR</td>
<td>63</td>
</tr>
<tr>
<td>3339</td>
<td>Enterprise Coal Mining Company</td>
<td>Pittsburgh</td>
<td>41</td>
<td>Pittsburgh</td>
<td>Garrett, Pa</td>
<td>W, Md</td>
<td>62</td>
</tr>
<tr>
<td>3341</td>
<td>Flick, John (Flick Coal Co.)</td>
<td>Flick</td>
<td>37</td>
<td>D</td>
<td>Stoeneston, Pa</td>
<td>B&amp;O</td>
<td>61</td>
</tr>
<tr>
<td>3343</td>
<td>Garfield Fuel Company c/o F. B. McFee</td>
<td>Garfield #1</td>
<td>28</td>
<td>H</td>
<td>Holly, Pa</td>
<td>PRR</td>
<td>62</td>
</tr>
<tr>
<td>3357</td>
<td>Kennell #4</td>
<td>41 Somerset</td>
<td>220</td>
<td>-</td>
<td>Windber, Pa</td>
<td>PRR</td>
<td>46</td>
</tr>
<tr>
<td>3368</td>
<td>Shaw, Kenneth</td>
<td>Shaw #1</td>
<td>225</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

† Indicates no classifications effective for these size groups.

*Indicates coal in this size group previously classified and priced.

FOR TRUCK SHIPMENTS

§ 321.24 General prices—Supplement T

[Prices in cents per net ton for shipment into all market areas]

<table>
<thead>
<tr>
<th>Code member index</th>
<th>Mine index No.</th>
<th>Mine</th>
<th>County</th>
<th>Seam</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
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</thead>
<tbody>
<tr>
<td>Bish, Guy</td>
<td>2646</td>
<td>Bish</td>
<td>Jefferson</td>
<td>D</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
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<tr>
<td>Commercial Coal Company (L. B. Lambing)</td>
<td>3333</td>
<td>Commercial</td>
<td>25</td>
<td>Cambria</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise Coal Mining Company</td>
<td>3339</td>
<td>Commercial</td>
<td>25</td>
<td>Cambria</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprise Coal Mining Company</td>
<td>3340</td>
<td>Pittsburgh</td>
<td>41</td>
<td>Somerset</td>
<td>C</td>
<td>220</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flick, John (Flick Coal Co.)</td>
<td>3341</td>
<td>Flick</td>
<td>37</td>
<td>Somerset</td>
<td>D</td>
<td>220</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flick, John (Flick Coal Co.)</td>
<td>3342</td>
<td>McFee</td>
<td>32</td>
<td>Indiana</td>
<td>E</td>
<td>220</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Shaw, Kenneth</td>
<td>3356</td>
<td>Shaw</td>
<td>33</td>
<td>Somerset</td>
<td>C</td>
<td>220</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sturte, George &amp; Walter (George Sturte)</td>
<td>3357</td>
<td>Kennel #1</td>
<td>41</td>
<td>Somerset</td>
<td>D</td>
<td>220</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Treese, Blaine E.</td>
<td>3331</td>
<td>Treese</td>
<td>12</td>
<td>Indiana</td>
<td>E</td>
<td>220</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vollmer, Laurens B.</td>
<td>3375</td>
<td>Vollmer</td>
<td>2</td>
<td>Elk</td>
<td>B</td>
<td>220</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[Docket No. A-1000, Part II]

PART 323—MINIMUM PRICE SCHEDULE, DISTRICT NO. 3

ORDER GRANTING RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 3 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF THE SCOTCH HILL MINES Nos. 1 TO 35, INCLUSIVE (MINE INDEX Nos. 240, 241 AND 252 TO 284, INCLUSIVE), IN DISTRICT No. 3

This proceeding having been instituted upon a petition filed with the Bituminous Coal Division by District Board 3 on August 6, 1941, pursuant to section 4 ii (d) of the Bituminous Coal Act of 1937, praying for, inter alia, price classifications and minimum prices for the coals of the Scotch Hill Mines Nos. 1 to 35 (Mine Index Nos. 240, 241 and 252 to 284, inclusive) of The Henry Clay Coal Mining Company;

Temporary relief having been granted by an Order of the Director dated September 19, 1941, 6 F.R. 4849;

A petition of intervention having also been filed by District Board 2;

Pursuant to appropriate orders and after due notice to all interested persons, a hearing in this matter having been held on October 27, November 25 and 28, and December 1, 1941, before Floyd McCown, a duly designated Examiner of the Division, at a hearing room thereof, in Washington, D. C., at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard and at which District Boards 2 and 3 and The Henry Clay Coal Mining Company appeared;

The parties having waived the preparation and submission of a report by the Examiner, and the record in the proceeding having therefore 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 § 323.8 (Alphabetical list of code members), § 323.6 (Special prices—(b) Railroad fuel prices for all movements except via lakes) and § 323.8 (Special prices—(c) Railroad fuel prices for movement via all lakes—all ports) in the Schedule of Effective Minimum Prices for District No. 3 for All Shipments Except Truck and § 323.23 (General prices) in the Schedule of Effective Minimum Prices for District No. 3 for Truck Shipments be and they hereby are amended to include therein the price classifications and mine, freight origin group, and other designations contained in Supplements R-I, R-II, R-III, and T attached hereto and made a part hereof, as the price classifications and designations of Scotch Hill Mines Nos. 1-13, 18-19, 21, 23-25, 28-30, and 32-35 of The Henry Clay Coal Mining Company, for relief contained in the several petitions filed herein are granted to the extent set forth above and in all other respects denied.

Dated: February 5, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

FOR ALL SHIPMENTS EXCEPT TRUCK

Note: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 323, Minimum Price Schedule for District No. 3 and supplements thereto.

§ 323.6 Alphabetical list of code members—Supplement R-I

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group numbers]

§ 323.8 Special prices—(b) Railroad fuel prices for all movements except via lakes—Supplement R-II

For railroad fuel prices, add the above mine index numbers to Group No. 1 as set forth in § 323.3 (b) in Minimum Price Schedule.

§ 323.8 Special prices—(c) Railroad fuel prices for movement via all lakes—all ports—Supplement R-III

For railroad fuel prices, add the above mine index numbers to Group No. 1 as set forth in § 323.8 (c) in Minimum Price Schedule.

FEDERAL REGISTER, Wednesday, February 22, 1942

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## FEDERAL REGISTER, Wednesday, February 25, 1942

### FOR TRUCK SHIPMENTS

#### § 323.23 General prices—Supplement T

**[Prices in cents per net ton for shipment into all market areas]**

| Code member Index | Mine | Seam | County | Lumps | Egg | Bottom | Lump | Egg | Bottom | Lump | Egg | Bottom | Lump | Egg | Bottom | Lump | Egg | Bottom | Lump | Egg | Bottom |
|-------------------|------|------|--------|-------|-----|--------|------|-----|--------|------|-----|--------|------|-----|--------|------|-----|--------|------|-----|--------|------|-----|--------|
| Henry Clay Coal Mining Co., The. | Scotch Hill #6... | Pittsburgh | Fre斯顿... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #1... | Pittsburgh | Fre斯顿... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #11... | Pittsburgh | Fre斯顿... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #5... | Pittsburgh | Fre斯顿... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #9... | Pittsburgh | Fre斯顿... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #12... | Pittsburgh | Fre斯顿... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #14... | Pittsburgh | Fre斯顿... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #10... | Pittsburgh | Fre斯顿... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #11... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #13... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #15... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #18... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #17... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #22... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #21... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #20... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #19... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #18... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #17... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #16... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #15... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #14... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #13... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #12... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #11... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #10... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #9... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #8... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #7... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #6... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #5... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #4... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #3... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #2... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |
| Henry Clay Coal Mining Co., The. | Scotch Hill #1... | Pittsburgh | Frestinian... | 230 | 230 | 230 | 205 | 205 | 195 | 185 |

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[F. R. Doc. 42-1518; Filed, February 20, 1942; 10:56 a. m.]

[District No. A-1264]

### PART 327—MINIMUM PRICE SCHEDULE, DISTRICT No. 7

**ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 7, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 7**

An original petition, pursuant to section 42 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent of price classifications and minimum prices for the coals of certain mines in District No. 7; and

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

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

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

*It is ordered, That,* pending final disposition of the above-entitled matter, temporary relief is granted as follows:

Commencing forthwith, § 327.11 (Low volatile coals: Alphabetical list of code members) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

*It is furthered 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 Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 42 II (d) of the Bituminous Coal Act of 1937.

*It is furthered 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: February 6, 1942.

[Seal]

DAW H. WHEELER,

Acting Director.
ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL PUBLICATION OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 8.  

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

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

[FEDERAL REGISTER, Wednesday, February 25, 1942] 1485

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§ 327.34 ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL PUBLICATION OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINE...
### Temporary and Conditionally Final Effective Minimum Prices for District No. 3

**Note:** The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 328, Minimum Price Schedule for District No. 6 and supplements thereto.

**FOR ALL SHIPMENTS EXCEPT TRUCK**

#### § 328.21 Alphabetical list of code members—Supplement R-I

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

<table>
<thead>
<tr>
<th>Mine index No.</th>
<th>Code member</th>
<th>Mine name</th>
<th>High volatile seam</th>
<th>Shipping point</th>
<th>Railroad</th>
<th>Freight other group No.</th>
<th>Price classifications by size group No.</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

1 Indicates change in shipping point from that shown for predecessor company.

#### § 328.11 Alphabetical list of code members—Supplement R-II

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

<table>
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<th>Mine index No.</th>
<th>Code member</th>
<th>Mine name</th>
<th>High volatile seam</th>
<th>Shipping point</th>
<th>Railroad</th>
<th>Freight other group No.</th>
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For destinations other than Great Lakes

| For Great Lakes suggests only
<table>
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<th>Price classifications by size group No.</th>
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</thead>
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See notes at end of table.
§ 328.11 Alphabetical list of code members—Supplement R-II—Continued

<table>
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<th>Mine index No.</th>
<th>Code member</th>
<th>Mine name</th>
<th>High volatile point</th>
<th>Subhorizontal</th>
<th>Shipping point</th>
<th>Railroad</th>
<th>Freight within group No.</th>
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<tbody>
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<td>3974</td>
<td>Paintsville Coal Co., Inc. etc</td>
<td>Paintsville No. 1</td>
<td>Millers Creek</td>
<td>1</td>
<td>Collatsa, Ky*</td>
<td>C&amp;O</td>
<td>61</td>
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<td>3973</td>
<td>Patton, G. K. (Mount Coal Co.)</td>
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<tr>
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<td>No. 5 Block</td>
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<td>N&amp;W</td>
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For Great Lakes cargo only
### General Prices for High Volatile Coals in Cents per Net Ton for Shipment into All Market Areas—Supplement T-I

<table>
<thead>
<tr>
<th>Mine</th>
<th>Scain</th>
<th>Base sizes</th>
<th>Base sizes</th>
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<tbody>
<tr>
<td></td>
<td>1</td>
<td>2</td>
<td>3</td>
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<tr>
<td></td>
<td>12</td>
<td>13</td>
<td>14</td>
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</tbody>
</table>

- **MORRISON & MORRISON (Frank B. Morrison)**
  - Btoy County, KY.
  - Kentleyeverett
  - Miller-Thomson
  - Vanderpool, Otis
  - Vanderpool, Otis

- **GREENUP COUNTY, KY.**
  - Brown, Matthew
  - Tackett & Henry (Bruce Tackett)

- **JACKSON COUNTY, KY.**
  - Cof, Lloyd
  - Lawrence County, KY.
  - Ables & Hewlett (Wesley Ables)
  - Magoffin County, KY.
  - Cole, Joe
  - Morgan County, KY.
  - Call, A. E.
  - Pike County, KY.
  - Childers, Brian
  - Feudley, Joe

- **SUB-DISTRICT No. 5—Hazard**
  - Wolfe County, KY.
  - Holton, Wiley
  - SUB-DISTRICT No. 4—KANAWHA
    - Kanawha County, W. VA.
    - Imperial Colliery Company
    - Nicholas County, W. VA.
    - Sims, M. H.
    - Putnam County, W. VA.
    - Landers, James Darold

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<td>14</td>
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</table>

- **Sub-District No. 5—LOGAN**
  - Logan County, W. VA.
  - Farmer, James R.
  - Morse, J. F.
  - Thompson, E. W.
  - Taylor, W. S.

- **CLAY COUNTY, KY.**
  - Ferron, Roy
  - Knox County, KY.
  - Bradford, J. C.
  - Earl J. (J. C.) Bradford

- **OXFORD COUNTY, KY.**
  - Jackson, G. W.

- **BOCKAMBUKE COUNTY, KY.**
  - Carathorne, R. I.
  - Collins, Morris
  - Crowder, Homer
  - Mine, Hart
  - Lowe & Dean (Walter Rowe)
  - Smith, Fred

- **WHITLEY COUNTY, KY.**
  - Bailey, Lewis
  - Baird, L. A.
  - Carr, Waltzer
  - Douglas, Robert Cohn
  - Eyster, Pan Mine
  - Pease, Hillard
  - Proctor, Asberry
  - Rose, Torn
  - Wied, R. J.

- **ANDERSON COUNTY, TENN.**
  - Kiser, Joe

- **CAMPELL COUNTY, TENN.**
  - Hall Coal Co. (H. L. Hall)
  - Moore, William L.
  - Shusberry, H. P. & W. B. (H. P. Shusberry)
  - Ward, Lum & Dewey Honeycut (Lum Ward)

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- **Sub-District No. 5—SOUTHERN APPALACHIAN**
  - Bell County, KY.
  - Farmer, James R.
  - Morse, J. F.
  - Thompson, E. W.
  - Taylor, W. S.

- **CLAY COUNTY, KY.**
  - Ferron, Roy
  - Knox County, KY.
  - Bradford, J. C.
  - Earl J. (J. C.) Bradford

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  - Mine, Hart
  - Lowe & Dean (Walter Rowe)
  - Smith, Fred

- **WHITLEY COUNTY, KY.**
  - Bailey, Lewis
  - Baird, L. A.
  - Carr, Waltzer
  - Douglas, Robert Cohn
  - Eyster, Pan Mine
  - Pease, Hillard
  - Proctor, Asberry
  - Rose, Torn
  - Wied, R. J.

- **ANDERSON COUNTY, TENN.**
  - Kiser, Joe

- **CAMPELL COUNTY, TENN.**
  - Hall Coal Co. (H. L. Hall)
  - Moore, William L.
  - Shusberry, H. P. & W. B. (H. P. Shusberry)
  - Ward, Lum & Dewey Honeycut (Lum Ward)
### General prices for high volatile coals in cents per net ton for shipment into all market areas—Supplement T-I—Continued

<table>
<thead>
<tr>
<th>Code member index</th>
<th>Mine</th>
<th>Seam</th>
<th>Base sizes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>**SUB-DISTRICT NO. 7—VIRGINIA **</td>
<td>Baldwin &amp; Church (W. W. Baldwin).</td>
<td>Widow Kennedy</td>
<td>277</td>
</tr>
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<td></td>
<td>Barnhart Brothers (R. C. Barnhart).</td>
<td>Widow Kennedy</td>
<td>277</td>
</tr>
<tr>
<td></td>
<td>Franks &amp; Rector (J. R. Rector).</td>
<td>Widow Kennedy</td>
<td>277</td>
</tr>
<tr>
<td></td>
<td>Harris &amp; Harris (Arnold H. Harris).</td>
<td>Widow Kennedy</td>
<td>277</td>
</tr>
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<td></td>
<td>Keene, Harold C.</td>
<td></td>
<td>277</td>
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<tr>
<td></td>
<td>Thompson, A. A.</td>
<td>Widow Kennedy</td>
<td>277</td>
</tr>
<tr>
<td></td>
<td>Whiteh, C. T.</td>
<td>Widow Kennedy</td>
<td>277</td>
</tr>
<tr>
<td></td>
<td>TAYWELL &amp; RUSSELL COUNTIES, VA.</td>
<td></td>
<td>277</td>
</tr>
<tr>
<td></td>
<td>Consumers Mining Corporation.</td>
<td></td>
<td>277</td>
</tr>
<tr>
<td></td>
<td>Tate, G. S. (Tacoma Coal Co.)</td>
<td></td>
<td>277</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td><strong>SUB-DISTRICT NO. 8—WILLIAMSON COUNTY, KY.</strong></td>
<td>Meeting House</td>
<td>Lower Banner</td>
<td>265</td>
</tr>
<tr>
<td></td>
<td>Consumers Mining Corporation.</td>
<td>Upper Banner</td>
<td>265</td>
</tr>
<tr>
<td></td>
<td>Consumers Mining Corporation.</td>
<td>Upper Banner</td>
<td>265</td>
</tr>
<tr>
<td></td>
<td>Osburn, Ottis (Osborne Coal Co.).</td>
<td>Laurel Fork Coal</td>
<td>240</td>
</tr>
<tr>
<td></td>
<td>Sanders, Barney (Sanders Coal Co.).</td>
<td>No. 5 Block</td>
<td>240</td>
</tr>
</tbody>
</table>

*Indicates previously classified these size groups.

§ 328.42 General prices for low volatile coals—Supplement T-II

<table>
<thead>
<tr>
<th>Code member index</th>
<th>Mine</th>
<th>Seam</th>
<th>Base sizes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>TAYWELL COUNTY, VA.</td>
<td></td>
<td>300</td>
</tr>
</tbody>
</table>

[F. R. Doc. 42-1525; Filed, February 20, 1942; 10:58 a.m.]
tions to Charlestown and Speeds, Indiana, is deleted, and Supplement R, § 331.9 (Adjustments in f. o. b. mine prices), attached hereto and hereby made a part hereof, is effective in its stead.

It is further ordered, That pleadings in opposition to, 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 Governing Practice and Procedure before the Bituminous Coal Division, in accordance with 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: February 10, 1942.

[SEAL]  
DAVID WHEELER,  
Acting Director.

EFFECTIVE MINIMUM PRICES FOR DISTRICT 13  

Note: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 331, Minimum Price Schedule for District No. 11 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK  § 331.9 Adjustments in f. o. b. mine prices. Freight Origin Group Numbers and the Amount of Deductions for Freight Origin Group Numbers from Mines Included in each Freight Origin Group to Destinations as Listed Below:

<table>
<thead>
<tr>
<th>BC</th>
<th>LS</th>
<th>EV</th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
<td>31</td>
<td>32</td>
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<td>33</td>
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<td>40</td>
<td>41</td>
<td>42</td>
</tr>
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<td>43</td>
<td>44</td>
<td>45</td>
</tr>
<tr>
<td>46</td>
<td>47</td>
<td>48</td>
</tr>
</tbody>
</table>

Charleston......  17   17   17
Speeds.........  17   17   17

1 Does not apply from Freight Origin Group No. 51 for those mines on the East Coast.

Dated: January 30, 1942.

[SEAL]  
DAVID WHEELER,  
Acting Director.

FINDINGS OF FACT, CONCLUSIONS OF LAW, MEMORANDUM OPINION AND ORDER IN THE MATTER OF THE PETITION OF DISTRICT BOARD 13 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF MINE INDEX NO. 1261 AND 1263 IN DISTRICT 13, FOR RAIL SHIPMENT

This proceeding was instituted upon a petition filed with the Bituminous Coal Division by District Board 13, pursuant to section 4 II (b) of the Bituminous Coal Act of 1937. The Board, in its petition, proposed price classifications and minimum prices for the coals of certain mines in District 13, including, among others, the coals of the Riverside Mine (Mine Index No. 1261) of the Pratt-Americo Coal Company and the Winn-

Pratt No. 1 Mine (Mine Index No. 1293) of D. F. Winn, both code members in District 13. The petition requested temporary and permanent relief.

In accordance with this prayer for relief, the Director, in an Order dated November 4, 1941, 6 F. R. 6512, granted temporary relief and conditionally provided for final relief for the coals of the Winn-Pratt No. 1 Mine for rail shipment, for all use except steamship bunker fuel, railroad locomotive fuel and blacksmithing. However, no price classifications and minimum prices were established for the coals of the Riverside Mine for rail shipment and for the coals of the Riverside Mine and Winn-Pratt No. 1 Mine for steamship vessel use.

Thereafter, by an Order of the Director dated November 4, 1941, the requests for rail prices for the Riverside Mine and prices for the coals of the Riverside and Winn-Pratt No. 1 Mines for steamship vessel use were severed from Docket No. A-1089 and designated as Docket No. A-1089 Part II. At the same time, temporary relief, pending final disposition of these matters, was granted.

Pursuant to Order of the Director and after due notice to all interested persons, a hearing in the matter was held on December 10, 1941, before Joseph A. Huston, a duly designated Examiner of the Division, at a hearing room thereof in Washington, D. C. All interested persons were afforded an opportunity to present, adduce evidence, cross-examine witnesses and otherwise be heard. Petitioner, District Board 13, appeared. The preparation and filing of a report by the Examiner was waived and the matter was therefore submitted to the undersigned.

Two matters are up for consideration in this proceeding. The first is the establishment of permanent price classifications and minimum prices for the coals of the Riverside Mine for rail shipment. No objection was made at the hearing to the prices temporarily established in the Order of November 4, 1941, and I find that they are proper and should be made permanent.

Secondly, there is the matter of the establishment of permanent price classifications and minimum prices for the coals of the Riverside Mine and the Winn-Pratt No. 1 Mine for steamship vessel fuel use. District Board 13 in its petition proposed the price of $2.65 per ton for Size Group 13 coals for both of these mines for vessel fuel. The Director, in his Order of November 4, 1941, established a temporary price of $2.70 per ton. Witness Cross explained that the prices of these mines operate in the Pratt Seam in Walker County, Alabama, and were to be confused with the mines operating in the Pratt Seam in Jefferson County, Alabama, for the reason that the all-rail prices, including vessel fuel, are generally higher for Pratt seam mines operating in Jefferson County than for those operating in Walker County. It appears that there is a material difference in the quality of coal mined from this seam in the two counties. Furthermore, the witness stated that a price of $2.65 per ton would relate these mines to other Walker County, Pratt Seam mines, such as Mine Index No. 70, whereas as $2.70 per ton would relate these mines to other Pratt Seam mines located in Jefferson County. In view of the nature of the coals produced at the Riverside and the Winn-Pratt No. 1 Mines, it appears that this 5-cent differential is necessary in order to permit the Pratt Seam coals produced by Walker County mines to maintain their existing fair competitive opportunities. Therefore, I find that $2.65 per ton is proper and should be permanently established.

Upon the basis of the uncontested testimony in this proceeding, I find and conclude that the establishment of such price classifications and effective minimum prices as set forth in Supplements R-I and R-II, annexed hereto, effectuates the purposes of sections 4 II (a) and 4 II (b) of the Act and complies in all respects with the standards thereof.

Now, therefore, it is ordered, That commencing fifteen (15) days from the date hereof, § 333.5 (General prices), and § 333.7 (Special prices—Prices for shipment by railroad, applicable to all coal sold for steamship vessel fuel) in the Schedule of Effective Minimum Prices for District 13 For All Shipments Except Truck be and it is hereby amended in accordance with the classifications and minimum prices set forth in Supplements R-I and R-II, annexed hereto and made a part hereof.

Dated: January 30, 1942.

[SEAL]  
DAVID WHEELER,  
Acting Director.

§ 333.6 General prices—Supplement R-I

<table>
<thead>
<tr>
<th>Mine</th>
<th>Code member</th>
<th>Mine</th>
<th>Subdistrict</th>
<th>Seam</th>
<th>Freight origin group</th>
</tr>
</thead>
<tbody>
<tr>
<td>1261</td>
<td>Pratt-Coal Co.</td>
<td>WALKER COUNTY, ALA.</td>
<td>Riverside</td>
<td>1 Pratt</td>
<td>31</td>
</tr>
</tbody>
</table>

Shipping Point: Coffs, Ala.  Railroad: L.E.N.

This mine shall have a price to size groups 18, 19, 22 and 23 on all price tables, 106 under the prices listed in size groups 12, 14, 17 and 18, respectively, for mine with Index Number 15.

This mine shall have the same price in size group 24 on all price tables as listed for mine with Index Number 15.
§ 333.7 Special prices—(c) Prices for shipment by railroad, applicable to all coal sold for steamship vessel fuel—Supplement R-II

[Prices f. o. b. mines for shipment by railroad, applicable to all coal sold for steamship vessel fuel subject to price instructions and exceptions]

<table>
<thead>
<tr>
<th>Mine Index No.</th>
<th>Code Member</th>
<th>Mine Name</th>
<th>Subdistrict</th>
<th>Seam</th>
<th>Freight Origin Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Walker County, Ala.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1293</td>
<td>Pratt-American Coal Co.</td>
<td>Riverside</td>
<td>1</td>
<td>Pratt</td>
<td>120</td>
</tr>
<tr>
<td>1293</td>
<td>Winn, D. F.</td>
<td>Winn-Pratt #1</td>
<td>1</td>
<td>Pratt</td>
<td>180</td>
</tr>
</tbody>
</table>

These mines shall have a price of $2.65 for size group 13 for Steamship Vessel Fuel.

[Docket No. A-1281]

PART 339—MINIMUM PRICE SCHEDULE, DISTRICT No. 19

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 19 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 19 FOR TRUCK SHIPMENT

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 19 for truck shipment;

It is ordered, That pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 339.4 (Code member price index) is amended by adding thereto Supplement R, and § 339.21 (General prices in cents per net ton for shipment into all market areas) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

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

Dated: February 7, 1942.

[SEAL]

Dan H. Wheeler,
Acting Director.
TITLE 31—MONEY AND FINANCE:  
TREASURY  
CHAPTER I—MONETARY OFFICES  
PART 131—GENERAL LICENSES UNDER EXECUTIVE ORDER No. 8389, APRIL 10, 1940, AS AMENDED, AND REGULATIONS ISSUED PURSUANT THERETO  
AMENDMENT OF GENERAL LICENSE No. 42 UNDER EXECUTIVE ORDER No. 8389, APRIL 10, 1940, AS AMENDED, AND REGULATIONS ISSUED PURSUANT THERETO, RELATING TO TRANSACTIONS IN FOREIGN EXCHANGE, ETC.  
FEBRUARY 23, 1942.  
General License No. 42 is amended to read as follows:  
§ 131.42 General License No. 42.  
(a) A general license is hereby granted:  
(1) Licensing as a generally licensed national any partnership, association, corporation or other organization which has been domiciled in, or a subject, citizen, or resident of a blocked country by reason of any fact other than that such individual has been domiciled in, or a subject, citizen, or resident of a blocked country at any time on or since the effective date of the Order;  
(2) Any individual who is a national of a blocked country by reason of any fact other than that such individual has been domiciled in, or a subject, citizen, or resident of a blocked country at any time on or since the effective date of the Order;  
(3) Any individual who enters a blocked country after February 23, 1942; or  
(4) Any national of Japan.  
(b) The following provisions shall govern the filing of reports under this general license:  
(1) Before effecting any transaction pursuant to this general license, the following persons licensed herein as generally licensed nationals shall file a report in triplicate on Form TFR-42 with the appropriate Federal Reserve Bank:  
(a) Any individual who on or since the effective date of the Order has acted or purported to act directly or indirectly for the benefit or on behalf of any blocked country, including the government thereof;  
(b) Any individual who is a national of a blocked country by reason of any fact other than that such individual has been domiciled in, or a subject, citizen, or resident of a blocked country at any time on or since the effective date of the Order;  
(c) Any individual who enters a blocked country after February 23, 1942; or  
(d) Any individual who or since the effective date of the Order has acted or purported to act directly or indirectly for the benefit or on behalf of any blocked country, including the government thereof.  
(c) This general license shall not be deemed to license as a generally licensed national:  
* * *

8715 and by Order No. 1 of the Board of Economic Warfare of September 15, 1944, the articles or materials described in Proclamation No. 2465 of August 27, 1941, is hereby ordered and determined as follows:  
1. Effective March 1, 1942, Export Control Schedule A is revoked.  
2. Effective March 1, 1942, the articles and materials designated in Proclamation No. 2465 of March 4, 1941, issued pursuant to section 6 of the Act of July 2, 1940 (54 Stat. 714, 50 U.S.C. Sup. sec. 901) shall include any model, design, photograph, photographic negative, document or other article or material, containing a plan, specification, or descriptive or technical information of any kind (other than that appearing generally in a form available to the public) which can be used or adapted for use in connection with any process, synthesis or operation in the production, manufacture, reconstruction, servicing, repair, or use of any of the articles or materials hereinafter listed the exportation of which is prohibited or curtailed in accordance with the provisions of section 6 of the act of Congress approved July 2, 1940, or of any basic or intermediary constituent of any such articles or materials.  
3. The articles and materials hereinafter listed include all of the forms, conversions and derivatives of such articles and materials described in Export Control Schedules No. 1 through 27 inclusive and Export Control Schedules Y and Z.  

List  
1. Abrasive Manufactures.  
2. Aircraft—Parts, Equipment & Accessories (In addition to those listed in the President's Proclamation of May 1, 1937).  
3. Aluminum Alloy Products.  
5. Aluminum Products.  
6. Antimony.  
7. Beryllium.  
8. Bismuth.  
10. Chemicals.  
11. Cobalt.  
13. Copper.  
15. Diamonds, Industrial.  
17. Electrical Machinery & Apparatus.  

* * *

[FR Doc. 42-1626 Filed, February 24, 1942 1:01 a. m.]  

TITLE 32—NATIONAL DEFENSE  
CHAPTER VIII—EXPORT CONTROL  
SUBCHAPTER C—BOARD OF ECONOMIC WARFARE  
EXPORT CONTROL SCHEDULE C  
By virtue of the authority vested in me by Executive Orders No. 9060 and 9061 and by Order No. 16 of the Board of Economic Warfare of September 15, 1944, the articles or materials described in Proclamation No. 2465 of August 27, 1941, is hereby ordered and determined as follows:  
1. Effective March 1, 1942, Export Control Schedule A is revoked.  
2. Effective March 1, 1942, the articles and materials designated in Proclamation No. 2465 of March 4, 1941, issued pursuant to section 6 of the Act of July 2, 1940 (54 Stat. 714, 50 U.S.C. Sup. sec. 901) shall include any model, design, photograph, photographic negative, document or other article or material, containing a plan, specification, or descriptive or technical information of any kind (other than that appearing generally in a form available to the public) which can be used or adapted for use in connection with any process, synthesis or operation in the production, manufacture, reconstruction, servicing, repair, or use of any of the articles or materials hereinafter listed the exportation of which is prohibited or curtailed in accordance with the provisions of section 6 of the act of Congress approved July 2, 1940, or of any basic or intermediary constituent of any such articles or materials.  
3. The articles and materials hereinafter listed include all of the forms, conversions and derivatives of such articles and materials described in Export Control Schedules No. 1 through 27 inclusive and Export Control Schedules Y and Z.  

Table  
1. Abrasive Manufactures.  
2. Aircraft—Parts, Equipment & Accessories (In addition to those listed in the President's Proclamation of May 1, 1937).  
3. Aluminum Alloy Products.  
5. Aluminum Products.  
6. Antimony.  
7. Beryllium.  
8. Bismuth.  
10. Chemicals.  
11. Cobalt.  
13. Copper.  
15. Diamonds, Industrial.  
17. Electrical Machinery & Apparatus.  

* * *

[FR Doc. 42-1626 Filed, February 24, 1942 1:01 a. m.]  

[FR Doc. 42-1625 Filed, February 24, 1942 11:01 a. m.]
10. Engines—Aircraft, Parts.
22. Fibers & Manufactures of Nylon and Silk.
23. Firearms, Ammunition & Firearms.
24. Glass—Bullet-proof, laminated glass containing 3 or more sheets.
25. Graphite.
27. Insecticides, Fungicides & Disinfectants.
28. Instruments. (All types listed).
29. Iridium.
32. Lead.
33. Locomotives.
34. Machinery—All except Farm Machinery, Printing & Bookbinding, Textile Sewing & Shoe.
35. Magnesium.
36. Manganese.
37. Mercury.
38. Mica—Built-up & Mica Products, Manufactures, Natural, Raw and Processed.
40. Naval Stores.
41. Nickel.
42. Oils & Fats—Animal, Fish & Marine Mammal & Vegetable.
43. Optical Elements.
44. Petroleum Products and Tetraethyl Lead.
45. Pigments.
46. Platinum Group Salts & Compounds.
47. Platinum Group Metals.
48. Quartz Crystals.
49. Radium.
50. Rubber (including all types synthetic rubber).
51. Scientific & Professional Instruments, Apparatus & Supplies.
52. Tantalum.
53. Thorium.
54. Tin.
55. Titanium.
57. Tungsten.
58. Uranium.
59. Valves.
60. Vanadium.
61. Vehicles, Motor.
62. Wood Pulp.
63. Zinc.
64. Zirconium.
65. Arms, ammunition and implements of war as defined in the President's Proclamation of May 1, 1937.
66. Clothing (other than dress uniforms) designed for military or naval use.
68. Gas masks and components.
69. Kyanite & Stillimanite.
70. Magnesite.
71. Radioactive Materials.
72. Silver Alloys and Plating Processes.
73. Sonic Apparatus and Systems.
74. Synthetic textiles, including: Nylon (including all forms thereof) Rayon (including all forms thereof) Synthetic textiles in all forms thereof other than rayon and nylon.
75. Vessels or boats of all kinds in addition to those specified in the President's Proclamation of May 1, 1937.
76. Vitamins, vitamin preparations and concentrated foods.
77. Any articles or materials, other than those specified above, designed or intended primarily for military or naval use.

By direction of the President.

MILDO PERKINS, Executive Director.

WASHINGTON, D. C.
February 20, 1942.

[FR Doc. 42-2544; Filed, February 20, 1942; 4:52 p.m.]

CHAPTER IX—WAR PRODUCTION BOARD

Subchapter A—General Provisions

PART 903—DELEGATION OF AUTHORITY

Amended Definition of "Passenger Automobiles"—Amendment No. 1 to Supplementary Directive No. 1A

Paragraph (b) of Supplementary Directive No. 1A (§ 903.2), issued February 3, 1942, is hereby amended to read as follows:

§ 903.2 Further delegation of authority to the Office of Price Administration with reference to rationing of passenger automobiles.

(b) As used in this Supplementary Directive, the term "new passenger automobiles" means any 1942 model passenger automobile having a seating capacity of not more than 10 persons, irrespective of the number of miles it has been driven, or any other passenger automobile which has been driven less than 1,000 miles, including other body types such as ambulances, hearses, station wagons, taxis, built upon a standard or lengthened passenger car chassis. (E.O. 9024, Jan. 16, 1942, 7 F.R. 329, E.O. 9040, Jan. 24, 1942, 7 F.R. 567; Sec. 2(a), Executive Order No. 903.1, dated February 14, 1942, may not be delivered, shipped or transferred after April 20, 1942.

2. New Domestic Mechanical Refrigerators which were sold, leased and traded, but not delivered, shipped or transferred prior to 10:00 A. M., Eastern War Time, February 14, 1942, may not be delivered, shipped or transferred unless such delivery, shipment or transfer is made pursuant to the provisions of subparagraph (a)(1), or unless such refrigerators were actually in transit at 10:00 A. M., Eastern War Time, February 14, 1942. Issued this 23rd day of February, 1942.

J. S. KNOWLSON, Director of Industry Operations.

[FR Doc. 42-1858; Filed, February 23, 1942; 11:57 a.m.]

PART 908—DOMESTIC MECHANICAL REFRIGERATORS

Supplementary General Limitation Order L-5—c Further Restricting and Finally Prohibiting the Production of Domestic Mechanical Refrigerators

In accordance with the provisions of §§ 988.1, 988.2, and 988.3 ('General Limitation Orders L-5, L-5—a and L-5—b'), which follow this order supplements, it is hereby ordered that:

§ 988.4 Supplementary General Limitation Order L-5—e (a) Prohibition of production of domestic mechanical refrigerators after April 30, 1942. Effective May 1, 1942, no Manufacturer shall produce any Domestic Mechanical Refrigerators. (b) Restrictions for the period up to April 30, 1942. During the period from
February 14, 1942 to April 30, 1942, inclusive:

(1) No Manufacturer shall produce more Domestic Mechanical Refrigerators than three times the number of such Refrigerators which he could produce under the provisions of paragraph (a) of Supplementary Limitation Order L-5-a during either month of January or February, 1942.

(2) The ratio of Deluxe Models to all other models of Domestic Mechanical Refrigerators produced by any Manufacturer shall not exceed the ratio of Deluxe Models to all other models of Domestic Mechanical Refrigerators produced by him during the period from August 1, 1941 to January 31, 1942, inclusive.

(3) From its effective date the provisions of this Order shall supersede the provisions of Supplementary General Limitation Order L-5-a.

(c) Governmental orders included in the foregoing restrictions. The restrictions in paragraphs (a) and (b) above, shall apply to the production of all Domestic Mechanical Refrigerators, including those required to fulfill contracts or orders coming under the provisions of Paragraph (c) of Supplementary General Limitation Order L-5-a, as amended January 6, 1942.

(d) Replacement parts. Nothing in this Order shall be construed to prohibit or limit the production of replacement parts for Domestic Mechanical Refrigerators.

(e) Definition. For the purposes of this Order:

(1) "Deluxe Model" means any Domestic Mechanical Refrigerator of the type customarily known as a "Deluxe," "Semi-Deluxe," or "High-Humidity" model.

(2) "Semi-Deluxe," or "High-Humidity" models to all other models of Domestic Refrigerators produced by any Manufacturer during the period from August 1, 1941 to January 6, 1942.

(3) The provisions of this paragraph (f) shall apply with respect to stocks of Chlorinated Rubber on hand on the effective date of this Order. Persons who have stocks of Chlorinated Rubber on hand on said date, the use of which said stocks is prohibited by provisions of this paragraph (f), shall forthwith report such fact and any details thereof to the Chemicals Branch, War Production Board, and shall hold such Chlorinated Rubber for disposition by the Director of Industry Operations.

A new paragraph (g) is hereby added to read as follows:

(g) Notification of customers. Producers shall, as soon as practicable, notify each of their regular consumers of the requirements and restrictions contained in this Order, and shall continue to so notify each of such consumers so notified, until revoked.

A new paragraph (h) is hereby added to read as follows:

(h) Appeals. Any person affected by this Order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him, or that it would result in a degree of unemployment which would be unreasonably disproportionate compared with the amount of Chlorinated Rubber conserved, or that compliance with this Order would disrupt or impair a program of conversion from nondefense to defense work, may appeal to the War Production Board, Reference: M-48, attention Chemicals Branch, setting forth the pertinent facts and the reason he considers he is entitled to relief. The Director of Industry Operations may thereupon take such action as he deems appropriate. [P. D. Reg. 1, amended December 23, 1941, 6 F.R. 6680; W.P.B. Reg. 1, Jan. 26, 1942; 7 F.R. 561, E.O. 9024, Jan. 26, 1942, and Amendment thereto, June 27, 1942, 7 F.R. 527, sec. 2(a), Pub. No. 671, 76th Cong., 3d Sess., as amended by Pub. No. 89, 77th Cong., 1st Sess.]

This Order shall take effect immediately.

Issued this 23d day of February, 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[6 F.R. 5584.]

PART 1013—CHLORINATED RUBBER

Amendment No. 1 to General Preference Order No. M-46 To Conserve the Supply and Direct the Distribution of Chlorinated Rubber

Section 1013.1 (General Preference Order No. M-46) is hereby amended in the following particulars:

Paragraph (i) is hereby relettered and made paragraph (j).

A new paragraph (i) is hereby added to read as follows:

§ 1013.1 General Preference Order M-46.

(1) Restrictions on use. Except as may be otherwise directed by the Director of Industry Operations, on and after the effective date hereof,

(1) No person shall use Chlorinated Rubber for any purpose specified below:

As a paint, for interior use (not including floor coating) in industrial plants where resistance to chemical corrosion is required. As a paint, for interior use in arsenals. For machine use in ship-bottom and submarine paints.


(iii) For treating bullets.

(iv) For adhering natural and synthetic rubber articles to metal.

(v) For electrical insulation.

(2) No person shall knowingly deliver Chlorinated Rubber for a use not specified in paragraph (f) (1) above.

(3) The provisions of this paragraph (f) shall apply with respect to stocks of Chlorinated Rubber on hand on the effective date of this Order. Persons who have stocks of Chlorinated Rubber on hand on said date, the use of which said stocks is prohibited by provisions of this paragraph (f), shall forthwith report such fact and any details thereof to the Chemicals Branch, War Production Board, and shall hold such Chlorinated Rubber for disposition by the Director of Industry Operations.

A new paragraph (g) is hereby added to read as follows:

(g) Notification of consumers. Producers shall, as soon as practicable, notify each of their regular consumers of the requirements and restrictions contained in this Order, and shall continue to so notify each of such consumers so notified, until revoked.

A new paragraph (h) is hereby added to read as follows:

(h) Appeals. Any person affected by this Order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him, or that it would result in a degree of unemployment which would be unreasonably disproportionate compared with the amount of Chlorinated Rubber conserved, or that compliance with this Order would disrupt or impair a program of conversion from nondefense to defense work, may appeal to the War Production Board, Reference: M-48, attention Chemicals Branch, setting forth the pertinent facts and the reason he considers he is entitled to relief. The Director of Industry Operations may thereupon take such action as he deems appropriate. [P. D. Reg. 1, amended December 23, 1941, 6 F.R. 6680; W.P.B. Reg. 1, Jan. 26, 1942; 7 F.R. 561, E.O. 9024, Jan. 26, 1942, and Amendment thereto, June 27, 1942, 7 F.R. 527, sec. 2(a), Pub. No. 671, 76th Cong., 3d Sess., as amended by Pub. No. 89, 77th Cong., 1st Sess.]

This Order shall take effect immediately.

Issued this 23d day of February, 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[6 F.R. 5587; Filed, February 23, 1942; 11:57 a.m.]

PART 1116—SHOTGUNS

Limitation Order No. L-55 to Restrict the Manufacture and Sale of Shotguns

Whereas national defense requirements have created a shortage of parts needed to manufacture and utilize for the manufacture of such shotguns all facilities which can be so converted or used;

Now, therefore, it is hereby ordered,

That:

§ 1116.1 Limitation Order L-55—(a) Definitions. For the purposes of this Order:

(1) "Shotgun" means single barrel, double barrel, repeating, riot, pump and any other type of Shotgun of any gauge whatsoever.

(2) "Manufacturer" means any person engaged in the manufacture of Shotguns.

(b) Prohibition of sales. From and after the effective date of this Order no manufacturer shall sell, deliver, ship, transfer or otherwise dispose of any 12-gauge shotgun (whether produced before or after the effective date of this Order) except:

(1) For Government use only to any Agency, Department, Office, or Officer of the Federal Government or of any state or local government; or pursuant to orders placed by the government of the United Kingdom, Canada, and other Dominions, Crown Colonies and Protectorates of the British Empire, Belgium, China, Greece, the Kingdom of the Netherlands, Norway, Poland, Russia and Yugoslavia; or for the account of any foreign country pursuant to the Act of March 11, 1941, "An Act to Promote the Defenses of the United States" (Lend-Lease Act);

(2) That any such shotguns actually in transit on the effective date of this Order may be delivered to their immediate destination;

(iii) Pursuant to a specific order to the Director of Industry Operations.

(c) Prohibition of manufacture. From and after the effective date of this order no person shall, except pursuant to specific order of the Director of Industry Operations:

(1) Use any machinery, machine tools, dies, jigs, fixtures or other equipment which could be used to assemble or manufacture a 12-gauge shotgun or any part thereof, or any part which could be used therein, for the purpose of assembling or manufacturing any shotgun other than a 12-gauge shotgun or any part thereof, or any part thereof, or any part thereof, or any part thereof;

(2) Manufacture during the period February 23 to February 28 inclusive, more shotguns other than 12-gauge shotguns than 59% of the aggregate number of shotguns manufactured by such person during the calendar year 1940.
3d Sess., as amended by Pub. Law 89, 77th Cong. 1st Sess.)
Issued this 23d day of February 1942.
J. S. KNOWLSON,
Director of Industry Operations.
[F. R. Doc. 42-1380; Filed, February 23, 1942; 11:57 a. m.]

PART 1041—PRODUCTION, Refining, Transportation, and Marketing of Petroleum
Amendment No. 1 to Preference Rating Order No. P-98

1. Section 1041.1 (Preference Rating Order No. P-98, paragraph (e) (2)) is hereby amended to read as follows:

§ 1041.1 Preference rating order P-98.

(e) * * *

(2) In addition to the requirements of paragraph (e) (1), the Operator (but not a Supplier) in order to apply any of the preference ratings of A–2 or higher assigned by paragraph (b) of this Order, other than ratings assigned by paragraphs (b) (1) (ii) and (b) (2) (iv) hereof, must communicate with the Office of Petroleum Coordinator, Washington, D. C., Ref: P-98, supplying in detail the following information:

(i) date of actual breakdown or suspension of operations (if applicable);

(ii) the equipment to be repaired and its operating importance (if applicable);

(iii) the material and quantity thereof necessary to effectuate the Repair or to initiate or maintain operations;

(iv) the supply of the necessary Material which the Operator has on hand or available; and

(v) the names and addresses of Suppliers from whom the Material is to be obtained and the earliest delivery dates assured by any such Supplier for delivery of the minimum necessary quantity of Material.

The Director of Industry Operations will notify the Operator whether, and to what extent, the application is approved. A copy of such notification shall be furnished by the Operator to any Supplier to evidence the proper rating granted pursuant to the provisions of this Order.

2. Section 1041.1 (Preference Rating Order No. P-98, paragraph (e) (3)) is hereby amended to read as follows:

(3) In addition to the requirements of paragraph (e) (1), the Operator (but not a Supplier) in order to apply any preference ratings, other than those of A–2 or higher assigned by paragraph (b) of this Order, must obtain the counter-signature of the Director in Charge of the nearest District Office of the Office of Petroleum Coordinator upon the purchase order for which Supplier has endorsed and signed pursuant to paragraphs (e) (1); unless,

(1) any completely fabricated, individual item to which a preference rating is to be applied has a cost to the Operator of less than 50% of the twelfth of the aggregate number of such guns manufactured by such person during the calendar year 1940;

(2) the rating which is to be applied in obtaining delivery of such an item is assigned by paragraphs (b) (1) (iv); (b) (2) (i) or (ii); (b) (3) (ii), (iii), (iv), or (b) (4) (i), (ii).

3. This amendment shall take effect immediately.

Issued this 20th day of February 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42–1452; Filed, February 20, 1942; 5:04 p. m.]

PART 1110—GOOSE AND DUCK FEATHERS

Conservation Order M–102—To Conserve the Supply and Direct the Distribution of Goose and Duck Feathers

Whereas the fulfillment of requirements for the defense of the United States has created a shortage of goose and duck feathers for the combined needs of defense, private account, and export, rendering it necessary that all goose and duck feathers be used in the manufacture of products for the armed forces of the United States; and it is necessary in the public interest and to promote the National Defense to conserve the supply and direct the distribution of goose and duck feathers in the manner hereafter in this Order provided:

Now, therefore, it is hereby ordered, That:

§ 1110.1 General conservation order M–102—(a) Applicability of Priorities Regulation No. 1. This Order and all transactions affected thereby are subject to the provisions of Priorities Regulation No. 1 (Part 944), as amended from time to time, except to the extent that any provision hereof may be inconsistent therewith, in which case the provisions of this Order shall govern.

(b) Definitions. For the purposes of this Order:

(1) “Goose Feathers” means goose feathers and goose down, both domestic and imported, which have been plucked.

(2) “Duck Feathers” means duck feathers and duck down, both domestic and imported, which have been plucked.

(3) “Dealer” means any person who purchases, sorts, grades, and resells goose feathers or duck feathers.

(c) Restrictions on sales and deliveries of goose and duck feathers. No person except Defense Supplies Corporation shall hereafter sell or deliver any goose or duck feathers as such except to a Dealer, Defense Supplies Corporation or a manufacturer for use by such manufacturer in filling Defense Orders having a preference rating of A–1–j or better.

(d) Restrictions on use of goose and duck feathers. No person shall hereafter use any goose or duck feathers in the
manufacture or production of any article except for the purposes of filling Defense Orders having a preference rating of A-1 or better.

(e) Appeal. Any person affected by this Order who considers that compliance therewith would work an unreasonable hardship upon him, or that it would result in a degree of unemployment which would be unreasonably disproportionate compared with the amount of government duck feathers conserved, or that compliance with this Order would disrupt or impair a program of conversion from nondefense to defense work, may appeal to the War Production Board by letter or telegram, Ref: M-102, setting forth the pertinent facts and the reason he considers he is entitled to relief. The Director of Industry Operations may thereupon take such action as he deems appropriate.

(f) Records. All persons affected by this Order shall keep and preserve for not less than five years accurate and complete records concerning inventories, production and sales.

(g) Communications to War Production Board. All reports required to be filed hereunder, and all communications concerning this Order, shall, unless otherwise directed, be addressed to: War Production Board, Washington, D. C. Ref: M-102.

(h) Violations. Any person who wilfully violates any provision of this Order, or who by any act or omission fails to keep or information to be furnished thereunder, and all communications concerning this Order, shall, unless otherwise directed, be addressed to: War Production Board, Washington, D. C. Ref: M-102.

(i) Effective date. This Order shall take effect immediately.

PART 1367—FERTILIZERS

TEMPORARY MAXIMUM PRICE REGULATION NO. 1—MIXED FERTILIZER, SUPERPHOSPHATES AND POTASH

In the judgment of the Price Administrator, it is necessary, in order to effectuate the purposes of the Emergency Price Control Act of 1942, to issue a temporary regulation establishing as a maximum price or maximum prices for mixed fertilizer, superphosphate and potash, the price or prices prevailing with respect thereto within five (5) days prior to the date of issuance of such temporary regulation.

Part 1367.1 Maximum prices for mixed fertilizer, superphosphate and potash.

(a) On and after February 27, 1942, to and including April 27, 1942, regardless of the maximum price or prices established, lease, or other obligation, no person shall sell or deliver mixed fertilizer, superphosphate or potash, (i) delivered in the same type of container or bag, (ii) to and including April 27, 1942, at prices higher than the maximum prices established herein.

(b) (1) The maximum price shall be the price as set forth in either (a) the written or printed price schedule last issued, prior to February 21, 1942, or (b) the written or printed price schedule last issued, prior to February 21, 1942, and effective for any portion of the period from and including February 16, 1942, to and including February 20, 1942, at prices higher than the maximum prices established herein.

Issued this 24th day of February, 1942.

J. S. KNOWLSON,
Director of Industry Operations.

CHAPTER XI—OFFICE OF PRICE ADMINISTRATION

PART 1345—FATS AND OILS AND THEIR DERIVATIVE PRODUCTS

ORDER REVOKEING SCHEDULE NO. 25—ELIMINATION OF SPECULATIVE AND INFLATIONARY PRICE PRACTICES WITH RESPECT TO FATS AND OILS AND THEIR PRODUCTS

Schedule 25 6 was issued on August 28, 1941, by the Office of Price Administration and Civilian Supply for the purpose of preventing speculation, hoarding, and undue price rises through the elimination of certain trade practices. On February 3, 1942, Amendment No. 2 to Price Schedule No. 25 was issued by the Office of Price Administration, establishing maximum prices upon fats and oils and their products. Schedule No. 25 has since been based on prices determined in accordance with the purposes of the sections enumerated above. Therefore, under the authority vested in me by the Emergency Price Control Act of 1942, it is hereby directed that:

Sections 1343.1 to 1343.11, inclusive, Schedule No. 25, is hereby revoked. (Pub. No. 421, 77th Cong. 2d Sess.)

This Order of Revocation is effective February 23, 1942. Issued this 23d day of February 1942.

LEON HENDERSON, Administrator.

[F. R. Doc. 42-1960: Filed, February 23, 1942; 8:57 p.m.]

6 F.R. 4643, 4684, 4685. 7 F.R. 766.
quantities of 250 pounds or more, to a consumer, more onerous than those in effect on March 5, 1942, or to such consumer for the period from and including February 16, 1942, to and including February 20, 1942. No person shall offer, solicit or attempt to do any of the foregoing, or offer to sell or deliver mixed fertilizer, superphosphate or potash, in quantities of 250 pounds or more, to a consumer at prices higher than the maximum prices set forth in paragraph (b) above.

(d) The provisions of this section shall not be applicable to sales or deliveries to consumers of mixed fertilizer, superphosphate or potash, received prior to February 27, 1942, by a carrier, other than a carrier owned or controlled by the person making the sale (including a dealer, agent or other person) for shipment to a consumer.*

*§ 1367.1 to 1367.11, inclusive, issued pursuant to Pub. No. 421, 77th Cong., 2d Sess.

§ 1367.2 Less than maximum prices. Lower prices than those set forth in § 1367.1 above may be charged, demanded, paid or offered.*

§ 1367.3 Conditional agreements. On and after February 27, to and including April 27, 1942, no person shall agree to sell or deliver mixed fertilizer, superphosphate or potash, in quantities of 250 pounds or more, to a consumer at a price higher than the maximum price set forth in § 1367.1 (b) above, nor shall any person make an agreement which would provide for adjustment of the price to a price higher than such maximum price in the event that this Temporary Maximum Price Regulation No. 1 is hereafter amended or invalidated by a Court, or provide for such adjustment upon any other condition.*

§ 1367.4 Evasion. The price limitations set forth in this Temporary Maximum Price Regulation No. 1 shall not be evaded, whether by direct or indirect methods, in connection with an offer, solicitation, agreement, sale, delivery, purchase, or payment of any kind for, or exchange or other charge, or discount, premium or other privilege, or by tying-agreement or other trade understanding; Provided, however, That nothing contained herein shall be construed to prohibit the granting of any customary allowances or discounts for transportation, quantity or otherwise, or the charging of prices lower than the maximum prices provided for by this Temporary Maximum Price Regulation No. 1.*

§ 1367.5 Records and reports. (a) Every person (including an agent) making a sale of mixed fertilizer, superphosphate or potash, in quantities of 250 pounds or more, to a consumer during the period from and including February 16, 1942, to and including April 27, 1942, shall keep for inspection by the Office of Price Administration, for a period of not less than two years, complete and accurate records of each such sale, showing the date thereof; the name and address of the buyer, of the person (including an agent) making the sale, and of the manufacturer of the mixed fertilizer, superphosphate or potash sold; the quantity, grade and kind of the mixed fertilizer, superphosphate or potash sold; the bags or containers in which delivered; the price charged or received; the terms of payment (time or cash, etc.); and the method and conditions of delivery.

(b) Not later than March 5, 1942, every manufacturer of mixed fertilizer, superphosphate or potash, who is engaged in the business of selling the same to consumers, whether by or through any agent or other person, shall file with the Office of Price Administration in Washington, D. C., one copy of each and every written or printed price schedule, whether temporary or permanent, issued by him in connection with the sale thereof to consumers from and after November 1, 1940, until February 27, 1942, together with all written or printed amendments and supplements to any of such schedules and from and after February 27, 1942, every person shall continue, until further notice, to file with the Office of Price Administration in Washington, D. C., one copy of any and all such schedules, and supplements and amendments thereto, whose issuance is thereafter contemplated, at least five (5) business days prior to the contemplated effective date thereof. Neither such filing, nor the failure to object to the contents thereof, shall constitute authorization therefor, or approval thereof, by the Office of Price Administration.

(c) Not later than March 5, 1942, every manufacturer of mixed fertilizer, superphosphate or potash, who is engaged in the business of selling the same to consumers, shall mail or cause to be mailed, to his agents, written notice of the issuance and terms of this Temporary Maximum Price Regulation No. 1 and a direction to comply therewith. Such manufacturers, later than March 10, 1942, notify the Office of Price Administration in writing that he has mailed or caused to be mailed such written notice above.

Persons affected by this Temporary Maximum Price Regulation No. 1 shall submit such reports to the Office of Price Administration as it may, from time to time, require.*

§ 1367.6 Enforcement. (a) Persons violating any provision of this Temporary Maximum Price Regulation No. 1 will be subject to the civil and criminal penalties provided for by the Emergency Price Control Act of 1942.

(b) Persons who have evidence of any violation of this Temporary Maximum Price Regulation No. 1 or of any regulation ordered issued by the Office of Price Administration or any of the practices which constitute or will constitute such a violation are urged to communicate with the nearest Field or Regional Office of the Office of Price Administration or the principal office of the Office of Price Administration in Washington, D. C.*

§ 1367.7 Export sales. The maximum prices established by this Temporary Maximum Price Regulation No. 1 shall not apply to sales of mixed fertilizer, superphosphate or potash for delivery to persons in a foreign country or to the resale thereof, after such importation, to persons in the United States, or to a territory or possession of the United States.*

§ 1367.8 Import sales. The maximum prices established by this Temporary Maximum Price Regulation No. 1 shall not apply to sales of mixed fertilizer, superphosphate or potash, in a foreign country for delivery to the United States, or to a territory or possession of the United States, or to the resale thereof, after such importation, to persons in the United States, or to a territory or possession of the United States.*

§ 1367.9 Petitions for amendment. Persons seeking modification of any provision of this Temporary Maximum Price Regulation No. 1 or an adjustment or exception not provided for therein may file petitions for amendment in accordance with the provisions of Procedural Regulation No. 1, issued by the Office of Price Administration.*

§ 1367.10 Definitions. (a) When used in this Temporary Maximum Price Regulation No. 1, the term:

(1) "Person" includes an individual, corporation, partnership, association, farmers' or consumers' cooperative or other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions or any agency of any of the foregoing.

(2) "Manufacturer" means a person who produces, mixes, or processes, or who markets for his own account and under his own brand or trade name, mixed fertilizer, superphosphate, potash or nitrogenous material for use as an aid to the growth of crops or plants.

(3) "Consumer" means a person purchasing mixed fertilizer, superphosphate or potash for use in aiding the growth of crops or plants (and not for resale).

(4) "Mixed fertilizer" means any substance containing or composed of one or more, of potash, superphosphate, and nitrogenous material, when marketed or sold as an aid to the growth of crops or plants.

(5) "Superphosphate" means any product which is obtained by mixing rock phosphate with either sulphuric acid or phosphoric acid or with both acids, when marketed or sold as an aid to the growth of crops or plants.

(6) "Potash" means muriate, chloride, or sulphate of potash, manure salts and any other substance containing potassium oxide (K2O), when marketed or sold as an aid to the growth of crops or plants.

(7) "Nitrogenous material" means any organic or inorganic substance containing nitrogen, when marketed or sold as an aid to the growth of crops or plants, except where marketed or sold as an aid to the growth of crops or plants.

(8) "Grade" means the minimum guarantee of the plant food content of mixed fertilizer, superphosphate, or potash, expressed in terms of nitrogen, available phosphoric acid, and water soluble potash, e. g. 4-8-4, 3-8-5, etc.
guaranteed plant food content of mixed fertilizer and means the substances, and the proportions thereof, containing the guaranteed plant food content of mixed fertilizer, as, for example, in the case of nitrogenous materials 60% nitrogen and 20% insoluble organic nitrogen; or in the case of potash, 75% sulphate of potash and 25% muriate of potash.

(b) Unless the context otherwise requires, the definitions set forth in section 205 of the Emergency Price Control Act of 1942 shall apply to other terms used herein.*

§ 1357.11 Effectiveness. This Temporary Maximum Price Regulation No. 1 (§§ 1357.1 to 1357.11 inclusive) shall become effective on February 23, 1942, and shall, unless earlier revoked or replaced, expire on April 27, 1942.*

Issued this 21st day of February 1942.

LEON HENBERSON,
Price Administrator.

[FR Doc. 42-1858; Filed, February 21, 1942; 12:44 p.m.]

PART 1377—WOODEN CONTAINERS

TEMPORARY MAXIMUM PRICE REGULATION

NO. 2—USED EGG CASES

In the judgment of the Price Administrator it is necessary and proper in order to effectuate the purposes of the Emergency Price Control Act of 1942 to establish temporarily as the maximum prices for used egg cases the prices prevailing with respect thereto within five days prior to the issuance of this Regulation.

Therefore, under the authority vested in me by the Emergency Price Control Act of 1942, and in accordance with Procedural Regulation No. 1, issued by the Office of Price Administration, Temporary Maximum Price Regulation No. 2 is hereby issued.

§ 1377.1 Maximum prices for used egg cases. (a) On and after February 23, 1942, to and including April 22, 1942, regardless of any contract, agreement, lease, or other obligation, no egg case emptier, or used egg case dealer, trucker, peddler, or retailer shall sell or deliver used egg cases, and no person shall buy or receive used egg cases in the course of trade or business from such sellers, at prices higher than the maximum prices established in this Section; and no such person shall agree, offer, solicit, or attempt to do any of the foregoing. The provisions of this Section shall not be applicable to sales or deliveries of used egg cases to a purchaser if prior to February 23, 1942, such cases had been received by a carrier, other than a carrier owned or controlled by the seller, for transportation to such purchaser.

(b) The maximum price for used egg cases sold by an egg case emptier, or a used egg case dealer, trucker, or peddler, shall be as follows:

(1) For a No. 1 used egg case, which is hereby defined as a case (i) ready to be used by an egg producer, (ii) sound and firm throughout, with no broken parts, (iii) with a full complement of clean or empty egg cases, (iv) clean and free of all stains on the inside, (v) free of all odors, (vi) having a one or two piece full cover, (vii) with a full complement of clean, sound (unbroken), unainted, standard flats and fillers, the maximum price f. o. b. the point from which the case is transported to the purchaser shall be 17¢ if the case is transported to the purchaser from within the Eastern area and 26¢ if the case is transported to the purchaser from within the Mid-continent area.

(2) For a No. 2 used egg case, which is hereby defined as a case (i) ready to be used by an egg producer, (ii) sound and reasonably firm, (iii) free from odor and reasonably clean on the inside, (iv) having a one or two piece full cover, and (v) with a full complement of reasonably clean, sound, standard flats and fillers, the maximum price f. o. b. the point from which the case is transported to the purchaser shall be 17¢ if the case is transported to the purchaser from within the Eastern area and 26¢ if the case is transported to the purchaser from within the Mid-continent area.

(3) For a No. 3 used egg case, which is hereby defined as a case which does not meet the requirements (as herein provided) of a No. 1 or No. 2 case, the maximum price f. o. b. the point from which the case is transported to the purchaser shall be 12¢ if the case is transported to the purchaser from within the Eastern area and 16¢ if the case is transported to the purchaser from within the Mid-continent area.

(c) A delivered price in excess of the maximum price established in paragraph (a) of this Section shall be 220 if the case is transported to the purchaser from within the Mid-continent area.

(d) The maximum price for used egg cases sold by a retailer who purchases such cases from an egg case emptier or a used egg case dealer, trucker, or peddler, and who distributes such cases to egg producers or retailers shall be the total price paid for the case by the retailer plus 3¢.

* §§ 1377.1 to 1377.9, inclusive, issued pursuant to Public Law 421, 77th Cong., 2d Sess.

§ 1377.2 Less than maximum prices. Lower prices than those set forth in § 1377.1 hereof may be charged, demanded, paid or offered.*

* §§ 1377.1 to 1377.9, inclusive, issued pursuant to Public Law 421, 77th Cong., 2d Sess.

§ 1377.3 Prohibition. The price limitations set forth in this Temporary Maximum Price Regulation No. 2 shall not be evaded, whether by direct or indirect methods, in connection with an offer, solicitation, delivery, purchase, or delivery, or purchase of used egg cases, alone or in conjunction with any other commodity or by way of commission, service, transportation, or other charge, or discount, premium or other privilege, or by tying agreement or other trade under- or over-selling, or otherwise.*

§ 1377.4 Enforceable. Every person making purchases or sales subject to this Regulation of used egg cases after February 23, 1942, shall keep for inspection by the Office of Price Administration for a period of two years complete and accurate records of each such purchase or sale showing the date thereof, the name and the address of the buyer or seller, the price paid or received, and the quantity of each grade of used egg case purchased or sold.

Persons affected by this Temporary Maximum Price Regulation No. 2 shall submit such reports to the Office of Price Administration as it may, from time to time, require.*

§ 1377.5 Penalties. (a) Persons violating any provision of this Temporary Maximum Price Regulation No. 2 will be subject to the civil and criminal penalties provided for by the Emergency Price Control Act of 1942.

(b) Persons who have evidence of any violation of this Temporary Maximum Price Regulation No. 2 or any other regulation or order issued by the Office of Price Administration or any act or practice which constitute or will constitute such a violation are urged to communicate with the nearest field or regional office of the Office of Price Administration or its principal office in Washington, D. C.*

§ 1377.6 Petitions for amendment. Rule seeking modification of any provision of this Temporary Maximum Price Regulation No. 2 or an adjustment or exception not provided for therein may be filed petitions for amendment in accordance with the provisions of Procedural Regulation No. 1, issued by the Office of Price Administration.*

§ 1377.7 Definitions. (a) When used in this Temporary Maximum Price Regulation No. 2:

(1) The term "person" includes an individual, corporation, partnership, association, or any other organized group of persons or legal successor or representative or any of the foregoing, whether by direct or indirect methods, in connection with an offer, solicitation, delivery, purchase, or delivery of used egg cases, alone or in conjunction with any other commodity or by way of commission, service, transportation, or other charge, or discount, premium or other privilege, or by tying agreement or other trade under- or over-selling, or otherwise.

(2) The term "used egg case dealer" means any person who purchases used egg cases (and (1) resells such cases after such warehousing and/or re-conditioning as may be necessary to meet trade requirements, or (2) acts as a broker of used egg cases and resells such cases without further handling.

(3) The term "trucker" of used egg cases means any person who transports in commerce to a used egg case emptier or, used egg case dealers or peddlers, to egg producers or retailers of used egg cases.

(4) The term "peddler" of used egg cases means any person who collects used egg cases and sells such cases without reconditioning or warehousing.

(5) The term "retailer" of used egg cases means any person other than an
CHAPTER XVI—OFFICE OF CENSORSHIP

PART 1801—CABLE AND RADIO CENSORSHIP REGULATIONS

U. S. CABLE AND RADIO CENSORSHIP REGULATIONS

Sec. 1801.1 Discretion of censor.

1801.2 Transmission to enemy-occupied territory.

1801.3 Information regarding delivery.

1801.4 Proper address.

1801.5 Cable addresses.

1801.6 Supplementary address information.

1801.7 Signature.

1801.8 Text.

1801.9 Languages permitted.

1801.10 Commercial codes.

1801.11 Test words.

1801.12 Information required from sender.

1801.13 Numbers in text.

1801.14 Serial numbers.

1801.15 Delivery of radiograms to ships.

1801.16 Stock market daily reports.

1801.17 Financial transactions.

1801.18 Subjects excluded.

1801.19 Messages to naval and military personnel.

§ 1801.1 Discretion of censor. All messages will be accepted for transmission at the sender's risk, and may be stopped, delayed, or otherwise dealt with at the discretion of the censor, without notice to the sender. *

*§ 1801.1 to 1801.19, inclusive, issued under the authority contained in E.O. 8983, F.R. 9626.

§ 1801.2 Transmission to enemy-occupied territory. No message will be accepted for transmission to territory under enemy occupation, unless the communication is a government message to or from one of the American Republics, or unless special license has been granted by the Office of Censorship to send the message. *

§ 1801.3 Information regarding delivery. Service involving notification by the company to the sender as to the fact or time of delivery of any international message is suspended except for international press that any specific abbreviations at Censorship Stations regarding messages can not be handled by telephone. Patrons filing "reply prepaid" messages, and communication companies which accept prepaid messages, must do so at their own risk, since no information regarding deliveries can be given and thus no refunds made. *

§ 1801.4 Proper address. On every message the name and full address of the sender is requested that persons or firms who use any abbreviation of the entire postal address, provided such abbreviation is sufficient in itself to insure the identification of the addressee by the censors through whose hands the message will pass, is not prohibited; but all abbreviations of address are used at the risk of the senders, and Censorship can give no assurance that any specific abbreviation will suffice in all cases to insure identification of the addressee or ready delivery of the message.

§ 1801.5 Cable addresses. Cable addresses are not permitted at present. However, in order to expedite the assembly of a complete file of cable addresses being used in other countries, it is requested that persons or firms who are usual patrons of the cable and radio inform the Chief Cable Censor, Washington, D. C., by letter, showing the names, addresses, and corresponding cable addresses of foreign persons or firms to whom their messages are sent. *

§ 1801.6 Supplementary address information. In cable addresses as used in this section, in either (a) or (b) below, shall be understood to mean given name, middle initials, and surname; street and name of city or post office building; and town or city, with name of State or country where necessary to avoid ambiguity.

Following supplementary information will not be transmitted as a part of the message, but may, by direction of the censor and on payment by him of the landline toll, be transmitted as far as the station of the first cable censor to act on the message:

(a) Addresser. When any cable address or any abbreviation of a plain language address is used in a message, the full name and full address of the addresser must also be recorded on the manuscript form on which such message is filed with the communication company.

If the message is addressed to an individual acting on behalf of a firm or other organization, the name and address of such firm or organization, and the addresser's connection with it, must appear on the form as well as the name and address of the addresser.

(b) Sender. In addition to the signature required on the message, the full name and full address of the sender must be recorded, as supplementary information on the manuscript form of which each message is filed with the communication company.

When a frequent patron of the cables goes to change his address, it will expedites his traffic to give both the old and the new address on two or three of his first dispatches sent from the new address.

If the message is signed by an individual acting in behalf of a firm or organization, or by an abbreviated form of the name of that organization, the full name and full address of that organization must also be given on the form.

(c) Name of the commodity, if any, involved in the message, must be stated on the form, and should be stated in plain language.

§ 1801.7 Signature. All messages must be signed.

The signature transmitted should, when considered in connection with the text and the address, be such as to identify the sender clearly, and distinguish him from any other individual, firm or organization with a similar name. The transmitted signature of an individual must consist of the surname at least. Such signatures as "Father", "Aunt Bess", or a nickname, will not be accepted.

The transmitted signature of a firm or organization must be sufficiently complete to identify it clearly. The name of a responsible member of the firm or officer of the organization may be used, provided satisfactory information regarding him is made available to the censor.

A cable address as signature is not permitted, but where a surname or the name of an organization is also registered, the fact that it is so registered will not preclude its use as a signature. *

§ 1801.8 Text. Messages will not be passed unless the meaning of the text is clear to the censor.

Single-word texts satisfy this requirement only in rare instances, and then only with appreciable delay necessary for inquiry or investigation.

Messages consisting of address and signature only, with no text, are not permitted. *

§ 1801.9 Language permitted. All plain language messages must be in English, French, Portuguese, or Spanish. However, all press dispatches should be
Any information which the sender may consider necessary to make the meaning of his cablegram or radiogram clear to the censor may be imparted in a prepaid domestic telegraph addressed to the censor having jurisdiction. This telegram ("Memorandum Message") should be filed with the cablegram or radiogram to which it refers.*

§ 1801.13 Unrelated numbers in text. Numbers that are unrelated to the text and not easily understandable to the censor are not permitted, whether expressed in plain figures or by code words translating into plain figures.*

§ 1801.14 Serial numbers. Serial numbers in messages are subject to deletion, but may, at the sender's risk, be included as the first word on the message, when they can be easily understood by the censor and plainly do not convey a hidden meaning.*

§ 1801.15 Delivery of radiograms to ships. Due to restrictions on the use of radio by ships, there can be no assurance of immediate delivery of, or reply to, radiograms addressed by the public to seagoing vessels.*

§ 1801.16 Stock market reports. Routine stock market daily reports (including curb market, cotton, grain, and similar market reports) will be expedited by the censor the same as press dispatches when received from properly recognized and trustworthy agencies. However, reports concerning individual transactions and messages between brokers, dealers, firms, and individuals relative to offers, acceptances, inquiries, quotations, etc., shall be subject to all of the regulations in this part.*

§ 1801.17 Financial transactions. In connection with any messages relating to financial transactions, the censor may require complete information relative to the identity of the payor and payee, and the ultimate purpose of the transaction.*

§ 1801.18 Subiects excluded. Except in press dispatches (for which separate regulations have been issued), no reference, either open or hidden, will be made to any of the following subjects in any international communications.

(a) The location, identity, description, movement or prospective movement of any merchant vessel, aircraft, naval or military vessel or naval or military force, including the collective or individual personnel thereof, operated by the United States or other nations opposing the Axis powers. Messages pertaining to the shipment of material or movements of vessels must, so far as not to associate any two of the following elements:

1. The name of the vessel;
2. The nature of the cargo;
3. The name of port or arrival or departure.

The specific day of a scheduled voyage is subject to considerable delay. At times it may be necessary, due to the exigencies of the situation, not to accept radio messages to such personnel.*

(b) The location, identity, description, test, performance, production, movement or prospective movement, of defensive or offensive weapons, installations, supplies, material, or equipment of the United States or other anti-Axis nations.

(c) The location, description, production, capacity, or specific output of existing or proposed private or government-owned or -controlled plants, yards, docks, dams, structures, experimental or other facilities, or to control plans, and rates of industrial activity in connection therewith.

This extends to any process, synthesis, or operation in the production, manufacture, or reconstruction of any article the export of which is prohibited or limited by the Government.

(d) The civil, military, industrial, financial, or economic plans of the United States or other countries opposing the Axis powers, or the personal or official plans of any official thereof.

(e) The employment of any naval, military, or civil defense unit of the United States or of ships.*

(f) Reports on production and conditions in the mining, lumbering, fishing, livestock, and farming industries, and shortages or surpluses in connection therewith.

(g) Weather conditions (past, present, or forecast).*

(h) The effect of enemy operations or casualties to personnel or material, suffered by the United States or other anti-Axis nations, until the information is officially released.

(i) The fact or effect of our military or naval operations against the enemy, until the information is officially released.

(j) The number, description, location, or identity of prisoners of war.

(k) Criticism of equipment, appearance, physical condition or morale of the collective or individual armed forces of the United States or other nations opposing the Axis powers.*

(l) Any data whatever concerning military or naval communication or intelligence methods or results.

(m) Any other matter, the dissemination of which might directly or indirectly bring aid or comfort to the enemy, or which might interfere with the national effort of, or disparage the foreign relations of, the United States or other anti-Axis nations.*

§ 1801.19 Messages to and from military and naval personnel. Due to the necessity of avoiding disclosure of the location of military and naval units, personal messages to naval personnel, allot or military personnel in the field, may be subject to considerable delay. At times it may be necessary, due to the exigencies of the situation, not to accept radio messages to such personnel.*

February 19, 1942.

BYRON PRICE, Director.

THE WHITE HOUSE, February 20, 1942.

APPROVED:

FRANKLIN D ROOSEVELT

[F. R. Doc. 42-1504; Filed, February 23, 1942; 12:24 p. m.]
made to any of the following subjects in any international communication:

(a) The location, identity, description, movement, or prospective movement of any merchant vessel, aircraft, naval or military vessel or naval or military force, including the collective or individual personnel thereof, operated by the United States or other nations opposing the Axis powers. Messages pertaining to the shipment or material or movements of vessels must be so worded as not to associate any two of the following elements: (1) The name of the vessel; (2) the nature of the cargo; and (3) the name or port of arrival or departure. The specific date of arrival or departure on any present or future voyage is not permitted, but approximate dates may be used, employing such expressions as "next week", or "late next month", etc. No such expression shall be more specific than one week's time. This applies to American, anti-Axis, and Neutral ships alike.

(b) The location, identity, description, test, performance, production, movement or prospective movement, of defensive or offensive weapons, installations, supplies, material, or equipment of the United States or other nations.

c) The location, description, production, capacity, or specific output of existing or proposed private or government-owned or controlled plants, yards, docks, dams, structures, experimental or other facilities, or to contracts, plans, and rates of industrial activity in connection therewith. This extends to any process, synthesis, or operation in the production, manufacture, or reconstruction of any article the export of which is prohibited or limited by the Government. This extends to any article or process which might interfere with the national defense. This includes the shipment of any material, or equipment of the United States or other nations opposing the Axis powers, or the personal or official plans of any official thereof. This applies as well to incoming calls.

(d) The employment of any naval, military, or civil defense unit of the United States or other countries opposing the Axis powers, or the personal or official plans of any official thereof.

(e) Reports on production and conditions in the mining, lumbering, fishing, livestock, and farming industries, and shortages or surpluses in connection therewith.

(f) Weather conditions (past, present, or forecast).

(h) The effect of enemy operations or casualty to personnel or material, suffered by the United States or other anti-Axis nations.

(i) The effect of our military or naval operations against the enemy, until the information is officially released.

(j) The number, description, location, or identity of prisoners of war.

(k) Criticism of equipment, appearance, physical condition or morale of the collective or individual armed forces of the United States or other nations opposing the Axis powers.

(l) Any data whatever concerning military or naval communication or intelligence methods or results.

(m) Any other matter, the dissemination of which might directly or indirectly bring aid or comfort to the enemy, or which might interfere with the national effort, or disparage the foreign relations, of the United States or other anti-Axis nations.

(n) Any former communication by cable or radio involving the parties to the conversation or their representatives.

§ 1802.8 Application of regulations to incoming calls. Where any of the regulations in this part apply specifically to outgoing calls, the general principles apply as well to incoming calls.

February 19, 1942.

BYRON PRICE
Director.

THE WHITE HOUSE,
February 20, 1942.

Approved:
FRANKLIN D. ROOSEVELT

[For Doc. 42-1592; Filed, February 23, 1942; 12:23 p.m.]
promulgated thereunder, or the tariffs filed by the carriers with the Federal Communications Commission.

§ 1803.1 General provisions. Such cable traffic as is involved in the handling of international cable or radio traffic between the point of entry or departure from the country and the cable user is subject to control of Cable and Radio Censorship. Throughout the rules in this part, the word "cable" or "cablegram" includes also "radio" or "radiogram".

Cable and Radio Censorship desires to interfere as little as possible with legitimate business, including the business and regular operations of the communication companies and their affiliates. *

*§§ 1803.1 to 1803.23, inclusive, issued under the authority contained in E.O. 8958, 6 F.R. 6055.

§ 1803.2 Employees. All employees in contact with cable patrons, and all operating personnel at the sending and receiving apparatus must be thoroughly familiar with "U. S. Cable and Radio Censorship Regulations", and "U. S. Radio Censorship Regulations". They must be furnished also with such data on foreign censorship regulations as will best serve the interests of their patrons.

§ 1803.3 Continental censorship stations and jurisdiction. Cable Censorship Stations have been established in New York, Miami, New Orleans, San Antonio, San Francisco, and Washington, D.C. They will be established at Los Angeles and such other places as may be found necessary.

(a) New York. The Atlantic seaboard north of the State of Georgia. Traffic to Mexico, before transmission by any company, must be submitted to the Field Censor of the Western Union Company at New York for censorship.

(b) Miami. The seaboard of the States of Florida and Georgia.

(c) New Orleans. The seaboard of the States of Alabama, Mississippi, Louisiana, and Texas.

(d) San Antonio. The Mexican Border of the State of Texas.

(e) San Francisco. The Pacific seaboard of the States of Washington, Oregon, and California.

(f) Seattle. The Pacific seaboard of the State of Washington, and traffic to or from Alaska.

Note. The jurisdiction of the Los Angeles station when established will include the Pacific Seaboard of the State of California south of and including Santa Barbara, the Mexican Borders of the States of California, Arizona, and New Mexico.

§ 1803.4 Overseas censors. Overseas Censors have been established in the Virgin Islands, Bermuda, Guadeloupe, Guayama, Panama, Honolulu, Alaska, and Iceland.*

§ 1803.5 Field censors. Field Censors are established in the operating rooms of the commercial companies as a necessary contact with Censorship. Their duties are:

(a) To insure that Cable Censorship has acted upon all outgoing cable and radio traffic before transmission and upon all incoming cable and radio traffic before delivery. (See § 1803.11 (b))

(b) To cooperate with the commercial companies to see that all readable messages comply with "U. S. Cable and Radio Censorship Regulations", before being submitted to the Censorship Stations.

(c) To cooperate with the commercial companies in preventing or mending mutilations.

(d) To pass on the commercial companies' "service" messages if communicated beyond the jurisdiction of the United States.

§§ 1803.1 to 1803.23, inclusive, issued under the authority contained in E.O. 8958, 6 F.R. 6055.

§ 1803.6 Communications between censors and operating companies. (a) Censors will communicate directly with the officials of the commercial companies in their respective areas as follows:

(1) The enforcement of instructions, regulations, and rules already established.

(2) The establishment of or adjustment of local routine arrangements not affecting other Censorship Stations or Censorship as a whole.

(b) All other communications between Cable Censorship and the commercial companies will be conducted by the Chief Cable Censor. *

§ 1803.7 Primary responsibility. (a) It is the primary responsibility of the commercial companies to see that all cablegrams are submitted to Cable Censorship for action either before being sent out of the country on any circuit, or before being delivered or further transmitted for delivery to the addressee after receipt in this country. Included also are abnormally routed cablegrams which might otherwise have entered the jurisdiction of the United States.

(b) All transit traffic irrespective of code or language except traffic originating in or addressed to enemy-occupied territory will be handled at the Continental Station which has jurisdiction over the territory to which the message is to be transmitted. Therefore, it may be necessary that a reply message be censored at the continental station which established the original message.

(c) Domestic point-to-point radio traffic which can be heard outside the jurisdiction of the United States may be examined by censorship before being transmitted by radio, and may be handled by this authority when sent to or received from foreign points.

(d) Marine radio stations. All persons filing radiograms on board ship shall register their full names and addresses and, if the radiogram is in answer to a message censored in this country, the message censored by the U. S. authorities, shall also state when and by what communication company such original message was handled. Radio companies shall furnish the censor with this information by service message. This section applies, however, only to vessels from which radio transmissions are permitted under wartime conditions. (See regulations covering the use, control, supervision, inspection or closure of radio stations on all vessels under the jurisdiction of the United States; 7 F.R. 42)

§ 1803.8 Copies. With respect to incoming or outgoing international messages the operating company shall deliver to Censorship two copies of each message; namely, the original hard copy and a "Ditto" copy. The operating company may retain a carbon copy of each message for accounting purposes. If, because of physical location, it is necessary to transmit messages to Censorship by teletype, then Censorship will make the required copies.*

§ 1803.9 Files. It is of first importance to Censorship that the companies preserve, during the entire continuance of the Censorship, all messages now on file in the offices of the companies and all messages that may be received either for transmission or for delivery during the continuance of Censorship, and that such files be made available to Censorship if required.

(b) Incoming terminal international traffic. Incoming terminal international traffic entails no responsibility on the part of the landline companies, except that, in cases where jurisdiction is surrendered by one Continental Censor to another, passmarks, etc., must be transmitted as indicated. (See § 1803.11 (b))

(c) Marine radiograms. Marine radiograms will be sent by commercial companies over whose facilities the message is to be transmitted. This company, before transmitting the message, will submit it for censorship to the Censorship Station having jurisdiction. (See §§ 1803.3 and 1803.5 (a))
§ 1803.11 Methods of censoring, and action in connection therewith.—(a) The methods of censorship are: (1) Delay, (2) Paraphrase, (3) Delete a part, (4) Suppress, (5) Cancel or permit cancellation of, (6) Return for correction, (7) Return for technical irregularity, or (8) Refer to Chief Cable Censor for his action or advice.

Every message received in Censorship will eventually receive one of the treatment above.

(b) Censorship marks. Censors in acting on messages may place thereon either in the preamble, or in Memorandum Messages (MM's) following, certain censorship indicators for the information of other censors. Such additions made to messages by censors will not be removed by the personnel of the operating companies, but will be transmitted by the operating companies until removed by a censor. MM’s will be charged for at Government rates and billed to the operating company, Washington, D.C. Censor's "Passmarks", inserted in the preamble, will be carried free, but if lost from a message and recovered by a giving company, will be replaced at the expense of the company.

Censorship marks, etc., will be removed from traffic by the censor who last handles the messages either before transmission beyond United States Censorship jurisdiction or before release for delivery to the addressee.

(c) Technical irregularities. Operating companies are expected to notify by service message the station of origin of any messages when a cablegram does not conform to Censorship Regulations or is badly mutilated or garbled, and for such reasons is "Returned for Correction" by the censor. Operating companies should not accept messages not conforming to Censorship Regulations, and the burden of obtaining their technical readjustment is therefore on the company. Technical irregularities must be corrected either by the sender or by the operating company before a message can be released for delivery.

In case the technical irregularity is, in the censor’s opinion, not capable of being readjusted, the censor, instead of releasing the message for correction, may cancel the message because of technical irregularities. (See § 1803.11 (b).)

(d) Inquiries to senders. Explanations required by a Censor from a cable sender in the United States as to any message filed by him may be obtained by a "collect" message from the censor to the sender, or by a free service message to the office of origin, at the discretion of the censor.

(e) Censorship requests that the operating companies report to the originating censor the inability of a company to deliver a message. Censors may: (1) Furnish a copy of previously delivered message, provided it was passed by the censor and is in the exact censored form and does not reveal any action of or change by the censor.

(f) Credit. When extending credit to the sender of a cablegram, operating companies will charge for the actual number of words filed, and not merely for the actual number of words transmitted. The entire number of words filed will be charged for even if the message is not returned by the censor for transmission. Credits for words not transmitted will be allowed only if and when permission to consider refund has been granted by the Director of Censorship.

Collect messages. In the case of a deleted "Receiver to Pay" or "Collect" cablegram, with the single exception of recognized Press Cablegrams, collection is required to be made for the actual number of words delivered, and not for the actual number of words transmitted. * § 1803.13 Time of delivery. No information regarding the fact or time of delivery of messages will be furnished to patrons without the permission of the Director of Censorship. (See § 1803.11 (h).) For this reason, patrons filing "re-
that a cablegram in question has not been delivered.

(c) The "U. S. Cable and Radio Censorship Regulations" (Regulation 4) provide that no information whatever concerning the treatment or disposition of a cablegram be given to the sender. Therefore, in forwarding to the Director of Censorship requests from cable users for refunds, it is unnecessary to inquire what explanations to make to the sender. The following procedure will be observed:

1. In answer to a patron's request for information concerning the disposition of a message, or for a report of the service on a message, it will be understood that the company will reply stating that "U. S. Cable and Radio Censorship Regulations" forbid giving any information, calling attention to Regulation 4.

2. The only inquiry that need then be forwarded to the Director of Censorship with refund papers will be whether or not the Director of Censorship grants permission to consider the patron's request.

3. Regarding refunds are required in duplicate, and must be accompanied by supporting papers and data, including the original request from the cable user, statement of non-receipt of the message, question, and copy of the message. The reply will be simply that permission is or is not given, and no explanatory notes are required to be given by the Director of Censorship.

4. In order to avoid possible injustice, and inadvertent errors, it may be suggested to the patron that formal complaint in writing be made to the Director of Censorship, sending a copy of the message in question, a statement of the circumstances under which it was sent, explanation of the text, and full information concerning himself, his correspondence (addressee), his business, and any person or firm mentioned. Such complaints will be investigated carefully by the Director of Censorship but the Director of Censorship will rely upon the operating companies to see that care and discretion are employed in making such suggestions to patrons.*

§ 1803.16 Code. "U. S. Cable and Radio Censorship Regulations" prohibit the use of private codes. However, censors are instructed that the use of the communication company's private code may be permitted on the company's own circuit for official business, provided a copy of the code is in the possession of the censor. Field Censors may pass "service" messages themselves, if such messages are perfectly clear to them and legitimate. But nothing in this paragraph shall be construed as excepting such company messages in private code from the scrutiny and control of the censor.*

§ 1803.17 Cable addresses. (a) "U. S. Cable and Radio Censorship Regulations" prohibit the use of cable addresses until approved by the Director of Censorship. This means that all the cable addresses of all companies are no longer officially in existence. (b) However, it may be expected that the Director of Censorship will announce a modification of that regulation.

(c) Censorship will not undertake to usurp the peacetime system of the registration of addresses, but will control it. Addresses will continue to be registered with the operating companies, and the companies will continue to charge for the service, but the companies will not accept new registrations, nor renew old ones, nor make any alterations, transfers, or changes of any kind, except upon the present permission of the necessary authority from the Director of Censorship.

(d) Applicants for cable addresses, or copies of existing addresses or changes, shall be instructed to apply in writing to the Director of Censorship for exactly what they want. The application must state:

1. Exactly where they desire to register the address;
2. Exactly the code word and its cable address that they desire to register; and
3. That the substance of (2) is acceptable for registration at the place the registration is desired.

(e) When applications are granted, the Director of Censorship will so inform the applicant in writing, stating exactly what copy of the letter of authority will be sent to the place where the registration is desired to be made. Before accomplishing the registration, the authority presented by the applicant must be checked against the copy from the Director of Censorship.

(f) If the papers are not in agreement, the registration will be rejected, and both the return and the original papers will be returned to the Director of Censorship by the office rejecting the application, with an appropriate statement of the circumstances. This should be done without the knowledge of the applicant, if possible.

(g) In some cases, for well-known firms, organizations, and individuals, the Director of Censorship, in the interest of efficiency and speed, may authorize future periodic renewals of registered addresses without further reference to him. Such cases will be handled with particular care by the registration bureau. If permission is desired, the letter of application must cover this point in full. (See paragraph (d) of this section.)

(h) When a cable user or company submits evidence of the exclusive and continued use of an address, which has thereby become a business or personal asset, Censorship will gladly cooperate in confirming such a cable address.*

§ 1803.18 Cable address records. (a) All cable address records shall be opened and made available to censors at any time, both for their own information when required, and to enable Censorship to investigate old registrations when necessary in connection with applications for new registrations, or for any other reason.

(b) If the cable address is not available or on record with the company at the place of the Censorship Station, it must be obtained through the company's connections and affiliates.*

§ 1803.19 Abstract of traffic. The operating companies may be required by the Director of Censorship to furnish the Cable Censor at each Censorship Station a daily abstract of all international cable and radio traffic entering or leaving the country at said Censorship Stations or under the jurisdiction thereof, indicating for each message: (1) Number of words; (2) wherefrom; (3) destination; (4) sent to (addressee); and (5) signed by.*

§ 1803.20 Reports of suspicious circumstances. The Director of Censorship and all local censors will welcome any information of suspicious circumstances in connection with the filing of messages. This may be a rare occurrence, but if it uncovers only one enemy effort it will be worth while. Agents of the operating companies may communicate such circumstances by MM on the message. It should be pointed out to agents that they should not consider themselves as exercising the functions of Censorship, and should not alter or delay a message without the knowledge of the patron. Their action would be in the nature of that of any citizen rendering patriotic assistance to his government, which is the natural obligation of all citizens.*

§ 1803.21 Fixed holiday greetings. Hereafter no fixed greeting ("canned") messages or "XLT" messages will be accepted without the permission of the Director of Censorship, whose decision will be based upon existing circumstances and published in sufficient time prior to holidays.*

§ 1803.22 Transmission of call letters, etc., to enemy-occupied territory. No communication company will permit the transmission of any call letters, signals, service messages or any communication whatever intended for reception in enemy-occupied territory without the specific authorization of the Director of Censorship in each case.*

§ 1803.23 Diversion or rerouting of traffic. Censors may divert traffic from one carrier to another, or reroute traffic, at their discretion when such action is necessary in the public interest.*

§ 1803.24 Press dispatches. The following action is authorized in connection with the handling of press dispatches:

(a) Communications companies handling press dispatches are authorized to inform any recognized news agency and correspondent of the fact and the time of transmission of any bona fide news dispatch, including news service dispatches, filed by that agency or correspondent.

(b) The communication company may also inform the news agency or correspondent of the actual number of words transmitted in any of his news dispatches and may make arrangements with the news agency to charge for the number of words transmitted rather than for the number of words filed.

(c) Communication companies which offer their facilities to the press on a time basis may keep the news agencies supplied with a copy of their dispatch in order that available transmission time may be fully utilized.*

§ 1803.25 Statements to patrons by telephone operators. In connection with
international radiotelephone communications, when telephone operators are questioned by patrons as to the need for the information required, the patron may be told that the information is required under Government Regulations.*

February 19, 1942.

BYRON PRICE,
Director.

THE WHITE HOUSE,
February 20, 1942.

APPROVED:
FRANKLIN D. ROOSEVELT

[F. R. Doc. 42–1558; Filed, February 21, 1942;
12:23 p.m.]

TITLE 46—SHIPPING
CHAPTER III—WAR SHIPING ADMINISTRATION
[General Order No. 1]
PART 301—REGULATIONS AFFECTING MARITIME CARRIERS
UNIFORM TIME CHARTER FOR ALL DRY CARGO VESSELS

Whereas, vessels in addition to those otherwise available are necessary for transportation of foreign commerce of the United States or of commodities essential to the national defense and to the prosecution of the war, and Whereas, from time to time the War Shipping Administration will deem certain vessels suitable for such transportation;

Now, therefore;

§ 301.1 Uniform time charter for all dry cargo vessels. (a) The attached form of Time Charter consisting of Part I and Part II is hereby adopted as the uniform time charter for all dry cargo vessels.

(b) Appropriate special provisions shall be inserted as the owner and the War Shipping Administration shall agree.

F.E. LAND, Administrator.

FEBRUARY 20, 1942.

[F. R. Doc. 42–1557; Filed, February 21, 1942; 11:45 a.m.]

[General Order No. 2]

PART 301—REGULATIONS AFFECTING MARITIME CARRIERS

§ 301.2 Information required from ship owners offered charters. (a) All owners who are American citizens, within the meaning of section 2 of the Shipping Act, 1916, as amended, of ocean-going passenger and dry cargo vessels of one thousand gross register tons or more shall, and all such shipowners of other nationalities (except of nations with which the United States of America is at war) may, file with the War Shipping Administrator within ten days after the effective date hereof with respect to each of such vessels owned by them the following information as set forth in the following form:

| War Shipping Administrator, Washington, D.C. |
| Attention: Charter Section. |
| VESSEL DATA |
| 1. Name and Ex Names of Vessel: SS/MS— |
| 2. Flag—Official Number— |
| 3. (a) When Built—(b) Classed— |
| 4. Present Owner (Correct Corporate Name) Incorporat— |
| under laws of— |
| 5. If now under charter, name of charterer—Form of Charter (Bareboat or Time)—Period of Charter— |
| 6. Name and address for Notices and Payments under any Charter to United States— |
| 7. (b) Bulk Cargo Capacity: (grain/bale) cubic feet (b) Deadweight capacity for cargo, fresh water and stores—tons (of 2,240 lbs.), including permanent bunkers of—tons (barrels) of fuel on mean draft—normal Summer freeboard of—ft. and—in. |
| 8. Gross tonnage—(b) Net tonnage— |
| 9. Passenger Capacity by Classes— |
| 10. Capacity of Accommodations for Crew— |
| 11. Refrigerated Space for Commercial Cargo—Temperature Range— |
| 12. Maximum Warranted Capacity of gear in tons— |
| 13. Speed in Knots (U.S. Maritime Commission formula)— |
| 14. Daily Fuel Consumption at such speed—State kind of fuel used— |
| 15. Horsepower—Indicated Shaft— |
| 16. Any special features of the ship or any pertinent factors which the undersigned wishes to have considered in arriving terms and rates of hire: The undersigned agrees to advise you of any changes in the foregoing information from time to time. |

E.S. LAND, Administrator.

FEBRUARY 20, 1942.

[F. R. Doc. 42–1558; Filed, February 21, 1942; 11:45 a.m.]
It is ordered, That a hearing in respect to the subject matter of such complaint be held on March 27, 1942, at 10 a.m., at a place to be determined and designated by the Bituminous Coal Division at Room 203, Post Office Building, Altoona, Pennsylvania.

It is further ordered, That Joseph A. Huston 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 by subsequent notice, and to prepare and submit proposed findings, 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 time may 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 the above-named defendants of the Bituminous Coal Code or rules and regulations thereunder as follows: That said defendants, under the provisions of sections 4 II (j) and (g) of the Act and Part II (e) and (g) of the Code by:

(a) Selling and delivering at $2.30 per net ton to the White Swan Laundry Company, Oil City, Pennsylvania, during the period August 7, 1941, both dates inclusive, approximately 220 tons of run of mine coal, Size Group 3, produced by said defendants at their Anmile Mine, located at or near 3136, located in Clarion County, Pennsylvania, in Subdistrict 1, District No. 1, whereas the applicable minimum price for said coal is $3.20 per net ton f. o. b. said mine as contained in the Schedule of Effective Minimum Prices for District No. 1 for Truck Shipments as amended by Order of the Director dated June 21, 1941, entered in Docket No. A-853, Part II;

(b) Selling and delivering at $2.30 per net ton to the White Swan Laundry Company, Oil City, Pennsylvania, during the period August 7, 1941, both dates inclusive, approximately 20 tons of run of mine coal, Size Group 3, produced by said defendants at their Anmile Mine, located at or near 3136, located in Clarion County, Pennsylvania, in Subdistrict 1, District No. 1, whereas the applicable minimum price for said coal is $3.20 per net ton f. o. b. said mine as contained in said schedule as amended by Order of the Director dated August 8, 1941, in Docket No. A-853, Part II;

(c) Selling and delivering at $3.00 per net ton to the Norwich Chemical Company, Smithport, Pennsylvania, during the period July 11 to 15, 1941, both dates inclusive, approximately 12 tons of run of mine coal, Size Group No. 3, produced by said defendants at said mine, whereas the applicable minimum price established for said coal was $2.20 per net ton f. o. b. said mine as contained in said schedule as amended by Order of the Director dated June 21, 1941, entered in Docket No. A-853, Part II.

The delivered price of $3.00 per net ton referred to above and the delivered price of $3.00 per net ton referred to in (c) hereof included haulage charges for transporting said coal by truck from said mine to said purchasers, whereas the coal referred to in (a) and (b) hereof having been hauled approximately 20 miles and that referred to in (c) hereof, a distance of approximately 30 miles, all such defendants having failed to deliver said coal contrary to the provisions of Price Instruction No. 6 as amended, in Supplement No. 1 to the Price Schedule referred to herein, by failing to add to the applicable minimum f. o. b. mine prices provided in said orders, amounts at least equal, as nearly as practicable, to the actual transportation charges, handling charges or incidental charges of whatever kind or character from the transportation facilities at the mine to the points from which all such charges were assumed and paid by the purchasers. Said transactions, therefore, constituted sales and deliveries of coal at prices below the minimums established therefor.

Dated: February 21, 1942.

[SEAL]

DAN H. WHEELER,
Acting Director.

IN THE MATTER OF FREEHOOK CORPORATION, CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated February 4, 1942, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on February 10, 1942, by Bituminous Coal Producers Board for District No. 1, a District Board, complainant, with the Bituminous Coal Division, charging willful violation by the defendant 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 March 26, 1942, at 10 a.m., at a hearing room of the Bituminous Coal Division at Room 203, Post Office Building, Altoona, Pennsylvania.

It is further ordered, That Joseph A. Huston or any other officer or officers of the Bituminous Coal Division duly designated for that purpose shall preside at such 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 by subsequent notice, and to prepare and submit proposed findings, 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 defendant and to all other parties herein and to all persons and entities having an interest in such proceeding.

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 the above-named defendants of the Bituminous Coal Code or rules and regulations thereunder as follows: That said defendants, under the provisions of 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.
in addition to the matters specifically alleged in the complaint hereinafter, 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 prepared.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code and regulations thereunder as follows:

That said defendant, whose address is 293 Main Street, Brookville, Pennsylvania, wilfully violated section 4 Part II (e) of the Act, Part II (e) of the Code, and Rule 1 of Section III of the Marketing Rules and Regulations, by selling, during the period October 1, 1940 to February 28, 1941, both dates inclusive, at prices ranging from $2.05 per net ton f. o. b. the McWilliams Mine to $2.15 per net ton f. o. b. the McWilliams Mine, quantities of coal produced by said defendant at its McFreebrook No. 7 Mine, Mine Index No. 584, located in Indiana County, Pennsylvania, in Subdistrict 5 of District No. 1 and McFreebrook No. 1 Mine, Mine Index No. 583, located in Armstrong County, Pennsylvania, in Subdistrict No. 11 of District No. 1, to the Pittsburg & Shawmut Coal Company, a Registered Distributor, Registration No. 7324, whose address is Kittanning, Pennsylvania, which coal was physically handled by said distributor and allowing said distributor to expire excess distributor's discounts in the form of commissions, deductions for reject coal, amounts paid for railroad car stop-over, transfer, cleaning and sizing charges in the amount of $12,229.77 on coal purchased for resale. Said coal was classified as Size Group 3 in the Schedule of Effective Minimum Prices for District No. 1. For All Pennsylvania Produced. Except Truck and prices at $2.15 per net ton f. o. b. the McWilliams Mine, and $2.25 per net ton f. o. b. the Freebrook No. 7 Mine.

That said defendant also wilfully violated subsections (a) and (b) of Part II (e) of the Code, and Rule 3 of Section XII and Rule 8 of section XIII of the Marketing Rules and Regulations, by filing on March 31, 1941, Rule 3 of Section V and Rule 7 of Section VI of the Marketing Rules and Regulations, that said code member did not file with the Statistical Bureau for District No. 1 during the period October 1, 1940 to February 28, 1941 (a) copies of certain contracts entered into for the sale of coal to the Pittsburg & Shawmut Coal Company, Kittanning, Pennsylvania, within 15 days after entering into said contract and (b) copies of certain spot orders for the sales of coal, referred to above, to the Pittsburg & Shawmut Coal Company, Kittanning, Pennsylvania, accepted by said code member, within 10 days from the date of accepting said spot orders, as is prescribed in said rules and regulations.

Dated: February 21, 1942.

[SEAL]  
DAN H. WHEELER, Acting Director.

[F. R. Doc. 42-1570; Filed, February 23, 1942; 11:16 a. m.]

PETITION OF BITUMINOUS COAL CONSUMERS' COMMISSION TO ESTABLISHMENT OF THE SAME PRICE CLASSIFICATIONS AND MINIMUM PIECES FOR THE COALS PRODUCED AT MINES IN SUBDISTRICT 4 OF DISTRICT NO. 13 FOR SHIPMENTS BY RIVER AND TO SHIP TO SUCH COALS FOR TRUCK SHIPMENTS

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 respect of the above-entitled matter shall be held on March 27, 1942, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, Chancery Court Room, Chattanooga, Tennessee.

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 hearings, 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 hearings from time to time, and to prepare and submit proposed findings of fact and conclusions of law, and to make any 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 this proceeding and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding must 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 on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before March 11, 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 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 Bituminous Coal Consumers' Counsel for the establishment of Bituminous price classifications and minimum prices. O. M. J. for the coals produced at mines in Subdistrict 4 of District No. 13 for shipments by river and to such coals for truck shipments.

Dated: February 21, 1942.

[SEAL]  
DAN H. WHEELER, Acting Director.

[F. R. Doc. 42-1571; Filed, February 23, 1942; 11:16 a. m.]

IN THE MATTER OF HERMAN J. MORRISON, CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated January 8, 1942, pursuant to the provisions of sections 4 II (f) and (b) of the Bituminous Coal Act of 1937, having been duly filed on January 24, 1942, by Bituminous Coal Producers Board, a District Board, and any or all operators of the Bituminous Coal Code and rules and regulations thereunder;

It is ordered, That a hearing in respect of the subject matter of such complaint shall be held on March 27, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at Room 203, Post Office Building, Altoona, Pennsylvania.

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 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 such hearings from time to time, and to prepare and submit proposed findings of fact and conclusions of law, and to make any recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.
said hearing from time to time, and to such places as he may direct by an
nouncement at said hearing or any ad­
tion at said hearing or any ad­
ance of fact and conclusions and the rec­
and to prepare and submit proposed find­
the premises, and to perform all other
ings herein and to all persons and entities
having an interest in such proceeding.

Notice of such hearing is hereby given to
said defendant and to all other parties
herein and to the 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 Be­
fore the Bituminous Coal Division in
Proceedings Instituted Pursuant to sec­
ctions 4 II (j) and 5 (b) of the Bitumi­
uous Coal Act of 1937, may file a peti­
tion 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 Bitu­
inous Coal Division at its Wash­
ton office or with any one of the sta­
tistical bureaus of the Division, within
twenty (20) days after date of service
thereon of the complaint; and that any
defendant failing to file an answer with­
in 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 ap­
propriate 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 willful violation by
the above-named defendant of the Bi­
tuminous Coal Code or rules and regu­
lations thereunder as follows:
That the said defendant, Herman J.
Morrison, whose address is Brockway,
Pennsylvania, and who operates the
Morrison Mine, Mine Index No. 1803, lo­
cated in Jefferson County, Pennsylvania,
in District No. 1, wilfully violated section
4 Part II (e) and (g) of the Act and
orders entered during the months com­
cencing with October 1940 and includ­ing
July 1941, to the Brockway Clay
Products Company, Brockway, Pennsyl­
avania, and has delivered to said com­
pany, during the period from October
1940 and July 1941, a total of 2,808 tons
of mine coal produced by said defendant
at said mine, where said coal was classi­
ﬁed as Size Group 3 and priced at $2.15
per ton f. o. b. said mine as shown in
the Schedule of Effective Minimum
Prices, and delivering said coal, at said
prices, to the Bitu­
uous Coal Division at the Circuit Court
Room, Peoria, Illinois.

It is further ordered, That Edward J.
Hayes or any other officer or officers of
the Bituminous Coal Division duly desig­
nated 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 affima­
ations, to examine witnesses, to require
witnesses, compel their attendance, take
evidence, require the production of any
books, papers, correspondence, memo­
and other records deemed relevant to
the inquiry, to continue said hearing from
place to time, and to such places as he may direct by an
nouncement at said hearing or any ad­
ance of fact and conclusions and the rec­
and to prepare and submit proposed find­
the premises, and to perform all other
ing herein and to all persons and entities
having an interest in such proceeding.

Notice of such hearing is hereby given to
said defendant and to all other parties
herein and to the 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 Be­
fore the Bituminous Coal Division in
Proceedings Instituted Pursuant to sec­
ctions 4 II (j) and 5 (b) of the Bitumi­
uous Coal Act of 1937, may file a peti­
tion 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 Bi­
tuminous Coal Division at its Wash­
ton office or with any one of the sta­
tistical bureaus of the Division, within
twenty (20) days after date of service
thereon of the complaint; and that any
defendant failing to file an answer with­
in 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 ap­
propriate 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 willful violation by
the above-named defendant of the Bi­
tuminous Coal Code or rules and regu­
lations thereunder as follows:
That the said defendant, Herman J.
Morrison, whose address is Brockway,
Pennsylvania, and who operates the
Morrison Mine, Mine Index No. 1803, lo­
cated in Jefferson County, Pennsylvania,
in District No. 1, wilfully violated section
4 Part II (e) and (g) of the Act and
orders entered during the months com­
cencing with October 1940 and includ­ing
July 1941, to the Brockway Clay
Products Company, Brockway, Pennsyl­navia, and has delivered to said com­
pany, during the period from October
1940 and July 1941, a total of 2,808 tons
of mine coal produced by said defendant
at said mine, where said coal was classi­
ﬁed as Size Group 3 and priced at $2.15
per ton f. o. b. said mine as shown in
the Schedule of Effective Minimum
Prices, and delivering said coal, at said
prices, to the Bitu­
uous Coal Division at the Circuit Court
Room, Peoria, Illinois.

It is further ordered, That Edward J.
Hayes or any other officer or officers of

| Docket No. B-166 |

IN THE MATTER OF GEORGE B. REED AND J. S. WALLACE, INDIVIDUALLY AND AS CO-Partners, DOING BUSINESS UNDER THE NAME AND STYLE OF THE REED COAL COMPANY, CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated January 13, 1942, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on
January 15, 1942, by Bituminous Coal
Division, the said complaint is hereby referred to the Bituminous Coal Division duly desig­
nated for that purpose, and it is hereby
ordered that the hearing in re­
spect to the subject matter of such
complaint shall be held on March 23, 1942, at
10 a. m., in the hearing room of the Bitu­
uous Coal Division at the Circuit Court
Room, Peoria, Illinois.

It is further ordered, That Edward J.
Hayes or any other officer or officers of

and Western Railroad during the month of July 1941, through the Ed Fox Coal Company, Pekin, Illinois, Registered Distributor, Registration No. 3153, as sales agent for said code member, approximately 8.67 per cent of the C. B. & Q. Car No. 1412, and T. P. & W. No. 452 and 466) of run of mine coal produced at the Reed Coal Company Mine, Mine Index No. 717, located in Fulton County, Illinois, at $1.40 per net ton f. o. b. railroad cars located in Glasford, Illinois, falsely informing it as screenings whereas said coal was classified as Size Group 7 and priced at $2.00 per net ton f. o. b. cars, Glasford, Illinois, as set forth in the Supplement annexed to and made a part of Order dated April 7, 1941, granting temporary and conditionally final relief in Docket No. A-770, which transactions constituted (a) sales of coal at prices which were 60 cents below the minimum established therefor; and (b) an intentional misrepresentation of the size of said coal.

2. That said code member willfully violated Rule 13 of section II of the Marketing Rules and Regulations, by paying to said Ed Fox Coal Company, Pekin, Illinois, a commission of 10 cents per net ton for sales on said code member’s behalf of approximately four cars (Car Nos. C. B. & Q. No. 78331, C. B. & Q. No. 161616, T. P. & W. No. 452 and T. P. & W. No. 466) during the period from July 5, 1941 to July 16, 1941, both dates inclusive, which commissions were and are 5 cents per net ton in excess of the maximum discounts allowable to a registered distributor on sales of on-line railroad fuel as established by Order of the Director dated June 13, 1940, in General Docket No. 12, and which commissions were paid pursuant to a sales agency agreement entered into between said code member and said Ed Fox Coal Company on or about June 1, 1941, and although at the time of said transactions said code member had not filed an application for permission to pay commissions in excess of the maximum discounts allowable to a registered distributor, as required by Rule 13 of section II of the Marketing Rules and Regulations.

Dated: February 20, 1942.

[Seal] DAN H. WHEELER, Acting Director.

[F. R. Doc. 42-1574; Filed, February 23, 1942; 11:17 a. m.]

[Docket No. B-146]

IN THE MATTER OF LOUIS GOIN & CHARLES JOHNSON, INDIVIDUALLY AND AS CO-PARTNERS DOING BUSINESS UNDER THE NAME AND STYLE OF GOIN & JOHNSON, DEFENDANTS

NOTICE OF AND ORDER FOR HEARING

A complaint dated February 5, 1942, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on February 10, 1942, for Bituminous Coal Producers Board for District No. 1, a district board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant 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 March 23, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at Room 203, Post Office Building, Altoona, Pennsylvania.

It is further ordered, That Joseph A. Huston 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, monogram or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such place as the officer may direct by announcement at said hearing or by subsequent notice, and to prepare and submit proposed findings of fact and conclusions and the recommendations thereon for an 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 defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person desiring to be heard shall file an answer in triplicate in the Bituminous Coal Division at its Washington office or with any of the statistical bureaus of the Division, within twenty (20) days from the date hereof, together with a bond in the penal sum of $100, to secure the payment of the costs of the proceeding, and shall file a brief, not to exceed ten (10) pages, accompanied by a briefITTUBITIUMOUS COAL CODE or rules and regulations thereunder.

sections 4 II (e) and (g) of the Bituminous Coal Act of 1937 and Part II (e) and (g) of the Bituminous Coal Code as follows: (a) by selling and delivering to the Woodward Township School District during the period from October 22, 1940, to March 5, 1941, inclusive, approximately 56.45 tons of run of mine coal produced by said defendants at their Atlantic No. 3 Mine, Mine Index No. 3319, located in Clearfield County, Pennsylvania, a distance of approximately 3.5 miles from said mine, whereas said coal was classified as Size Group 3 and priced at $2.55 per net ton f. o. b. mine as set forth in Supplement No. 2 to the Schedule of Effective Minimum Prices for District No. 1 for Truck Shipments; and (b) by failing to add to the applicable f. o. b. mine price provided in said supplement an amount at least equal, as nearly as practicable, to the actual transportation charges, handling charges or incidental charges of whatsoever kind or character (exclusive of ordinary rates of mine operation) from the transportation facilities at the mine to the above-named School District, as required by Price Instruction No. 6 as amended by Supplement No. 1 to said schedule.

Dated: February 20, 1942.

[Seal] DAN H. WHEELER, Acting Director.

[F. R. Doc. 42-1574; Filed, February 23, 1942; 11:17 a. m.]

[Docket No. B-185]

IN THE MATTER OF OLD BEN COAL CORPORATION, REGISTERED DISTRIBUTOR, REGISTRATION NO. 6965, RESPONDENT

ORDER POSTPONING HEARING

The above-entitled matter having heretofore been scheduled for hearing on March 5, 1942, at 10:00 a. m. at a hearing room of the Bituminous Coal Division at the Post Office Building, Terre Haute, Indiana, and it appearing to the Acting Director that it is advisable to postpone said hearing:

Now, therefore, it is ordered, That the above-entitled matter be, and the same hereby is postponed from 10:00 o'clock in the forenoon of March 5, 1942, to a date and place to be hereafter designated by an appropriate Order of the Division.

Dated: February 21, 1942.

[Seal] DAN H. WHEELER, Acting Director.

[F. R. Doc. 42-1574; Filed, February 23, 1942; 11:18 a. m.]
January 26, 1942, for hearing at 10:00 a.m. on March 2, 1942, at a hearing room of the Bituminous Coal Division in Room 705, United States Custom Court Building, Chicago, Illinois; and

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

*Now, therefore, it is ordered, That the hearing in the above-entitled matter be and the same is hereby postponed to a date and place to be hereafter designated by a proper Order.*

Dated: February 20, 1942.

**[F. R. Doc. 42-1576; Filed, February 23, 1942; 11:18 a.m.]**

**[Docket No. B-72]**

**IN THE MATTER OF THE B & B COAL COMPANY, A CORPORATION, REGISTERED DISTRIBUTOR, REGISTRATION NO. 0338, RESPONDENT**

**ORDER FOR RESTORATION OF REGISTRATION**

The Acting Director having entered an Order in the above-entitled matter dated January 5, 1942, suspending the registration of the respondent, The B & B Coal Company, as a distributor, Registration No. 0338, for a period of thirty (30) days from the date of service of said Order; and

Said Order having been served upon the respondent on January 12, 1942; and

It appearing to the Acting Director that said affidavit of The B & B Coal Company sufficiently complies with the provisions of said Order dated January 5, 1942, and § 304.15 of the Rules and Regulations for the Registration of Distributors; and

Now, therefore, it is ordered, That the registration of The B & B Coal Company as a distributor, be, and it is hereby restored as of February 12, 1942.

Dated: February 19, 1942.

**[F. R. Doc. 42-1570; Filed, February 23, 1942; 11:19 a.m.]**

**[Docket No. B-213]**

**IN THE MATTER OF THOMAS B. BLEAKNEY, AN INDIVIDUAL, CODE MEMBER, DEFENDANT**

**NOTICE OF AND ORDER FOR HEARING**

A complaint dated February 5, 1942, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on February 10, 1942, by Bituminous Coal Producers Board for District No. 1, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant 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 March 25, 1942, at 10 a.m., at a hearing room of the Bituminous Coal Division at Room 203, Post Office Building, Altoona, Pennsylvania.

It is further ordered, That Joseph A. Huston or any other officer or officers of the Bituminous Coal Division duly designated for that purpose shall preside at such 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, and require the 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 under the authority of law.

Notice of such hearing is hereby given to the Consumers' Counsel, and any other interested person, who has pertinent information concerning the eligibility of any of the parties to said proceedings for registration as distributors under the provisions of the Bituminous Coal Act and the Rules and Regulations for the Registration of Distributors. Said information is invited to furnish such information to the Division on or before March 23, 1942. This information should be mailed or presented to the Bituminous Coal Division, 700 15th Street NW., Washington, D. C.

Dated: February 21, 1942.

**[F. R. Doc. 42-1570; Filed, February 23, 1942; 11:19 a.m.]**

Any district board, code member, distributor, the Consumers' Counsel, or any other interested person, who has pertinent information concerning the eligibility of any of the parties to said proceedings for registration as distributors under the provisions of the Bituminous Coal Act and the Rules and Regulations for the Registration of Distributors is invited to furnish such information to the Division on or before March 23, 1942. This information should be mailed or presented to the Bituminous Coal Division, 700 15th Street NW., Washington, D. C.
before the date herein set for hearing on the complaint.

That said defendant also wilfullyviolated Orders Nos. 307, 308 and 312 dated December 11, 1940, January 14, 1941, and February 24, 1941, respectively, by failing, during the period from January 1, 1941, to April 1, 1941, both dates inclusive, in violation of Orders Nos. 307 and 308 and from April 2, 1941, to date, in violation of Orders Nos. 308 and 312, to maintain and file with the Statistical Bureau of the Division for District No. 1, as is prescribed in said Orders, copies of all truck tickets, sales slips, other memora-

randa or records relating to sales and shipments of bituminous coal produced by said defendant and shipped by truck or wagon.

Dated: February 21, 1942.


[F. R. Doc. 42-1655; Filed, February 24, 1942; 10.21 a.m.]

[Docket No. A-1256]

PETITION OF DISTRICT BOARD No. 18 FOR THE ESTABLISHMENT AND THE REVISION OF PRICE Classifications and Minimum Prices for the Coals of Certain Mines and for certain SUBDISTRICT Classifications in DISTRICT No. 18

MEMORANDUM OPINION AND ORDER GRANTING TEMPORARY RELIEF AND NOTICE OF AND ORDER FOR HEARING

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, has been duly filed with this Division by the above-named party. The petitioner requests relief, both temporary and permanent, in the following matters:

(1) The establishment of price classifications and minimum prices for the coals of certain mines in Valencia County, New Mexico, and in Subdistrict No. 1 in District No. 18, for shipment by truck.

(2) The establishment of price classifications and minimum prices for the coals of certain mines in Subdistrict No. 8 in District No. 18, for shipment by truck.

(3) The revision of the effective minimum prices for the coals produced in Subdistricts Nos. 1 and 8.

(4) The revision of the boundaries of Subdistrict No. 1 — Gallup in District No. 18. The petition alleges that one of the mines referred to in paragraph (1) hereof, namely the Taylor Mine, is located in Valencia County, New Mexico, which county is not presently within any Subdistrict in District No. 18; that the coals of the Taylor Mine possess marketing factors similar to those previously priced and produced generally in Subdistrict No. 1 — Gallup and that, accordingly, the boundaries of that Subdistrict should be extended to include Valencia County.

(5) The revision of the boundaries of Subdistrict No. 8 — San Juan in District No. 18. The petition alleges that the group of eleven mines mentioned in paragraph (2) hereof, the coals of which are allegedly superior to the other coals being produced in Subdistrict No. 8, are located in the territory described as follows:

That part of San Juan County, New Mexico, lying north of the San Juan River and west of the Hogback; and

that such territory should be excluded from Subdistrict No. 8 and should be classified as Subdistrict No. 10.

(6) The revision of the effective minimum price for the coals in Size Group 9, and the establishment of a minimum price for the coals in Size Group 11 produced at the Kinney No. 1 Mine (Mine Index No. 12) in Subdistrict No. 6 in District No. 18 for all shipments.

The petition does not set forth sufficient facts to warrant the award of any relief prior to a hearing with respect to the requested revisions of the subdistrict boundaries or the requested revisions of the presently effective minimum prices for coals being produced in Subdistricts Nos. 6 and 8. It appears, however, that an adequate showing of necessity has been made for the granting of temporary relief with respect to the establishment of price classifications and minimum prices for the coals to be produced at the mines operated by the new code acceptants in Valencia County, New Mexico, and in Subdistricts Nos. 2 and 8; also, as to such Subdistrict No. 8 coals, that the minimum prices should reflect the alleged differences, in their market values, that such prices should be based upon and correlated with the level of the presently effective minimum prices for the coals of the other mines in Subdistrict 8 rather than the higher price level requested for the latter coals.

The petition also requests the establishment of minimum prices for coals in additional size groups being produced in

No. 88—14
Subdistrict No. 8. It appears that an adequate showing of necessity has been made for the granting of temporary relief in this respect but that the level of such prices should be based upon and correlated with the level of the presently effective minimum prices for those coals in other size groups rather than the higher price level requested for those coals. 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 March 23, 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. Cuff, or any other officer or officers of the Division 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 the conclusion 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 this proceeding 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 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 March 18, 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 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. 18 for:

(1) The establishment of price classifications and minimum prices in cents per net ton for the coals, for shipment by truck, of the Mount Taylor Mine of T. J. Coghill in Valencia County, New Mexico, as follows:

<table>
<thead>
<tr>
<th>Size groups</th>
<th>Prices</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 2</td>
<td>$4.50</td>
</tr>
<tr>
<td>4 6 7 8 9</td>
<td>$3.90</td>
</tr>
<tr>
<td>10 12 13 15</td>
<td>$3.60</td>
</tr>
</tbody>
</table>
The defendant having filed with the Division on February 18, 1942 a request for an extension of time within which to file its application for disposition of the above-entitled proceeding without formal hearing, pursuant to § 301.132 of the Rules of Practice and Procedure Before the Division, and having submitted therewith such application; and

The Acting Director deeming it advisable that said motion and request of the defendant, respectively, be granted and that under such circumstances the hearing herein be postponed;

Now, therefore, it is ordered, That the time within which defendant must file its verified application pursuant to said § 301.132 of the Rules of Practice and Procedure Before the Division, be and the same hereby is extended to and including February 16, 1942, the date on which said application was submitted;

It is further ordered, That the time within which defendant shall file its answer herein be and it hereby is extended to a date ten days after the date of final determination on said verified application pursuant to § 301.132 (f) of the Rules of Practice and Procedure Before the Division; and

It is further ordered, That the hearing in the above-entitled matter be postponed from 10 a.m. on February 27, 1942 to a date and place to be hereafter designated by an appropriate order of the Division.

Dated: February 23, 1942.

[Seal]  
DAH H. WHEELER,  
Acting Director.

[F. R. Doc. 42-1606; Filed, February 24, 1942; 10:21 a.m.]

[DOCKET NOS. B-192, B-194]

IN THE MATTERS OF IRA P. FOSTER, AND SCOTT L. REARICK, CODE MEMBERS, DEFENDANTS

ORDER ADVANCING AND CONSOLIDATING HEARINGS

The above-entitled matters having been heretofore scheduled for hearings on March 10, 1942, at 10 a.m. at a hearing room of the Bituminous Coal Division at the Armstrong County Court House, Kittanning, Pennsylvania, by Orders of the Acting Director, dated February 2, 1942, and February 3, 1942, respectively; and

By Waiver and Agreement filed with the Division on February 18, 1942, each of said defendants having waived the thirty (30) days' written notice of the issues and date of the respective hearing, and requested that the above-entitled matters be consolidated and heard jointly with the matters of O. E. Houser, et al., Dockets Nos. B-172, et al., heretofore set for hearing on February 24, 1942, at 10 a.m. at a hearing room of the Bituminous Coal Division at the Armstrong County Court House at Kittanning, Pennsylvania, and before the officer or officers heretofore designated to preside;

It is further ordered, That the above-entitled matters are hereby consolidated for the purpose of hearing only with the matters of O. E. Houser, et al., Dockets Nos. B-172, et al., heretofore set for hearing on February 24, 1942, at 10 a.m. at a hearing room of the Bituminous Coal Division at the Armstrong County Court House, Kittanning, Pennsylvania, pursuant to an order of the Acting Director dated February 5, 1942; and

It is further ordered, That the Notices of and Orders for Hearings in the above-entitled matters, dated February 2, 1942, and February 3, 1942, respectively, shall in all other respects remain in full force and effect.

Dated: February 21, 1942.

[Seal]  
DAH H. WHEELER,  
Acting Director.

[F. R. Doc. 42-1606; Filed, February 24, 1942; 10:21 a.m.]

[Docket No. 1753-FD]

ORDER REVOKING AND CANCELLING CODE MEMBERSHIP

A complaint having been filed with the Bituminous Coal Division on June 18, 1941, by District Board 20, pursuant to Sections 2 and 9 of the Bituminous Coal Act of 1937, alleging willful violation by Carl Nyman (National Coal Mine), a code member in District 20, the defendant, of the Bituminous Coal Code and rules and regulations thereunder, as follows:

That on various dates since January 9, 1941, the defendant sold and delivered various amounts of 1½" lump and slack coal produced at defendant's mine (Index No. 179) to various purchasers, at prices below the effective minimum price established for such coal;

Pursuant to an order of the Acting Director and after notice to interested persons, a hearing in this matter having been held before D. C. McCurtain, a duly designated Examiner of the Division, at a hearing room of the Division at Wheeling, West Virginia, pursuant to an Order of the Acting Director, dated February 5, 1942, and February 3, 1942, respectively, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard, and the complaint and the defendant having appeared at the hearing;

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

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, effective fifteen (15) days from the date of this Order, the code membership of the defendant, Carl Nyman (National Coal Mine), operating in Carbon County, Pennsylvania, District 20, be, and it hereby is, revoked and cancelled.

It is further ordered, That prior to any reinstatement of the defendant, Carl Nyman (National Coal Mine), to membership in the Code, the defendant shall pay to the United States a tax in the amount of $114.60, as provided in section 5 (c) of the Bituminous Coal Act of 1937.

Dated: February 23, 1942.

[Seal]  
DAH H. WHEELER,  
Acting Director.

[F. R. Doc. 42-1607; Filed, February 24, 1942; 10:22 a.m.]

[Docket No. 1753-FD]

IN THE MATTER OF WHEELING VALLEY COAL CORPORATION FOR PERMISSION TO PAY, UNDER CERTAIN SALES AGENCY CONTRACTS, SALES AGENCIES' COMMISSIONS IN EXCESS OF THE AMOUNTS PRESCRIBED AS MAXIMUM DISTRIBUTORS' DISCOUNTS, AS PROVIDED BY RULE 13, SECTION II OF THE MARKETING RULES AND REGULATIONS

ORDER GRANTING REQUEST FOR DISMISSAL OF HEARING AND DENTING PERMISSION TO PAY SALES AGENCY COMMISSIONS IN EXCESS OF MAXIMUM DISCOUNTS ALLOWED REGISTERED DISTRIBUTORS

An application having been filed by the Wheeling Valley Coal Corporation, Wheeling, West Virginia, pursuant to Rule 13 of Section II of the Marketing Rules and Regulations, that the granting of the permission requested in the application of the Wheeling Valley Coal Corporation to pay sales agency commissions should be deferred until further order of the undersigned, and that the applicant should not be permitted to pay such sales agency commissions pending further proceedings and orders of this matter;

The said applicant, a code member in District No. 6, having requested by letter

1Not filed with the original document.
2These companies are, in fact, sub-sales agents of the Wheeling Valley Coal Corporation. The Costanzo Coal Mining Company is the general sales agent for the applicant.
dated September 22, 1941, that it be afforded hearing on said applications; a hearing in this matter having been called for December 1, 1941, at a hearing room of the Bituminous Coal Division at Washington, D. C., at which time the applicant withdrew its request for a hearing. Therefore, it is ordered, That request of the applicant, Wheeling Valley Coal Corporation, for the dismissal of the hearing be and is hereby granted; and it is further ordered, That in the application of the Wheeling Valley Coal Corporation, producer, for permission to pay sales agency commissions to the above-named sub-sales agents of the Wheeling Valley Coal Corporation in excess of the maximum discounts allowed registered distributors be and the same hereby is denied. Dated: February 21, 1942.  

[SEAL]  

DAN H. WHEELER,  
Acting Director.  

[F. R. Doc. 42-1608; Filed, February 24, 1942; 10:22 a. m.]

[Docket No. 504-FD]

THE APPLICATION OF KENTUCKY COAL AGENCY, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY: IN RE AMENDMENT OF THE CONTRACTS BETWEEN THE APPLICANT AND ITS PRODUCER MEMBERS RELATIVE TO THE RIGHT TO TERMINATE CONTRACTS 

ORDER PROVIDING FOR CONDITIONALLY FINAL RELIEF

Kentucky Coal Agency, Incorporated, a marketing agency, is operating under provisional approval granted by Order of the National Bituminous Coal Commission (predecessor of the Division) dated November 29, 1938, in the above-entitled matter pursuant to Section 12 of the Bituminous Coal Act of 1937. By the said Order, the Commission provisionally approved the form of contract existing between Kentucky Coal Agency, Incorporated, and its producer members. This contract included, among others, the following provision:

This agreement shall continue in force until the first day of September, 1942, and after said date shall continue for periods of one year, from year to year, unless sooner terminated, as herein provided. Either party may terminate this agreement by serving upon the other party thirty days written notice. The termination will take effect thirty days after the receipt of such written notice, and upon the date when same shall become effective, the selling agent shall promptly notify all producers with whom it has entered into identical or similar agency agreements, and within five days from the receipt by a producer of any such notice, the producer may serve notice of termination of his contract, to take effect at the end of the five day period. The termination of this contract, as herein provided, shall not affect the performance of contracts then in force and binding on the selling agent, for the delivery of coal.

It appears that a reasonable showing of necessity has been made for the granting of relief in the manner hereinafter set forth, that no petitions of intervention have been filed with the Division in this matter, and that this action will effectuate the provisions of the Bituminous Coal Act.

It is further ordered, That pleadings in opposition to the original application in this matter and applications to stay or modify the relief herein granted may be filed with the Division within twenty (20) days from the date of this Order, pursuant to the Rules of Practice and Procedure before the Bituminous Coal Division. It is further ordered, That this order is subject to further orders herein. Dated: February 21, 1942.  

[SEAL]  

DAN H. WHEELER,  
Acting Director.  

[F. R. Doc. 42-1609; Filed, February 24, 1942; 10:23 a. m.]

[Docket No. B-23]

IN THE MATTER OF NICK LUCIANI & SONS, A PARTNERSHIP, CODE MEMBER, DEFENDANT  

CASE AND DESEY ORDER

District Board No. 18 having filed a complaint with the Bituminous Coal Division on August 25, 1941, pursuant to Section 12 of the provisio- nation II (1) and 5 (b) of the Bituminous Coal Act of 1937, alleging willful violation by Nick Luciani & Sons, a code member in District Board No. 18, of the Bituminous Coal Code or rules and regulations thereunder, by selling during October, November and December 1940, approximately 239 tons of 1½" lump bar screen coal (Size Group 2) produced at its mine to various purchasers for shipment by truck at a price of $3.00 per net ton f. o. b. the mine, whereas the effective minimum price established for such coal was $3.65 per net ton f. o. b. the mine, and as set forth in Schedule of Effective Minimum Prices for District No. 18 For All Shipments:

Pursuant to an Order of the Director and after due notice to all interested persons, a hearing having been held in this matter, December 7, 1941, before Scott A. Dahlquist, a duly designated Examiner of the Division, at a hearing room thereof in Albuquerque, New Mexico, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard;

The complainant and the defendant having appeared, and all interested parties having joined in waiving the preparation and filing of a report by the Examiner; the record of the proceeding thereupon having been submitted to the undersigned for consideration; the undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion, which are filed herewith; ¹

Now, therefore, it is ordered, That the defendant, Nick Luciani & Sons, a partnership composed of Nick Luciani, A. A. Luciani, U. D. Luciani, A. M. Luciani and N. R. Luciani, and each partner thereof, their representatives, servants, agents, employees, attorneys, successors or assigns, and all persons acting or claiming to act in their behalf or interest, cease and desist, and they are hereby permanently enjoined and restrained from selling or offering for sale coal at prices below the effective minimum prices, from violating the provisions of the Bituminous Coal Act, the Bituminous Coal Code, the Schedule of Effective Minimum Prices for District No. 18 For All Shipments, and the Marketing Rules and Regulations.

It is further ordered, That if the defendant, or any of the partners thereof, fails or neglects to comply with this Order, the Division may forthwith apply to the Circuit Court of Appeals of the State of New Mexico within and in which court such defendant carries on business for the enforcement hereof, or take any other appropriate action.

Dated: February 21, 1942.  

[SEAL]  

DAN H. WHEELER,  
Acting Director.  

[F. R. Doc. 42-1610; Filed, February 24, 1942; 10:23 a. m.]

Bureau of Reclamation.

FIRST FORM RECLAMATION WITHDRAWAL.  

ANDERSON RANCH RESEVOIR SITE, BOISE, IDAHO

Correction

The land description for section 15 of Township 1 South, Range 8 East, on

¹Not filed with the original document.
**Recommendation of the Boulder Canyon Project Wage Board to the Secretary of the Interior**

Pursuant to the Order of the Secretary of the Interior, dated December 6, 1941, and entitled Wage Fixing Procedures, Boulder Canyon Project, the Boulder Canyon Project Wage Board has determined prevailing wage rates for certain classes of laborers and mechanics for work of a similar nature prevalent in the vicinity of the project. Public hearings were held in Boulder City, Nevada, on December 8 and 9. Witnesses at the hearings included representatives of labor organizations, of contractors' associations, of employees' associations, and of unorganized workers on the project, officials of the Bureau of Reclamation, and other operating agencies, and the Commissioner of Labor of the State of Nevada. Representatives of the United States Department of Labor also participated in the hearings.

In addition to the testimony offered by witnesses at the hearings, the Wage Board has considered wage rate data included in collective bargaining agreements; decisions of the Secretary of Labor made pursuant to the Davis-Bacon Act, as amended; statements of wages paid to and benefited by employees of the Bureau of Power and Light, City of Los Angeles, and the Southern California Edison Company; and tabular analyses of wages and other compensation paid by the Bureau of Reclamation.

The Wage Board finds that the hourly wage rates established below are prevailing for similar work in the vicinity of the project and recommends them for your adoption.

<table>
<thead>
<tr>
<th>Labor classification</th>
<th>Prevaling hourly rate on private work</th>
<th>Recommended basic hourly rate for B/R employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air tool operator</td>
<td>$1.00</td>
<td>$1.00</td>
</tr>
<tr>
<td>Blacksmith</td>
<td>1.35</td>
<td>1.35</td>
</tr>
<tr>
<td>Blacksmith helper</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Cauldron operator</td>
<td>1.10</td>
<td>1.10</td>
</tr>
<tr>
<td>Carpenter</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Carpenter helper</td>
<td>0.80</td>
<td>0.80</td>
</tr>
<tr>
<td>Concrete finisher</td>
<td>1.00</td>
<td>1.00</td>
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<tr>
<td>Concrete mixer</td>
<td>0.90</td>
<td>0.90</td>
</tr>
<tr>
<td>Concrete molder</td>
<td>1.25</td>
<td>1.25</td>
</tr>
<tr>
<td>Core drill operator</td>
<td>1.25</td>
<td>1.25</td>
</tr>
<tr>
<td>Core drill operator helper</td>
<td>0.80</td>
<td>0.80</td>
</tr>
<tr>
<td>Crane operator</td>
<td>1.25</td>
<td>1.25</td>
</tr>
<tr>
<td>Diamond cutter</td>
<td>1.25</td>
<td>1.25</td>
</tr>
<tr>
<td>Drill line operator</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Drauline operator (under 1 yd.)</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Drauline operator (1 yd. and over)</td>
<td>1.75</td>
<td>1.75</td>
</tr>
<tr>
<td>Electrical helper</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Electrician (maintenance)</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Electrician helper</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Engineer</td>
<td>1.25</td>
<td>1.25</td>
</tr>
<tr>
<td>Grinding operator</td>
<td>1.12½</td>
<td>1.12½</td>
</tr>
<tr>
<td>Grader operator</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Great cutter</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Great pump operator</td>
<td>1.25</td>
<td>1.25</td>
</tr>
</tbody>
</table>

**Wage Fixing Procedures, Boulder Canyon Project**

**December 6, 1941.**

In aid to the administration of Section 15 of the Boulder Canyon Project Adjustment Act (54 Stat. 774) and for the purpose of determining the prevailing rate of wages to be paid certain classes of Government employees on the Boulder Canyon Project, the following procedure is established:

*I. Wage Board*

Wage Board, composed of two representatives of the Department, one selected from the office of the Secretary of the Interior, and one selected from the Bureau of Reclamation, is hereby established to determine prevailing wages for similar work in the locality of the Project for all laborers and mechanics employed by the Government in the construction or operation and maintenance of the Project, excluding employees whose wages are fixed on an annual basis pursuant to the Classification Act of 1933, as amended, and to make recommendations with respect to such wages to the Secretary of the Interior. The representative selected from the office of the Secretary of the Interior shall act as Chairman of the Board.

**II. Procedure to be followed by Board**

In determining the prevailing wages of various classes of laborers and mechanics being considered by the Board in the locality of the Project, the Board shall procure evidence of the wages and compensation being paid and the perquisites of labor received by such laborers and mechanics from local contractors, Federal agencies (including wage scales currently being paid pursuant to the Davis-Bacon Act), private industrial employers, and others employing labor in the locality, whether pursuant to union agreements or otherwise. Hearings for the purpose of adducing evidence of wages paid in the locality may be held when, in the judgment of the Board, this is required in order to determine the prevailing rates of wages.

Based on the evidence procured as to prevailing wages and the perquisites of employment in the locality in the classifications under consideration by the Wage Board, the Board shall make its recommendation as to the rates of wages to be paid to the Government employees of the classes above specified on the Boulder Canyon Project to the Secretary of the Interior. The wages recommended shall become effective upon such date as shall be recommended by the Wage Board, unless otherwise directed by the Secretary of the Interior. Provided, That the Secretary of the Interior may direct the Board to reconsider any recommendation in whole or in part when, in his judgment, the recommended wage does not accord with the evidence procured as to the prevailing wage in the locality or there is insufficient evidence to support the wage recommended.

**III. Effective period of approved wage determinations**

Any wage rate fixed in the manner above provided shall remain in effect until that rate has been supplanted by a different rate determined by the Wage Board with the concurrence of the Secretary of the Interior, and of the Secretary of Labor in cases governed by said Section 15. Unless directed by the Secretary of the Interior to do so at other intervals, the Wage Board shall review...
wage rates at six-month intervals beginning with the effective date of the first schedule. The provisions made in accordance
with the procedure herein provided: Provided, That the Secretary of the Interior may direct a review at any other

time when, in his judgment, this is desirable.

IV
For the purpose of the first hearing and determination under this procedure, the Board shall be composed of these de-
partmental representatives: Mr. Duncan Campbell, selected from the office of the Secretary of the Interior, and Mr.
Charles A. Bissell, selected from the Bureau of Reclamation.

HAROLD L. JICKS,
Secretary of the Interior.

[F. R. Doc. 42-1001; Filed, February 23, 1942; 4:08 p. m.]

DEPARTMENT OF AGRICULTURE.

Surplus Marketing Administration.

NOTICE OF REPORT AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO A PROPOSED AMENDED ORDER NO. 27 AND A PROPOSED AMENDED MARKETING AGREEMENT REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MARKETING AREA.

Pursuant to § 900.12 (a), General Regulations, Surplus Marketing Administration, Department of Agriculture, notice is hereby given of the filing with the Hearing Clerk, in the Solicitor’s Office of the Department, of this report of the Administrator of the Surplus Marketing Administration of the Department with respect to a proposed amended marketing order and a proposed amended marketing agreement regulating the marketing of milk in the New York metropolitan marketing area. Interested parties may file exceptions to this report with the Hearing Clerk, Room 307, Surplus Marketing Room, Department of Agriculture, Washington, D. C., not later than the close of business on the 10th day after the publication of this notice in the Federal Register.

HISTORY, ISSUES, AND CONCLUSIONS

In connection with the issuance of Amendment No. 3 to Federal Order No. 27, as amended, issued August 29, 1941, which became effective October 1, 1941,1 the Secretary of Agriculture indicated that an early hearing on matters not covered in the above amendment would be held at the request of interested parties. It was also indicated that, if conditions so changed as to make it necessary, the question of fluid milk prices would be considered at an early hearing. Producer representatives submitted a petition for a hearing on revision of the Class I price on November 6, 1941. This petition was denied because it did not include consideration of other provisions of the order. On December 9, 1941, producer representatives submitted a new request for a hearing on several proposals to amend the order. A press release, dated December 17, 1941, was issued and sent to all interested parties requesting them to file with the Hearing Clerk, not later than December 22, other proposals for amending the order.

Twenty-two interested parties filed proposals for amending the order. More than 75 changes in the order were contained in the proposals. However, many of the proposed changes were interrelated.

A notice was issued over the signature of the Assistant to the Secretary of Agriculture, dated December 29, 1941, of hearing to begin in the Saint George Hotel, Brooklyn, New York, January 7, 1942, at 9:30 a. m.

A similar notice of hearing was issued by Mr. Kenneth F. Fee, Director of Division of the Commissioner of Agriculture and Markets for the State of New York. The joint hearing formally convened January 7 pursuant to the notices.

The hearing proceeded January 7, 8, and 9 at Brooklyn and was recessed to Utica, New York, January 12. The hearing proceeded during the period January 15-17 in Utica; January 18-19 in Boston; January 19-20 in Utica; and January 21-23 and 26-28 in Brooklyn, New York.

Time for filing briefs was set at the conclusion of the hearing, to expire at the close of business February 16, 1942.

The issues developed in this proceeding were as follows:

1. What shall be the level of Class I or fluid milk price for the marketing area?
2. What shall be the level of Class I or fluid milk price for milk sold outside the marketing area?
3. Shall provision be made for automatic adjustment of prices following a drought?
4. Shall the classification and pricing of “surplus” cream be separated from the present cream provisions?
5. Shall skim milk be classified and priced according to its use?
6. Shall the pricing provision for milk used in American cheese be changed?
7. Shall the basis for payments to cooperative associations be changed, the payments increased, or all payments to cooperatives be discontinued?
8. Shall diversion payments be discontinued, limited to fewer classes, or made subject to the direction of a diversion committee?
9. Shall cooperative associations be permitted to account for milk at less than the stated class prices, if after posting milk for sale in certain classes with the market administrator, no buyer is found for the milk?
10. Shall the marketing area be expanded to include additional territory in New York and parts of New Jersey and Pennsylvania? In connection with the expansion of the marketing area, shall producer-dealers be required to equalize, shall city differentials be allowed, and shall the special cream area be closed?
11. Shall there be included in the order a definition of a “new producer”?
12. Shall nearby location differentials be changed or discontinued?
13. Shall the automatic level production of milk be included in the order?
14. Shall transportation differentials be changed?
15. Shall butterfat differentials be changed?
16. Shall the definition of producer and handler be changed?
17. Shall a provision be included in the order requiring twice-a-month payments to producers?

On these issues, it is concluded from the record as follows:

1. That the present level of Class I price, with adjustment for seasonal change, should be maintained. This can best be done by including in the present formula based on the price of butter, some factor to reflect the unusual value of milk solids-not-fat;
2. That the present provision for pricing Class I milk sold outside the marketing area be continued;
3. That although it might be desirable to include an automatic adjustment for prices following a drought, additional data on weather stations to be included, effect of the proposal, etc., are needed;
4. That “surplus cream” shall be remunerated by a formula based on the price of cream in the market area;
5. That skim milk should be classified into two classes: V-A (mainly skim milk for fluid consumption in the marketing area); and V-B (mainly skim milk for manufacture). That Class V-A be priced at the Class I price less the price for butter in Class II-A and Class V-B be priced at the price of skim milk for making skim milk powder;
6. That milk for American cheese shall be priced on the basis of the Wisconsin Cheese Exchange quoted price for "Twins" rather than "Single Daisies";
7. That the present provisions for payments to cooperative associations be continued;
8. That diversion payments on all cream classes be discontinued to permit the pricing of cream on a competitive basis. That diversion payments be continued on Class III and Class IV-B;
9. That the provision to permit cooperative associations to classify milk at less than the stated class price, if after posting milk for sale in certain classes with the market administrator, no buyer is found for the milk, should not be included in the order;
10. That, because it was so ruled by the hearing master, after consultation with counsel in attendance at the hear-
ing, the proposal for extending the marketing area and related matters be held over for further consideration at a new hearing;
11. That no action be taken at this time on the above-named proposition and noted under paragraphs 11, 12, 13, 14, 15, and 16 above and that these issues be considered further at a new hearing; and
12. That because most producers are now being paid twice a month on a voluntary basis, such a provision should not be included in the order.

The proposed amended marketing order and proposed amended marketing agreements are recommended as the detailed means by which these conclusions may be carried out.

This report filed at Washington, D. C., the 24th day of February 1942.

[Seal]

E. W. Gaumitz,
Administrator.

Approved by:
ROY F. Hendrickson,
Agricultural Marketing Administrator.

PROPOSED AMENDED MARKETING ORDER REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MARKETING AREA, PREPARED BY THE ADMINISTRATOR OF THE SURPLUS MARKETING ADMINISTRATION, UNITED STATES DEPARTMENT OF AGRICULTURE.

FINDINGS

It is found upon the evidence introduced at the public hearing held in Brooklyn, New York, on January 7 through 9; Utica, New York, January 12 through 14; Binghamton, New York, January 15 through 17; Utica, New York, January 20 and 21; and Brooklyn, New York, January 22 through 28, that findings being in addition to the findings made upon the evidence introduced at all prior hearings on said order and amendments thereto (which findings are hereby ratified and affirmed), save only as such findings are in conflict with findings hereinafter set forth:
1. 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 section 2 and section 8c of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk, and that the minimum prices set forth in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;
2. That the order, as amended, as herewith amended, regulates the handling of milk in the same manner as a marketing agreement upon which a hearing has been held; and
3. That the issuance of this amended order will tend to effectuate the declared policy of the act.

PROVISIONS

§ 927.1 Definitions. The following terms shall have the following meanings:
(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.
(b) "Secretary" means the Secretary of Agriculture of the United States.
(c) "New York metropolitan milk marketing area" means the city of New York, the counties of Nassau, Suffolk (except Fishers' Island), and Westchester, all in the State of New York, and is hereinafter called the "marketing area."
(d) "Person" means any individual, partnership, corporation, association, or any other business unit.
(e) "producer" means any person who produces milk which is delivered to a handler at a plant which is approved by any health authority for the receiving of milk to be sold in the marketing area.
(f) "Publicly disclose, after reasonable notice, the name of any person who has not made reports pursuant to § 927.5 (a), or made payments required by § 927.7;"
(g) "Statement of surplus" means any statement submitted to the Secretary in connection with the sale of surplus milk to nonproducer handlers, such statistics and information concerning the operation of this order as will clearly reflect the transactions pursuant to § 927.8 the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator; and
(h) "Special cream area" means the territory, with the exception of the marketing area herein described, shall:
1. Keep such books and records as will clearly reflect the transactions provided for herein;
2. Submit his books and records to examination by the Secretary at any and all times;
3. Furnish such information and such verified reports as the Secretary may request;
4. Obtain a bond with reasonable security thereon covering each employee who handles funds entrusted to the market administrator.
5. Publicly disclose, after reasonable notice, the name of any person who has not made reports pursuant to § 927.5 (a), or made payments required by § 927.7;
6. Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation of this order as do not reveal confidential information;
7. Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;
8. Pay out of the funds received pursuant to § 927.8 the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, his own compensation, and other expenses where necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties; and
9. Maintain a main office and such branch offices as may be necessary.
10. Announcement of prices. The market administrator shall compute and publicly announce prices as follows:
(1) Not later than the 25th day of each month, the average for 30 days immediately preceding, of the prices reported daily by the United States Department of Agriculture for 92-score butter at wholesale in the New York market, and the average of all the hot roller process dry skim milk quotations for "other brands, animal feed, cartons, bags, or barrels," and for "other brands, human consumption, cartons, bags, or barrels" (using midpoint of any range as one quotation), published during the preceding 30 days in "The Producer's Price Current," and the Class I, Class II-A and the Class V-A prices to be in effect for the following month, pursuant to § 927.4 (a).
(2) Not later than the 5th day of each month, the prices for all other classes pursuant to § 927.4 (a) and the differentials pursuant to § 927.4 (b) in effect for the preceding month.
or II-A is in the form of frozen desserts or homogenized mixtures used in frozen desserts, which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(2) Class II-B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream or in the form of frozen desserts or in the form of homogenized mixtures used in frozen desserts, which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(3) Class III milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream in the marketing area or sold in the marketing area, and the classification of which is established in accordance with the form in which all milk, all of the conditions set forth in paragraph (a) of this section, the classes of milk shall be as follows:

(b) Classes of utilization. Subject to all of the conditions set forth in paragraph (b) of this section the classes of milk shall be as follows:

1. Class I milk shall be all milk which leaves a plant as milk, or cultured or flavored milk drinks, except that the butterfat from which leaves or is on hand at a plant in the form of cream which is delivered to a plant or a purchaser outside the marketing area, the special cream area, or in New England: Provided, That the cream is not moved to a plant in the form of homogenized mixtures used in frozen desserts, except as set forth in subparagraphs (5), (6), (7), and (9) of this paragraph, provided the frozen desserts in both instances were sold and remained outside of New York City; or all the butterfat which leaves or is on hand at a plant in the form of cream cheese.

(4) Class II-B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream, or in the form of frozen desserts, except as set forth in subparagraphs (5), (6), (7), and (9) of this paragraph, provided the frozen desserts in both instances were sold and remained outside of New York City; or all the butterfat which leaves or is on hand at a plant in the form of cream cheese.

(5) Class II-D milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(6) Class II-E milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream or in the form of frozen desserts or in the form of homogenized mixtures used in frozen desserts, which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(7) Class II-F milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream or in the form of frozen desserts, which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(8) Class III-A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream in the marketing area or sold in the marketing area, and the classification of which is established in accordance with the form in which all milk, the classes of milk shall be as follows:

(1) Class I milk shall be all milk which leaves a plant as milk, or cultured or flavored milk drinks containing 3.0 percent butterfat or more, and all milk the classification of which is established in accordance with the form in which all milk, the classes of milk shall be as follows:

(2) Class II-D milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(3) Class II-E milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(4) Class II-F milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(5) Class II-G milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.

(6) Class II-H milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is delivered to a plant or a purchaser outside the marketing area, except that loss or waste of milk used in frozen desserts is not moved to a plant in New York City, or sold in New York City.
(12) Class V-B milk shall be the skim milk in all milk which is classified pursuant to subparagraphs (2), (3), (4), (5), (6), (7), and (9) of this paragraph, which skim milk is not classified pursuant to subparagraph (11) of this paragraph.

§927.4 Minimum prices. For milk received during each month from producers or cooperative associations of producers, each handler shall pay per hundredweight not less than the prices set forth in this section. Any handler who purchases or receives, during any month, milk from a cooperative association of producers which is also a handler shall, on or before the 15th day of the following month, pay such cooperative association in full for such milk at not less than the minimum class prices applicable pursuant to this section.

(a) Class prices. (1) For Class I milk the price per hundredweight during each month shall be, except as specified in subparagraphs (2), (3), and (4) of this paragraph, as set forth in the table in this subparagraph:

| Class I price | Cents | Dollars per
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20</td>
<td>1.85</td>
<td>2.19</td>
</tr>
<tr>
<td>20 or over, but under 30</td>
<td>2.05</td>
<td>2.36</td>
</tr>
<tr>
<td>30 or over, but under 35</td>
<td>2.25</td>
<td>2.60</td>
</tr>
<tr>
<td>35 or over, but under 40</td>
<td>2.45</td>
<td>2.85</td>
</tr>
<tr>
<td>40 or over, but under 45</td>
<td>2.65</td>
<td>3.06</td>
</tr>
<tr>
<td>45 or over, but under 50</td>
<td>2.85</td>
<td>3.26</td>
</tr>
<tr>
<td>50 or over, but under 55</td>
<td>3.05</td>
<td>3.46</td>
</tr>
<tr>
<td>55 or over, but under 60</td>
<td>3.25</td>
<td>3.66</td>
</tr>
<tr>
<td>Over 60</td>
<td>3.45</td>
<td>3.86</td>
</tr>
</tbody>
</table>

(2) For Class I milk sold by a handler in the marketing area under a program approved by the Secretary and upon which payment is made out of Federal funds, the price shall be 57 cents per hundredweight less than the price in effect pursuant to subparagraph (1) of this paragraph.

(3) For Class I milk which has not passed through the marketing area, but which is ultimately distributed in an area regulated by another order of the Secretary, the price shall be the Class I price set forth in such other order for milk sold in such marketing area subject to the butterfat and location differentials set forth in such other order.

(4) For Class I milk which has not passed through the marketing area, but including Class I milk which was received direct from producers at a plant in the marketing area, and which is ultimately distributed in an area not regulated by an order of the Secretary, the price shall be the uniform price computed by the market administrator pursuant to §927.6 (b) plus 20 cents per hundredweight, or the net pool obligation for such milk pursuant to §927.6 (a).

(5) For Class II-A milk, the price during each month shall be as set forth in the following table:

<table>
<thead>
<tr>
<th>Class II-A price</th>
<th>March through July</th>
<th>August through February</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cents per pound</td>
<td>Dollars per</td>
<td>Dollars per</td>
</tr>
<tr>
<td></td>
<td>cut</td>
<td>cut</td>
</tr>
<tr>
<td>Under 21.5</td>
<td>1.85</td>
<td>2.19</td>
</tr>
<tr>
<td>21.5 or over, but under 25.5</td>
<td>2.05</td>
<td>2.36</td>
</tr>
<tr>
<td>25.5 or over, but under 29.5</td>
<td>2.25</td>
<td>2.60</td>
</tr>
<tr>
<td>29.5 or over, but under 32.5</td>
<td>2.45</td>
<td>2.85</td>
</tr>
<tr>
<td>32.5 or over, but under 36.0</td>
<td>2.65</td>
<td>3.06</td>
</tr>
<tr>
<td>36.0 or over, but under 39.5</td>
<td>2.85</td>
<td>3.26</td>
</tr>
<tr>
<td>39.5 or over, but under 42.5</td>
<td>3.05</td>
<td>3.46</td>
</tr>
<tr>
<td>42.5 or over, but under 46.0</td>
<td>3.25</td>
<td>3.66</td>
</tr>
<tr>
<td>46.0 or over</td>
<td>3.45</td>
<td>3.86</td>
</tr>
</tbody>
</table>

(6) For Class II-B milk, the price during each month shall be 12 cents less than the Class II-A price.

(7) For Class II-C milk, the price during each month shall be 10 cents higher than the Class II-E price applicable at a plant located within the O-250 mile zone from Boston.

(8) For Class II-D milk the price during each month shall be a price calculated by the market administrator as follows: add all weekly market quotations (unaverted or rounded off to the nearest range as one quotation) of prices reported by the United States Department of Agriculture for the month during which such milk was received from producers for a 40-quart can of 40 percent sweet cream approved for Pennsylvania only, and for Pennsylvania, Newark, and Lower Merion Township, divide the number of quotations, subtract 28 cents, and add 21.5 cents. Such price shall be subject to the minus differentials set forth in the following table applicable to the location of the plant at which the cream, frozen desserts, or homogenized mixtures are made with such milk.

(9) For Class II-E milk the price during each month shall be 10 cents higher than the Class II-D price.

(10) For Class II-F milk the price during each month shall be the price for Class II-E milk.

(11) For Class III milk the price during each month shall be 10 cents higher than the average, as reported by the market administrator, of prices, as reported to the United States Department of Agriculture, paid during such month to farmers by each of the evaporated milk plants which purchase milk at places listed in this subparagraph and for which prices are reported: Provided, That in no event shall the Class III price be less than a price computed by the market administrator as follows: To the average price of 92-score butter at wholesale in the Chicago market for such month, as reported by the United States Department of Agriculture, add 30 percent, multiply by 3.5, and add 7 cents.

(12) Class V-B milk shall be the skim milk in all milk which is classified pursuant to subparagraphs (2), (3), (4), (5), (6), (7), and (9) of this paragraph, which skim milk is not classified pursuant to subparagraph (11) of this paragraph.

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between the price for Class I milk set forth in subparagraph (1) of this paragraph and the price for Class V-B milk set forth in subparagraph (5) of this paragraph, and the result divided by 0.9126.

(1) For Class V-B milk the price during each month shall be a price computed by the producer according to the following formula:

\[ \text{Price} = \frac{\text{Average of all the hot or minus 4 cents for each one-tenth}}{8.3} \]

where the average of all the hot or minus 4 cents for each one-tenth of 1 percent butterfat above or below 3.5 percent, is equal to the price set forth in subparagraph (13) of paragraph (a) of this section, divided by 9.45 and multiplied by 0.23. The minimum prices for each of the other classes except Classes V-A and V-B containing more or less than 3.5 percent butterfat shall be plus or minus, for each one-tenth of 1 percent butterfat above or below 3.5 percent, an amount equal to the respective prices set forth in paragraph (a) of this section, divided by 6.

(c) Transportation differentials. The market administrator shall from time to time publicly announce for each plant outside the marketing area, operated by each handler, the freight zone set forth in the schedule below in this section according to the railway mileage distance from New York City terminals of its nearest railway shipping point, or its highway mileage distance from New York City, if the latter is less than the former by more than five miles. Any such mileage distance shall be that recognized for rate-making purposes by the Interstate Commerce Commission. For the purposes of this paragraph each plant within the marketing area shall be assigned by the market administrator to the 1–10 mile freight zone. The minimum prices set forth in paragraph (a) of this section shall be plus or minus the amounts as set forth in the following schedule:

<table>
<thead>
<tr>
<th>Freight zone (miles)</th>
<th>Class I and V-A</th>
<th>Class II-A, II-B, and II-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-10</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>11-20</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>21-25</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>26-30</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>31-35</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>36-40</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>41-50</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>51-70</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>71-75</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>76-80</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>81-90</td>
<td>1-15</td>
<td>1-15</td>
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<tr>
<td>91-100</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>101-110</td>
<td>1-15</td>
<td>1-15</td>
</tr>
</tbody>
</table>

(d) Butterfat differentials. The minimum prices for Class I milk specified in paragraph (a) of this section, divided by the price set forth in subparagraph (13) of paragraph (a) of this section, divided by 9.45 and multiplied by 0.23. The minimum prices for each of the other classes except Classes V-A and V-B containing more or less than 3.5 percent butterfat shall be plus or minus, for each one-tenth of 1 percent butterfat above or below 3.5 percent, an amount equal to the respective prices set forth in paragraph (a) of this section, divided by 6.

(e) Transportation differentials. The market administrator shall from time to time publicly announce for each plant outside the marketing area, operated by each handler, the freight zone set forth in the schedule below in this section according to the railway mileage distance from New York City terminals of its nearest railway shipping point, or its highway mileage distance from New York City, if the latter is less than the former by more than five miles. Any such mileage distance shall be that recognized for rate-making purposes by the Interstate Commerce Commission. For the purposes of this paragraph each plant within the marketing area shall be assigned by the market administrator to the 1–10 mile freight zone. The minimum prices set forth in paragraph (a) of this section shall be plus or minus the amounts as set forth in the following schedule:

<table>
<thead>
<tr>
<th>Freight zone (miles)</th>
<th>Class I and V-A</th>
<th>Class II-A, II-B, and II-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-10</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>11-20</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>21-25</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>26-30</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>31-35</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>36-40</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>41-50</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>51-70</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>71-75</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>76-80</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>81-90</td>
<td>1-15</td>
<td>1-15</td>
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<tr>
<td>91-100</td>
<td>1-15</td>
<td>1-15</td>
</tr>
<tr>
<td>101-110</td>
<td>1-15</td>
<td>1-15</td>
</tr>
</tbody>
</table>

§ 927.5 Reports of handlers—(a) Monthly reports. On or before the 10th day of each month each handler shall report to the market administrator, in the manner and on forms prescribed by the market administrator, with respect to milk received at each plant during the preceding month:

(1) The total quantity of milk, with the average butterfat content thereof, received at each such plant, from such handler's own farm, and from other handlers;

(2) The total quantity of such milk and of each product of such milk moved out of, or on hand at, such plant within 8 days after the end of such month, the butterfat content of each product, and the destination of any milk which moved out of such plant;

(3) If the classification of any milk is claimed by such handler on the basis of disposition in some other plant, the disposition of such milk at such other plant covered by records kept by the operator of the other plant if not a handler;

(4) The computation, pursuant to § 927.6 (a), of such handler's net pool obligation.

(b) Producer pay roll reports. Each handler shall report with respect to producers as follows:

(1) On or before the 10th day after the end of each month, the information required by the market administrator with respect to producer additions, producers withdrawals, and changes in names of farm operators;

(2) On or before the last day of each month, each handler shall forward the producer pay roll for the preceding month, which shall show for each producer:

(i) The total delivery of milk with the average butterfat test thereof;

(ii) The amount of payment due such producers;

(iii) Any deductions and charges made by the handlers;

(iv) The net amount of payment to such producer made pursuant to § 927.7; and

(v) Such other information with respect thereto as the market administrator may require.

(c) Verification of reports and payments. The market administrator shall promptly verify all reports and payments of each handler by audit of such handler's records, and of the records of any other handler or person upon whose disposition of milk such handler claims classification, and each such handler shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities, of his own or of other persons, as will enable the market administrator to:

(1) Verify the receipt and disposition of all milk required to be reported pursuant to this section, and, in case of errors or omissions, ascertain the correct figures;

(2) Weigh, sample, and test for butterfat content the milk received from producers, and any product of milk upon which classification depends;

(3) Verify the payments to producers prescribed in § 927.7; and

(4) Verify all claims for payments pursuant to § 927.7 (d), (e), and (f).

§ 927.6 Determination of uniform prices—(a) Net pool obligation of handlers. The net pool obligation of each handler for milk received from producers during each month shall be a sum of money computed for such month as follows:

(1) Determine the total quantity of milk in each class at each plant;

(2) Subtract pro rata out of each class the quantity of milk received from the handler's own farm or from a farm in Nassau or Suffolk Counties, not approved for sale of milk in New York City;

(3) Prorate in the case of each plant, where milk is received from producers, to each class or price subdivision of each class, the loss or waste of milk at such plant not to exceed 2 percent of the total quantity of milk in all classes except Class V-A and Class V-B and calculate any remainder as Class I milk subject to the price set forth in § 927.4 (a) (1);

(4) Subtract from the remaining quantity of milk, or skim milk as the case may be, in each class, the quantity of such milk, or skim milk, as the case may be, received from any other handler, or received from any other handler which result shall be known as the "net pooled milk" in each class at each plant;

(5) Subject to adjustment for appropriate differentials applicable pursuant
to § 927.4 (b) and (c), multiply the Class I milk price pursuant to § 927.4 (a) (4) by 20 cents per hundredweight, multiply the remaining net pooled milk, or skim milk, if any, to which the Class I milk price is not applicable by the Class price, and add together the resulting values;

(5) Subtract, from the total net pooled milk of all handlers whose reports are included in this computation, the Class I milk price pursuant to § 927.4 (a) (4) and subtract the skim milk classified pursuant to § 927.3 (b); and

(6) Divide the result obtained in (4) by the result obtained in (5). The result shall be known as the uniform price for milk containing 3.5 percent butterfat received from producers at plants in 201–210 mile zone.

§ 927.7 Payment to producers—(a) Time of payment. On or before the 25th day of each month each handler shall make payment to each producer for all milk delivered by such producer during the preceding month at not less than the uniform price subject to differentials set forth in paragraphs (b) and (c) of this section: Provided, That each handler which is also a cooperative marketing association determined by the Secretary to be qualified under the Capper-Volstead Act, may, with respect to producers who are members of and under contract with such association make distribution, in accordance with the contract between the association and such members, of the net proceeds of all its sales in all markets in all use classifications.

(b) Transportation and location differentials. The uniform price at any plant shall be—

(1) Plus or minus the differential shown in column B of the schedule contained in § 927.4 (c) for the zone of the plant in effect pursuant to § 927.4 (c); and

(2) Plus the differentials, if any, applicable pursuant to § 927.6 (a) (8) plus 5 cents.

(c) Butterfat differential. The uniform price shall be increased or decreased by 4 cents per hundredweight of net pooled milk in classes other than Class V-A and Class V-B to provide against the contingency of errors in reports and payments or of delinquency in the payment of handlers;

(6) The market administrator shall make payments authorized by this paragraph or issue credit therefor, out of the producer-settlement fund on or before the 25th day of each month, subject to verification of the reports upon which such payment is based, and amounts so paid or credited shall be made to each cooperative association of producers under the following conditions and at the following rates:

(1) Three-quarters of one cent per hundredweight of net pooled milk at any handler's plant which was caused to be delivered from its members by such associations and on which such handler has made the reports and payments required by this order;

(2) Three-quarters of one cent per hundredweight of net pooled milk at plants of other complying handlers which was reported and collected for by such association; and

(3) Four cents per hundredweight of any net pooled milk which was caused by it to be delivered to any other complying handler and which is reported and collected for by such association.

(d) Cooperative payments. Any cooperative association of producers may apply to the Secretary for a determination of its qualifications to receive payments pursuant to this paragraph by reason of its having and exercising full authority in the sale of the milk of its members; arranging for and supplying, in a manner obvious to the market and the use of the marketing capacity of the several types of cooperative associations designated in this paragraph, in times of short supply, Class I milk to the marketing area; securing utilization of milk; and having its entire activities under the control of its members; and complying with all provisions of this order applicable to it.

After the Secretary has determined any cooperative to be qualified to receive payments pursuant to this paragraph, such cooperative shall from time to time, as requested by the market administrator, make reports to the market administrator with respect to services rendered to the producer-settlement fund of the sums received under this paragraph. Whenever the market administrator has reason to believe that any cooperative qualified by the Secretary in addition to paying the obligations covered by the payments under this paragraph, shall suspend and hold in reserve such payments, notifying the Secretary and the cooperative of his action and the reasons therefor. Such suspended payments shall be held in reserve until the Secretary has, after hearing, disqualified such cooperative or ruled upon the performance of the cooperative and either ordered the suspended payments to be paid to the cooperative in whole or in part or disqualified the cooperative, in which case the balance of payments held in reserve shall be returned to the producer-settlement fund.

The market administrator shall make payments authorized by this paragraph or issue credit therefor, out of the producer-settlement fund on or before the 25th day of each month, subject to verification of the reports upon which such payment is based, and amounts so paid or credited shall be made to each cooperative association of producers under the following conditions and at the following rates:

(1) Three-quarters of one cent per hundredweight of net pooled milk at any handler's plant which was caused to be delivered from its members by such associations and on which such handler has made the reports and payments required by this order;

(2) Three-quarters of one cent per hundredweight of net pooled milk at plants of other complying handlers which was reported and collected for by such association; and

(3) Four cents per hundredweight of any net pooled milk which was caused by it to be delivered to any other complying handler and which is reported and collected for by such association.
federal register, wednesday, february 25, 1942

lowing rates and under the following conditions:

(1) Payments may be made only on month of which the receipt is pursuant to § 927.3, properly classified, for any month of the year in classes III and IV-B.

(2) No claim shall be allowed if the milk on which the claim is made is manufactured at a plant which is one-half mile or less from the first plant.

(3) Claims shall be paid at a rate for handling of the receiving plant of 17 cents per hundredweight, plus a hauling allowance at the rate of 1½ cents per hundredweight per mile for 20 miles and 1½ cents per hundredweight per additional mile for the shortest highway distance between the two plants: Provided, however, That no claim for a hauling allowance shall be paid for a haul greater than 65 miles.

(4) The market administrator shall from time to time cause inspections to be made of the buildings, facilities, and surroundings of plants and notify handlers of determination as to which constitutes the plant and its equipment for the purpose of this § 927.3 (e). Such determination shall be ruling for all other purposes under this order.

(5) Payments shall not be paid to any handler making claim therefore if, during the month for which such claim is made, such handler has a less proportion of net pooled milk in Class I of all other handlers, and such handler has refused to sell milk to other handlers who do not operate or control country receiving plants or has refused to sell to such handlers milk of a butterfat test nearest to that desired by the purchaser if available in the seller's country plants which are eligible for diversion payments, provided the offer of purchase meet the following conditions:

(i) Cash on delivery for a quantity of not less than 200 cans per shipment; method of delivery at the option of the buyer.

(ii) Purchase price equal to the price applicable pursuant to § 927.4 (a) (1), subject to the applicable differentials pursuant to (a) § 927.4 (c); (b) the butterfat differentials set forth in § 927.4 (b); (c) plus not more than 23 cents per hundredweight for handling through the country plants; and (d) plus the payments provided by § 927.3.

(i) Storage cream payments. With respect to butterfat in frozen cream held in one or more licensed cold-storage warehouses for more than 28 days under the conditions set forth in § 927.3 (b), (3), the handler whose net pool obligations included such butterfat as class II-B milk may make claim, on forms supplied by the market administrator, for payments out of the producer-settlement fund, if such butterfat was stored during the months of September or in, and was used in classes II-D, II-B, or II-F during the months of October through March inclusive, and was in classes II-D, II-B, or II-F during the months of January to March, inclusive. The market adminis-
cessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator in liquidating the funds in the hands of the administrator's office shall be distributed by the market administrator to handlers in an equitable manner.

PROPOSED MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MARKETING AREA PREPARED BY THE ADMINISTRATOR OF THE SURPLUS MARKETING ADMINISTRATION, UNITED STATES DEPARTMENT OF AGRICULTURE

Whereas the parties hereto, in order to effectuate the declared policy of the said Act, desire to enter into this marketing agreement.

Now, therefore, the parties hereto agree as follows:

1. The terms and provisions of § 927.1 through § 927.9 of Order No. 27, as amended, regulating the handling of milk in the New York Metropolitan Marketing Area, issued March 1, 1942, shall be the terms and provisions of this marketing agreement, with the exception that wherever the word “order” is used the word “marketing agreement” shall be substituted therefor; and

2. The following sections shall also be a part of the marketing agreement in addition to § 927.1 through § 927.9 of said order:

§ 927.10 Termination. The Secretary may terminate this agreement whenever he finds that this agreement obstructs or does not tend to effectuate the declared policy of the Act.

Any handler signatory to this agreement may withdraw as a party to it upon 30 days’ written notice to the Secretary effective at midnight on the last day of the month following the expiration of such 30 days. Such notice of withdrawal may be given to the Secretary by registered, certified mail addressed to the Secretary of Agriculture, Washington, D. C. Such termination shall not release such handler from any obligations under this agreement in respect to acts done under and during the existence of this agreement, and the benefits, privileges, and immunities conferred by this agreement upon any parties signatory hereto shall cease upon its termination as to such party, except with respect to acts done under and during the existence of this agreement.

§ 927.14 Counterparts and additional parties. This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, the entire agreement as if all such signatures were obtained in one original.

§ 927.15 Authorization to correct typographical errors and record of milk handled during the month of April 1941—(a) Authorization to correct typographical errors. The undersigned hereby authorizes O. M. Reed, Chief, Dairy Division, Surplus Marketing Administration, to correct any typographical errors which may have been made in this marketing agreement, as amended.

(b) Record of milk handled during the month of April 1941. The undersigned certifies that he handled during the month of April 1941 ______ hundred-weight of milk covered by this agreement, as amended, and disposed of within the marketing area.

§ 927.16 Signature of parties. In witness whereof, the contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have heretofore set their respective hands and seals.

By
Name
Title
Address
Date

[Signature]

DEPARTMENT OF LABOR.
Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 15, 1940, 5 F.R. 2882) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 591).

Men's Single Pants, Shirts and Allied Garments and Women's Apparel Industries, September 23, 1941 (6 F.R. 4839).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4303).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3320).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3382, 3383).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

Notice of Amended Order for the Employment of Learners in the Cigar Manufacturing Industry, July 29, 1941 (6 F.R. 3733).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, etc, cetera, specified in the Determination

1 This proposed marketing agreement is prepared by the administrator pursuant to § 900.12 (a) of the general regulations, Surplus Marketing Administration, and has not received the approval of the Secretary of Agriculture.
and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective February 23, 1942. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS AND EXPIRATION DATE

Apparel
Quakertown Clothing Manufacturing Company, 10th and Juniper Streets, Quakertown, Pennsylvania; Pants; 5 percent (T); February 23, 1943.
Stratbury Manufacturing Company, East Church Street, Gallion, Ohio; Overcoats, Topcoats; 5 percent (T); February 23, 1943.
M. Wire and Company, Inc., 77 Goodell Street, Buffalo, New York; Men's Clothing; 50 learners (T); February 23, 1943.
Single Pants, Shirts, and Allied Garments and Women's Apparel
Cotton City Wash Frocks, Inc., 52 12th Street, Fall River, Massachusetts; Cotton Dresses, Housecoats and Playsuits; 10 percent (T); February 23, 1943.
W. R. Darling, 127 East 9th Street, Los Angeles, California; Slacks, Playsuits, Shorts; 5 learners (T); February 23, 1943.
N. Parah and Sons, Inc., 188 Huntington Street, Brooklyn, New York; Housecoats; 10 learners (T); August 23, 1942.
Maderite Shirt Company, 1027 Metropolitan Avenue, Brooklyn, New York; Men's Shirts; 10 percent (T); August 23, 1942.
Manheim Manufacturing Company, 35 South Spring Street, Elizabeth, New Jersey; Dresses and Blouses; 10 learners (T); February 23, 1943.
Merit Shirt Corporation, Herbert and Smith Streets, Perth Amboy, New Jersey; Shirts; 10 percent (T); February 23, 1943.
Nickols Manufacturing Company, Inc., 1521 Tenth Avenue, Seattle, Washington; Ladies' Cotton and Rayon Garments; 5 learners (T); February 23, 1943.
Outdoor Frocks, Inc., Philmont, New York; Dresses; 10 percent (T); February 23, 1943.
Portland Overall Company, 127 Middle Street, Portland, Maine; Work Pants; 10 learners (T); February 23, 1943.
Prime Shirt and Sportswear Company, 82 White Street, Brooklyn, New York; Sport Shirts; 10 percent (T); June 8, 1942.
Seaford Garment Company, Phillips Street, Seaford, Delaware; Shirts; 10 percent (T); February 23, 1943.
Strouse Baer Company, 110 South Paca Street, Baltimore, Maryland; Infants' & Children's Garments; 10 percent (T); February 23, 1943.

Gloves
The Frank Russell Glove Company, 203 Park Avenue, Berlin, Wisconsin; Leather
Dress and Knit Fabric Gloves; 5 learners (T); February 23, 1943.

Hosiery
Bloomburg Hosiery Mills, Inc., Bloomburg, Pennsylvania; Seamless Hosiery; 5 percent (T); February 23, 1943.
Cooksville Hosiery Mills, No. 3, Vale, North Carolina; Seamless Hosiery; 5 learners (T); February 23, 1943.

Knitted Wear
New Knit Manufacturing Company, 95 Bridge Street, Lowell, Massachusetts; Knitted Outerwear; 5 learners (T); February 23, 1943.

Millinery
Kaufman and Company, 2022 West Broad Street, Richmond, Virginia; Popular-Priced Millinery; 15 learners (E); August 23, 1942.

NOTICE OF ORAL ARGUMENT
Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly Sections 406 and 1001 of said Act, in the above-entitled proceeding, that oral argument now assigned to be held on February 24, 1942, is hereby postponed to March 3, 1942, at 10 a.m. (Eastern Standard Time) in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C., before the Board.

By Dated Washington, D.C., February 23, 1942.

THE CIVIL AERONAUTICS BOARD.

[DOCKET NO. 405, 406, 443, 457, 559, 568]

IN THE MATTER OF PANHANDLE EASTERN PIPE LINE COMPANY AND MICHIGAN GAS TRANSMISSION CORPORATION, and in the Matter of Panhandle Eastern Pipe Line Company and Michigan Gas Transmission Corporation
ORDER DENYING PETITION FOR CONTINUANCE AND CHANGING PLACE OF HEARING
February 17, 1942.

Upon application filed by Panhandle Eastern Pipe Line Company, Defendant, for a continuance of the hearing in this proceeding for a period of at least 60 days; and it appearing that: (a) The City of Detroit, Michigan, and County of Wayne, Michigan, Complainants, on February 11, 1942, filed objections to the said petition for continuance; (b) Subsequent to the filing of said petition for continuance, the hearing was recessed by the Commission's Examiner to reconvene on February 23, 1942; (c) No good cause exists for a 60-day postponement of the hearing; the Commission orders that: (A) The said petition for a continuance of 60 days be and it is hereby denied; (B) The hearing in this proceeding be resumed on February 24, 1942, at 9:45 A.M.;
I ORDER TO SHOW CAUSE AND FIXING DATE OF HEARING

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

FEDERAL TRADE COMMISSION.

ORDER DISPOSING OF APPLICATIONS FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES TO TWENTY-NINE (29) STOCKS

SECURITIES AND EXCHANGE COMMISSION.

IN THE MATTER OF NESTLE'S MILK PRODUCTS, INC., A CORPORATION

IN THE MATTER OF CODEL CORPORATION, A CORPORATION

FEDERAL REGISTER, Wednesday, February 25, 1942
Value; General Electric Company Common Stock; No Par Value; The Goodyear Tire and Rubber Company Common Stock, No Par Value; Hayes Manufacturing Corporation $2 Par Value Common Stock; Illinois Central Railroad Corporation $1 Par Value Class A Stock; Kelsey-Hayes Wheel Company $1 Par Value Class A Stock; Kelsey-Hayes Wheel Company $1 Par Value Class B Stock; Mueller Brass Company $1 Par Value Common Stock; National Automotive Fibres, Inc. $1 Par Value Common Stock; National Steel Corporation $25 Par Value Common Stock; Paramount Pictures, Inc. $1 Par Value Common Stock; Radio Corporation of America Common Stock, No Par Value; Reynolds Spring Company $1 Par Value Common Stock; Republic Steel Corporation Common Stock, No Par Value; Steude Motors, Inc. $10 Par Value Capital Stock; Southern Railway Company Common Stock, No Par Value; Standard Oil Company (Indiana) $25 Par Value Capital Stock; Studebaker Corporation $1 Par Value Common Stock; Western Union Telegraph Company $100 Par Value Common Stock; Willsy-Overland Motors, Inc. $1 Par Value Common Stock; and P. W. Wollworth Company $10 Par Value Capital Stock, be and the same are hereby approved.

It is further ordered, That the application of the Detroit Stock Exchange for permission to extend unlisted trading privileges to P. Lorillard Company $10 Par Value Common Stock be and the same are hereby denied.

By the Commission.

FEDERAL REGISTER, Wednesday, February 25, 1942

Harrison E. Fryberger has filed an application for leave to intervene in the consolidated Electric and Gas Company proceedings, as a so-called claimant and on behalf of a class of persons also styled as claimants. Since it does not appear that the corporation or any other persons, this will be treated solely as an application by Fryberger in his own behalf.

Fryberger presently owns no securities of Consolidated Electric and Gas Company. He does not assert that he is a consumer of any of the public utility companies in the holding-company system here involved.

Applicant alleges that he has a claim against Consolidated Electric and Gas Company arising from a purchase of stock in Central Public Service Corporation, a predecessor holding company, substantially all of whose assets were transferred to Consolidated Electric and Gas Company in 1922, pursuant to a so-called Voluntary Plan of Reorganization, which plan was consummated in its ultimate form in 1933 in the course of proceedings under Section 7(b) of the Bankruptcy Act in the United States District Court for the District of Maryland.

A suit in the Supreme Court of the State of New York, seeking to establish this claim as a cause of action against Consolidated Electric and Gas Company and others, resulted in a decision in favor of the defendants, which decision was affirmed by the Appellate Division and the Court of Appeals of the State of New York. A bill in equity in the Court of Chancery of Delaware was dismissed on the grounds that the matter was res judicata. A suit in New York has resulted in an adverse decision, although the right of appeal in this action is still available. We express no opinion with regard to the merits of Fryberger's claim; it is sufficient to state that this claim has not been established in a court of competent jurisdiction and that Fryberger has not established his status as a creditor of either of the respondents companies.

Furthermore, it does not appear that these proceedings will in any way prejudice any rights of action that Fryberger may have against either of the respondents herein. The Commission finds that he has not established that he possesses or represents an interest which is or may be inadequately represented in the proceedings as required by Rule XVII of the Commission's Rules of Practice and that his participation in the proceedings would not be in the public interest or for the protection of investors or consumers.

Accordingly, it is ordered, That the application of Harrison E. Fryberger for leave to intervene in the above-entitled matters in his own behalf is in all respects denied, without prejudice however to the renewal of such application at such time as the said Harrison E. Fryberger shall have established himself as a so-called claimant and on behalf of a class of persons also styled as claimants.
By the Commission (Chairman Purcell and Commissioners Healy and Pike).

Commissioners Burke and O'Brien being absent and not participating.

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 42-1585; Filed, February 21, 1942; 12:00 m.]

IN THE MATTER OF FORD R. JENNINGS AND GEORGE N. FLEMING, PROPOSED ORGANIZERS OF A PROTECTIVE COMMITTEE FOR THE CLARION RIVER POWER COMPANY 6% NON-CUMULATIVE PREFERRED STOCK; PROPOSED COMMITTEE TO REPRESENT ITS DEPOSITORS IN PROCEEDINGS BEFORE THIS COMMISSION CITED: AND IN THE MATTER OF PENNSYLVANIA ELECTRIC COMPANY, THE CLARION RIVER POWER COMPANY, ERIE LIGHTING COMPANY, YOUNGHENNY HYDRO-ELECTRIC CORPORATION, ASSOCIATED MARYLAND ELECTRIC POWER CORPORATION, ASSOCIATED ELECTRIC 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 20th day of February, A. D. 1940.

The above named parties having filed a joint declaration pursuant to the Public Utility Holding Company Act of 1935, particularly sections 12 (c) and 12 (f) thereof, and Rules U-42 and U-43 promulgated thereunder regarding:

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of February, A. D. 1942. Notice is hereby given that a declaration on Form U-R-1 has been filed by Ford R. Jennings and George N. Fleming pursuant to Rule U-62 promulgated under the Public Utility Holding Company Act of 1935. All interested persons are referred to said document, which is on file in the said Commission, for a statement of the undertakings therein proposed, which are summarized as follows:

Declarants propose to solicit deposits from the public holders of the 6% Non-Cumulative Participating Capital Stock $100 par value of The Clarion River Power Company. Of a total of 44,530 shares of such stock outstanding 4,267.5 shares are in the hands of the public.

The purpose of such solicitation, as set forth in the declaration, is to obtain the right to represent depositors in a proceeding before this Commission which proceeding is involved, among other things, with the sale to Pennsylvania Electric Company, parent of The Clarion River Power Company, of all of the assets of The Clarion River Power Company, it being represented that a consummation of the sale of Pennsylvania Electric Company and The Clarion River Power Company would leave no equity for the Participating Capital Stock of The Clarion River Power Company. On February 17, 1942 this Commission allowed the declarations to become effective and approved the applications embracing, among other things, the sale above mentioned. Our order, however, expressly reserved jurisdiction to determine whether and the extent to which the indebtedness of The Clarion River Power Company to Pennsylvania Electric Company should be subordinated to the publicly held Participating Capital Stock "" Holding Company Act Release No. 3332.)

It is further ordered, That James G. Ewell or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such manner. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 13 (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 prescribed by said declaration otherwise to be considered in this proceeding, particular attention will be directed at the hearing to the following matters and questions:

1. Whether the proposed method of charging and distribution of expenses and compensation by such committee is consistent with the applicable standards of the Act and the Rules thereunder, and whether such solicitation material should provide that no fees or expenses will be paid except pursuant to approval by this Commission.

2. Whether and to what extent additional facts should be stated in the solicitation material with respect to the interests of said committee members in the securities of The Clarion River Power Company and concerning the interests therein of any participants in the Corporation of which any of such committee members are interested;

3. Generally, whether the proposed solicitation is consistent with the applicable standards of the Act and the Rules thereunder, and whether, if such solicitation is permitted, the interests of the public or of investors or consumers require the imposition of terms and conditions with respect thereto.

By the Commission.

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 42-1583; Filed, February 23, 1942; 12:01 p. m.]

IN THE MATTER OF ELECTRIC BOND AND SHARE COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE IN PART

At a regular session of the Securities and Exchange Commission held at its
office in the city of Washington, D. C.,
on the 20th day of February, A. D. 1942.

Electric Bond and Share Company, a
registered holding company, having filed
a declaration under section 12 (c) of
the Public Utility Holding Company Act
of 1935 and Rule U-42 promulgated
thereunder regarding the acquisition of
shares of its $5 and $6 Preferred Stocks
through the expenditure of not more
than $5,000,000 of its cash, to be effected
by purchases from time to time on the
New York Curb Exchange; a public hear­
ing on said declaration having been held
after appropriate notice; the Commis­
sion having examined the record and
having made and filed its findings herein;

It is ordered,

That said declaration be,
and the same hereby is, permitted to be­
come effective to the extent of $2,000,000,
subject to the following conditions:

1. That all purchases shall be effected
on the New York Curb Exchange and the
company shall not solicit or cause to be
solicited the sale of any shares to the
company;
2. That the company shall furnish to
the Commission, promptly after the 15th
day and the last day of each month, a
schedule showing for each day covered
by such report the number of shares of
each class purchased, the prices at which
purchased and the name of the broker
through whom purchased.
3. That the company shall include in
its quarterly reports to stockholders in­
formation as to the total number of
shares of each class purchased and the
aggregate purchase price for each class;
4. That no purchases shall be made
after the expiration of six months from
the date of this Order, subject, however,
to the right of the company to apply for
an extension or extensions of such
period;
5. That the Commission reserves juris­
diction in its discretion, to rescind or
modify this Order upon notice to the com­
pany at any time prior to the expiration
of such six months’ period or any exten­
sion or extensions thereof; any such re­
scission or modification to be applicable
only to such portion of the $2,000,000 as
shall not have been previously expended;
6. That the Commission reserves juris­
diction with respect to the remaining
$3,000,000 covered by the declaration
filed in the present proceeding, pending
formulation by the company of an ex­
change plan or other plan or plans for
distribution of assets to the preferred
stockholders; and
7. That the Commission reserves juris­
diction to require that all shares of pre­
ferred stock acquired by the company
pursuant to the present declaration and
Order be retired and canceled.

By the Commission.

Francis P. Brassor,
Secretary.

[F. R. Doc. 42-1584; Filed, February 28, 1942;
12:01 p. m.]