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VOLUME 7 NUMBER 191

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Regulations

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

PART 30—THE FEDERAL LAND BANK OF HOUSTON

FEES FOR RELEASE OF PERSONAL LIABILITY

Part 30 of Title 6, Code of Federal Regulations, is amended by adding a new section, § 30.10, to read as follows:

§ 30.10 *Fees for releases of personal liability in connection with Federal land bank and land bank Commissioner loans.* When no reappraisal by a land bank appraiser or investigation is necessary no fee will be charged. When reappraisal or investigation is necessary, a charge will be made covering the actual expense incurred, not to exceed $15.00. (Sec. 13 "Ninth", 39 Stat. 372, Sec. 26, 48 Stat. 44, Sec. 32, 48 Stat. 48, as amended; 12 U.S.C. 781 "Ninth", 723 (e), 1016 (e) and Sup.; 6 CFR 19.4019) [Res. Ex. Com., August 27, 1942]

By The Federal Land Bank of Houston.

[SEAL] A. P. GRAVES,
Executive Vice President.

[F. R. Doc. 42-9574; Filed, September 25, 1942; 3:27 p. m.]

TITLE 10—ARMY: WAR DEPARTMENT

Chapter III—Claims and Accounts

PART 36—CLAIMS AGAINST THE UNITED STATES

DAMAGE BY ARMY FORCES IN FOREIGN COUNTRIES

Section 36.55 (b) (2) is hereby amended to read as follows:

§ 36.55 *Claims for damages occasioned by Army forces in foreign countries.*
* * *

(b) *Application and scope.* * * *

(2) *Scope.* (i) No claim will be allowed where the evidence establishes that the damage was approximately caused in whole or in part by negligence on the part of the claimant, his agent, or employee.

(ii) Claims otherwise within the purview of the statute and these regulations may be allowed regardless of whether the officer or employee of the United States who caused the damage was acting within the scope of his employment, and regardless of whether the damage was caused by the negligence or criminal act of any such officer or employee.

(iii) In consideration of claims for damages resulting from personal injury or death the commissions may, in addition to the payment of actual and reasonable expenses for medical care and treatment, hospitalization, and funeral services and subject to the limitations of the Act, allow, in connection with personal injury claims, reasonable compensation for pain, suffering, loss of earning capacity and in connection with death claims loss of prospective support, taking due account of local standards. (Act January 2, 1942, Public Law 393—77th Congress) [Par. 2*b*, AR 35-7090 February 10, 1942, as amended by C 1 September 17, 1942]

* * * * *

[SEAL] J. A. ULIO,
Major General,
The Adjutant General.

[F. R. Doc. 42-9575; Filed, September 25, 1942; 3:27 p. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Orders, Serial Number 1936]

PART 202—ACCOUNTS, RECORDS AND REPORTS

UNIFORM SYSTEM OF ACCOUNTS FOR DOMESTIC AIR CARRIERS

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 14th day of September 1942.

The Civil Aeronautics Board, on January 21, 1942, having promulgated an amendment of § 202.2 of the Economic Regulations relating to Forms of Accounts for Air Carriers; and

It appearing to the Board that certain amendments to the Uniform System of Accounts for Domestic Air Carriers therein prescribed are now necessary to

CONTENTS

REGULATIONS AND NOTICES

FEDERAL REGISTER

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Telephone information: DIstrict 0525.

CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

make available to the Board certain information in relation to results of the operation of domestic air carriers under government war contracts relating to the performing of services for the military; 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 Amendment Number Two[1] attached as Exhibit A[1] hereto.

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 42-9641; Filed, September 28, 1942; 11:33 a. m.]

TITLE 14—CIVIL AERONAUTICS

Chapter II—Administrator of Civil Aeronautics, Department of Commerce

PART 600—DESIGNATION OF CIVIL AIRWAYS

[Amendment No. 9]

REDESIGNATION OF GREEN CIVIL AIRWAY NO. 4 AND RED CIVIL AIRWAY NO. 12

SEPTEMBER 24, 1942

Acting pursuant to the authority vested in me by section 302 of the Civil Aeronautics Act of 1938, as amended, I hereby amend Part 600 of the Regulations of the Administrator of Civil Aeronautics as follows:

1. By inserting after "Kansas City, Mo., Radio Range Station", in § 600.10003 Green civil airway No. 4 (Los Angeles, Calif., to Philadelphia, Pa.) the following:

§ 600.10003 *Green civil airway No. 4 (Los Angeles, Calif., to Philadelphia, Pa.)* * * * The intersection of the center lines of the on course signals of the northeast leg of the Kansas City Radio

[1] Filed with the Division of the Federal Register.

Range Station and the west leg of the Columbia, Mo., Radio Range Station; Columbia, Mo., Radio Range Station.

2. By deleting in § 600.10211 Red civil airway No. 12 (Kansas City, Mo., to Detroit, Mich.) the phrase "From the Kansas City, Mo., Radio Range Station," and inserting in lieu thereof the following:

§ 600.10211 *Red civil airway No. 12 (Kansas City, Mo., to Detroit, Mich.)* * * * From the intersection of the center lines of the on course signals of the northeast leg of the Kansas City Radio Range Station and the west leg of the Columbia, Mo., Radio Range Station.

This amendment will become effective 0001 EST, September 28, 1942.

C. I. STANTON,
Administrator.

[F. R. Doc. 42-9580; Filed, September 26, 1942; 11:00 a. m.]

[Amendment No. 15]

PART 601—DESIGNATION OF AIRWAY TRAFFIC CONTROL AREAS, CONTROL ZONES OF INTERSECTION, CONTROL AIRPORTS, AND RADIO FIXES

REDESIGNATION OF RADIO FIX

SEPTEMBER 24, 1942.

Acting pursuant to the authority vested in me by section 308 of the Civil Aeronautics Act of 1938, as amended, and Special Regulation No. 197 of the Civil Aeronautics Board, I hereby amend Part 601 of the Regulations of the Administrator of Civil Aeronautics as follows:

By inserting after "Kansas City, Mo., Radio Range Station", in § 601.4004 Green civil airway No. 4 (Los Angeles, Calif., to Philadelphia, Pa.) the following:

§ 601.4004 *Green civil airway No. 4 (Los Angeles, Calif., to Philadelphia, Pa.)* * * * The intersection of the center lines of the on course signals of the northeast leg of the Kansas City Radio Range Station and the west leg of the Columbia, Mo., Radio Range Station or the Excelsior Springs fan type radio marker station; Columbia, Mo., Radio Range Station.

This amendment will become effective 0001 E. S. T., September 28, 1942.

C. I. STANTON,
Administrator.

[F. R. Doc. 42-9581; Filed, September 26, 1942; 11:00 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 4663]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

HEATLESS PERMANENT WAVE COMPANY, ET AL.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety:* § 3.71 (e) *Neglecting, unfairly or deceptively, to make material disclosure—Safety.* In connection with offer, etc., of a method of heatless permanent waving which includes a curling solution composed of ammonium hydrogen sulphide, or any 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 method when used with such a curling solution, which advertisements represent, directly or through inference, that any method of heatless permanent waving which includes the use of a curling solution of ammonium hydrogen sulphide constitutes a competent, safe, or scientific means of producing permanent waves in the hair of human subjects or that its use is harmless and will have no ill effects upon the human body; or which advertisements fail to reveal that the use of a curling solution of ammonium hydrogen sulphide in connection with any method of heatless permanent waving may cause local skin irritation, nausea, or vomiting or may cause convulsions, asphyxiation, or collapse in the absence of ventilation, and if introduced into the circulatory system in sufficient quantities and strength may result in systemic poisoning and death; prohibited (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Heatless Permanent Wave Company, et al., Docket 4663, September 21, 1942]

In the Matter of Irvin A. Willat, an Individual, Trading as Heatless Permanent Wave Company and Arnold F. Willat, an Individual, Trading as Willat Production Company

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1942.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, and a stipulation as to the facts entered into between William S. Graham, counsel for the respondents, and Richard P. Whiteley, Assistant Chief Counsel for the Commission, which provides, 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 conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that the respondent Irvin A. Willat, an individual, trading as Heatless Permanent Wave Company, has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Irvin A. Willat, individually and trading as Heatless Permanent Wave Company, or under any other name or names, his agents, servants and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of a method of heatless permanent waving which includes a curling solution composed of ammonium hydrogen sulphide, or any product of substantially similar composition or possessing substantially similar properties, whether described by the same name or by any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that any method of heatless permanent waving which includes the use of a curling solution of ammonium hydrogen sulphide constitutes a competent, safe, or scientific means of producing permanent waves in the hair of human subjects or that its use is harmless and will have no ill effects upon the human body; or which advertisement fails to reveal that the use of a curling solution of ammonium hydrogen sulphide in connection with any method of heatless permanent waving may cause local skin irritation, nausea, or vomiting or may cause convulsions, asphyxiation, or collapse in the absence of ventilation, and if introduced into the circulatory system in sufficient quantities and strength may result in systemic poisoning and death;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of said method of heatless permanent waving when used with a curling solution of ammonium hydrogen sulphide, which advertisement contains any of the representations prohibited in Paragraph 1 hereof, or which advertisement fails to reveal that the use of a curling solution of ammonium hydrogen sulphide in connection with any method of heatless permanent waving may cause local skin irritation, nausea, or vomiting or may cause convulsions, asphyxiation, or collapse in the absence of ventilation, and if introduced into the circulatory system in sufficient quantities and strength may result in systemic poisoning and death.

It is further ordered, That said respondent Irvin A. Willat shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to respondent Arnold F. Willat.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 42-9600; Filed, September 26, 1942; 11:32 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter C—Miscellaneous Excise Taxes

[T.D. 5170]

PART 101—TAXES ON ADMISSIONS, DUES AND INITIATION FEES

AMENDMENTS AFFECTING MEMBERS OF MILITARY AND NAVAL FORCES, ETC.

Sections 101.5, 101.15, 101.16 and 101.18 of Regulations 43 (1941 Edition) amended.

In order to conform to Public Law 676, 77th Congress, 2d Session, approved July 23, 1942, Regulations 43 (1941 Edition) [Part 101, Title 26, Code of Federal Regulations, 1941 Supp.], as amended by Treasury Decision 5096, approved November 1, 1941, and Treasury Decision 5129, approved March 26, 1942, relating to the taxes on admissions, dues, and initiation fees under Chapter 10 of the Internal Revenue Code, as amended, are hereby further amended as follows:

PARAGRAPH 1. The following is inserted immediately preceding § 101.2:

PUBLIC LAW NO. 676—77TH CONGRESS, 2D SESSION

* * * That section 1700 (a) (1) of the Internal Revenue Code, as amended, is amended by inserting after the words "members of the military or naval forces of the United States when in uniform" a comma and the words "members of the military or naval forces of any of the United Nations, when in uniform," * * *

§ 101.2 *Meaning of "admission."* * * *

PAR. 2. The second paragraph of paragraph (b) of § 101.5 is amended to read as follows:

§ 101.5 *Free and reduced rate of admissions.* * * *

Persons in the military or naval forces of the United States when in uniform, members of the military or naval forces of any of the United Nations when in uniform, and members of the Civilian Conservation Corps when in uniform, are not liable for tax if admitted free, and if admitted at a reduced rate are liable for tax on the reduced price.

PAR. 3. The following is inserted immediately preceding § 101.15:

PUBLIC LAW NO. 676—77TH CONGRESS, 2D SESSION

* * * That section 1700 (a) (1) of the Internal Revenue Code, as amended, is amended * * * by inserting at the end thereof the following sentence: "Amounts paid on and after October 1, 1941, for admission to theatres and other activities operated by or under the control of the War Department or the Navy Department within posts, camps, reservations, and other areas maintained by the Military or Naval Establishment shall be exempt from the tax imposed by this section: *Provided*, That the net proceeds from said admission charges are used exclusively for the welfare of the military or naval forces of the United States."

PAR. 4. Sections 101.15 and 101.16 are amended to read as follows:

§ 101.15 *Termination of exemptions*—(a) *General rule.* The several exemptions from the tax on admissions formerly allowed by section 1701 of the Code and by the Interior Department Appropriation Acts were terminated as of October 1, 1941, by section 541 (b) and (c) of the Revenue Act of 1941. Accordingly, except as provided in paragraph (b) of this section, all amounts paid on and after October 1, 1941, for admission to any place are subject to tax, regardless of the purpose of the entertainment or affair and regardless of the organization or person to whom the proceeds inure. A child under 12 years of age admitted for less than 10 cents is not liable for tax. (See § 101.4.)

(b) *Exceptions.* Amounts paid on and after October 1, 1941, for admission to theatres and other activities operated by or under the control of the War Department or the Navy Department within posts, camps, reservations, and other areas maintained by the Military or Naval Establishment shall be exempt from the tax imposed by this section, provided the net proceeds from said admission charges are used exclusively for the welfare of the military or naval forces of the United States.

§ 101.16 *Admissions by or for the benefit of Federal, State, or Municipal Governments.* The fact that the authority charging admissions or receiving the proceeds thereof is the United States or an agency thereof, or a State or Territory or political subdivision thereof, such as a county, city, town, or other municipality, does not make such admissions exempt. For exception see § 101.15 (b). The Code specifically provides that the taxes on admission shall be paid by the person paying for admission. It is not, therefore, a tax on the person or authority selling the admissions or receiving the proceeds thereof.

PAR. 5. The second paragraph of subparagraph (1) of § 101.18 is amended to read as follows:

§ 101.18 *Religious organizations.* * * * Where a theater or other place has a reduced or special price of admission for (i) members of the military or naval forces of the United States, when in uniform, (ii) members of the military or naval forces of any of the United Nations, when in uniform, (iii) members of the Civilian Conservation Corps in uniform, or (iv) children under 12 years of age, a separate form of ticket (serially numbered) should be used showing such reduced or special price and that the ticket is to be used only by such persons.

(Sec. 3791 of the Internal Revenue Code (53 Stat. 467; 26 U.S.C. 1940, ed., 3791))

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

Approved: September 25, 1942,

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-9601; Filed, September 26, 1942; 11:58 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—War Relocation Authority

PART 5—ISSUANCE OF LEAVE FOR DEPARTURE FROM A RELOCATION AREA

Pursuant to the provisions of Executive Order No. 9102 of March 18, 1942, the following regulations are hereby prescribed:

Sec.
- 5.1 Types of leave.
- 5.2 Application for leave.
- 5.3 Proceedings upon application for leave.
- 5.4 Appeal from disapproval, or from approval with special conditions, of application for leave.
- 5.5 Transportation and reports during leave.
- 5.6 Extension of leave.
- 5.7 Granting of furlough from the War Relocation Work Corps.
- 5.8 Restrictions on leave.
- 5.9 Expiration of leave and furlough.
- 5.10 Definitions.
- 5.11 Effective date.
- 5.12 Forms.

AUTHORITY: §§ 5.1 to 5.12, inclusive, issued under E.O. 9102, 7 F.R. 2165.

§ 5.1 *Types of leave.* Leaves are of the following types:

(a) A short term leave, for not more than thirty days, for attending to affairs requiring the applicant's presence outside the relocation area;

(b) A leave to participate in a work group, for employment and residence with a group of center residents outside the relocation area, or for such employment with residence remaining within the relocation area; and

(c) An indefinite leave, for employment, education or indefinite residence outside the relocation area.

§ 5.2 *Application for leave.* Any person residing within a relocation center who has been evacuated from a military area or who has been specifically accepted by the War Relocation Authority for residence within a center may apply for leave.

§ 5.3 *Proceedings upon application for leave.* (a) The Project Director may interview an applicant for leave, shall secure a completed individual record on for WRA-26 for the applicant, and shall secure such further information concerning the applicant and the proposed leave as may be available at the relocation center.

(b) Short-term leaves shall be issued by the Project Director.

(c) Leaves to participate in a work group shall likewise be issued by the Project Director, but only in the case of such work groups as have been earlier approved by the Director or the Regional Director, and only upon the conditions specified in regulations or instructions issued from time to time.

(d) The file on each application for indefinite leave, which shall include the application, all related papers, and the Project Director's findings and recommendations, shall be forwarded by the Project Director to the Director. At the time of such forwarding, the Project Director shall inform the Regional Director of the names of the applicants on whose behalf such files have been forwarded to the Director, with a brief statement, as to each applicant, of the relevant facts and the recommendation made by the Project Director.

(e) In the case of each application for indefinite leave, the Director, upon receipt of such file from the Project Director, will secure from the Federal Bureau of Investigation such information as may be obtainable, and will take such steps as may be necessary to satisfy himself con-

cerning the applicant's means of support, his willingness to make the reports required of him under the provisions of this part, the conditions and factors affecting the applicant's opportunity for employment and residence at the proposed destination, the probable effect of the issuance of the leave upon the war program and upon the public peace and security, and such other conditions and factors as may be relevant. The Director will thereupon send instructions to the Project Director to issue or deny such leave in each case, and will inform the Regional Director of the instructions so issued. The Project Director shall issue indefinite leaves pursuant to such instructions.

(f) A leave shall issue to an applicant in accordance with his application in each case, subject to the provisions of this Part and under the procedures herein provided, as a matter of right, where the applicant has made arrangements for employment or other means of support, where he agrees to make the reports required of him under the provisions of this Part and to comply with all other applicable provisions hereof, and where there is no reasonable cause to believe that applicant cannot successfully maintain employment and residence at the proposed destination, and no reasonable ground to believe that the issuance of a leave in the particular case will interfere with the war program or otherwise endanger the public peace and security.

(g) The Director, the Regional Director, and the Project Director may attach such special conditions to the leave to be issued in a particular case as may be necessary in the public interest. The special conditions to be so attached shall be governed by regulations or instructions issued from time to time. Every leave issued under the provisions of this Part shall state the conditions that are applicable thereto.

(h) The Project Director shall promptly notify the applicant of the approval of an application, and of any special conditions attached thereto, or of the disapproval of an application, with a statement of the reasons therefor. In the case where the application for leave has been disapproved, or has been approved subject to special conditions, the Project Director shall advise the applicant of his right to appeal under the provisions of § 5.4.

(i) An applicant shall be required to arrange with the Project Director, in conformity with the applicable regulations or instructions of the Director, to provide for the support of any dependents of the applicant left in a relocation center.

(j) The Project Director may issue, on application, a written authorization to engage in individual work outside the boundaries of a relocation area while continuing to reside in the center. Such a written authorization may be issued to run from day to day until revoked, but shall otherwise be issued upon the same terms, and pursuant to the same forms and procedures, as short-term leaves.

(k) The Project Director shall make monthly reports to the Director and the Regional Director concerning all leaves issued or denied. In the case of each denial, the reason therefor shall be stated. In each case where leave has been issued notwithstanding circumstances which could have been made the grounds for denying leave, a statement of the circumstances and the reason for issuing the leave shall be included. In the case of each application for a short term leave, the report shall state the dates, destinations and purposes assigned in the application. Except as above provided, the report with reference to leaves to participate in a work group may be confined to statistics of the number of persons given leave to go to different work projects. Each such report shall also state the number and, where departure was reported by name, the names of persons who have returned to the relocation center upon expiration of leave.

(l) The Project Director shall promptly notify the Regional Director and the Director of the names of any persons who have failed to return to the relocation center upon expiration of leave.

§ 5.4 *Appeal from disapproval, or from approval with special conditions, of application for leave.* (a) Any applicant whose application for a short term or work group leave has been disapproved or approved with special conditions under § 5.3 may submit to the Project Director, within ten days following receipt of notice of such action, an appeal requesting the Project Director to transmit the appeal and all related papers to the Regional Director. The applicant may submit any supplemental written statement he wishes in support of the appeal.

(b) Within five days following receipt of such an appeal, the Project Director shall transmit the appeal and all related papers to the Regional Director, together with any supplemental statement he believes necessary or desirable.

(c) Upon receipt of such an appeal, the Regional Director shall, within five days, supplement the Project Director's findings with such additional facts as may be readily available, may make such further investigation in connection with the application as he deems necessary, and shall transmit the papers with his comments thereon, to the Director. The Director will thereupon consider the appeal as if it were a proper original application to him, and will issue instructions for the issuance or denial of the leave in accordance with the provisions of this part applicable to applications for indefinite leave. The Director will notify the Regional Director and the Project Director of his disposition of the appeal and the Project Director shall notify the applicant accordingly.

§ 5.5 *Transportation and reports during leave.* (a) The Project Director shall provide transportation for the applicant to whom a leave has been issued to the most convenient railroad or bus station. All other necessary transportation shall be arranged for by the applicant and shall not be paid for by the War Relocation Authority. The Authority may, however, make arrangements with employers for transportation connected with group work leaves. The Project Director shall inform any prospective employer or educational institution concerned, the Regional Director, and the Director, of the place and scheduled time of arrival of the applicant at his destination.

(b) Every short term leave shall require the center resident to report his arrival and every change of address to the Project Director. Every indefinite leave shall require the person to whom such a leave has been issued to report his arrival, his business or school and residential addresses, and every change of address, to the Director. Reports of changes of addresses shall be required to be made, so far as possible, before leaving any employment, institution or address. The person to whom an indefinite leave has been issued shall further be required to report upon arrival at a new location, and to transmit any further appropriate information concerning his exact business, school and residence addresses promptly upon ascertaining them. The Project Director shall send to the Director reports of all such information received by him.

§ 5.6 *Extension of leave.* (a) Any center resident to whom a short term leave has been issued may submit to the Project Director of the relocation center in which he resides a written application for an extension of such leave for a specified period, stating in detail his reasons therefor, and any corrections or additions to the information supplied in connection with the original application for leave. Such an application must be submitted in due time for consideration before the original leave expires. There shall be no implied authorization to remain on leave pending disposition of an application for an extension.

(b) Extensions of leave shall be issued or denied upon the same grounds and pursuant to the same procedure as applications for original leave, but no short term leave shall be prolonged beyond a total period of 60 days.

(c) The issuance of a leave of one type shall not prejudice an application for leave of another type. A center resident absent from the center under a leave to participate in a work group may apply for a similar leave to work with another group. In cases where the Project Director does not deem further personal interviews with the applicant to be necessary, applications may be made and processed while applicant is absent from the center on leave.

§ 5.7 *Granting of furlough from the War Relocation Work Corps.* (a) Any member of the War Relocation Work Corps to whom a leave has been issued under this part shall be considered as having been thereby likewise given a furlough from the Work Corps for the period for which the leave was issued, except where such leave is issued to permit him to perform work as a member of the Work Corps outside a relocation area.

(b) Any leave which has been issued to a member of the Work Corps shall be evidence of such furlough for the period for which the leave was issued.

§ 5.8 *Restrictions on leave.* (a) No short term leave or work group leave issued under the provisions of this part

shall authorize the person to whom the leave is issued to be present in any place except at, or en route to or from, a destination stated in the leave, within the dates stated therein. More than one destination may be stated in the leave where necessary. Such destinations shall be defined in terms of towns or counties as accurately as practicable.

(b) An indefinite leave may permit travel unlimited except as to restrictions imposed by military authorities with reference to military areas or zones, or may permit only travel within designated states, counties, or comparable areas.

(c) Whenever the military authorities of the United States require a pass or other authorization to enter any designated area, no leave shall be issued under the provisions of this part to permit entry into such area until the required pass or authorization has been obtained for the applicant. Whenever such military authorities impose restrictions on movement or conduct within any area, the continuance of such leave shall be contingent upon the observance of any such restrictions in addition to the observance of the other conditions of such leave.

(d) When any alien of enemy nationality is issued a leave under the provisions of this part, the leave shall recite that travel to the first destination has been permitted by the Department of Justice, and the Project Director shall notify the United States Attorney of the judicial district in which the first destination is located concerning the name, description, last residence, destination, and date of departure of such alien. Any subsequent travel within the terms of the leave may take place only with the permission of the United States Attorney for the judicial district including the new point of departure. In addition, if such alien has been paroled by order of the Attorney General, leave shall not issue until the Director has obtained from the Department of Justice in Washington, D. C., a specification of the terms and conditions that are to apply to the parole during such leave. A notification of these terms and conditions shall be embodied in the leave. The leave shall require the alien to comply with all applicable regulations of the Department of Justice with respect to the travel and conduct of enemy aliens.

§ 5.9 *Expiration of leave and furlough.* (a) Any leave issued, and the furlough granted in connection therewith, under the provisions of this part shall expire:

(1) On the expiration date stated in the leave; or

(2) At any time that the person to whom the leave has been issued shall violate any of the conditions applicable to such leave; or

(3) Upon notice from the Director or Project Director that the leave is revoked pursuant to the provisions of paragraph (b) of this section.

(b) The Director may revoke any leave when conditions are so far changed, or when such additional information has become available, that an original application by such person for leave would be denied under the provisions of this part. The Project Director may, on similar ground, with the prior approval of the Regional Director, revoke any short term leave. When the Director shall revoke a leave, he will promptly notify the Regional Director and the Project Director. When a Project Director shall revoke a leave, he shall promptly notify the Director and the Regional Director.

(c) Upon the expiration of any leave issued under this part, the person to whom the leave was issued shall return to the relocation center in which he previously resided, unless new leave has been granted or unless he is otherwise directed by the Director.

§ 5.10 *Definitions.* As used in this part:

(a) "Director" means the Director of the War Relocation Authority.

(b) "Regional Director" means the Regional Director of the War Relocation Authority for the region which contains the relocation center in which the particular applicant or person to whom a leave has issued resides or resided at the time application was made.

(c) "Project Director" means the Project Director of the War Relocation Authority for the relocation center in which the particular applicant or person to whom a leave has been issued resides or resided at the time application was made.

(d) "Relocation center" means a relocation community administered by the War Relocation Authority for occupancy by persons evacuated from military areas.

(e) "Relocation area" means the entire area, administered by the War Relocation Authority, surrounding a relocation center.

(f) "Applicant" includes the applicant for a leave and every member of his family who seeks to accompany him on the leave.

(g) "Center resident" means a person to whom a short term leave or work group leave has been issued under the provisions of this part.

§ 5.11 *Effective date.* The provisions of this part shall become effective on October 1, 1942.

§ 5.12 *Forms.* Applications for leave, leaves, and notices provided for in this part shall be made and issued on the prescribed forms whenever such forms are issued by the Director and distributed to the appropriate offices.

Issued at Washington, D. C., the 26th day of September, 1942.

[SEAL] D. S. MYER,
Director.

[F. R. Doc. 42-9617; Filed, September 28, 1942; 11:14 a. m.]

Chapter VI—Selective Service System

[No. 127]

NOTICE OF RIGHT OF APPEAL

ORDER PRESCRIBING FORM

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of § 605.51 of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

Revision of DSS Form 59, entitled "Notice to Employer of Right to Appeal," effective immediately upon the filing hereof with the Division of the Federal Register. The original supply of forms will be used until exhausted.

The foregoing revision shall, effective immediately upon the filing hereof with the Division of the Federal Register,[1] become a part of the Selective Service Regulations.

LEWIS B. HERSHEY,
Director.

JUNE 21, 1942.

[F. R. Doc. 42-9577; Filed, September 26, 1942; 10:30 a. m.]

[No. 126]

AFFIDAVIT—OCCUPATIONAL CLASSIFICATION (GENERAL)

ORDER PRESCRIBING FORM

Correction

The number for DSS Form 42 entitled "Affidavit — Occupational Classification (General)" appeared incorrectly as "4" on page 7589 of the issue for Saturday, September 26, 1942.

Chapter IX—War Production Board

Subchapter B—Director General for Operations

PART 1071—INDUSTRIAL AND COMMERCIAL REFRIGERATION AND AIR CONDITIONING MACHINERY AND EQUIPMENT

[Amendment 4 to General Limitation Order L-38]

Section 1071.1 *General Limitation Order L-38*[2] as amended, is hereby further amended as follows:

Subparagraph (1) of paragraph (b) (*Definitions*) is amended to read as follows:

(1) "Refrigerating and air conditioning equipment" means any type of machinery, equipment or other apparatus (except a domestic mechanical refrigerator as defined in paragraph (b) (2) of this order and except a domestic ice refrigerator as defined in paragraph (b) (3) of this order) which is primarily designed to lower the temperature of matter, or to lower the temperature or humidity, or both, of air, by mechanical, chemical or physical means, and includes all insulated enclosures, materials, parts, implements and devices included in the construction or assembly of such machinery, equipment or apparatus, or used therewith in causing it to perform its function of refrigeration or air conditioning.

Paragraph (d) (*Restricting production of refrigerating and air conditioning equipment*) is amended by adding thereto the following subparagraph:

(4) Notwithstanding the provisions of paragraph (d) (2) of this order, a producer may produce immersion (drop-in

[1] Filed with the original document.

[2] 7 F.R. 3662, 4569, 5081, 5297.

type) milk coolers for use on a farm in excess of the limitations established in such subparagraph of this order, provided that nothing in this order shall be deemed to authorize the production of such milk coolers in excess of the limitations imposed by Limitation Order No. L–26 as amended.[2]

Paragraph (e) *Restricting production and sale of specific items*) is hereby amended to read as follows:

(e) *Production and sale of specific items.* (1) Notwithstanding the provisions of paragraph (d) (2) of this order, no producer shall produce any of the following equipment for any purpose:

(i) Self-contained or remote draft beer dispensers, including storage cabinets or water chilling devices, or both, which are a part of the dispensing system.

(ii) Carbonated beverage dispensers.

(iii) Bottled beverage coolers, whether of reach-in, counter or self-contained type.

(iv) Low temperature mechanical refrigerators having a net capacity of eight (8) cubic feet or less designed for the storage of frozen foods or for the quick-freezing of food.

(v) Self-contained air conditioners (room coolers), and window type air conditioners having a rated capacity of less than two (2) horse power or a refrigerating capacity of less than two (2) tons (American Society of Refrigeration Engineers' Specifications).

(vi) Soda fountains without facilities for bulk ice cream storage (fountainette type).

(vii) Florist boxes.

(viii) Ice cream cabinets which are not to be used aboard ship.

(ix) Non-mechanical water coolers (whether of the iced bubbler or bottled type) having an ice capacity of less than twenty-five (25) pounds.

(x) Evaporative coolers rated at 2000 c. f. m. or less at the discharge side of the unit.

(xi) Refrigerated display cases of all types.

(xii) Low temperature mechanical refrigerators having a net capacity of more than eight (8) cubic feet but not over twenty-four (24) cubic feet to be used for the freezing and storage of food on a farm (Farm freezers).

(2) Notwithstanding the provisions of paragraph (c) (1) of this order, no producer shall sell, lease, trade, lend, deliver, ship or transfer to any dealer or other authorized channel of distribution of refrigerating and air conditioning equipment, or to any other person, and no dealer or other authorized channel of distribution, or any other person, shall accept the sale, lease, trade, loan, delivery, shipment or transfer of, any of the items of refrigerating and air conditioning equipment listed in paragraph (e) (1) of this order or any ice cream cabinets which are to be used aboard ship, except:

(i) Items to be delivered to, or for the account of, the Army or Navy of the United States (including Army Exchanges, Naval Ship Stores, Officers' Messes and Officers', Non-Commissioned Officers' and Enlisted Men's Clubs), the United States Maritime Commission, the War Shipping Administration, the Panama Canal, or the Coast Guard;

(ii) Parts for emergency repair service; and

(iii) Those items of equipment listed in paragraph (e) (4) of this order.

(3) Notwithstanding the provisions of paragraph (c) (1) of this order, a dealer or other authorized channel of distribution (including a bottler of carbonated beverages and a manufacturer of ice cream for resale) of refrigerating and air conditioning equipment may sell, lease, trade, loan, deliver, ship or transfer to any person, and any person may accept the sale, lease, trade, loan, delivery, shipment or transfer of, any of the items of refrigerating and air conditioning equipment listed in paragraph (e) (1) of this order, except draft beer dispensers as defined in paragraph (e) (1) (i) of this order. This subparagraph (3) also applies to parts for emergency repair service of all items of refrigerating and air conditioning equipment listed in paragraph (e) (1) of this order, including parts for draft beer dispensers as defined in paragraph (e) (1) (i) of this order.

(4) Notwithstanding the provisions of paragraphs (c) (1) and (e) (2) of this order, a producer, dealer or other authorized channel of distribution may without restriction sell, lease, trade, loan, deliver, ship or transfer to any person, and install, and any person may accept the sale, lease, trade, loan, delivery, shipment or transfer and installation of any of the following equipment (as well as parts to be used for the emergency repair service thereof):

(i) Non-mechanical bottled beverage coolers of the ice chest type.

(ii) Refrigerated vegetable display cases.

(iii) Florist boxes, and florist display cases.

(iv) Single duty refrigerated display cases.

(v) Non-mechanical water coolers (whether of the iced bubbler or bottled type) having an ice capacity of less than twenty-five (25) pounds.

(vi) Vending machines as defined in Limitation Order No. L–27.[3]

(vii) Low temperature mechanical refrigerators having a net capacity of more than eight (8) cubic feet but not over twenty-four (24) cubic feet to be used for the freezing and storage of food on a farm (farm freezers).

(viii) Immersion (drop-in type) milk coolers for use on a farm.

Paragraph (k) *Appeal*) is hereby amended to read as follows:

(k) *Appeal.* 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 serious problem of unemployment in the community or that compliance with this order would disrupt or impair a program of conversion from non-defense to defense work may apply for relief, on Form PD–520 if the provisions of paragraph (e) of this order are involved, or as to other provisions by addressing a letter to the War Production Board, setting forth the pertinent facts and the reasons why such person considers that he is entitled to relief. The Director General for Operations may thereupon take such action as he deems appropriate.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of September 1942.

ERNEST C. KANZLER,
Director General for Operations.

[F. R. Doc. 42–9606; Filed, September 26, 1942; 12:01 p. m.]

PART 1084—CANNED FOODS

[Conservation Order M–237]

The fulfillment of requirements for the defense of the United States has created a shortage in the available supply of canned fruits and vegetables for defense, for private account and for export, and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1084.15 *Conservation Order M–237*—(a) *Definitions.* For the purposes of this order:

(1) "Canner" shall mean any person engaged in the business of canning foods in hermetically sealed metal or glass containers and sterilizing the same by the use of heat.

(2) "Civilian pack" shall mean the total amount by weight of all grades of all restricted canned foods in any one of the three groups listed in Exhibit A canned by any canner during the season specified, excluding any food which the canner is required to set aside by Conservation Order M–86 and orders amendatory and supplementary thereto, and which is not released from the operation of such orders by the Director General for Operations, and also excluding any canned foods actually purchased by or contracted for, or packed pursuant to letter of intent issued by, any non-quota purchaser. This definition shall not be deemed to affect or change the meaning of the term "pack" as used in Conservation Order M–81,[1] wherein such term refers to area of tinplate or terneplate, nor to affect or change the meaning of the term in Conservation Order M–86.[2]

(3) "Restricted canned foods" shall mean any of the fruits and vegetables listed in Exhibit A attached hereto, packed in hermetically sealed metal or glass containers and sterilized by the use of heat, during the packing seasons indicated in said exhibit, excluding, however, liquid, strained, mashed or chopped

[2] 7 F.R. 5396, 6148.

[3] 7 F.R. 118.

[1] 7 F.R. 4836, 5272, 6148, 7090, 7237.

[2] 7 F.R. 1998.

canned foods when packed as infant food or for invalid feeding, and excluding jams, jellies, preserves, marmalades, pickles, relishes, and soups.

(4) "Non-quota purchaser" shall mean the Army, the Navy, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, the Defense Supplies Corporation, War Shipping Administration or any Agency of the United States Government for supplies to be delivered to, or for the account of the government of any country pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(b) *Restrictions on delivery.* (1) Without regard to existing contracts, and except as authorized in paragraph (2) below, no canner shall deliver more than 35% of his civilian pack of any group of canned foods listed in Exhibit A before December 1, 1942, nor more than 70% thereof before April 1, 1943. Deliveries already made on or before September 26, 1942 shall not be deemed in violation of this paragraph, but shall be charged first against the 35% permitted before December 1, 1942, and if in excess of 35%, against subsequent delivery quotas in their chronological order. The restrictions on delivery in this paragraph do not prohibit shipment for storage at the point of destination or in transit in advance of the permitted delivery date if possession and control do not pass to the purchaser, but the 30% which may not be delivered before April 1, 1943 must be held at or near the canner's plant until the time when such delivery is permitted. For the purpose of calculating the delivery quotas permitted by this paragraph all canning plants owned directly or indirectly by a single person may be regarded as a whole.

(2) Any person whose permitted delivery quotas of all groups under paragraph (1) for any period are less than a minimum carload as defined in applicable Office of Defense Transportation orders may nevertheless deliver a minimum carload and charge the excess against his quota for the next quota period, provided that such delivery is actually made by rail in a single car.

(c) *Reports.* Canners and distributors of restricted canned foods shall file OPA Forms CF-1 and CF-2 monthly on or before the dates required by said forms with the Bureau of Census acting as collecting and compiling agent for the Office of Price Administration and the War Production Board. Representations made on such forms shall be deemed made to the War Production Board. Canners to whom this order applies shall execute and file with the War Production Board such other reports and questionnaires as said Board may from time to time request.

(d) *Records.* Every person to whom this order applies shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales.

(e) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(f) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and, upon conviction, may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or accepting further deliveries of or from processing or using material under priority control and may be deprived of priorities assistance.

(g) *Appeals.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship upon him may appeal in writing to the Director General for Operations setting forth the pertinent facts and the reasons he considers that he is entitled to relief. The Director General for Operations may thereupon take such action as he deems appropriate.

(h) *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, Food Branch, Washington, D. C., Ref: M-237.

(i) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the Priorities Regulations of the War Production Board, as amended from time to time.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of September 1942.

ERNEST KANZLER,
Director General for Operations.

EXHIBIT A

GROUP I

Fruits	*Packing season*
Apples, including crabapples	1942-43
Applesauce, including sauce from crabapples	1942-43
Apricots	1942
Berries of all kinds	1942
Cherries, red sour pitted	1942
Cherries, sweet	1942
Combinations of oranges and grapefruit	1942-43
Cranberries, including sauce and jelly	1942-43
Figs	1942
Fruits for salad	1942-43
Fruit cocktail	1942-43
Grapefruit	1942-43
Oranges	1942-43
Peaches, including nectarines	1942
Pears	1942
Pineapples	1942-43
Plums	1942
Prunes	1942

GROUP II

Fruit and vegetable juices	*Packing season*
Apple	1942-43
Beet	1942-43
Carrot	1942-43
Celery	1942
Cherry	1942

GROUP II—continued.

Fruit and vegetable juices	*Packing season*
Cranberry	1942-43
Berry, all	1942
Grape	1942
Grapefruit	1942-43
Grapefruit and orange combination	1942-43
Lemon	1942-43
Lime	1942-43
Orange	1942-43
Pineapple	1942-43
Prune	1942-43
Sauerkraut	1942-43
Spinach	1942
Tomato and tomato cocktail	1942
Mixed vegetable	1942
All fruit nectars	1942

GROUP III

Vegetables	*Packing season*
Artichokes	1942-43
Aparagus	1942
Green and wax beans	1942
Green soya beans	1942
Lima beans	1942
Shell beans	1942
Beets	1942-43
Broccoli	1942
Brussels sprouts	1942
Cabbage	1942
Carrots	1942-43
Carrots and peas	1942-43
Cauliflower	1942
Celery	1942
Corn, including corn-on-cob	1942
Spinach and other green leafy vegetables	1942
Mushrooms	1942-43
Okra	1942
Onions	1942-43
Peas	1942
Peppers and pimentos	1942
Potatoes, white	1942-43
Pumpkin and squash	1942
Succotash	1942
Sweetpotatoes and yams	1942-43
Sauerkraut	1942-43
Tomatoes, whole or parts	1942
Tomato puree and pulp	1942
Tomato paste	1942
Tomato sauce	1942
Mixed vegetables, including vegetables for salad	1942

[F. R. Doc. 42-9603; Filed, September 26, 1942; 12:01 p. m.]

PART 1128—CLOSURES FOR GLASS CONTAINERS

[Amendment 1 to Conservation Order M-104, as Amended May 30, 1942]

Section 1128.1 *Conservation Order M-104* as amended May 30, 1942,[1] is hereby amended in the following particulars:

1. Paragraph (a) (6) is hereby amended to read as follows:

(6) "Tinplate" means blackplate coated with tin, and includes "primes", "seconds", "waste-waste", and all other forms of tinplate except waste.

2. Paragraph (a) (7) is hereby amended to read as follows:

(7) "Terneplate" means blackplate coated with a lead-tin alloy, and includes "primes", "seconds", "waste-waste", and all other forms of terneplate except waste.

[1] 7 F.R. 4157.

3. Paragraph (a) (8) is hereby amended to read as follows:

(8) "Blackplate" means any sheet steel, other than tinplate or terneplate, suitable for manufacture into closures, and includes "rejects" and all other forms of blackplate except waste.

4. Paragraph (a) is hereby amended by the addition of the following paragraph (a) (11):

(11) "Waste" means used closures and used cans, made of tinplate, terneplate, or blackplate.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of September 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-9604; Filed, September 26, 1942; 12:01 p. m.]

PART 3019—TOILETRIES AND COSMETICS

[Amendment 1 to Schedule I[1] to General Limitation Order L-171]

Section 3019.2 *Schedule I to General Limitation Order L-171* is hereby amended in the following respects:

1. Paragraph (b) (1) is amended by adding at the end thereof the following:

Any person who distributed in sample units or tester units any portion of the quantity of a toiletry or cosmetic product which he, under his name or brand, produced or caused to be produced during 1941, shall regard such portion not only as part of his 1941 production, but also as part of his 1941 sales, for the purpose of determining permitted production and permitted sales, as to quantity, under this paragraph (b) (1); but he shall not regard such units as marketable units for the purpose of determining permitted production or permitted sales, as to marketable units, under this paragraph (b) (1). No sample units or tester units distributed after July 17, 1942, and not offered for sale nor sold in any manner by the person under whose name or brand they are produced or caused to be produced, shall be regarded as marketable units for the purposes of this Schedule.

2. Lists 1, 2 and 3, attached to Schedule I, are amended to read as follows:

LIST 1

Baby powder (containing no zinc oxide).
Eye wash and eye drops (containing no organic materials).
Shaving soap and brushless cream (containing no coconut oil, alcohol or added glycerin).
Soap shampoo (containing no coconut oil, alcohol or added glycerin).
Toilet powder (including after-shave, bath, body, dusting, sachet, and talcum powder, containing no zinc oxide).
Tooth cleanser, liquid, paste and powder (containing no alcohol, glycerin, coconut oil, or wetting agents).

LIST 2

Baby oil.
Baby powder (containing zinc oxide).
Bath salts.
Brilliantine.
Cleansing cream.
Cleansing lotion (non-alcoholic).
Cologne.
Compact for wet application.
Cosmetic stockings.
Cuticle softener (containing no sulfonated oils).
Deodorant and anti-perspirant.
Depilatory.
Eyebrow pencil.
Eyeshadow.
Eye wash and eye drops (containing organic materials).
Face lotion and hand lotion.
Face pack.
Face powder.
Hair dye and hair tint.
Hair lotion (non-alcoholic).
Hair oil.
Hair pomade.
Hair rinse.
Hair straightener.
Lip pomade.
Lipstick.
Lubricating cream.
Mascara.
Nail polish paste (containing no tin oxide).
Nail polish powder (containing no tin oxide).
Perfume.
Permanent waving lotion and cream.
Powder, cream, paste and liquid (including blemish concealer).
Protective cream.
Rouge.
Soap shampoo (containing coconut oil, alcohol or added glycerin).
Shaving soap and brushless cream (containing coconut oil, alcohol or added glycerin).
Suntan preparation.
Theatrical makeup.
Toilet powder (including after-shave, bath, body, dusting, sachet, and talcum powder, containing zinc oxide).
Toilet water.
Tooth cleanser, liquid, paste and powder (containing alcohol, glycerin, coconut oil, or wetting agents).
Waveset.

LIST 3

After-shave lotion.
Astringent.
Bath milk.
Bath oil.
Bleach cream and bleach lotion (including freckle remover).
Body rub.
Bubble bath.
Cleansing lotion (alcoholic).
Cuticle softener (containing sulfonated oils).
Eyelash curler.
Hair lacquer.
Hair lotion (alcoholic).
Lash and brow dye.
Liquid lip color.
Nail bleach.
Nail enamel.
Nail enamel remover.
Nail polish paste (containing tin oxide).
Nail polish powder (containing tin oxide).
Plucking cream.
Skin freshener.
Tooth whitener.
Any other toiletry or cosmetic product not named in Lists 1 and 2 above.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of September 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-9602; Filed, September 26, 1942; 12:01 p. m.]

PART 3019—TOILETRIES AND COSMETICS

[Amendment 1 to Schedule II to General Limitation Order L-171]

Section 3019.3 *Schedule II*[1] *to General Limitation Order L-171* is hereby amended in the following respects:

1. Paragraph (a) is amended by adding thereto the following subparagraph:

(2) "Size" means size by volumetric capacity of the container.

2. Paragraph (b) is amended by adding thereto the following subparagraph:

(5) In any case where a person, under his name or brand, packs or causes to be packed two or more varieties of a toiletry or cosmetic product (or of an odor of perfume) which are in different physical form (solid, semi-solid or liquid), each such variety may be regarded as though it were a separate product (or, in case of perfume, as though it were a separate odor) for the purposes of this Schedule.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 26th day of September 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-9605; Filed, September 26, 1942; 12:01 p. m.]

PART 1090—AGAVE FIBER

[Amendment 3 to General Preference Order M-84, as Amended August 5, 1942]

Section 1090.1 *General Preference Order M-84*[2] is hereby amended by the addition of the following subparagraphs to paragraph (d):

(5) On and after September 26, 1942, to and including December 31, 1942, no processor shall process agave fiber for cordage or sell or deliver any agave cordage except for filling purchase orders for the following categories of uses:

(i) *Class One:* (a) Use by the United States Army and Navy, the United States Maritime Commission, Federal Barge Lines, the Panama Canal, the War Shipping Administration and its general or operating agents, or for physical incorporation into material or equipment (excluding grommets and ammunition box

[1] 7 F.R. 5510, 6934.

[1] 7 F.R. 5511, 6934.
[2] 7 F.R. 6144, 6599, 7078.

handles) to be delivered to and for the account of any of the foregoing agencies;

(b) Use upon any contract or order placed by any department or agency of the United States Government for delivery to or for the account of the Government of any country pursuant to the Act of March 11, 1941, entitled "An Act to promote the Defense of the United States" (Lend-Lease Act).

(ii) *Class Two:* (a) Commercial marine, towage or lighterage uses, provided the cordage for such uses shall be one inch or more in diameter;

(b) Fishing uses for commercial fish markets or canneries;

(c) Use as catlines, bull-ropes and drilling cables in the operation or drilling of oil or gas wells;

(d) Use as drilling cables in mines or quarries;

(e) Power transmission uses;

(f) Shipyard or construction rigging uses.

(6) Each purchaser of agave cordage from a processor shall furnish a certificate as a condition to receiving said cordage, and no processor shall sell or deliver any agave cordage to such purchaser without obtaining a certificate signed by such purchaser or his duly authorized representative, in substantially the following form:

The undersigned hereby represents to the seller and the War Production Board that the agave cordage covered by this certificate will be used or sold only for the uses described in paragraph (d) (5) of General Preference Order M-84 as amended September 25, 1942, with the terms of which the undersigned is familiar.

(7) During the period beginning September 26, 1942, to and including December 31, 1942, no processor shall put into process any agave fiber for the purpose of filling purchase orders for Class Two cordage uses, as specified in paragraph (d) (5) (ii) hereof, in excess of 20% of the unprocessed balance of his processing quota as established under paragraph (e) hereof as said balance may appear at the close of business on September 25, 1942.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 25th day of September 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-9619; Filed, September 28, 1942; 11:16 a. m.]

PART 1095—COMMUNICATIONS

[General Conservation Order L-148, as Amended September 25, 1942]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain types of wire communication equipment for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 1095.4 *General Conservation Order L-148*—(a) *Definitions.* For the purpose of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(2) "Manufacturer" means any person manufacturing wire communication equipment, parts or attachments thereto, of the kinds listed in Schedule A, to the extent that he is engaged in such manufacture, and shall include sales and distribution outlets controlled by said manufacturer.

(3) "Distributor" means any person other than a manufacturer regularly engaged in the business of leasing or selling wire communication equipment, parts or attachments thereto, to dealers.

(4) "Dealer" means any person (other than one engaged in rendering wire or radio communication service), regularly engaged in the business of offering wire communication equipment, parts or attachments thereto for sale or lease at retail to the consumer.

(5) "Wire communication equipment" shall include, but not by way of limitation, new and used wire telephone and telegraph communication equipment, parts and attachments thereto (including wire intercommunicating systems) of the kinds listed in Schedule A, to the extent used in the communications industry.

(b) *General restrictions.* (1) On and after the fifteenth day following September 25, 1942, regardless of the terms of any contract of sale, purchase, rental or other commitment, no manufacturer, distributor or dealer shall accept any purchase, rental or other order for wire communication equipment, parts or attachments thereto including, but not limited to, those included in Schedule A which is attached and made a part of this order, except a purchase, rental or other order bearing a Preference Rating of A-7 or higher; and no manufacturer, distributor, or dealer shall sell, lend, lease, rent, deliver, or otherwise transfer any such wire communication equipment, parts or attachments thereto nor shall any person receive or accept deliveries of any such equipment, parts or attachments thereto except to fill a purchase, rental or other order bearing a Preference Rating of A-7 or higher: *Provided, however,* That this paragraph shall not prohibit the transfer or delivery of wire communication equipment to a manufacturer for repair or storage or the return of said equipment to the owner thereof after repair has been effected or storage terminated.

(2) Notwithstanding the provisions of paragraph (b) (1), in the event that a manufacturer, distributor or dealer shall have delivered prior to September 8, 1942, wire communication equipment under a particular order therefor representing 90 percent or more of the total dollar sale value of the equipment ordered, delivery of the balance of such order may be made and accepted on or before October 15, 1942.

(c) *Existing contracts.* Fulfillments of contracts in violation of this order is prohibited regardless of whether such contracts are entered into before or after the effective date of this order. No person shall be held liable for damages or penalties for default under any contract or order which shall result directly or indirectly from compliance with the terms of this order.

(d) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the priorities regulations of the War Production Board, as amended from time to time.

(e) *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, Communications Branch, Washington, D. C., Ref.: L-148.

(f) *Appeals.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him may appeal to the Director General for Operations, setting forth the pertinent facts and the reason he considers he is entitled to relief. The Director General for Operations may thereupon take such action as he deems appropriate.

(g) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from process or use of, material under priority contract, and may be deprived of priorities assistance.

(h) *Reports.* All persons affected by this order shall execute and file such reports as the Director General for Operations shall from time to time require.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 25th day of September 1942.

ERNEST KANZLER,
Director General for Operations.

SCHEDULE A

General categories of wire communication equipment, parts or attachments thereto, to the extent used in the communications industry, limited by General Conservation Order L-148.

1. Switchboards and switching systems including local telephone, central office, toll telephone, PBX telephone and telegraph.

2. Telephones including transmitters, receivers, dials, subscriber sets.
3. Relays, condensers, repeaters, coils, filters and carrier systems.
4. Testing apparatus.
5. Wire and strand.
6. Cable.
7. Cable terminals.
8. Pole line hardware.
9. Plugs, jacks, cords, keys.
10. Wire intercommunicating systems.
11. Varioplex, multiplex, facsimile and telautograph equipment.
12. Teletypewriters, printing telegraph machines, tape perforating apparatus and accessories.
13. Appliances used for manual telegraph.
14. Time clocks, time switches, call boxes, signaling and selector equipment used for telephone and telegraph systems and/or used for wire protective alarm systems.
15. Motors, generators, storage batteries, rectifiers, transformers, power panels and associated equipment used for telephone and telegraph communication.

NOTE: The underscored portion of this regulation comprises Amendment 1 to L–148, which appeared in the FEDERAL REGISTER on September 26, 1942, 7 F.R. 7589.

PART 1210—INDUSTRIAL POWER TRUCKS

[Limitation Order L–112 as Amended September 28, 1942]

The fulfillment of the requirements of the defense of the United States has created a shortage in the supply of certain critical materials for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 1210.1 *General Limitation Order L–112*—(a) *Definitions.* For the purpose of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(2) "Industrial power truck" means any self-power-propelled industrial truck or wheel tractor designed primarily for handling material (either by carrying or towing) on floors or paved surfaces in and around industrial plants, warehouses, docks, airports or depots. The term shall not include automotive tractors, trucks, or wheeltype industrial tractors designed for use on tax-built highways, or in such operations as construction, earth-moving, mining, logging, industrial yard work, or petroleum development.

(3) "Manufacturer" means any person who manufactures or assembles industrial power trucks.

(4) "Parts producer" means any person, other than a manufacturer, who manufactures parts to be incorporated in industrial power trucks.

(5) "Standard model" as applied to a manufacturer, means one model only of each type and capacity of industrial power truck listed in List A attached hereto, described in such manufacturer's catalogue or bulletin on July 10, 1942.

(6) "Approved standard model" means a standard model listed hereafter and from time to time by supplementary order or orders, as provided in paragraph (d) (2).

(b) *Restrictions on orders and deliveries.* (1) Prior to October 15, 1942, no manufacturer shall accept any order for an industrial power truck, except an order rated A–9 or better on Preference Rating Certificate PD–1A or PD–3A or on a preference rating certificate in the PD–408 series. On and after October 15, no manufacturer shall accept any order for an industrial power truck unless such order is accompanied by the authorization of the Director General for Operations provided for in paragraph (b) (2) below. Orders so authorized shall be placed only with the supplier, if any, specified by the Director General for Operations.

No manufacturer shall hereafter deliver any industrial power truck, except in fulfillment of an order (i) accepted before October 15, and rated A–9 or better on Form PD–1A and PD–3A or on a form in the PD–408 series, or (ii) accepted on or after October 15, and accompanied by the authorization of the Director General provided for in paragraph (b) (2) below.

(2) Application for the authorization of the Director General for Operations required by paragraph (b) (1) shall be made by the purchaser on Form PD–556 in triplicate, including therein (under Item 5) (i) manufacturer's model number, (ii) number of similar trucks in use in the same department of the applicant, (iii) size and character of loads, and (iv) hours per week existing equipment used. The Director General for Operations may grant such application unconditionally or upon specified conditions, including the requirement that the order be placed with a supplier named by the Director General for Operations.

(c) *Conservation of material*—(1) *Restrictions upon use of copper.* Parts producers and manufacturers shall be governed by the provisions of paragraph (b) of Limitation Order L–106, (§ 933.9) as amended, in their use of copper products or copper base alloy products (as defined in that order) in the production of parts for industrial power trucks.

(2) No manufacturer shall begin the manufacture of any industrial power truck if such truck contains any of the following materials, or accept delivery of any of the following materials for use in the manufacture of any industrial power truck:

(i) Rubber in any form, except in tires, storage batteries, radiator hose or wire or cable insulation.

(ii) Protective plating in any form, except when necessary to the operation of functional parts.

(iii) Steel plate, where substitution of a less critical material is practicable.

(iv) Lead for counter weights, except that reclaimed lead may be used when required by space limitations.

(v) Steel battery trays, where steel battery boxes are provided.

Provided, however, That the restrictions of this subparagraph (2) shall not apply to parts in the manufacturer's stock which, as of July 10, 1942, were completed, or processed to the point where other use is impracticable: *And provided further,* That the restrictions of this subparagraph (2) shall not apply to the manufacture or delivery of repair and maintenance parts.

(3) *Other regulations.* Nothing in this paragraph (c) shall be construed to permit any manufacturer to sell, deliver or otherwise transfer, or any person to purchase, receive delivery of, or otherwise acquire any raw materials, semi-processed parts or finished parts or products in contravention of the terms of any regulation or order of the War Production Board.

(d) *Standardization of models.* (1) No manufacturer shall hereafter begin the manufacture of any industrial power truck which is not a standard model. The design and structure of any standard model shall be only as specified or described in such manufacturer's catalogue or bulletin; except that electric fork trucks with capacities from 2,000 pounds to 6,000 pounds may be built in both center and end control types; and that alterations may be made in counter weights, die pullers (power winch), height of lift, voltage, battery capacity, explosion or fire prevention features, and the length or width or type of fork or ram: *Provided, however,* That nothing herein shall be construed to prevent any change required by the limitations of paragraphs (c) (1) and (c) (2) hereof, or any change which results in further conservation of critical materials.

(2) On and after August 15, 1942, no manufacturer shall begin the manufacture of any standard model which is not an approved standard model. Approved standard models for each manufacturer shall be only those industrial power trucks listed hereafter and from time to time by order or orders supplementary to this order. The provisions of paragraph (d) (1) hereof relative to changes in design and structure shall be applicable to approved standard models.

(3) On or before the 15th day of October and of each succeeding calendar month, every manufacturer shall file with the Director General for Operations a report on Form PD–385, which shall include (i) such manufacturer's proposed production schedules so far as then planned, but in any event for not less than the three calendar months following the filing of the report; and (ii) his proposed delivery schedules so far as then planned, but in any event for not less than the one calendar month following such filing. The production schedules for the three calendar months, and the delivery schedules for the one

calendar month following the filing of the report shall be deemed to be approved by the Director General for Operations upon the receipt of the report by the War Production Board, unless the Director General for Operations shall otherwise direct. The Director General for Operations may, at any time, change any schedules; direct the cancellation of any order shown on any schedule; prescribe any other schedule for production or deliveries for any period, regardless of whether a schedule for such period, or any part thereof, has been reported by the manufacturer, or theretofore approved by the Director General for Operations; allocate any order listed on the report to any other manufacturer; or direct the delivery of any industrial power truck so listed to any other person, at the established price and terms. No manufacturer shall produce or deliver any industrial power truck except in accordance with schedules approved or prescribed by the Director General for Operations, as above provided; and no manufacturer shall alter any such approved or prescribed production or delivery schedules unless authorized or directed to do so by the Director General for Operations.

(e) *Ninety-day exemption of Army, Navy and Maritime Commission.* Until ninety days after July 10, 1942, this order shal not apply to deliveries to and for the use of the Army, Navy, Maritime Commission, or War Shipping Administration to the extent that industrial power trucks of a design or structure prohibited by the terms of this order are required by any applicable specifications of the Army, Navy, Maritime Commission, or War Shipping Administration. As used in this paragraph, the terms "Army," "Navy," "Maritime Commission," and "War Shipping Administration" shall not include any privately operated plant or shipyard, financed or controlled by any of those agencies, or operated on a cost-plus-fixed-fee basis.

(f) *Miscellaneous provisions*—(1) *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.

(2) *Existing contracts.* Fulfillment of contracts in violation of this order is prohibited regardless of whether such contracts are entered into before or after July 10, 1942. No person shall be held liable for damages or penalties for default, under any contract or order, which shall result directly or indirectly from his compliance with the terms of this order.

(3) *Records and reports.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales. All persons affected by this order shall execute and file with the War Production Board such reports and questionnaires as the War Production Board shall from time to time request.

(4) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(5) *Violations.* Any person who wilfully violates any provision of this order, or who wilfully furnishes false information to the Director General for Operations in connection with this order is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance by the Director General for Operations.

(6) *Appeals.* Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him may appeal to the Director General for Operations, setting forth the pertinent facts and the reasons he considers he is entitled to relief. The Director General for Operations may thereupon take such action as he deems appropriate.

(7) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: War Production Board, General Industrial Equipment Branch, Washington, D. C.; Ref.: L-112. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

List A

No lift, high platform	1,000 lbs. to 20,000 lbs.
No lift, low platform	1,000 lbs. to 20,000 lbs.
Low lift, high platform	2,000 lbs. to 20,000 lbs.
Low lift, low platform	2,000 lbs. to 20,000 lbs.
High lift, low platform	2,000 lbs. to 10,000 lbs.
Fork or ram	2,000 lbs. to 60,000 lbs.
Crane	2,000 lbs. to 20,000 lbs.
Tractor	[1] 1,500 lbs. to 6,000 lbs.
Motorized low lift	2,000 lbs. to 6,000 lbs.
Straddle trucks	10,000 lbs. to 30,000 lbs.

[1] Max. D.B.P.

Issued this 28th day of September 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-9627; Filed, September 28, 1942; 11:30 a. m.]

PART 3022—SILVER

[Amendment 2 of Conservation Order M-199]

Section 3022.1 *Conservation Order M-199*[1] is hereby amended as follows:

1. By changing paragraph (a) (5) to read as follows:

(5) "Manufacturer" means any person who uses silver by incorporating it physically in the products or parts thereof which he manufactures or who uses or consumes silver in any manufacturing, testing, laboratory, plating, or repairing process.

2. By adding the following sentence at the end of paragraph (a) (9):

In all other cases, the term "assemble" shall be deemed to include adding parts, whether of silver or of any other material, to an article of silver, where such article is not deemed complete and ready for immediate sale or use until such parts have been added, including adding gems, stones, or glass jewels or beads to articles or parts of silver, and adding brushes, combs, knives, forks, or other utensils to backs or handles of silver.

3. By inserting the following sentence after the first sentence of paragraph (b):

No manufacturer shall sell foreign silver in the form of raw material, semi-processed material, or scrap except to a supplier or to fill orders bearing a preference rating of A-3 or higher or to Metals Reserve Company or any other corporation organized under section (5) (d) of the Reconstruction Finance Corporation Act, as amended.

4. By changing paragraph (d) to read as follows:

(d) *Restrictions upon manufacture of foreign silver for restricted uses.* Between July 29, 1942, and October 1, 1942, except to fill orders bearing a preference rating of A-3 or higher, no manufacturer shall put into process foreign silver for restricted uses in excess of one-twelfth of the aggregate amount by weight of such foreign silver put into process by such manufacturer for restricted uses during the year 1941 or in excess of one-sixth of the aggregate amount by weight of such foreign silver put into process by such manufacturer for restricted uses during the period from January 1, 1942, to July 1, 1942, whichever is greater. Except to fill orders bearing a preference rating of A-3 or higher, no manufacturer shall put into process any foreign silver for restricted uses, nor shall he process further any partially processed products or parts thereof of foreign silver on List A, unless the foreign silver was put into process prior to October 1, 1942, and unless the products or parts will be finished by November 15, 1942. After October 1, 1942, except to fill orders bearing a preference rating of A-3 or higher, no manufacturer shall put into process any foreign silver for restricted uses; and after November 15, 1942, except to fill orders bearing a preference rating of A-3 or higher, no manufacturer shall process any foreign silver for restricted uses.

5. By striking the following clause at the end of item 2 of List A, to-wit: "except those permitted as church goods."

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O.

[1] 7 F.R. 5865, 6935.

9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 28th day of September 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-9620; Filed, September 28, 1942; 11:16 a. m.]

PART 3058—USED CONSTRUCTION EQUIPMENT

[Amendment 1 to Limitation Order L-196]

Section 3058.1 *Limitation Order L-196* [1] is hereby amended in the following particulars:

Paragraph (d) "Registration of Used Construction Equipment", is hereby amended to read as follows:

(d) *Registration of Used Construction Equipment.* Any person owning used construction equipment purchased prior to October 1, 1942, shall on or before October 31, 1942, register such equipment by completing, signing and returning by mail WPB Form 1159 to Used Construction Equipment Regional Specialist in the War Production Board Regional office in the region in which such equipment is located.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 28th day of September 1942.

ERNEST C. KANZLER,
Director General for Operations.

[F. R. Doc. 42-9618; Filed, September 28, 1942; 11:16 a. m.]

Chapter XI—Office of Price Administration

PART 1351—FOODS AND FOOD PRODUCTS

[Revocation of Revised Price Schedule 92 [2]]

SOY BEAN AND PEANUT OILS

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register,* and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, *It is hereby ordered:*

(a) §§ 1351.301 to 1351.309 inclusive, Revised Price Schedule No. 92, are hereby revoked.

(b) This Order of Revocation shall be effective September 30, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9565; Filed, September 25, 1942; 12:03 p. m.]

*Copies may be obtained from the Office of Price Administration.

[1] F.R. 6870.

[2] 7 F.R. 758, 1379, 1836, 2132.

PART 1351—FOODS AND FOOD PRODUCTS

[Amendment 7 to Revised Price Schedule 53 [1]]

FATS AND OILS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

A new subparagraph (11) is added to paragraph (b) of § 1351.151 and paragraph (b) of § 1351.157 is amended, as set forth below:

§ 1351.151 *Maximum prices for fats and oils.* * * *

(b) * * *

(11) On and after September 30, 1942 subparagraphs (1) to (5), both inclusive, of this paragraph (b) shall have no application to the following fats and oils and the maximum prices thereof shall be the following prices:

SOYBEAN OIL

(i) *Crude soybean oil*—in tank cars:

	Cents per pound
F. O. B. midwestern mills	11.75

(ii) *Refined soybean oil*—in tank cars, basis F. O. B. Decatur, Illinois:

[Cents per pound]

	Deodorized and bleached soybean oil	Winterized soybean oil	Hydrogenated margarine soybean oil	High titre hydrogenated soybean oil
Decatur, Ill.	12.87	13.00	13.45	13.60
Chicago, Ill.	13.04	13.17	13.62	13.77
New York, N. Y.	13.41	13.54	13.99	14.14
San Francisco, Calif.	13.77	13.90	14.35	14.50

(*a*) The usual or normal differentials for grade, above or below these basic grades, shall continue to apply.

(*b*) The usual or normal differentials for type of container shall continue to apply.

CORN OIL

(iii) *Crude corn oil*—in tank cars:

	Cents per pound
F. O. B. midwestern mills	12.75

(iv) *Refined corn oil*—in tank cars, F. O. B. Chicago:

[Cents per pound]

	Deodorized and bleached corn oil	Winterized corn oil	Hydrogenated margarine corn oil	High titre hydrogenated corn oil
Chicago, Ill.	14.37	14.50	14.95	15.10
New York, N. Y.	14.89	15.02	15.47	15.62
San Francisco, Calif.	15.27	15.40	15.85	16.00

(*a*) The usual or normal differentials for grade, above or below these basic grades, shall continue to apply.

(*b*) The usual or normal differentials for type of container shall continue to apply.

[1] 6 F.R. 6409; 7 F.R. 81, 756, 1009, 1309, 1836, 2132, 3430, 3821, 4229, 4294, 4484, 5605.

PEANUT OIL

(v) *Crude peanut oil*—in tank cars:

	Cents per pound
F. O. B. southeastern mills	13.00
F. O. B. Texas and Oklahoma mills	12.875

These crude peanut oil maximum prices may be adjusted on a 5% settlement basis as provided in Rule 142 of the 1942-1943 Rules of the National Cottonseed Products Association, Inc.

(vi) *Refined peanut oil*—in tank cars:

(Cents per pound)

	Deodorized white (bleached) refined peanut oil	Hydrogenated peanut margarine oil	High titre hydrogenated peanut oil
Los Angeles, Calif.	15.20	15.78	15.93
San Francisco, Calif.	15.20	15.78	15.93
Denver, Colo.	14.98	15.56	15.71
Jacksonville, Fla.	14.77	15.35	15.50
Atlanta, Ga.	14.67	15.25	15.40
Macon, Ga.	14.67	15.25	15.40
Savannah, Ga.	14.75	15.33	15.48
Chicago, Ill.	14.93	15.51	15.66
Indianapolis, Ind.	14.90	15.48	15.63
Terre Haute, Ind.	14.88	15.46	15.61
Louisville, Ky.	14.89	15.47	15.62
New Orleans, La.	14.76	15.34	15.49
Baltimore, Md.	14.96	15.54	15.69
Boston, Mass.	15.04	15.62	15.77
Kansas City, Mo.	14.79	15.37	15.52
St. Louis, Mo.	14.84	15.42	15.57
Albany, N. Y.	15.05	15.63	15.78
Buffalo, N. Y.	15.08	15.66	15.81
New York, N. Y.	15.00	15.58	15.73
Charlotte, N. C.	14.79	15.37	15.52
Cincinnati, Ohio	14.93	15.51	15.66
Columbus, Ohio	14.98	15.56	15.71
Oklahoma City, Okla.	14.67	15.25	15.40
Philadelphia, Pa.	14.98	15.56	15.71
Chattanooga, Tenn.	14.84	15.42	15.57
Memphis, Tenn.	14.69	15.27	15.42
Dallas, Tex.	14.52	15.10	15.25
Fort Worth, Tex.	14.54	15.12	15.27
Houston, Tex.	14.58	15.16	15.31
San Antonio, Tex.	14.58	15.16	15.31
Sherman, Tex.	14.54	15.12	15.27
Seattle, Wash.	15.20	15.78	15.93
Cudahy, Wis.	14.95	15.53	15.68
El Paso, Tex.	14.85	15.43	15.58
Denison, Tex.	14.56	15.14	15.29

(*a*) The usual or normal differentials, above or below these delivered prices, shall apply to all other destinations.

(*b*) The usual or normal differentials for grade, above or below these basic grades, shall continue to apply.

(*c*) The usual or normal differentials for type of container shall continue to apply.

* * * * *

§ 1351.157 *Definitions.* * * *

(b) "Fats and oils" means all of the raw, crude, and refined fats and oils, their by-products, and derivatives, and greases, except linseed oil, "essential oils", mineral oils, butter, and cocoa butter.

* * * * *

§ 1351.159 *Effective dates of amendments.* * * *

(g) Amendment No. 7 (§§ 1351.151 (b) (11) and 1351.157 (b)) to Revised Price Schedule No. 53 shall become effective September 30, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9566, Filed, September 25, 1942; 12:03 p. m.]

PART 1351—FOODS AND FOOD PRODUCTS

[Amendment 8 to Revised Price Schedule 53 [1]]

FATS AND OILS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Subparagraph (6) of paragraph (b) of § 1351.151 is amended as set forth below:

§ 1351.151 *Maximum prices for fats and oils.* * * *

(b) * * *

(6) On and after September 30, 1942 subparagraphs (1) to (5), both inclusive, of this paragraph (b) shall have no application to cottonseed oil and the maximum prices thereof shall be the following prices:

(i) *Crude cottonseed oil.* F. o. b. mill, in tank cars, in cents per pound, as follows:

North Carolina, South Carolina and Tennessee	12.75
Mississippi Valley, Alabama and Georgia	12.625
Texas and Oklahoma	12.50

(*a*) These crude cottonseed oil maximum prices may be adjusted on a 9% settlement basis as provided in Rule 142 of the 1942–1943 rules of the National Cottonseed Products Association, Inc.

(*b*) The usual or normal location differentials shall continue to apply.

(ii) *Refined cottonseed oil.* Delivered, in tankcars, as follows:

[Cents per pound]

	Bleachable prime summer yellow	Cooking or deodorized white (bleached) summer oil	Salad or winterized oil	Hydrogenated or margarine oil	High titre hydrogenated oil
Albany, N. Y.	14.00	14.67	15.05	15.25	15.40
Atlanta, Ga.	13.62	14.29	14.67	14.87	15.02
Baltimore, Md.	13.91	14.58	14.96	15.16	15.13
Boston, Mass.	13.99	14.66	15.04	15.24	15.39
Buffalo, N. Y.	14.03	14.70	15.08	15.28	15.43
Charlotte, N. C.	13.74	14.41	14.79	14.99	15.14
Chattanooga, Tenn.	13.79	14.46	14.84	15.04	15.19
Chicago, Ill.	13.88	14.55	14.93	15.13	15.28
Cincinnati, Ohio	13.88	14.55	14.93	15.13	15.28
Columbus, Ohio	13.93	14.60	14.98	15.18	15.33
Cudahy, Wis.	13.90	14.57	14.95	15.15	15.30
Dallas, Tex.	13.47	14.14	14.52	14.72	14.87
Denison, Tex.	13.51	14.18	14.56	14.76	14.91
Denver, Colo.	13.93	14.60	14.98	15.18	15.33
El Paso, Tex.	13.80	14.47	14.85	15.05	15.20
Fort Worth, Tex.	13.49	14.16	14.54	14.74	14.89
Houston, Tex.	13.53	14.20	14.58	14.78	14.93
Indianapolis, Ind.	13.85	14.52	14.90	15.10	15.25
Jacksonville, Fla.	13.72	14.39	14.77	14.97	15.12
Kansas City, Mo.	13.74	14.41	14.79	14.99	15.14
Los Angeles, Calif.	14.15	14.82	15.20	15.40	15.55
Louisville, Ky.	13.84	14.51	14.89	15.09	15.24
Macon, Ga.	13.62	14.29	14.67	14.87	15.02
Memphis, Tenn.	13.64	14.31	14.69	14.89	15.04
New Orleans, La.	13.71	14.38	14.76	14.96	15.11
New York, N. Y.	13.95	14.62	15.00	15.20	15.35
Oklahoma City, Okla.	13.62	14.29	14.67	14.87	15.02
Philadelphia, Pa.	13.93	14.60	14.98	15.18	15.33
St. Louis, Mo.	13.79	14.46	14.84	15.04	15.19
San Antonio, Tex.	13.53	14.20	14.58	14.78	14.93
San Francisco, Calif.	14.15	14.82	15.20	15.40	15.55
Savannah, Ga.	13.70	14.37	14.75	14.95	15.10
Seattle, Wash.	14.15	14.82	15.20	15.40	15.55
Sherman, Tex.	13.49	14.16	14.54	14.74	14.89
Terre Haute, Ind.	13.83	14.50	14.88	15.08	15.23

(*a*) The usual or normal differentials, above or below these delivered prices, shall apply to all other destinations.

(*b*) The usual or normal differentials for grade, above or below these prices for basic grades, shall continue to apply.

(*c*) The usual or normal differentials for type of container shall continue to apply.

(iii) *Purchases of cottonseed oil by the Commodity Credit Corporation.* The Commodity Credit Corporation is free to purchase bleachable prime summer yellow cottonseed oil at any price, whether that price is above or below the maximum price for bleachable prime summer yellow cottonseed oil established by this schedule.

* * * * *

§ 1351.159 *Effective dates of amendments.* * * *

(h) Amendment No. 8 (§ 1351.151 (b) (6)) to Revised Price Schedule No. 53 shall become effective September 30, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9571; Filed, September 25, 1942; 3:19 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[Amendment 9 to Revised Price Schedule 53 [1]]

FATS AND OILS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

A new subparagraph (12) is added to paragraph (b) of § 1351.151 as set forth below:

§ 1351.151 *Maximum prices for fats and oils.* * * *

(b) * * *

(12) On and after September 30, 1942 the maximum prices of standard and hydrogenated shortenings and salad and cooking oils shall be the following prices:

Maximum Prices of Processors

(i) *Standard shortening.* The maximum delivered prices of Swift's "Jewel" and "Sanco"; Armour's "Vegetole"; Lookout's "Domino"; Wilson's "Advance"; Atlantic Lard's "Royal Aster"; Procter and Gamble's "Flakewhite" and "Fluffo"; Southern's "Scoco" and "Kneedit"; South Texas' "Crustene"; Gulf and Valley's "Blue Plate"; Interstate's "Mrs. Tucker"; Lever Brothers' "Hydora", and Humko's "Humko" and all other brands of standard shortening manufactured or distributed by the processors of these brands shall be the following prices:

	North	South	Pacific coast
Drums (per pound)	16.50¢	16.25¢	16.75¢
Cartons:			
(1) 12/4 lbs. (per case)	$8.10	$8.00	$8.20
(2) 48/1 lbs. (per case)	$8.25	$8.15	$8.35

(ii) *Hydrogenated shortening.* (*a*) The maximum delivered prices of Procter and Gamble's "Primex"; Lever Brothers' "Covo"; Southern's "Heavy Duty MFB"; Swift's "Vream"; Armour's "Kremit"; and Wilson's "Bakerite" shall be the following prices:

	North	South	Pacific coast
Drums (per pound)	17.75¢	17.75¢	17.75¢

(*b*) The maximum delivered prices of Procter and Gamble's "Sweetex"; Lever Brothers' "Covo Super Mix"; Southern's "Quik Blend"; Swift's "Vreamay"; Armour's "Kremor"; and Wilson's "Bakerite 140" shall be the following prices:

	North	South	Pacific coast
Drums (per pound)	18.75¢	18.75¢	18.75¢

(*c*) The maximum delivered prices of Lever Brothers' "Spry" and Procter and Gamble's "Crisco" shall be the following prices:

	North	South	Pacific coast
Three and six pound airtight containers (per case)	$7.74	$7.74	$7.74

* Copies may be obtained from the Office of Price Administration.

[1] 6 F.R. 6409; 7 F.R. 81, 756, 1009, 1309, 1836, 2132, 3430, 3821, 4229, 4294, 4484, 5605.

[1] 1309, 1836, 2132, 2430, 3821, 4229, 4294, 4484, 5605.

(iii) *Salad oil.* The maximum delivered prices of Southern's "77" and "Angela Mia"; Gulf and Valley's "Blue Plate"; Procter and Gamble's "Puritan" and "Fluffo"; Swift's "Jewel"; Armour's "Star"; Wilson's "Certified"; South Texas' "Crustene"; Interstate's "Mrs. Tucker" and Humko's "Humko" shall be the following prices:

	North	South	Pacific coast
(*a*) Drums (per pound)	16.50¢	16.50¢	17.00¢
(*b*) 1/5 Gal. Can (per can)	$6.65	$6.55	$6.75
(*c*) 6/1 Gal. Can (per case)	$8.20	$8.10	$8.50

The maximum delivered prices of Southern's "Wesson Oil" shall be the following prices:

	North	South	Pacific coast
(*d*) 12/1 Qt. cans (per case)	$5.40	$5.35	$5.39
(*e*) 24/1 Pint cans (per case)	$5.60	$5.60	$5.65

(iv) *Cooking oil.* The maximum delivered prices of Procter and Gamble's "Marigold"; Southern's "88"; Gulf and Valley's "Clarola"; Swift's "Golden West"; Armour's "Supreme"; Wilson's "Laurel"; South Texas' "Magnolia" and Interstate's "White Beauty" shall be the following prices:

	North	South	Pacific coast
(*a*) Drums (per pound)	16.00¢	16.00¢	16.50¢
(*b*) 1/5 Gal. Can (per can)	$6.45	$6.35	$6.55
(*c*) 6/1 Gal. Cans (per case)	$7.95	$7.85	$8.25

(v) *Differentials.* (*a*) The maximum delivered prices of hydrogenated and standard shortenings, established in § 1351.151 (b) (12) (i) and (ii) above, are the maximum delivered prices for hydrogenated and standard shortenings when shipped in (*1*) carlots or (*2*) the quantity to which the lowest price is usually applied in the processor's published lists. When hydrogenated and standard shortenings are shipped in less than (*1*) carlots or (*2*) the quantity to which the lowest price is usually applied in the processor's published lists, the usual or normal differential for such a quantity shall continue to apply.

(*b*) The maximum delivered prices of salad and cooking oils, established in § 1351.151 (b) (12) (iii) and (iv) above, are the maximum prices for salad and cooking oils when shipped in the quantities usually named in the processor's published lists. When salad and cooking oils are shipped in carlots on which a refining in transit privilege is applicable the usual or normal discount (if any) from the maximum prices established in the Schedule shall continue to apply. When shipped in a quantity less than the quantity to which the lowest price is usually applied in the processor's published lists, the usual or normal differential over the maximum prices established in this Schedule shall continue to apply.

(*c*) When hydrogenated and standard shortenings and salad and cooking oils are sold in containers of different sizes from the container-sizes named in § 1351.151 (b) (12) (i), (ii), (iii), and (iv), the usual or normal differential for size of container shall continue to apply.

(*d*) The maximum prices of hydrogenated and standard shortenings and salad and cooking oils, established in § 1351.151 (b) (12), (i), (ii), (iii), and (iv), are the maximum prices before cash discounts. The usual or normal discount for the receipt of payment within the period usually specified in the processor's published lists shall continue to apply.

(*e*) The maximum prices of hydrogenated and standard shortenings and salad and cooking oils, established in § 1351.151 (b) (12), (i), (ii), (iii), and (iv), are basic prices for the three areas named (North, South, and Pacific Coast). The usual or normal differentials which have applied in the past over base prices to some points within these areas shall continue to apply.

(*f*) The maximum prices of hydrogenated and standard shortenings and salad and cooking oils, established in § 1351.151 (b) (12), (i), (ii), (iii), and (iv), are the maximum prices on sales made by processors. These prices are not the maximum prices on sales made by the distributing units of processors, and by wholesalers and retailers.

(*g*) The maximum prices established in § 1351.151 (b) (12) (i), (ii), (iii), and (iv) shall apply to sales to any person.

(vi) *Maximum prices of brands for which maximum prices are not established in § 1351.151* (b) (12) (i), (ii), (iii) *and* (iv). (*a*) The maximum price of a brand of standard or hydrogenated shortening, the maximum price of which is not established in § 1351.151 (b) (12) (i) and (ii) of this Schedule, shall be determined according to the provisions of the General Maximum Price Regulation, except that the period from January 16, 1942 to January 31, 1942 inclusive shall be substituted for the period of the month of March 1942 in determining the highest price which may be charged in accordance with §§ 1499.2 and 1499.3 thereof.

(*b*) The maximum price of a brand of salad or cooking oil, which is not specifically named in § 1351.151 (b) (12) (iii) and (iv) of this schedule, shall be determined according to the provisions of the General Maximum Price Regulation, except that the period from January 16, 1942 to January 31, 1942 inclusive shall be substituted for the period of the month of March 1942 in determining the highest price which may be charged in accordance with §§ 1499.2 and 1499.3 thereof.

(vii) *Applications for adjustment of maximum prices by processors.* If the processor of a brand of hydrogenated or standard shortening, or of a brand of salad or cooking oil, the maximum price of which is not established in §1351.151 (b) (12) (i), (ii), (iii) or (iv), feels that his brand should command the same maximum price as those brands for which a maximum price is established in § 1351.151 (b) (12) (i), (ii), (iii), or (iv), or if he feels that the maximum price for his brand, as computed under § 1351.151 (b) (12) (vi) is unduly low in relation to the maximum prices of those brands the maximum prices of which are established in § 1351.151 (b) (12) (i), (ii), (iii), and (iv), he should file an application for adjustment with the Office of Price Administration in accordance with the procedure set forth in Procedural Regulation No. 1. Such application should set forth in detail the reasons why the applicant believes his brand should command the maximum price requested by the applicant in his application. The application should also set forth in detail the price relationship between the applicant's brand and one of the brands specifically named in § 1351.151 (b) (12) (i), (ii), (iii), or (iv).

(viii) *Definitions.* When used in § 1351.151 (b) (12), the following terms shall have the following meanings:

(*a*) "Standard shortening" means a shortening which is (*1*) made from hardened vegetable oil or (*2*) made from a mixture of vegetable oil and animal fat and/or hardened marine animal oils. It must conform with the following specifications:

Suspended matter: The shortening must be free from any appreciable amount of suspended matter.

Taste and odor: The shortening must be free from rancidity, foreign odor and sourness.

Moisture: The moisture must not exceed 0.3% (Vacuum Oven Method, Official Agricultural Chemists Association, 6th ed., 1940, p. 423).

Smoke point: The shortening must withstand a temperature of 400 degrees F. without smoking.

Stability: The stability of the shortening must be not less than three hours (Active Oxygen Method: King, Roschen and Irwin; Oil and Soap 10, 105, June, 1933).

Plasticity: The shortening must remain solid, and be plastic and workable at a temperature within the range from 70 degrees F. to 90 degrees F.

F. F. A.: The F. F. A. must not exceed 0.3% (Method, Official Agricultural Chemists Association, 6th ed., 1940, p. 436).

(*b*) "Hydrogenated shortening" means a shortening made entirely from vegetable oils, each of which has been hydrogenated to some extent. It must conform with the following specifications:

No free oils: The shortening must contain no free oils.

Suspended matter: The shortening must be free from any appreciable amount of suspended matter.

Taste and odor: The shortening must be free from rancidity, foreign odor and sourness.

Moisture: The moisture must not exceed 0.3% (Vacuum Oven Method, Official Agricultural Chemists Association, 6th ed., 1940, p. 423).

Smoke point: The shortening must withstand a temperature of 400 degrees F. without smoking.

Stability: The stability of the shortening must be not less than three hours

(Active Oxygen Method; King, Roschen and Irwin; Oil and Soap 10, 105, June, 1933).

Plasticity: The shortening must remain solid and be plastic and workable at a temperature within the range from 70 degrees F. to 90 degrees F.

F. F. A.: The F. F. A. must not exceed 0.12% (Method, Official Agricultural Chemists Association, 6th ed., 1940, p. 436).

Iodine number: The iodine number must not exceed 80 (Hanus Method, Official Agricultural Chemists Association, 6th ed., 1940, p. 429).

(c) The term "North" includes the following states:

Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Ohio, Indiana, Michigan, Illinois, Wisconsin, Iowa, Minnesota, Nebraska, South Dakota, North Dakota, Colorado, Wyoming.

The term "South" includes the following states:

Delaware, Maryland, Washington, D. C., West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Missouri, Arkansas, Louisiana, Kansas, Oklahoma, Texas, New Mexico.

The term "Pacific Coast" includes the following states:

Washington, Oregon, California, Montana, Idaho, Nevada, Utah, Arizona.

(d) "Person" includes an individual, corporation, partnership, association, any other organized group of persons, legal successor or representative of any of the foregoing, and includes the United States, any agency thereof, any other government, or any of its political subdivisions, and any agency of the foregoing.

* * * * *

§ 1351.159 *Effective dates of amendments.* * * *

(i) Amendment No. 9 (§ 1351.151 (b) (6)) to Revised Price Schedule No. 53 shall become effective September 30, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of September, 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9570; Filed, September 25, 1942; 3:19 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Amendment 1 to Maximum Rent Regulation 49 [1]]

HOUSING ACCOMMODATIONS OTHER THAN HOTELS AND ROOMING HOUSES

CHEYENNE AREA

Section 1388.131 (a) of Maximum Rent Regulation No. 49 is hereby amended by adding subparagraph (54) to the said section, and § 1388.144a is added to the said Maximum Rent Regulation No. 49, to read as follows:

§ 1388.131 *Scope of regulation.* (a) * * *

(54) The Cheyenne Defense-Rental Area, consisting of the County of Laramie, in the State of Wyoming.

§ 1388.144a *Effective dates of amendments.* (a) Amendment No. 1 (§§ 1388.-131 (a) and 1388.144a) to Maximum Rent Regulation No. 49 shall become effective October 1, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9567; Filed, September 25, 1942; 12:04 p. m.]

[1] 7 F.R. 7500.

PART 1388—DEFENSE-RENTAL AREAS

[Amendment 1 to Maximum Rent Regulation 50A [1]]

HOTELS AND ROOMING HOUSES

CHEYENNE AREA

Section 1388.181 (a) of Maximum Rent Regulation No. 50A is hereby amended by adding subparagraph (54) to the said section, and § 1388.194a is added to the said Maximum Rent Regulation No. 50A, to read as follows:

§ 1388.181 *Scope of regulation.* (a) * * *

(54) The Cheyenne Defense-Rental Area, consisting of the County of Laramie, in the State of Wyoming.

§ 1388.194a *Effective dates of amendments.* (a) Amendment No. 1 (§§ 1388.-181a and 1388.194a) to Maximum Rent Regulation No. 50A shall become effective October 1, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9568; Filed, September 25, 1942; 12:04 p. m.]

[1] 7 F.R. 7505.

PART 1499—COMMODITIES AND SERVICES

[Order 51 Under § 1499.18 (b) of General Maximum Price Regulation—Docket GF1-214-P]

JOHN BREMOND COMPANY

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.851 *Adjustment of maximum prices for Golden Glow Maple Syrup sold by John Bremond Company, Austin, Texas.* (a) John Bremond Company, Austin, Texas, may sell and deliver, and any person may buy and receive from the said John Bremond Company Golden Glow Maple Syrup at prices not higher than those set forth below:

One five gallon can	$6.00
Six one gallon cans	$7.60

These maximum prices shall include delivery. Discounts, price differentials or allowances given by said John Bremond Company during March 1942 based on quantity purchased, time of payment, or different classes of purchasers shall be continued.

(b) All prayers of the application not granted herein are denied.

(c) This Order No. 51 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 51 (§ 1499.851) is hereby incorporated as a part of Supplementary Regulation No. 14 which contains modifications of maximum prices established by § 1499.2.

(e) This Order No. 51 (§ 1499.851) shall become effective September 26, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9569; Filed, September 25, 1942; 12:04 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Supplementary Amendment 5 to Maximum Rent Regulations]

HOUSING ACCOMMODATIONS OTHER THAN HOTELS AND ROOMING HOUSES

ACCOMMODATIONS HEATED WITH FUEL OIL

The text of §§ 1388.12, 1388.62, 1388.112, 1388.162, 1388.212, 1388.262, 1388.312, 1388.362, 1388.412, 1388.462, 1388.512, 1388.562, 1388.612, 1388.662, 1388.712, 1388.762, 1388.812, 1388.862, 1388.912, 1388.962, 1388.1012, 1388.1652, 1388.1702, 1388.1752, 1388.1802, 1388.2052, 1388.-3052, 1388.4052, 1388.5052, 1388.6052, 1388.7052, 1388.8052, 1388.32 and 1388.-132 of Maximum Rent Regulations Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 24, 25, 26, 27, 28, 33, 35, 37, 39, 41, 43, 45, 47, and 49, respectively, is designated as paragraph (a) of the said sections and a new paragraph (b) is added to the said sections as set forth below:

(b) Notwithstanding any other provision of this Maximum Rent Regulation, where housing accommodations are heated with fuel oil the landlord of such accommodations may as hereinafter provided enter into an agreement with the tenant providing for payment by the tenant of part or all of the cost of changing the heating unit to use some fuel other than oil or of installing a new heating unit using some fuel other than oil. Prior to making such agreement the landlord shall in writing report the terms of the proposed agreement to the Area Rent Office. The landlord may enter into the agreement either upon its approval by the Administrator or, unless the Administrator has disapproved the proposed agreement within 5 days after the filing of such report, upon the expiration of such 5-day period.

This Supplementary Amendment No. 5 to Maximum Rent Regulations for Housing Accommodations other than Hotels and Rooming Houses shall become effective September 25, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 25th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9572; Filed, September 25, 1942; 3:20 p. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[Amendment 1 to Revised Price Schedule 56 [1]]

RECLAIMED RUBBER

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Section 1315.51 is amended by adding a new paragraph (d); and a new § 1315.61 is added, as set forth below.

§ 1315.51 *Maximum prices for reclaimed rubber.* * * *

(d) Notwithstanding any other provision of this Revised Price Schedule No. 56, the maximum price for the sale or delivery by Rubber Reserve Company of reclaimed rubber purchased or received by Rubber Reserve Company pursuant to Priorities Regulation No. 13 [2] issued by the Division of Industry Operations of the War Production Board shall be the amount paid by Rubber Reserve Company to the seller for such reclaimed rubber plus all charges for transportation and delivery for shipping such reclaimed rubber from the plant, place of business or storage place of the person selling to Rubber Reserve Company to the place to which it was moved from such plant, place of business or storage place.

* * * * *

§ 1315.61 *Effective dates of amendments.* (a) Amendment No. 1 (§§ 1315.51 (d), 1315.61) to Revised Price Schedule No. 56 shall become effective September 26, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9594; Filed, September 26, 1942; 11:16 a. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[Amendment 28 to Revised Tire Rationing Regulations [3]]

TIRES AND TUBES, RETREADING AND RECAPPING OF TIRES, AND CAMELBACK

§ 1315.503 (c) (2) and (d) are amended to read as follows:

Retreaded and Recapped Tires and New Passenger Tires of an Obsolete Type for Vehicles Eligible Under List B

§ 1315.503 *Eligibility of List A and List B Passenger Automobiles for New Passenger Tires of an Obsolete Type.* * * *

(c) * * *

(2) That the tire for which application is made is to replace a tire which is not capable of being recapped either because of its physical condition or the lack of adequate recapping facilities, or which cannot be recapped for safe use at the speeds at which the applicant may reasonably be expected to operate, or which is to be mounted on an unused or rebuilt vehicle which the applicant has purchased or contracted to purchase for his intended use. If the carcass can be recapped and adequate recapping facilities are available, a certificate may be granted only for recapping services.

(i) A Board shall not issue a certificate for a tire to an applicant who seeks to replace a tire carcass which cannot be recapped because of its physical condition, unless the applicant can establish to the satisfaction of the Board that the carcass which he seeks to replace became unusable from circumstances not resulting from the applicant's abuse or neglect. Granting or denial of a certificate under these conditions will be at the discretion of the Board with regard to the loss whicl. the community will suffer if the applicant is denied tires. Where the community would suffer no loss if the applicant were denied tires, because other persons can perform the same service, or for other reasons, the Board may refuse to grant tires to replace such damaged tires.

(d) As applied to tires, the words "obsolete type" apply to passenger-type tires of the following sizes, and no others:

330–18	650–19	500–21
350–18	700–19	525–21
385–18	750–19	600–21
525–18	330–20	650–21
525–500–18	385–20	700–21
550–18	450–20	500–22
600–18	475–20	600–22
650–18	450–475–500–20	750–14
700–18		28 x 3
750–18	500–20	30 x 3
400–19	525–20	30 x 3½
450–19	550–20	31 x 4
475–19	600–20	32 x 4
475–500–19	600–650–20	33 x 4
500–19	650–20	32 x 4½
525–19	700–20	33 x 4½
525–550–19	440–450–21	34 x 4½
550–19	440–21	35 x 5
600–19	450–21	
600–650–19	475–21	

§ 1315.1199a *Effective dates of amendment.* * * *

(bb) Amendment No. 28 (§1315.503 (c) (2) (d)) to Revised Tire Rationing Regulations shall become effective October 2, 1942.

(Pub. Law 421, 77th Cong., Jan. 30, 1942. OPM Supp. Order No. M–15–c, WPB Directive No. 1, Supp. Directive No. 1B, 6 F.R. 6792; 7 F.R. 121, 350, 434, 562, 925, 1009, 1026.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9598; Filed, September 26, 1942; 11:22 a. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIAL OF WHICH RUBBER IS A COMPONENT

[Amendment 29 to Revised Tire Rationing Regulations [1]]

TIRES AND TUBES, RETREADING AND RECAPPING OF TIRES, AND CAMELBACK

§ 1315.405 (a) (1) is amended to read as follows:

Tires and Tubes for Vehicles Eligible Under List A

§ 1315.405 *Eligibility classification; List A.* * * *

(a) (1) A vehicle operated by a physician, surgeon, osteopath, chiropractor, farm veterinary, public health nurse, midwife, dental surgeon or itinerant dentist which is necessary for the performance of professional duties and is used exclusively for such purpose.

(i) The Board may issue certificates under this paragraph only to physicians, surgeons, osteopaths, chiropractors, farm veterinaries, midwives, dental surgeons or itinerant dentists who are licensed by the appropriate governmental agency, or to public health nurses, if the use of a motor vehicle is necessary for the performance of their professional duties because of the nature of such duties and the absence of other practicable means of transportation.

* * * * *

(iv) No certificate shall be issued to a midwife, itinerant dentist or dental surgeon unless the Board finds that he renders to a substantial number of patients services of an emergency character necessary to save life or prevent serious injury to health and that the use of a motor vehicle is necessary to the performance of these services. A dental surgeon must present a certificate to this effect from his state dental association, which certificate must also contain a statement that the applicant practices dental surgery. A vehicle used by an itinerant dentist may be eligible hereunder only if the dentist renders regularly scheduled services in more than one locality and cannot perform his duties effectively without a motor vehicle. A vehicle used by an itinerant dentist, otherwise eligible hereunder, may be used by him to travel between his home and places where he renders professional services without forfeiting its eligibility.

§ 1315.1199a *Effective dates of amendments.* * * *

(cc) Amendment No. 29 (§ 1315.405 (a) (1)) to Revised Tire Rationing Regulations shall become effective October 2, 1942.

(Pub. Law 421, 77th Cong., Jan. 30, 1942, OPM Supp. Order No. M–15c, WPB Directive No. 1, Supp. Directive No. 1B,

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*Copies may be obtained from the Office of Price Administration.

[1] 6 F.R. 6455; 7 F.R. 657, 1313, 1836, 2000, 2132.

[2] 7 F.R. 5167, 5604, 7523.

[3] 7 F.R. 1027, 1089, 2107, 2541, 2633, 2945, 2948, 3235, 3237, 3551, 3830, 4176, 4336, 4493, 4543, 4544, 4617, 4856, 5023, 5274, 5276, 5566, 5605, 5867, 6423, 6775, 7034, 7241.

[1] 7 F.R. 1027, 1089, 2107, 2541, 2633, 2945, 2948, 3235, 3237, 3551, 3830, 4176, 4336, 4493, 4543, 4544, 4617, 4856, 6423, 5023, 5274, 5276, 5566, 5605, 5867, 6775, 7034, 7241.

6 F.R. 6792; 7 F.R. 121, 350, 434, 473, 562, 925, 1009, 1026.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9597; Filed, September 26, 1942; 11:2' a. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIAL OF WHICH RUBBER IS A COMPONENT

[Amendment 30 to Revised Tire Rationing Regulations [1]]

TIRES AND TUBES, RETREADING AND RECAPPING OF TIRES, AND CAMELBACK

§ 1315.405 (e) is amended to read as follows:

Tires and Tubes for Vehicles Eligible Under List A

§ 1315.405 *Eligibility classification; List A.* * * *

(e) A vehicle operated exclusively for one or more of the following purposes:

(1) Transportation of passengers as part of the services rendered to the public by a regular transportation system.

(i) Certificates may be issued under paragraph (e) (1) only to equip vehicles performing necessary transportation service along regular routes or with regular schedules, from which the public may obtain service upon payment of a standard fare.

(ii) No certificate shall be issued under this subparagraph for a vehicle used for sightseeing trips or similar excursions.

(iii) No certificate shall be issued under this subparagraph for a vehicle on which the general public cannot obtain transportation, except as provided in paragraphs (e) (2), (e) (3) and (e) (4).

(2) Transportation of students and teachers to or from school.

(i) A vehicle otherwise eligible under this subparagraph shall not forfeit its eligibility because it is used to transport other employees of the school as well as teachers.

(ii) No vehicle equipped with tires or tubes for which certificates have been granted under this subparagraph shall be used for excursions of any character. Transportation shall be provided only to or from the homes of students and teachers, or regular stops, and the regular places of instruction.

(iii) Any vehicle having a capacity of less than 10 passengers shall be eligible under this subparagraph only if it is licensed to transport school children or is operated for such purpose under a contract with the appropriate governmental agency.

(3) * * *

(4) Transportation of the following persons:

(i) Prisoners, insane, mentally disordered or mentally incompetent persons and their custodians, guards, and other necessary attendants, provided that such transportation is furnished upon written request to the operator of the vehicle by an authorized officer of the law or other government official charged with the custody of such persons;

(ii) A jury and its official custodians and other authorized court attendants, provided such transportation is furnished upon written request to the operator of the vehicle by the presiding judge of the court in which such jury is serving;

(iii) Military or naval personnel, or persons participating in organized recreational activities at military or naval establishments, to and from such establishments, where other practicable means of transportation is not available, provided such transportation is furnished upon written request to the operator of the vehicle by the commanding officer of such establishment;

(iv) Selectees to and from examining or induction centers of the Army, where other practicable means of transportation is not available, provided such transportation is furnished upon written request to the operator of the vehicle by an authorized official of the Selective Service System;

(v) Children under 18 years of age and their attendants to and from summer camps, where other practicable means of transportation is not available, provided the operator of the vehicle shall first obtain the written approval of the Regional Recreation Representative of the Office of Defense Health and Welfare Services;

(vi) Persons between their homes and their places of regular weekly worship for the purpose of attending religious services, where other practicable means of transportation is not available;

(vii) Civilians from their homes for purposes of evacuation, in the interest of their safety and to serve military purposes, or to their homes after evacuation, pursuant to orders of governmental or military authorities.

(viii) Any of the transportation services provided for in this subparagraph may be performed by a vehicle otherwise eligible under § 1315.405 without forfeiting its eligibility for tires or tubes.

(5) * * *

§ 1315.1199a *Effective dates of amendments.* * * *

(dd) Amendment No. 30 (§ 1315.405 (e)) to Revised Tire Rationing Regulations shall become effective October 2, 1942.

(Pub. Law 421, 77th Cong., Jan. 30, 1942, OPM Supp. Order No. M-15c, WPB Directive No. 1, Supp. Directive No. 1B, 6 F.R. 6792; 7 F.R. 121, 350, 434, 473, 562, 925, 1009, 1025.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9588; Filed, September 26, 1942; 11:20 a. m.]

PART 1340—FUEL

[Amendment 22 to Maximum Price Regulation 120 [1]]

BITUMINOUS COAL DELIVERED FROM MINE OR PREPARATION PLANT

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Subparagraph (8) of § 1340.210 (a) is amended to read as set forth below:

§ 1340.210 *Maximum price instructions.* (a) * * *

(8) (i) Except as otherwise specifically provided in this section or in §§ 1340.212 to 1340.233, inclusive, (Appendices A to V, inclusive) wherever lump, double screened coal, or mine-run coals (and coals of the same size group as mine-run coals) are crushed, the applicable maximum price shall be the maximum price for the size to which the coal is crushed, irrespective of whether the crushing is done by the producer for his own account or for the buyer's account.

(ii) Where a higher maximum price than is above provided for crushed coals is necessary to maintain or increase essential production of resultant screening sizes, a producer may file an application containing the information hereinafter set forth, requesting permission from the Office of Price Administration to sell crushed coal at straight run-of-mine prices. An original and two copies of such application to the Office of Price Administration shall be filed with the Bituminous Coal Division, Department of the Interior, Washington, D. C., and a copy shall be filed with said Division's Field Office for the district in which the mine is located. Immediately upon such filing, the producer has permission to charge maximum prices for crushed coal as is hereinafter provided. Such permission will terminate for failure to file the monthly reports as required in § 1340.210 (a) (6) (iv), below, or may be terminated at any time in the discretion of the Administrator. On deliveries of bituminous coal made after such filing, (*a*) where the applicant's lump coals, double screened coals, or mine-run coals (and coals of the same size group as mine-run coals) are mechanically crushed to sizes normally sold by the applicant as screenings, and such resultant sizes are not screened, altered or modified (exclusive of mechanical cleaning or preparation), the maximum price applicable thereto shall be the maximum price for the coal produced at the mine involved which is classified as straight run-of-mine coal; (*b*) where mine-run coals (and coals of the same size group as mine-run coal) are separated into two or more

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[1] 7 F.R. 1027, 1089, 2107, 2541, 2633, 2945, 2948, 3235, 3237, 3551, 3830, 4176, 4336, 4493, 4543, 4544, 4617, 4856, 5023, 5274, 5276, 5566, 5605, 5867, 6775, 7034, 7241.

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 3168, 3447, 3901, 4336, 4342, 4404, 4540, 4541, 4700, 5059, 5560, 5607, 5827, 5835, 6169, 6218, 6265, 6272, 6472, 6325, 6524, 6744, 6896.

sizes and only the larger sizes are crushed, the smaller uncrushed sizes shall have the maximum price established under this Regulation for the particular sizes involved; but if such smaller uncrushed sizes are re-assembled with the crushed sizes and shipped as re-assembled, the maximum price applicable to such re-assembled product shall be the maximum price for that coal produced at the mine involved which is classified as straight run-of-mine coal.

(iii) Such application shall include, in affidavit form:

(*a*) A complete identification of the applicant, including business name and address, mine name, mine index number, and number of producing district;

(*b*) A statement of the manner in which the requested permission will facilitate the economical and efficient production of slacks or screenings.

(*c*) For each month from October 1, 1941 to and including the month prior to the month when the application is filed, a statement of:

(*1*) The tonnages of lump coals, double screened coals, mine-run coals (or coals of the same size group as mine-run coals) crushed and shipped in a crusher-run state, without subsequent rescreening, alteration or modification (exclusive of mechanical cleaning or preparation), which were shipped from the applicant's mine during each such month—indicating in each case the specific sizes before crushing and the specific sizes as shipped, the total tonnage of crushed coal shipped during the month and the percentage relation which this total tonnage bears to the total of all shipments of all sizes made during the month;

(2) The tonnages of each size of coal not crushed which were shipped from the applicant's mine during each such month;

(3) An estimate of the data specified in (*1*) and (2) for 30 days subsequent to the actual date on which the application is filed.

(iv) On or before the 20th day of the month following that in which the application was filed, and monthly thereafter, an original and 3 copies of a monthly report, in affidavit form, containing the information hereinafter set forth, shall be filed with the Bituminous Coal Division's Field Office for the district in which the mine is located. Such monthly reports shall contain:

(*a*) A complete identification of the reporting producer, including business name and address, mine name, mine index number, and number of producing district, and a statement of the date or dates on which the aforesaid application was filed by the reporting producer;

(*b*) A statement of why continued permission to sell crushed coal as previously requested is necessary;

(*c*) For the month in which the application was filed and for each full month thereafter, a statement of:

(*1*) The tonnages of crushed coals which were shipped at prices in excess of the maximum prices applicable to natural screenings of the same top sizes (i. e., screenings not produced by crusher);

(2) The tonnages shipped of each size of coal not crushed;

(3) The same details with respect to such tonnages of crushed and uncrushed coals as are called for in § 1340.210 (a) (8) (iii) (*c*) above; and

(*4*) An estimate of the foregoing date specification in (*1*), (2) and (3) for 30 days subsequent to the actual date on which the report is filed.

§ 1340.211a *Effective dates of amendments.* * * * *

(w) Amendment No. 22 (§ 1340.210 (a) (8)) to Maximum Price Regulation No. 120 shall become effective September 26, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9587; Filed, September 26, 1942; 11:14 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Amendment 34 to Supplementary Regulation 14 to General Maximum Price Regulation]

FLUID MILK AND CREAM

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

A new subdivision (iv) is added to subparagraph (1) of § 1499.73 (a) as set forth below:

§ 1499.73 *Modification of maximum prices established by § 1499.2 of General Maximum Price Regulation for certain commodities, services and transactions.* (a) The maximum prices established by § 1499.2 of the General Maximum Price Regulation for the commodities, services and transactions listed below are modified as hereinafter provided:

(1) *Fluid milk and cream.* * * *

(iv) *Price adjustments in localities of less than 100,000 population.* (*a*) Whenever any Regional Office of the Office of Price Administration determines, either upon application or its own motion, that (*1*) the use of March 1942 as the base period for the establishment of maximum prices for fluid milk has eliminated a normal differential or established an abnormal differential between the prices charged for fluid milk in any two or more localities within the region served by such Office, (2) the elimination of such normal differential or the establishment of such abnormal differential has caused or threatens to cause a diversion of a material portion of its normal supply of fluid milk from one such locality to one or more of such other localities, and (3) as the result of such diversion or threatened diversion, a shortage of fluid milk exists or is imminent in such locality, it may, for the purpose of relieving or preventing such shortage, by order, increase or decrease the maximum prices established under § 1499.2 of the General Maximum Price Regulation for the sale or delivery of fluid milk at wholesale and retail in any of such localities to the minimum extent necessary to accomplish such purpose.

(*b*) Whenever any Regional Office of the Office of Price Administration determines, either upon application or its own motion, that (*1*) the price paid to producers by manufacturers of butter, cheese, condensed and evaporated milk, or milk powder for milk produced within the milk-shed upon which any locality within the region served by such Office depends for its supply of fluid milk has increased 23 cents or more per cwt. since March 1942, (2) distributors of fluid milk in such locality, in order to obtain the supply of milk for fluid use necessary to satisfy the normal requirements of the locality, are paying producers of such milk at least 23 cents more per cwt. than they paid in March 1942, and (3) notwithstanding the savings that have been effected or may be effected as the result of the adoption of all practicable measures designed to reduce distribution costs, such distributors cannot fairly be expected to continue to distribute fluid milk in such locality at the maximum prices established for them under § 1499.2 of the General Maximum Price Regulation, it may, by order, increase the maximum prices established under said § 1499.2 for the sale or delivery of fluid milk at wholesale and retail in such locality no more than one-half cent per quart of fluid milk if the prices paid to producers by such manufacturers and such distributors have increased 23 cents to 40 cents per cwt. since March 1942, and no more than one cent per quart of fluid milk if such prices have increased 41 cents or more per cwt. since March 1942: *Provided*, That any order issued pursuant to this subparagraph (*b*) shall require the distributors affected by such order to file, with the Regional Office, issuing such order, periodic reports concerning the prices paid by them to producers as such Office may deem necessary and appropriate.

(*c*) No order issued pursuant to this subdivision (iv) shall modify the maximum prices established under the General Maximum Price Regulation for the sale or delivery of fluid milk in any city which, according to the Sixteenth Census of the United States, 1940, has a population of 100,000 or more persons, or in any city in which a minimum producer price for milk has been established pursuant to any marketing agreement or order made or issued under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended.

(*d*) (*1*) Every order issued pursuant to the provisions of this subdivision (iv) shall be accompanied by a statement of the reasons for the action taken therein and shall be effective for such period as the Regional Office deems appropriate.

(2) Whenever a Regional Office issues such an order, it shall take prompt steps to insure that the order is duly publicized in the locality or localities affected, and shall transmit a copy thereof, together with the accompanying

*Copies may be obtained from the Office of Price Administration.

statement, to the National Office of the Office of Price Administration in Washington, D. C.

(b) *Effective dates of amendments.* * * *

(35) Amendment No. 34 (§ 1499.73 (a) (1) (iv)) to Supplementary Regulation No. 14 to General Maximum Price Regulation shall become effective September 26, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9592; Filed, September 26, 1942; 11:14 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 77 Under § 1499.3 (b) of General Maximum Price Regulation]

CLEVELAND TUNGSTEN, INC.

Cleveland Tungsten, Inc. of Cleveland, Ohio has made application pursuant to § 1499.3 (b) of the General Maximum Price Regulation for the determination of a maximum price for a certain tungsten metal powder. Due consideration has been given to the application and an opinion in support of this order, issued simultaneously herewith, has been filed with the Division of the Federal Register. For the reasons set forth in the opinion, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942 and pursuant to § 1499.3 (b) of the General Maximum Price Regulation issued by the Office of Price Administration, *It is ordered:*

§ 1499.291 *Maximum prices for a certain tungsten metal powder sold by Cleveland Tungsten, Inc. of Cleveland, Ohio.* (a) On and after September 28, 1942, Cleveland Tungsten, Inc., Cleveland, Ohio, may sell or deliver, and any person may buy or receive from Cleveland Tungsten, Inc. tungsten metal powder, containing a minimum of 99.7% tungsten and a maximum of .20% alkalis and .02% molybdenum, at a price not in excess of $5.40 per pound f. o. b. seller's plant.

(b) This Order No. 77 may be revoked or amended by the Office of Price Administration at any time.

(c) This Order No. 77 (§ 1499.291) shall become effective September 28, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9599; Filed, September 26, 1942; 11:22 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 78 Under § 1499.3 (b) of General Maximum Price Regulation]

NORTON COMPANY

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.292 *Authorization of maximum prices for special bonded abrasives to the Norton Company.* (a) The Norton Company may sell and deliver and agree, offer, solicit, and attempt to sell and deliver special bonded abrasives at prices no higher than will be determined by the use of the pricing formula employed by the said Company in March, 1942, to determine the prices at that time of similar items. The values given to the factors used in said formula shall be no higher than the highest values given to the same factors in the determination of March, 1942, prices under said formula, and the method used in computing said factors shall be the method used in March, 1942.

(b) For the purposes of this order bonded abrasives may be classified as special bonded abrasives whenever, (1) they are made to the specifications of each individual order, (2) said specifications differ materially with each order, and (3) for the reasons set forth in (1) and (2) said "specials" are unable to be included in the company's price lists.

(c) This Order No. 78 may be revoked or amended at any time by the Price Administrator.

(d) This Order No. 78 (§ 1499.292) shall become effective September 28, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9590; Filed, September 26, 1942; 11:18 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 79 Under § 1499.3 (b) of General Maximum Price Regulation]

KEASBEY & MATTISON COMPANY

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.293 *Authorization of maximum prices for special asbestos textile products to the Keasbey & Mattison Company.* (a) The Keasbey & Mattison Company may sell and deliver and agree, offer, solicit and attempt to sell and deliver special asbestos textile products at prices no higher than will be determined by the use of the pricing formula employed by the said company in March, 1942, to determine the prices at that time of similar items. The values given to the factors used in said formula shall be no higher than the highest values given to the same factors in the determination of March, 1942, prices under said formula, and the method used in computing said factors shall be the method used in March, 1942.

(b) For the purposes of this order asbestos textile products may be classified as special asbestos textile products whenever, (1) they are made to the specifications of each individual order, (2) said specifications differ materially with each order, and (3) for the reasons set forth in (1) and (2) said "specials" are unable to be included in the company's price lists.

(c) This Order No. 79 may be revoked or amended at any time by the Price Administrator.

(d) This Order No. 79 (§ 1499.293) shall become effective September 28, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9593; Filed, September 26, 1942; 11:18 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 52 Under § 1499.18 (b) of the General Maximum Price Regulation—Docket GF3-685]

PFEIFFER BREWING COMPANY

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.852 *Adjustment of maximum prices for 32 ounce bottles of beer manufactured by Pfeiffer Brewing Company.* (a) Pfeiffer Brewing Company, 3740 Bellevue Avenue, Detroit, Michigan and wholesalers may sell and deliver and any person may buy and receive from Pfeiffer Brewing Company and wholesalers 32 ounce bottles of beer manufactured by Pfeiffer Brewing Company at prices not higher than those set forth below:

Pfeiffer Brewing Company:
To retailers. $1.90 per case of 12 bottles.
To wholesalers. $1.65 per case of 12 bottles.
Wholesalers: The maximum prices established for the particular wholesaler under the General Maximum Price Regulation or $1.90 per case of 12 bottles, whichever is higher.

Provided, That customary discounts shall be maintained.

(b) The adjustment granted to Pfeiffer Brewing Company and wholesalers in paragraph (a) is subject to the following conditions:

(1) Pfeiffer Brewing Company shall forthwith, by circular or other appropriate means, notify all retailers purchasing its 32 ounce bottles of beer that the Office of Price Administration has by this order authorized adjustment of its maximum price to retailers for 32 ounce bottles of beer to $1.90 per case of 12 bottles less customary discounts.

(2) Pfeiffer Brewing Company shall forthwith, by circular or other appropriate means, notify all wholesalers purchasing its 32 ounce bottles of beer that the Office of Price Administration has by this order (i) authorized adjustment of its maximum price to wholesalers for its 32 ounce bottles of beer to $1.65 per case of 12 bottles and (ii) authorized wholesalers to charge for its 32 ounce bottles of beer the maximum prices established for the particular wholesaler under the General Maximum Price Regulation or $1.90 per case of 12 bottles, less customary discounts, whichever is higher.

(3) Upon receipt of notice from Pfeiffer Brewing Company under subparagraph (2) hereof, each wholesaler shall forthwith, by circular or other appropriate means, notify each retailer purchasing from it 32 ounce bottles of Pfeiffer Brewing Company's beer of the precise adjustment, if any, of its maxi-

mum price therefor permitted under paragraph (a).

(c) All prayers of the petition not granted herein are denied.

(d) This Order No. 52 may be revoked or amended by the Price Administrator at any time.

(e) This Order No. 52 (§ 1499.852) is hereby incorporated as a section of Supplementary Regulation No. 14, which contains modifications of maximum prices established by § 1499.2.

(f) This Order No. 52 (§ 1499.852) shall become effective September 28, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9591; Filed, September 26, 1942; 11:16 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 52 Under § 1499.18 (c) of the General Maximum Price Regulation—Docket GF3-1042]

CAPITAL BAKERS, INC.

For the reasons set forth in an Opinion issued simultaneously herewith, *It is ordered:*

§ 1499.902 *Adjustment of maximum prices for Pullman breads produced by Capital Bakers, Inc., 13th and Walnut Streets, Harrisburg, Pennsylvania.* (a) Capital Bakers, Inc. may sell and deliver, and any person may buy and receive from Capital Bakers, Inc. the following commodities at prices not higher that the following:

(1) Number 2 and number 4 loaves of Pullman bread at 8¢ per pound.

(b) All prayers of the application not granted herein are denied.

(c) This Order No. 52 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 52 (§ 1499.902) is hereby incorporated as a part of Supplementary Regulation No. 14 which contains modifications of maximum prices established by § 1499.2.

(e) This Order No. 52 (§ 1499.902) shall become effective September 28, 1942.

(Pub. Law No. 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9589; Filed, September 26, 1942; 11:18 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 53 Under § 1499.18 (c) of the General Maximum Price Regulation—Docket GF3-1516]

CLINTONDALE FRUIT GROWERS CO-OPERATIVE, INC.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.903 *Adjustment of maximum prices for warehouse services sold by Clintondale Fruit Growers Co-operative, Inc.* (a) Clintondale Fruit Growers Co-operative, Inc., of Clintondale, N. Y., may sell and supply, and any person may buy and receive from Clintondale Fruit Growers Co-operative, Inc., the following services at charges not higher than those set forth below:

Handling apples in and out of storage—10 cents per bushel basket or bushel box.

(b) All prayers of the petition not granted herein are denied.

(c) This Order No. 53 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 53 (§ 1499.903) is hereby incorporated as a section of Supplementary Regulation No. 14, which contains modifications of maximum prices established by § 1499.2.

(e) This Order 53 (§ 1499.903) shall become effective September 28, 1942.

(Public Law No. 421, 77th Cong.)

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9596; Filed, September 26, 1942; 11:21 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 54 Under § 1499.18 (c) of General Maximum Price Regulation—Docket GF3-1030]

BLEAKLEY TRANSPORTATION CO. ET AL.

For the reasons set forth in an opinion issued simultaneously herewith,[1] *It is ordered:*

§ 1499.904 *Denial of adjustment of maximum prices for transportation services sold by the following companies:*

Bleakley Transportation Co., Inc., 50 Church Street, New York, N. Y.
Eastern Transportation Company, 1416 Munsey Bldg., Baltimore, Md.
Foreman-Gregory Company, Inc., N. Road St., Ext'd, Elizabeth City, N. C.
Henry Gillen's Sons Lighterage, Inc., 15 Moore Street, New York, N. Y.
F. E. Grauwiller Transportation Co., Inc., 15 Moore Street, New York, N. Y.
C. F. Harms Company, 75 West Street, New York, N. Y.
Martin Marine Transportation Company, 111 Walnut St., Philadelphia, Pa.
North River Barge Lines, Inc., 50 Church Street, New York, N. Y.
Red Star Towing & Transportation Co., 17 Battery Place, New York, N. Y.
Sheridan Transportation Company, 127 Walnut Street, Philadelphia, Pa.
Tritoro Scow Corporation, 50 Church Street, New York, N. Y.
B. Turecamo Towing Corporation, Ft. of 24th Ave., Brooklyn, N. Y.
Wathon & Company, South End Andre St., Baltimore, Md.
The Wright & Cobb Lighterage Company, 17 Battery Place, New York, N. Y.

(a) The application for adjustment filed by the above companies and assigned Docket No. GF3-1030 is denied.

[1] Copies may be obtained from the Office of Price Administration.

(b) This Order No. 54 (§ 1499.904) shall become effective September 29, 1942.

(Pub. Law No. 421, 77th Cong.)

Issued this 28th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9645; Filed, September 28, 1942; 11:51 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Administration

Subchapter C—Regulations Under the Farm Products Inspection Act

PART 53—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING AND CERTIFICATION)

AMENDMENT CHANGING BASIS FOR CHARGES

By virtue of the authority vested in the Secretary of Agriculture by law (56 Stat. 664; 7 U.S.C. 414), the following amendment to Title 7, Chapter I, Subchapter C, Part 53, Code of Federal Regulations (7 CFR and 1939 Supp., Chapter I, Subchapter C, Part 53), as amended by 7 F.R. 6804, is promulgated:

Section 53.34 (a) is amended to read:

(a) *Basis for charges.* Fees and charges for grading services at designated markets shall be based on the actual time required to render the services, including the time required for travel of the official grader in connection therewith, at the rate of two dollars and twenty cents ($2.20) per hour for each official grader assigned, unless otherwise provided by special agreement approved by the Administrator: *Provided,* That no grading services shall be rendered for less than a minimum charge of one dollar and ten cents ($1.10). *Provided further,* That the Administrator may, in lieu of the fixed charge of $2.20 per hour, fix other reasonable charges for the grading and certification of products at rates that, in his judgment, will cover the costs of the services.

Done at Washington, D. C., this 26th day of September 1942. Witness my hand and the seal of the Department of Agriculture.

GROVER B. HILL,
Acting Secretary of Agriculture.

[F. R. Doc. 42-9644; Filed, September 28, 1942; 11:38 a. m.]

Chapter VII—Agricultural Adjustment Agency

[Tobacco 603 (Fire-cured); Part II]

PART 726—FIRE-CURED AND DARK AIR-CURED TOBACCO

MARKETING QUOTA REGULATIONS, 1942-43 MARKETING YEAR

Pursuant to the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938, as amended, public notice is hereby given of Part II of the Marketing Quota Regulations, Fire-cured Tobacco—1942-43

Marketing Year (Tobacco 603 Fire-cured, as issued by the Secretary of Agriculture on November 7, 1941), which regulations shall be in force and effect until rescinded or suspended or amended or superseded by regulations hereafter made under said Act.

GENERAL

AUTHORITY: §§ 726.420 to 726.452, inclusive, issued under 52 Stat. 47, 48, 65, 66, 202; 53 Stat. 1261, 1262; 54 Stat. 393, 728, 1209; 55 Stat. 88; 7 U. S. C. 1940 ed. 1301 et seq.

GENERAL

§ 726.420 *Definitions.* As used in these regulations and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) "Committee" means a committee within a county or community established under the Soil Conservation and Domestic Allotment Act. "County Committee", "Local Committee", or "Community Committee" shall have corresponding meanings in the connection in which they are used.

(c) "County office" means the office of the County Agricultural Conservation Association Committee or the county or local committees or employees of such committee according to the sense in which such term is used.

(d) "Dealer" means a person who engages to whatever extent, in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(e) "Farm" means any tract or tracts of land which are considered as a farm under the provisions of the 1942 Agricultural Conservation Program.

(f) "Field Assistant" means an employee of the Agricultural Adjustment Agency, United States Department of Agriculture, whose duties involve primarily the preparation and handling of auction warehouse and dealer records and reports as they relate to tobacco marketing quotas.

(g) "Floor sweepings" means all tobacco which is dropped on the warehouse floor in the course of the warehouse operations and is picked up by the warehousemen. Any tobacco accumulated in the course of the grading of tobacco for farmers shall not be included as floor sweepings.

(h) "Market" means the first disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "Marketed" shall have corresponding meanings to the term "market."

(i) "Marketing Quota Section" means the Marketing Quota Section, East Central Division, Agricultural Adjustment Agency, United States Department of Agriculture, Washington, D. C.

(j) "Nonwarehouse sale" means any marketing of tobacco other than a warehouse sale.

(k) "Operator" means the person who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(l) "Person" means an individual, partnership, association, corporation, estate, trust, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(m) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight. The weight of redried or prized tobacco shall be increased so as to correspond with the original weight of such tobacco prior to redrying.

(n) "Producer" means a person who, as owner, landlord, tenant, shorecropper, or laborer is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of tobacco.

(o) "Resale" means the disposition by sale, barter, or exchange of tobacco which has been marketed previously.

(p) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(q) "Secretary of Agriculture" means the Secretary or Acting Secretary of Agriculture of the United States.

(r) "State committee or state office" means the group of persons comprising the State Agricultural Conservation Committee appointed by the Secretary of Agriculture to assist within any State in the administration of the Soil Conservation and Domestic Allotment Act or the office of such persons.

(s) "Suspended sale" means any marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the particular sale day on which such marketing occurred.

(t) "Tobacco" means fire-cured tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as types 21, 22, 23 and 24, and collectively known as fire-cured tobacco.

(u) "Tobacco available for marketing" means all tobacco produced on a farm in the calendar year 1942 (and any tobacco produced on the farm prior to the calendar year 1942 and carried over to the 1942–43 marketing year) which is not disposed of by a "Tobacco Carry-over Agreement", by use on the farm, or by storage prior to the issuance of a marketing card for the farm.

(v) "Trucker" means any person who engages in the business of trucking tobacco to market and selling it for producers regardless of whether the tobacco is acquired from producers by the trucker.

(w) "Warehouseman" means a person engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(x) "Warehouse sale" means a marketing by sale at auction through a warehouse in the regular course of business.

§ 726.421 *Instructions and forms.* The Administrator of the Agricultural Conservation and Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out these regulations.

§ 726.422 *Tobacco subject to marketing quotas.* Any tobacco marketed during the period October 1, 1942, to September 30, 1943, inclusive, and any tobacco produced in the calendar year 1942 and marketed prior to October 1, 1942, shall be subject to the marketing quotas for the 1942–43 marketing year.

FARM MARKETING QUOTAS

§ 726.423 *Amount of farm marketing quota.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with Part I of the "Marketing Quota Regulations — Fire-cured Tobacco — 1942–43 Marketing Year" (Tobacco 603 Part I). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco

harvested on the farm in 1942 times the farm acreage allotment. The excess tobacco on any farm shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1942 times the number of acres harvested in excess of the farm acreage allotment.

§ 724.424 *Issuance of marketing card.* A marketing card shall be issued for every farm having tobacco available for marketing. The card shall be issued after information required for its preparation (including measurements of the harvested acreage of tobacco and an estimate of the actual production of tobacco) has been furnished to or obtained by the county office. If the farm operator refuses to furnish or prevents the county office from obtaining such information, the card shall show that all of the tobacco available for marketing from the farm is subject to penalty.

(a) *Within quota marketing card (MQ–656 Fire-cured).* A "within quota marketing card" authorizing the marketing without penalty of the ctual production of tobacco on the farm in the 1942 calendar year and any tobacco carried over from a prior marketing year shall be issued for a farm unless an excess marketing card is required to be issued for the farm in accordance with paragraph (b) of this section.

(b) *Excess marketing card (MQ–657 Fire-cured).* An "excess marketing card" showing the extent to which marketings of tobacco from a farm are subject to penalty shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1942 is in excess of the farm acreage allotment and such excess tobacco is not disposed of in accordance with § 726.425 hereof, or if the operator of the farm also operates another farm on which the harvested acreage of tobacco in 1942 exceeds the farm acreage allotment and such excess is not disposed of in accordance with § 726.425 hereof.

(2) If a within quota marketing card could be issued for the farm but the county committee determines that a zero percent excess marketing card is necessary to protect the interest of the government and to insure proper identification of and accounting for the disposition of tobacco produced on the farm and the proper use of the marketing card issued for the farm.

(3) If there is tobacco available for marketing from the farm but no tobacco acreage allotment was established and such tobacco is not disposed of as provided in § 726.425 hereof.

(4) If information required for preparation of the marketing card is not furnished or the county office is prevented from obtaining the necessary information.

(5) If there is tobacco available for marketing from the farm carried over from a prior marketing year and the harvested acreage in 1942 is not less than the 1942 acreage allotment by an amount equivalent to the acreage of carry-over excess determined as provided in § 726.424 (c) hereof.

(6) If a farm operated by a publicly owned experiment station produces tobacco for other than experimental purposes and such tobacco is not disposed of as provided in § 726.425 hereof.

(c) *Extent to which marketings from a farm are subject to penalty.* The extent to which marketings of tobacco from any farm having no carry-over tobacco are subject to penalty shall be that percentage of the tobacco available for marketing from the farm which the acreage of tobacco harvested in excess of the farm acreage allotment for the farm and not disposed of as provided in § 726.425 of these regulations, is of the acreage of tobacco harvested from the farm. Each marketing card showing a percentage excess of zero also shall show the maximum number of pounds of tobacco which may be marketed thereunder, which shall be the quantity of tobacco estimated by the county committee to be available for marketing from the 1942 crop produced on the farm. For any excess marketing card which shows a percentage of excess of more than zero, the county committee, if it has reason to believe it to be necessary in order to prevent marketing thereunder of tobacco produced on another farm, also shall have shown on the card the maximum number of pounds which may be marketed thereunder, such number of pounds to be determined in the same manner as for a card showing zero percent excess. The maximum number of pounds shown on any excess marketing card shall be increased by the county committee if the committee determines that the quantity of tobacco available for marketing from the 1942 crop produced on the farm is greater than the number of pounds previously estimated by the committee to be available for marketing.

The extent to which marketings of tobacco from any farm having tobacco available for marketing which has been carried over from a prior marketing year are subject to penalty shall be the percentage determined as follows:

(1) Determine the number of carry-over acres" by dividing the number of pounds of tobacco carried over from the prior year by the normal yield for the farm for that year.

(2) Determine the number of "within quota carry-over acres" by multiplying the "carry-over acres" (subparagraph (1) of this paragraph) by the "percent within quota" (i. e., 100 percent minus the percent excess) for the year in which the carry-over tobacco was produced.

(3) Determine the "total acres" of tobacco by adding the "carry-over acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the excess acreage by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1942 allotment and the "within quota carry-over acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess to be shown on the marketing card by dividing the "total acres" into the excess acreage (subparagraph (4) of this paragraph).

(d) *Number of marketing cards and entries and signatures thereon.* One or more marketing cards may be issued for any farm as approved by the county committee. All entries on each marketing card shall be made in accordance with the instructions for issuing the marketing card and the operator's agreement on each marketing card shall be signed by the farm operator or on his behalf by his authorized representative.

§ 726.425 *Disposition of excess tobacco.* The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by any of the following methods:

(a) By executing a "Tobacco Carry-over Agreement", (Tobacco 628) and delivering, either to the county committee prior to the issuance of the marketing card or to a field assistant at the auction warehouse out of the first proceeds from the marketing of tobacco from the farm, a certified check, cashier's check or post office money order, or by a check drawn by the warehouseman, payable to Commodity Credit Corporation in an amount equal to the estimated actual yield of tobacco from the excess acreage time 85 percent of the parity price of fire-cured tobacco as of the beginning of the 1942–43 marketing year.

(b) By storage of the excess tobacco, the tobacco so stored to be representative of the entire 1942 crop produced on the farm, and posting of a bond or making of other arrangements approved by the county committee and the Chief of the Marketing Quota Section which will guarantee payment of the amount of penalty which will become due upon the marketing of excess tobacco.

(c) By rendering the excess tobacco unmerchantable, the tobacco so rendered unmerchantable to be representative of the entire crop of tobacco produced on the farm in 1942 and the act of rendering the tobacco unmerchantable to be performed only by the farm operator (or his representative) under the supervision of the county committee (or a person designated by the committee).

(d) By payment to the county office by certified check, cashier's check, or money order drawn payable to the Treasurer of the United States of an amount equal to 5 cents per pound times the estimated actual production of the excess acreage of tobacco harvested from the farm. Any additional amount of penalty due after the actual yield for the farm has been determined shall be paid by the operator not later than 20 days after receipt of notice of such additional penalty from the county office. This subsection shall apply only in the event that the acreage harvested in excess of the allotment does not exceed the larger of two-tenths acre or 10 percent of the farm acreage allotment.

§ 726.426 *Report on marketing card.* The operator of each farm on which tobacco is produced in 1942 shall return to the county office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than thirty days after the close of the tobacco auction markets for the area in which the farm is located. Failure to return the marketing card to the county office within the time specified (after formal notification) shall constitute failure to give proof of dispo-

sition of tobacco marketed from the farm in the event that satisfactory proof of such disposition is not furnished otherwise.

§ 726.427 *Additional reports by producers and identification of tobacco.* In addition to any other reports which may be required under these regulations, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment and even though no allotment was established for the farm) shall, upon written request by the chairman of the State Committee and within ten days after the deposit of such request in the United States mails addressed to such person at his last known address, furnish the Secretary of Agriculture, by sending the same to the Chairman of the State Committee, a written report showing, as to the farm at the time of filing said report (a) the number of acres of tobacco harvested, (b) the total production of tobacco, (c) the amount of tobacco on hand and its location, and (d) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of marketing.

§ 726.428 *Rights of producers in marketing card.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to the use of the marketing card for marketing his proportionate share of the total amount of tobacco available for marketing from the farm; *Provided*, That the burden of any penalty with respect to carry-over tobacco shall be borne by those persons having an interest in such tobacco.

§ 726.429 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 726.430 *Person authorized to issue cards.* The county committee shall designate one person to sign marketing cards for farms in the county as issuing officer. No marketing card shall be signed by the issuing officer until all other entries required to be made thereon have been made, except that the Operator's Agreement therein may be signed after the issuing officer has signed the card, but prior to the issuance of a memorandum of sale from the card. Only one person shall be designated as issuing officer but such person may, subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards: *Provided*, That each such person shall place his initials immediately beneath the name of the issuing officer as written by him on the card.

§ 726.431 *Invalid cards.* A marketing card shall be invalid under any of the following conditions:

(a) If it is not issued or delivered in the form and manner prescribed;

(b) If entries are not made thereon as required;

(c) If it is lost, destroyed, stolen, or becomes illegible;

(d) If any erasure has been made;

(e) If any alteration has been made and not properly initialed; or

(f) If the amount due Commodity Credit Corporation with respect to a "Tobacco Carry-over Agreement" is not paid prior to the issuance of any memorandum of sale.

In the event any marketing card becomes invalid (other than by loss, destruction, theft, omission, alteration, or incorrect entry which can be corrected by a field assistant) the farm operator (or the person having the card in his possession) shall return it to the county office at which it was issued.

If any marketing card is lost, destroyed, stolen, or altered, the person having knowledge of such loss, destruction, theft, or alteration shall notify the county office to that effect, and the county office shall immediately notify the Marketing Quota Section.

If any marketing card which was reported as lost, destroyed, stolen, or altered is later received by the county office, the county office shall immediately notify the Marketing Quota Section of the receipt of such card.

After receipt of notice of loss, destruction or theft of any marketing card the county office may issue a duplicate marketing card to replace the lost, destroyed, or stolen card in accordance with instructions issued pursuant to these regulations.

In the event any marketing card was improperly issued, has been altered, or becomes illegible, upon the return of the card to the county office a new marketing card shall be issued immediately, or as soon thereafter as the necessary information is available.

If any entry is not made on a marketing card as required (either through omission or incorrect entry) and the proper entry is made by a field assistant then such card shall become valid. If the field assistant is unable to make the proper entry, he shall return the card to the county office where it shall be retained until such entry is made, or a new marketing card is issued, as provided above.

§ 726.432 *Additional cards and disposition of used cards.* Upon the return to the county office of the marketing card after all the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. Any marketing card issued to replace another card shall have entered thereon the total sales as shown on the marketing card which is replaced.

§ 726.433 *Report of probable misuse of marketing card.* Any information which causes any field assistant, a member of any local committee, or an employee of the county office to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the State office and the Marketing Quota Section.

§ 726.434 *No transfers.* There shall be no transfer of marketing quotas (except as provided in Part I of these regulations) and the tobacco marketed under the marketing card issued for a farm shall consist only of tobacco produced on the farm.

MARKETING OF TOBACCO AND PENALTIES

§ 726.435 *Memorandum of sale to identify every marketing.* Each marketing of tobacco from a farm shall be identified by a memorandum of sale issued from the marketing card (MQ–656 Fire-cured or MQ–657 Fire-cured) for the farm but if a memorandum of sale cannot be obtained within four weeks after the date of the marketing of any tobacco at a warehouse sale, such marketing of tobacco shall be subject to penalty and the amount of penalty shall be shown on the memorandum of sale cleared without marketing card (Tobacco 618). The memorandum of sale shall be issued only by a field assistant, with the following exceptions:

(a) A warehouseman, or his authorized representative, who has been authorized on form Tobacco 625, may issue a within quota memorandum of sale to identify a warehouse sale, if a field assistant is not available at the warehouse when the card is presented by the farmer and if no payment to Commodity Credit Corporation under a "Tobacco Carry-over Agreement" is due with respect to the tobacco to be covered by the memorandum. Each memorandum of sale issued by a warehouseman shall be presented promptly by him to the field assistant for verification with the warehouse records.

(b) A dealer, or his authorized representative, operating a regular receiving point for tobacco who keeps records showing the information specified in § 726.445 (f) and who has been authorized on Tobacco 625, may issue within quota memoranda of sale covering tobacco purchased by such dealer and delivered directly to such receiving point by the producer.

(c) A representative of the county office may issue memoranda of sale covering sales of tobacco by the producer in small lots by mail order or directly to various individuals other than dealers.

The authorization to issue within quota memoranda of sale under paragraph 1 or 2 above may be withdrawn from any warehouseman or dealer upon written notice by the Chief of the Marketing Quota Section.

Each excess memorandum of sale, after issuance by a field assistant, shall be checked by the warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed, and the warehouseman or dealer shall be responsible for the correctness of such computations.

If the quantity of tobacco previously identified by memoranda of sale issued

from any within quota marketing card is in excess of the number of pounds assigned to the card, the person issuing the memorandum shall require the farm operator to sign the "Operator's Certificate" on the back of the memorandum and if he is satisfied that such signature is the same as the signature of the farm operator on the marketing card, he may issue the memorandum. If any person other than the operator presents the marketing card, the memorandum of sale shall not be issued unless the "Authorization" on the back of such memorandum has been properly executed and signed by the operator. The person who presents the marketing card may sign on behalf of the farm operator: *Provided,* That such person places his address immediately beneath his signature. Any person authorized to issue a memorandum of sale under either of the above described circumstances who has reason to believe that the tobacco to be covered by the memorandum was not produced on the farm for which the marketing card containing the memorandum was issued, may or may not issue the memorandum as he considers advisable, but in either event he shall immediately make a written report of the circumstances in the case to the Marketing Quota Section.

§ 726.436 *Bill of nonwarehouse sale.* Each marketing of farm tobacco, except a warehouse sale or a nonwarehouse sale of within quota tobacco to a dealer authorized to issue memoranda of sale under paragraph (b) of § 726.435 shall be identified by a Bill of Nonwarehouse Sale (Tobacco 614) completely executed by the buyer and the farm operator, except for the entry of the serial number of the memorandum of sale. The post card copy (Tobacco 614a) shall be mailed by the farm operator not later than the day following the day on which executed. The original of each Bill of Nonwarehouse Sale covering any marketing shall be presented to a field assistant for issuance of a memorandum of sale (or a memorandum of sale cleared without marketing card) and for recording in the Dealer's Record Book in case of a purchase by a dealer other than a warehouseman. The original of each such Bill of Nonwarehouse Sale shall be forwarded with the applicable Dealer's Record (Tobacco 615).

§ 726.437 *Marketings free of penalty.* Any tobacco marketed from a farm which is identified by a valid memorandum of sale from the marketing card issued for the farm shall be free of penalty to the extent shown by the memorandum of sale.

§ 726.438 *Marketings subject to penalty and collection of penalties*—(a) *Farm tobacco.* With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that proportion of each lot of tobacco which the tobacco available for marketing in excess of the farm quota (at the time of issuance of the marketing card) is of the total amount of tobacco available for marketing from the farm. The memorandum of sale issued to identify such marketing of tobacco shall show that portion of such marketing which is subject to penalty, and any portion of such marketing of tobacco which is not shown by the memorandum as being subject to penalty shall be free of penalty.

(b) *Dealer's tobacco.* Any marketing of tobacco by a dealer which such dealer represents to be a resale, but all or any part of which, when added to prior resales by such dealer as shown on the Dealer's Record, is in excess of the total amount of purchases as shown on such Dealer's Record shall be a marketing of tobacco subject to penalty unless and until the dealer furnishes proof acceptable to the Secretary showing that such tobacco is not subject to penalty. Any marketing of tobacco by a dealer which such dealer represents to be a resale of tobacco previously purchased by him but which, because of the difference in the price at which such tobacco is resold as compared with the price at which he had purchased the tobacco, cannot reasonably be regarded as tobacco previously purchased by him shall be taken to be a marketing of tobacco subject to penalty.

(c) *Tobacco not identified by a valid memorandum.* Any marketing of tobacco which is not identified by a valid memorandum of sale shall be subject to penalty.

(d) *Liability in case of error on memorandum.* The person liable for the payment of the penalty upon any marketing of tobacco shall not be relieved of such liability because of any error which may occur on the memorandum of sale.

§ 726.439 *Persons to pay penalty.* The person to pay the penalty due on any marketing of excess tobacco shall be one of the following as applicable:

(a) *Warehouseman.* If the tobacco is marketed by the producer through a warehouseman the penalty shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Dealer.* If the tobacco is acquired from the producer by a dealer, the penalty shall be paid by the dealer who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Agent.* If the tobacco is marketed by the producer through an agent who is not a warehouseman, the penalty shall be paid by the agent, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Warehouseman and dealer on dealer's tobacco.* Any penalty due upon tobacco subject to penalty under paragraph (b) of § 726.438 shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the dealer, but the dealer shall not be relieved of responsibility for payment of such penalty.

(e) *Producer marketing outside United States.* If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(f) *Producer on behalf of buyer in case of mail order or direct sales in small lots.* If the tobacco is marketed in small lots by the producer by mail order sales or directly to various individuals other than dealers, the penalty may be paid by the producer of such tobacco on behalf of the various buyers. In such case the buyer of such tobacco shall be relieved of the penalty to the extent that it is paid by the producer.

§ 726.440 *Rate of penalty.* The penalty shall be five cents per pound upon the marketing of any tobacco in excess of the marketing quota for the farm on which the tobacco is produced and on the marketing of any other tobacco not identified under these regulations as being free of penalty.

§ 726.441 *Penalty for false identification or failure to account for disposition of tobacco.* If any producer falsely identifies or fails to account for disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in 1942 in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm and the penalty in respect thereof shall be paid and remitted by the producer.

§ 726.442 *Payment of penalty.* Penalties upon the marketing of tobacco shall become due at the time of the marketing and shall be paid by remitting the amount thereof to the applicable field office as shown in the Marketing Quota Instructions, Tobacco 622, not later than the end of the calendar week following the week in which the memorandum of sale was issued, or, in the event a memorandum is not issued, not later than four weeks after the date upon which the tobacco was sold. A draft, money order, or check, payable to the order of the Treasurer of the United States may be used to pay any penalty, but any such draft, or check shall be received subject to payment at par.

§ 726.443 *Application for return of penalty.* Any producer of tobacco and any other person who bore the burden of the payment of any penalty collected may file an application for return of the amount of such penalty which is in excess of that amount equal to five cents per pound upon the number of pounds marketed in excess of the farm marketing quota. Any application for return of any penalty shall be filed on form Tobacco 624, "Application for Return of Penalty."

An application for the return of penalty filed by any producer of tobacco on a farm on which the tobacco available for marketing is in excess of the farm marketing quota shall not be approved unless (a) the marketing of tobacco from the farm has been completed and (b) disposition of all unmarketed excess tobacco has been made under the supervision of the county committee (or its representative) and has been approved by the county committee.

Return of penalty collected upon marketings of tobacco from any farm on which the tobacco available for marketing is in excess of the farm marketing quota shall be made only upon the basis of tobacco produced on the farm and, if the county committee has good cause to

believe that any of the unmarketed excess tobacco as reported for the farm by the farm operator was not actually produced thereon, the application for such farm shall not be approved with respect to that tobacco which the committee has good cause to believe was not produced on the farm. The county committee shall approve an application for return of penalty only for that number of pounds of unmarketed excess tobacco which the committee determines is representative of the entire amount of tobacco available for marketing from the farm in the 1942–43 marketing year, taking into account the value of the unmarketed excess tobacco (which is disposed of) as appraised by the county committee (or its representative) and the value of tobacco marketed from the farm.

RECORDS AND REPORTS

§ 726.444 *Warehouseman's records and reports*—(a) *Record of marketings.* Each warehouseman shall keep such records as will enable him to furnish to the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse:

(1) The name of the seller (and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco was produced);

(2) The name of the purchaser;

(3) The date of sale;

(4) The number of pounds sold;

(5) The sale price; and

(6) The amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer (or a dealer).

All purchases and resales for the warehouse leaf account shall be so identified in the records and a separate account shall be maintained with respect to the amount of floor sweepings picked up and the disposition of such floor sweepings. The quantity of floor sweepings, including bundles, leaves and scrap, picked up by the warehouse after each sale shall be reported in the space provided on the Auction Warehouse Report (Tobacco 616). Any warehouseman who grades tobacco for farmers shall maintain a separate account showing the approximate amount of grading house scrap obtained from the tobacco graded from each farm. In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each marketing of tobacco from the farm or the number of the warehouse bill(s) covering each such marketing shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale record and bill of nonwarehouse sale record.* A record in the form of a valid memorandum of sale (or a memorandum of sale cleared without marketing card) shall be obtained by every warehouseman to cover each marketing of tobacco from a farm through the warehouse, and if a warehouseman buys tobacco directly from a farmer (other than at a warehouse auction sale as defined in these regulations) such warehouseman shall obtain a valid memorandum of sale to cover each such purchase of tobacco, together with properly executed Bill of Nonwarehouse Sale (Tobacco 614). Any warehouseman who obtains possession of any grading house scrap in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap tobacco from such farm.

(d) *Suspended sale record.* Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "suspended", write thereon the serial number of the suspended sale, and record the bills on the Register of Suspended Sales (Tobacco 612): provided that if a field assistant is not available, the warehouseman may stamp such bills "suspended" and deliver them to a field assistant as soon as one is available.

(e) *Warehouse entries on dealers' records.* Each warehouseman shall enter on such Dealer's Record (Tobacco 615) the total of purchases and resales made by such dealer during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1942 the entry on the Dealer's Record shall clearly show such fact.

(f) *Daily report of warehouse business and report of penalties.* Each warehouseman shall make reports on form Tobacco 616, Auction Warehouse Report, and on form Tobacco 617, Report of Penalties, showing the information required on the respective reports. Form Tobacco 616 shall be prepared for each sale day and all reports for the sale days occurring during any week shall be forwarded to the Marketing Quota Section not later than the end of the next following calendar week. Form Tobacco 617 shall be prepared for each week and the report for each week shall be forwarded, together with remittances of the penalties due, as shown thereon, to the Marketing Quota Section not later than the end of the next following calendar week.

(g) *Summary of warehouse accounts.* Each warehouseman shall assist field assistants to prepare summaries of the warehouse account by making available all records kept and reports made by the warehouse as required by these regulations.

(h) *Additional records and reports.* In addition to the records and reports provided above, each warehouseman shall keep such additional records and make such additional reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary in order to enforce these regulations.

§ 726.445 *Dealer's records and reports.* Each dealer, except as provided in § 726.446 below, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the Marketing Quota Section the page "Receipt for Dealer's Record" contained in form Tobacco 615, "Dealer's Record" which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on form Tobacco 615, "Dealer's Record", showing all purchases and resales of tobacco made by the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1942, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1942.

(c) *Report of penalties.* Each dealer shall make a report on form Tobacco 617 showing the information with respect to all purchases subject to penalty made by him during each calendar week. The penalties listed on each such report shall be remitted with the report.

(d) *Memorandum of sale record and Bill of Nonwarehouse Sale record.* For each lot of tobacco purchased from a farmer each dealer shall obtain a record in the form of a valid memorandum of sale issued by a field assistant or by an authorized representative of a tobacco receiving point. No memorandum of sale shall be issued unless:

(1) The farm operator or his authorized agent has signed the "Authorization" on the back of the memorandum; and

(2) Unless a properly executed Bill of Nonwarehouse Sale (Tobacco 614) is presented covering such sale.

(e) *Additional records.* Each dealer shall keep such records, in addition to the foregoing, as may be necessary to enable him to furnish the following information with respect to each lot of tobacco purchased or sold by him:

(1) The name of the seller (and in the case of a purchase from a producer, the name of the operator of the farm on which the tobacco was produced);

(2) The name of the purchaser;

(3) The date of the transaction;

(4) The number of pounds and the gross sale price; and

(5) In the event of resale of tobacco bought by him and carried over from a crop produced prior to 1942, the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the Marketing Quota Section not later than the end of the week following the calendar week covered by the reports.

§ 726.446 *Dealers exempt from regular records and reports.* Any dealer who does not purchase or otherwise acquire tobacco except at a warehouse sale and who does not resell, in the form in which tobacco ordinarily is sold by farmers, more than ten percent of the tobacco purchased by him, shall not be subject to the provisions of § 726.445 of these regulations; but each such dealer shall make such reports to the Secretary of Agriculture as the Chief of the Marketing

Quota Section may find necessary to enforce these regulations.

§ 726.447 *Records and reports of truckers, redryers, etc.* Every person engaged in the business of trucking tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report with respect to each lot of tobacco received by him showing the following information: (a) The name and address of the farm operator; (b) The date of the receipt of the tobacco; (c) The number of pounds received; and (d) The place to which it was delivered. Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report showing the information provided above for truckers and in addition the purpose for which the tobacco was received, the amount of advance made by him on the tobacco, and the disposition of the tobacco. Each such person shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce these regulations.

§ 726.448 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, processor, or as a person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business, except that a warehouseman shall not be required to keep a record and make reports on form Tobacco 615, "Dealer's Record", if the transactions which would be recorded and reported on such forms are recorded on the records kept by the warehouse in its regular course of business and reported as required on form Tobacco 616.

§ 726.449 *Failure to keep record or make report.* Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under these regulations, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under these regulations within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or dealer shall be given by the Chief of the Marketing Quota Section.

§ 726.450 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, any warehouseman, dealer, processor, common carrier or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination, upon written request by the Chief of the Marketing Quota Section, such books, papers, records, accounts, correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of such person.

§ 726.451 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under these regulations for the 1942–43 marketing year shall be kept by him until September 30, 1944, and for such longer period of time as may be requested in writing by the Chief of the Marketing Quota Section.

§ 726.452 *Information confidential.* All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of these regulations shall be kept confidential by all officers and employees of the Department of Agriculture and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the Act.

Done at Washington, D. C., this 28th day of September 1942.

Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 42-9642; Filed, September 28, 1942; 11:36 a. m.]

[Tobacco 603 (Dar) Air-Cured); Part II]

PART 726—FIRE-CURED AND DARK AIR-CURED TOBACCO

MARKETING QUOTA REGULATIONS, 1942–43 MARKETING YEAR

Pursuant to the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938, as amended, public notice is hereby given of Part II of the Marketing Quota Regulations, Dark Air-cured Tobacco—1942–43 Marketing Year (Tobacco 603 Dark Air-cured, as issued by the Secretary of Agriculture on November 8, 1941), which regulations shall be in force and effect until rescinded or suspended or amended or superseded by regulations hereafter made under said Act.

GENERAL

AUTHORITY: §§726.469 to 726.495, inclusive, issued under 52 Stat. 47, 48, 65, 66, 202; 53 Stat. 1261, 1262; 54 Stat. 393, 1209, 728; 55 Stat. 88; 7 U.S.C. 1940 ed. 1301 et seq.

GENERAL

§ 726.469 *Definitions.* As used in these regulations and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) "Committee" means a committee within a county or community established under the Soil Conservation and Domestic Allotment Act. "County Committee", "Local Committee", or "Community Committee" shall have corresponding meanings in the connection in which they are used.

(c) "County office" means the office of the County Agricultural Conservation Association Committee, or the county or local committees or employees of such

committee according to the sense in which such term is used.

(d) "Dealer" means a person who engages to whatever extent, in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(e) "Farm" means any tract or tracts of land which are considered as a farm under the provisions of the 1942 Agricultural Conservation Program.

(f) "Field Assistant" means an employee of the Agricultural Adjustment Agency, United States Department of Agriculture, whose duties involve primarily the preparation and handling of auction warehouse and dealer records and reports as they relate to tobacco marketing quotas.

(g) "Floor sweepings" means all tobacco which is dropped on the warehouse floor in the course of the warehouse operations and is picked up by the warehouseman. Any tobacco accumulated in the course of the grading of tobacco for farmers shall not be included as floor sweepings.

(h) "Market" means the first disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market".

(i) "Marketing Quota Section" means the Marketing Quota Section, East Central Division, Agricultural Adjustment Agency, United States Department of Agriculture, Washington, D. C.

(j) "Nonwarehouse sale" means any marketing of tobacco other than a warehouse sale.

(k) "Operator" means the person who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(l) "Person" means an individual, partnership, association, corporation, estate, trust, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(m) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight. The weight of redried or prized tobacco shall be increased so as to correspond with the original weight of such tobacco prior to redrying.

(n) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of tobacco.

(o) "Resale" means the disposition by sale, barter, or exchange of tobacco which has been marketed previously.

(p) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(q) "Secretary of Agriculture" means the Secretary or Acting Secretary of Agriculture of the United States.

(r) "State committee or State office" means the group of persons comprising the State Agricultural Conservation Committee appointed by the Secretary of Agriculture to assist within any State in the administration of the Soil Conservation and Domestic Allotment Act or the office of such persons.

(s) "Suspended sale" means any marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the particular sale day on which such marketing occurred.

(t) "Tobacco" means dark air-cured tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as types 35 and 36, and collectively known as dark air-cured tobacco.

(u) "Tobacco available for marketing" means all tobacco produced on a farm in the calendar year 1942 (and any tobacco produced on the farm prior to the calendar year 1942 and carried over to the 1942–43 marketing year) which is not disposed of by a "Tobacco Carry-over Agreement", by use on the farm, or by storage prior to the issuance of a marketing card for the farm.

(v) "Trucker" means any person who engages in the business of trucking tobacco to market and selling it for producers regardless of whether the tobacco is acquired from producers by the trucker.

(w) "Warehouseman" means a person engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(x) "Warehouse sale" means a marketing by sale at auction through a warehouse in the regular course of business.

§ 726.469a *Instructions and forms.* The Administrator of the Agricultural Conservation and Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out these regulations.

§ 726.469b *Tobacco subject to marketing quotas.* Any tobacco marketed during the period October 1, 1942, to September 30, 1943, inclusive, and any tobacco produced in the calendar year 1942 and marketed prior to October 1, 1942, shall be subject to the marketing quotas for the 1942–43 marketing year.

FARM MARKETING QUOTAS

§ 726.470 *Amount of farm marketing quota.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with Part I of the "Marketing Quota Regulations—Dark Air-cured Tobacco—1942–43 Marketing Year" (Tobacco 603 Part I). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1942 times the farm acreage allotment. The excess tobacco on any farm shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1942 times the number of acres harvested in excess of the farm acreage allotment.

§ 726.471 *Issuance of marketing card.* A marketing card shall be issued for every farm having tobacco available for marketing. The card shall be issued after information required for its preparation (including measurements of the harvested acreage of tobacco and an estimate of the actual production of tobacco) has been furnished to or obtained by the county office. If the farm operator refuses to furnish or prevents the county office from obtaining such information, the card shall show that all of the tobacco available for marketing from the farm is subject to penalty.

(a) *Within quota marketing card (MQ–656 Dark Air-cured).* A "within quota marketing card" authorizing the marketing without penalty of the actual production of tobacco on the farm in the 1942 calendar year and any tobacco carried over from a prior marketing year shall be issued for a farm unless an excess marketing card is required to be issued for the farm in accordance with paragraph (b) of this section.

(b) *Excess marketing card (MQ–657 Dark Air-cured).* An "excess marketing card" showing the extent to which marketings of tobacco from a farm are subject to penalty shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1942 is in excess of the farm acreage allotment and such excess tobacco is not disposed of in accordance with § 726.472 hereof, or if the operator of the farm also operates another farm on which the harvested acreage of tobacco in 1942 exceeds the farm acreage allotment and such excess is not disposed of in accordance with § 726.472 hereof.

(2) If a within quota marketing card could be issued for the farm but the county committee determines that a zero percent excess marketing card is necessary to protect the interest of the Government and to insure proper identification of and accounting for the disposition of tobacco produced on the farm and the proper use of the marketing card issued for the farm.

(3) If there is tobacco available for marketing from the farm but no tobacco acreage allotment was established and such tobacco is not disposed of as provided in § 726.472.

(4) If information required for preparation of the marketing card is not furnished or the county office is prevented from obtaining the necessary information.

(5) If there is tobacco available for marketing from the farm carried over from a prior marketing year and the harvested acreage in 1942 is not less than the 1942 acreage allotment by an amount equivalent to the acreage of carry-over excess determined as provided in § 726.471 (c).

(6) If a farm operated by a publicly owned experiment station produces tobacco for other than experimental purposes and such tobacco is not disposed of as provided in § 726.472.

(c) *Extent to which marketings from a farm are subject to penalty.* The ex-

tent to which marketings of tobacco from any farm having no carry-over tobacco are subject to penalty shall be that percentage of the tobacco available for marketing from the farm which the acreage of tobacco harvested in excess of the farm acreage allotment for the farm and not disposed of as provided in § 726.472 of these regulations, is of the acreage of tobacco harvested from the farm. Each marketing card showing a percentage excess of zero also shall show the maximum number of pounds of tobacco which may be marketed thereunder, which shall be the quantity of tobacco estimated by the county committee to be available for marketing from the 1942 crop produced on the farm. For any excess marketing card which shows a percentage of excess of more than zero, the county committee, if it has reason to believe it to be necessary in order to prevent marketing thereunder of tobacco produced on another farm, also shall have shown on the card the maximum number of pounds which may be marketed thereunder, such number of pounds to be determined in the same manner as for a card showing zero percent excess. The maximum number of pounds shown on any excess marketing card shall be increased by the county committee if the committee determines that the quantity of tobacco available for marketing from the 1942 crop produced on the farm is greater than the number of pounds previously estimated by the committee to be available for marketing.

The extent to which marketings of tobacco from any farm having tobacco available for marketing which has been carried over from a prior marketing year are subject to penalty shall be the percentage determined as follows:

(1) Determine the number of "carry-over acres" by dividing the number of pounds of tobacco carried over from the prior year by the normal yield for the farm for that year.

(2) Determine the number of "within quota carry-over acres" by multiplying the "carry-over acres" ((1) above) by the "percent within quota" (i. e., 100 percent minus the percent excess) for the year in which the carry-over tobacco was produced.

(3) Determine the "total acres" of tobacco by adding the "carry-over acres" ((1) above) and the acreage of tobacco harvested in the current year.

(4) Determine the excess acreage by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1942 allotment and the "within quota carry-over acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess to be shown on the marketing card by dividing the "total acres" into the excess acreage (subparagraph (4) of this paragraph).

(d) *Number of marketing cards and entries and signatures thereon.* One or more marketing cards may be issued for any farm as approved by the county committee. All entries on each marketing card shall be made in accordance with the instructions for issuing the marketing card and the operator's agreement on each marketing card shall be signed by the farm operator or on his behalf by his authorized representative.

§ 726.472 *Disposition of excess tobacco.* The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by any of the following methods:

(a) By executing a "Tobacco Carry-over Agreement", (Tobacco 628) and delivering, either to the county committee prior to the issuance of the marketing card or to a field assistant at the auction warehouse, out of the first proceeds from the marketing of tobacco from the farm, a certified check, cashier's check or post office money order, or by a check drawn by the warehouseman, payable to Commodity Credit Corporation in an amount equal to the estimated actual yield of tobacco from the excess acreage times 85 percent of the parity price of dark air-cured tobacco as of the beginning of the 1942–43 marketing year.

(b) By storage of the excess tobacco, the tobacco so stored to be representative of the entire 1942 crop produced on the farm, and posting of a bond or making of other arrangements approved by the county committee and the Chief of the Marketing Quota Section which will guarantee payment of the amount of penalty which will become due upon the marketing of excess tobacco.

(c) By rendering the excess tobacco unmerchantable, the tobacco so rendered unmerchantable to be representative of the entire crop of tobacco produced on the farm in 1942 and the act of rendering the tobacco unmerchantable to be performed only by the farm operator (or his representative) under the supervision of the county committee (or a person designated by the committee).

(d) By payment to the county office by certified check, cashier's check, or money order drawn payable to the Treasurer of the United States of an amount equal to 5 cents per pound times the estimated actual production of the excess acreage of tobacco harvested from the farm. Any additional amount of penalty due after the actual yield for the farm has been determined shall be paid by the operator not later than 20 days after receipt of notice of such additional penalty from the county office. This paragraph (d) shall apply only in the event that the acreage harvested in excess of the allotment does not exceed the larger of two-tenths acre or 10 percent of the farm acreage allotment.

§ 726.473 *Report on marketing card.* The operator of each farm on which tobacco is produced in 1942 shall return to the county office each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than thirty days after the close of the tobacco auction markets for the area in which the farm is located. Failure to return the marketing card to the county office within the time specified (after formal notification) shall constitute failure to give proof of disposition of tobacco marketed from the farm in the event that satisfactory proof of such disposition is not furnished otherwise.

§ 726.473a *Additional reports by producers and identification of tobacco.* In addition to any other reports which may be required under these regulations, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment and even though no allotment was established for the farm) shall, upon written request by the Chairman of the State Committee and within ten days after the deposit of such request in the United States mails addressed to such person at his last known address, furnish the Secretary of Agriculture, by sending the same to the Chairman of the State Committee, a written report showing, as to the farm at the time of filing said report (a) the number of acres of tobacco harvested, (b) the total production of tobacco, (c) the amount of tobacco on hand and its location, and (d) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of marketing.

§ 726.474 *Rights of producers in marketing card.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to the use of the marketing card for marketing his proportionate share of the total amount of tobacco available for marketing from the farm: *Provided,* That the burden of any penalty with respect to carry-over tobacco shall be borne by those persons having an interest in such tobacco.

§ 726.474a *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 726.475 *Person authorized to issue cards.* The county committee shall designate one person to sign marketing cards for farms in the county as issuing officer. No marketing card shall be signed by the issuing officer until all other entries required to be made thereon have been made except that the Operator's Agreement therein may be signed after the issuing officer has signed the card, but prior to the issuance of a memorandum of sale from the card. Only one person shall be designated as issuing officer but such person may subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards, *Provided,* That each such person shall place his initials immediately beneath the name of the issuing officer as written by him on the card.

§ 726.476 *Invalid cards.* A marketing card shall be invalid under any of the following conditions:

(a) If it is not issued or delivered in the form and manner prescribed;

(b) If entries are not made thereon as required;

(c) If it is lost, destroyed, stolen, or becomes illegible;

(d) If any erasure has been made;

(e) If any alteration has been made and not properly initialed; or

(f) If the amount due Commodity Credit Corporation with respect to a "Tobacco Carry-over Agreement" is not paid prior to the issuance of any memorandum of sale.

In the event any marketing card becomes invalid (other than by loss, destruction, theft, omission, alteration, or incorrect entry which can be corrected by a field assistant) the farm operator (or the person having the card in his possession) shall return it to the county office at which it was issued.

If any marketing card is lost, destroyed, stolen, or altered, the person having knowledge of such loss, destruction, theft, or alteration shall notify the county office to that effect, and the county office shall immediately notify the Marketing Quota Section.

If any marketing card which was reported as lost, destroyed, stolen, or altered is later received by the county office, the county office shall immediately notify the Marketing Quota Section of the receipt of such card.

After receipt of notice of loss, destruction or theft of any marketing card the county office may issue a duplicate marketing card to replace the lost, destroyed, or stolen card in accordance with instructions issued pursuant to these regulations.

In the event any marketing card was improperly issued, has been altered, or becomes illegible, upon the return of the card to the county office a new marketing card shall be issued immediately, or as soon thereafter as the necessary information is available.

If any entry is not made on a marketing card as required (either through omission or incorrect entry) and the proper entry is made by a field assistant then such card shall become valid. If the field assistant is unable to make the proper entry, he shall return the card to the county office where it shall be retained until such entry is made, or a new marketing card is issued, as provided above.

§ 726.477 *Additional cards and disposition of used cards.* Upon the return to the county office of the marketing card after all the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. Any marketing card issued to replace another card shall have entered thereon the total sales as shown on the marketing card which is replaced.

§ 726.477a *Report of probable misuse of marketing card.* Any information which causes any field assistant, a member of any local committee, or an employee of the county office to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the State office and the Marketing Quota Section.

§ 726.477b *No transfers.* There shall be no transfer of marketing quotas (except as provided in Part I of these regulations) and the tobacco marketed under the marketing card issued for a farm shall consist only of tobacco produced on the farm.

MARKETING OF TOBACCO AND PENALTIES

§ 726.478 *Memorandum of sale to identify every marketing.* Each marketing of tobacco from a farm shall be identified by a memorandum of sale issued from the marketing card (MQ–656 Dark Air-cured or MQ–657 Dark Air-cured) for the farm but if a memorandum of sale cannot be obtained within four weeks after the date of the marketing of any tobacco at a warehouse sale, such marketing of tobacco shall be subject to penalty and the amount of penalty shall be shown on the memorandum of sale cleared without marketing card (Tobacco 618). The memorandum of sale shall be issued only by a field assistant, with the following exceptions:

(a) A warehouseman, or his authorized representative, who has been authorized on form Tobacco 625, may issue a within quota memorandum of sale to identify a warehouse sale, if a field assistant is not available at the warehouse when the card is presented by the farmer and if no payment to Commodity Credit Corporation under a "Tobacco Carry-over Agreement" is due with respect to the tobacco to be covered by the memorandum. Each memorandum of sale issued by a warehouseman shall be presented promptly by him to the field assistant for verification with the warehouse records.

(b) A dealer, or his authorized representative, operating a regular receiving point for tobacco who keeps records showing the information specified in § 726.488 (e) and who has been authorized on Tobacco 625, may issue within quota memoranda of sale covering tobacco purchased by such dealer and delivered directly to such receiving point by the producer.

(c) A representative of the county office may issue memoranda of sale covering sales of tobacco by the producer in small lots by mail order or directly to various individuals other than dealers.

The authorization to issue within quota memoranda of sale under paragraph (a) or (b) of this section may be withdrawn from any warehouseman or dealer upon written notice by the Chief of the Marketing Quota Section.

Each excess memorandum of sale, after issuance by a field assistant, shall be checked by the warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed, and the warehouseman or dealer shall be responsible for the correctness of such computations.

If the quantity of tobacco previously identified by memoranda of sale issued from any within quota marketing card is in excess of the number of pounds assigned to the card, the person issuing the memorandum shall require the farm operator to sign the "Operator's Certificate" on the back of the memorandum and if he is satisfied that such signature is the same as the signature of the farm operator on the marketing card he may issue the memorandum. If any person other than the operator presents the marketing card, the memorandum of sale shall not be issued unless the "Authorization" on the back of such memorandum has been properly executed and signed by the operator. The person who presents the marketing card may sign on behalf of the farm operator, provided that such person places his address immediately beneath his signature. Any person authorized to issue a memorandum of sale under either of the above described circumstances who has reason to believe that the tobacco to be covered by the memorandum was not produced on the farm for which the marketing card containing the memorandum was issued, may or may not issue the memorandum as he considers advisable, but in either event he shall immediately make a written report of the circumstances in the case to the Marketing Quota Section.

§ 726.479 *Bill of nonwarehouse sale.* Each marketing of farm tobacco, except a warehouse sale or a nonwarehouse sale of within quota tobacco to a dealer authorized to issue memoranda of sale under § 726.478 (b) shall be identified by a Bill of Nonwarehouse Sale (Tobacco 614) completely executed by the buyer and the farm operator, except for the entry of the serial number of the memorandum of sale. The post card copy (Tobacco 614a) shall be mailed by the farm operator not later than the day following the day on which executed. The original of each Bill of Nonwarehouse Sale covering any marketing shall be presented to a field assistant for issuance of a memorandum of sale (or a memorandum of sale cleared without marketing card) and for recording in the Dealer's Record Book in case of a purchase by a dealer other than a warehouseman. The original of each such Bill of Nonwarehouse Sale shall be forwarded with the applicable Dealer's Record (Tobacco 615).

§ 726.480 *Marketings free of penalty.* Any tobacco marketed from a farm which is identified by a valid memorandum of sale from the marketing card issued for the farm shall be free of penalty to the extent shown by the memorandum of sale.

§ 726.481 *Marketings subject to penalty and collection of penalties*—(a) *Farm tobacco.* With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that proportion of each lot of tobacco which the tobacco available for marketing in excess of the farm quota at the time of issuance of the marketing card) is of the total amount of tobacco available for marketing from the farm. The memorandum of sale issued to identify such marketing of tobacco shall show that portion of such marketing which is subject to penalty, and any portion of such marketing of tobacco which is not shown by the memorandum

as being subject to penalty shall be free of penalty.

(b) *Dealer's tobacco.* Any marketing of tobacco by a dealer which such dealer represents to be a resale, but all or any part of which, when added to prior resales by such dealer as shown on the Dealer's Record, is in excess of the total amount of purchases as shown on such Dealer's Record shall be a marketing of tobacco subject to penalty unless and until the dealer furnishes proof acceptable to the Secretary showing that such tobacco is not subject to penalty. Any marketing of tobacco by a dealer which such dealer represents to be a resale of tobacco previously purchased by him but which, because of the difference in the price at which such tobacco is resold as compared with the price at which he had purchased the tobacco, cannot reasonably be regarded as tobacco previously purchased by him shall be taken to be a marketing of tobacco subject to penalty.

(c) *Tobacco not identified by a valid memorandum.* Any marketing of tobacco which is not identified by a valid memorandum of sale shall be subject to penalty.

(d) *Liability in case of error on memorandum.* The person liable for the payment of the penalty upon any marketing of tobacco shall not be relieved of such liability because of any error which may occur on the memorandum of sale.

§ 726.482 *Persons to pay penalty.* The person to pay the penalty due on any marketing of excess tobacco shall be one of the following as applicable:

(a) *Warehouseman.* If the tobacco is marketed by the producer through a warehouseman the penalty shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Dealer.* If the tobacco is acquired from the producer by a dealer, the penalty shall be paid by the dealer who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Agent.* If the tobacco is marketed by the producer through an agent who is not a warehouseman, the penalty shall be paid by the agent, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Warehouseman and dealer on dealer's tobacco.* Any penalty due upon tobacco subject to penalty under § 726.481 (b) shall be paid by the warehouseman, who may deduct an amount equivalent to the penalty from the price paid to the dealer, but the dealer shall not be relieved of responsibility for payment of such penalty.

(e) *Producer marketing outside United States.* If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(f) *Producer on behalf of buyer in case of mail order or direct sales in small lots.* If the tobacco is marketed in small lots by the producer by mail order sales or directly to various individuals other than dealers, the penalty may be paid by the producer of such tobacco on behalf of the various buyers. In such case the buyer of such tobacco shall be relieved of the penalty to the extent that it is paid by the producer.

§ 726.483 *Rate of penalty.* The penalty shall be five cents per pound upon the marketing of any tobacco in excess of the marketing quota for the farm on which the tobacco is produced and on the marketing of any other tobacco not identified under these regulations as being free of penalty.

§ 726.484 *Penalty for false identification or failure to account for disposition of tobacco.* If any producer falsely identifies or fails to account for disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in 1942 in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm and the penalty in respect thereof shall be paid and remitted by the producer.

§ 726.485 *Payment of penalty.* Penalties upon the marketing of tobacco shall become due at the time of the marketing and shall be paid by remitting the amount thereof to the applicable Marketing Quota Office as shown in the Marketing Quota Instructions, Tobacco 622, not later than the end of the calendar week following the week in which the memorandum of sale was issued, or, in the event a memorandum is not issued, not later than four weeks after the date upon which the tobacco was sold. A draft, money order, or check, payable to the order of the Treasurer of the United States may be used to pay any penalty, but any such draft, or check shall be received subject to payment at par.

§ 726.486 *Application for return of penalty.* Any producer of tobacco and any other person who bore the burden of the payment of any penalty collected may file an application for return of the amount of such penalty which is in excess of that amount equal to five cents per pound upon the number of pounds marketed in excess of the farm marketing quota. Any application for return of any penalty shall be filed on form Tobacco 624, "Application for Return of Penalty."

An application for the return of penalty filed by any producer of tobacco on a farm on which the tobacco available for marketing is in excess of the farm marketing quota shall not be approved unless (a) the marketing of tobacco from the farm has been completed and (b) disposition of all unmarketed excess tobacco has been made under the supervision of the county committee (or its representative) and has been approved by the county committee.

Return of penalty collected upon marketings of tobacco from any farm on which the tobacco available for marketing is in excess of the farm marketing quota shall be made only upon the basis of tobacco produced on the farm and, if the county committee has good cause to believe that any of the unmarketed excess tobacco as reported for the farm by the farm operator was not actually produced thereon, the application for such farm shall not be approved with respect to that tobacco which the committee has good cause to believe was not produced on the farm. The county committee shall approve an Application for Return of Penalty only for that number of pounds of unmarketed excess tobacco which the committee determines is representative of the entire amount of tobacco available for marketing from the farm in the 1942–43 marketing year, taking into account the value of the unmarketed excess tobacco (which is disposed of) as appraised by the county committee (or its representative) and the value of tobacco marketed from the farm.

RECORDS AND REPORTS

§ 726.487 *Warehouseman's records and reports*—(a) *Record of marketing.* Each warehouseman shall keep such records as will enable him to furnish to the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse:

(1) The name of the seller (and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco was produced);

(2) The name of the purchaser;

(3) The date of sale;

(4) The number of pounds sold;

(5) The sale price; and

(6) The amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer (or a dealer).

All purchases and resales for the warehouse leaf account shall be so identified in the records and a separate account shall be maintained with respect to the amount of floor sweepings picked up and the disposition of such floor sweepings. Any warehouseman who grades tobacco for farmers shall maintain a separate account showing the approximate amount of grading house scrap obtained from the tobacco graded from each farm. In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each marketing of tobacco from the farm or the number of the warehouse bill(s) covering each such marketing shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale record and bill of nonwarehouse sale record.* A record in the form of a valid memorandum of sale (or a memorandum of sale cleared without marketing card) shall be obtained by every warehouseman to cover each marketing of tobacco from a farm through the warehouse, and if a warehouseman buys tobacco directly from a farmer (other than at a warehouse auction sale as defined in these regulations) such warehouseman shall obtain a valid memorandum of sale to cover each such purchase of tobacco, together with properly executed Bill of Nonwarehouse Sale (Tobacco 614). Any warehouseman who obtains possession of any grading house

scrap in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap tobacco from such farm.

(d) *Suspended sale record.* Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "suspended", write thereon the serial number of the suspended sale, and record the bills on the Register of Suspended Sales (Tobacco 612): *Provided,* That if a field assistant is not available, the warehouseman may stamp such bills "suspended" and deliver them to a field assistant as soon as one is available.

(e) *Warehouse entries on dealers' records.* Each warehouseman shall enter on such Dealer's Record (Tobacco 615) the total of purchases and resales made by such dealer during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1942 the entry on the Dealer's Record shall clearly show such fact.

(f) *Daily report of warehouse business and report of penalties.* Each warehouseman shall make reports on form Tobacco DAC 616, Auction Warehouse Report, Tobacco DAC 619, Register of Resale, and on form Tobacco 617, Report of Penalties, showing the information required on the respective reports. Form Tobacco DAC 616 and Tobacco DAC 619 shall be prepared for each sale day and all reports for the sale days occurring during any week shall be forwarded to the Marketing Quota Section not later than the end of the next following calendar week. Form Tobacco 617 shall be prepared for each week and the report for each week shall be forwarded, together with remittances of the penalties due, as shown thereon, to the Marketing Quota Section not later than the end of the next following calendar week.

(g) *Summary of warehouse accounts.* Each warehouseman shall assist field assistants to prepare summaries of the warehouse account by making available all records kept and reports made by the warehouse as required by these regulations.

(h) *Additional records and reports.* In addition to the records and reports provided above, each warehouseman shall keep such additional records and make such additional reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary in order to enforce these regulations.

§ 726.488 *Dealer's records and reports.* Each dealer, except as provided in § 726.489 of this part, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the Marketing Quota Section the page "Receipt for Dealer's Record" contained in form Tobacco 615, "Dealer's Record" which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on form Tobacco 615, "Dealer's Record", showing all purchases and resales of tobacco made by the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1942, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1942.

(c) *Report of penalties.* Each dealer shall make a report on form Tobacco 617 showing the information with respect to all purchases subject to penalty made by him during each calendar week. The penalties listed on each such report shall be remitted with the report.

(d) *Memorandum of sale record and bill of nonwarehouse sale record.* For each lot of tobacco purchased from a farmer each dealer shall obtain a record in the form of a valid memorandum of sale issued by a field assistant or by an authorized representative of a scrap tobacco receiving point in the case of scrap tobacco sold and delivered to such receiving point. No memorandum of sale shall be issued unless:

(1) The farm operator or his authorized agent has signed the "Authorization" on the back of the memorandum; and

(2) Unless a properly executed Bill of Nonwarehouse Sale (Tobacco 614) is presented covering such sale.

(e) *Additional records.* Each dealer shall keep such records, in addition to the foregoing, as may be necessary to enable him to furnish the following information with respect to each lot of tobacco purchased or sold by him:

(1) The name of the seller (and in the case of a purchase from a producer, the name of the operator of the farm on which the tobacco was produced);

(2) The name of the purchaser;

(3) The date of the transaction;

(4) The number of pounds and the gross sale price, and

(5) In the event of resale of tobacco bought by him and carried over from a crop produced prior to 1942, the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the Marketing Quota Section not later than the end of the week following the calendar week covered by the reports.

§ 726.489 *Dealers exempt from regular records and reports.* Any dealer who does not purchase or otherwise acquire tobacco except at a warehouse sale and who does not resell, in the form in which tobacco ordinarily is sold by farmers, more than ten percent of the tobacco purchased by him, shall not be subject to the provisions of § 726.488 of these regulations; but each such dealer shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce these regulations.

§ 726.490 *Records and reports of truckers, redryers, etc.* Every person engaged in the business of trucking tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report with respect to each lot of tobacco received by him showing the following information:

(a) The name and adress of the farm operator;

(b) The date of the receipt of the tobacco;

(c) The number of pounds received; and

(d) The place to which it was delivered.

Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report showing the information provided above for truckers and in addition the purpose for which the tobacco was received, the amount of advance made by him on the tobacco and the disposition of the tobacco. Each such person shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may find necessary to enforce these regulations.

§ 726.491 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, processor, or as a person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business, except that a warehouseman shall not be required to keep a record and make reports on form Tobacco 615, "Dealer's Record", if the transactions which would be recorded and reported on such forms are recorded on the records kept by the warehouse in its regular course of business and reported as required on form Tobacco DAC 616 and Tobacco DAC 619.

§ 726.492 *Failure to keep record or make report.* Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under these regulations, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under these regulations within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or

dealer shall be given by the Chief of the Marketing Quota Section.

§ 726.493 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, any warehouseman, dealer, prccessor, common carrier or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination, upon written request by the Chief of the Marketing Quota Section such books, papers, records, accounts correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of such person.

§ 726.494 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under these regulations for the 1942–43 marketing year shall be kept by him until Septembe. 30, 1944, and for such longer period of time as may be requested in writing by the Chief of the Marketing Quota Section.

§ 726.495 *Information confidential.* All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of these regulations shall be kept confidential by all officers and employees of the Department of Agriculture and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the Act.

Done at Washington, D. C., this 28th day of September 1942. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 42-9643; Filed, September 28, 1942; 11:36 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter III—Grazing Service

PART 501—THE FEDERAL RANGE CODE

REVISION OF GRAZING DISTRICT REGULATIONS

Revision of the Rules and Regulations for the Administration of Grazing Districts under the Act of June 28, 1934 (48 Stat. 1269), as amended, commonly known as the Taylor Grazing Act.

Pursuant to the authority vested in the Secretary of the Interior by the act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315 et seq.), as amended, commonly known as the Taylor Grazing Act, the following rules and regulations, known as the Federal Range Code, are prescribed for the administration of grazing districts:

Sec.

AUTHORITY: §§ 501.1 to 501.18, inclusive, issued under 48 Stat. 1269; 43 U. S. C. 315, et seq.

§ 501.1 *Introductory: basic policy and plan of administration*—(a) *Purposes; general requirements.* Grazing districts will be administered to conserve and regulate the public grazing lands, to stabilize the livestock industry dependent upon them, and in aid thereof to promote the proper use of the privately controlled lands and waters dependent upon those public grazing lands. In furtherance of these objectives, grazing privileges will be granted with a view to the protection of those livestock operations that are recognized as established and continuing and which normally involve the substantial use of the public range in a regular, continuing manner each year. To promote the highest use of the public lands within grazing districts which have been or hereafter are established, possession of sufficient land or water to insure a year-round operation for a certain number of livestock in connection with the use of the public domain will be required of all users.

(b) *Preference applicants.* Preference in the granting of grazing privileges will be given to those applicants within or near a district who are landowners engaged in the livestock business, bona fide occupants or settlers, or owners of water or water rights, as may be necessary to permit the proper use of lands, water, or water rights owned, occupied, or leased by them. When the demands of all such preference applicants cannot be satisfied, prior consideration will be given applicants in the manner hereinafter provided. Provision will be made for other applicants so far as Federal range remains available.

(c) *Permits; temporary licenses; termination; revocation.* Permits within the meaning of secton 3 of the Act may be issued as soon as the necessary data can be obtained or after agreements as to the extent of their individual grazing privileges have been reached by the interested applicants and such agreements have been reduced to writing, a recommendation thereon made by the advisory board, and approval thereof given by the district or regional grazier. No such agreement will be approved by either officer unless it appears that it is fair and that it represents a substantial compliance with the provisions of the Federal Range Code, and no applicant shall be prejudiced by his failure or refusal to enter into such an agreement. During the period prior to the issuance of permits, the issuance of temporary licenses will be continued. Upon the issuance of a permit within any district or portion thereof, any outstanding license or part thereof which has been granted on the basis of the qualifications on which the permit is based will be terminated. Licenses and permits will be revocable for violations of the terms thereof or for a violation of any provision of the Federal Range Code, as hereinafter provided. (Secs. 2, 3, 48 Stat. 1270; 43 U.S.C. 315a, 315b)

§ 501.2 *Definitions.* Wherever used in rules, instructions, or interpretations issued by the Grazing Service, unless the context otherwise requires:

(a) The "Act" means the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315—315m, 315n—315o–1), and all amendments thereto.

(b) The "Federal Range Code" means all of the rules and regulations pertaining to the administration of grazing districts.

(c) "Federal range" means land owned, leased, or otherwise controlled by the United States and administered by the Grazing Service: *Provided,* That land under the control of another agency and administered by the Grazing Service under cooperative agreement may be excluded from the scope of this definition by the agreement.

(d) "Property" means privately owned or controlled land or water used in range livestock operations.

(e) "Base property" means property used for the support of the livestock for which a grazing privilege is sought and on the basis of which the extent of a license or permit is computed.

(f) "Forage land" means land the principal use of which is the production of natural or cultivated feed for livestock.

(g) "Land dependent by use" means forage land which is of such character that the conduct of an economic livestock operation requires the use of the Federal range in connection with it and which, in the 5-year period immediately preceding June 28, 1934 (hereinafter referred to as the "priority period"), was used as a part of an established, permanent, and continuing livestock operation for any two consecutive years or for any three years in connection with substantially the same part of the public domain, now part of the Federal range, except that in any area placed within a grazing district after June 28, 1938, or in any area added to an existing grazing district after that date, the priority period shall be the five years immediately preceding the date of the order establishing such district or effecting such addition, as the case may be: *Provided,* That in any case in which a livestock operation used a base property or properties during the priority period in such manner as would, in the absence of other factors, serve to invest the property with the attribute of dependency by use, but such livestock operation subsequently ceased using such property or properties and used other base property or properties in such manner as to invest them also with dependency by use, only the latter property or properties shall be considered as dependent by use unless the former are dependent by use by reason of use by another livestock operation: *Provided further,* That in no event shall any land

be considered as dependent by use unless offered as base property in an application for a grazing license or permit within one year from the date when the public land used in creating the dependency by use first became a part of a grazing district, except that in cases in which the lands used in creating dependency by use of a base property became a part of a grazing district prior to June 28, 1938, such base property shall not be considered as dependent by use unless offered in an application for a grazing license or permit filed prior to said date.

The extent of the dependency by use of land shall be subject to the following:

(1) The dependency by use in no event shall exceed the average annual amount of forage that was customarily and properly utilized by the livestock operation during the priority period on that part of the public lands which, at the time of the issuance of the license or permit, is Federal range.

(2) In the event that the area of Federal range which was used in creating the dependency by use is diminished by withdrawal, appropriation, selection, or otherwise, the dependency by use shall diminish proportionately.

(3) Whenever dependency by use of more than one base properly was created by the use of all or a part of certain range which was used jointly or at different seasons of the year by one or more other livestock operations in such a manner as to invest another base property or properties with the attribute of dependency by use, the relative dependency by use of each of the properties shall be proportionate to the average annual use made of the range by each of the operations.

(h) "Land dependent by location" means forage land which is so situated and of such character that it can properly be used as a base for an economic livestock operation utilizing the forage resources of the Federal range.

(i) "Animal-unit month," as applied to lands that are base properties, means the amount of natural or cultivated feed necessary for the complete sustenance of one cow for a period of one month; as applied to Federal range, it means that amount of grazing privileges represented by the grazing of one cow for a period of one month. For the purpose of this definition, one cow will be considered the equivalent of one horse or five sheep or five goats.

(j) "Carrying capacity" means the total animal-unit months of forage available from a tract or tracts of forage land during a given period.

(k) "Full-time water" means water which is suitable for consumption by livestock and available, accessible, and adequate for a certain number of livestock during those months in the year for which the range is classified as suitable for use. Such water may be from one source or may be the aggregate amount available from several sources.

(l) "Prior water" is water which, during all or a substantial part of the five-year period immediately preceding June 28, 1934 (hereinafter referred to as the "priority period"), was used to service certain public range within the service area of the water for a livestock operation that was established, permanent, and continuing, and which, during the period of such use, normally involved the grazing of livestock on the same areas of public land for a certain period or periods of each year, except that in any area placed within a grazing district or added to an existing district after September 23, 1942, the priority period shall be the five-year period immediately preceding the date of the order establishing such district or effecting such addition, as the case may be: *Provided*, That in any case in which a livestock operation used a water or waters during the priority period in such manner as would, in the absence of other factors, serve to invest such water with the attribute of priority, but such livestock operations subsequently ceased using such water or waters and used other water or waters in such manner as to invest them also with priority, only the latter water or waters shall be considered as prior unless the former are prior because of use by another livestock operation: *Provided further*, That in no event shall any water be considered as prior unless offered as base property in an application for a grazing license or permit filed within one year after the public lands which were used in creating the priority first became a part of a grazing district, except that in cases wherein such lands became a part of a grazing district more than one year prior to March 16, 1942, a water shall not be considered as prior unless offered in an application filed prior to that date.

The extent of the priority of water shall be subject to the following:

(1) The priority in no event shall exceed the average annual amount of forage that was customarily and properly utilized by the livestock operation during the priority period on that part of the lands within the service area which, at the time of the issuance of the license or permit, is Federal range.

(2) In the event that the area of Federal range which was used in creating the priority is diminished by withdrawal, appropriation, selection, or otherwise, the priority of the water shall diminish proportionately.

(m) "Service area" means the area that can be properly grazed by livestock watering at a certain water. In determining such area, natural and cultural barriers, recognized habits of livestock, proper livestock practices and range management factors, will be considered.

(n) "Free-use applicant" means an applicant who resides in the immediate neighborhood of Federal range and who owns livestock kept for domestic purposes. "Livestock kept for domestic purposes" means livestock whose products are consumed or whose work is used directly and exclusively by the family of the applicant. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

§ 501.3 *Qualifications of applicants*—(a) *Definition of qualifications.* An applicant for a grazing license or permit is qualified if engaged in the livestock business and:

(1) Is a citizen of the United States, or

(2) Has filed a declaration of intention to become a citizen: *Provided*, That an applicant who has filed such declaration but has not filed a petition for naturalization before a court of competent jurisdiction within seven years from the date of filing the declaration or, having filed such petition, has failed to attain citizenship within a reasonable time thereafter and is unable to show any satisfactory reason for such failure, shall be disqualified to receive a license or permit or any renewal thereof until he has actually attained citizenship, and any existing license or permit held by such person shall become void at the end of the grazing season during which the disqualification arises, or

(3) Is a group, association, or corporation which is authorized to conduct business under the laws of the State in which the grazing privileges sought are to be exercised, and the controlling interest in which is vested in a citizen or citizens or persons who would be qualified as individual applicants under subparagraph (2), next above.

(b) *Effect of disqualification arising through operation of law.* Nothwithstanding the above provisions of this section, the acquisition of rights in base property by an unqualified applicant through operation of law or testamentary disposition will not affect any outstanding license or permit, or preclude the issuance or renewal of a license or permit, to the extent based on such property, for a period of two years after such acquisition. (Secs. 3, 48 Stat. 1270; 43 U.S.C. 315b)

§ 501.4 *Classification of base properties.* For the purpose of determining the proper use of the base properties of all applicants and their relative dependence upon the Federal range, land and water conditions and other factors affecting livestock operations in the area will be considered and determined according to customary use and best practices for good range management. Base properties will be classified as land or water and further in the following manner:

Class 1. Land dependent by use, or full-time prior water.

Class 2. Land dependent by location, or full-time water.

(Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

§ 501.5 *Rating and classification of Federal range*—(a) *Carrying capacity; seasons and maximum annual period of use.* For the purpose of stabilizing the livestock industry, determining the proper use of the Federal range, and other purposes, the carrying capacity of each administrative unit or area in a grazing district will be rated, and each will be classified for the proper season, or seasons, if necessary, of its use and for the maximum period of time for which any licensee or permittee will be allowed to use the Federal range lying therein during any one year.

(b) *Wildlife; allowance for maintenance.* In each grazing district a sufficient carrying capacity of Federal range will be provided, following consultation with and the advice of wildlife interests, for the maintenance of a reasonable number of wild game animals, to use the

range in common with livestock grazing in the district.

(c) *Segregation of ranges for particular kinds of livestock.* When the proper use of the Federal range or an orderly administration of the act requires it, certain areas may be designated for use exclusively by a certain kind or class of livestock. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

§ 501.6 *Issuance of licenses and permits*—(a) *Free-use licenses and permits.* Free-use licenses or permits first will be issued to free-use applicants for not to exceed the number of livestock kept for domestic purposes. Such livestock shall be grazed on Federal range in the immediate neighborhood of the residence of the licensee or permittee. (Sec. 5, 48 Stat. 1271; 43 U.S.C. 315d)

(b) *Regular licenses and permits; order of issuance; number of livestock.* Regular licenses and permits will be issued to qualified applicants to the extent that Federal range is available in the following preference order and amounts:

(1) To applicants owning or controlling land in class 1, licenses or permits to the extent of the dependency by use of such land; to applicants owning or controlling water in class 1, licenses or permits to the extent of the priority of such water.

(2) To applicants owning or controlling land or water in class 2, licenses or permits for the number of livestock for which range is available and which can be properly grazed in connection with a livestock operation which involves the use of such land or water.

(3) To other applicants, licenses or permits for the number of livestock for which range is available and which can be properly grazed without detriment to the operations on the range of applicants owning or controlling base properties in class 1 and class 2.

After licenses or permits have been issued on the basis of the foregoing, any licensee or permittee may, within the discretion of the district grazier, and on written order by him, be allowed to use the amount of Federal range grazing privileges represented by his license or permit over any period of time within the season or seasons for which the Federal range is classified as proper for use: *Provided,*

(i) Such period does not exceed the maximum period of time for which any licensee or permittee is allowed to use the Federal range during any one year;

(ii) The number of animal-unit months of Federal range to be utilized is not thereby increased;

(iii) Such use will not be detrimental to the Federal range; and

(iv) Such use will not adversely affect other licensees or permittees. (Sec. 3, 48 Stat. 1270; 43 U.S.C. 315b)

(c) *Terms and conditions.* The issuance and continued effectiveness of all regular licenses and permits will be subject to the following conditions and requirements:

(1) No license or permit will be issued to any applicant unless he is able to show that he possesses adequate feed to support his licensed or permitted livestock during the period of time for which they are to be off the Federal range.

(2) No license or permit will provide for the grazing of livestock on the Federal range during that part or parts of the year for which the Federal range has not been classified as proper for use.

(3) No license or permit will confer grazing privileges in excess of the carrying capacity of the range to be used.

(4) So far as consistent with proper range practices, licenses and permits will confer grazing privileges on the range lands which were used in creating the dependency by use or priority of the base properties involved.

(5) Upon the diminution of the Federal range to be used under any license or permit due to withdrawal, appropriation, selection, or otherwise, the license or permit may be reduced proportionately.

(6) If at any time during the life of a license or permit the holder thereof ceases to make substantial use of his base property in connection with his year-round livestock operation, the license or permit will be subject to a proportionate reduction.

(7) If at any time during the life of a license or permit the holder thereof loses ownership or control either of all or a part of his base property or of all or a part of such other lands or grazing privileges as are necessary to his year-round livestock operation, and fails within a reasonable time, as directed by the district grazier after submission of the matter to the advisory board for recommendation, to obtain ownership or control of other base property, lands or grazing privileges sufficient to insure such a year-round operation, the license or permit will be subject to a proportionate reduction.

(8) In the event of range depletion resulting from drought or other causes, the grazing privileges that may be exercised under any license or permit may be reduced in whole or in part, and for such period of time as may be necessary.

(9) In the event of failure for any two consecutive years either to offer a base property in an application for a license or permit, or to accept a license or permit offered pursuant to such an application, such base property will lose its dependency by use or priority.

(10) A revocation of a license or permit because of a violation of any of the provisions of the Federal Range Code may result in the loss of the dependency by use or priority of the base property upon which the license or permit is based. (Sec. 2, 48 Stat. 1270; 43 U. S. C. 315a)

(d) *Applicants having more than one class of property; reductions; allotments; agreements.* Nothing herein contained will prevent an applicant who owns or controls properties in more than one class from having such properties considered separately in the order and manner set forth in this section. If necessary to reach the carrying capacity of any parts of the Federal range after licenses or permits have been issued, reductions on an equal percentage basis will be imposed on licensees or permittees so far as their grazing activities involve the use of such parts. Reductions in all cases will be made by reducing the numbers of livestock or the time on the Federal range area involved, or by both methods: *Provided,* That the regional grazier may recommend, for the approval of the Secretary of the Interior, a limit below which no license or permit in that area will be reduced. Allotments of Federal range will be made to licensees or permittees when conditions warrant, and divisions of the range by agreement or by former practice will be respected and followed where practicable. Increases in carrying capacity will be participated in by existing licensees and permittees to the extent of their respective qualifications. Licenses or permits to use any range available thereafter may be granted to other applicants. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

(e) *Administration of lands additionally available.* Any land added to a grazing district, or otherwise made available for administration by the Grazing Service, by a lease under the Pierce Act of June 23, 1938 (52 Stat. 1033; 43 U.S.C. 315m–1—315m–4), the revocation of a withdrawal, or the cancelation or relinquishment of a homestead entry or claim, after the grazing privileges in the area embracing the land have been adjudicated, will be administered in accordance with customary use so far as such administration may be practicable and consistent with good range management. (Secs. 2, 3 48 Stat. 1270; 43 U.S.C. 315a, 315b) (52 Stat. 1033; 43 U.S.C. 315m–1—315m–4)

(f) *Suspension of licenses and permits under Soldiers' and Sailors' Civil Relief Act of 1940.* Any licensee or permittee who enters military service, as defined in section 101 (1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1179; 50 U.S.C. 511 (1)), may elect at the beginning of or at any time during the period of such service to suspend his license or permit, in whole or in part, for such period and six months thereafter, subject to the following:

(1) The licensee or permittee shall file with the regional grazier an application, in triplicate, the original of which shall be sworn to before a notary public or other officer authorized to administer oaths in the State in which the applicant resides, or before the officer in immediate command and holding a commission in the branch of the Service in which the applicant is engaged, which shall set forth the facts and circumstances upon which the application for suspension of the license or permit is based. If the applicant desires the suspension of a license or permit in more than one region a separate application shall be filed with the regional grazier for each region.

(2) Upon the approval of the application the suspension shall be effective for the period involved, unless sooner terminated upon further application to the regional grazier by the licensee or permittee, and no operations under the license or permit to the extent suspended shall be conducted during such period.

(3) No grazing fees will be assessed under a license or permit to the extent and during the period it is suspended and, upon the approval of an application for

suspension, any fees that have been paid for the period of suspension will be refunded and any fees that are or may become due for such period will be remitted.

(4) A special temporary license, to the extent of any grazing privileges suspended, may be issued to another applicant for the period of such suspension, but upon the termination of the suspension, either by reason of the expiration of the six months' period following the conclusion of the first licensee's or permittee's military service or by reason of an application by the first licensee or permittee for an earlier termination, such a temporary license shall be revocable as of the beginning of the grazing period next following the termination of the suspension.

(5) No suspension granted hereunder shall entitle a licensee or permittee to any greater privileges subsequently than those to which he would have been entitled in the absence of a suspension.

(6) Any adverse action by the regional grazier on an application for suspension or termination of a license or permit may be appealed by the applicant, licensee, or permittee to an examiner of the Grazing Service, and from his decision to the Secretary of the Interior. The procedure in such appeals shall conform as nearly as practicable to the procedure prescribed in § 501.9. (Secs. 2, 3, 9, 48 Stat. 1270, 1271; 43 U.S.C. 315a, 315b, 315h) (Secs. 501, 507, 54 Stat. 1187, 1188; 50 U.S.C. 561, 567)

§ 501.7 *Transfers of base properties and licenses or permits*—(a) *Transfer of base property; effect.* A transfer of a base property, whether by agreement, operation of law, or testamentary disposition, will entitle the transferee, if otherwise properly qualified, to all or to such part of a license or permit as is based on the property transferred, and the original license or permit will be terminated or decreased by such transfer. In any instance in which a transfer, or a different vesting in any manner, of a leasehold interest in land may result in an interference with the stability of livestock operations or with proper range management, such land will lose its dependency by use or dependency by location, as the case may be, upon a finding to that effect by the regional grazier, after reference of the matter to the district advisory board for its recommendation.

(b) *Transfer of a license or permit; limitations; effects; consent of owner or encumbrancer.* Upon application by a licensee or permittee, and after reference to the advisory board for recommendation, the district grazier may allow a license or permit based on ownership or control of land to be transferred to other land or a license or permit based on ownership or control of water to be transferred to other water within the same service area; *Provided,* That such transfer will not interfere with the stability of livestock operations or with proper range management and will not affect adversely the established local economy: *Provided further,* That no such transfer will be allowed without the written consent of the owner or owners and any encumbrancers of the base property from which the transfer is to be made, except that when the applicant for such transfer is a lessee without whose established livestock operations such property would not have dependency by use or priority, such consent will not be required. Upon the allowance of a transfer under this paragraph, the base property from which the transfer is made shall lose its dependency by use or priority to the extent of the license or permit transferred.

(c) *Transfer of dependency by use on same land.* Whenever a licensee or permittee owns or controls land dependent by use which has a carrying capacity in excess of that necessary for the support of the licensed or permitted livestock during that period of the year for which they are to be kept on such land, the excess land may be disposed of or may be used for purposes other than the support of such livestock; upon application by the licensee or permittee, and after reference to the advisory board for recommendation, the district grazier may allow the dependency by use allocable to such land to be transferred to that part which continues to be used for the support of such livestock: *Provided,* That no such transfer will be allowed without the written consent of the owner or owners and any encumbrancers of the land from which the transfer is to be made. Upon the allowance of a transfer under this paragraph, the land from which the transfer is made shall lose its dependency by use. (Sec. 2, 48 Stat. 1270; 43 U. S. C. 315a)

§ 501.8 *Fees; time of payment; refunds*—(a) *Free-use licenses and permits.* No fee will be charged for the issuance of a free-use license or permit.

(b) *Regular licenses and permits.* Unless notice is otherwise given, a grazing fee of five cents per head for cattle and horses and one cent per head for sheep and goats, will be charged each regular licensee or permittee for each month of the grazing period covered by the license or permit: *Provided,* That a different fee may be charged in any district or unit thereof in which the carrying capacity of Federal range is increased by reason of the addition of land not owned by the United States or by reason of a cooperative agreement or memorandum of understanding between the Grazing Service and any other governmental agency, State or Federal, or any person, association, or corporation. When the grazing period involves a fraction of a month, the fees for such fraction will be prorated on the basis of a thirty-day month. All livestock six months of age or over and allowed on the Federal range will be counted, at any point of time during the grazing period, as a part of the total number for which a license or permit has been issued.

(c) *Crossing permits.* Unless notice is otherwise given, a fee of one-fourth of a cent per head per day, for cattle and horses, and one-twentieth of a cent per head per day, for sheep and goats, will be charged for a crossing permit, which will be issued upon application by any person showing the necessity of crossing the Federal range for proper and lawful purposes: *Provided,* That in cases where the trail to be used is so limited and defined that no material amount of forage will be consumed in transit the permit will be issued without charge: *Provided further,* That no fee will be charged for a crossing permit to the extent that it involves the use of a stock driveway created under section 10 of the stock-raising homestead act of December 29, 1916 (39 Stat. 862; 43 U.S.C. 300).

(d) *Payment of fees; reduction or increase in numbers; extension of periods of use.* All fees for crossing permits shall be paid at the time of the issuance of the permit. Payments of fees for regular licenses or permits shall be made prior to the beginning of each grazing period shown on the license or permit. Licenses or permits will be effective only when all fees due thereunder have been paid. No license or permit shall be issued or renewed until payment of all amounts found to be due to the United States under the Federal Range Code has been made. Upon application by a transferee of any property or part thereof on the basis of which a license or permit has been issued, a new license or permit representing that part of the grazing privileges to which he may thereby become entitled shall be issued to him. In case of such transfer, the transferor shall not be entitled to a refund of any portion of the fees that have been properly paid and that are applicable to the period subsequent to the transfer.

A licensee or permittee will be required to make payment of fees in accordance with the terms of the license or permit unless he notifies the district grazier in writing, more than thirty days before the effective date of any grazing period shown, that he desires to make temporary use of the grazing privileges in a manner other than that shown in the license or permit. Such change will be allowed if due to annual fluctuations ordinarily occurring in livestock operations or to the necessity of conserving or protecting the range. When the requested change is due to financial reasons, such as foreclosure, or other reasons beyond the licensee's or permittee's control, it may be granted for one year or longer, after reference to the advisory board for recommendation, and the approval of the district grazier. Fee notices in each case will issue accordingly.

Upon application by a licensee or permittee, and after reference to the advisory board for recommendation, the district grazier may allow an extension of the applicant's period or periods of use of the Federal range during any year or season thereof. A receipted supplemental fee notice covering the additional grazing privileges will constitute authority to use the range for the extended period.

(e) *Refunds.* No refund of fees properly paid will be made because of a failure to use the grazing privileges, either in whole or in part, represented by a license or permit, except that:

(1) During periods of range depletion due to severe drought or other natural causes or in case of a general epidemic of disease during the life of a license or

permit, the Secretary of the Interior will in his discretion remit, refund, reduce in whole or in part, or postpone the payment of fees for such depletion period as long as the emergency exists.

(2) When fees have been paid which are not required by law, or which are in excess of lawful requirements, and application for refund thereof may be made under the provisions of the act of March 26, 1908, as amended (35 Stat. 48; 43 U.S.C. 95, et seq.)

(3) When a license or permit is suspended under section 501 (2) of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1187; 50 U.S.C. 561 (2)), any fees that have been paid for the period of suspension will be refunded and any fees that are or that may become due for such period will be remitted. (Secs. 3, 5, 6, 48 Stat. 1270–1272; 43 U. S. C. 315b, 315d, 315e) (Secs. 501, 507, 54 Stat. 1187, 1188; 50 U.S.C. 561 (2), 567)

§ 501.9 *Procedure in applications, hearings, and appeals*—(a) *Filing and consideration of applications; recommendations; service of notice.* Each year the regional grazier will set a date for each district in his region prior to which all applications for grazing licenses or permits in the district must be filed. Failure to file applications before such date will result in their rejection for that year unless reasonable justification for a belated filing is shown. Whenever an application is filed for a license or permit based in whole or in part on a property which has not served as a base for a license or permit during the grazing season immediately preceding such filing, all users who might be directly affected by favorable action on such application will be notified of its filing. All applications for grazing licenses or permits, except those of district advisers, will be considered first by the advisory board of the district in which the license or permit is sought. The advisory board will make its recommendation to the district grazier and, if such recommendation is to any extent adverse, it shall set forth the reasons therefor. If such recommendation is favorable, the district grazier will so notify the applicant by ordinary mail. If the recommendation is to any extent adverse, notice thereof will be served on the applicant personally either by the district grazier or by such person as may have been designated by him, or by registered letter sent to the applicant at the address given in his application. Such notice will set out the reason or reasons set forth by the advisory board for the adverse recommendation and will name a place and date, not less than ten days thereafter, when protests against the recommendation will be heard.

(b) *Hearing of protests; reconsideration by advisory board; service of notice.* At the dates and places fixed for hearing protests any party in interest may appear, either in person or by attorney or other representative, or may file a written protest with the advisory board, which thereupon will reconsider its previous recommendation in the light of the protest and will make a final recommendation to the district grazier. If such recommendation is favorable to the applicant, and the district grazier approves, he will notify the applicant thereof by ordinary mail. If the recommendation is to any extent adverse, and the district grazier approves, a notice giving the reason or reasons therefor will be served on the applicant either personally by the district grazier or such person as may have been designated by him, or by registered letter sent to the applicant at the address given in his application. Such notices will constitute the district grazier's final decisions for purposes of appeal.

(c) *Allowance or rejection of application by the district grazier; modification; service of notice; appeal to examiner; intervention.* The district grazier is vested with the authority in the light of all facts and circumstances, after first having submitted an application to the district advisory board, to issue or to refuse to issue a grazing license or permit. If the action taken by the district grazier on any application is substantially different from that recommended by the advisory board, a notice including a recital of the specific reasons for the action taken will be served on the applicant and on any other applicant or applicants adversely affected by such action, either personally by the district grazier or by such person as may have been designated by him or by registered letter sent to the applicant at the address given in his application. The notice given the particular applicant will advise him of his privilege to file an appeal to an examiner of the Grazing Service. The appeal must be filed with the regional grazier within fifteen days following the receipt of the notice. The appeal shall be accompanied by specifications of error setting forth in a clear and concise manner the matters upon which it is based. Any party or parties who may be directly affected by the decision on the appeal will be notified by the regional grazier of the filing of the appeal and advised that a written request to intervene in the appeal may be filed. Such a party shall be known and designated as an intervener. When separate appeals are filed and the issue or issues involved are common to two or more appeals, they may be consolidated for purposes of hearing and decision.

(d) *Cancelation of licenses or permits; service of notice; appeal to examiner.* Licenses or permits will be subject to cancelation to the extent that they have been improperly issued. In any case in which it shall appear to the Grazing Service that a license or permit confers grazing privileges in excess of those properly allowable under the act and the Federal Range Code, the district grazier will notify the licensee or permittee that the license or permit is thereby held for cancelation either in whole or in part, as the case may be, and that the licensee or permittee will be allowed fifteen days from receipt of notice within which to show cause why such cancelation should not be made final. Such notice will set forth fully the reasons for the proposed cancelation and will be served on the licensee or permittee either personally by the district grazier or by such person as may have been designated by him or by registered mail sent to the licensee or permittee at his last address of record. In case of failure of the licensee or permittee to show cause within the fifteen days allowed, the license or permit will be canceled to the extent indicated in the notice. The district grazier will consider any cause shown and, if satisfied of its sufficiency, will close the case. If the district grazier is not satisfied that sufficient cause has been shown, he will notify the licensee or permittee that the cancelation will be made final unless an appeal to an examiner of the Grazing Service is filed within fifteen days from receipt of notice. Such notice will be served on the licensee or permittee either personally by the district grazier or by such person as may have been designated by him or by registered mail sent to the licensee or permittee at his last address of record. The appeal must be filed with the regional grazier and shall be accompanied by specifications of error setting forth in a clear and concise manner the matters upon which it is based. So far as practicable, the appeal thereafter will follow the procedure prescribed in the following paragraphs of this section, except that any decision by the district grazier or the examiner on a matter arising under this paragraph will not become effective pending the disposition of a timely appeal to the examiner or the Secretary of the Interior, as the case may be.

(e) *Fixing of place and date for hearing before examiner on appeal; notice.* Upon the filing of an appeal and specifications of error, the regional grazier will notify the Chief Examiner, naming a place within or near the district at which a hearing will be held. The Chief Examiner will then advise the regional grazier of the date of hearing, which will be not less than ten days after the date of the filing of the appeal, and the regional grazier thereupon will notify the appellant, and all parties who may be directly affected by the decision on the appeal, of the time and place of hearing, which will be held by one of such representatives of the Grazing Service as may have been designated by the Secretary of the Interior to conduct hearings. Such representative, however, shall be one other than the administrative officer from whose decision the appeal is taken. For the purpose of the hearing, such representative of the Grazing Service shall be known and designated as an examiner.

(f) *Authority of examiner.* The examiner is vested with general authority to conduct the hearing in an orderly and judicial manner, including authority to subpoena witnesses and to administer oaths, to call and question witnesses and to make findings of fact and a decision.

(g) *Conduct of hearing before examiner.* The appellant, the district grazier, and recognized interveners will stipulate as far as possible all material facts and the issue or issues involved. The examiner will state any other issues on which he may wish to have evidence presented and issues which clearly appear to be

unnecessary to a proper disposition of the case will be excluded, *Provided*, That the party asserting such an issue may state briefly for the record the substance of the proof which otherwise would be offered in support of the issue. The district grazier, or his representative, will then state the grounds of the decision from which the appeal has been taken, together with such explanation as may be deemed necessary, and may call and examine witnesses on the issues involved. Upon the conclusion of this testimony the appellant shall present his case, following which recognized interveners may present evidence if such a presentation appears to the examiner to be necessary for a proper disposition of the matters in controversy. All oral testimony shall be under oath, and witnesses will be subject to cross-examination by any party to the proceeding. The examiner will himself question any witness whenever it appears necessary. Documentary evidence will be received by the examiner and made a part of the record, if pertinent to any issue, or may be entered by stipulation. Objections to evidence will be ruled upon by the examiner and exceptions duly noted and such exceptions will be considered upon an appeal from the decision of the examiner. In noting an exception to a ruling sustaining an objection to the admission of evidence, the party affected may insert in the record, as a tender of proof, a summary written statement of the substance of the excluded evidence. The examiner will summarily stop examination and exclude testimony which is obviously irrelevant and immaterial.

(h) *Witness fees.* Under the subpoena issued a witness will be entitled to a witness fee of $1.50 per day for the time in attendance at the hearing and the time necessarily spent in travel from his residence to the place of hearing and return, plus five cents per mile for the distance necessarily traveled. Witnesses who attend hearings so far removed from their residences as to prohibit return thereto from day to day will be allowed a per diem of $3.00 for expenses of subsistence in addition to witness fees for each day of actual attendance and for each day necessarily occupied in traveling to and from hearings. A subpoena may be served only in the county in which the hearing is to be held, and a witness cannot be compelled to appear outside of such county. Claims for witness fees and mileage will be presented on Form No. 1–327, properly certified by an authorized certifying officer, and will be submitted in the usual way for payment.

(i) *Findings of fact and decision by examiner; notice; submission to Secretary of the Interior.* As promptly as possible following the conclusion of the hearing the examiner will make findings of fact and render a decision, which shall become a part of the record in any appeal, and a copy of which shall be sent by registered mail to the appellant and all interveners; *Provided, however*, That the examiner may, before promulgating a decision, submit it to the Secretary of the Interior for consideration. Upon approval by the Secretary, it shall constitute the decision of the Department, without prejudice to the right of any party affected to be furnished with a copy of the transcript of testimony, as provided in the next paragraph, and to move for a rehearing in the manner prescribed by the Rules of Practice of the Department then in effect.

(j) *Notice of appeal to Secretary of the Interior; furnishing copies of record.* Within ten days after the receipt of the decision of the examiner any party desiring to appeal to the Secretary of the Interior shall file a written notice of his intention to appeal and may request a copy of the transcript of testimony. Copies of the transcript will be furnished to the appellant and to the interveners, at a charge of five cents per folio, except that upon a sufficient showing to the examiner, supported by an affidavit, that an appellant or intervener is financially unable to pay such fee, a copy will be furnished him without charge. The examiner shall include in the record proof of delivery of the transcript showing the date of such delivery. Notice of appeal and request for a copy of the transcript shall be filed in the office of the Chief Examiner, Grazing Service, Salt Lake City, Utah.

(k) *Decision in effect pending appeal.* Except as provided in paragraph (d) of this section, the decision of the district grazier shall be in full force and effect pending an appeal to the examiner and disposition thereof, and the decision of the examiner shall be in full force and effect pending an appeal to the Secretary of the Interior and disposition thereof. Any action taken by the district grazier pursuant to the examiner's decision shall be subject to modification or revocation by the Secretary upon an appeal from the decision of the examiner.

(l) *Appeals to the Secretary of the Interior.* An appeal from the decision of the examiner to the Secretary of the Interior shall be filed, together with any brief desired in support thereof, within thirty days after date of receipt of the transcript of testimony, or, in the event the transcript of testimony is not requested, such appeal shall be filed within thirty days after receipt of the examiner's decision, in the office of the Chief Examiner, Grazing Service, Salt Lake City, Utah. A copy of the appeal and any brief in support thereof must be served on each party of record, either personally or by registered mail. Any party of record opposing the appeal will be allowed twenty days from date of receipt of the copy of the appeal and brief within which to file in said office a reply brief, if he so desires, a copy of which must be served upon the appellant in the same manner. Evidence of service of appeals and briefs must be furnished. The appeal in other respects shall be made in accordance with the Rules of Practice of the Department in effect at the time such appeal is taken.

No adjudication of grazing privileges will be set aside on appeal if it appears that it is reasonable and that it represents a substantial compliance with the provisions of the Federal Range Code. (Sec. 9, 48 Stat. 1273; 43 U.S.C. 315h.

§ 501.10 *General rules of the range*—(a) *Acts prohibited.* The following acts are prohibited on the Federal range:

(1) Grazing livestock upon or driving livestock across the Federal range, including stock driveways, without an appropriate license or permit, whether regular or free-use, or a crossing permit.

(2) Grazing livestock upon or driving livestock across the Federal range, including stock driveways, in violation of the terms of a license or a permit, either by exceeding the number of livestock permitted, or by allowing livestock to be on the Federal range in an area or at a time different from that designated, or in any other manner.

(3) Allowing livestock to drift and to graze on Federal range, including stock driveways, without a license or permit, either regular or free-use.

(4) Constructing or maintaining any kind of improvements, structures, fences, or enclosures on the Federal range, including stock driveways, without authority of law or a permit.

(5) Destroying, molesting, disturbing, or injuring property used or acquired for use by the United States in the administration of Federal range, including stock driveways, or improvements constructed or maintained under section 4 of the Act.

(6) Cutting, burning, or removing vegetative cover, brush, woodland growth, or timber for any purpose, except as authorized by law.

(7) Maliciously molesting, or driving from the Federal range livestock lawfully grazing thereon under an appropriate license or permit.

(b) *Rules of fair range practice.* The following rules of fair range practice shall be complied with by all licensees and permittees, both regular and free-use:

(1) The provisions of statutory law of any State in which grazing districts are located with reference to the branding of livestock and sanitary requirements are hereby incorporated as a part of the Federal Range Code and all licensees and permittees shall comply with the provisions in effect in the State or States in which any part of the grazing district or districts in which their licenses or permits are to be effective are located.

(2) A crossing permittee shall follow the route prescribed in the crossing permit at an average rate of not less than five miles per day for sheep or goats, and ten miles per day for cattle or horses: *Provided*, That an increased or decreased rate of travel may be prescribed in such permit if, in the discretion of the district grazier, the circumstances in any given case so require.

(3) All licensees and permittees shall provide adequate salt on the range for their licensed or permitted livestock, shall pay a proportionate share of the cost of managing livestock licensed or permitted within the range area in instances wherein associations for such management have been formed, and shall bed sheep and goats according to instructions issued by the Grazing Service. Upon request by the majority of the users of any community allotment of Federal range, the Grazing Service may prescribe the time for, breed, grade, and number of bulls to be turned onto such

allotment; in the absence of such express requirements by the Grazing Service, the provisions of State law on the subject shall be regarded as applicable. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a.)

§ 501.11 *Procedure for enforcement of rules and regulations*—(a) *Service of notice.* Whenever it appears that there has been any willful violation of any provision of the Act or of the Federal Range Code, the district grazier will cause the alleged violator and any interested lien holder who has filed notice of his lien with the Grazing Service to be served with a written notice, which will set forth the act or acts constituting such violation and in which reference will be made to the provision or provisions of the act or the Federal Range Code alleged to have been violated. Such notice may be served in person or by registered mail and the affidavit of the person making personal service or the registry receipt shall be preserved.

(b) *Unlawful grazing on federal range; removal of livestock; impoundment.* Whenever the charge consists of unlawfully grazing livestock on the Federal range, the notice served on the alleged violator and any interested lien holder who has filed notice of his lien with the Grazing Service will order the alleged violator to remove the livestock or to cause them to be removed immediately or within such reasonable time as may be specified. If the alleged violator fails to comply with the notice the district grazier may proceed to exercise the proprietary right of the United States in the Federal range, under local impoundment law and procedure, if practicable; otherwise he may refer the matter through the usual channels for appropriate legal action by the United States against the violator.

(c) *Amicable settlement of civil cases involving damage to Government property.* All offers of settlement for damage to Federal range or to other property of the United States resulting from an alleged violation of any provision of the act or of the Federal Range Code will be transmitted by the regional grazier, with his recommendation, to the Director of Grazing for consideration. An offer of settlement will not constitute satisfaction of civil liability for the damage involved until finally accepted by him, and in no event will it relieve the violator of criminal liability. No license or permit will be issued or renewed until payment of any amount found to be due the United States under this section has been offered and until payment of any amount due as grazing fees has been made.

(d) *Disciplinary action for violations.* The regional grazier is authorized to reduce or revoke a grazing license or permit or to deny renewal thereof for a clearly established violation of the terms or conditions of the license or permit or for a violation of any of the provisions of the Federal Range Code. Before any license or permit is reduced or revoked, or renewal thereof denied, because of such a violation, however, the regional grazier will cause the licensee or permittee to be served with a written notice which will set forth the act or acts constituting the violation and an estimate of the amount of damage resulting therefrom. Such notice also will refer to the terms or conditions of the license or permit or to the provision or provisions of the Federal Range Code alleged to have been violated. The notice will cite the licensee or permittee to appear before an examiner of the Grazing Service at a designated time and place to show cause why his license or permit should not be reduced or revoked and satisfaction of damages made. The notice may be served in person or by registered mail and the affidavit of the person making personal service or the registry receipt shall be preserved.

The hearing before the examiner upon the order to show cause will be conducted so far as practicable in the same manner as other hearings before an examiner. The licensee or permittee may appear in his own behalf or by counsel. The evidence shall be confined to the commission of the acts charged and the amount of damages, if any, due the United States. If upon the hearing of the order to show cause the violation with which the licensee or permittee is charged is established to the satisfaction of the examiner, he will render a decision finding the amount of damages and directing the regional grazier to reduce or revoke the license or the permit, if the facts so warrant.

Upon the failure of the person served in the notice to appear at the time and place designated in the notice, and in the absence of a good and sufficient showing to the examiner of a reason for his failure to appear, the examiner may direct the regional grazier to reduce or revoke the license or permit, as the violations charged in the notice and the amount of damages alleged may warrant.

The decision of the examiner on any matters in this section shall be final unless an appeal is taken within fifteen days to the Director of Grazing, whose decision likewise shall be final unless an appeal is taken within thirty days to the Secretary of the Interior. Pending an appeal and final determination thereof the decision of the examiner or of the Director of Grazing as the case may be, shall remain in full force and effect. Appeals to either the Director of Grazing or the Secretary of the Interior shall be filed in the office of the Director of Grazing, Salt Lake City, Utah.

(e) *Bonds for violations.* Whenever a livestock operator commits a willful or wanton violation of any provision of these rules or has repeatedly committed violations, the regional grazier is authorized to require him to furnish a bond in an amount sufficient to cover all probable damage that may result from his violations during the ensuing year. The bond may be either a cash or a surety bond and will be in a form approved by the Director of Grazing. Upon the failure to furnish such bond when so required, the regional grazier is authorized to refuse to issue or renew a license or permit, or to revoke an existing license or permit. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

§ 501.12 *District advisory boards*—(a) *Authorization for establishment; number of members; qualifications.* Section 18 of the Act provides that there shall be an advisory board of local stockmen in each grazing district. The regional grazier will fix the number of members to be elected to such board in each district, such number to be not less than five and not more than twelve, exclusive of a wildlife representative who will not be elective but will be appointed by the Secretary of the Interior. The regional grazier may fix the number of district advisers to be elected as representatives of each class of stockmen, according to the kind of livestock owned, o may fix the number to be elected from each voting precinct established by him, or both, provided that the free-use licensees or permittees in each district will be entitled to one representative, who shall be a free-use licensee or permittee. All district advisers shall be elected in the manner herein provided and, excepting the wildlife representatives, shall be electors qualified to vote in the particular election. If a district is divided into precincts, an adviser representing a precinct shall qualify in the precinct in the same manner as in the district.

(b) *Elections; time and place of holding; notice.* An election of district advisers will be held in each grazing district within ninety days after the publication in the FEDERAL REGISTER of the order establishing the district, and annually thereafter. The regional grazier may divide the district into voting precincts and will designate a voting place within each district or precinct. Notice of the time and place or places of holding an election will be given by publication in one newspaper of general circulation in the district, by posting in the office of the regional grazier and in the office of each district grazier and by posting in such other public places as may be necessary to give the matter proper publicity. No election shall be held to be invalid by reason of failure to give any of the foregoing notices unless it shall be made to appear that there was a failure to give substantial notice.

(c) *Elections; qualifications of electors.* Only those persons who are qualified to receive regular or free-use licenses or permits will be allowed to vote in any election held pursuant to section 18 of the Act: *Provided,* That in any new grazing district hereinafter established and embracing areas not heretofore within any district, the electors will be those stockmen who, prior to the establishment of the district, were regularly accustomed to using the Federal range within said district. A minor may vote if otherwise qualified: *Provided,* That upon request by his natural or legal guardian his ballot may be cast by the guardian in the name of the minor. The judges at any election will be furnished by the representative of the Grazing Service in charge with a list of all electors entitled to vote in the district. No one whose name does not appear on such list shall be allowed to vote: *Provided,* That anyone claiming that his name has been erroneously omitted from the list may obtain and mark a ballot which will be held uncounted until the district grazier shall have had a further opportunity to determine whether or not

the party was entitled to vote. If it is found that the party was entitled to vote, his ballot shall be counted, otherwise it shall be disregarded.

(d) *Elections; judges; nominations; ballots; registration; challenges.* The representative of the Grazing Service in charge of an election will choose three qualified electors to act as election judges. The electors present may then place in nomination the names of the candidates: *Provided,* That nominations for the representative of a given precinct must be made by one qualified to represent such p ecinct, but ballots may be cast for any other person qualified to represent a particular class or precinct. Voting shall be only by ballots cast personally by qualified electors and proxies will not be recognized. No elector shall receive a ballot until he has registered by signing opposite his name on the list of persons entitled to vote. Before receiving a ballot any elector may be challenged by any other elector qualified to vote in the district and thereupon the judges, or any of them, may require the elector challenged to answer such questions concerning his qualifications as a voter as may be deemed necessary. Upon his failure or refusal to answer such questions satisfactorily, he shall not be permitted to register or to receive a ballot. Each candidate may designate any qualified elector to remain within the polling places during the casting and counting of votes and the declaration of the results thereof, and such person may act as a challenger. Before any elector shall be permitted to deposit his completed ballot in the ballot box, the judges shall write "Voted" opposite his signature on the registration list.

(e) *Elections; method of voting.* Only one ballot may be cast by the holder or holders of any one license or permit, whether regular or free-use, or by a qualified elector or electors controlling any one base property. An elector eligible only for a free-use license or permit may cast a ballot for one free-use candidate only and for no other candidate. All other electors, regardless of the precincts in which they may reside or operate, shall cast one ballot each, on which shall be written the name or names of the total number of candidates to be elected in the district as representatives of the class of owners of livestock to which the elector belongs: *Provided,* That if he belongs to more than one such class he shall vote only for the candidates of the class in which he predominates in numbers of livestock, on the basis of one cow or horse being the equivalent of five sheep or goats. If a certain number are to be elected from each precinct, no ballot shall include the names of more candidates from any one precinct than are to be elected therefrom.

(f) *Elections; close of polls; results; ties; judges' certificates.* Polling places shall remain open on the day of the election from 2 p. m. to 5 p. m., or until those present at 5 p. m. shall have voted. Upon the closing of the polls the judges shall open the ballot box and count the votes. In case of a tie vote, a choice by lot shall be made by the judges in the presence of the tie candidates or of at least one representative designated by each such candidate for such purpose. As soon as the ballots have been counted, the judges shall make out a certificate of returns under their hands, stating the number of votes cast, the number of excess, unused or spoiled ballots, and, in both words and figures, the number of votes received by each candidate. The certificate, together with the ballots and the registration list of voters, shall be enclosed and sealed and forthwith delivered to the representative of the Grazing Service in charge of the election.

(g) *Appointment by Secretary of the Interior; oath and term of office; removal; vacancies.* No person elected as a district adviser may assume office until he has been appointed by the Secretary of the Interior and has taken an oath of office. Persons elected as district advisers at the first election after the establishment of a grazing district shall be divided as evenly as may be into three classes by lot by the district grazier. Those in class 1 shall hold office for one year, those in class 2 for two years, and those in class 3 for three years, and until their successors are elected and have qualified. Thereafter at each election the class whose term has expired shall be elected for a term of three years. The Secretary of the Interior may remove any district adviser from office because of failure to discharge his duties, loss of any of his qualifications to hold the office, or for the good of the service. Upon a vacancy occurring in the office of a district adviser other than a wildlife representative by reason of resignation, removal, disqualification, or otherwise, the board shall recommend the name of a person to fill the vacancy and such recommendation, together with that of the regional grazier, shall be transmitted to the Director, who shall consider the recommendation and, if he concurs, transmit it to the Secretary for his consideration. A person appointed by the Secretary to fill a vacancy shall hold office until the next regular election, when a successor shall be elected to serve for the remainder of the unexpired term, if any, of the member causing the vacancy. Wildlife representatives shall hold office without term and until a successor may be appointed by the Secretary.

(h) *Meetings; organization.* District advisory boards shall meet at any time and place within the district designated by the regional grazier or his authorized representative. At the first meeting of the board after an election, it shall organize by electing one of its members as chairman and such other officers from its membership as it may deem necessary. Meetings of a district advisory board shall be open to the public except that, with the approval of the representative of the Grazing Service present, it may meet in executive session in considering applications for the granting of licenses or permits or any other business.

(i) *Functions and duties of district advisers.* District advisers shall advise or make recommendations on the following matters:

(1) The carrying capacity of the Federal range in the district.

(2) Applications under the Federal Range Code, for grazing licenses or permits, either regular or free-use: *Provided,* That no board shall make a recommendation on an application by any of its members. Such an application shall be acted on in the first instance by the regional grazier or district grazier.

(3) Proper rules of fair range practice.

(4) Allotments of range by classes of livestock or for community or individual use.

(5) Seasonal use of the Federal range or any part thereof.

(6) Applications for the construction or maintenance of improvements on the Federal range under section 4 of the act.

(7) Any recommendations made by local associations of stockmen in the district.

(8) Reservations of carrying capacity of Federal range for wild game animals, including any agreements in connection therewith proposed for execution with State or Federal wildlife agencies.

(9) Special rules for the district, within the meaning of § 501.15.

(10) Any other matter which they may desire to bring to the attention of the Secretary of the Interior, or on which he may request their advice. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a) (July 14, 1939, 53 Stat. 1002; 43 U.S.C. 315o–1)

§ 501.13 *Local associations of stockmen*—(a) *Organization.* Qualified applicants for grazing licenses or permits in any grazing district may organize a local association, or several associations, according to classes of livestock, or by community of interest or otherwise.

(b) *Articles of incorporation; constitution; by-laws.* Such associations shall be organized as corporations "not-for-profit," if permissible under the laws of the State in which the grazing district, or the greater part thereof, is situated; or they may be organized as cooperative unincorporated associations. In either case the articles of incorporation, the charters, or the constitutions of such associations shall be submitted to the Director of Grazing before the organization of the association shall be recognized by the Department of the Interior. The bylaws of such associations need not be submitted but in any instance in which they are in conflict with the provisions of the Federal Range Code or the terms of any license, permit, or cooperative agreement issued to or made with an association, the latter shall prevail.

(c) *Powers.* Such local associations should be authorized to exercise the following powers:

(1) To lease, or otherwise acquire the control of State, county, privately owned, tax default, or other lands within or near a district.

(2) To make contributions in cash, property, material, or labor toward the administration, protection, and improvement of the Federal range lying within the district.

(3) To construct and maintain fences, wells, reservoirs, and other improvements necessary to the care and management of the livestock grazed in the district, under permit issued by authority of the Secretary of the Interior.

(4) To act in an advisory capacity to the Secretary of the Interior in the administration of the Federal range lying within the district. All recommendations made by the association to the Secretary shall be subject to the provisions of the Federal Range Code and shall include the right of a hearing before an examiner of the Grazing Service on the necessity and propriety of any action recommended and of appeal to the Secretary from the examiner's findings of fact and decision.

(5) To recommend the amount, manner of apportionment, time, and method of collection of assessments for strictly association purposes, as well as for the public purposes contemplated by the act.

(6) To enter into cooperative agreements with the Secretary of the Interior or any officer designated by him for any of the foregoing purposes or for any other purpose authorized by the act.

(d) *Cooperative agreements for use of lands; obligation of all licensees and permittees to share cost.* Whenever the carrying capacity of Federal range is increased by reason of the acquisition of control of any lands by the Grazing Service through a cooperative agreement with a local association, any licensee or permittee benefiting thereby, whether a member of the association or not, shall pay to the association his proportionate share of the cost of the association lands, based on the number of livestock by which his license or permit is increased by reason of the administration of the association lands by the Grazing Service, plus any authorized association assessments for other expenses. The district grazier is authorized to refuse to issue a license or permit to any applicant or to cancel or refuse to renew the license or permit of any licensee or permittee to graze on any lands covered by such an agreement, whether public or association lands, and whether or not such applicant, licensee, or permittee is a member of the association, if he fails or refuses to pay to the association any of the foregoing charges. (Sec. 9, 48 Stat. 1273; 43 U.S.C. 315h)

§ 501.14 *Construction and maintenance of improvements on the Federal range*—(a) *Statutory authorization.* Section 4 of the Act provides:

> Fences, wells, reservoirs, and other improvements necessary to the care and management of the permitted livestock may be constructed on the public lands within such grazing districts under permit issued by the authority of the Secretary, or under such cooperative arrangement as the Secretary may approve. Permittees shall be required by the Secretary of the Interior to comply with the provisions of law of the State within which the grazing district is located with respect to the cost and maintenance of partition fences. No permit shall be issued which shall entitle the permittee to the use of such improvements constructed and owned by a prior occupant until the applicant has paid to such prior occupant the reasonable value of such improvements to be determined under rules and regulations of the Secretary of the Interior. The decision of the Secretary in such cases is to be final and conclusive.

(b) *Applicants for permits and cooperative agreements; qualifications.* An applicant for a permit or for a cooperative agreement or an arrangement to construct and maintain improvements of the character described in section 4 of the Act, or to use and maintain improvements of such character constructed and owned by a prior occupant, on the Federal range, must satisfy the qualifications defined in § 501.3 (a).

(c) *Applications; form and contents; filing.* Applications for such permits, cooperative agreements, or arrangements shall set forth the location of such improvements by legal subdivision of the public land survey, the necessity, use, cost, and description of such improvements, item by item, shall designate the time and manner of their construction, the period of use, the method of operation, protection, repair, removal, or other disposition, and shall include any other pertinent information. If an application concerns the use and maintenance of improvements constructed and owned by a prior occupant under permit issued by the authority of the Secretary, it shall include also an itemized showing of their reasonable value at the time of filing the application and other evidence that the applicant has paid this amount to the prior occupant and has obtained title to the improvements free of all encumbrances, or a clear and concise explanation of the reasons for a lack of such agreement between the applicant and the prior occupant. When necessary properly to explain the improvements and matters connected therewith, the application shall be accompanied by a sketch of the improvements with specifications and a map showing their location in the grazing district. All applications shall be made on forms provided by the Grazing Service, with such modifications as may be necessary, and shall be filed in triplicate with the district grazier, who will submit them to the advisory board for consideration and recommendation prior to transmittal to the regional grazier for action.

(d) *Applications for construction of improvements; consideration; appeals.* The regional grazier, following the receipt of an application concerning the construction of an improvement, together with the recommendation of the advisory board and district grazier, will act on the application and such action shall be final unless the applicant appeals to the Director of Grazing within fifteen days following receipt of notice. The decision of the Director of Grazing on any such application shall be final unless the applicant appeals to the Secretary of the Interior within thirty days. In the latter event the decision of the Secretary shall be final.

(e) *Applications for use of improvements owned by prior occupant; procedure upon failure to agree.* An application to use and maintain improvements constructed and owned by a prior occupant, under permit issued by the authority of the Secretary, if accompanied by the evidence of ownership provided for in paragraph (c) of this section, shall be considered in the same manner as an application for the construction of improvements. Upon the filing of such an application showing that the applicant and the prior occupant have not agreed on the value of the improvements, the regional grazier will immediately, at the applicant's expense, cause the prior occupant to be served either personally or by registered mail with a notice of the filing of the application, together with copies of the application and any accompanying papers and an order to show cause within thirty days why the improvements should not be determined to be of the value alleged by the applicant. Upon such a showing, or, if the prior occupant applies within thirty days from the date of service for a hearing, in the light of such evidence as the applicant and the prior occupant may desire to present in such hearing the regional grazier will determine the present reasonable value of the improvements. Such determination shall be final unless an appeal is taken within fifteen days to the Director of Grazing, whose decision in the matter likewise shall be final unless an appeal is taken within thirty days to the Secretary of the Interior. In the latter, event, the decision of the Secretary shall be final. Upon the failure of the prior occupant to show cause or to apply within thirty days for a hearing, the reasonable value of the improvements will be determined by the regional grazier: *Provided*, That in the event of such default by the prior occupant the value determined shall not be less than the amount alleged by the applicant in his application and the decision of the regional grazier in such cases shall be final. In any case when a decision has become final, payment by the applicant to the prior occupant of the amount determined and a showing that the improvements are free of all encumbrances shall be a condition precedent to favorable action on the application.

(f) *Approval of application.* Upon the approval of an application concerning the construction or use and maintenance of any improvements on the Federal range by the issuance of a permit or the approval of a cooperative agreement or other arrangement, the applicant may construct the improvements or use the improvements constructed and owned by the prior occupant, as the case may be. (Sec. 4, 48 Stat. 1271; 43 U.S.C. 315c)

§ 501.15 *Special rules for grazing districts.* Whenever it appears to a regional grazier that local conditions in any district in his region make necessary the application of a special rule on any of the matters in the Federal Range Code in order better to achieve an administration consistent with the purposes of the Act, he may recommend such a rule, supported by a factual showing of its necessity, to the Secretary of the Interior for approval. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

§ 501.16. *Penal provision.* Under section 2 of the Act any willful violation of the provisions of the Act or of the rules and regulations thereunder (the Federal Range Code), after actual notice of the existence of the provisions of such act or such rules and regulations, is punishable by a fine of not more than $500. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

§ 501.17 *Saving clause.* So far as practicable, and consistent with the purposes and provisions of the Act and the basic policy and plan of administration outlined in § 501.1 (a) of the Federal Range Code, the provisions of § 501.6 (b) of the Code will not be applied to the prejudice of the position of anyone who on September 23, 1942, was the holder of a grazing license or permit or who on that date had pending an application therefor. (Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

§ 501.18 *Prior regulations superseded.* The rules and regulations in this Part shall supersede the rules and regulations for the administration of grazing districts, known as the Federal Range Code, approved March 16, 1938, and June 22, 1938, as amended August 19, 1938, and revised August 31, 1938, and all amendments thereof and additions thereto, approved September 18, 1939, December 5, 1940, February 26, 1941, and March 12, 1942, and included in Part 501 of the Code of Federal Regulations and supplements thereto, and all special rules thereunder, except the special rules approved September 1, 1939, as amended.

R. H. RUTLEDGE,
Director of Grazing.

Approved: September 23, 1942.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 42-9576; Filed, September 26, 1942; 10:53 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter II—Office of Defense Transportation

[General Order O.D.T. 3, Revised, Amendment 2]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART B—COMMON CARRIERS OF PROPERTY

By virtue of the authority vested in me by Executive Order No. 8989, approved December 18, 1941, and by Executive Order No. 9156 approved May 2, 1942:

It is hereby ordered: That § 501.5 of General Order O.D.T. No. 3, Revised, as amended,[1] be amended by striking out paragraph (b), and by designating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

This amendment shall become effective on October 1, 1942. (E.O. 8989, 6 F.R. 6275; E.O. 9156, 7 F.R. 3349)

Issued at Washington, D. C., this 26th day of September 1942.

JOSEPH B. EASTMAN.
Director of Defense Transportation.

[F. R. Doc. 42-9623; Filed, September 28, 1942; 11:25 a. m.]

[General Order O.D.T. 17, Amendment 1]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART K—MOTOR CARRIERS OF PROPERTY

By virtue of the authority vested in me by Executive Order No. 8989, approved December 18, 1941, and by Executive Order No .9156, approved May 2, 1942:

It is hereby ordered: That § 501.66 of General Order O.D.T. No. 17[1] be amended by striking out paragraph (b), and by designating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

This amendment shall become effective on October 1, 1942 (E.O. 8989, 6 F.R. 6275; E.O. 9156, 7 F.R. 3349)

Issued at Washington, D. C., this 26th day of September 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-9624; Filed, September 28, 1942; 11:26 a. m.]

[General Order O.D.T. 20, Amendment 1]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART L—TAXICABS AND TAXI SERVICE

By virtue of the authority vested in me by Executive Order No. 8989, approved December 18, 1941, and by Executive Order No. 9156, approved May 2, 1942:

It is hereby ordered, That § 501.82 of General Order O.D.T. No. 20[2] be amended by striking out paragraph (b), and by designating paragraphs (c), (d), (e), (f), and (g) as paragraphs (b), (c), (d), (e), and (f), respectively.

This amendment shall become effective on October 1, 1942. (E.O. 8989, 6 F.R. 6275; E.O. 9156, 7 F.R. 3349.)

Issued at Washington, D. C., this 26th day of September 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-9625; Filed, September 28, 1942; 11:26 a. m.]

[General Order ODT 23]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART O—LIMITATION ON SPEED OF MOTOR VEHICLES

By virtue of the authority vested in me by Executive Order No. 8989, issued December 18, 1941, and by Executive Order No. 9156, issued May 2, 1942 and in order to conserve and providently utilize vital transportation equipment, material, and supplies, including rubber; and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war:

It is hereby ordered, That:

Sec.
501.125 Definitions.
501.126 Limitation on speed.
501.127 Exemptions.
501.128 Communications.
501.129 Effective date.

AUTHORITY: §§ 501.125 to 501.129, inclusive, issued under E.O. 8989, 6 F.R. 6275, and E.O. 9156, 7 F.R. 3349.

§ 501.125 *Definitions.* As used in this subpart:

(a) The term "person" means any individual, partnership, corporation, association, joint-stock company, business trust, or other organized group of persons, and includes the United States or any agency, territory, or possession thereof, a State or any agency or political subdivision thereof, the District of Columbia, or any trustee, receiver, assignee, or personal representative.

(b) The term "motor vehicle" means any rubber-tired vehicle or machine propelled or drawn by mechanical power and used or capable of being used upon the highways in the transportation of a person or persons or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

§ 501.126 *Limitation on speed.* No person shall drive or operate, or cause, permit, suffer, or allow to be driven or operated, any motor vehicle within the continental limits of the United States at a rate of speed which is (1) in excess of the applicable speed limit duly prescribed by competent public authority, or (2) in excess of thirty-five (35) miles per hour, whichever rate of speed is the lesser.

§ 501.127 *Exemptions.* The provisions of this subpart shall not apply to:

(a) Any motor vehicle driven or operated by or under the direction of the military or naval forces of the United States, or State military forces organized pursuant to section 61 of the National Defense Act, as amended;

(b) Any motor vehicle when driven or operated in an emergency for the protection or preservation of life, health, or for public safety: *Provided,* That this paragraph shall not be so construed as to authorize any such motor vehicle to be driven or operated at a rate of speed in excess of that which is reasonable under conditions prevailing at such time.

§ 501.128 *Communications.* Communications concerning this subpart should be addressed to the Division of Law, Office of Defense Transportation, Washington, D. C., or to the field office of the Office of Defense Transportation designated for the area in which the home office or principal place of business of the correspondent is located. Such communications should refer to General Order ODT 23.

§ 501.129 *Effective date.* This subpart shall become effective October 1, 1942, and shall remain in full force and effect until further order of the Office of Defense Transportation, except that as to any person operating any motor vehicle for hire in scheduled regular route service it shall become effective on October 15, 1942.

Issued at Washington, D. C., this 26th day of September 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-9622; Filed, September 28, 1942; 11:25 a. m.]

[1] 7 F.R. 5445; 7 F.R. 6689.

[1] 7 F.R. 5678.

[2] 7 F.R. 6906.

[Exception Order O.D.T. 7-3]

PART 520—CONSERVATION OF RAIL EQUIPMENT; EXCEPTIONS AND PERMITS

SUBPART B—TANK CARS

Pursuant to the authority conferred by General Order O.D.T. No. 7, as amended,[1] Title 49, Chapter II, Subpart B,

It is hereby ordered, That:

§ 520.405 *Certain shipments excepted.* The provisions of § 500.11, General Order O.D.T. No. 7, shall be suspended to the extent hereinafter shown and general or special permits shall not be required in respect of the shipment, forwarding, or transportation of the following:

(a) Crude petroleum or petroleum products, in tank cars of a shell capacity of not less than 7,000 gallons, into the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, or the District of Columbia, from any shipping point in any other State.

(b) Crude petroleum or petroleum products, in tank cars, into the State of Washington or Oregon from any shipping point in any other State.

(c) Any commodity, in tank cars, to any destination in the United States or a foreign country over two hundred (200) miles from the shipping point in the United States (such distance being measured over the shortest available published rail tariff route, whether billed or transported over such route or otherwise), except crude petroleum or petroleum products in tank cars of a shell capacity less than 7,000 gallons, into the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, or the District of Columbia, from any shipping point in any other State.

§ 520.406 *Revocation.* Exception Order O.D.T. No. 7-1, as amended,[2] and Exception Order (O.D.T. No. 7-2[3] this Title and Chapter Part 520, Subpart B, are hereby revoked and superseded, respectively, upon the date this Exception Order O.D.T. No. 7-3 becomes effective.

§ 520.407 *Effective date.* This Exception Order shall become effective on the 10th day of October, 1942, and shall remain in full force and effect until further order of the Office of Defense Transportation. (E.O. 8989, 6 F.R. 6725; General Order O.D.T. No. 7, as amended, 7 F.R. 3332, 7 F.R. 3531).

Issued at Washington, D. C., this 28th day of September 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-9650 Filed, September 28, 1942; 11:54 a. m.]

[1] 7 F.R. 3332, 3531.
[2] 7 F.R. 3332, 3786.
[3] 7 F.R. 7102.

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service

PART 23—SOUTHWESTERN REGION NATIONAL WILDLIFE REFUGES

APACHE NATIONAL WILDLIFE REFUGE, ARIZONA

Pursuant to the provisions of section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222; 16 U.S.C. 715i), as amended, the administration of which was transferred to the Secretary of the Interior on July 1, 1939, in accordance with Reorganization Plan No. II[1] (53 Stat. 1431), and in furtherance of § 12.3 of the Regulations for the Administration of National Wildlife Refuges dated December 19, 1940,[2] the following is hereby ordered:

§ 23.23 *Apache National Wildlife Refuge, Arizona; fishing.* Noncommercial fishing is permitted on the Apache National Wildlife Refuge, Arizona, from July 1 to the eighth day prior to the opening day of the migratory-waterfowl hunting season in Arizona of each year, inclusive, in all waters of the refuge, in accordance with the provisions of the regulations dated December 19, 1940,[2] for the administration of national wildlife refuges under the jurisdiction of the Fish and Wildlife Service, and subject to the following conditions, restrictions, and requirements:

(a) *State fishing laws.* Any person who fishes within the refuge must comply with the applicable fishing laws and regulations of the State of Arizona. Fishing shall be by hook and line only, as defined by State law.

(b) *Fishing licenses and permits.* Any person who fishes within the refuge shall be in possession of a valid fishing license issued by the Arizona State Game and Fish Commission, if such license is required. This license shall serve as a Federal permit for fishing in the waters of the refuge and must be carried on the person of the licensee while so fishing. The license must be exhibited upon the request of any representative of the Arizona State Game and Fish Commission, of the Fish an Wildlife Service, or of the Forest Service of the Department of Agriculture.

(c) *Routes of travel.* Persons entering the refuge for the purpose of fishing shall follow such routes of travel as may be designated by suitable posting by the officer in charge of the refuge.

(d) *Use of motorboats.* The use of motorboats, either inboard or outboard, is prohibited on all waters of the refuge except for official purposes. The use of rowboats and canoes is permitted except in such waters as may be posted suitably by the officer in charge.

(e) *Temporary restrictions.* During periods of waterfowl usage on the refuge, fishing will not be permitted in such areas of the refuge as, in the judgment of the officer in charge, should be closed to fishing in order to provide adequate protection for such waterfowl usage and are posted suitably by such officer.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1942.

[F. R. Doc. 42-9616; Filed, September 28, 1942; 10:10 a. m.]

[1] 4 F.R. 2731.
[2] 5 F.R. 5284.

PART 23—SOUTHWESTERN REGION NATIONAL WILDLIFE REFUGES

HAVASU LAKE NATIONAL WILDLIFE REFUGE, ARIZONA AND CALIFORNIA

Under authority of section 84 of the Act of March 4, 1909, as amended by the Act of April 15, 1924, 43 Stat. 98 the administration of which was transferred to the Secretary of the Interior on July 1, 1939, by Reorganization Plan No. II[1] (53 Stat. 1431), and in extension of § 12.9 of the regulations of December 19, 1940,[2] for the administration of national wildlife refuges under the jurisdiction of the Fish and Wildlife Service, the following regulations governing hunting within Havasu Lake National Wildlife Refuge, in Arizona and California, are prescribed:

§ 23.409 *Havasu Lake National Wildlife Refuge, Arizona and California; hunting.* Migratory waterfowl (except those species for which no open season is prescribed by the Migratory Bird Treaty Act regulations) and coots may be taken within the area hereinafter described of the Havasu Lake National Wildlife Refuge, Arizona and California, during the season prescribed therefor by the Migratory Bird Treaty Act regulations in accordance with the provisions of the regulations dated December 19, 1940,[2] for the administration of national wildlife refuges under the jurisdiction of the Fish and Wildlife Service and in accordance with the regulations promulgated pursuant to the authority contained in the Migratory Bird Treaty Act, when, in manner, by means, and to the extent not prohibited by either Federal or State law or regulation, and under the following special provisions, conditions, restrictions, and requirements:

(a) *Area open to hunting.* All the lands of the United States within the following described area of the refuge, except those required for military purposes by the United States Army, shall be open to hunting: That part of the refuge extending from the north line extended of secs. 25 and 26, T. 8 N., R 23 E., San Bernardino Meridian, southward to the east line extended of sec. 20, T. 13 N., R 20 W., Gila and Salt River Meridian.

(b) *State laws.* Any person while hunting within the refuge must comply with the applicable State laws and regulations.

(c) *Hunting licenses and permits.* Any person who hunts within the refuge shall be in possession of a valid State hunting license, if such license is required, and, if hunting migratory waterfowl, a properly validated migratory-bird hunting stamp. The license and the

[1] 4 F.R. 2731.
[2] 5 F.R. 5284.

stamp shall serve as a Federal permit for hunting on the refuge and must be carried on the person of the licensee while so hunting. The license and the stamp must be exhibited upon the request of any representative of the Arizona Game and Fish Commission or of the California Department of Natural Resources authorized to enforce the State game laws, or of any representative of the Department of the Interior. Upon request of the officer in charge, the licensee must also exhibit for inspection all wildlife killed by him or in his possession.

(d) *Disorderly conduct; intoxication.* No person who is visibly intoxicated will be permitted to enter upon the refuge for the purpose of hunting, and any person who indulges in any disorderly conduct on the refuge will be removed therefrom by the officer in charge and dealt with as prescribed by law.

(e) *Hunting dogs.* Each person hunting on the public shooting grounds will be permitted to take his hunting dogs, not to exceed two in number, upon such areas for the purpose of retrieving dead or wounded birds, but such dogs shall not be permitted to run at large on the public shooting grounds or elsewhere on the refuge.

(f) *Entry upon refuge; firearms.* Persons entering the refuge for the purpose of hunting shall use such routes of travel as may be designated by suitable posting by the officer in charge and shall not otherwise enter upon the refuge. The carrying or being in possession of firearms within the areas of the refuge not open to public hunting is prohibited, except that such firearms may be possessed or transported across such closed areas via routes designated by the officer in charge provided they are unloaded, and broken or properly encased. The carrying or being in possession of rifled firearms or the use of single-ball or slug-loaded shotgun shells on the refuge is prohibited.

(g) *Penalties.* Failure of a permittee to comply with any of the conditions, restrictions, or requirements of the regulations in this section will be sufficient cause for removing him from the refuge and for refusing him further hunting privileges on the refuge.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1942.

[F. R. Doc. 42-9615; Filed, September 28, 1942; 10:10 a. m.]

PART 23—SOUTHWESTERN REGION NATIONAL WILDLIFE REFUGES

IMPERIAL NATIONAL WILDLIFE REFUGE, ARIZONA AND CALIFORNIA

Under authority of section 84 of the act of March 4, 1909, as amended by the act of April 15, 1924, 43 Stat. 98, the administration of which was transferred to the Secretary of the Interior on July 1, 1939, by Reorganization Plan No. II[1] (53 Stat. 1431), and in extension of § 12.9 of the regulations of December 19, 1940,[2] for the administration of national wildlife refuges under the jurisdiction of the Fish and Wildlife Service, the following regulations governing hunting within the Imperial National Wildlife Refuge, in Arizona and California, are prescribed:

§ 23.467 *Imperial National Wildlife Refuge, Arizona and California; hunting.* Migratory waterfowl (except those species for which no open season is prescribed by the Migratory Bird Treaty Act regulations) and coots may be taken within the area hereinafter described of the Imperial National Wildlife Refuge, Arizona and California, during the season prescribed therefor by the Migratory Bird Treaty Act regulations in accordance with the provisions of the regulations dated December 19, 1940,[2] for the administration of national wildlife refuges under the jurisdiction of the Fish and Wildlife Service and in accordance with the regulations promulgated pursuant to the authority contained in the Migratory Bird Treaty Act, when, in manner, by means, and to the extent not prohibited by either Federal or State law or regulation, and under the following special provisions, conditions, restrictions, and requirements:

(a) *Area open to hunting.* All the lands of the United States within the following-described area of the refuge shall be open to hunting: That part of the refuge from Reclamation River Station No. 4 northward and westward to the east line extended of sec. 30, T. 4 S., R 23 W., Gila and Salt River Meridian.

(b) *State laws.* Any person while hunting within the refuge must comply with the applicable state laws and regulations.

(c) *Hunting licenses and permits.* Any person who hunts within the refuge shall be in possession of a valid state hunting license, if such license is required, and, if hunting migratory waterfowl, a properly validated migratory-bird hunting stamp. The license and the stamp shall serve as a Federal permit for hunting on the refuge and must be carried on the person of the licensee while so hunting. The license and the stamp must be exhibited upon the request of any representative of the Arizona Game and Fish Commission or of the California Department of Natural Resources authorized to enforce the State game laws, or of any representative of the Department of the Interior. Upon request of the officer in charge, the licensee must also exhibit for inspection all wildlife killed by him or in his possession.

(d) *Disorderly conduct; intoxication.* No person who is visibly intoxicated will be permitted to enter upon the refuge for the purpose of hunting, and any person who indulges in any disorderly conduct on the refuge will be removed therefrom by the officer in charge and dealt with as prescribed by law.

(e) *Hunting dogs.* Each person hunting on the public shooting grounds will be permitted to take his hunting dogs, not to exceed two in number, upon such areas for the purpose of retrieving dead or wounded birds, but such dogs shall not be permitted to run at large on the public shooting grounds or elsewhere on the refuge.

(f) *Entry upon refuge; firearms.* Persons entering the refuge for the purpose of hunting shall use such routes of travel as may be designated by suitable posting by the officer in charge and shall not otherwise enter upon the refuge. The carrying or being in possession of firearms within the areas of the refuge not open to public hunting is prohibited, except that such firearms may be possessed or transported across such closed areas via routes designated by the officer in charge provided they are unloaded, and broken or properly encased. The carrying or being in possession of rifled firearms or the use of single-ball or slug-loaded shotgun shells on the refuge is prohibited.

(g) *Penalties.* Failure of a permittee to comply with any of the conditions, restrictions, or requirements of the regulations in this section will be sufficient cause for removing him from the refuge and for refusing him further hunting privileges on the refuge.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1942.

[F. R. Doc. 42-9614; Filed, September 28, 1942; 10:10 a. m.]

[1] 4 F.R. 2731.
[2] 5 F.R. 5284.

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. B-308]

COAL HILL MINING CO., INC.

ORDER EXTENDING TIME FOR APPLICATION

In the matter of Coal Hill Mining Co., Inc., registered distributor, registration No. 1675.

Order extending time within which to file application based upon admissions for disposition of compliance proceeding without formal hearing, extending time to file answer, and postponing hearing.

The above-entitled matter having been heretofore scheduled for hearing on September 30, 1942, at 10 a. m. at a hearing room of the Bituminous Coal Division (the "Division") at Room 118, Colonial Hotel, Altoona, Pennsylvania, by a notice of and order for hearing issued herein on September 3, 1942; and

An application dated September 18, 1942, having been filed on September 19, 1942, with the Division, by the above-named registered distributor requesting that (1) the time within which it may file with the Division an application pursuant to § 301.132 of the Rules of Practice and Procedure Before the Division to dispose of this proceeding without formal hearing be extended to and including October 10, 1942; (2) the time within which it must file its answer herein be extended to a date to be hereafter designated by an appropriate order, and (3) the hearing herein be postponed to a date and place to be hereafter designated by an appropriate order; and

It appearing to the Director that good cause therefor has been shown;

Now, therefore, it is ordered, That the time within which the above-named registered distributor may file its application in the above-entitled matter pursuant to §301.132 of the Rules of Practice and Procedure Before the Division be and the same hereby is, extended to and including October 10, 1942; and

It is further ordered, That the time within which the above-named registered distributor must file its answer in the above-entitled matter be and the same hereby is extended to October 10, 1942: *Provided, however,* That if an application is filed by the said registered distributor on or before October 10, 1942, pursuant to said § 301.132 of the Rules of Practice and Procedure Before the Division, the time within which said registered distributor must file its answer in the above-entitled matter shall be, and it hereby is, extended to ten (10) days from the date of the final disposition of said application by the Division, pursuant to § 301.132 (f) of the said Rules of Practice and Procedure Before the Division; and

It is further ordered, That the said hearing in the above-entitled matter, be and the same hereby is, postponed to a time and place to be hereafter designated by an appropriate order; and

It is further ordered, That the said notice of and order for hearing issued herein on September 3, 1942, shall in all respects, remain in full force and effect.

Dated: September 26, 1942.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 42-9635; Filed, September 28, 1942; 11:22 a. m.]

[Docket No. B-311]

FRED J. WERNER

NOTICE OF AND ORDER FOR HEARING

In the matter of Fred J. Werner, also known as Fred Werner, Jr., and William J. Werner, individually and as partners doing business under the name and style of Werner Brothers, Code Member.

A complaint dated June 29, 1942, pursuant to the provisions of section 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act"), having been duly filed on July 1, 1942 by Bituminous Coal Producers Board for District No. 11, a District Board, complainant, with the Bituminous Coal Division (the "Division"), alleging wilful violation by Fred J. Werner, also known as Fred Werner, Jr., and William J. Werner, individually and as partners doing business under the name and style of Werner Brothers, (the "Code Member"), of the Bituminous Coal Code (the "Code"), or rules and regulations thereunder:

It is ordered, That a hearing in respect to the subject matter of such complaint be held on November 5, 1942, at 10 a. m. at a hearing room of the Bituminous Coal Division at the Post Office Building, Owensboro, Kentucky.

It is further ordered, That Floyd McGown 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, to take evidence, and to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said Code Member and to all other parties herein and to all persons and entities having an interest in this proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Division in Proceedings Instituted pursuant to sections 4 II (j) and 5 (b) of the Act, 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 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 Code Member; and that failure to file an answer within such period, unless otherwise ordered, shall be deemed to be an admission of the allegations of the complaint herein and a consent to the entry of an appropriate order on the basis of the facts alleged.

Notice is also hereby given that if it shall be determined that the Code Member has wilfully committed any one or more of the violations alleged in the complaint, an order may be entered either revoking the membership of the Code Member in the Code and the Code Member's right to an exemption from the taxes imposed by section 3520 (b) (1) of the Internal Revenue Code, or directing the Code Member to cease and desist from violating the Code and regulations made thereunder.

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.

Notice is also hereby given that any application, pursuant to § 301.132 of the Rules of Practice and Procedure before the Division for the disposition of this proceeding without formal hearing, must be filed not later than fifteen (15) days after receipt by the Code Member of the complaint herein.

The matter concerned herewith is in regard to the complaint filed by said complainant alleging that Fred J. Werner, also known as Fred Werner, Jr., and William J. Werner, individually and as partners doing business under the name and style of Werner Brothers, R. R. 1, Tell City, Indiana, whose code membership became effective as of April 21, 1938, and who operated the Werner Mines Nos. 1 and 2, Mine Index Nos. 548 and 549, respectively, located in Anderson Township, Perry County, Indiana, in District No. 11,

(1) Wilfully violated section 4 II (e) of the Act and Part II (e) of the Code by selling, subsequent to September 30, 1940, coal produced at the aforesaid mines at prices less than the effective minimum prices therefor established in Schedule of Effective Minimum Prices for District No. 11 for truck shipments, including

(a) The sale during the period from October 2, 1940, to September 30, 1941, both dates inclusive, to Frank Werner (Werner Brothers Trucking Company), Tell City, Indiana, of approximately 1426.13 net tons of 7/16" lump coal (size group No. 6) produced at the aforesaid mines at a price of $1.80 per net ton f. o. b. said mines, whereas the effective minimum f. o. b. mine price established therefor was $2.20 per net ton as set forth in said schedule.

(b) The sale during the period from October 2, 1940, to September 30, 1941, both dates inclusive, to the said Frank Werner (Werner Brothers Trucking Company), a substantial tonnage of 7/16" slack coal (size group No. 14) produced at the aforesaid mines at a price of 85 cents per net ton f. o. b. the mine, whereas the effective minimum f. o. b. mine price for such coal was $1.40 per net ton as set forth in said schedule.

(2) Wilfully violated Rule 1 (F) of section VII of the Marketing Rules and Regulations by disposing of approximately 100 net tons of 7/16" screenings coal (size group No. 14) produced at the aforesaid mines to the said Frank Werner (Werner Brothers Trucking Company) during the period October 1, 1940, to October 13, 1940, both dates inclusive, in consideration of the services performed by said Frank Werner in removing such coal from the premises of said mines.

Dated: September 25, 1942.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 42-9636; Filed, September 28, 1942; 11:22 a. m.]

[Docket No. A-1642]

DISTRICT BOARD 2

ORDER GRANTING TEMPORARY RELIEF

In the matter of the petition of District Board No. 2 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 2.

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. 2; 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 proceedings in Docket No. C–19, which will, among other things, determine whether either or both Bethlehem Steel Company (F. A. Shick) or Industrial Collieries Corporation (M. I. Jacobs) are producers within the meaning of the Bituminous Coal Act of 1937, and therefore, entitled to membership in the Bituminous Coal Code with respect to the coals produced at the aforesaid mines, temporary relief is granted as follows: Commencing forthwith, the schedules of effective minimum prices for District No. 2 for all shipments except truck are supplemented to include the price classifications and minimum prices appearing in "Supplement R" annexed hereto and 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, or within ten (10) days from the date of the final order in Docket No. C–19, whichever is sooner, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: September 21, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42–9621; Filed, September 28, 1942; 11:23 a. m.]

Bureau of Reclamation.

AMERICAN RIVER INVESTIGATIONS, CALIFORNIA

FIRST FORM RECLAMATION WITHDRAWAL

Correction

The description for section 11 under Township 13 North, Range 9 East, appearing on page 7575 of the issue for Friday, September 25, 1942, should read as follows:

"Section 11—Lots 1, 2, SW¼, NW¼SE¼;"

General Land Office.

[Public Land Order 41]

CALIFORNIA

WITHDRAWING PUBLIC LAND FOR USE OF THE NAVY DEPARTMENT FOR AVIATION PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 9146 of April 24, 1942, and to section 3 of the act of June 17, 1902, c. 1093, 32 Stat. 388 (U.S.C., title 43, sec. 416), *It is ordered as follows:*

Subject to valid existing rights, the following-described public land is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and reserved for the use of the Navy Department for aviation purposes:

SAN BERNARDINO MERIDIAN

T. 11 S., R. 11 E., sec. 28, W½SW¼.

The area described contains 80 acres.

This order shall take precedence over, but shall not rescind or revoke, (1) the withdrawal for reclamation purposes made by the Secretary of the Interior on October 19, 1920, and (2) the temporary withdrawal made by the Executive Order of February 23, 1928 (Public Water Reserve No. 114, California No. 26), so far as such orders affect the above-described land.

It is intended that the land described herein shall be returned to the administration of the Department of the Interior, when it is no longer needed for the purpose for which it is reserved.

HAROLD L. ICKES,
Secretary of the Interior.

SEPTEMBER 18, 1942.

[F. R. Doc. 42–9613; Filed, September 28, 1942; 10:10 a. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DELEGATION OF AUTHORITY TO EXECUTE ACCEPTANCES OR CANCELLATIONS OF OPTIONS ON LAND AND OF WAIVERS OF RESERVATIONS AND EXCEPTIONS

SEPTEMBER 19, 1942.

I. Assistant Administrators, and the Director, the Associate Director and the Assistant Director of the MA Division are authorized to:

A. Execute, on behalf of the United States of America: (1) Acceptances of options and other contracts for the acquisition of real property or any interest therein, water rights or water stock, for purposes approved by the Secretary of Agriculture; (2) cancelations of such options and other contracts; and (3) waivers relating to reservations and exceptions which may appear in the chains of title.

B. Request, in the name of the Secretary of Agriculture, the Attorney General to render title opinions on lands conveyed to the United States of America by the various state RR corporations pursuant to their transfer agreements.

Approved: September 19, 1942.

[SEAL] J. O. WALKER,
Acting Administrator.

[F. R. Doc. 42–9630; Filed, September 28, 1942; 11:36 a. m.]

Rural Electrification Administration.

[Administrative Order No. 728]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 14, 1942

By virtue of the authority vested in me by the provisions of section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Indiana 3–1099B1 Spencer*	$5,500
Iowa 3–1033C2 Calhoun	35,000
Minnesota 3–1074B2 Norman	10,000
Nebraska 3–1051D3 Burt District Public	5,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 42–9631; Filed, September 28, 1942; 11:37 a. m.]

[Administrative Order No. 729]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 14, 1942.

By virtue of the authority vested in me by the provisions of section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for a loan for the project and in the amount as set forth in the following schedule:

Project Designation:	*Amount*
North Carolina 3–2043G4 Jones	$430,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 42–9632; Filed, September 28, 1942; 11:37 a. m.]

[Administrative Order No. 730]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 14, 1942.

By virtue of the authority vested in me by the provisions of section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Idaho 3–1021A3 Camas	$5,000
Illinois 3–1012B3 Bureau	15,000
Minnesota 3–1061B2 Aitkin	39,000
Minnesota 3–1092A2 South Itasca	34,000
Mississippi 3–1030C3 Jones	20,000
Nebraska 3–1003C1 Chimney Rock District Public	3,700
Ohio 3–1039E2 Paulding	15,000
Washington 3–1020C2 Columbia	10,000
Washington 3–1028A2 Kittitas District Public	10,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 42–9633; Filed, September 28, 1942; 11:38 a. m.]

[Administrative Order No. 731]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 14, 1942.

By virtue of the authority vested in me by the provisions of section 4 of the Rural

Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for a loan for the project and in the amount as set forth in the following schedule:

Project Designation	*Amount*
Texas 3-1115A2 Grimes	$10,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 42-9634; Filed, September 28, 1942; 11:36 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of special certificates for the employment of learners under the Fair Labor Standards Act of 1936.

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and part 522.5 (b) of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective September 28, 1942.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE.

Chenille Mfg. Co., Inc., 28½ E. 2nd St., Sand Springs, Oklahoma; Chenille robes and bedspreads; 4 learners; 320 hours for any one learner; 25 cents per hour; Chenille machine operating and punchwork operating; September 28, 1943.

Majestic Contractors, Inc., 252 Pennsylvania Ave., Brooklyn, New York; Novelty jewelry; 12 learners; 4 weeks (160 hours) for any one learner; 35 cents per hour; Plier worker and clasper; December 7, 1942.

Signed at New York, N. Y., this 26th day of September 1942.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 42-9651; Filed, September 28, 1942; 11:56 a. m.]

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

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 16, 1940, 5 F.R. 2862, and as amended June 25, 1942, 7 F.R. 4723), 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. 3591).

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear, Robes, and Leather and Sheep-Lined Garments Divisions of the Apparel Industry, Learner Regulations, July 20, 1942 (7 F.R. 4724).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

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. 3829).

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. 3392, 3393).

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 20, 1941 (6 F.R. 3753).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective September 28, 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

American Underwear Mfg. Co., Inc., 333 Hamilton St., Allentown, Pennsylvania; Men's cotton shorts; 5 learners (T); September 28, 1943.

R. M. Crouthamel, Inc., South Third St., Perkasie, Pennsylvania; Men's trousers; 5 percent (T); September 28, 1943.

Fashion Park Inc., 432 Portland Ave., Rochester, New York; Men's suits and overcoats; 50 learners (T); September 28, 1943.

Robinson Mfg. Co., Inc., S. Market St., Dayton, Tennessee; Men's & boys' woven cotton underwear; 5 percent (T) September 28, 1943.

Sanitary Headwear Manufacturers, Inc., 1516 Callowhill St., Philadelphia, Pennsylvania; Caps; 2 learners (T) September 28, 1943.

True Value Neckwear Co., 225 62nd St., West New York, New Jersey; Men's neck ties and handkerchief sets; 5 learners (T); September 28, 1943.

Western Hat & Cap Co., 120 North 4th St., St. Joseph, Missouri; Caps; 2 learners (T); September 28, 1943.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear, Robes, and Leather and Sheep-lined Garments Divisions of the Apparel Industry.

Berk Novelty Co., 49-4th St., San Francisco, California; Vestees, collars and wraparound turbans; 4 learners (T); September 28, 1943.

Boston Marilyn Dresses, 91 Willow St., Lynn, Massachusetts; Dresses; 5 learners (T); September 28, 1943.

Carolina Maid Products, Inc., Granite Quarry, North Carolina; Dresses and slippers; 10 learners (T); September 28, 1943. (This certificate replaces the one bearing the expiration date of December 11, 1942.)

Carter & Churchill Co., 15 Parkhurst St., Lebanon, New Hampshire; Sport and ski jackets, ski pants, mackinaws and snow suits; 10 learners (T); September 28, 1943.

Cumberland Mfg. Co., Inc., Cadiz & Nichols, Princeton, Kentucky; Flannel shirts, work shirts, children's playsuits; 10 percent (T); September 28, 1943.

Elm Dress Mfg. Co., White Horse Pike, Elm, New Jersey; Dresses; 4 learners (T); September 28, 1943.

Ely & Walker, Belleville, Illinois; Govt. field jackets O.D., leather jackets, wool jackets and mackinaws; 10 percent (T); September 28, 1943.

Every Buddy's Blouse Co., 720 12th St., Union City, New Jersey; Boys' dress shirts and pajamas; 2 learners (T); September 28, 1943.

Hagerstown Mfg. Co., Inc., 113 Summit Ave., Hagerstown, Maryland; Children's dresses; 10 learners (T); September 28, 1943.

Harwood Mfg. Corp., Marion, Virginia; Men's cotton pajamas and shorts; 10 percent (T); September 28, 1943.

Holmes Blouse Co., 115 South Poydras St., Dallas, Texas; Ladies two piece dresses, blouses; 5 learners (T); September 28, 1943.

Items, Inc., 701 South Third St., Belleville, Illinois; Ladies house dresses, mosquito bars for Army; 20 learners (E); March 28, 1943.

I. Janov Shirt Co., 489 West Broad St., Hazelton, Pennsylvania; Dress shirts; 10 percent (T); September 28, 1943.

Johnson's Gloves, Inc., 307 West 2nd St., Marshfield, Wisconsin; Synthetic resin-coated raincoats for U. S. Army; 10 percent (T); September 8, 1943.

R. O. Layfield, 105 College St., Burlington, Vermont; Ladies nightgowns and

pajamas; 10 learners (T); September 28, 1943.

Charles Rabin Co., Inc., Oak & Brd. Mt. Avenue, Frackville, Pennsylvania; Bathrobes; 10 percent (T); September 28, 1943.

Reliance Mfg. Co., Mitchell, Indiana; Cotton work shirts and children's play suits and shortee pants; 10 percent (T); September 28, 1943.

Rosaline Dress Co., 582 West Philer St., York, Pennsylvania; Misses and junior cotton, silk and woolen dresses; 10 percent (T); September 28, 1943.

Smoler Brothers, Inc., 2300 Wabansia Ave., Chicago, Illinois; Ladies' popular priced dresses; 10 percent (T); September 28, 1943.

The Thompson Shirt Co., Brownstown, Lanc. Co., Pennsylvania; Dress shirts; 10 percent (T); September 28, 1943.

Trillco, Inc., 523 23rd St., Union City, New Jersey; Women's underwear; 7 learners (T); September 28, 1943.

Waldman & Greenberg, 223–226 Pratt St., Hammonton, New Jersey; Men's trousers; 18 learners (T); September 28, 1943.

Wolverine Sportswear Co., Ludington, Michigan; Work and comfort jackets, Army field jackets O. D.; 10 learners (T); September 28, 1943.

J. M. Wood Mfg. Co., 910 Franklin Ave., Waco, Texas; U. S. A. suits, working one-piece, trousers and cotton khaki; 10 percent (T); September 28, 1943.

Cigar

T. E. Brooks & Co., Poplar & Dewey Sts., York, Pennsylvania; Cigars; 6 learners (T); Stemming machine operators to have learning period of 160 hours at 75 percent of the applicable minimum wage; January 6, 1943.

Jose Escalante & Co., 1018 Poeyfarre St., New Orleans, Louisiana; Cigars; 10 percent (T); Cigar machine operators to have learning period of 320 hours and stripping machine operators to have learning period of 160 hours at 75 percent of the applicable minimum wage; September 27, 1943.

I. Lewis Cigar Mfg. Co., Morgan St., Selma, Alabama; Cigars; 10 percent (T); Cigar machine operators and cigar packers to have learning period of 320 hours and machine strippers to have learning period of 160 hours at 75 percent of the applicable minimum wage; September 27, 1943.

Penn Cigar Co. of Pittsburgh, 113 McConaughy St., Johnstown, Pennsylvania; Cigars; 10 percent (T); Cigar machine operators to have learning period of 320 hours at 75 percent of the applicable minimum wage; September 27, 1943.

J. C. Winter & Co., Inc., 49 S. Pine St., Red Lion, Pennsylvania; Cigars; 10 percent (T); Cigar machine operators to have learning period of 320 hours at 75 percent of the applicable minimum wage; September 27, 1943.

Glove

Gutmann-Mayer Glove Corp., 116 Nassau St., Brooklyn, New York; Knit fabric gloves; 5 learners (T); September 28, 1943.

House of Glamour, Inc., 130 Madison Ave., New York, New York; Leather dress and knit fabric gloves; 5 learners (T); September 28, 1943.

Universal Glove Co., 830 Summit St., Toledo, Ohio; Work gloves; 5 learners (T); September 28, 1943.

Hosiery

Baker-Mebane Hosiery Mills, Highway 103, Mebane, North Carolina; Seamless hosiery; 12 learners (T); May 28, 1943.

Black Hosiery Mills Co., Midland, North Carolina; Seamless hosiery; 5 learners (T); September 28, 1943.

Browning Hosiery Mills, Bridgeport, Alabama; Seamless hosiery; 5 learners (T); September 28, 1943.

C & M Hosiery Mills, Inc., 100–4 South Hanover St., Baltimore, Maryland; Seamless hosiery; 5 learners (T); September 28, 1943.

Cameron Corp., Darby, Pennsylvania; Full-fashioned hosiery; 5 learners (T); September 28, 1943.

Carmichael Hosiery Mills, McDonough, Georgia; Seamless hosiery; 5 learners (T); September 28, 1943.

Continental Hosiery Co., Dabney Road, Henderson, North Carolina; Seamless hosiery; 5 learners (T); September 28, 1943.

John B. Davidson Woolen Mills, Inc., Eaton Rapids, Michigan; Seamless hosiery; 5 learners (T); September 28, 1943.

Delaware Silk Hosiery Mills, Seaford, Delaware; Full-fashioned hosiery; 4 learners (T); September 28, 1943.

Greenwood Hosiery Mill, Greenwood, Delaware; Full-fashioned hosiery; 3 learners (T); September 28, 1943.

Hollar Hosiery Mills, Hickory, North Carolina; Seamless hosiery; 5 learners (T); May 28, 1943.

McMillan Hosiery Co., Westridge Road, Greensboro, North Carolina; Seamless hosiery; 4 learners (T); September 28, 1943.

Marlow Hosiery Mill, Hickory, North Carolina, Route 5; Seamless hosiery; 3 learners (T); September 28, 1943.

Mountcastle Knitting Co., Inc., Salisbury St., Lexington, North Carolina; Seamless hosiery; 12 learners (T); May 28, 1943.

Newton Knitting Mills, Newton, North Carolina; Seamless hosiery; 5 learners (T); September 28, 1943.

Orange Knitting Mills, Inc., Orange, Virginia; Full-fashioned hosiery; 5 percent (T); September 28, 1943.

Palmetto Full-fashioned Hosiery Mills, Inc., Saluda, South Carolina; Full-fashioned hosiery; 5 learners (T); September 28, 1943.

The Robbins Knitting Co., Spruce Pine, North Carolina; Seamless hosiery; 5 percent (T); September 28, 1943.

Selinsgrove Knitting Mill, Inc., Rear of Orange, Selinsgrove, Pennsylvania; Full-fashioned hosiery; 2 learners (T); September 28, 1943.

The Vaughan Knitting Co., 2 High St., Pottstown, Pennsylvania; Full-fashioned hosiery; 5 percent (T); September 28, 1943.

Knitted Wear

Dupont Knitting Mills, White & Center Sts., Dupont, Pennsylvania; Knitted outerwear; 5 learners (T); September 28, 1943.

Millinery

Holly-Vogue Hat Co., 910 South Broadway, Los Angeles, California; Popular-priced millinery; 2 learners (T); March 28, 1943.

Holly-Vogue Hat Co., 910 South Broadway, Los Angeles, California; Custom-made millinery; 2 learners (T); September 28, 1943.

Suzy Lee Hat, Inc., 728 South Hill St., Los Angeles, California; Female headwear; 2 learners (T); September 28, 1943.

Textile

Astoria Braid Mfg. Co., 1155 Manhattan Ave., Brooklyn, New York; Braids; 3 learners (T); September 28, 1943.

Birmingham Cotton Mills, Inc., 1700 Vanderbilt Road, Birmingham, Alabama; Cotton; 3 percent (T); September 28, 1943.

Fife Fabrics, Inc., 626 North Locust St., Momence, Illinois; Novelty fabrics; 2 learners (T); September 28, 1943.

Quaker Meadows Mills, Inc., Hildebran, North Carolina; Cotton; 3 percent (T); September 28, 1943.

Union Mills Co., Everett St., Monroe, North Carolina; Cotton; 3 percent (T); September 28, 1943.

Signed at New York, N. Y., this 26th day of September 1942.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 42–9652; Filed, September 28, 1942; 11:57 a. m.]

CIVIL AERONAUTICS BOARD.

[Docket Nos. 771, 193]

BRANIFF AIRWAYS, INC.

NOTICE OF HEARING

In the matter of temporary amendment of the certificates of public convenience and necessity of American Airlines, Inc., and Braniff Airways, Inc., so as to authorize air transportation with respect to persons, property and mail between or to and from San Antonio, Texas and Laredo, Texas under section 401 (h) of the Civil Aeronautics Act of 1938, as amended.

In the matter of the application of Braniff Airways, Inc., for a certificate of public convenience and necessity under section 401 of the Civil Aeronautics Act of 1938, as amended.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 401 and 1001 of said Act, that hearing is assigned to be held in the above entitled proceeding on October 13, 1942, 10 o'clock a. m. (eastern war time) in Conference Room A, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets, NW., Washington, D. C.

Dated Washington, D. C., September 24, 1942.

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 42–9629; Filed, September 28, 1942; 11:32 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket 5892]

OLYMPIC RADIO COMPANY

ORDER REOPENING HEARING, ETC.

In re application of Olympic Radio Company, Hoquiam, Washington, for construction permit.

At a session of the Federal Communications Commission held in its offices in Washington, D. C., on the 22nd day of September, 1942;

It appearing that the Commission on August 19 and August 20, 1941, held a hearing on the above application upon certain specified issues; and

It further appearing that the Commission, by Memorandum Opinion dated July 21, 1942 adopted, until further notice, a policy against granting applications for authorizations which involve the use of any materials to construct or change the transmitting facilities of any station operating in the Coastal, Marine Relay or Fixed Public Services; except upon a showing that the facilities to be constructed or changed will serve either (1) an essential military need or (2) a vital public need, which cannot otherwise be met;

It is ordered, This 22nd day of September, 1942, that the hearing on said application be, and it is hereby, reopened upon the following additional issue:

To determine whether or not the facilities to be constructed or changed will serve either (1) an essential military need or (2) a vital public need, which cannot otherwise be met.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 42-9579; Filed, September 26, 1942; 10:48 a. m.]

[Docket No. 6401]

THE WESTERN UNION TELEGRAPH COMPANY

SUPPLEMENTAL ORDER FOR HEARING, ETC.

In the matter of changes in directory of station listings and increased rates of The Western Union Telegraph Company for service to and from various points in the United States and Canada.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 22nd day of September 1942;

It appearing that by orders dated August 11 and 25, 1942, in this proceeding tariff filings of The Western Union Telegraph Company providing for changes in station listings have been suspended, and an investigation thereof has been ordered;

It further appearing that there has been filed with the Commission Supplement No. 71 to The Western Union Telegraph Company Tariff F. C. C. 217, effective September 29, 1942, changing said company's directory of station listings at Roby, Texas, and providing for the discontinuance of the public telegraph office at that point and for an increase in the rates and charges applicable to the receipt, transmission, and delivery of telegraph messages to and from such point;

It further appearing that said supplement No. 71 to The Western Union Telegraph Company Tariff F. C. C. No. 217, make increases in rates and charges and state regulations and practices effecting such increases in rates and charges for the receipt, transmission and delivery of telegraph messages in interstate and foreign commerce; that the rights and interests of the public may be injuriously affected thereby; and it being the opinion of the Commission that the effective date of said tariff supplement, insofar as i relates to increases in rates, should be postponed pending hearing and decision thereon;

It is ordered, That the Commission, upon its own motion, without formal pleading, enter upon a hearing concerning the lawfulness of the rates, charges, regulations and practices contained in said Supplement No. 71 to The Western Union Telegraph Company Tariff F. C. C. No. 217, insofar as it relates to changes in such company's directory of station listings at Roby, Texas;

It is further ordered, That the operation of said tariff supplement, insofar as it provides for an increase in rates and charges for the receipt, transmission and delivery of interstate or foreign telegraph messages to and from Roby, Texas, be suspended; and that the use of the rates, charges, regulations and practices therein stated as applicable to such point, insofar as they provide for an increase in such rates and charges, be deferred for a period of three months beyond the time when it would otherwise go into effect, unless otherwise ordered by the Commission; and during said period of suspension, no change shall be made in the rates, charges, regulations and practices herein suspended or in the rates, or charges sought to be increased or in the regulations and practices relating thereto unless authorized by special permission of the Commission;

It is further ordered, That an investigation be, and the same is hereby, instituted into the lawfulness of the rates, charges, classifications, regulations, practices and services to and from the point named in Supplement No. 71 to The Western Union Telegraph Company Tariff F. C. C. No. 217;

It is further ordered, That in the event a decision as to the lawfulness of the charges herein suspended has not been made during the suspension period, and said charges shall go into effect, The Western Union Telegraph Company and all other carriers participating in service provided under the tariff provisions suspended herein, shall, until further order of the Commission, each keep accurate account of all amounts charged, collected or received by each of them by reason of any increase in charges effected thereby; in which accounts each such carrier shall specify by whom and in whose behalf such amounts are paid;

It is further ordered, That The Western Union Telegraph Company and each such participating carrier shall file with this Commission a report, under oath, on or before the 10th day of each calendar month, commencing February 10, 1943, showing the amounts accounted for as aforesaid, during the previous calendar month;

It is further ordered, That a copy of this Order shall be filed in the office of the Federal Communications Commission with said tariff supplement herein suspended in part; and that copies hereof be served upon the carrier parties to such supplement and tariff;

It is further ordered, That the matters herein placed in issue be, and the same are hereby assigned for hearing at the same time and place as those matters previously placed in issue in this proceeding.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 42-9578; Filed, September 26, 1942; 10:48 p. m.]

OFFICE OF PRICE ADMINISTRATION.

[Order 53 Under Maximum Price Regulation 120—Bituminous Coal Delivered From Mine or Preparation Plant—Docket No. 3120-115]

GEORGE KEFOVER COAL COMPANY

ORDER GRANTING ADJUSTMENT

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942 and Procedural Regulation No. 1, it is hereby ordered:

(a) George Kefover Coal Company, Allbright, West Virginia, may sell and deliver, and any person may buy and receive, for shipment other than by truck or wagon, the bituminous coal described in paragraph (b) (1) below at a price not in excess of that stated therein;

(b) (1) Coals in Size Group 6, produced by George Kefover Coal Company, at its Kefover No. 1 Mine (Mine Index No. 608), District 3, may be sold at a price not to exceed $2.75 per net ton, f. o. b. the mine for shipment other than by truck or wagon.

(2) With respect to deliveries of such size group 6 coals on and after June 24, 1942, petitioner may carry out agreements providing for the delivery of such coals at a price not exceeding the applicable maximum price and also providing for a price adjustment in accordance with the disposition of this petition.

(c) This Order No. 53 may be revoked or amended by the Administrator at any time;

(d) All prayers of the petition not granted herein are denied.

(e) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to terms used herein;

(f) This Order No. 53 shall become effective September 25, 1942.

Issued this 25th day of September 1942.

LEON HENDERSON, *Administrator.*

[F. R. Doc. 42-9573; Filed, September 25, 1942; 3:19 p. m.]

[Order 18 Under Maximum Price Regulation 122—Solid Fuels Delivered From Facilities Other Than Producing Facilities—Dealers—Docket 3122-174]

T. A. D. JONES AND COMPANY, INC.

ORDER GRANTING ADJUSTABLE PRICING PERMISSION

For the reasons set forth and in an opinion issued simultaneously herewith and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942 and Procedural Regulation No. 1, *It is ordered:*

(a) On and after August 5, 1942, T. A. D. Jones and Company, Inc., New Haven, Connecticut may sell and deliver and its industrial purchasers may buy and receive Southern slack and Southern nut and slack and bituminous coal (produced at any mine or mines other than those specified in Order No. 5 under Maximum Price Regulation No. 122, effective July 21, 1942) at prices no higher than the applicable maximum prices subject to agreements with such purchasers of such coals to adjust prices on deliveries made during the pendency of the petition in accordance with the disposition thereof.

(b) This Order No. 18 may be revoked or amended by the Administrator at any time and, in any event, is to be effective only to the date of final disposition of the petition.

(c) Unless the context otherwise requires the definitions set forth in § 1340.258 of Maximum Price Regulation No. 122 shall apply to terms used herein.

This Order No. 18 shall become effective on the 28th day of September 1942.

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9595; Filed, September 26, 1942; 11:16 a. m.]

[Order 21 Under Maximum Price Regulation 122—Solid Fuels Delivered From Facilities Other Than Producing Facilities—Dealers—Docket 3122-233]

THE CITY OF BOSTON

ORDER GRANTING ADJUSTMENT

For the reasons set forth in an opinion filed simultaneously herewith, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942 and in accordance with Procedural Regulation No. 1 issued by the Office of Price Administration, *It is hereby ordered:*

(a) The City of Boston may buy and receive anthracite coal for distribution in one-quarter and one-half ton lots to its local welfare recipients and each of the following companies:

The Boston Ice Company (Division of American Ice Company).
Everett Fuel Company.
Tidewater Coal Company.
East Boston Coal Company.
County Coal Company.

may sell and deliver such coal to the City of Boston at prices not to exceed $13.84 per ton for half-ton lots and $14.34 per ton for quarter-ton lots.

(b) This Order No. 21 may be revoked or amended by the Price Administrator at any time.

(c) Unless the context otherwise requires, the definitions set forth in § 1340.258 of Maximum Price Regulation No. 122 shall apply to the terms used herein.

(d) This Order No. 21 shall become effective September 26, 1942.

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9584; Filed, September 26, 1942; 11:14 a. m.]

[Order 47 Under Maximum Price Regulation 120—Bituminous Coal Delivered From Mine or Preparation Plant—Docket 3120-114]

MAGINNIS COAL COMPANY

ORDER GRANTING ADJUSTMENT

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to authority vested in the Administrator by the Emergency Price Control Act of 1942, and Procedural Regulation No. 1, *It is hereby ordered:*

(a) The Maginnis Coal Company, Morganfield, Kentucky, may sell and deliver, and any person may buy and receive, truck or wagon shipments of the bituminous coal described in paragraph (b) at prices not in excess of the respective prices stated therein.

(b) Truck or wagon shipments of coals in Size Groups 3 and 11, produced by Maginnis Coal Company at its Waco Mine, Mine Index No. 88, District No. 9, may be sold at prices not to exceed $2.40 and $1.75 per net ton, respectively, f. o. b. the mine.

(c) This Order No. 47 may be revoked or amended by the Price Administrator at any time.

(d) All prayers of the petition not granted herein are denied.

(e) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein.

(f) This Order No. 47 shall become effective on September 26, 1942.

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9583; Filed, September 26, 1942; 11:19 a. m.]

[Order 48 Under Maximum Price Regulation 120—Bituminous Coal Delivered From Mine or Preparation Plant—Docket 1120-140-P]

MARYLAND UNION COAL CORPORATION

ORDER GRANTING ADJUSTMENT

For the reasons set forth in the opinion issued simultaneously herewith and pursuant to authority vested in the Administrator by the Emergency Price Control Act of 1942 and Procedural Regulation No. 1, *It is hereby ordered:*

(a) The Maryland Union Coal Corporation, Cumberland, Maryland, may sell and deliver, and any person may buy and receive, the bituminous coal described in paragraph (b) at prices not in excess of those stated therein.

(b) Rail and truck shipments of coals in Size Group 3 produced at the Maryland Union No. 1 Mine, Mine Index No. 1718, District No. 1, of the Maryland Union Coal Corporation, may be sold at a price not to exceed $3.00 per net ton, f. o. b. the mine.

(c) This Order No. 48 may be revoked or amended by the Price Administrator at any time.

(d) All prayers of the petition not granted herein are denied.

(e) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein.

(f) This Order No. 48 shall become effective September 28, 1942.

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9585; Filed, September 26, 1942; 11:18 a. m.]

[Amendment 1 to Order 1 Under Revised Price Schedule 41 [1]—Steel Castings—Docket 3041-3]

HUGHES TOOL CO.

ORDER AMENDING EXCEPTIONS

On July 15, 1942, Hughes Tool Company, 3000 Hughes Street, Houston, Texas, was granted permission in ascertaining the maximum prices which it might charge for steel armor castings for tanks produced by it at its plant at Houston, Texas, to add to the maximum prices otherwise established for such castings by Revised Price Schedule No. 41 the lowest applicable railroad charge for the transportation of an identical quantity of steel armor castings for tanks from its foundry in Houston, Texas, to the consumer's plant but only to the extent that such charge exceeded the lowest applicable railroad charge for the transportation of an identical quantity of such steel castings from its foundry in Houston, Texas, to New Orleans, Louisiana. This order was expressly made subject to amendment. Hughes Tool Company now wishes an amendment to the exception granted in Order No. 1 to cover cases where an emergency high cost method of transportation, such as railroad express, is requested by the purchaser. Due consideration has been given to this matter and an opinion in support of this Amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the opinion, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942 and in accordance with

[1] 7 F.R. 1281, 2001, 4667, 1836, 2132, 7434.

Procedural Regulation No. 1,[8] issued by the Office of Price Administration, it is hereby ordered:

(a) Hughes Tool Company, Houston, Texas, in ascertaining the maximum price which it may charge for steel armor castings for tanks produced by it at its plant in Houston, Texas, may add to the maximum prices otherwise established for such castings by Revised Price Schedule No 41, the lowest applicable railroad charge for the transportation of an identical quantity of steel armor castings for tanks from its foundry in Houston, Texas, to the consumer's plant but only to the extent that such charge exceeds the lowest applicable railroad charge for the transportation of an identical quantity of such steel castings from its foundry in Houston, Texas to New Orleans, Louisiana, except that, in cases where a mode of transportation more expensive than by railroad is requested by the purchaser, there may be added to the maximum prices above referred to the excess of such emergency transportation charge over the lowest applicable railroad charge for the transportation of an identical quantity of such steel castings from its foundry in Houston, Texas, to New Orleans, Louisiana.

(b) This amendment may be revoked or amended by the Price Administrator at any time.

(c) The definitions set forth in §1306.109 of Revised Price Schedule No. 41 shall apply to the terms used herein.

(d) This Amendment No. 1 to Order No. 1 under Revised Price Schedule No. 41 shall become effective September 28, 1942.

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9582; Filed, September 26, 1942; 11:29 a. m.]

[Order 24 under Revised Price Schedule 6—Iron and Steel Products—Docket 3006-18]

WHEELING STEEL CORPORATION

ORDER GRANTING RELIEF

On June 27, 1942, Wheeling Steel Corporation, of Wheeling, West Virginia, filed a petition for an exception to Revised Price Schedule No. 6 as amended, pursuant to § 1306.7 (c) thereof. Due consideration has been given to the petition and an opinion in support of this Order No. 24 has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the opinion, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942 and in accordance with Procedural Regulation No. 1, issued by the Office of Price Administration, *It is hereby ordered:*

(a) Wheeling Steel Corporation may sell and deliver, and agree, offer, solicit and attempt to sell and deliver to the Procurement Division of the United States Treasury for the account of the Lend-Lease Administration and to the Phoenix Iron Company under the directive order of the War Production Board dated June 5, 1942, small rerolling billets, sheet bar, ingots, slabs and blooming mill billets produced at its Portsmouth plant for delivery at prices not in excess of those stated in paragraph (b).

(b) (1) The maximum base price which may be charged for small rerolling billets, base grade, is $36 per gross ton f. o. b. Portsmouth, Ohio.

(2) The maximum base price which may be charged for sheet bar is $37 per gross ton, f. o. b. Portsmouth, Ohio.

(3) The maximum base prices which may be charged for ingots, slabs, and blooming mill billets are the applicable maximum basing point base prices as otherwise established in Revised Price Schedule No. 6 f. o. b. Portsmouth, Ohio.

(c) All prayers of the petition not granted herein are denied.

(d) This Order No. 24 may be revoked or amended by the Price Administrator at any time.

(e) The definitions set forth in § 1306.8 of Revised Price Schedule No. 6 shall apply to terms used herein.

(f) This Order No. 24 shall become effective September 28, 1942.

Issued this 26th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9586; Filed, September 26, 1942; 11:22 a. m.]

[Order 49 Under Maximum Price Regulation 120—Bituminous Coal Delivered From Mine or Preparation Plant—Docket 3120-24]

MINERS BIG VEIN COAL COMPANY

ORDER GRANTING ADJUSTMENT

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942 and Procedural Regulation No. 1, *It is hereby ordered:*

(a) The Miners Big Vein Coal Company, Frostburg, Maryland, may sell and deliver, and any person may buy and receive, the shipments of bituminous coal described in paragraphs (b) (1) and (b) (2) at prices not in excess of the respective prices stated therein.

(b) (1) Rail shipments of Size Group 3 coal produced by the Miners Big Vein Coal Company at its Bivecol Mine, Mine Index No. 52, District No. 1, may be sold at a price not to exceed $3.05 per net ton, f. o. b. the mine.

(2) Truck or wagon shipments of Size Group 3 coal produced by the Miners Big Vein Coal Company at its Bivecol Mine, Mine Index No. 52, District No. 1, may be sold at a price not to exceed $3.05 per net ton, f. o. b. the mine.

(c) This Order No. 49 may be revoked or amended by the Price Administrator at any time.

(d) All prayers of the petition not granted herein are denied.

(e) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein.

(f) This Order No. 49 shall become effective on the 29th day of September 1942.

Issued this 28th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9647; Filed, September 28, 1942; 11:50 a. m.]

[Order 50 Under Maximum Price Regulation 120—Bituminous Coal Delivered From Mine or Preparation Plant—Docket 3120-90]

HUNTER COAL COMPANY

ORDER GRANTING ADJUSTMENT

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942 and Procedural Regulation No. 1, *It is hereby ordered:*

(a) The Hunter Coal Company, Antrim, Pennsylvania, may sell and deliver and any person may buy and receive rail shipments of the bituminous coal described in paragraph (b) below at prices not in excess of the respective prices stated therein;

(b) The following size groups of coals produced by Hunter Coal Company at its Antrim Mine (Mine Index No. 572) and the No. 1 Bloss Drift Mine (Mine Index No. 841), District No. 1, may be sold for rail shipment f. o. b. the mine at prices not to exceed the following respective amounts per net ton:

Size group	Antrim mine	Bloss drift mine
2		$3.55
3	$2.75	3.40
4	2.75	3.30
5	2.75	3.30

(c) This Order No. 50 may be revoked or amended by the Administrator at any time;

(d) All prayers of the petition not granted herein are denied;

(e) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to terms used herein;

(f) This Order No. 50 shall become effective September 29, 1942.

Issued this 28th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9649; Filed, September 28, 1942; 11:50 a. m.]

[Order 51 Under Maximum Price Regulation 120—Bituminous coal delivered from Mine or Preparation Plant—Docket 3120-191]

LANARK COAL COMPANY

ORDER GRANTING ADJUSTMENT

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the authority vested in the Administrator by the Emergency Price

[8] 7 F.R. 971, 3663, 6967.

Control Act of 1942 and Procedural Regulation No. 1, *It is hereby ordered:*

(a) The Lanark Coal Company, Hastings, Pennsylvania, may sell and deliver, and any person may buy and receive, the bituminous coal described in paragraph (b) below at prices not in excess of the respective prices stated therein;

(b) Coals in Size Groups 3, 4 and 5, produced by the Lanark Coal Company at its No. 1 Mine (Mine Index No. 263), District No. 1, for shipment other than by truck or wagon, may be sold at prices not to exceed the following amounts per net ton, f. o. b. the mine: $3.10 for Size Group 3, and $2.95 for Size Groups 4 and 5;

(c) This Order No. 51 may be revoked or amended by the Administrator at any time;

(d) All prayers of the petition not granted herein are denied;

(e) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein;

(f) This Order No. 51 shall become effective September 29, 1942.

Issued this 28th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9646; Filed, September 28, 1942; 11:50 a. m.]

[Order 52 Under Maximum Price Regulation 120—Bituminous Coal Delivered From Mine or Preparation Plant—Docket 3120-102]

PRYCE COAL MINE

ORDER GRANTING ADJUSTMENT

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942 and Procedural Regulation No. 1, *It is hereby ordered:*

(a) Richard Pryce, doing business as Pryce Coal Mine, Coal Valley, Illinois, may sell and deliver, and any person may buy and receive, bituminous coal described in paragraph (b) at prices not in excess of those stated therein.

(b) Truck shipments of coals produced at the Pryce Coal Mine, Mine Index No. 642, District No. 10, may be sold at prices per net ton not to exceed the following prices, f. o. b. the mine: $3.80 for Size Group 6, $3.00 for Size Group 7, $2.50 for Size Group 10, and $1.40 for Size Group 14.

(c) This Order No. 52 may be revoked or amended by the Price Administrator at any time.

(d) All prayers of the petition not granted herein are denied.

(e) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein.

(f) This Order No. 52 shall become effective this 29th day of September 1942.

Issued this 28th day of September 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-9648; Filed, September 28, 1942; 11:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 59-55]

COMMUNITY GAS AND POWER CO., ET AL.

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pennsylvania, on the 24th day of September, A. D. 1942.

In the matter of Community Gas and Power Company, American Gas and Power Company and the subsidiary companies thereof, respondents.

The Commission having examined the corporate structure of Community Gas and Power Company, a registered holding company, American Gas and Power Company, a registered holding company, and their subsidiary companies, the relationships among the companies in the holding-company system of said Community Gas and Power Company and American Gas and Power Company, the character of the interests thereof and the properties owned or controlled thereby, and having examined the files and records of the Commission relating thereto, and said examination having disclosed data establishing or tending to establish the following:

I

1. Community Gas and Power Company ("Community"), a registered holding company, is a corporation organized under the laws of Delaware and maintains its principal office for the doing of business in the City of New York, State of New York. American Gas and Power Company ("American Gas") is a subsidiary company of Community and a registered holding company; it is a corporation organized under the laws of Delaware and maintains its principal office for the doing of business in the City of New York, State of New York. Community has no subsidiary companies other than American Gas and the subsidiary companies of American Gas.

2. The following are subsidiary companies of Community and American Gas, and are gas utility companies within the meaning of the Public Utility Holding Company Act of 1935:

	State of organization	State of operation
Minneapolis Gas Light Company	Delaware	Minnesota.
Birmingham Gas Company	Alabama	Alabama.
Savannah Gas Company	Georgia	Georgia.
Jacksonville Gas Company	Florida	Florida.
St. Augustine Gas Company	do	Do
Lowell Gas Light Company	Massachusetts	Massachusetts.
Bangor Gas Company	Maine	Maine.

3. Each of the gas utility companies named in paragraph 2 above is a direct subsidiary company of American Gas except Lowell Gas Light Company, which is a direct subsidiary company of American Utilities Associates. American Utilities Associates is a holding company, a subsidiary company of Community, and a direct subsidiary company of American Gas.

4. Public Utilities Management Corporation, organized under the laws of New York, is a subsidiary company of Community and American Gas whose securities are wholly owned by the subsidiary companies of Community and American Gas listed in paragraph 2 above. It renders services under contract to Community, American Gas and their subsidiary companies, and is a mutual service company. It maintains principal offices for the doing of business in the City of New York, State of New York.

5. At December 31, 1941, the holding company system of Community and American Gas served with gas 41 communities having an estimated aggregate population of 1,472,500 located in the States of Minnesota, Alabama, Georgia, Florida, Massachusetts, and Maine. The location of the communities served by the gas utility subsidiary companies, named in paragraph 2 above, and the respective air line distances from the principal office for the doing of business of Community, American Gas and Public Utilities Management Corporation, are shown on the annexed map marked Exhibit A, which is made a part hereof as if here set out in full.

II

6. American Gas was organized in Delaware on May 3, 1928, as a wholly owned subsidiary company of American Commonwealths Power Corporation, a Delaware Corporation. Fred W. Seymour, vice president, consulting engineer, and a director of American Commonwealths Power Corporation, became president and a director of American Gas. American Gas issued 70,000 shares of common stock to American Commonwealths Power Corporation for a stated consideration of $6,300,000, set up on the books of American Gas as an account receivable. As of May 1, 1928, American Gas acquired from its parent, American Commonwealths Power Corporation, all of the oustanding common stock of Savannah Gas Company, St. Augustine Gas and Electric Company (now St. Augustine Gas Company), and Bangor Gas Light Company (now Bangor Gas Company), and all of the common and second preferred stock of Jacksonville Gas Company, at an agreed price of $6,156,740, credited to the account receivable. The total cost to American Gas of the securities (including incidental expenses) was $6,161,158, an amount $1,449,487 in excess of their book values, according to the books of the issuing companies.

7. In May 1928 American Gas acquired for cash all of the outstanding common stock of Minnesota Gas Light Company at a total cost of $13,426,830. This amount was $10,767,030 in excess of the book value of the stock, according to the books of Minneapolis Gas Light Company.

8. In March 1929 Birmingham Gas Company was incorporated at the instance of American Commonwealths Power Corporation to acquire the gas properties of Birmingham Electric Company, which American Commonwealths Power Corporation had contracted to purchase from strangers in interest for approximately $14,012,741. In May 1929 this contract was assigned to American Gas. American Gas paid in cash to the seller and to American Commonwealths Power Corporation a total of $14,012,741, and issued 35,000 shares of additional common stock with a stated value of $2,625,000 to American Commonwealths Power Corporation. American Gas then caused the properties to be conveyed to Birmingham Gas Company in exchange for $5,000,000 principal amount of bonds, $3,000,000 stated value of preferred stock, and 200,000 shares of common stock of Birmingham Gas Company. American Gas sold the bonds for $4,609,027, and the preferred stock for $2,706,500, so that the remaining cost to American Gas of the common stock of Birmingham Gas Company was $9,322,214. The book value of the properties, according to the seller's books, was $8,638,838, leaving a book value for the common stock, above the $8,000,000 of senior securities issued by Birmingham Gas Company, of $638,838. Thus the cost of the common stock to American Gas was $8,683,376 in excess of its book value, according to the seller's books. In June 1929 American Gas acquired the common stock of Industrial Gas Corporation at a cost of $1,350,000 cash, an amount $716,384 in excess of its book value, according to the books of Industrial Gas Corporation. In 1932 the assets of Industrial Gas Corporation were sold to Birmingham Gas Company.

9. In April 1929 American Commonwealths Power System was organized as a Massachusetts trust at the instance of American Commonwealths Power Corporation. In or about October 1929, American Gas advanced to the trust $5,910,000 against promissory notes, and the trust used these funds to purchase 58,861.6 shares of the common stock of Lowell Gas Light Company, constituting 96.55% of the 60,962 shares outstanding. The book value of this stock at December 31, 1929 was $3,084,412 less than the cash so advanced. The name of the trust was changed in November 1929 to American Commonwealths Power Associates, and in December, 1936 to American Utilities Associates.

10. The total amount of $36,170,202 paid by American Gas for the securities it acquired was $24,700,689 in excess of the book value of those securities, as stated in paragraphs 6, 7, 8 and 9 above. American Gas obtained the cash required for the transactions set forth in paragraphs 7, 8, and 9 above by the issuance and sale in 1928 and 1929 of $6,500,000 principal amount of 5% debentures, $4,000,000 principal amount of 6% debentures, $4,000,000 stated value of first preferred stock, and $10,900,000 stated value of preference stock.

11. In 1930 and 1931 American Gas and its officers and directors caused certain of the subsidiary companies of American Gas to supply funds to American Gas and

to American Commonwealths Power Corporation by transfers of funds from the bank accounts of subsidiary companies, loans, payments of dividends out of capital, sales to customers and employees of worthless stock in American Commonwealths Power Corporation (Del.), and in its affiliate, The American Commonwealths Power Corporation (N. J.), through service contracts, by payment of salaries to officers and directors of the parent companies, and in other ways.

12. On December 31, 1931, receivers of American Commonwealths Power Corporation were appointed by the Chancery Court in Delaware. On January 20, 1932, said receivers sold to A. E. Fitkin $1,707,000 principal amount of 6% debentures, 50,000 shares of preference stock out of 82,500 shares held by said receivers, and all of the outstanding common stock (105,000 shares) of American Gas, and subsequently sold to said A. E. Fitkin all of the outstanding stock of American Commonwealths Power Associates, the Massachusetts trust referred to in paragraph 9 above. The assets of American Commonwealths Power Corporation were subsequently distributed among its creditors and the corporation was dissolved.

13. Community was organized on December 3, 1933, after the death of A. E. Fitkin as a vehicle for settling certain claims against the estate of A. E. Fitkin made in connection with the receivership of two holding companies he had controlled. The estate of A. E. Fitkin transferred to Community the 50,000 shares of preference stock and 105,000 shares of common stock of American Gas theretofore acquired by A. E. Fitkin from the receivers of American Commonwealths Power Corporation. Approximately 80% of the Class A (non-voting) stock, and approximately 50% of the Class B (voting) stock of Community was distributed among claimants against the Fitkin estate, the balance being retained by the estate. In 1934 a syndicate headed by Fred W. Seymour, who remained throughout these transactions as president and a director of American Gas, acquired 50% of the Class B stock of Community, and Mr. Seymour became president of Community.

14. In January 1935 American Gas filed a petition in the United States District Court for the District of Delaware for leave to reorganize under the provisions of section 77B of the Bankruptcy Act. As of January 1, 1935, the date of the plan of reorganization submitted together with said petition, American Gas had outstanding $11,990,000 principal amount of secured debentures, 40,000 shares of first preferred stock, 82,500 shares of preference stock of which Community owned 50,000 shares, and 105,000 shares of common stock owned by Community. Under the plan approved by the Court, fixed interest on the 5% debentures was reduced to 3% and on the 6% debentures to 5.6%, the balance to be payable conditionally as stated below and to be cumulative. The maturity of all of the debentures was extended to August 1, 1953 and the holder of each $1,000 of debentures received 5 shares of new common stock. The holder of each share of first preferred stock received 2 shares of new common stock and a warrant to subscribe to an additional share at $5. The holder of each share of preference stock received 19/40ths of a share of new common stock, and the holder of each share of old common stock received 1/10th of a share of new common stock. As a result of this reorganization, Community received and now holds 34,250 shares of new common stock, constituting 18.38% of the outstanding stock of American Gas.

III

15. The balance sheet of Community at December 31, 1941, according to its books, was as follows:

Assets		
Current Assets:		
Cash in Bank		$11,955.22
Investment:		
At ledger value (valuation based on bid quotations at Dec. 31, 1941—$34,250.00):		
34,250 Shares American Gas and Power Company Common Stock		68,500.00
Deferred Charges		569.58
Total Assets		81,024.80
Liabilities and Capital		
Current Liabilities:		
Accounts Payable		$226.63
Capital Stock and Surplus:		
Capital Stock, Par Value 50¢ per share; Authorized and outstanding:		
539,000 Shares Class "A" Common	$269,500.00	
111,000 Shares Class "B" Common	55,500.00	
	$325,000.00	
Less—Deficit	244,201.83	
		80,798.17
Total Liabilities and Capital		81,024.80

16. The Class B common stock of Community has all of the voting power of the company. At March 31, 1942, 34,213 shares of said Class B common stock, constituting 30.8% of the total outstanding, were registered in the name of Fred W. Seymour, who had died in September 1941, and were beneficially owned by the estate of said Fred W. Seymour. Except for the Seymour interests, the largest holding of such stock was less than 5% of the total outstanding.

17. Community had no income for the year ended December 31, 1941; its expenses, and its loss for the year, amounted to $1,704.91.

IV

18. The balance sheet of American Gas at December 31, 1941, according to its books, was as follows:

Assets		
Investments in Subsidiary Companies:		
Common Stock:		
Minneapolis Gas Light Company (100%)	$11,000,000	
Birmingham Gas Company (62.82%)	284,453	
Savannah Gas Company (100%)	1,400,000	
St Augustine Gas Company (100%)	277,100	
Jacksonville Gas Company (50%)	109	
Bangor Gas Company (100%)	588,045	
Total Common Stock Investment		$13,549,707
Notes—6%:		
American Utilities Associates		2,096,650
Special Deposit		373
Cash		14,170
Prepaid Expense		33
Total Assets		15,660,933
Liabilities and Capital		
Current and Accrued Liabilities		$147,214
Long Term Debt:		
Debentures due 1953 5% Series	$6,114,500	
Debentures due 1953 6% Series	4,213,500	10,328,000
Accrued Conditional Interest on Outstanding Debentures		1,459,206
Certificates of Indebtedness (including accrued interest):		
Due to Minneapolis Gas Light Company	1,615,123	
Due to Jacksonville Gas Company	67,651	1,682,774
Capital Stock and Surplus:		
Common Stock (par value $1 per share—189,637½ shares)	189,638	
Capital Surplus	1,002,592	
Earned Surplus (from January 1, 1935)	851,509	
Total Capital Stock and Surplus		2,043,739
Total Liabilities and Capital		15,660,933

19. The common stock of American Gas, which together with surplus represents only 13.1% of the total book capitalization, elects 4 of the 7 directors of the company and exercises voting control over it. The holders of the debentures of American Gas, which represent 75.98% of the total book capitalization, are entitled to elect the remaining 3 directors. At March 31, 1942, 34,250 shares of said stock, constituting 18.38% of the total outstanding, were held by Community; 32,479 shares, constituting 17.43% of the total outstanding, were registered in the name of Fred W. Seymour and were beneficially owned by the estate of said Fred W. Seymour; 4,025 shares, constituting 2.16% of the total outstanding, were held by Vera B. Seymour, the widow of said Fred W. Seymour. Except for the Community and Seymour interests, the largest holding of such stock was less than 6.5% of the total outstanding.

20. Said Vera B. Seymour is the president and a director of American Gas.

21. At December 31, 1941, American Gas held the following securities of subsidiary companies:

	No. of shares or principal amount	Percentage of total outstanding
Common stock:		
Minneapolis Gas Light Company	44,000	100.00
Birmingham Gas Company	142,955	92.82
Savannah Gas Company	50,000	100.00
Jacksonville Gas Company [1]	25,098	50.00
St. Augustine Gas Company	2,771	100.00
Bangor Gas Company	6,000	100.00
6% notes: American Utilities Associates	[2] $5,910,000	100.00

[1] Jacksonville Gas Company has submitted, and this Commission approved, a plan of reorganization under Section 11 (e) of the Act pursuant to which the common stock of Jacksonville Gas Company would be cancelled and its holders would receive nothing therefor.

[2] The 6% notes of American Utilities Associates are carried on the books of American Gas at $2,096,650, and on the books of American Utilities Associates at the face amount of $5,910,000 plus accrued and unpaid interest. The total liability at December 31, 1941, was stated as $9,325,989.

22. At December 31, 1941 American Utilities Associates held 58,861.6 shares of the common stock of Lowell Gas Light Company, constituting 96.55% of the total outstanding, and had pledged with American Gas 58,199 of said shares as collateral security for its 6% notes. At July 1, 1940 the holders of all the stock, and the trustees, of American Utilities Associates were Daniel H. Levan, Leland Balch and Hugh H. Hite, officers or directors, or both, of Lowell Gas Light Company or of Community and American Gas. Information is not available in the Commission's files as to the present beneficial owners or holders of record of such stock, or as to the present trustees of American Utilities Associates.

23. At December 31, 1941, American Gas had pledged with the trustee under its debenture agreement, as collateral security for its outstanding debentures, all of the common stock of Minneapolis Gas Light Company, St. Augustine Gas Company,[1] Savannah Gas Company,[1] and Bangor Gas Company;[1] 139,993 shares of the common stock of Birmingham Gas Company; $4,950,000 principal amount of the 6% notes of American Utilities Associates; and 58,199 shares of the common stock of Lowell Gas Light Company.

[1] Except for directors' qualifying shares, which were subject to options held by said trustee.

24. In 1941 the gross cash income of American Gas was $685,480, received from the following sources:

	Dividends on common stock	Interest	Percent
Minneapolis Gas Light Company	$495,000		72.21
Birmingham Gas Company	35,739		5.21
Savannah Gas Company	84,000		12.26
Jacksonville Gas Company			
St. Augustine Gas Company	11,084		1.62
Bangor Gas Company [1]		$3,657	.53
American Utilities Associates [2]		56,000	8.17
Totals	625,823	59,657	100.00

[1] Interest of $9,990 from Bangor Gas Company and Penobscot Valley Gas Corporation accrued during 1941. Payments of $3,657.50 were made on account of prior arrearages in interest.

[2] American Utilities Associates received $58,862 dividends on the common stock of Lowell Gas Light Company which it held.

25. Disbursements by American Gas for the year 1941 were made approximately as follows:

	Amount	Percent
Operating and administrative expenses	$33,473	4.85
Taxes (including income taxes) accrued	6,643	.96
Paid to debenture holders:		
Unconditional interest	335,121	48.59
Conditional interest based on 1938–1940 earnings, paid in 1941 [1]	114,478	16.60
Paid to holders of certificates of indebtedness: [2]		
To Minneapolis Gas Light Company on account of principal	192,200	27.87
To Jacksonville Gas Company on account of accrued interest	7,800	1.13
	689,715	100.00

[1] No payments of conditional interest were made in 1939 or 1940. In 1942, based on 1941 earnings, the company paid $108,414 conditional interest. In 1941 the company surrendered for sinking fund purposes $62,000 principal amount of 5% debentures and $154,000 principal amount of 6% debentures, which had been previously purchased at a total cost of $114,412. In 1942 the company surrendered for sinking fund purposes 12,000 principal amount of 5% debentures and $173,500 principal amount of 6% debentures which had been previously purchased at a total cost of $104,275.

[2] According to the formula set forth in the 1935 plan of reorganization, as interpreted by the company, nothing was due on these certificates of indebtedness in 1940, $114,564 was due in 1941, and $163,414 was due in 1942. The company made anticipatory payments totalling $195,600 in 1940 and $200,000 in 1941.

26. Funds have been made available for buying back debentures in excess of sinking fund requirements, and for anticipatory payments on the certificates of indebtedness, in three ways:

(a) Through loans from banks, made and repaid as follows:

	Borrowed	Repaid	Balance due
1936	$450,000	$250,000	$200,000
1937	100,000	100,000	200,000
1938		160,000	40,000
1939	560,000	325,000	275,000
1940		275,000	
	$1,110,000	$1,110,000	

Except for the $250,000 repaid in 1936, each year's repayments were deducted in computing net earnings "available" for conditional interest and sinking fund instalments on the debentures and for payments on the certificates of indebtedness. Of the $1,110,000 borrowed, $550,000 was paid to Birmingham Gas Company in 1939 in connection with its recapitalization and the retirement of the certificate of indebtedness which it held. The balance of $560,000 was used to purchase for the treasury of American Gas $1,212,500 of its own debentures (net after sales) in excess of sinking fund payments to December 31, 1941. $400,000 principal amount of these treasury debentures were retired in 1939, in connection with the recapitalization of Birmingham Gas Company. The balance of $812,500 remained in the treasury at December 31, 1941. The deduction of bank loan repayments in computing "available net earnings" was disapproved by the Commission in its findings and opinion (3 S.E.C. 911) and report (3 S.E.C. 933) in the matter of *American Gas and Power Company and Birmingham Gas Company* (1938), and was expressly forbidden, as to loans subsequent to those above tabulated, by a supplemental instrument dated October 1, 1938 modifying the Supplemental Debenture Agreement dated July 18, 1935.

(b) By applying treasury debentures against sinking fund requirements on the debentures, thus making available for other purposes up to one third of "available net earnings".

(c) Because of the lag of up to 18 months between receipt of income and the disbursements required pursuant to the plan of reorganization. During 1941 American Gas received cash income of $310,243 in excess of operating expenses, taxes, and fixed interest, constituting its "available net earnings" for the year. Conditional interest was not payable to the trustee out of those earnings until June 30, 1942; sinking fund requirements, and payments on the certificates of indebtedness, were due May 31, 1942.

V

27. Minneapolis Gas Light Company owns and operates in the State of Minnesota facilities used for the manufacture of gas and for the transmission and distribution at retail to the public, through mains, of natural and manufactured gas

for heating, light or power, and is a gas utility company as defined in the Act. It operates in the City of Minneapolis, Minnesota, and suburbs thereof, serving a population of about 543,000.

28. Minneapolis Gas Light Company was incorporated in Delaware on February 6, 1930, as successor to a Minnesota corporation of the same name incorporated in 1870. All of the 44,000 outstanding shares of the predecessor company's common stock had been acquired by American Gas in May 1928 for $13,426,830, over $300 per share. The stock had been purchased by American Commonwealths Power Corporation and the contracts assigned to American Gas. The par value of the stock so acquired was $50 per share; the book value was $60.45 per share.[1]

[1]According to the Federal Trade Commission Hearings on Utility Corporations (Sen. Doc. 92, 70th Congress, First Session) Vol. 51, Pages 266 to 272, 562 to 565, the cost to The United Gas Improvement Company of the 21,218½ shares sold by it to American Gas was less than $10 per share.

29. In 1930 and 1931 American Gas, American Commonwealths Power Corporation and their officers and directors caused Minneapolis Gas Light Company to advance over $2,500,000 to American Gas and Power Company and/or to American Commonwealths Power Corporation.

30. In 1930 and 1931 American Gas, American Commonwealths Power Corporation and their officers and directors caused Minneapolis Gas Light Company to sell to customers and employees worthless stock in American Commonwealths Power Corporation (Delaware) and The American Commonwealths Power Corporation (New Jersey), and to transmit to these companies the proceeds of such sales. Subsequently American Gas and its officers and directors caused Minneapolis Gas Light Company to issue to purchasers of the worthless stock income participation units with a liquidation value of $2,431,127.

31. The capitalization and surplus of Minneapolis Gas Light Company at December 31, 1941, according to its books, was as follows:

Long-Term Debt:			
First mortgage 4% bonds due June 1, 1950		$11,772,000	44.22%
Capital Stock, Income Participation Units and Surplus:			
First preferred cumulative—par value $100 per share:			
$6 Series	$584,100		
$5.50 Series	825,400		
$5.10 Series	402,400		
$5 Series	444,800		
		2,256,700	8.48%
$5 income participation units, liquidation value $100 per unit		1,408,225	5.29%
Common stock, no par value; stated value $50 per share	2,200,000		
Earned surplus, after deducting liquidation value of participation units outstanding (deficit)	(1,328,084)		
		871,916	3.28%
Total		16,308,841	61.27%
Capital surplus arising from appraisals, etc		10,308,667	38.73%
Total Capitalization and Surplus		26,617,508	100.00%

32. The common stock of Minneapolis Gas Light Company has all of the voting power of the company. All of the 44,000 shares outstanding are owned by American Gas and are pledged with the trustee under the debenture agreement of American Gas as collateral security. American Gas has an option dated February 19, 1930 to subscribe to and purchase any additional shares of common stock issued or offered by Minneapolis Gas Light Company on or before May 1, 1953 at $50 per share, unless a higher price is agreed upon.

33. All series of the preferred stock of Minneapolis Gas Light Company share equally (except as to amount) in the assets and earnings of the company. In involuntary liquidation, each share of preferred stock is entitled to par plus accrued dividends. In voluntary liquidation, each share of the $6 and $5 series is entitled to an additional premium of $5, and each share of the $5.50 and $5.10 series is entitled to an additional premium of $10. The preferred stock has no voting power unless four quarterly dividends are in arrears. Additional series of preferred stock may be issued either by vote of the common stockholders or by vote of the Board of Directors.

34. The holders of income participation units are beneficiaries under the provisions of an indenture dated March 21, 1932 between Minneapolis Gas Light Company and The Minnesota Loan and Trust Company, as depositary and registrar, and First Minneapolis Trust Company, as paying agent and transfer agent. The units were issued as a result of the transactions referred to in paragraph 30 above. They have no stated maturity date, but in the event of the company's dissolution, voluntary or involuntary, are to be redeemed at $100 per unit plus unpaid accruals, before any payments or distributions are made to common stockholders. Before any dividends may be declared or paid on its common stock, Minneapolis Gas Light Company is obligated to make quarterly payments (out of funds available for common stock dividends) in cash, and/or by surrender of participation units at $100 per unit, in the aggregate amount of $218,801 annually. Of each quarterly payment, $1.25 per unit then outstanding must be paid in cash and distributed to the holders of outstanding participation units. The balance may be paid either in cash or by surrender of participation units at $100 per unit, and is applied as a sinking fund for the retirement of the outstanding units. No common stock dividends may be declared or paid on or after July 1, 1950 so long as any participation units remain outstanding.

35. The first mortgage bonds, due June 1, 1950, have no sinking fund requirement.

36. The balance sheet of Minneapolis Gas Light Company at December 31, 1941 states property, plant, and equipment, including intangibles, as follows:

Gross value, as appraised in 1929 and 1930, plus subsequent additions at cost, less retirements	$28,057,253
Reserve for property retirements and replacements	3,174,361
Net book value	24,882,892

The above figures include intangibles of $3,767,391, less possible retirements since August 1, 1929.

37. The recording on the books of Minneapolis Gas Light Company of the 1929 and 1930 appraisals resulted in inflation of net plant account in the amount of $10,317,714, summarized as follows:

Write-ups of property, plant and equipment	$9,018,068
Write-down of reserve for property retirements and replacements	1,299,646
Total inflation from these appraisals	[1] $10,317,714

[1] A net total of $10,317,714 was credited to capital surplus as a result of these appraisals. An additional credit of $953 in connection with the sale of certain real estate, and a charge of $10,000 to reflect the discount on 250 shares of First Preferred $6 Series stock sold to American Gas in 1932, leave a net balance in capital surplus of $10,308,667 at December 31, 1941.

38. The ratio of long-term debt of Minneapolis Gas Light Company to net property after eliminating the 1929 and 1930 write-ups is 80.8%. The ratio of long term debt plus preferred stock to net property so adjusted is 96.3%. The ratio of long term debt plus preferred stock and income participation units to net property so adjusted is 106%.

39. At December 31, 1941 the reserve for property retirements and replacements of Minneapolis Gas Light Company was equal to 11.3% of the book value of its property, plant and equipment.

40. The 1941 provision for retirements and replacements of Minneapolis Gas Light Company was $299,435, constituting 1.07% of gross book value of property, plant and equipment. On its income tax return for 1941 the company claimed $348,171 depreciation.

41. The balance sheet of Minneapolis Gas Light Company at December 31,

1941, states as an investment a certificate of indebtedness of American Gas at a valuation of $1,615,123. This certificate was originally issued in acknowledgment of part of the indebtedness arising out of the transactions referred to in paragraph 29 above. From January 1, 1936, to April 30, 1939, this certificate bore interest at the annual rate of 6%, principal and interest, however, being payable only out of 33⅓% of the available net earnings of American Gas computed, in accordance with its plan of reorganization approved July 2, 1935, after payment of fixed interest on its debentures and certain other deductions. Between January 1, 1936, and April 30, 1939, American Gas made some payments on account of interest due, but no payments on the principal amount of the certificate of indebtedness. As of May 1, 1939, Minneapolis Gas Light Company entered into an agreement with American Gas which provides that the certificate bear no interest for the ten year period beginning that date, and that any payments made by American Gas be applied by Minneapolis Gas Light Company first on account of principal indebtedness, until such principal indebtedness is extinguished, and then on account of accrued and unpaid interest to April 30, 1939, in the order of accrual. That agreement has not been submitted to or approved by this Commission. The unpaid and subordinated interest, in the aggregate amount of $428,914, was credited to income and indirectly to earned surplus during the years when it accrued. Presently the certificate of indebtedness bears no interest, payment of principal as well as income is wholly contingent upon net earnings of American Gas, and earnings of American Gas depend chiefly on dividends paid by Minneapolis Gas Light Company on its common stock. Nevertheless, Minneapolis Gas Light Company states the certificate of indebtedness as an asset at face value plus accrued interest, and has created no reserve to reflect the contingencies affecting the value of the certificate.

42. The City of Minneapolis has the right at the end of any five year period after September 2, 1930, to acquire the property of Minneapolis Gas Light Company then used and useful for the manufacture, distribution and sale of gas within the City upon payment of the value of said property, said value not to include any amount for the value of any right, privilege, franchise or grant from the State of Minnesota or the City of Minneapolis, for good will, or for future profits, and said value is to be determined without regard to the amounts of stocks, bonds and other obligations of Minneapolis Gas Light Company.

43. The following tabulation shows the earnings available for common stock dividends and common stock dividends paid in each of the years 1928–1941, inclusive, and earned surplus at May 31, 1928, and December 31, 1928–1941, inclusive, according to the books of Minneapolis Gas Light Company,[1] before and after deducting participation units outstanding:

[1] This schedule does not show income or surplus of Minneapolis Suburban Gas Company prior to its merger with Minneapolis Gas Light Company in 1935, but dividends paid by the suburban company are included in the income of Minneapolis Gas Light Company.

	Income available for common stock (A)	Common stock dividends paid	Balance	Earned surplus end of year (B)	
				Per books	Per books less participation units outstanding
May 31, 1928 surplus at acquisition				$518,943	$518,943
1928	$265,395	$176,000	$89,395	607,564	607,564
1929	357,241	352,000	5,241	614,748	614,748
1930	515,884	1,173,333	(657,449)	(53,941)	(53,941)
1931	908,372	645,333	263,039	245,276	245,276
1932	750,723	777,333	(26,610)	190,531	(2,235,790)
1933	495,112	484,000	11,112	201,221	(2,229,654)
1934	392,877	440,000	(47,123)	125,380	(2,305,747) (C)
1935	424,915	462,000	(37,085)	216,884	(2,051,302)
1936	426,310	440,000	(13,690)	173,595	(1,995,439)
1937	541,101	583,000	(41,899)	166,254	(1,874,970)
1938	604,885	528,000	76,885	261,865	(1,679,329)
1939	589,722	484,000	105,722	388,768	(1,442,125)
1940	635,346	605,000	30,346	415,114	(1,303,734)
1941	452,932	495,000	(42,068)	276,089	(1,328,084)
	7,360,815	7,644,999	(284,184)		

(A) "Income Available for Common Stock" is computed after deducting annual income and sinking fund requirements on Participation Units.

(B) Included in the income and earned surplus for 1932 and subsequent years is accrued and unpaid interest on Certificates of Indebtedness owned by American Gas and Power Company, which amounted to $428,914 at December 31, 1939, 1940 and 1941. No payments of such interest have been or are being made, as stated in paragraph 41 above.

(C) Assuming that 24,311-27/100 participation units outstanding at October 1, 1934 were still outstanding at December 31, 1934.

( ) Indicates red figures.

44. The following tabulation shows the annual provision for replacements and retirements per the books of Minneapolis Gas Light Company (including Minneapolis Suburban Gas Company) and annual depreciation claimed for income tax purposes, for each of the years 1932–1941, inclusive:

	Per books	For income tax purposes	Excess for tax purposes
1932	$200,000	$410,000	$210,000
1933	200,000	410,000	210,000
1934	200,000	419,183	219,183
1935	227,485	424,756	197,271
1936	243,088	430,661	187,573
1937	247,878	440,436	19,558
1938	256,648	453,008	196,360
1939	267,781	466,303	198,522
1940	284,810	481,631	196,821
1941	299,435	348,171	48,736
	2,427,125	4,284,149	1,857,024

VI

45. Birmingham Gas Company owns and operates in the State of Alabama facilities used for the purchase at wholesale and for the transmission and distribution at retail to the public, through mains, of natural and manufactured gas for heating, light, or power, and is a gas utility company as defined in the Act. It operates in the city of Birmingham, Alabama and certain adjacent communities, serving a population of about 460,000.

46. The capitalization and surplus of Birmingham Gas Company at December 31, 1941, according to its books, was as follows:

		Percent
Long-Term Debt:		
First Mortgage 3⅞% Bonds due April 1, 1971	$5,850,000	68.02
Capital Stock and Surplus:		
$3.50 Cumulative Prior Preferred, par value $50 per share (entitled to $70 per share upon call or voluntary liquidation), outstanding 28,952.7 shares	1,447,635	16.83
Common stock, par value $2 per share, outstanding 227,548.1 shares	455,096	5.29
Paid-in surplus	181,795	2.12
Earned surplus (from Jan. 1, 1939)	665,873	7.74
Total Capital Stock and Surplus	2,750,399	31.98
Total Capitalization and Surplus	8,600,399	100.00

47. The common stock of Birmingham Gas Company has all of the voting power of the company, except that the preferred stockholders as a class elect two of the seven directors of the company.[1] 142,955 shares, constituting 62.82% of the total outstanding, are owned by American Gas. 139,995 of said shares are

[1] The Commission's files do not disclose action by the company, pursuant to its plan of recapitalization dated February 17, 1939 (see *American Gas and Power Company and Birmingham Gas Company*, 3 S.E.C. 911, 933 (1938), to provide that the preferred stockholders have the right as a class to elect four out of seven directors in the event of three successive quarterly defaults, or any four quarterly defaults, in the payment of preferred dividends.

pledged with the trustee under the debenture agreement of American Gas as collateral security.

48. Annual sinking fund payments on the first mortgage bonds are to be made as follows:

On or before March 31, 1942 to 1946, inclusive, $70,000.
On or before March 31, 1947 to 1951, inclusive, $80,000.
On or before March 31, 1952 to 1961, inclusive, $90,000.
On or before March 31, 1962 to 1971, inclusive, $100,000.

In lieu of said cash payments, Birmingham Gas Company may deliver bonds, to the trustee, or, for the years 1942 and 1943, submit evidence of certain property additions.

49. The balance sheet of Birmingham Gas Company at December 31, 1941 states property, plant and equipment, including intangibles, as follows:

Gross Book Value	$11,015,069
Reserve for Property Retirements and Replacements	1,440,571
Net Book Value	9,574,498

The above figures include $1,085,625 of utility plant acquisition adjustments (reduced from $6,459,528 pursuant to recapitalization effected in 1939) and organization expenses and franchises of $153,086. The reclassification of the company's accounts has been submitted to, but not passed on by, the Alabama Public Service Commission.

50. At December 31, 1941, the ratio of long-term debt of Birmingham Gas Company to net book value of property, plant and equipment was 61.1%. The ratio of long-term debt plus preferred stock to net property was 76.2%.

51. At December 31, 1941, the reserve for property retirements and replacements of Birmingham Gas Company was equal to 13.08% of the gross book value of its property, plant and equipment.

52. The 1941 provision for retirements and replacements of Birmingham Gas Company was $194,908, constituting 1.77% of the gross book value of its property, plant and equipment. On its income tax return for 1941, the company claimed $277,866 depreciation.

53. The following tabulation shows income available for common stock dividends, common stock dividends paid, and earned surplus at December 31 for each of the years 1935–1941, inclusive, according to the books of Birmingham Gas Company:

	Income available for common dividends	Common dividends paid	Balance	Balance in earned surplus end of year
1935				$(201,274)
1936				(195,547)
1937				(50,534)
1938				*129,299#
1939	$164,171		$164,171	**221,301#
1940	210,584		210,584	**428,828
1941	299,010	$56,887	242,123	**665,873
	673,765	56,887	616,878	

*The write-down of property, plant and equipment in 1939 (see paragraph 49 above) was effected in part by charging $129,299 to earned surplus as of December 31, 1938.
**Surplus since January 1, 1939.
(#) Indicates red figures.

Prior to effective date of Plan of Recapitalization dated February 17, 1939, no earnings were available for common dividends because of preferred stock dividend arrearage.

VII

54. Savannah Gas Company owns and operates in the State of Georgia facilities used for the manufacture, transmission, and distribution at retail to the public, through mains, of manufactured gas for heat, light or power, and is a gas utility company as defined in the Act. It does business in the City of Savannah and the town of Thunderbolt, Georgia, a suburb of Savannah, serving a population of about 96,000.

55. The capitalization and surplus of Savannah Gas Company at December 31, 1941, according to its books, was as follows:

		Percent
Long-Term Debt:		
First mortgage 3¾% bonds due Jan. 1, 1966	$1,000,000	35.14
Serial notes, 3½% and 4% due Jan. 1, 1943, to Jan. 1, 1951	355,000	12.47
Total Long-Term Debt	1,355,000	47.61
Capital Stock and Surplus:		
Common stock, par value $25 per share	1,400,000	49.20
Earned surplus	90,700	3.19
Total Capital Stock and Surplus	1,490,700	52.39
Total Capitalization and Surplus	2,845,700	100.00

56. The common stock of Savannah Gas Company has all of the voting power of the company. All of the 56,000 shares authorized are outstanding and owned by American Gas, and except for directors' qualifying shares are pledged with the trustee under the debenture agreement of American Gas as collateral security. The five directors' qualifying shares are subject to options held by said trustee.

57. The first mortgage 3¾% bonds, in the principal amount of $1,000,000, and serial notes in the principal amount of $400,000 were issued and sold in January and February, 1941, and the proceeds were used to redeem the following securities of the company:

The company's outstanding first mortgage 5% bonds, principal amount $327,000, at 105	$343,350
The company's outstanding first mortgage 4½% bonds, principal amount $535,000, at 107	572,450
The companys outstanding 7% cumulative preferred stock $25 par value at $30 per share	480,870

Of the serial notes so isued, $30,000 principal amount matured January 1, 1942. $30,000 principal amount will mature January 1, 1943; $35,000, January 1, 1944 and 1945; $40,000, January 1, 1946 and 1947; $45,000, January 1, 1948 and 1949; and $50,000, January 1, 1950 and 1951. The notes maturing on or before January 1, 1947 bear interest at 3½%; the notes maturing January 1, 1948 and subsequently bear interest at 4%. The notes are redeemable at the option of the company, in inverse order of maturity, at principal amount, accrued interest and premiums up to 5% depending upon the date of redemption. Beginning in 1952, after the serial notes have all become due, a sinking fund of $20,000 annually will apply on the outstanding first mortgage bonds.

58. On December 31, 1939, as of January 1, 1938, the company reclassified its property, plant and equipment accounts pursuant to the reclassification approved by the Georgia Public Service Commission. A total of $769.902 was then classified as Gas Plant Adjustments (Account No. 107), and remained in that account at December 31, 1941. The balance of the company's property, plant and equipment purports to be stated at cost.

59. The balance sheet of Savannah Gas Company at December 31, 1941, states property, plant and equipment as follows:

	Including gas plant adjustments	Excluding gas plant adjustments
Gross book value	$3,246,689	$2,476,787
Reserve for property retirements and replacements	595,127	595,127
Net book value	2,651,562	1,881,660

60. At December 31, 1941, the ratio of long-term debt of Savannah Gas Company to net book value of property, plant and equipment, after eliminating the amount in Account No. 107, was 72.01%

61. At December 31, 1941 the reserve for property retirements and replacements of Savannah Gas Company was equal to 24.03% of the gross book value of its property, plant and equipment, after eliminating the items in Account No. 107.

62. The 1941 provision for retirements and replacements of Savannah Gas Company was $45,351, constituting 1.83% of the gross book value of its property, plant and equipment, after eliminating the items in Account No. 107. In its income tax return for 1941, the company claimed $81,996 depreciation.

63. The following tabulation shows income available for common stock dividends, common stock dividends paid, and earned surplus at December 31 for each of the years 1935-1941, inclusive, according to the books of Savannah Gas Company:

	Income available for common dividends	Common dividends paid	Balance	Earned surplus end of year
1935	$39,139	$14,000	$25,139	$31,958
1936	82,850	70,000	12,850	55,356
1937	96,521	70,000	26,521	82,911
1938	113,075	119,000	(5,925)	80,677
1939	123,653	133,000	(9,347)	73,863
1940	114,031	126,000	(11,969)	61,563
1941	114,147	84,000	30,147	90,709
	683,416	616,000	67,416	

() Indicates red figures.

VIII

64. Jacksonville Gas Company owns and operates in the State of Florida facilities used for the manufacture, transmission, and distribution at retail to the public, through mains, of manufactured gas for heat, light or power, and is a gas utility company as defined in the Act. It operates in the Cities of Jacksonville

and South Jacksonville, Florida, and certain of the environs thereof, serving a population of about 173,000.

65. Jacksonville Gas Company has submitted and the Commission has approved a plan pursuant to section 11 (e) of the Act under which the presently outstanding stock of the company, including the 50% thereof held by American Gas, would be eliminated.[1] American Gas has admitted that its stock represents no equity and has consented to the plan. The Commission has applied to the United States District Court for the Southern District of Florida for enforcement of the plan, and although objections to the plan have been urged before the Court, no one has challenged the elimination of the interest of American Gas in the stock of Jacksonville Gas Company.

IX

66. St. Augustine Gas Company owns and operates in the State of Florida facilities used for the manufacture, transmission, and distribution at retail to the public, through mains of manufactured gas for heat, light or power, and is a gas utility company as defined in the Act. It operates in the City of St. Augustine, Florida, serving a population of about 12,000.

67. The capitalization and surplus of St. Augustine Gas Company at December 31, 1941, according to its books, was as follows:

		Per cent
Long Term Debt:		
First mortgage 4½% bonds due July 1, 1965	$120,000	25.86
Capital Stock and Surplus:		
Common stock 2,771 shares, par value $100 per share	277,100	59.73
Earned Surplus	66,865	14 41
Total Capital Stock and Surplus	343,965	74.14
Total Capitalization and Surplus	463,965	100.00

68. The common stock of St. Augustine Gas Company has all of the voting power of the company. All of the shares outstanding are owned by American Gas and except for directors' qualifying shares are pledged with the trustee under the debenture agreement of American Gas as collateral security The 3 directors' qualifying shares are subject to options held by said trustee.

69. The following tabulation shows income available for common stock dividends, common stock dividends paid, and earned surplus at December 31 for each of the years 1935–1941 inclusive, according to the books of St. Augustine Gas Company:

	Income available for common dividends	Common dividends paid	Balance	Balance in earned surplus end of year
1935	$10,653		$10,653	$48,158
1936	15,623	$16,250	(627)	47,877
1937	18,635	10,000	3,635	52,122
1938	14,745	10,000	4,745	56,866
1939	15,858	10,000	5,858	61,827
1940	16,278	2,500	13,778	64,548
1941	13,401	11,084	2,317	66,865
	100,193	59,834	40,359	

( ) Indicates red figure.

X

70. Lowell Gas Light Company owns and operates in the State of Massachusetts facilities used for the manufacture, transmission, and distribution at retail to the public, through the mains, of manufactured gas for heat, light, or power, and is a gas utility company as definied in the Act. It operates in the town of Lowell, Massachusetts, and in eight neighboring towns, serving a population of about 140,000.

71. Lowell Gas Light Company was incorporated in Massachusetts on May 2, 1849. In 1929, as stated in paragraph 9 above, American Commonwealths Power Associates, a Massachusetts trust wholly owned, financed and controlled by American Commonwealths Power Corporation and American Gas, acquired 58,861.6 shares (96 55%) of the common stock of Lowell Gas Light Company.

72. In 1930 and 1931 American Commonwealths Power Associates held substantially no assets other than 58,861.6 shares of common stock of Lowell Gas Light Company (par value $1,471,540; market value according to bids quoted at December 31, 1930, and December 31, 1931, $2,943,080), and owed $5,910,000 principal amount of notes to American Gas. During those years American Commonwealths Power Associates, American Gas, American Commonwealths Power Corporation, and their officers, trustees and directors, caused Lowell Gas Light Company to borrow $1,500,000 on 3% notes due June 15, 1932, and to advance over $1,500,000 to American Commonwealths Power Associates.

73. In 1930 and 1931 American Commonwealths Power Associates, American Gas, American Commonwealths Power Corporation, and their officers, trustees and directors, caused Lowell Gas Light Company to sell to customers and employees worthless stock in American Commonwealths Power Corporation (Del.) and The American Commonwealths Power Corporation (N. J.) and to transmit to those companies the proceeds of such sales. Subsequently American Commonwealths Power Associates, American Gas and their officers, trustees and directors caused Lowell Gas Light Company to issue to purchasers of the worthless stock serial non-interest bearing obligations in the principal amount of $323,287.

74. In January 1932 A. E. Fitkin acquired from the receivers of American Commonwealths Power Corporation all of the outstanding common stock, and certain other securities, of American Gas, and all of the outstanding shares of beneficial interest in American Commonwealths Power Associates.

75. At or about the maturity of its 3% notes, due in the principal amount of $1,500,000 on June 15, 1932, Lowell Gas Light Company offered in exchange therefor $1,500,000 principal amount of 5% notes. This exchange, however, was not consummated. Early in 1933 Lowell Gas Light Company issued $950,000 principal amount of 5½% first mortgage bonds dated September 1, 1932, and $549,000 principal amount of 6% gold notes dated January 1, 1933. The holders of each $5,000 principal amount of old notes received $3,170 cash out of the proceeds of the sale of the first mortgage bonds, $1,830 principal amount of 6% notes, interest at 3% on the old notes to June 15, 1932, and at 6% from June 15, 1932, to the date of adjustment, less accrued interest on the new notes. The 6% notes have been paid by Lowell Gas Light Company, and the 5½% first mortgage bonds were refunded in 1936 by the issuance of the same principal amount of 4½% first mortgage bonds.

76. At June 30, 1935, the amounts owing by American Commonwealths Power Associates to Lowell Gas Light Company were stated on the books of Lowell Gas Light Company at $1,203,989, having been reduced to that figure by the declaration of dividends on the common stock of Lowell Gas Light Company and the crediting of part of such dividends against amounts owing from American Commonwealths Power Associates. As of that date, Lowell Gas Light Company wrote down the amounts owing to it from American Commonwealths Power Associates to $195,000, and cancelled the balance of $1,008,989. Thereafter the remaining obligation of the trust to Lowell Gas Light Company was eliminated by the declaration of dividends on the common stock of Lowell Gas Light Company and the crediting of part of such dividends against the amounts owing from the trust.

77. On December 1, 1936, the name of American Commonwealths Power Associates was changed to American Utilities Associates.

78. The balance sheet of American Utilities Associates at December 31, 1941, according to its books was as follows:

[1] See Holding Company Act Releases Nos. 3570 and 3572 (1942).

ASSETS

Investment in Subsidiary Company:		
Lowell Gas Light Company:		
Common Stock—58,861.6 shares	$5,328,778.53	
Serial Non-Int. Bearing Obligations	1,997.81	
		$5,330,776.34
Organization Expense		7,733.53
Current Asset—Cash in Bank		4,379.20
Total Assets		5,342,889.07

LIABILITIES AND CAPITAL

Notes and Accounts Payable to American Gas (Including Accrued Interest thereon)		9,325,989.19
Current Liability—Accounts Payable		3,734.96
Capital Stock and Surplus:		
Capital Stock, par value $1 per share; Authorized, Issued and Outstanding 20,000 shares	$20,000.00	
Deficit	4,006,835.08	
		3,986,835.08
Total Liabilities and Capital		5,342,889.07

79. In 1941 American Utilities Associates received dividends on the common stock of Lowell Gas Light Company in the amount of $58,861.60 and paid to American Gas $56,000 interest, out of $354,600 of such interest accrued for the year.

80. The capitalization and surplus of Lowell Gas Light Company at December 31, 1941, according to its books, was as follows:

		Percent
Long-Term Debt:		
First mortgage 4¼% bonds due March 1, 1966	$950,000	32.65
Serial Non-Interest Bearing Obligations (not reflected on the published balance sheet)	210,136	7.22
Capital Stock and Surplus:		
Common stock, 60,962 shares, par value $25 per share	1,524,050	52.37
Earned surplus (after reflecting the serial obligations)	225,763	7.76
Total Capital Stock and Surplus	1,749,813	60.13
Total Capitalization and Surplus	2,909,949	100.00

81. The common stock of Lowell Gas Light Company has all of the voting power of the company. American Utilities Associates owns 58,861.6 shares, constituting 96.55% of the total outstanding. 58,199 of those shares, constituting 95.47% of the total outstanding, are pledged by American Utilities Associates with American Gas as collateral security for $4,950,000 of the $5,910,000 principal amount of notes payable to American Gas. American Gas has pledged the $4,950,000 principal amount notes of American Utilities Associates and the 58,199 shares of common stock of Lowell Gas Light Company, with the trustee under its debenture agreement as collateral security. By virtue of these security holdings and pledges, and through common officers, trustees and directors, American Gas controls American Utilities Associates and Lowell Gas Light Company.

82. The serial non-interest bearing obligations of Lowell Gas Light Company were issued during and subsequent to 1934 in the principal amount of $323,287 to customers and employees of the company who had purchased, through the company or through its officers or employees, preferred stock of American Commonwealths Power Corporation (Del.) and of The American Commonwealths Power Corporation (N. J.) The resolution of the directors pursuant to which said serial obligations were issued provided that they be issued without the use of the mails, and only to residents of Massachusetts, and that the recipients execute and deliver to the company releases satisfactory to the company. They provide for payments only out of the net earnings of Lowell Gas Light Company available for dividends, and only in years in which in the judgment of the board of directors there are net earnings available; payments are to be made in annual instalments beginning in the year 1934 of not in excess of 5% of the principal amount of the obligations, without interest.

83. The first mortgage bonds were issued in the principal amount of $950,000 under date of March 1, 1966, and the proceeds used to redeem the same principal amount of 5½% first mortgage bonds due September 1, 1947. There are no sinking fund requirements.

84. The balance sheet of Lowell Gas Light Company at December 31, 1941, states property, plant and equipment as follows:

Gross Book Value	$3,703,880
Reserve for Property Retirements and Replacements	747,763
Net Book Value	2,956,117

85. At December 31, 1941, the ratio of long term debt of Lowell Gas Light Company to net book value of property, plant and equipment was 32.14%.

86. At December 31, 1941, the reserve for property retirements and replacements of Lowell Gas Light Company was equal to 20.19% of the gross book value of its property, plant and equipment.

87. The 1941 provision for retirements and replacements of Lowell Gas Light Company was $46,743, constituting 1.26% of the gross book value of its property, plant and equipment. In its income tax return for 1941, the company claimed $90,345 depreciation.

88. The following tabulation shows income available for common stock dividends (after payments due on the serial non-interest bearing obligations), common stock dividends paid, and earned surplus at December 31, before and after deducting serial obligations outstanding for each of the years 1929–1941 inclusive, according to the books of Lowell Gas Light Company:

	Income available for common dividends	Common dividends paid	Balance	Earned surplus end of year	
				Per books	Per books less serial obligations outstanding
1929	$287,298	$182,886	$104,412	$623,678	$623,678
1930	263,222	182,886	80,336	703,451	703,451
1931	333,443	198,127	135,316	828,153	828,153
1932	264,217	60,962	203,255	1,068,216	1,068,216
1933	187,519	289,570	(102,051)	964,673	964,673
1934	71,022	137,165	(66,143)	880,079	598,857
1935	71,768	152,405	(80,637)	569,496	*272,650
1936	55,463		55,463	574,578	291,676
1937	54,167	121,924	(67,757)	504,036	230,139
1938	55,478	30,481	24,997	424,321	165,692
1939	95,911	60,962	34,949	457,877	215,412
1940	77,310	106,684	(29,374)	420,321	194,020
1941	72,064	60,962	11,102	435,899	225,763
	1,888,882	1,585,014	303,868	----------	----------

*Non-Interest Bearing Obligations outstanding at September 30, 1935, deducted because amount outstanding at December 31 is unknown.
( ) Indicates red figures.

XI

89. Bangor Gas Company owns and operates in the State of Maine facilities used for the manufacture, transmission and distribution at retail to the public, through mains, of manufactured gas for heat, light or power, and is a gas utility company as defined in the Act. It operates in the City of Bangor, Maine, and four neighboring communities, serving a population of about 48,500.

90. The capitalization and surplus of Bangor Gas Company at December 31, 1941, according to its books, was as follows:

Long-term debt:		
First mortgage 4% bonds due October 1, 1971	$300,000	30.43%
Capital stock and Surplus:		
Common stock, 6,000 shares, par value $100 per share	600,000	60.86%
Earned surplus	85,807	8.71%
Total capital stock and surplus	685,807	69.57%
Total capitalization and surplus	985,807	100.00%

91. The common stock of Bangor Gas Company has all of the voting power of the company. All of the 6,000 shares authorized are outstanding and owned by American Gas, and except for directors' qualifying shares are pledged with the trustee under the debenture agreement of American Gas as collateral security. The five directors' qualifying shares are subject to options held by said trustee.

92. The following tabulation shows income available for common stock dividends, common stock dividends paid, and earned surplus at December 31 for each of the years 1935–1941 inclusive, according to the books of Bangor Gas Company:

	Income available for common dividends	Common dividends paid	Balance	Balance in earned surplus end of year
1935	$894		$894	$84,423
1936	5,818	$9,000	(3,182)	77,311
1937	(1,885)		(1,885)	62,743
1938	8,610		8,610	70,008
1939	12,194		12,194	65,666
1940	9,873		9,873	75,539
1941	10,268		10,268	85,807
	45,772	9,000	36,772	

Above amounts include Penobscot Valley Gas Corporation which was merged with Bangor Gas Light Company in 1941 to form the present company.
( ) Indicates red figures.

XII

93. Public Utilities Management Corporation was incorporated in New York on October 25, 1935 to render financial, management and other services to Community, American Gas and their subsidiary companies. Up to that time, such services had been rendered by American Gas under contracts providing for fees based upon the gross revenues of the subsidiary companies served. The difference between such fees and the cost of such services was retained as profit for the holding company.

94. From January 1, 1932 through November 30, 1935 American Gas received from its subsidiary companies fees for services as follows: 1932, $220,477; 1933, $226,975; 1934, $223,139; 1935 (11 mos.), $168,320.

95. As of November 30, 1935, American Gas assigned its management contracts with subsidiary companies to Public Utilities Management Corporation. All of the stock of Public Utilities Management Corporation was held by subsidiary operating companies of American Gas, and the difference between the fees charged and the cost of services was returned to the operating companies as dividends.

96. On April 30, 1938, Public Utilities Management Corporation applied to the Commission for approval as a mutual service company. During the proceedings on said application, Public Utilities Management Corporation revised its service contracts as of April 1, 1938, to provide for charges on the basis of cost instead of fixed fees. By order entered November 19, 1938, the Commission approved Public Utilities Management Corporation as a mutual service company under section 13 of the Act, subject to certain conditions, including future scrutiny of its operations.[1]

97. During the years 1937 through 1941 Public Utilities Management Corporation received fees for services as follows:

Year	Gross fees	Dividends paid	Net fees
1937	$183,540	$63,000	$120,540
1938	156,398	30,000	126,398
1939	159,315	65,250	94,065
1940	150,902		150,902
1941	138,201		138,201

98. The balance sheet of Public Utilities Management Corporation at December 31, 1941, according to its books, was as follows:

[1] Public Utilities Management Corporation, 4 S.E.C. 45 (1938).

Assets	
Office equipment	$9,498
Current assets:	
Cash	$12,992
Accounts receivable	11,560
	24,552
Prepaid franchise tax	1,174
Total assets	35,224

Liabilities and Capital	
Current liabilities:	
Accrued taxes	407
Reserve for depreciation of office equipment	3,674
Capital stock and surplus:	
Common stock, 3,000 shares, par value $1 per share	3,000
Capital surplus—paid in	27,000
Earned surplus	1,143
	31,143
Total liabilities and capital	35,224

99. At December 31, 1941, the capital stock of Public Utilities Management Corporation was wholly owned by the operating subsidiary companies of Community and American Gas as follows:

Name of holder	Number of shares	Percentage of total
Minneapolis Gas Light Company	1,643	54.8
Birmingham Gas Company	677	22.6
Savannah Gas Company	168	5.6
Jacksonville Gas Company	[1] 190	6.3
St. Augustine Gas Company	27	.9
Lowell Gas Light Company	244	8.1
Bangor Gas Company	51	1.7
	3,000	100.0

[1] Under the plan referred to in paragraph 65 above Public Utilities Management Corporation would repurchase these shares for $1,900, their cost to Jacksonville Gas Company.

100. The income of Public Utilities Management Corporation for the year 1941, according to its books, was as follows:

Income:	
Service charges to associate companies	$138,201
Service charges to other companies	1,453
Total	139,654
Expenses and taxes	139,552
Net income	102

101. In 1941 service charges were paid to Public Utilities Management Corporation by associate companies as follows:

	Direct charges	Apportioned charges	Total charges	Percentage
Community Gas and Power Company	$151	$41	$192	.1
American Gas and Power Company	4,929	4,240	9,169	6.6
Minneapolis Gas Light Company	19,900	38,531	58,431	42.3
Birmingham Gas Company	13,823	18,362	32,185	23.3
Savannah Gas Company	5,363	4,337	9,700	7.0
Jacksonville Gas Company	6,744	5,333	12,077	8.8
St. Augustine Gas Company	849	659	1,508	1.1
American Utilities Associates				
Lowell Gas Light Company	5,018	5,750	10,768	7.8
Bangor Gas Company (including Penobscot Valley Gas Corp.)	2,567	1,604	4,171	3.0
Total	59,344	78,857	138,201	100.0
Percentage	42.9%	57.1%	100%	

102. In the proceedings on its application for approval as a mutual service corporation (see 4 S.E.C. 45, at page 47) Public Utilities Management Corporation estimated that 70 to 80 per cent of its salaries would be allocated on a direct charge basis.

103. In 1941 the officers and directors of Community and American Gas received total compensation from system companies (not including some directors' fees of $10 or $20 per meeting) of $107,915. Of that amount $63,365 was paid by Public Utilities Management Corporation, $34,250 by Minneapolis Gas Light Company, $1,000 by Savanah Gas Company, nothing by Community, and only $9,300 by American Gas.

104. In 1941 Public Utilities Management Corporation paid a total of $104,716 to its officers, directors and other employees. Of that amount, $69,900 was paid to eight officers and directors, and $34,816 to fourteen other employees. Of the 69,900 paid to officers and directors, $63,365 was paid to six men who were also officers or directors, or both, of Community and American Gas.

XIII

105. The following tabulation shows the equity of American Gas in its subsidiary companies other than Jacksonville Gas Company at December 31, 1941, according to the book values of the assets of subsidiary companies, with adjustments as indicated:

	Minneapolis Gas Light Company	Birmingham Gas Company	Savannah Gas Company
Property plant and equipment (per books)	$28,057,253	$11,015,069	$3,246,689
Less: Appraisal revaluations	10,317,714		
Account 107 gas plant adjustments			769,902
Reserve for retirements and replacements	3,174,361	1,440,571	595,127
Contributions in aid of construction	113,316	618,653	3,583
Total deductions	13,605,391	2,059,224	1,368,612
Net property (as adjusted)	14,451,862	8,955,845	1,878,077
Investments (principally affiliated companies)	1,631,555*	6,920	1,680
Net current assets	(726,795)	(186,272)	32,546
Net deferred and prepaid items	943,171	(85,750)	163,496
Reserves (other than property retirements)		(90,343)	
Net assets	16,299,793	8,600,400	2,075,799
Long term debt (in hands of public)	11,772,000	5,850,000	1,355,000
Equity for preferred stock	4,527,793	2,750,400	
Less involuntary liquidating value of preferred stock	2,256,700	1,447,635	
Equity for participation units	2,271,093		
Less liquidating value of participation units	1,408,225		
Balance for common stock	862,868	1,302,765	720,799
Minority interest		484,315	
Equity for American Gas	862,868	818,450	720,799
Carrying value of investment on books of American Gas	11,000,000	284,453	1,400,000
Excess of equity over carrying value	($10,137,132)	$533,997	($679,201)

*Includes certificate of indebtedness owed by American Gas to Minneapolis Gas Light Company in the amount of $1,615,123, including accrued interest.
( ) Red figures.

	St. Augustine Gas Company	American Utilities Associates	Bangor Gas Company
Property plant and equipment (per books)	$487,616	*$7,734	$1,288,961
Less:			
Reserve for property retirements and replacements	53,760		333,212
Contributions in aid of construction			413
Total deductions	53,760		333,625
Net property	433,856	7,734	955,336
Investments (principally affiliated companies)	270	#1,691,506	319
Net current assets	23,197	644	8,947
Net deferred and prepaid items	6,642		21,914
Reserves (other than property retirements)			
Net assets	463,965	1,699,884	985,807
Long term debt (in hands of public)	120,000		300,000
Balance for common stock	343,965		685,807
Minority interest			
Equity for American Gas	343,965	1,699,884	685,807
Carrying value of investment on books of American Gas	277,100	2,095,650	588,045
Excess of equity over carrying value	$66,865	$(396,766)	$97,762

*Organization Expense.
Underlying book value of 96.55% of common stock of Lowell Gas Light Company held by American Utilities associates is $1,639,508 after deducting outstanding "Non-Interest Bearing Obligations." Carrying value of American Utilities Associates investment in "Non-Interest Bearing Obligations" is $1,998.
( ) Red figure.

Annexed hereto, marked Exhibit B, and made a part hereof as if here set forth in full, are condensed balance sheets (not adjusted) at December 31, 1941, of Minneapolis Gas Light Company, Birmingham Gas Company, Savannah Gas Company, St. Augustine Gas Company, Lowell Gas Light Company and Bangor Gas Company. A balance sheet at December 31, 1941, of American Utilities Associates is included in paragraph 78 above.

106. The following tabulation shows the equities available for security holders of American Gas, stating investments on the basis of adjusted underlying book values according to paragraph 105 above:

Investments:				
Common Stocks:				
Minneapolis Gas Light Company	(100%)	$862,868		
Birmingham Gas Company	(62.82%)	818,450		
Savannah Gas Company	(100%)	720,799		
St. Augustine Gas Company	(100%)	343,965		
Bangor Gas Company	(100%)	685,807		
Jacksonville Gas Company	(50%)			
			$3,431,889	
Notes Receivable:				
American Utilities Associates			1,699,884	
Total Investments				$5,131,773
Special Deposits				373

Net Current Assets:		
Current Assets	$14,170	
Current and Accrued Liabilities	147,215	
		($133,045)
Prepayments		33
Net Assets		4,999,134
Secured Debentures:		
5% Series	6,114,500	
6% Series	4,213,500	
Accumulated Condtiional Interest Accrued	1,459,205	
		11,787,206
Equity for Certificates of Indebtedness		(6,788,072)
Certificates of Indebtedness (including accrued interest):		
Minneapolis Gas Light Company	1,615,123	
Jacksonville Gas Company	67,651	
		1,682,774
Equity for Common Stock		(8,470,846)

NOTE. If net "Unamortized Debt Discount and Expense" after deducting "Premium on Debt" and after deducting the minority interest (Birmingham Gas Company $21,522; Lowell Gas Light Company $345), were eliminated from the above "Investments" the total Net Assets would be reduced in the amount of $956,105 to $4,043,029.

( ) Indicates red figures.

It appearing to the Commission, in the light of the foregoing, that it is appropriate in the public interest, and in the interest of investors and consumers, to institute proceedings against Community Gas and Power Company, American Gas and Power Company, and their subsidiary companies, under sections 11 (b) (1), 11 (b) (2), 12 (c), 12 (f), 13, 15 and 20 (a) of the Public Utility Holding Company Act of 1935, to determine whether certain orders should be entered pursuant to the provisions of said sections, and

It further appearing to the Commission that the holding-company system of Community Gas and Power Company and American Gas and Power Company is not confined in its operations to those of a single integrated public-utility system within the meaning of the Act, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public utility system:

It is hereby ordered, That Community Gas and Power Company and American Gas and Power Company and each of their subsidiary companies above named, all respondents herein, file with the Secretary of the Commission on or before the 20th day of October, 1942, answers to the allegations of paragraphs 1 to 106 inclusive hereof, in the form prescribed by Rule U-25. Any such answers may include a statement of the claim of the respondents or any of them as to the action, if any, which is necessary and should be required to be taken by any of the respondents pursuant to the requirements of sections 11 (b) (1) and 11 (b) (2) of the Act, and with particular regard to the questions raised hereinafter in paragraphs A to K inclusive. The answer of any respondent which is a holding company may, if such respondent so desires, state that such respondent proposes and is prepared to take such action as will cause it to cease to be a holding company within the meaning of the Act, together with a description of such action and the time within which it proposes to take such action.

It is further ordered, That a hearing on such matters, under the applicable provisions of said Act, and the rules of the Commission thereunder, be held on October 27, 1942, at 10 A. M., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania. On such day the hearing room clerk in Room 318 will advise as to the room where such hearing will be held.

It is further ordered, That Robert P. Reeder, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing on such matters. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the Public Utility Holding Company Act of 1935, and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That particular attention will be directed at said hearing to the following matters and questions:

a. Whether the allegations set forth in paragraphs 1 to 106, inclusive, hereof are true and accurate.

b. What action, if any, is necessary and shall be required to be taken by the respondents herein, or any of them, to limit the operations of the holding-company system of Community Gas and Power Company and American Gas and Power Company to a single integrated public-utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operation of such integrated public-utility system.

c. Pursuant to such application as may be made herein, the extent to which each of the registered holding companies hereinbefore named shall be permitted to continue to control one or more additional integrated public-utility systems as provided by section 11 (b) (1) of the Act.

d. Pursuant to such application as may be made herein, the extent to which any of the respondents shall be permitted to retain any interest in any business (other than that of a public-utility company as such) as provided by section 11 (b) (1) of the Act.

e. Whether the corporate structure or continued existence of Community Gas and Power Company, American Gas and Power Company and American Utilities Associates, or any of them unduly or unnecessarily complicates the structure, or unfairly or inequitably distributes voting power among security holders, of the holding-company system, and if so, what action shall be required with respect thereto pursuant to section 11 (b) (2) of the Act.

f. What further action, if any, is necessary and shall be required to be taken by Community Gas and Power Company, American Gas and Power Company, American Utilities Associates, and Lowell Gas Light Company, or any of them, in order that Community Gas and Power Company shall cease to be a holding company with respect to a subsidiary company which itself has a subsidiary company which is a holding company.

g. Whether the corporate structure of Minneapolis Gas Light Company unfairly or inequitably distributes voting power among its security holders, and if so, what changes in its corporate structure and other action are necessary or appropriate for the purpose of fairly and equitably distributing voting power among its security holders.

h. Whether it is necessary or appropriate to enter an order pursuant to section 12 (c) and 12 (f) of the Act prohibiting or restricting the payment by the subsidiary companies of Community Gas and Power Company and American Gas and Power Company, or any of them, of dividends on their common stock, or directing appropriate action with respect to debts owed by American Gas and Power Company to any of its subsidiary companies, in order to protect their financial integrity, to safeguard their working capital, to prevent the payment of dividends out of capital or unearned surplus, to prevent the circumvention of the provisions of the Act or of the rules, regulations, or orders thereunder, or otherwise in the public interest or for the protection of investors.

i. Whether it is necessary or appropriate in the public interest or for the protection of investors or consumers to require that Community Gas and Power Company, American Gas and Power Company, and their subsidiary companies, or any of them, restate their respective plant, investment, surplus, capital, and other accounts pursuant to sections 15 (a), 15 (f) and 20 (a) of the Act, and the rules and regulations thereunder, including applicable systems of accounts adopted by the Commission, so as to segregate, dispose of, and eliminate write-ups and intangibles in the plant accounts, set up adequate reserves for retirements and depreciation, and make other adjustments in conformance to the standards of the Act, and the rules and regulations thereunder, including applicable systems of accounts adopted by the Commission.

j. Whether it is necessary or appropriate pursuant to section 13 of the Act to require elimination of interlocking directorates and personnel among Public Utilities Management Corporation, the holding companies, and the utility companies in the holding-company system, and to require prospective or retroactive adjustments, or both, of cost allocations in order to prevent direct or indirect payment by the utility companies of compensation to officers, directors and employees of the holding companies, to prevent direct or indirect payment by the utility companies of other charges for services rendered, directly or indirectly, by the holding companies and to effect a fair and equitable allocation of costs among the holding companies and utility companies; and whether it is necessary or appropriate to require other changes in the organization and conduct of business of Public Utilities Management Corporation in the light of action which may be taken or required under sections 11 (b) (1) and 11 (b) (2) of the Act.

k. Whether further action may be required of Community Gas and Power Company, American Gas and Power Company, and their subsidiary companies, or any of them, in order to effect compliance with the provisions of sections 11 (b) (1), 11 (b) (2), 12 (c), 12 (f), 13, 15 and 20 (a) of the Act.

It is further ordered, That jurisdiction be and is hereby reserved to separate, whether for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues or questions hereinbefore set forth or which may arise in these proceedings, and to take such other action as may appear conducive to an orderly, prompt and economical disposition of the matters involved.

It is further ordered, That notice of said hearing is hereby given to Community Gas and Power Company, American Gas and Power Company, Minneapolis Gas Light Company, Birmingham Gas Company, Savannah Gas Company, Jacksonville Gas Company, St. Augustine Gas Company, American Utilities Associates, Lowell Gas Light Company, Bangor Gas Company, and Public Utilities Management Corporation, to their respective security holders and consumers, to all States, municipalities, and public subdivisions of States within which are located any of the physical assets of said companies or under the laws of which any of said companies are incorporated, all State Commissions, State Securities Commissions, and all agencies, authorities, or instrumentalities of one or more States, municipalities or other political subdivisions having jurisdiction over any of such companies or over any of the business, affairs, or operations of any of them; that the Secretary of the Commission shall serve notice of said hearing by mailing a copy of this Order by registered mail to Community Gas and Power Company, American Gas and Power Company, Minneapolis Gas Light Company, Birmingham Gas Company, Savannah Gas Company, Jacksonville Gas Company, St. Augustine Gas Company, American Utilities Associates, Lowell Gas Light Company, Bangor Gas Company and Public Utilities Management Corporation, the respondents herein, and to the Alabama Public Service Commission, the Georgia Public Service Commission, the Department of Public Utilities of Massachusetts, and the Public Utilities Commission of the State of Maine, and the Cities of Minneapolis, Minnesota, Jacksonville, Florida and St. Augustine, Florida, such mailing to be made not less than twenty days prior to the date herein fixed for the filing of answers; that such notice shall be given further by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935; and that further notice shall be given to all persons by publication in the FEDERAL REGISTER not less than twenty days prior to the date hereinbefore fixed for the filing of answers, of a notice as follows:

Notice of Hearing Pursuant to Sections 11 (b) (1), 11 (b) (2), 12 (c), 12 (f), 13, 15 and 20 (a) of the Public Utility Holding Company Act of 1935 with respect to Community Gas and Power Company, American Gas and Power Company and the Subsidiary Companies Thereof (File No. 59-55)

Notice is hereby given that the Securities and Exchange Commission issued an order on September 24, 1942, directing that a hearing pursuant to sections 11 (b) (1), 11 (b) (2), 12 (c), 12 (f), 13, 15 and 20 (a) of the Public Utility Holding Company Act of 1935 be held with respect to Community Gas and Power Company, American Gas and Power Company and their subsidiary companies, namely: Minneapolis Gas Light Company, Birmingham Gas Company, Savannah Gas Company, Jacksonville Gas Company, St. Augustine Gas Company, American Utilities Associates, Lowell Gas Light Company, Bangor Gas Company and Public Utilities Management Corporation. Said order directs that the hearing be held at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, at 10 A. M. on October 27, 1942.

Said order recites that the Securities and Exchange Commission has examined the corporate structure of Community Gas and Power Company, a registered holding company, American Gas and Power Company, a registered holding company and their subsidiary companies, the relationships among the companies in the holding-company system of said Community Gas and Power Company and American Gas and Power Company, the character of the interests thereof and the properties owned or controlled thereby, and has examined the files and records of the Commission relating thereto, and that said examination has disclosed data establishing or tending to establish allegations set forth in paragraphs 1 through 106 of said order.

Said order further recites that it appears to the Commission that it is appropriate in the public interest, and in the interest of investors and consumers, to institute proceedings against Community Gas and Power Company, American Gas and Power Company, and their subsidiary companies, under the sections of the Act above set forth, to determine whether certain orders should be entered pursuant to the provisions of said sections, and that the holding-company system of Community Gas and Power Company and American Gas and Power Company is not confined in its operations to those of a single integrated public utility system within the meaning of the Act, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public utility system.

Said order further provides that particular attention will be directed at said hearing to the following matters and questions:

a. Whether the allegations set forth in paragraphs 1 through 106 of said order are true and accurate.

b. What action, if any, is necessary and shall be required to be taken by the respondents herein, or any of them, to limit the operations of the holding-company system of Community Gas and Power Company and American Gas and Power Company to a single integrated public-utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operation of such integrated public-utility system.

c. Pursuant to such application as may be made herein, the extent to which each of the registered holding companies hereinbefore named shall be permitted to continue to control one or more additional integrated public-utility systems as provided by section 11 (b) (1) of the Act.

d. Pursuant to such application as may be made herein, the extent to which any of the respondents shall be permitted to retain any interest in any business (other than that of a public-utility company as such) as provided by section 11 (b) (1) of the Act.

e. Whether the corporate structure or continued existence of Community Gas and Power Company, American Gas and Power Company and American Utilities Associates, or any of them unduly or unnecessarily complicates the structure, or unfairly or inequitably distributes voting power among security holders, of the holding-company system, and if so, what action shall be required with respect thereto pursuant to section 11 (b) (2) of the Act.

f. What further action, if any, is necessary and shall be required to be taken by Community Gas and Power Company, American Gas and Power Company, American Utilities Associates, and Lowell Gas Light Company, or any of them, in order that Community Gas and Power Company shall cease to be a holding company with respect to a subsidiary company which itself has a subsidiary company which is a holding company.

g. Whether the corporate structure of Minneapolis Gas Light Company unfairly or inequitably distributes voting power among its security holders, and if so, what changes in its corporate structure and other action are necessary or appropriate for the purpose of fairly and equitably distributing voting power among its security holders.

h. Whether it is necessary or appropriate to enter an order pursuant to section 12 (c) and 12 (f) of the Act prohibiting or restricting the payment by the subsidiary companies of Community Gas

and Power Company and American Gas and Power Company, or any of them, of dividends on their common stock, or directing appropriate action with respect to debts owed by American Gas and Power Company to any of its subsidiary companies, in order to protect their financial integrity, to safeguard their working capital, to prevent the payment of dividends out of capital or unearned surplus, to prevent the circumvention of the provisions of the Act or of the rules, regulations, or orders thereunder, or otherwise in the public interest or for the protection of investors.

i. Whether it is necessary or appropriate in the public interest or for the protection of investors or consumers to require that Community Gas and Power Company, American Gas and Power Company, and their subsidiary companies, or any of them, restate their respective plant, investment, surplus, capital, and other accounts pursuant to sections 15 (a), 15 (f) and 20 (a) of the Act, and the rules and regulations thereunder, including applicable systems of accounts adopted by the Commission, so as to segregate, dispose of, and eliminate write-ups and intangibles in the plant accounts, set up adequate reserves for retirements and depreciation, and make other adjustments in conformance to the standards of the Act, and the rules and regulations thereunder, including applicable systems of accounts adopted by the Commission.

j. Whether it is necessary or appropriate pursuant to section 13 of the Act to require elimination of interlocking directorates and personnel among Public Utilities Management Corporation, the holding companies, and the utility companies in the holding company system, and to require prospective or retroactive adjustments, or both, of cost allocations in order to prevent direct or indirect payment by the utility companies of compensation to officers, directors and employees of the holding companies, to prevent direct or indirect payment by the utility companies of other charges for services rendered, directly or indirectly, by the holding companies and to effect a fair and equitable allocation of costs among the holding companies and utility companies; and whether it is necessary or appropriate to require other changes in the organization and conduct of business of Public Utilities Management Corporation in the light of action which may be taken or required under sections 11 (b) (1) and 11 (b) (2) of the Act.

k. Whether further action may be required of Community Gas and Power Company, American Gas and Power Company, and their subsidiary companies, or any of them, in order to effect compliance with the provisions of sections 11 (b) (1), 11 (b) (2), 12 (c), 12 (f), 13, 15 and 20 (a) of the Act.

Reference is made to said order for a more complete statement of the various matter to be determined at said hearing. A copy of said order is on file and open to public inspection at the offices of the Securities and Exchange Commission at 18th and Locust Streets, Philadelphia, Pennsylvania and in each of the regional offices of the Securities and Exchange Commission, a copy of said order may be had upon written request to the Secretary of the Commission, and said order is hereby made a part of this notice as if here set out in full.

Notice of said hearing is particularly given to Community Gas and Power Company, American Gas and Power Company and each of the subsidiary companies thereof named above, and to all other persons, including the respective security holders and consumers of said companies, to all States, municipalities, and public subdivisions of States within which are located any of the physical assets of said companies or under the laws of which any of said companies are incorporated, all State Commissions, State Securities Commissions, and all agencies, authorities, or instrumentalities of one or more States, municipalities or other political subdivisions having jurisdiction over any of such companies or over any of the business, affairs, or operations of any of them.

Said order further provides that any person proposing to intervene or to be heard in said proceedings shall file with the Secretary of the Securities and Exchange Commission on or before October 20, 1942 his request or application therefor, as provided by Rule XVII of the Rules of Practice of the Securities and Exchange Commission.

By order of the Securities and Exchange Commission this 24th day of September 1942.

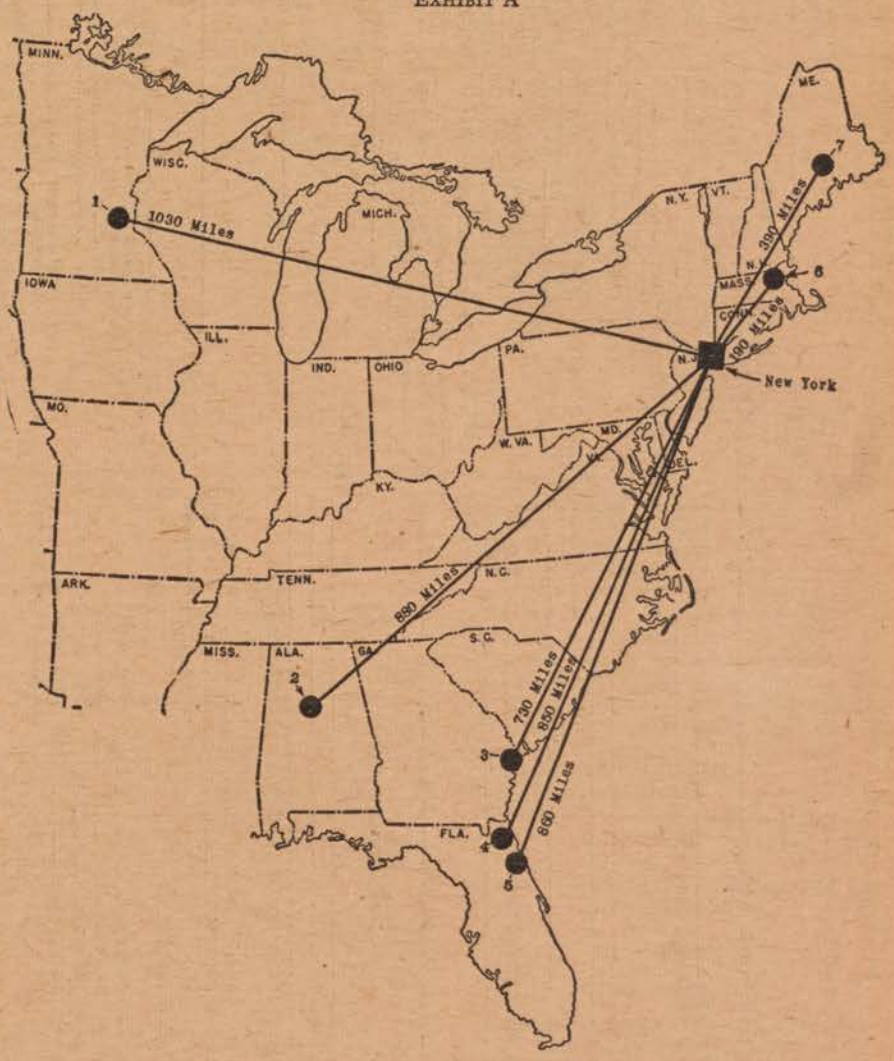
[SEAL] ORVAL L. DUBOIS,
Secretary.

It is further ordered, That any person proposing to intervene or to be heard in these proceedings shall file with the Secretary of the Commission on or before October 20, 1942 his request or application therefor, as provided by Rule XVII of the Rules of Practice of the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

EXHIBIT A



COMMUNITY GAS AND POWER COMPANY AND AMERICAN GAS AND POWER COMPANY

Map showing location of communities served by subsidiaries, and distances from New York.

1. Minneapolis Gas Light Company
2. Birmingham Gas Company
3. Savannah Gas Company
4. Jacksonville Gas Company
5. St. Augustine Gas Company
6. Lowell Gas Light Company
7. Bangor Gas Company

Figures on lines indicate approximate air line distances from New York City.

EXHIBIT B (1)

Minneapolis Gas Light Company

Condensed Balance Sheet at December 31, 1941

ASSETS

Property Plant and Equipment (incl. intang.)		$28,057,253
Investments:		
Cert. of Indebt.—Am. Gas	$1,615,123	
Other (principally P. U. Mgm't. Corp. stock)	16,432	
		1,631,555
Current assets:		
Cash	251,905	
Other	1,203,849	
		1,455,754
Special Deposit		443
Deferred charges:		
Unamortized Debt Discount and Expense	728,510	
Other	252,761	
		981,271
Total assets		$32,126,276

LIABILITIES AND CAPITAL

Long Term Debt		$11,772,000
Current and Accrued Liabilities		2,182,549
Deferred Credits		38,100
First Preferred Stock and Participation Units called for Redemption		443
Reserves:		
Reserve for Retirements and Replacements	$3,174,361	
Contributions in Aid of Construction	113,315	
		3,287,676
Capital Stock, Part. Units & Surplus:		
Preferred Stock:		
First Pfd. Stock—$6.00 Series	$584,100	
First Pfd. Stock—$5.50 Series	825,400	
First Pfd. Stock—$5.10 Series	402,400	
First Pfd. Stock—$5.00 Series	444,800	
		2,256,700
Participation Units:		
Participation Units Outstanding	1,622,064	
Less—Reacquired for Sinking Fund	213,839	
		1,408,225
Common Stock and Earned Surplus:		
Common Stock—no par value	2,200,000	
Earned Surplus	276,089	
Total	2,476,089	
Add—Excess of liquidation value over cost of 2,138.39 units reacquired	17,891	
Total	2,493,980	
Deduct—Liquidation value of units outstanding (as above)	1,622,064	
		871,916
Capital Surplus arising from appraisals etc		10,308,667
		14,845,508
Total Liabilities and Capital		$32,126,276

EXHIBIT B (2)

Condensed Balance Sheets at December 31, 1941

	Birmingham Gas Company	Savannah Gas Company
ASSETS		
Property, plant and equipment (incl. intang.)	$11,015,068	$3,246,689
Investments (principally P. U. Mgm't. Corp. stock)	6,920	1,680
Current assets:		
Cash	60,830	7,857
Other	546,302	156,321
Total current assets	607,132	164,178
Deferred charges:		
Unamortized debt discount an expense	344,221	160,385
Other	20,520	3,111
Total deferred charges	364,741	163,496
Total assets	11,993,861	3,576,043
LIABILITIES AND CAPITAL		
Long term debt	5,850,000	1,355,000
Current and accrued liabilities	793,404	131,633
Deferred credits:		
Unamortized premium on debt	286,328	

EXHIBIT B (2)—Continued

Condensed Balance Sheets at December 31, 1941—Con.

	Birmingham Gas Company	Savannah Gas Company
LIABILITIES AND CAPITAL—con.		
Deferred credits—Continued.		
Other	$164,163	
Total deferred credits	450,491	
Reserves:		
Reserve for retirements and replacements	1,440,571	$595,127
Contributions in aid of construction	618,653	3,583
Other	90,343	
Total reserves	2,149,567	598,710
Capital stock an surplus:		
Prior preferred stock—$3.50 series	1,447,635	
Common stock	455,096	1,400,000
Capital surplus	181,795	
Earned surplus	665,873	90,700
Total capital stock and surplus	2,750,399	1,490,700
Total liabilities an ' capital	11,993,861	3,676,043

EXHIBIT B (3)

Condensed Balance Sheets at December 31, 1941

	St. Augustine Gas Company	Lowell Ga Light Company	Bangor Gas Company
ASSETS			
Property plant and equipment (including intangibles)	$487,616	$3,703,880	$1,288,961
Investments (Public Utilities Management Corporation stock)	270	2,440	510
Current assets:			
Cash	13,845	6,612	7,303
Other	24,251	270,818	81,399
Total current assets	38,096	277,430	88,702
Special deposits		135	
Long term range and heater contracts receivable		20,439	
Deferred charges:			
Unamortized debt discount and expense	4,685	10,009	16,490
Other	2,082	3,527	5,424
Total deferred charges	6,767	13,536	21,914
Total assets	532,749	4,017,860	1,400,087
LIABILITIES AND CAPITAL			
Long term debt	120,000	950,000	300,000
Current and accrued liabilities	14,899	324,926	80,655
Deferred credits	125		
Reserves:			
Reserves for retirements and replacements	53,760	747,763	313,580
Contributions in aid of construction		1,451	413
Other		33,771	19,632
Total reserves	53,760	782,985	333,625
Capital stock and surplus:			
Common stock	277,100	1,524,050	600,000
Earned surplus	66,865	435,899	85,807
Total capital stock and surplus	343,965	1,959,949	685,807
Total liabilities and capital	532,749	4,017,860	1,400,087

[F. R. Doc. 42-9535; Filed, September 25, 1942; 9:56 a. m.]

[File Nos. 2-4869, 2-4914, 811-457, 811-463]

MUTUAL FUNDS, INCORPORATED, ET AL.

NOTICE AND ORDER FOR HEARING AND DESIGNATING OFFICER TO TAKE TESTIMONY

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania on the 25th day of September, A. D., 1942.

In the Matter of proceeding under sections 14 (a) and 40 (a) of the Investment Company Act of 1940, to determine whether the effectiveness of registration statements of Mutual Funds, Incorporated, Files No 2-4869 and No. 2-4914, under the Securities Act of 1933, as amended, should be suspended and whether the registrations of Mutual Funds, Incorporated, File No. 811-457, and Mutual Funds Trust, File No. 811-463, under the Investment Company Act of 1940 should be suspended or revoked.

I. The Commission's public official files disclose—

That Mutual Funds, Incorporated, is an investment company registered under the Investment Company Act of 1940 (File No. 811-457) and was organized, under the name of Investors Mutual Fund, Incorporated, after the date of enactment of said Act; and

That Mutual Funds Trust is an investment company registered under the Investment Company Act of 1940 (File No. 811-463) and was organized after the date of enactment of said Act; and

That a registration statement of Mutual Funds, Incorporated, under the Securities Act of 1933 (File No. 2-4869) covering certain Mutual Diversified Fund Shares to be deposited under the indenture creating Mutual Funds Trust, and certain Mutual Diversified Fund Trust Certificates representing an interest in such deposited shares, became effective on January 10, 1942; and

That a registration statement of Mutual Funds, Incorporated, under the Securities Act of 1933 (File No. 2-4914) covering certain Mutual Corporate Fund Shares to be deposited under the indenture creating Mutual Funds Trust, and certain Mutual Corporate Fund Certificates representing an interest in such deposited shares, became effective on January 10, 1942; and

That in connection with and as a condition of the registration of such securities under the Securities Act of 1933 arrangements were made whereby any proceeds to Mutual Funds, Incorporated, and Mutual Funds Trust from the sale of such securities to not more than 25 responsible persons, as well as any sales load, would be refunded to any subscriber on demand without any deduction, in the event that the net proceeds so received by said companies did not result in each of said companies having a net worth of at least $100,000 within 90 days after such registration statements became effective.

II. Members of its staff have reported to the Commission information which tends to show that the net proceeds so received by Mutual Funds, Incorporated, and Mutual Funds Trust did not result in either of said companies having a net worth of at least $100,000 within 90 days after such registration statements became effective.

III. *It is ordered,* That a hearing be held, pursuant to section 40 (a) of the Investment Company Act of 1940, to determine whether the statement set forth in paragraph II hereof is true, and if so, whether a stop order suspending the effectiveness of the registration statements of Mutual Funds, Incorporated under the Securities Act of 1933 should be issued pursuant to section 14 (a) of the Investment Company Act of 1940, and whether the registration of Mutual Funds, Incorporated and Mutual Funds Trust under the Investment Company Act of 1940 should be suspended or revoked pursuant to said section 14 (a) of said Act; and

It is further ordered, That such hearing be convened on October 12, 1942, at ten A. M. Eastern War Time in Room 318, Securities and Exchange Commission Building, Eighteenth and Locust Streets, Philadelphia, Pennsylvania, and continue thereafter at such time and place as the officer hereinafter designated may determine; and

It is further ordered, That William W. Swift, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

Upon completion of the testimony in this matter the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-9609; Filed, September 26, 1942; 12:42 p. m.]

[File No. 70-590]

NORTHERN INDIANA PUBLIC SERVICE COMPANY, ET AL.

ORDER GRANTING APPLICATIONS AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held in its office in the City of Philadelphia, Pa., on the 25th day of September 1942.

In the Matter of Northern Indiana Public Service Company, Chicago, South Shore and South Bend Railroad, Utilities Building Incorporated.

Utilities Building Incorporated, a direct subsidiary of Northern Indiana Public Service Company and an indirect subsidiary of Midland Utilities Company, a registered holding company in reorganization under section 77B of the Bankruptcy Act, Northern Indiana Public Service Company, a direct operating public utility subsidiary of Midland Utilities Company, and Chicago, South Shore and South Bend Railroad, a direct subsidiary of Midland Utilities Company, having filed a declaration and applications pursuant to the Public Utility Holding Company Act of 1935, particularly sections 9 (a), 10 and 12 (f) and Rule U-43, concerning the following transactions:

Utilities Building Incorporated proposes to sell its real property, all situated in the City of South Bend, Indiana, and consisting of two lots characterized as Lots #72 and #73, each of which has been improved by the erection of buildings thereon, and all other assets, except cash, to Northern Indiana Public Service Company and Chicago, South Shore and South Bend Railroad;

The real property to be sold to Chicago, South Shore and South Bend Railroad consists of "the east 86 feet of Lot #72 together with the buildings and improvements thereon", the consideration being cash in the amount of $75,000;

The sale to Northern Indiana Public Service Company will embrace all remaining assets of Utilities Building Incorporated, except cash, the consideration therefor being a reduction by $135,000 of indebtedness of Utilities Building Incorporated, presently held by Northern Indiana Public Service Company;

Said applications and declaration having been filed on August 19, 1942, and the last amendment thereto having been filed on September 8, 1942, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for hearing with respect to said applications or declaration within the period prescribed in said notice, or otherwise, and not having ordered a hearing thereon;

The Commission finding that the requirements of section 12 (f) and Rule U-43 are satisfied, making the necessary findings under section 10 and there being no basis for adverse findings thereunder, and deeming it appropriate in the public interest and for the protection of investors and consumers to allow said declaration to become effective and to grant said applications;

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24, that the aforesaid declaration, as amended, be, and the same hereby is, permitted to become effective forthwith, and the aforesaid applications, as amended, be, and hereby are, granted.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-9611; Filed, September 26, 1942; 12:43 p. m.]

[File No. 70-587]

POTOMAC ELECTRIC POWER COMPANY

ORDER CORRECTING FINDINGS AND OPINION OF THE COMMISSION AND ORDER OF AUGUST 26, 1942

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa. on the 24th day of September, A. D. 1942.

The Commission having on August 26, 1942, issued its "Findings and Opinion of the Commission" and its order in the above entitled proceeding and it appearing necessary to make certain corrections in the aforementioned Findings and Opinion and order (published as Holding Company Act Release No. 3759);

It is ordered, That the said Findings and opinion of the Commission and the order of August 26, 1942 be and the same hereby are amended and corrected in the following respects:

Findings and Opinion of the Commission. On page 2 in the third paragraph, line 6 thereof, the word "an" is stricken and the word "indenture" is changed to "indentures" and in line 7 of the same paragraph there is inserted before the period and after "1942" the following: "and August 10, 1942".

On page 2 in the third line from the bottom the figure "1/34" is changed to read "1/36" and there is inserted before the comma and after the word "thereof" the words "on each August 1 to and including August 1, 1975, and on and after August 1, 1976, the bonds shall be redeemable without premium".

On page 3 in the sixth paragraph, in the first line thereof, there is inserted after the word "expenditures" the words "made and".

Order of August 26, 1942. In the last line of the first paragraph the word "an" is stricken and the word "indenture" is changed to "indentures" and there is inserted before the semicolon and after "1942" the following: "and August 10, 1942".

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-9612; Filed, September 26, 1942; 12:43 p. m.]

[File No. 54-42]

CENTRAL STATES UTILITIES CORPORATION, ET AL.

NOTICE OF FILING OF AMENDMENTS AND ORDER RECONVENING HEARING AND DESIGNATING A NEW TRIAL EXAMINER

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa. on the 25th day of September, A. D. 1942.

In the Matter of Central States Utilities Corporation, Central States Power & Light Corporation, Ogden Corporation.

Central States Utilities Corporation, Central States Power & Light Corporation and Ogden Corporation, the applicants herein, having heretofore filed a plan pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 providing for the liquidation and dissolution of Central States Power & Light Corporation and Central States Utilities Corporation, a more detailed description of such plan having been set forth in the Notice of and Order for Hearing issued by the Commission on January 13, 1942 (Holding Company Act Release No. 3270); hearings having been held in respect of such plan and having been adjourned subject to call of the Trial Examiner; and

Amendments having been filed on August 29, 1942 by applicants and on September 12, 1942, by Missouri Electric Power Company, a wholly owned subsidiary of Central States Power & Light Corporation, requesting approval, by interim order, of certain steps in the aforesaid plan as amended which may be described briefly as follows:

Central States Power & Light Corporation proposes to acquire all of the property and assets of Missouri Electric Power Company, subject to its liabilities, and thereafter effect the dissolution of said company. Central States Power & Light Corporation will then convey all of such property and certain assets (cash excepted) to Sho-Me Power Cooperative, a Missouri cooperative, for a consideration of approximately $2,500,000. As soon as possible after the consummation of such sale, and in the event that Central States Power & Light Corporation deems it desirable to purchase a portion of its First Mortgage and First Lien Gold Bonds, 5½% Series, due January 1, 1953, it is proposed that Central States Power & Light Corporation will give such notice as the Commission shall approve, by publication and by mail, to all bondholders of record to the effect that the proceeds of the said sale and any other funds on deposit with the corporate trustee will be used to purchase such Bonds on the open market and/or Bonds tendered to Central States Power & Light Corporation within a period of 30 days after such notice is given at 100 and accrued interest, and that any portion of such proceeds and other funds unexpended at the end of such 30-day period, if such unexpended portion shall exceed $150,000, shall be used to make pro rata payments on the Bonds on the fifteenth day after a second notice to be given to all bondholders. It is further proposed that from and after such latter date interest on said Bonds will continue to be paid only in respect of the unpaid portion of such Bonds. The plan further provides that such partial payment shall be without prejudice to any claim that may be later made on behalf of any of the holders of such Bonds to a premium thereon.

It appearing appropriate to the Commission that hearings in this matter be reconvened for the purpose of affording an opportunity to the parties and other interested persons to submit evidence in respect of the proposals contained in the amendments heretofore described; and

It further appearing to the Commission that the examiner heretofore designated to preside at the proceedings is not available and will be unable to officiate;

It is ordered, That the hearing in the above entitled matter be reconvened on the 7th day of October, 1942, at 10:00 o'clock in the forenoon of that day in the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pa. On that day the hearing room clerk in Room 318 will inform the parties as to the exact room in which said reconvened hearing shall be held;

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

It is further ordered, That, without limiting the scope of the issues presented by these proceedings, attention will be directed at the reconvened hearing to a consideration of the following matters and questions:

1. Whether the acquisition of such assets by Central States Power & Light Corporation is detrimental to the carrying out of the provisions of section 11 of the Holding Company Act.

2. The reasonableness of the consideration proposed to be paid by Sho-Me Power Cooperative to Central States Power & Light Corporation for the assets of Missouri Electric Power Company.

3. The propriety of the accounting entries proposed to be made on the books of Central States Power & Light Corporation in connection with the acquisition and subsequent resale of the assets of Missouri Electric Power Company.

4. Whether the proposal of Central States Power & Light Corporation to acquire a portion of its First Mortgage and First Lien Gold Bonds, 5½% Series, due January 1, 1953, pursuant to tenders or by purchase in the open market at 100 and accrued interest or, in the alternative, to make pro rata partial payments on such Bonds as hereinbefore described is fair and equitable to the holders of such Bonds.

5. Whether or not the fees and expenses expected to be incurred in connection with the consummation of the proposed transactions are reasonable and whether the proposed allocation of the same by the companies involved is fair and equitable.

6. Whether any of the transactions proposed will in any way be detrimental to the public interest or the interests of investors or consumers.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-9610; Filed, September 26, 1942; 12:42 p. m.]

BLANCHARD SECURITIES COMPANY

FINDINGS AND ORDER REVOKING REGISTRATION AS BROKER AND DEALER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 25th day of September, A. D. 1942.

In the matter of Blanchard Securities Company, 29 South LaSalle Street, Chicago, Illinois.

1. On June 25, 1942, we instituted proceedings under section 15 (b) of the Securities Exchange Act of 1934 to determine whether the registration of Blanchard Securities Company as a broker and dealer should be suspended or revoked. The order for proceedings stated

that information had been reported to the Commission by its staff, which, if true, tended to show that Blanchard Securities Company had wilfully violated the provisions of sections 15 (b) and 17 (a) of the Securities Exchange Act of 1934, and Rules X-15B–2 and X-17A–3 of the Commission's Rules and Regulations. The order recited that information had been reported to the Commission by its staff to the effect that:

A. During the period from approximately January 1, 1939 to approximately September 3, 1941, registrant did not make and keep current books and records, including, among others—

(1) Blotters or other records of original entry containing an itemized daily record of purchases and sales of securities and receipts and deliveries of securities;

(2) A memorandum of each purchase and sale of securities for its own account showing th price and, to the extent feasible, the time of execution.

B. Registrant, under Item 8 of its application for registration, represents that W. G. Glascoff controls the registrant and owns all of the outstanding stock of registrant when, in truth and in fact, Miss Hannah E. Johns, since on or about June 14, 1939, has controlled the registrant and has owned all of registrant's outstanding stock.

C. Registrant, under Item 17 of its application for registration, states that it is registered or licensed to sell securities in the States of Illinois and Wisconsin, when, in truth and in fact, registrant has not been licensed by the State of Illinois to sell securities since June 30, 1939, and has not been licensed to sell securities by the State of Wisconsin since December 31, 1936.

2. On September 1, 1942, registrant submitted to the trial examiner an "answer and consent" to revocation in which it acknowledges receipt and service of adequate notice of this proceeding and waives opportunity for hearing. In said "answer and consent" registrant further admits and acknowledges, for the purpose of this proceeding and for that purpose only, the existence of the facts set forth above, and consents to the entry of an order revoking its registration as an over-the-counter broker and dealer.

3. We find that the facts set forth above are true; that the registrant has wilfully violated sections 15 (b) and 17 (a) of the Securities Exchange Act of 1934 and Rules X-15B–2 and X-17A–3 of the Rules and Regulations adopted pursuant to said Act; and that the public interest requires revocation of its registration.

Accordingly, it is ordered, pursuant to section 15 (b) of the Securities Exchange Act of 1934, that the registration of Blanchard Securities Company, as a broker and dealer, be, and it is, revoked.

By the Commission (Chairman Purcell and Commissioners Pike, Burke, and O'Brien), Commissioner Healy being absent and not participating.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-9607; Filed, September 26, 1942; 12:43 p. m.]

[File Nos. 54–45, 59–48]

SOUTHERN UNION GAS CO., ET AL.

ORDER APPROVING PLAN, REQUIRING DIVESTITURE OF PROPERTIES, PERMITTING DECLARATIONS TO BECOME EFFECTIVE AND GRANTING APPLICATIONS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 19th day of September, A. D., 1942.

In the matter of Southern Union Gas Company, Arkansas Western Gas Company, New Mexico Gas Company, New Mexico Eastern Gas Company, Texas Southwestern Gas Company, Quanah Water Company, and Southern Union Production Company, File No. 54–45.

In the matetr of Southern Union Gas Company, Arkansas Western Gas Company, New Mexico Gas Company, New Mexico Eastern Gas Company, Texas Southwestern Gas Company, Quanah Water Company, Southern Union Production Company, Angels Peak Oil Company, Congress Oil Company, and Summit Oil Company, File No. 59–48.

Southern Union Gas Company, a registered holding company and its principal subsidiary companies, Arkansas Western Gas Company, New Mexico Gas Company, New Mexico Eastern Gas Company, Texas Southwestern Gas Company, Quanah Water Company and Southern Union Production Company, having filed applications and declarations, and amendments thereto, pursuant to section 11 (e) and other sections of the Public Utility Holding Company Act of 1935, and the Rules and Regulations of this Commission promulgated thereunder, whereby said applicants request approval of a plan submitted pursuant to said section 11 (e), a report upon such plan by this Commission pursuant to section 11 (g) of said Act and authorization for certain particular transactions, constituting component parts of said plan, and actions incidental thereto, including, among other things, a merger of said Southern Union Gas Company, New Mexico Gas Company, New Mexico Eastern Gas Company and Texas Southwestern Gas Company, and, in connection with such proposed merger the transmission of certain solicitation material to the common and preferred stockholders of Southern Union Gas Company, New Mexico Gas Company and New Mexico Eastern Gas Company, intra-system sales and acquisitions of certain properties and securities, the liquidation of certain subsidiary companies, the refinancing of the principal surviving operating company, Texas Southwestern Gas Company, the exemption of the issuance and sale of securities from the competitive bidding requirements contained in paragraphs (b) and (c) of Rule U-50 and the exemption, pursuant to Rule U-100, of such investment houses and brokers and the members, officers and employees of such investment houses or brokerage firms or companies as may render services in connection with the solicitation of assents of stockholders to said merger agreement, from any disqualification which might otherwise be imposed upon such companies or individuals by reason of Rule U-62 (g) (2);

The Commission having, on June 4, 1942, by notice and order for hearing issued in combination with its notice and order for hearing on the plan filed pursuant to section 11 (e) of the Act, instituted proceedings under sections 11 (b) (1) and 11 (b) (2) of the Act against Southern Union Gas Company and its subsidiaries to determine what action shall be required to be taken under said sections;

A public hearing having been held after appropriate notice, and the Commission having considered the record and having made and filed its findings and opinion herein:

It is hereby ordered, That said plan be, and the same is hereby approved, that said applications, as amended, be, and the same are hereby, granted, and that said declarations, as amended, be, and the same are hereby, permitted to become effective forthwith, subject however to the conditions and reservations hereinafter set forth:

(1) That the several transactions, approval or authorization of which is granted by this order, shall be carried out in accordance with the terms and conditions of, and for the purposes stated in the declarations and applications, as amended, filed in this proceeding;

(2) That the management of the surviving company, Texas Southwestern Gas Company, shall prepare a list of the stockholders of such company, following its reorganization in accordance with the merger agreement, showing the names, addresses and stockholdings of such holders, shall file such list of stockholders not less than 45 days before the date of the next annual meeting in the offices of the company in Dallas, Texas, and of this Commission in Philadelphia, Pennsylvania, for inspection and copying by any stockholder of such company or by his representative, and shall, at the time of its solicitation for the next annual meeting, include in its solicitation material, at company expense, the name or names of any nominee or nominees for the Board of Directors proposed by any stockholder or group of stockholders and shall provide in its proxy form appropriate means for stockholders to vote for nominees of their choice;

(3) That approval of the issuance and sale by Texas Southwestern Gas Company of Twenty-Year Sinking Fund First Mortgage 3¾% Bonds and Twenty-Five Year Sinking Fund 6% Debentures is subject to the approval by the Commission of the definitive indentures securing such bonds and debentures;

(4) That approval of the issuance and sale by Texas Southwestern Gas Company of common stock at a price of $1.50 per share is subject to the effective registration of the stock to be sold pursuant to the Securities Act of 1933;

(5) That jurisdiction be, and is hereby, reserved in respect of the reasonableness, and approval or disapproval, of fees and expenses incurred or to be incurred in connection with the subject plan and transactions incident thereto, except fees

and expenses in connection with the solicitation of assents to the plan, the securing of common stock subscriptions, the negotiation of the sale of the bonds and the underwriting of the common stock to be sold for cash; and

(6) That jurisdiction be, and is hereby, reserved to this Commission to entertain such further proceedings, to make such further and supplemental findings, to approve the terms and conditions, and to take such additional and further action as may be found by it to be appropriate in the premises, in connection with the dispositions of assets, by the surviving company and its subsidiaries, which are proposed in the plan or required by this order.

It is further ordered, That within one year from the date of the entry of this order, unless such time shall be further extended by this Commission in accordance with section 11 (c) of the Act, Texas Southwestern Gas Company shall take such action as may be necessary to divest itself of all interest in, and of all ownership and control of,

(1) Arkansas Western Gas Company;

(2) Quanah Water Company;

(3) The physical properties owned by Texas Southwestern Gas Company located in Oklahoma, in central Texas and in southeastern Texas; and

(4) The oil well, owned by Southern Union Production Company, located near Artesia, New Mexico.

And the applicants having requested that the order of the Commission conform to the formal requirements specified in section 371 (f) of the Internal Revenue Code:

It is further ordered, That the hereinafter described exchanges and distributions proposed in such plan are hereby found to be necessary or appropriate to effectuate the provisions of section 11 (b) of said Act and that the stock and securities and other property, which are ordered to be transferred and received upon such exchange and distribution, are specified and itemized as follows:

(1) Incident to the merger, the properties and assets, both real and personal, franchises, rights and powers which are to be transferred by Southern Union Gas Company, New Mexico Gas Company and New Mexico Eastern Gas Company and which are to be received by Texas Southwestern, all as more fully specified and itemized in applicants' Exhibit F to Amendment No. 3 filed with the Commission on September 16, 1942, made a part hereof by reference;

(2) Subject to the reservation of jurisdiction hereinabove noted, the securities of Arkansas Western Gas Company and Quanah Water Company to be transferred to, and received by, Texas Southwestern Gas Company in the merger and which are subsequently to be disposed of pursuant to plan; and

(3) Subject to the reservation of jurisdiction hereinabove noted, the properties of Texas Southwestern located in and around Kingfisher, in central Oklahoma, Hico, in central Texas, and Bellville, in southeast Texas, and the oil well owned by Southern Union Production Company, located near Artesia, New Mexico, which are to be disposed of pursuant to the order of the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-9608; Filed, September 28, 1942; 12:42 p. m.]

WAR MANPOWER COMMISSION.

[Directive No. XI]

REQUESTS FOR OCCUPATIONAL DEFERMENT OF OFFICERS OR EMPLOYEES

Correction

The misplacing of certain lines of type in final page proof resulted in errors in paragraph III of the directive appearing on page 7649 of the issue for Saturday, September 26, 1942. The paragraph should read as follows:

III. On and after the twentieth day after the publication of this directive in the FEDERAL REGISTER, no department or agency of the executive branch of the Federal Government shall directly or indirectly request the occupational deferment, under the Selective Training and Service Act of 1940, as amended, of any officer or employee of such department or agency, unless such request conforms with the following principles and procedures: