FEDERAL REGISTER

VOLUME 8 NUMBER 63

Washington, Wednesday, March 31, 1943

Regulations

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Amendment 60-11, Civil Air Regulations]

PART 60—AIR TRAFFIC RULES

FLIGHT PLAN

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 8th day of March 1943.

Effective April 1, 1943, § 60.43 of the Civil Air Regulations is amended to read as follows:

§ 60.43 *Flight plan.* A flight plan is not required unless the flight is made at night and lies within or passes through airway traffic control areas as specified in § 60.471.

(52 Stat. 984, 1007; 49 U.S.C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] FRED A. TOOMBS, *Acting Secretary.*

[F. R. Doc. 43-4857; Filed, March 30, 1943; 10:27 a. m.]

[Amendment 60-16, Civil Air Regulations]

PART 60—AIR TRAFFIC RULES

PROXIMITY IN FLIGHT

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 19th day of March 1943.

Effective April 1, 1943, § 60.343 of the Civil Air Regulations is amended to read as follows:

§ 60.343 *Proximity in flight.* No aircraft shall be flown closer than 500 feet to any other aircraft in flight, except that by prearrangement two or more aircraft may be flown in formation closer than 500 feet to each other. When such flight is to be made within the limits of an airway traffic control area a flight plan shall be filed in accordance with § 60.1330.

(52 Stat. 984, 1007; 49 U.S.C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] FRED A. TOOMBS, *Acting Secretary.*

[F. R. Doc. 43-4858; Filed, March 30, 1943; 10:27 a. m.]

[Regulations, Serial No. 268]

CONTACT FLIGHT ON CIVIL AIRWAYS BY MILITARY AIRCRAFT

EXPIRATION DATE FOR WAIVER OF CERTAIN REQUIREMENTS

Changing the expiration date for waiver of certain requirements concerning contact flight above 3,500 feet on civil airways by military aircraft from April 26, 1943, to April 1, 1943.

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 19th day of March 1943.

Special Regulation Serial Number 252 (8 F.R. 472, 2697) is amended by striking the words "April 26, 1943," and inserting in lieu thereof the words "April 1, 1943."

(52 Stat. 984, 1007; 49 U.S.C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] FRED A. TOOMBS, *Acting Secretary.*

[F. R. Doc. 43-4856; Filed, March 30, 1943; 10:27 a. m.]

[Orders, Serial No. 2186]

PART 202—ACCOUNTS, RECORDS AND REPORTS

UNIFORM SYSTEM OF ACCOUNTS FOR INTERNATIONAL AIR CARRIERS

Amendment No. 1 to Uniform System of Accounts for International Air Carriers.

Adopted by the Civil Aeronautics Board at its offices in Washington, D. C., on the 8th day of March 1943.

The Board acting pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 407 (a) and 407 (d) thereof, and finding its action necessary to carry out the provisions of said Act, and to exercise its powers and perform its duties thereunder;

It is ordered, That the Uniform System of Accounts for International Air Carriers, dated January 1, 1943 (CAB Form 2380 Manual), be and the same is amended as set forth in Amendment No. 1 attached hereto.[1]

By the Civil Aeronautics Board.

[SEAL] FRED A. TOOMBS, *Acting Secretary.*

[1] On file with the Division of the Federal Register.

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FEDERAL REGISTER

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AMENDMENT NO. 1 TO THE UNIFORM SYSTEM OF ACCOUNTS FOR INTERNATIONAL AIR CARRIERS

The Uniform System of Accounts for International Air Carriers (CAB Form 2380 Manual) is amended as follows, said amendments to be effective on and after March 8, 1943, and to be applicable with respect to all reports for periods commencing on or after January 1, 1943:

(1) By inserting immediately after Page IX thereof a new Page X, said page to read as attached hereto.

(2) By inserting immediately after Page 36-1 thereof a new section 37 consisting of new Pages 37-1 to 37-26, inclusive, said pages to read as attached hereto.

[F. R. Doc. 43-4879; Filed, March 30, 1943; 11:28 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 4558]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

NATIONAL ELECTRICAL MANUFACTURERS ASSN., ET AL.

In the matter of Electrical Alloy Section of National Electrical Manufacturers Association, et al.

§ 3.7 *Aiding, assisting and abetting unfair or unlawful act or practice:* § 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* In connection with offer, etc., in commerce, of unpatented electrical alloy resistance wire of any type or description, and on the part of respondent Electrical Alloy Section of National Electrical Manufacturers Association, and the five respondent corporations, together with their officers, etc., continuing, entering into, carrying out, cooperating, aiding or abetting in carrying out, any planned common course of action, agreement, understanding, or combination, express or implied, between and among any two or more of said respondents or between one or more of said respondents and any others not parties hereto, to (1) fix, establish, or maintain prices, terms, discounts, or conditions of sale for electrical alloy resistance wire, or adhere to or promise to adhere to the prices, terms, discounts, or conditions of sale so fixed; (2) exchange, distribute, or relay between and among themselves or between and among themselves and others competing with any of the respondent corporations either directly among respondent manufacturers and their competitors or indirectly through respondent Section or other common agency, information as to prices, terms, discounts, or conditions of sale of said electrical alloy resistance wire, for the purpose or with the effect of restraining competition in the offering for sale or sale of such wire; (3) fix, establish, or maintain uniform resistance standards or other uniform standards for use in connection with the manufacture of said electrical alloy resistance wire, for the purpose or with the effect of fixing or attempting to fix identical

prices at which said electrical alloy resistance wire is sold or offered for sale by respondent corporations; and (4) submit uniform bids in connection with the sale or offering for sale of said electrical alloy resistance wire sold or offered for sale by respondent corporations; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Electrical Alloy Section of National Electrical Manufacturers Association, et al., Docket 4558, March 16, 1943].

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of March, A. D. 1943.

In the matter of Electrical Alloy Section of National Electrical Manufacturers Association, an unincorporated trade association; George B. Cumming and William J. Donald, Executive Secretary and Managing Director, respectively, of Electrical Alloy Section of National Electrical Manufacturers Association; Alloy Metal Wire Company, Inc., a corporation; Hoskins Manufacturing Company, a corporation; Wilbur B. Driver Company, a corporation; C. O. Jelliff Manufacturing Corporation, a corporation; and Driver-Harris Company, a corporation.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents, and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that the said Commission may proceed upon said statement of facts to make its report stating its findings as to the facts (including inferences which it may draw from said stipulated facts) and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs, and which waives the filing of a report upon the evidence by the trial examiner; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent Electrical Alloy Section of National Electrical Manufacturers Association, an unincorporated trade association, and respondent corporations, Alloy Metal Wire Company, Inc., Hoskins Manufacturing Company, Wilbur B. Driver Company, C. O. Jelliff Manufacturing Corporation, and Driver-Harris Company, together with all of said respondents' officers, representatives, agents, and employees, directly or indirectly or through any corporate or other device, in connection with the offering for sale and distribution in commerce as "commerce" is defined in the Federal Trade Commission Act, of unpatented electrical alloy resistance wire of any type or description, do forthwith cease and desist from continuing, entering into, carrying out, cooperating, aiding or abetting in carrying out, any planned common course of action, agreement, understanding, or combination, express or implied, between and among any two or more of said respondents or between one or more of said respondents and any others not parties hereto, to do or perform any of the following acts or practices.

1. Fixing, establishing, or maintaining prices, terms, discounts, or conditions of sale for electrical alloy resistance wire, or adhering to or promising to adhere to the prices, terms, discounts, or conditions of sale so fixed.

2. Exchanging, distributing, or relaying between and among themselves or between and among themselves and others competing with any of the respondent corporations either directly among respondent manufacturers and their competitors or indirectly through respondent Section or other common agency, information as to prices, terms, discounts, or conditions of sale of said electrical alloy resistance wire, for the purpose or with the effect of restraining competition in the offering for sale or sale of such wire.

3. Fixing, establishing, or maintaining uniform resistance standards or other uniform standards for use in connection with the manufacture of said electrical alloy resistance wire, for the purpose or with the effect of fixing or attempting to fix identical prices at which said electrical alloy resistance wire is sold or offered for sale by respondent corporations.

4. Submitting uniform bids in connection with the sale or offering for sale of said electrical alloy resistance wire sold or offered for sale by respondent corporations.

It is further ordered, That the case growing out of the complaint be, and the same hereby is, closed as to respondents William J. Donald, as managing director of the National Electrical Manufacturers Association, and George B. Cumming, as executive secretary of Electrical Alloy Section of National Electrical Manufacturers Association, but without prejudice to the right of the Commission, should future facts so warrant, to reopen the same and resume trial thereof in accordance with its regular procedure.

It is further ordered, That all and each of the respondents, except those against whom the complaint herein has been dismissed by this order, shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That this order be served upon the respondent Electrical Alloy Section of National Electrical Manufacturers Association by service, in accordance with the rules of the Commission, upon William J. Donald, Managing Director of National Electrical Manufacturers Association, 155 East 44th Street, New York, New York.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 43-4815; Filed, March 29, 1943; 11:32 a. m.]

[Docket No. 4514]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

MASTER ARTISTS' ASSOCIATION, INC., ET AL.

§ 3.6 (n) *Advertising falsely or misleadingly—Nature—Product:* § 3.69 (b) *Misrepresenting oneself and goods—Goods—Nature.* In connection with offer, etc., in commerce, of photographic enlargements or any pictures made from a photographic base, and of frames therefor, and among other things, as in order set forth, using the terms "painting", "hand-painted", "oil painting" or "painted portrait", or any other term of similar import, to designate, describe or refer to respondent's products; or otherwise representing, directly or by implication, that respondent's products are paintings; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Master Artists' Association, Inc., et al., Docket 4514, March 23, 1943]

§ 3.6 (r) *Advertising falsely or misleadingly—Prices—Exaggerated as regular and customary:* § 3.6 (r) *Advertising falsely or misleadingly—Prices—Usual as reduced, special, etc.:* § 3.69 (c) *Misrepresenting oneself and goods—Prices—Exaggerated as regular and customary:* § 3.69 (c) *Misrepresenting oneself and goods—Prices—Usual as reduced or to be increased.* In connection with offer, etc., in commerce, of photographic enlargements or any pictures made from a photographic base, and of frames therefor, and among other things, as in order set forth, (1) representing that the prices at which respondent offers for sale or sells his products constitute a discount to the purchaser, or that such prices are special or reduced or introductory prices, when such prices are in fact the usual and customary prices at which respondent sells his products in the normal and usual course of business; and (2) representing as the customary or regular prices or values of respondent's products, prices and values which are in excess of the prices at which such products are regularly and customarily sold by respondent in the normal and usual course of business; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Master Artists' Association, Inc., et al., Docket 4514, March 23, 1943]

§ 3.6 (a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Organization and operation:* § 3.69 (a) *Misrepresenting oneself and goods—Business status, advantages or connections—Organization and operation:* § 3.96 (b) *Using misleading name—Vendor—Individual or private business as professional person or association.* In connection with offer, etc., in commerce, of photographic enlargements or any pictures made from a photographic base, and of frames therefor, and among other things, as in order set forth, (1) using the term "Artists' Association", or any other term

of similar import, to designate, describe or refer to respondent's business; or otherwise representing, directly or by implication, that respondent's business is conducted by an association of artists; and (2) representing, directly or by implication, that respondent owns, operates or controls an organization or establishment possessing the equipment and employing the personnel essential to the production of tinted or colored photographs or enlargements; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec 45b) [Cease and desist order, Master Artists' Association, Inc., et al., Docket 4514, March 23, 1943.]

§ 3.6 (i) *Advertising falsely or misleadingly—Free goods or service:* § 3.6 (r) *Advertising falsely or misleadingly—Prices—Usual as reduced, special, etc.:* § 3.69 (b) *Misrepresenting oneself and goods—Goods—Free goods:* § 3.69 (c) *Misrepresenting oneself and goods—Prices—Usual as reduced or to be increased:* § 3.72 (e) *Offering deceptive inducements to purchase—Free goods:* § 3.72 (n) *Offering deceptive inducements to purchase—Special offers, savings and discounts.* In connection with offer, etc., in commerce, of photographic enlargements or any pictures made from a photographic base, and of frames therefor, and among other things, as in order set forth, using so-called "draw" or so-called "lucky" certificates or coupons, or any other device, plan or scheme whereby the representation is made, directly or by implication, that a prospective purchaser may obtain a picture or photograph free or for an amount less than that paid by purchasers generally; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Master Artists' Association, Inc., et al., Docket 4514, March 23, 1943]

§ 3.69 (b) *Misrepresenting oneself and goods—Goods—Non-standard character:* § 3.69 (b) *Misrepresenting oneself and goods—Goods—Qualities or properties:* § 3.71 (b 7) *Neglecting, unfairly or deceptively, to make material disclosure—Non-standard character:* § 3.71 (c 5) *Neglecting, unfairly or deceptively, to make material disclosure—Qualities or properties.* In connection with offer, etc., in commerce, of photographic enlargements or any pictures made from a photographic base, and of frames therefor, and among other things, as in order set forth, concealing from or failing to disclose to prospective purchasers that the finished picture or photograph, when delivered, will be so shaped and designed that it can only be fitted into a specially designed frame not ordinarily obtainable in photographic supply, furniture or other stores accessible to the consuming public; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Master Artists' Association, Inc., et al., Docket 4514, March 23, 1943]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of March, A. D. 1943.

In the Matter of Eugene M. Woolard, an Individual Trading as Master Artists' Association, Inc., and Walter O. Wyatt, Walter E. Sneed, Bessie Swanson, L. E. Harrison, William Nadeau, E. R. Malone, G. D. Hill, Caesar Morales, Carl Rhine, D. Edwards, R. McIsaac, and Eva Metcalf, Individuals

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 the respondent Eugene M. Woolard, an individual trading as Master Artists' Association, Inc., 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 respondent Eugene M. Woolard findings as to the facts and conclusion based thereon, and an order disposing of the proceeding as to said respondent; and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent Eugene M. Woolard, individually and trading as Master Artists' Association, Inc., or trading under any other name, and his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of photographic enlargements or any pictures made from a photographic base, and of frames therefor, do forthwith cease and desist from:

1. Using the terms "painting," "hand-painted," "oil painting" or "painted portrait," or any other term of similar import, to designate, describe or refer to respondent's products; or otherwise representing, directly or by implication, that respondent's products are paintings.

2. Representing that the prices at which respondent offers for sale or sells his products constitute a discount to the purchaser, or that such prices are special or reduced or introductory prices, when such prices are in fact the usual and customary prices at which respondent sells his products in the normal and usual course of business.

3. Representing as the customary or regular prices or values of respondent's products, prices and values which are in excess of the prices at which such products are regularly and customarily sold by respondent in the normal and usual course of business.

4. Using the term "Artists' Association," or any other term of similar import, to designate, describe or refer to respondent's business; or otherwise representing, directly or by implication, that respondent's business is conducted by an association of artists.

5. Representing, directly or by implication, that respondent owns, operates or controls an organization or establishment possessing the equipment and employing the personnel essential to the production of tinted or colored photographs or enlargements.

6. The use of the so-called "draw" or the use of so-called "lucky" certificates or coupons, or the use of any other device, plan or scheme whereby the representation is made, directly or by implication, that a prospective purchaser may obtain a picture or photograph free or for an amount less than that paid by purchasers generally.

7. Concealing from or failing to disclose to prospective purchasers that the finished picture or photograph, when delivered, will be so shaped and designed that it can only be fitted into a specially designed frame not ordinarily obtainable in photographic supply, furniture or other stores accessible to the consuming public.

It is further ordered, That respondent 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 this proceeding be, and it hereby is, closed as to respondents Walter O. Wyatt, Walter E. Sneed, Bessie Swanson, L. E. Harrison, William Nadeau, E. R. Malone, G. D. Hill, Caesar Morales, Carl Rhine, D. Edwards, R. McIsaac, and Eva Metcalf without prejudice to the right of the Commission, should the facts so warrant, to reopen the same and resume trial thereof in accordance with its regular procedure.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 43-4859; Filed, March 30, 1943; 10:45 a. m.]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

[Docket No. 4588]

LINEN SUPPLY BOARD OF TRADE OF NEW JERSEY, ET AL.

§ 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* §3.27 (h) *Combining or conspiring—To restrain and monopolize trade:* §3.39 *Dealing on exclusive and tying basis.* In connection with the leasing or renting and distribution, in commerce, of linen supplies and other like articles of merchandise, and on the part of respondent Linen Supply Board of Trade of New Jersey, seven individuals, officers and members of the Board of Directors of said Board, 22 corporations, and one firm, and their officers, etc., and among other things, as in order set forth, entering into, continuing, cooperating in, or carrying out any common course of action, agreement, understanding, combination or conspiracy between or among any two or more of said respondents, or between any one or more of said respondents and others not parties hereto, to (1) adopt, fix or maintain schedules of uni-

form minimum prices and discounts or other terms and conditions for the use of their said linen supplies; (2) report to respondent Board the names of customers to whom said linen supplies have been or are being supplied, leased or rented; (3) refrain from soliciting linen supply business from customers of other respondent members except with the consent or approval of said Board, (4) adopt or maintain exclusive dealing contracts with their customers, whereby respondent members respectively require their customers to procure, rent or lease linen supplies exclusively from the respondent members at all times; (5) require as a condition precedent to the admission of independent competing linen supply houses to membership in respondent Board that such independent supply houses indemnify respondent members for business taken from them by said independent supply houses prior to the time they become members of respondent Board; and (6) require members of respondent Board who buy out independent supply houses to indemnify respondent members for business taken from them by said independent supply houses prior to the time they become members of respondent Board; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Linen Supply Board of Trade of New Jersey, et al., Docket 4588, March 23, 1943]

§ 3.24 (a) *Coercing and intimidating—Competitors—By threatening disciplinary action or otherwise:* § 3.24 (e) *Coercing and intimidating—Suppliers of competitors—By threatening disciplinary action or otherwise:* § 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* § 3.27 (h) *Combining or conspiring—To restrain and monopolize trade:* § 3.33 (d 5) *Cutting off competitors' supplies—Threatening disciplinary action or otherwise:* § 3.75 *Operating secret subsidiary:* § 3.90 (b) *Spying on competitors—Fictitious customer inquiries.* In connection with the leasing or renting and distribution, in commerce, of linen supplies and other like articles of merchandise, and on the part of respondent Linen Supply Board of Trade of New Jersey, seven individuals, officers and members of the Board of Directors of said Board, 22 corporations, and one firm, and their officers, etc., and among other things, as in order set forth, entering into, continuing, cooperating in, or carrying out any common course of action, agreement, understanding, combination or conspiracy between or among any two or more of said respondents, or between any one or more of said respondents and other not parties hereto, to (1) set up or maintain an arbitration board or committee as a disciplinary or punitive agency with authority to impose fines or suspend members who fail or refuse to comply with the rules and regulations of respondent Board; (2) establish or operate "bogus" independent linen supply houses, commonly known as "whips", to take business away from independent supply houses, or to discipline respondent members who violate the rules and regulations of respondent Board; (3) check and police, by any means or methods, the prices at which respondent members supply, lease or rent said linen supplies and other like articles of merchandise to their customers; (4) coerce or attempt to coerce manufacturers of linen supplies into refusing to sell or texent credit to linen supply houses not members of respondent Board; and (5) employ or utilize respondent Board or any arbitration board, committee or other central agency as a punitive or disciplinary agency to enforce rules or regulations pertaining to costs and prices, or as an instrument, vehicle or aid in performing or doing any of the acts or things prohibited by this order; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., sec. 45b) [Cease and desist order, Linen Supply Board of Trade of New Jersey, et al., Docket 4588, March 23, 1943]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of March, A. D. 1943.

In the Matter of Linen Supply Board of Trade of New Jersey, an Incorporated Association, and Its Officers, Board of Directors, and Members: Joseph Victor, President, Herman Maslow, Vice President, Herbert N. Farrington, Treasurer, Jack Orlinsky, Secretary, and Albert P. Gresser, Bernard Richman, Max Sack, and John M. O'Donaghue, Together With the Officers Above Named Constituting the Board of Directors, Both Individually and as Officers and Members of the Board of Directors, Respectively; Reliable Linen Supply Company, a Corporation, American Coat & Apron Supply Co., Inc., (Referred to in the Complaint as American Coat and Apron Supply Co., Inc.), a Corporation, Clean Coat, Apron & Towel Supply Co., Inc., a Corporation, Economy Coat, Apron & Towel Supply Co., Inc., a Corporation, Falcon Ideal Coat & Apron Supply Company (Referred to in the Complaint as Falcon Ideal Coat & Apron Supply Co.), a Corporation, J & R Coat, Apron & Towel Supply Co., Inc., a Corporation, Lackawanna Linen Supply & Laundry Co., a Corporation, New Jersey Toilet & Towel Supply Co., a Corporation, Noxall Linen Supply & Laundry Co. (Referred to in the Complaint as Noxall Linen Supply and Laundry Co.), a Corporation, Admiration Coat, Apron & Towel Supply Co., Inc., a Corporation, Advance Coat, Apron & Towel Supply Co., Inc., a Corporation, Banner Coat, Apron & Towel Supply Co., a Corporation, Belmont Coat, Apron & Towel Supply Co., Inc., a Corporation, Brew Coat & Apron Supply Co., Inc., a Corporation, Central Linen Service, Inc. (Referred to in the Complaint as Central Coat, Apron & Linen Supply Co.), a Corporation, Commercial Coat & Apron Supply Co., a Corporation, Commercial Towel Service, Inc. (Referred to in the Complaint as Commercial Towel Supply, Inc.), a Corporation, Eagle Barber Towel Supply Co., Inc., a Corporation, Ellery Coat & Apron Supply Co., Inc., a Corporation, Globe Coat & Apron Supply Co., Inc., a Corporation, Gotham Towel Supply Co., Inc., a Corporation, Grammercy Linen Supply Co., Inc., a Corporation, Modern Silver Linen Supply Co., Inc., a Corporation, Morgan Linen Service, Inc., a Corporation, Pilgrim Coat, Apron and Linen Service, Incorporated (Referred to in the Complaint as Pilgrim Coat, Apron & Linen Service, Inc.), a Corporation, Prudential Coat, Apron & Towel Supply Co., Inc., a Corporation, Cosmopolitan Linen Supply Laundry Co., Inc., a Corporation, Westchester Coat, Apron and Towel Supply Co. Inc. (Referred to in the Complaint as Westchester Coat & Apron Supply Co., Inc.), a Corporation, Henderson Coat & Apron Supply Co., a Corporation, Long Island Coat & Apron Supply Co., Inc., a Corporation, The Gordon Supply Co. (Referred to in the Complaint as Gordon Supply Co.), and Emil A. Creutzberg and Chester A. Creutzberg, Copartners, Trading Under the Firm Name and Style of Ideal Towel Supply Company—Individually and Severally, and as Representative of the Entire Membership of Said Linen Supply Board (Referred to in the Complaint as Mutual Club)

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of all the respondents now in existence, in which answers the said respondents admit all the material allegations of fact set forth in said complaint and waive all intervening procedure and further hearing as to the facts; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of section 5 of the Federal Trade Commission Act:

It is ordered, That the respondents Linen Supply Board of Trade of New Jersey, an incorporated association; Joseph Victor, Herman Maslow, Jack Orlinsky, Albert P. Gresser, Bernard Richman, Max Sack, and John M. O'Donaghue, both individually and as officers and members of the Board of Directors of respondent Board, respectively; American Coat & Apron Supply Co., Inc., a corporation; Clean Coat, Apron & Towel Supply Co., Inc., a corporation; Economy Coat, Apron & Towel Supply Co., Inc., a corporation; Falcon Ideal Coat & Apron Supply Company, a corporation; J & R Coat, Apron & Towel Supply Co., Inc., a corporation; Lackawanna Linen Supply & Laundry Co., a corporation; New Jersey Toilet & Towel Supply Co., a corporation; Noxall Linen Supply & Laundry Co., a corporation; Admiration Coat, Apron & Towel Supply Co., Inc., a corporation; Advance Coat, Apron & Towel Supply Co., Inc., a corporation; Belmont Coat, Apron & Towel Supply Co., Inc., a corporation; Central Linen Service, Inc., a corporation; Commercial Coat & Apron Supply Co., a corporation; Commercial Towel Service, Inc., a corporation; Eagle Barber Towel Supply Co., Inc., a corporation; Ellery Coat & Apron Supply Co., Inc., a corporation; Globe Coat & Apron Supply Co., Inc., a corporation; Gotham Towel Supply Co., Inc., a corporation;

Morgan Linen Service, Inc., a corporation; Pilgrim Coat, Apron and Linen Service, Incorporated, a corporation; Westchester Coat, Apron and Towel Supply Co., Inc., a corporation; Henderson Coat & Apron Supply Co., a corporation; Long Island Coat & Apron Supply Co., Inc., a corporation; The Gordon Supply Co., a corporation; and Emil A. Creutzberg and Chester C. Creutzberg, copartners trading under the firm name and style of Ideal Towel Supply Company; and their officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the leasing or renting and distribution of linen supplies and other like articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any common course of action, agreement, understanding, combination or conspiracy between or among any two or more of said respondents, or between any one or more of said respondents and others not parties hereto, to do or perform any of the following acts or things:

1. Adopting, fixing or maintaining schedules of uniform minimum prices and discounts or other terms and conditions for the use of their said linen supplies.

2. Reporting to respondent Board the names of customers to whom said linen supplies have been or are being supplied, leased or rented.

3. Refraining from soliciting linen supply business from customers of other respondent members except with the consent or approval of said Board.

4. Adopting or maintaining exclusive dealing contracts with their customers whereby respondent members respectively require their customers to procure, rent or lease linen supplies exclusively from the respondent members at all times.

5. Requiring as a condition precedent to the admission of independent competing linen supply houses to membership in respondent Board that such independent supply houses indemnify respondent members for business taken from them by said independent supply houses prior to the time they become members of respondent Board.

6. Requiring members of respondent Board who buy out independent supply houses to indemnify respondent members for business taken from them by said independent supply houses prior to the time they become members of respondent Board.

7. Setting up or maintaining an arbitration board or committee as a disciplinary or punitive agency with authority to impose fines or suspend members who fail or refuse to comply with the rules and regulations of respondent Board.

8. Establishing or operating "bogus" independent linen supply houses, commonly known as "whips," to take business away from independent supply houses, or to discipline respondent members who violate the rules and regulations of respondent Board.

9. Checking and policing, by any means or methods, the prices at which respondent members supply, lease or rent said linen supplies and other like articles of merchandise to their customers.

10. Coercing or attempting to coerce manufacturers of linen supplies into refusing to sell or extend credit to linen supply houses not members of respondent Board.

11. Employing or utilizing respondent Board or any arbitration board, committee or other central agency as a punitive or disciplinary agency to enforce rules or regulations pertaining to costs and prices, or as an instrument, vehicle or aid in performing or doing any of the acts or things prohibited by this order.

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

It is further ordered, That the complaint herein be, and it hereby is, dismissed as to the respondents Herbert N. Farrington, Reliable Linen Supply Company, Banner Coat, Apron & Towel Supply Co., Brew Coat & Apron Supply Co., Inc., Grammercy Linen Supply Co., Inc., Modern Silver Linen Supply Co., Inc., Prudential Coat, Apron & Towel Supply Co., Inc., and Cosmopolitan Linen Supply Laundry Co., Inc.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 43-4860; Filed, March 30, 1943; 10:45 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter A—Income and Excess Profits Taxes

[T. D. 5249]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

VICTORY TAX ON INDIVIDUALS

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.], relating to the income tax under the Internal Revenue Code, to section 172 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately after section 33 the following:

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

* * * * *

(f) *Cross reference.*

* * * * *

(2) *Credits against tax.* The Internal Revenue Code is amended by adding after section 33 the following new sections:

SEC. 34. CREDITS AGAINST VICTORY TAX.

For credits against victory tax, see sections 453, 454, and 466 (e).

SEC. 35. CREDIT FOR TAX WITHHELD ON WAGES.

For credit against the tax for tax withheld on wages, see section 466 (e).

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

PAR. 2. There is inserted immediately preceding § 19.56-1 the following:

SEC. 172 TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

* * * * *

(f) *Cross references.*

(1) *Payment of tax.* Section 56 (f) is amended to read as follows:

(f) *Tax withheld at source.* For requirement of withholding tax at source, see sections 143, 144, and Part II of Subchapter D.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

PAR. 3. There is inserted immediately preceding section 104 the following:

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

* * * * *

(c) *Rates of tax on citizens of certain foreign countries.* Section 103 is amended by striking out "and 362" and inserting "362, and 450"; and by striking out "or 362" and inserting "362, and 450".

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

PAR. 4. There is inserted immediately after section 131 (h) the following:

SEC. 172 TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(d) *Foreign tax credit.*

Section 131 is further amended by adding at the end thereof the following new subsection:

(i) *Tax withheld at source.* For the purposes of this supplement the tax imposed by this chapter shall be the tax computed without regard to the credit provided in section 32 and section 466 (e).

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

PAR. 5. There is inserted immediately preceding § 19.145-1 the following:

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

* * * * *

(f) *Cross references.*

* * * * *

(3) *Penalties.* Section 145 (d) is amended by inserting "(1)" before the first paragraph and by adding the following new paragraph:

(2) For additional penalties for fraudulent receipts or failure to furnish receipts required by section 469, see section 470.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

PAR. 6. There is inserted immediately preceding § 19.291-1 the following:

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

* * * * *

(f) *Cross references.*

* * * * *

(4) *Minimum penalty for failure to file return.* Section 291 is amended by inserting "(a)" before the first paragraph and by adding the following new subsection:

(b) For minimum addition to the tax for failure of withholding agent to make and file return required by Part II of Subchapter D, see section 470 (c).

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

PAR. 7. There is inserted immediately preceding § 19.322–1 the following:

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

* * * * *

(e) *Refunds and credits.*

(1) Section 322 (a) is amended to read as follows:

(a) *Authorization.*

(1) *Overpayment.* Where there has been an overpayment of any tax imposed by this chapter, the amount of such overpayment shall be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(2) *Excessive withholding.* Where the amount of the tax withheld at the source under Part II of Subchapter D exceeds the tax imposed by this chapter (after allowance of the credits provided by sections 31, 32, and 453), the amount of such excess shall be credited against any income tax or installment thereof then due from the taxpayer, and any balance thereof shall be refunded immediately to the taxpayer.

(2) Section 322 (e) is amended to read as follows:

(e) *Presumption as to date of payment.* For the purposes of this section, any tax actually withheld and collected at the source under Part II of Subchapter D shall, in respect of the recipient of the income, be deemed to have been paid by him on the fifteenth day of the third month following the close of his taxable year in which such tax was so withheld and collected; except that in the case of a nonresident alien individual, it shall be deemed to have been paid by him on the fifteenth day of the sixth month following the close of his taxable year.

(f) *Tax withheld at source.* For refund or credit in case of withholding agent, see sections 143 (f) and 466 (f).

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

PAR. 8. There is inserted immediately after § 19.404–1 (added by Treasury Decision 5195, approved December 8, 1942) the following:

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter I the following new subchapter:

SUBCHAPTER D—VICTORY TAX ON INDIVIDUALS

PART I—RATE AND COMPUTATION OF TAX

SEC. 450. IMPOSITION OF TAX.

There shall be levied, collected, and paid for each taxable year beginning after December 31, 1942, a victory tax of 5 per centum upon the victory tax net income of every individual (other than a nonresident alien subject to the tax imposed by section 211 (a)).

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.450–1 *Victory tax on individuals.* For taxable years beginning after December 31, 1942, and before the day following the date of cessation of hostilities in the present war (determined as provided in section 475 (b)) there is imposed, in addition to the normal tax and the surtax, upon every individual (other than a nonresident alien whose tax liability is determined under section 211 (a)) a victory tax at the rate of 5 percent (subject to the limitations provided in section 456) upon the amount of the taxpayer's victory tax net income. As to what constitutes victory tax net income, see § 19.451–1.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 451. VICTORY TAX NET INCOME.

(a) *Definition.* The term "victory tax net income" in the case of any taxable year means (except as provided in subsection (c)) the gross income for such year (not including gain from the sale or exchange of capital assets as defined in section 117, or interest allowed as a credit against net income under section 25 (a) (1) and (2), or amounts received as compensation for injury or sickness which are included in gross income by reason of the exception contained in section 22 (b) (5)) minus the sum of the following deductions:

(1) *Expenses.* The expenses allowable as a deduction by section 23 (a) (1) and (2).

(2) *Interest.* Interest allowable as a deduction by section 23 (b), if the indebtedness in respect of which such interest is allowed was incurred in carrying on any trade or business, or was incurred for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income.

(3) *Taxes.* Amounts allowable as a deduction by section 23 (c), to the extent such amounts are paid or incurred in connection with the carrying on of a trade or business, or in connection with property used in the trade or business, or in connection with property held for the production of income.

(4) *Losses.* Losses (other than losses from the sale or exchange of capital assets) allowable as a deduction under section 23 (e) (1), subject to the limitation provided in section 23 (h).

(5) *Bad debts.* The amount allowable by section 23 (k) (1).

(6) *Depreciation.* The amount allowable by section 23 (l).

(7) *Depletion.* The amount allowable by section 23 (m) and (n).

(8) *Pension trusts.* The amount allowable by section 23 (p).

(9) *Net operating loss.* The net operating loss deduction allowable by section 23 (s).

(10) *Amortization.* The amount allowable by section 23 (t).

(11) *Alimony.* The amount allowable by section 23 (u).

(12) *Special deduction.* The amount allowable by section 120.

(13) *Estates and trusts.* In the case of an estate or trust, the amount allowable by subsection (a) of section 162 in addition to the amounts allowable by subsections (b) and (c) of such section.

(b) *Items not deductible.* The deductions allowable by subsection (a) shall be subject to the limitations contained in section 24 and Supplement J and, in the case of nonresident aliens subject to the victory tax, shall be subject to the limitations contained in Supplement H.

(c) *Supplement T taxpayer.* If for any taxable year a taxpayer makes his return and pays his tax under Supplement T, the term "victory tax net income" means the gross income for such year.

(d) *Basis for determining loss.* The basis for determining the amount of deduction for losses sustained, to be allowed under paragraph (4) of subsection (a), and for bad debts, to be allowed under paragraph (5) of subsection (a), shall be the adjusted basis provided in section 113 (b) for determining the loss from the sale or other disposition of property.

(e) *Rule applicable to participants in a common trust fund.* In the case of a participant in a common trust fund, he shall in respect of the common trust fund income include in computing his victory tax net income, whether or not distributed and whether or not distributable, only his proportionate share of the ordinary net income or the ordinary net loss of the common trust fund, computed as provided in section 169 (d).

(f) *Rule applicable to partners.* In the case of an individual carrying on business in partnership, he shall in respect of the partnership income include in computing his victory tax net income, whether or not distribution is made to him, only his distributive share of the ordinary net income or the ordinary net loss of the partnership, computed as provided in section 183 (b).

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of subchapter D) paid on or after such date.

§ 19.451–1 *Gross income for victory tax purposes*—(a) *Citizens or residents of the United States.* For the purposes of the determination of victory tax net income, there are excluded from gross income: (1) gain from the sale or exchange of capital assets as defined in section 117; (2) interest upon obligations of the United States and obligations of corporations organized under Act of Congress which are instrumentalities of the United States, if such interest is allowable as a credit against net income under the provisions of section 25 (a) (1) and (2); and (3) amounts received as compensation for injury or sickness which are included in gross income by reason of the exception contained in section 22 (b) (5). As to what constitutes interest allowable as a credit against net income, see § 19.22 (b) (4)–4.

A participant in a common trust fund shall, in respect of his share of the income of the common trust fund, include in gross income for the purpose of the determination of his victory tax net income only his proportionate share of the ordinary net income or the ordinary net loss of the common trust fund computed as provided in section 169 (d). As to computation of net income of participants in a common trust fund, see § 19.169–2.

A member of a partnership shall, in respect of his share of the income of the partnership, include in gross income for the purpose of the determination of his victory tax net income, only his distributive share (whether distributed or not) of the ordinary net income or the ordinary net loss of the partnership, computed as provided in section 183 (b). As to computation of partnership income, see § 19.183–1.

(b) *Nonresident alien subject to victory tax.* Nonresident aliens falling into the following classes are subject to the victory tax: (1) Such aliens (other than residents of Canada) not engaged in trade or business within the United States but deriving during the taxable year more than $15,400 gross amount of dividends, interest, and other fixed or determinable annual or periodical income from sources within the United States; and (2) such aliens who at any time during the taxable year are engaged in trade or business within the United States. Nonresident aliens not engaged in trade or business within the United States and deriving during the taxable year not in excess of $15,400 gross amount of dividends, interest, and other fixed or determinable annual or periodical income from sources within the United States, and such nonresident aliens who are residents of Canada (regardless of the amount of their fixed or determinable annual or periodical income from sources within the United States), are not subject to the victory tax. In the case of a nonresident alien subject to the victory tax, the gross income adjusted as indicated in section 451 (a) means only gross income from sources within the United States. As to what constitutes gross income from sources within the United States in such cases, see sections 110 and 212 (a), and §§ 19.212–1, 19.212–2, and 19.211–7.

(c) *United States citizens entitled to benefits of section 251.* In the case of United States citizens entitled to the benefits of section 251, gross income for the purposes of the victory tax means only gross income from sources within the United States plus all amounts received by such citizens within the United States whether derived from sources within or without the United States, the sum of such amounts being reduced by the items, if any, excluded from gross income under paragraph (a) of this section. See § 19.251–1.

§ 19.451–2 *Victory tax net income—*(a) *Citizen or resident of the United States.* The term "victory tax net income" in the case of a citizen or resident of the United States means gross income, adjusted as described in paragraph (a) of this section, less the deductions provided in the case of individuals under section 23 relating to deductions from gross income, subject, however, to the qualifications, limitations, and exceptions with respect to such deductions provided in section 451. The deductions, therefore, from gross income (as defined in paragraph (a) of § 19.451–1) allowable for the purposes of the determination of victory tax net income are those set forth in section 23 and the regulations thereunder, subject, however, to the following qualifications, limitations and exceptions:

(1) *Interest.* The deduction generally allowable for interest under the provisions of section 23 (b) is allowable for the purposes of the victory tax if, and only if, the indebtedness with respect to which such interest is allowed was incurred:

(i) In carrying on any trade or business; or

(ii) For the production or collection of income; or

(iii) For the management, conservation, or maintenance of property held for the production of income.

Hence, for example, interest upon indebtedness representing a mortgage upon the home of the taxpayer is not deductible for the purposes of the victory tax. Interest upon indebtedness incurred incident to the acquisition of property held for investment, even though it actually produces no income during the taxable year, is nevertheless deductible. For the treatment of interest as a deduction from gross income generally, see section 23 (b) and regulations thereunder.

(2) *Taxes.* The deduction generally allowable for taxes paid or incurred under the provisions of section 23 (c) is allowable for the purposes of the victory tax if, and only if, paid or incurred:

(i) In connection with the carrying on of a trade or business;

(ii) In connection with property used in the trade or business; or

(iii) In connection with property held for the production of income.

Hence, for example, taxes paid by the taxpayer with respect to ownership of his home are not deductible for this purpose. Likewise, automobile license fees are not deductible for victory tax purposes except in the case of automobiles used in connection with the carrying on of a trade or business. Taxes are not deductible which are paid or incurred by reason of ownership of property held by the taxpayer primarily as a sport, hobby, or recreation. The deduction for retail sales taxes provided in section 23 (c) (3) is not applicable for victory tax purposes. Income, war profits or excess profits taxes paid to a foreign country or to a possession of the United States are not deductible if the taxpayer chooses to take to any extent for such taxable year the benefits of section 131 relating to the credit for foreign taxes even though no credit is allowed for such taxes against the victory tax. Such taxes are deductible for victory tax purposes only when deducted for income tax purposes under the provisions of section 23 (c) and then only if they qualify under the limitations prescribed in this paragraph. See section 23 (c) (1) (C) and § 19.23 (c) (1). For the treatment of taxes as a deduction from gross income generally, see section 23 (c) and regulations thereunder.

(3) *Losses.* Only losses allowable as a deduction under section 23 (e) (1) because incurred in trade or business are deductible. Wagering losses so incurred are allowable only to the extent of gains from such transactions. Losses from the sale or exchange of capital assets including losses from worthless securities governed by section 23 (k) (2), even though sustained in trade or business, are not deductible. The basis for determining the amount of allowable losses sustained for the purposes of the victory tax is the adjusted basis for determining the loss from the sale or other disposition of the property. For treatment of such losses generally, see sections 23 (e) (1), 23 (i), 113 (b) and regulations thereunder.

(4) *Bad debts.* Only bad debts deductible under section 23 (k) (1) are allowable for victory tax purposes. Nonbusiness bad debts as defined in section 23 (k) (4) are not deductible nor is any deduction permitted on account of a worthless debt evidenced by a security as defined in section 23 (k) (3) and allowable for income tax purposes to the extent permitted by section 23 (k) (2). For treatment of bad debts generally, see section 23 (k) and regulations thereunder.

(5) *Contributions.* The deduction for charitable and other contributions allowed generally under the provisions of section 23 (o) is not allowable for the determination of the victory tax net income except, however, that in the case of any individual who qualifies under the provisions of section 120, the deduction for contributions is allowable under section 23 (c) without regard to the percentage limitation contained therein. See § 19.120–1. In the case of estates or trusts, however, the deductions provided in section 162 (a) with respect to contributions as well as those in section 162 (b) and (c) with respect to distributions by the estate or trust are allowable. See section 162 and § 19.162–1.

(6) *Specific unallowable items.* The following items allowable generally as deductions from gross income for the purpose of normal tax and surtax are not allowable for the purposes of determining victory tax net income:

(i) The deduction for amortization of bond premium provided in section 125;

(ii) The deductions allowed estates, etc. on account of decedent's deductions provided in section 23 (w);

(iii) The deduction for medical, dental, etc. expenses provided in section 23 (x);

(iv) The deduction for certain amounts paid to cooperative apartment corporations provided in section 23 (z).

(7) *Items not deductible generally.* In addition to the deductions generally allowable under chapter 1 but disallowed for the purposes of the determination of the victory tax net income as set forth in subparagraphs (1) to (6), both inclusive there are also disallowed for the purposes of the determination of the victory tax net income those additional items disallowed generally under the provisions of section 24. See §§ 19.24–1 to 19.24–7 both inclusive.

(b) *Nonresident aliens.* In addition to the qualifications, limitations, and exceptions contained in paragraphs (1) to (7), both inclusive, of paragraph (a) of this section, the general rules with respect to deductions for the purposes of the normal tax and the surtax in the case of nonresident aliens are likewise appli-

cable to such aliens for the purposes of the victory tax. Such deductions are allowable only if and to the extent that they are connected with income from sources within the United States. See section 213 and § 19.213–1.

(c) *United States citizen entitled to benefits of section 251.* In addition to the qualifications, limitations, and exceptions contained in subparagraphs (1) to (7), both inclusive, of paragraph (a) of this section, the general rules with respect to deductions for the purposes of the normal tax and the surtax in the case of a citizen of the United States entitled to the benefits of section 251 are also likewise applicable in the case of such citizens for the purposes of the victory tax. Such deductions are allowable only if and to the extent they are connected with income from sources within the United States. See section 251 (e) (1) and § 19.251–5.

(d) *Supplement T taxpayer.* If for any taxable year an individual citizen or resident of the United States makes his return and pays his tax under Supplement T, relating to individuals with gross income from certain sources of $3,000 or less, then the victory tax net income means gross income for such year and the provisions of section 451 and of this section relating to deductions from gross income have no application to such case.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 452. SPECIFIC EXEMPTION.

In the case of every individual there shall be allowed as a credit against the victory tax net income a specific exemption of $624. In the case of a husband and wife filing a joint return under section 51 (b), if the victory tax net income of one spouse is less than $624, the aggregate specific exemption of both spouses shall be limited to $624 plus the victory tax net income of such spouse.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.452–1 *Specific exemption.* For the purposes of computing the victory tax, there is allowed against the victory tax net income but one credit, namely, a specific exemption of $624. The credits, therefore, provided in section 25 with respect to normal tax or surtax, or both, have no application for the purposes of the victory tax. Except as otherwise provided in the case of a husband and wife making a joint return, the full exemption of $624 is allowable to each taxpayer regardless of dependents or the personal status of the taxpayer. In the case of a return for a fractional part of a year, as, for instance, the return for a decedent, the $624 exemption is not required to be prorated but is allowable in full. In the case of husband and wife making separate returns for the taxable year, each is entitled to a specific exemption of $624. In the case of husband and wife making a joint return for the taxable year, if the victory tax net income of one spouse is less than $624, the aggregate specific exemption of both spouses amounts to $624 plus the victory tax net income of such spouse. Thus, if A and his wife, B, make a joint return for the year 1943 and B has victory tax net income of $300, the total specific exemption for both spouses in such case is $924. In any such case in which a specific exemption of more than $624 is claimed, the facts with respect to the victory tax net income of the respective spouses shall be set forth in an appropriate schedule attached to the return. The principles applicable for the determination of net income of the respective spouses for normal tax and surtax purposes are likewise applicable with respect to what constitutes victory tax net income of the respective spouses, subject, however, to the qualifications, limitations, and exceptions provided in section 451. See section 22 and regulations thereunder.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 453. CREDIT AGAINST VICTORY TAX.

(a) *Allowance of credit.* There shall be allowed as a credit against the victory tax for each taxable year:

(1) The amount paid by the taxpayer during the taxable year as premiums on life insurance, in force on September 1, 1942, upon his own life, or upon the life of his spouse, or upon the life of any dependent of the taxpayer specified in section 25 (b) (2) (A); and the amount paid during the taxable year as premiums on life insurance which is a renewal or conversion of such life insurance in force on September 1, 1942, to the extent that such premiums do not exceed the premiums payable on such life insurance in force on September 1, 1942.

(2) The amount by which the smallest amount of indebtedness of the taxpayer outstanding at any time during the period beginning September 1, 1942, and ending with the close of the preceding taxable year, exceeds the amount of indebtedness of the taxpayer outstanding at the close of the taxable year.

(3) The amount by which the amount of obligations of the United States owned by the taxpayer on the last day of the taxable year exceeds the greater of (A) the amount of such obligations owned by the taxpayer on December 31, 1942, or (B) the highest amount of such obligations owned by the taxpayer on the last day of any preceding taxable year ending after December 31, 1942. As used in this paragraph (i) the term "owned by the taxpayer" shall include the amount of the obligations owned solely by the taxpayer and one-half of the amount of the obligations owned jointly by the taxpayer with one other person, but shall not include such obligations acquired by the taxpayer by gift, or inheritance, or otherwise than by purchase (ii) the term "obligations of the United States" means such obligations of the United States as the Secretary may by regulations prescribe, and as are purchased in such manner and under such terms and conditions as he may specify; and (iii) the term "amount of obligations of the United States" means the amount paid for such obligations.

(b) *Limitation on credit.* The amount of such credit for the taxable year shall not exceed the amount of the post war credit or refund allowed by section 454 for such taxable year.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.453–1 *Credit against victory-tax—*(a) *General.* Section 453 permits a taxpayer subject to the victory tax to apply as a credit against such tax for each taxable year all or a portion of the following items (but in an amount not in excess in any event of the post war credit or refund allowed by section 454 for such taxable year):

(1) Premiums paid by the taxpayer on life insurance;

(2) Reduction in indebtedness of the taxpayer;

(3) Increase in taxpayer's holdings of certain United States obligations.

The credit provided in section 453 does not reduce the amount of the victory tax to be withheld at the source as provided in section 466. Such credit is applied against the amount of the victory tax as shown by the taxpayer's victory tax return. The taxpayer is not required to avail himself of such credit. In such event he will be entitled to the post war credit or refund with respect to such taxable year provided in section 454.

(b) *Special items of the credit—*(1) *Premiums paid by taxpayer on life insurance.* In order to secure credit for life insurance premiums paid by the taxpayer during the taxable year, there must be in force on September 1, 1942 life insurance upon the taxpayer's own life or upon the life of his spouse or upon the life of any dependent of the taxpayer as specified in section 25 (b) (2). The amount of the post war credit or refund which may be applied as a credit against the victory tax for the taxable year by reason of payment of insurance premiums is the amount paid by the taxpayer during the taxable year as premiums upon such life insurance. If any such life insurance so in force on September 1, 1942 is renewed or converted after such date, the credit includes premiums paid with respect to such renewed or converted life insurance but the credit therefor cannot exceed the amount of the annual premiums payable on such insurance in force on September 1, 1942. In computing the amount of the credit under section 453 (a) (1), no account is to be taken of any life insurance policy taken out after September 1, 1942 and not representing renewal or conversion of a life insurance policy in force on such date. In computing the amount of premiums paid by the taxapayer under section 453 (a) (1), there shall be deducted from the gross amount of premiums paid during the taxable year the amount of dividends received during such taxable year which represents return of premiums.

(2) *Reduction in indebtedness of the taxpayer.* The amount of the post-war credit or refund which may be applied as a credit against the victory tax for the taxable year by reason of reduction, if any, in the indebtedness of the taxpayer is the excess of the smallest amount of such indebtedness outstanding at any time during the period beginning with September 1, 1942 and ending with the close of the taxable year preceding the year for which the tax is being com-

puted over the amount of such indebtedness outstanding at the close of the taxable year. As used in section 453 (a) (2), the term "indebtedness" means all indebtedness for which the taxpayer is liable, whether secured or unsecured and whether or not evidenced by writing. It does not include a mere contingent or secondary liability. However, if and when a contingent liability for the payment of money becomes absolute, it is includible as indebtedness. The term includes indebtedness assumed by the taxpayer even though such indebtedness is evidenced, so far as the taxpayer is concerned, only by a contract with the person whose indebtedness has been assumed. An assumption of indebtedness includes, in addition to the customary forms of assumption, the acquisition of property subject to indebtedness. In order for any indebtedness to be included within the term, it must be bona fide.

The application of section 453 (a) (2) may be illustrated by the following example:

Example. A had outstanding as of September 1, 1942 a mortgage upon his home in the amount of $5,000 which had been reduced to $4,500 as of December 31, 1942 and to $4,250 on December 31, 1943. In such case the potential credit against the victory tax by reason of reduction of indebtedness is $4,500 minus $4,250, or $250, but such latter amount is subject to the limitation that it cannot in any event exceed the amount of post war credit or refund provided in section 454.

(3) *Increase in holdings of United States obligations.* The amount of the post war credit or refund available to the taxpayer as a credit against the victory tax for the taxable year by reason of increase in his holdings of United States obligations is measured by the excess of the amount of such obligations owned by the taxpayer as of the close of the last day of the taxable year over whichever of the following amounts is the greater: (i) the amount of such obligations owned by the taxpayer as at the close of the calendar year 1942 or (ii) the largest amount of such obligations owned by the taxpayer as at the close of the last day of any preceding taxable year ending after December 31, 1942.

As used in section 453 (a) (3), the term "owned by the taxpayer" includes only such obligations as have been acquired by the taxpayer by purchase and does not include obligations acquired by gift or inheritance. Obligations acquired by purchase include obligations acquired by the taxpayer under such circumstances that their acquisition results in the recognition of income to him. For purposes of the victory tax credit, if an obligation is registered in the names of two persons as co-owners, each shall, in the absence of evidence to the contrary, be presumed to be a purchaser and shall be entitled to the credit to the extent of one-half of the purchase price thereof. If, however, the entire purchase price is contributed by one co-owner, he may, if he so elects at the time of filing his first return under the victory tax subsequent to the purchase of the obligation, be considered to be the sole owner, in which case he shall be entitled to a credit to the full extent of the purchase price and no credit shall be allowed to the other co-owner. For the purposes of section 453 (a) (3), a United States Savings Bond registered, for example, in the name of A, payable on death to B, is not owned jointly but is owned solely by A. The term "obligations of the United States" for the purposes of the credit means only United States Savings Bonds, Series E, F and G which are purchased in such manner and under such terms and conditions as the Secretary may by regulations prescribe, subject, however, to the right of the Secretary by regulations at any time to restrict, amplify or extend the class or classes of United States obligations with respect to which the taxpayer may be entitled to a credit under the provisions of section 453 (a) (3) and the manner, terms and conditions under which obligations may be purchased. See Treasury Department Circular No. 704 approved December 29, 1942. The date as of which the bond is issued (month and year, as entered on the face panel, but not in the dating stamp of the issuing agent), shall be held to be the date of acquisition. The term "amount of obligations" as used in section 453 (a) (3) means the amount paid for the obligations and not the par value thereof and does not include the interest, if any, accrued thereon.

The application of section 453 (a) (3) may be illustrated by the following example:

Example. A and his wife B file a joint return for the calendar year 1943. On December 31, 1942, A owned a United States Savings Bond, Series E, of a par value of $500 for which he and his wife had previously paid the amount of $375, the bond being registered in the name of A or his wife B. During 1943 A and B purchased additional bonds of a par value of $200 of the same series of United States Savings Bonds for which they paid $150, such bonds being registered in the same manner as the bond previously purchased. They also acquired by inheritance a similar bond in the denomination of $1,000. The three bonds were held as of the close of the calendar year 1943. Since the $1,000 bond had been acquired by inheritance, such obligation has no effect upon the credit against the victory tax.

Since A and B file a joint return, they are entitled to a credit under section 453 (a) (3) of $150, the difference between $525 (the amount owned at the end of 1943) and $375 (the amount owned as of December 31, 1942), subject to the limitation that such credit cannot in any event exceed the amount of the post war credit or refund allowed by section 454. If A and B file separate returns, each would be entitled to a credit of $75, subject to the limitations prescribed under section 454.

For the application as a credit against the victory tax (adjusted for the credit allowed by section 453) of the tax withheld at the source under section 466, see § 19.466–5.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 454. POST WAR CREDIT OR REFUND OF VICTORY TAX.

(a) *Allowance of credit.* As soon as practicable after date of cessation of hostilities in the present war (as defined in section 475 (b)), the following amount of the victory tax paid for each taxable year begining after December 31, 1942, shall be credited against any income tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer:

(1) In the case of a single person or a married person not living with husband or wife, 25 per centum of the victory tax or $500, whichever is the lesser.

(2) In the case of the head of a family, 40 per centum of the victory tax or $1,000, whichever is the lesser. In the case of a married person living with husband or wife where separate returns are filed by each spouse, 40 per centum of the victory tax or $500, whichever is the lesser. In the case of a married person living with husband or wife where a separate return is filed by one spouse and no return is filed by the other spouse, or in the case of a husband and wife filing a joint return under section 51 (b), only one such credit shall be allowed and such credit shall not exceed 40 per centum of the victory tax or $1,000, whichever is the lesser.

(3) For each dependent specified in section 25 (b), excluding as a dependent, in the case of a head of a family, one who would be excluded under section 25 (b) (2) (B), 2 per centum of the victory tax or $100, whichever is the lesser.

(b) *Change of status.* If for any taxable year the status of the taxpayer (other than a taxpayer who makes his return and pays his tax under Supplement T) with respect to his marital relationship or with respect to his dependents, changed during the taxable year, the amount of the credit or refund provided by this section for such taxable year shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

(c) *Status of Supplement T taxpayer.* If for any taxable year a taxpayer makes his return and pays his tax under Supplement T, for the purpose of the credit or refund provided by this section, his status for such year with respect to his marital relationship or with respect to his dependents shall be determined in accordance with the provisions of section 401.

(d) *Period of limitation.* No post war credit or refund of any part of the victory tax provided in this section shall be allowed or made after 7 years from the date of cessation of hostilities in the present war, unless claim for credit or refund is filed before the expiration of such date. No interest shall be allowed on such credits or refunds.

(e) *Limitation of credit.* The post war credit or refund allowed by this section shall be reduced by the amount of any credit allowed under section 453.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.454–1 *Post war credit or refund—*(a) *General.* Section 454 provides that, as soon as practicable after the cessation of hostilities in the present war (as defined in section 475 (b)), there shall be credited or refunded to the taxpayer certain designated amounts representing portions of the victory tax paid for taxable years beginning after December 31, 1942 but not in excess of certain percentages of the amount of the victory tax, such percentages being conditioned upon the marital status of the taxpayer

and the number of his dependents during the year or years for which such victory tax was imposed. Such post war credit or refund applies even though there has been no previous allowance for any taxable year of the annual victory tax credit provided under section 453. However, the amount of the post war credit or refund is reduced by the aggregate amount of the annual victory tax credit previously allowed. See section 454 (e). Such post war credit or refund, to the extent it is not reduced by the amount of the annual credit previously claimed and allowed, shall be credited after the cessation of hostilities in the present war against any income tax or installment thereof then due from the taxpayer and any balance shall be refunded immediately to the taxpayer. See section 454 (d) and § 19.454–3.

(b) *Limitations on amount of post war credit or refund.* The post war credit or refund provided in section 454 is subject to the following limitations:

(1) *Single person or married person not living with husband or wife.* 25 percent of the amount of the victory tax, or $500, whichever is the lesser.

(2) *Married person living with husband or wife where separate returns are filed by each spouse.* 40 percent of the victory tax, or $500, whichever is the lesser.

(3) *Head of a family.* 40 percent of the victory tax, or $1,000, whichever is the lesser.

(4) *Married person living with husband or wife where separate return is filed by one spouse and no return is filed by the other spouse.* 40 percent of the amount of the victory tax, or $1,000, whichever is the lesser.

(5) *Married person living with husband or wife where joint return is filed.* 40 percent of the amount of the victory tax, or $1,000, whichever is the lesser.

If the taxpayer has one or more dependents for whom a credit would be allowable under section 25 (b) (2), the limitations prescribed in subparagraphs (1) to (5), inclusive, shall, for each such dependent, be increased by the addition of 2 percent to the percentage limitation and $100 to the dollar limitation. For example, in the circumstances described in subparagraph (1) if a taxpayer has one dependent, the limitations prescribed would be increased to 27 percent of the victory tax, or $600, whichever is the lesser. In the circumstances described in subparagraph (3) if the taxpayer has three dependents, but the credit for one of such dependents is disallowed by reason of the provisions of section 25 (b) (2) (B), the percentage limitations would be increased by 2 percent for each of two dependents and the dollar limitation by $100 for each of two dependents. Consequently, the limitation on the credit for victory tax purposes would be 44 percent of the victory tax, or $1,200, whichever is the lesser.

As to what constitutes dependency under section 25, see § 19.25–6.

In the application of the provisions of section 454, if a taxpayer files his return for any taxable year under Supplement T, his status for such taxable year as to his marital relationship and with respect to his dependents, for the purposes of the post war credit or refund, shall be determined in accordance with the special rules prescribed in section 401. See §§ 19.401–1 and 19.454–2.

The computation of the post war credit or refund and the operation of the limitations with respect thereto may be illustrated by the following example:

Example: Joint return. A and B, husband and wife, file joint return for 1943 and have victory tax net income (after specific exemption) of $60,000. There are two dependents.

Computation:		
Victory tax on $60,000 at 5%		$3,000
Post war refund:		
44% of victory tax	$1,320	
or		
$1,000 plus $200	1,200	
whichever is the lesser		1,200

Separate Returns

A has victory tax net income (after specific exemption) of $40,000 and B has victory tax net income (after specific exemption) of $20,000.

Computation: *A*		
Victory tax on $40,000 at 5%		$2,000
Limitation:		
44% of victory tax	$880	
or		
$500 plus $200	700	
whichever is the lesser		700
Computation: *B*		
Victory tax on $20,000 at 5%		$1,000
Limitation:		
40% of victory tax	$400	
or $500	500	
whichever is the lesser		$400

Recapitulation

Credit or refund of A	$700	
Credit or refund of B	400	
Total credit or refund		1,100

In the application of section 454 (a) to a nonresident alien subject to the victory tax, the provisions of section 214, relating to exemption and credits in the case of such taxpayer, shall be applicable and hence the additional credit for dependents provided in section 454 (a) (3) is allowed only if such taxpayer is a resident of a contiguous country.

§ 19.454–2 *Post war credit or refund where status changes during the taxable year*—(a) *General.* If the status of the taxpayer (other than a taxpayer who makes his return and pays his tax under Supplement T) with respect to his marital relationship or with respect to his dependents changes during the taxable year, the amount of the post war credit or refund under section 454 and § 19.454–1 shall be apportioned according to the number of months during which the taxpayer occupied each status. For the purposes of the apportionment, a fractional part of a month shall be disregarded unless it amounts to more than one-half of a month in which case it shall be considered as a month. In general, the post war credit or refund in the case of any taxpayer whose status as set forth above changed during the taxable year will be the sum of the amounts apportioned to the respective periods during which each status was occupied. These principles may be illustrated by the following examples:

Example (1). A and B were married on August 10, 1943, each having the status of a single person prior to such date. They have no dependents. They had a combined victory tax net income (before the specific exemption) of $25,248. The victory tax net income of each is in excess of $624. They file a joint return for 1943. The post war credit or refund in such case is computed as follows:

Victory tax for 1943 on basis of joint return 5% of $24,000 ($25,248 minus $1,248)	$1,200
Post war credit or refund:	
Seven Months January to July, Inclusive	
A Limitation on post war credit or refund 7/12 x (25% of $600 or 7/12 of $500	
Post war credit or refund equals (The figure of $87.50 applies since it is less than 7/12 of $500)	87.50
B Limitation on post war credit or refund 7/12 x (25% of $600) or 7/12 of $500	
Post war credit or refund equals (The figure of $87.50 applies since it is less than 7/12 of $500)	$87.50
Five Months August to December, Inclusive	
Limitation on post war credit or refund 5/12 x (40% of $1,200) or 5/12 of $1,000	
Post war credit or refund (The figure of $200 applies since it is less than 5/12 of $1,000)	200.00
Recapitulation—Post War Credit or Refund	
Apportioned to A	87.50
Apportioned to B	87.50
Apportioned to A and B jointly	200.00
Total for A and B	375.00

Example (2). A, a widower having two dependent children under 18 years of age, married B on July 1, 1943. They filed a joint return for the calendar year 1943 showing victory tax net income of $61,248 (before the application of the specific exemption) and a victory tax of $3,000. The victory tax net income of each exceeded the specific exemption of $624. The post war credit or refund in such case is computed as follows:

First Half of Year	
A Limitation on post war credit or refund ½ x (42% of $1,500) or ½ of $1,100	
Post war credit or refund (This figure applies since it is less than ½ of $50)	$315.00
B Limitation on post war credit or refund of (44% of $3,000) or ½ of $500	
Post war credit or refund (This figure applies since it is less than ½ of $500)	187.50
Second Half of Year	
Limitation on post war credit or refund ½ of (44% of $3,000) or ½ of $1,200	
Post war credit or refund (This figure applies since it is less than ½ of (44% of $3,000))	600.00
Recapitulation—Post War Credit or Refund	
Apportioned to A	315.00
Apportioned to B	187.50
Apportioned to A and B jointly	600.00
Total	1,102.50

(b) *Status of Supplement T taxpayer.* In the case of a taxpayer making his return and paying his tax under Supple-

ment T, relating to the optional tax on individuals with gross income from certain sources of $3,000 or less, the status of such taxpayer shall be determined by the application of the following rules:

(1) His status both with respect to marital relationship and with respect to dependents is to be determined as of July 1 of each taxable year.

(2) If such taxpayer is not the head of a family and is not living with husband or wife or is unmarried as of July 1 of the taxable year, he shall be treated as a single person, even though in fact he may become the head of a family or be married during the taxable year subsequent to July 1.

If, for example, A and his wife, B, are not living together on July 1, 1943 and for the calender year 1943 they elect to pay the tax under Supplement T, they are considered as single persons for income and victory tax purposes and hence each must file a separate return. In such case, the limitation on the post war credit or refund is determined under section 454 (a) (1) and shall in each case be 25 percent of the victory tax or $500, whichever is the lesser. However, in the case of a husband and wife living together on July 1, 1943, they may elect to file either joint or separate returns under Supplement T. If they elect to file separate returns, the limitation provided in section 454 (a) (2) applicable generally in the case of husband and wife filing separate returns is here likewise applicable and hence the post war credit or refund (without regard to dependents) cannot, in the case of each spouse, exceed 40 percent of the victory tax or $500, whichever is the lesser. If such husband and wife elect to file a joint return, the limitation on the post war credit or refund provided in section 454 (a) (2) applicable generally in respect of husband and wife filing a joint return is here applicable and such credit (without regard to dependents) cannot exceed 40 percent of the victory tax or $1,000, whichever is the lesser.

Payments made by the husband to the wife of an amount which is includible in her gross income by reason of section 22 (k) and section 171 shall not be considered as payment by the husband for the support of any dependent.

§ 19.454–3 *Period of limitation for making of post war credit or refund.* The post war credit or refund provided in section 454, to the extent such credit or refund is not applied under section 453 as a credit against the victory tax, cannot be made after seven years from the date of cessation of hostilities in the present war (as that term is defined in section 475 (b)) unless claim for credit or refund thereof is filed with the collector of internal revenue before the expiration of such seven-year period. No interest is allowable upon such credits or refunds of the victory tax. For the manner of filing claims fo rrefund or credit generally, see § 19.322–3.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 455. RETURNS.

(a) *Individual returns.* Every individual having a gross income in excess of $624 for the taxable year, shall make, under regulations prescribed by the Commissioner with the approval of the Secretary, a return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, stating specifically the items of his gross income and the deductions and credits allowed under this subchapter.

(b) *Fiduciary returns.* Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make, under regulations prescribed by the Commissioner with the approval of the Secretary, a return under oath, for any individual, estate, or trust for which he acts, if the gross income of such individual, estate, or trust is in excess of $624 for the taxable year, stating specifically the items of gross income and the deductions and credits allowed under this subchapter. The provisions of section 142 (b) shall be applicable with respect to any return required to be made under this subsection.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.455–1 *Returns.*—(a) *Individuals.* For taxable years beginning after December 31, 1942, there shall be made a victory tax return by each citizen of the United States whether residing within or without the United States, by every individual residing within the United States though not a citizen thereof, by every nonresident alien individual (other than a nonresident alien individual subject to the tax imposed by section 211 (a)), whether or not such citizen or resident or nonresident alien individual is the head of a family or has dependents, if such citizen, resident or alien has a gross income (computed without regard to the exclusion from gross income provided in section 451 (a)) for the taxable year in excess of $624. In the case of nonresident alien individuals, such gross income means only gross income from sources within the United States.

If a return is required for normal tax and surtax purposes or, in the alternative, for the purposes of the Supplement T tax, the return for victory tax purposes shall be made a part of such return. If, under the limitations contained in section 51 (a), the gross income of the taxpayer is insufficient to require a return for normal tax and surtax purposes, a return for victory tax purposes shall, nevertheless, be made in any case in which the gross income for the taxable year exceeds $624. If, for example, A has gross income for the taxable year of $850 and his wife, B, has gross income for the taxable year of $150, no return is required for normal tax and surtax purposes. However, since the gross income of A exceeds $624, a return is required for victory tax purposes. In such case A may file a separate return or A and his wife, B, may under the provisions of section 51 (b) elect to make a joint return. See § 19.51–1 (c). In the case of a married person living with husband or wife if each spouse has more than $624 gross income for the taxable year, each must make a return unless they elect to make a joint return. If one such spouse has more than $624 gross income for the taxable year and the other spouse has less than $624 gross income for the taxable year, the spouse having more than $624 gross income may file a separate return or the spouses may elect to make a joint return for the taxable year.

In the case of a husband and wife living tobether, the election to make a joint return authorized under the provisions of section 51 (b) must be exercised with respect to the tax imposed under chapter 1 considered as a whole and not with respect to the several parts of such tax considered separately. Hence, a husband and wife living together may not elect to make separate returns for the purpose of the tax imposed by sections 11 and 12 or Supplement T and a joint return for the purpose of the victory tax. Likewise, such husband and wife may not elect to make separate returns for the purpose of the victory tax and joint returns for the purpose of the other parts of the tax imposed by chapter 1.

The status of a taxpayer making his return and paying his tax under Supplement T is determined under the provisions of section 401. Under those provisions a married person not the head of a family and not living with husband or wife on July 1 of the taxable year is treated as a single person. Hence, if married persons not living together on July 1 of the taxable year elect to pay the tax under Supplement T, each spouse is required to make a separate return. If such husband and wife are married and living together on July 1 of the taxable year, they may make either joint or separate returns under Supplement T. As to the making of returns generally, see section 51 and § 19.51–1. As to exclusions from gross income and the deductions therefrom for the purposes of the victory tax, see section 451 and § 19.451–1. As to credits against the victory tax, see section 453 and § 19.453–1.

(b) *Fiduciary.* For taxable years beginning after December 31, 1942, every fiduciary and at least one of two or more joint fiduciaries must make a return for the purposes of the victory tax for any individual, estate, or trust for which he acts if the gross income (computed without regard to the exclusions from gross income provided in section 451 (a)) of such individual, estate, or trust is in excess of $624 for the taxable year. The return for victory tax purposes shall be made a part of the return of the estate or trust for normal tax and surtax purposes, if such return is required. The provisions of section 142 (a) and 142 (b) as well as section 455 (b) are applicable with respect to the return required for victory tax purposes. For form to be used in making the return under section 142 and section 455 (b), see § 19.142–1.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 456. LIMITATION ON TAX.

The tax imposed by section 450 (victory tax), computed without regard to the credits provided in sections 453, 454, and 466 (e),

shall not exceed the excess of 90 per centum of the net income of the taxpayer for the taxable year over the tax imposed by sections 11 (normal tax) and 12 (surtax), computed without regard to the credits provided in sections 31, 32, and 466 (e).

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.456–1 *Limitation on the amount of the victory tax.* The amount of the victory tax, computed before the application thereto of any credit for the post war credit or refund or for the portion of the victory tax withheld at the source, cannot exceed an amount representing the excess of 90 percent of the taxpayer's net income for the taxable year over the sum of the normal tax and the surtax imposed for such taxable years by sections 11 and 12, respectively, computed before the application against such normal tax and surtax of (a) the credit for foreign income tax, (b) the credit for tax withheld at the source under section 143, and (c) the credit for victory tax withheld at the source under section 466. The application of this limitation may be illustrated by the following example:

Example. A, a married person having no dependents, has, for the calendar year 1943, a gross income of $2,000,000 and deductions (not allowable in computing victory tax net income) for interest, taxes, and contributions amounting to $200,000. His earned net income is $20,000. His wife had no gross income. His normal tax and surtax liability is computed as follows:

Gross income	$2,000,000
Less: Deductions	200,000
Net income	1,800,000
Less: Personal exemption	1,200
Surtax net income	1,798,800
Less: Earned income credit (maximum)	1,400
Normal tax net income	1,797,400
Normal tax at 6% on $1,797,400	107,844
Surtax on $1,798,800	1,450,156
Total normal tax and surtax	1,558,000

The normal tax and surtax equal 86.56 percent of the net income. The 5 percent victory tax, if computed without any limitation on such tax, will amount to $99,968.80. Thus, the total normal tax, surtax, and victory tax would amount to $1,657,968.80 which would equal 92.11 percent of the net income. Therefore, the limitation will apply and the victory tax will be reduced to $62,000, making a total tax of $1,620,000, or 90 percent of the net income.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

Part II—Collection of Tax at Source on Wages.

SEC. 465. DEFINITIONS.

As used in this part—

(a) *Pay-roll period.* The term "pay-roll period" means a period for which a payment of wages is ordinarily made to the employee by his employer.

(b) *Wages.* The term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid (1) for services performed as a member of the military or naval forces of the United States, other than pensions and retired pay, (2) for agricultural labor (as defined in section 1426 (h)), (3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, (4) for casual labor not in the course of the employer's trade or business, (5) for services as an employee of a nonresident alien individual, foreign partnership, or foreign corporation, if such individual, partnership, or corporation is not engaged in trade or business in the United States, (6) for services as an employee of a foreign government or any wholly owned instrumentality thereof, or (7) for services performed as an employee while outside the United States (as defined in section 3797 (a) (9)), unless the major part of the services performed during the calendar year by such employee for his employer are performed within the United States.

(c) *Withholding agent.* The term "withholding agent" means any person required to withhold, collect, and pay the tax under section 466.

(d) *Employee.* The term "employee" includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

(e) *Employer.* The term "employer" includes any person for whom an individual performs any service, of whatever nature, as the employee of such person.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.465–0 *Introductory.* Part II of Subchapter D of Chapter 1 provides for collection of tax at the source on wages. The regulations prescribed thereunder §§ 19.465–0 to 19.476–1 inclusive) relate to the operation and effect of the provisions dealing with collection at the source and have no application in the determination of questions relating to the incidence or computation of the victory tax imposed under Part I of such Subchapter D. Hence, the fact that income of certain specified classes of individuals or income derived from certain specified sources is excluded from the definition of wages as used in Part II is not determinative of the question whether or not such income is subject to the victory tax. As to persons subject to the victory tax and the computation of victory tax net income, see §§ 19.451–1 and 19.451–2.

§ 19.465–1 *Pay-roll period.* The term "pay-roll period" means the period for which a payment of wages is ordinarily made to an employee by his employer. If the periods for which payments of wages are made to an employee by his employer are of uniform duration, each such period constitutes a pay-roll period. If, however, the periods occasionally vary in duration, the pay-roll period is the period for which a payment of wages is ordinarily made to the employee by his employer, even though that period does not coincide with the actual period for which a particular payment of wages is made. For example, if an employer ordinarily pays a particular employee for each calendar week at the end of the week, but the employee receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the pay-roll period is still the calendar week; or if, instead, that employee is sent on a trip by his employer and receives at the end of the week a single wage payment for three weeks' services, the pay-roll period is still the calendar week.

§ 19.465–2 *Wages*—(a) *In general.* The term "wages" means all remunerations for services performed by an employee for his employer unless specifically excepted under section 465 (b) or section 466 (g). (See §§ 19.465–3 and 19.466–6.)

The name by which the remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, pensions and retired pay are wages within the meaning of the statute if paid as compensation for services performed by the employee for his employer.

The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus it may be paid on the basis of piece work, or a percentage of profits; and may be paid hourly, daily, weekly, monthly, or annually.

The medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as, for example, stocks, bonds, or other forms of property. Remuneration paid in items other than cash shall be computed on the basis of the fair market value of such items at the time of payment.

Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases), furnished or offered by an employer to his employees generally, are not considered as remuneration for services if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment or efficiency of his employees.

Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer, are not subject to withholding.

Remuneration for services, unless such remuneration is specifically excepted by the statute, constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

Example. A is employed by B during the month of January 1943 and is entitled to receive remuneration of $100 for the services performed for B, the employer, during the month. A leaves the employ of B at the close of business on January 31, 1943. On February 15, 1943 (when A is no longer an employee of B), B pays A a remuneration of $100 which was earned for the services per-

formed in January. The $100 is wages within the meaning of the statute.

(b) *Pensions and retired pay.* Pensions and retired pay are wages within the meaning of the statute. However, amounts receivable by an employee upon retirement which are taxed as annuities under the provisions of section 22 (b) (2) and distributions under an employees' trust taxable, because of the provisions of section 165 (b), as gain from the sale or exchange of a capital asset do not constitute wages subject to withholding. So-called pensions awarded by one to whom no services have been rendered are mere gifts or gratuities and do not constitute wages.

(c) *Traveling and other expenses.* Amounts paid or reimbursements made to employees specifically for traveling or other expenses incurred in the business of the employer are not subject to withholding.

(d) *Vacation allowances.* Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(e) *Dismissal payments.* Any payments made by an employer to an employee on account of dismissal, that is, involuntary separation from the service of the employer, constitute wages regardless of whether the employer is legally bound by contract, statute, or otherwise, to make such payments.

(f) *Deductions by employer from wages of employee.* The amount of any tax which is required by law to be deducted by the employer from the wages of an employee is considered to be a part of the employee's wages and is deemed to be paid to the employee as wages at the time the deduction is made. Other amounts deducted from the wages of an employee by an employer also constitute wages paid to the employee at the time of the deduction. It is immaterial that the Internal Revenue Code, or any Act of Congress, or the law of any State, requires or permits such deductions and the payment of the amounts thereof to the United States, a State, a Territory, or the District of Columbia, or any political subdivision of any one or more of the foregoing.

(g) *Payment by an employer of employee's tax, or employee's contributions under a State law.* The term "wages" includes the amount of any payment made by an employer on behalf of an employee (without deduction from the remuneration of, or other reimbursements from, the employee) of any payment required from an employee under a State unemployment compensation law, or of any tax imposed upon the employee by any taxing authority, including the taxes imposed by sections 1400 and 1500.

§ 19.465–3 *Exclusions from wages.*—(a) *Fees paid to a public official.* Authorized fees paid to public officials, such as notaries public, clerks of courts, sheriffs, etc., for services rendered in the performance of their official duties are excepted from the definition of the term "wages" and hence are not subject to withholding. However, salaries paid such officials by the Government, or government agency or instrumentality are subject to withholding.

(b) *Compensation of military and naval forces.* Remuneration paid for services performed as a member of the military or naval forces of the United States is excepted from the definition of the term "wages". For the purpose of the exception, the military and naval forces of the United States include (but are not necessarily limited to) the Army, the Navy, the Marine Corps, the Coast Guard, the Army Nurse Corps, female, the Navy Nurse Corps, female, the Women's Army Auxiliary Corps, the Women's Reserve Branch of the Naval Reserve (the "WAVES"), the Women's Reserve Branch of the Coast Guard Reserve (the "SPARS"), and the Marine Corps Women's Reserve.

(c) *Remuneration paid for agricultural labor*—(1) *In general.* The term "wages" does not include remuneration for services which constitute agricultural labor as defined in section 1426 (h). The term "agricultural labor" as so defined includes services of a character described in subparagraphs (2), (3), (4) and (5) of this subsection.

In general, however, the term "agricultural labor" does not include services performed in connection with forestry, lumbering, or landscaping.

(2) *Services described in section 1426 (h) (1).* Remuneration paid for services performed on a farm by an employee of any person in connection with any of the following activities is excepted as remuneration for agricultural labor:

(i) The cultivation of the soil;

(ii) The raising, shearing, feeding, caring for, training, or management of livestock, bees, poultry, fur-bearing animals, or wildlife; or

(iii) The raising or harvesting of any other agricultural or horticultural commodity.

The term "farm" as used in this and succeeding paragraphs of this section includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for other purposes (for example, display, storage, and fabrication of wreaths, corsages, and bouquets), do not constitute "farms".

(3) *Services described in section 1426 (h) (2).* The remuneration paid for the following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms is excepted as remuneration for agricultural labor, provided the major part of such services is performed on a farm:

(i) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment; or

(ii) Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane.

The services described in (i) above may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semi-skilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged.

Since the services described in this paragraph must be performed in the employ of the owner or tenant or other operator of the farm, the exception does not extend to remuneration paid for services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(4) *Services described in section 1426 (h) (3).* Remuneration paid for services performed by an employee in the employ of any person in connection with any of the following operations is excepted as remuneration for agricultural labor without regard to the place where such services are performed:

(i) The ginning of cotton;

(ii) The hatching of poultry;

(iii) The raising or harvesting of mushrooms;

(iv) The operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying or storing water for farming purposes;

(v) The production, or harvesting of maple sap or the processing of maple sap into maple sirup or maple sugar (but not the subsequent blending or other processing of such sirup or sugar with other products); or

(vi) The production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum.

(5) *Services described in section 1426 (h) (4).* (i) Remuneration paid for services performed by an employee in the employ of a farmer or a farmers' cooperative organization or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of any agricultural or horticultural commodity, other than fruits and vegetables (see subdivision (ii) below), produced by such farmer or farmer-members of such organization or group of farmers is excepted, provided such services are performed as an incident to ordinary farming operations.

Generally services are performed "as an incident to ordinary farming operations" within the meaning of this paragraph if they are services of the character ordinarily performed by the employees of a farmer or of a farmers' cooperative organization or group as a prerequisite to the marketing, in its unmanufactured state, of any agricultural or horticultural commodity produced by such farmer or by the members of such farmers' organization or group. Services performed by employees of such farmer or farmers' organization

or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of commodities produced by persons other than such farmer or members of such farmers' organization or group are not performed "as an incident to ordinary farming operations."

(ii) Remuneration paid for services performed by an employee in the employ of any person in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of fruits and vegetables, whether or not of a perishable nature, is excepted as remuneration for agricultural labor, provided such services are performed as an incident to the preparation of such fruits and vegetables for market. For example, if services in the sorting, grading, or storing of fruits, or in the cleaning of beans, are performed as an incident to their preparation for market, remuneration paid for such services may be excepted whether the services are performed in the employ of a farmer, a farmers' cooperative, or a commercial handler of such commodities.

(iii) The services described in subdivisions (i) and (ii), above, do not include services performed in connection with commercial canning or commercial freezing, or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in such subdivisions must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of subparagraph (3) of this section.

(d) *Remuneration paid for domestic service.* Remuneration paid for services of a household nature performed by an employee in or about the private home of the person by whom he is employed, or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which he is employed, is excepted from the term "wages".

A private home is the fixed place of abode of an individual or family.

A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter.

If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home and the remuneration paid for services performed therein is not excepted. Likewise, if the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for such purpose, the remuneration paid for services performed therein is not within the exception.

In general, services of a household nature in or about a private home include services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, maids, butlers, laundresses, furnacemen, waiters, and housemothers.

The remuneration paid for the services above enumerated is not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, hospitals, eleemosynary institutions, or commercial offices or establishments.

Remuneration paid for services performed as a private secretary, even though performed in the employer's home, is not within the exception.

(e) *Remuneration for casual labor not in the course of employer's trade or business.* The term "casual labor" includes labor which is occasional, incidental, or irregular.

The expression "not in the course of the employer's trade or business' includes labor that does not promote or advance the trade or business of the employer.

Thus remuneration paid for labor which is occasional, incidental, or irregular, and does not promote or advance the employer's trade or business is excepted.

Example. A's business is that of operating a sawmill. He employs B, a carpenter, at an hourly wage to repair his home. B works irregularly and spends the greater part of two days in completing the work. Since B's labor is casual and is not in the course of A's trade or business, the remuneration paid for such services is excepted.

The remuneration paid for casual labor, that is, labor which is occasional, incidental, or irregular, but which *is* in the course of the employer's trade or business, does not come within the above exception.

Example (1). C's business is that of operating a sawmill. He employs D for two hours, at an hourly wage, to remove sawdust from his mill. D's labor is casual since it is occasional, incidental, or irregular, but it is in the course of C's trade or business and the remuneration paid for such labor is not excepted.

Example (2). E is engaged in the business of operating a department store. He employs additional clerks for short periods. While the services of the clerks may be casual, they are in the course of the employer's trade or business and, therefore, the remuneration paid for such services is not excepted.

Remuneration paid for casual labor performed for a corporation does not come within this exception.

(f) *Compensation paid by nonresident alien individual, foreign partnership, or foreign corporation.* Remuneration paid for services performed as an employee of a nonresident alien individual, foreign partnership, or foreign corporation, if such individual, partnership, or corporation is not engaged in trade or business in the United States, is excepted. The exception has no application if the employer paying such remuneration is engaged in trade or business in the United States. Whether or not a nonresident alien individual, foreign partnership, or foreign corporation is engaged in trade or business within the United States depends upon the particular facts of each case and will be determined in accordance with the rules applicable under sections 211, 219 and 231 for income tax purposes generally.

For purposes of this exception, the citizenship or residence of the employee or the place where the services are performed is immaterial.

(g) *Compensation paid by foreign government or wholly-owned instrumentality thereof.* Remuneration paid for services performed as an employee of a foreign government or wholly-owned instrumentality thereof is excepted. The exception includes not only remuneration paid for services performed by ambassadors, ministers, and other diplomatic officers and employees but also remuneration paid for services performed as a consular or other officer or employee of a foreign government, or as diplomatic representative of such a government.

The citizenship or residence of the employee and the place where the services are performed are immaterial for purposes of the exception.

(h) *Remuneration for services performed outside the United States.* The remuneration paid by an employer for services performed outside the United States does not constitute wages and hence is not subject to withholding unless the major part of the services performed by the employee for such employer during the calendar year is performed within the United States. The term "United States" includes the several States, the Territories of Alaska and Hawaii, and the District of Columbia.

The exception relates only to the remuneration paid for the services performed outside the United States regardless of whether the major part of the services performed for such employer during the calendar year is performed within or without the United States. Thus, if an employee performs services outside the United States for more than six months of the calendar year, the remuneration paid for such services does not constitute wages and hence is not subject to withholding, but the remuneration paid for services performed within the United States for such employer during the remainder of the calendar year constitutes wages and is subject to withholding.

If, however, an employee is absent from the United States on business of his employer for less than six months of the calendar year and performs services for such employer within the United States during the remainder of the calendar year, the entire amount of the remuneration paid for services performed during the calendar year constitutes wages and is subject to withholding.

However, it is recognized that in the case of an employee performing, outside

the United States, services of indefinite duration, it may be impossible for the employer to determine whether the major portion of the employee's services during the calendar year will be performed within the United States or outside the United States. In such case it may be presumed that such performance will continue throughout the calendar year and the liability of the employer to withhold tax on the compensation paid for such services performed outside the United States will be determined in the light of such presumption. Thus, if an employee undertakes for his employer the performance of services abroad of indefinite duration, or for a term extending beyond the end of the calendar year, and such employee has not already, within the calendar year, performed services within the United States for a length of time which would constitute, in any circumstances, the major part of the year's services for such employer, no tax is required to be withheld on the compensation paid for services performed by such employee outside the United States.

Example (*1*). A has been regularly employed by B, and is sent abroad under such conditions that it is not possible to know when he will return: (*a*) If A goes abroad on January 1, no tax is required to be withheld on compensation paid to A for services performed abroad, but on the compensation paid for services performed after his return to the United States tax should be withheld; (*b*) If A goes abroad on June 29, the same rules are applicable. No tax is required to be withheld on the compensation for services performed abroad but on compensation for services performed after his return to the United States tax should be withheld; (*c*) If A goes abroad on August 1, tax should be withheld on the compensation paid A for all services performed during the calendar year since under no circumstances could the major part of the services performed during such year be performed outside the United States.

Example (*2*). A begins his employment with B on July 1, and on September 1 is sent abroad under the circumstances described in Example (1). No tax is required to be withheld on the compensation paid A for the services performed abroad.

Example (*3*). A begins his employment with B on July 1, and on November 1 is sent abroad under the circumstances described in Example (1). Tax is required to be withheld on the compensation paid A for the services performed abroad, as well as on compensation paid for services performed within the United States, for the reasons set forth in Example (1) (*c*).

The presumption that employees performing services of indefinite duration outside the United States will continue to perform such services throughout the calendar year does not apply in the case of employees sent abroad during the year on business missions of limited duration when there is reasonable expectation that the employee can and will return at such time that the major portion of his services for the employer for that calendar year will be performed within the United States.

§ 19.465–4 *Withholding agent.* Any person required to withhold, collect, and pay the tax imposed by section 466 is a withholding agent. Under section 467 (a), the tax required to be withheld shall be collected by the person having control of the payment of wages. In the case of private employers, the employer is the withholding agent. In situations where neither the wage payment nor the funds from which payment is made is subject to the control of the employer, the person having such control is the withholding agent. For example, where wages such as pensions or retired pay are paid through the medium of a trust over which the employer has no control, the trustee is the withholding agent. With respect to public employees, the withholding agent is by presumption the head officer of particular offices approving and scheduling pay-rolls for payment, or, where some other form of administrative procedure for the payment of wages is in effect, the officer exercising control through such procedure.

§ 19.465–5 *Employee.* The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term specifically includes officers and employees, whether elected or appointed, of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

Generally the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

No distinction is made between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is an employee of the corporation but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

Although an individual may be an employee under the statute, his services may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 465 (b). (See § 19.465–3)

§ 19.465–6. *Employer.* The term "employer" includes any person for whom an individual performs any service, of whatever nature, as the employee of such person. An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

The term "employer" embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the States, Territories, and the District of Columbia, including their agencies, instrumentalities and political subdivisions.

Although a person may be an employer under the statute, services performed in his employ may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 465 (b). (See § 19.465–3)

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942. Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 466. TAX COLLECTED AT SOURCE.

(a) *Requirement of withholding.* There shall be withheld, collected, and paid upon all wages of every person, to the extent that such wages are includible in gross income, a tax equal to 5 per centum of the excess of each payment of such wages over the withholding deduction allowable under this part. This subsection and subsection (c) shall not be applicable in any case provided for in section 143, except in the case of wages paid to residents of a contiguous country who enter and leave the United States at frequent intervals.

(b) *Withholding deduction.* (1) In computing the tax required to be withheld under subsection (a), there shall be allowed as a deduction against the wages paid for each pay-roll period an amount determined in accordance with the following schedule:

	Withholding deduction
Weekly	$12
Biweekly	24
Semimonthly	26
Monthly	52
Quarterly	156
Semiannually	312
Annually	624

(2) If a pay-roll period in respect of any wages is less than one week, the excess of the aggregate of the wages paid during each calendar week over the deduction allowed by this subsection for a weekly pay-roll period shall be used in computing the tax required to be withheld.

(3) If a pay-roll period in respect of any wages, or any other period with respect to which wages are paid, is not otherwise specifically provided for in this subsection, the deduction allowable against each payment of such wages shall be the deduction allowable in the case of an annual pay-roll period divided by 365 and multiplied by the number of days in such period, including Sundays and holidays.

(4) In any case in which wages are paid by an employer without regard to any pay-roll period or other period, the deduction allowable against each payment of such wages shall be the deduction allowable in the case of an annual pay-roll period divided by 365 and multiplied by the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(5) The deduction allowable under this subsection in respect of any individual for any calendar year shall not exceed the total deduction which would have been allowable under paragraph (1) if the only pay-roll period of such individual had been an annual pay-roll period.

(c) *Wage bracket withholding.* (1) At the election of the employer, if his pay-roll period with respect to an employee is weekly, biweekly, semimonthly, or monthly, there shall be withheld, collected, and paid upon the wages of such employee a tax determined in accordance with the following tables, which shall be in lieu of the tax required to be withheld under subsection (a):

For weekly pay-roll period			For biweekly pay-roll period		
If the wages are over	But not over	The amount of tax to be withheld shall be	If the wages are over	But not over	The amount of tax to be withheld shall be
$12	$16	$0.10	$24	$30	$0.10
$16	20	.30	$30	40	.50
$20	24	.50	$40	50	1.00
$24	28	.70	$50	60	1.50
$28	32	.90	$60	70	2.00
$32	36	1.10	$70	80	2.50
$36	40	1.30	$80	100	3.30
$40	50	1.60	$100	120	4.30
$50	60	2.10	$120	140	5.30
$60	70	2.60	$140	160	6.30
$70	80	3.10	$160	180	7.30
$80	90	3.60	$180	200	8.30
$90	100	4.10	$200	220	9.30
$100	110	4.60	$220	240	10.30
$110	120	5.10	$240	260	11.30
$120	130	5.60	$260	280	12.30
$130	140	6.10	$280	300	13.30
$140	150	6.60	$300	320	14.30
$150	160	7.10	$320	340	15.30
$160	170	7.60	$340	360	16.30
$170	180	8.10	$360	380	17.30
$180	190	8.60	$380	400	18.30
$190	200	9.10	$400	420	19.30
$200	------	[1] 9.40	$420	440	20.30
			$440	460	21.30
			$460	480	22.30
			$480	500	23.30
			$500	------	[2] 23.80

[1] Plus 5 percent of the excess over $200.
[2] Plus 5 percent of the excess over $500.

For semimonthly pay-roll period			For monthly pay-roll period		
If the wages are over	But not over	The amount of tax to be withheld shall be	If the wages are over	But not over	The amount of tax to be withheld shall be
$26	$30	$0.10	$52	$60	$0.20
$30	40	.40	$60	80	.90
$40	50	.90	$80	100	1.90
$50	60	1.40	$100	120	2.90
$60	70	1.90	$120	140	3.90
$70	80	2.40	$140	160	4.90
$80	100	3.20	$160	200	6.40
$100	120	4.20	$200	240	8.40
$120	140	5.20	$240	280	10.40
$140	160	6.20	$280	320	12.40
$160	180	7.20	$320	360	14.40
$180	200	8.20	$360	400	16.40
$200	220	9.20	$400	440	18.40
$220	240	10.20	$440	480	20.40
$240	260	11.20	$480	520	22.40
$260	280	12.20	$520	560	24.40
$280	300	13.20	$560	600	26.40
$300	320	14.20	$600	640	28.40
$320	340	15.20	$640	680	30.40
$340	360	16.20	$680	720	32.40
$360	380	17.20	$720	760	34.40
$380	400	18.20	$760	800	36.40
$400	420	19.20	$800	840	38.40
$420	440	20.20	$840	880	40.40
$440	460	21.20	$880	920	42.40
$460	480	22.20	$920	960	44.40
$480	500	23.20	$960	1,000	46.40
$500	------	[1] 23.70	$1,000	------	[2] 47.40

[1] Plus 5 percent of the excess over $500.
[2] Plus 5 percent of the excess over $1,000.

(d) *Tax paid by recipient.* If any tax required under this part to be withheld and collected is paid by the recipient of the income, it shall not be re-collected from the withholding agent; but such payment shall in no case relieve the withholding agent from liability for interest or additions to the tax otherwise applicable in respect of the tax imposed by this chapter.

(e) *Credit for tax withheld at source.* The tax withheld and collected under this part shall not be allowed as a deduction either to the withholding agent or to the recipient of the income in computing net income; but the amount of the tax so withheld and collected shall be allowed as a credit against the tax imposed by this chapter upon the recipient of the income. Such credit shall be allowed first against the victory tax imposed by sections 450 (adjusted for the credit allowed by section 453) and the excess of such credit, if any, over the victory tax, so adjusted, shall be allowed against the tax imposed by sections 11 and 12 or section 400, as the case may be.

(f) *Refunds.* Where there has been an overpayment of tax under this part, any refund or credit made under the provisions of section 322 shall be made to the recipient of the income; but, in any case in which such tax was not so withheld by the withholding agent, such refund or credit shall be made to the withholding agent.

(g) *Included and excluded wages.* If the remuneration paid by an employer to an employee for services performed during one-half or more of any pay-roll period constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such pay-roll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.466–1 *Requirement of withholding*—(a) *In general.* Subject to certain prescribed conditions, section 466 provides, at the election of the employer, alternative methods for computing the tax with respect to wages includible in gross income: (1) A tax equal to 5 percent of the excess of each payment of such wages over the withholding deduction (hereinafter referred to as withholding exemption) allowable under paragraph (b), or subparagraph (2) a tax determined in accordance with the tables provided in paragraph (c). (See § 19.466 (c)). The tax is applicable to all wages actually or constructively paid on or after January 1, 1943 regardless of the period for which paid or the method of accounting followed by the employee in computing his income for tax purposes, and is collected by deducting the amount thereof from such wages as and when so paid.

Example (1). Employer X has a semimonthly pay-roll period ending on the 10th and 25th days of the month. The wages earned during such periods are customarily paid on the 15th and 30th days of the month, respectively. The wages earned during the semimonthly period ending on January 10, 1943 and paid on January 15, 1943 are subject to withholding when paid.

Example (2). Employer Y has a weekly pay-roll period based on the calendar week and the wages earned during each calendar week are customarily paid on Wednesday of the succeeding week. The wages earned during the week ending January 2, 1943 and paid on Wednesday, January 6, 1943, are subject to withholding when paid.

Wages are constructively paid within the meaning of this section when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case, the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn upon at any time, and their payment brought within his control and disposition.

(b) *Wages includible in gross income.* Under the provisions of section 466, wages are subject to withholding only if and to the extent includible in gross income. The term "includible in gross income" as it relates to wages from which the tax is required to be deducted and withheld refers only to the taxability of the income. Thus, if an item of wages constitutes gross income under the provisions of section 22, it is includible in gross income within the meaning of this section and is subject to withholding. The fact that such wages may be includible in gross income for a taxable year other than that in which paid is immaterial. For instance, in the case of a taxpayer on the accrual basis, wages actually or constructively paid in 1944 but includible in the recipient's gross income for 1943 are subject to withholding in 1944. Likewise, the fact that wages may be includible in the gross income of a taxpayer other than the wage earner is immaterial. For instance, a part of the wages earned by a taxpayer domiciled in a community property

State may be includible for tax purposes in the gross income of his spouse. Nevertheless, the entire amount paid to the wage earner should be taken into account in computing the amount of the tax to be withheld at source.

(c) *Nonresident aliens.* Nonresident aliens individuals are not subject to withholding under the victory tax provisions, except that such nonresident aliens who are residents of Canada or Mexico and who enter and leave the United States at frequent intervals are subject to the victory tax withholding provisions upon wages paid for services performed within the United States.

§ 19.466–2 *Withholding exemption—*(a) *In general.* In computing the amount of the tax to be withheld from wage payments, a withholding exemption is allowable against the wages paid by each employer for each pay-roll period based upon an annual exemption of $624 prorated in accordance with the length of the particular pay-roll period. Under the schedule provided in section 466 (b) (1), the amount of the exemption is as follows:

Pay-roll period:	*Withholding exemption*
Weekly	$12.00
Biweekly	24.00
Semimonthly	26.00
Monthly	52.00
Quarterly	156.00
Semiannually	312.00
Annually	624.00

The amount of the exemption in respect of the wages paid a particular employee is determined by reference to such employee's pay-roll period and without regard to the time the employee is actually engaged in the performance of services during such period.

Example (1). Employer X has a semimonthly pay-roll period. An employee whose wages are determined on an hourly rate basis works 20 hours and earns $24 during the pay-roll period. The amount of the withholding exemption allowable in respect of such wages is $26.

Example (2). Employer Y has a weekly pay-roll period. An employee paid at the rate of $10 per day worked two days and resigned. The amount of the withholding exemption allowable in respect of the wages paid such employee for the weekly period is $12.00.

(b) *Pay-roll period less than one week.* If the pay-roll period is less than one week, as in the case where employees are paid daily, the amount of tax withheld will be based upon the excess of the aggregate of the wages paid during the period of a calendar week over the exemption which would be allowed for a weekly pay-roll period. For instance, if an employee is paid daily at the rate of $5 per day, no tax shall be withheld with respect to the wages paid for the first two days of employment in the week. The wages paid for the third day will be subject to withholding on $3, the excess of the total wages for three days ($15) over the weekly exemption ($12). Subsequent wage payments during the same calendar week would be subject to withholding at the rate of 5 percent on the entire amount of each payment. During the following and subsequent weeks, the same procedure would apply. In the case of temporary or extra employees, if wages are paid at intervals of less than one week, the withholding exemption with respect to wages paid during any calendar week may be computed in accordance with the provisions of this subsection. As used herein, the term "calendar week" means a period of seven consecutive days beginning with Sunday and ending with Saturday.

(c) *Other pay-roll periods.* If the pay-roll period is greater than one week, and is a period not covered by the schedule set forth in section 466 (b), or if wages are paid for a period of more than one week which does not constitute a pay-roll period, the withholding exemption allowable with respect to each such payment of wages is determined by dividing the annual withholding exemption of $624 by 365 ($1.71) and multiplying by the number of days in the period, including Sundays and holidays. Thus, the withholding exemption allowable for a pay-roll period of 10 days is $17.10.

(d) *Wages paid without regard to any period.* In the case of wages paid without regard to any particular period, as, for instance, commissions paid to a salesman upon completion of a sale, the withholding exemption is measured by the number of days elapsed since the date of the last payment of wages to such employee by such employer during the calendar year, or the date on which employment with such employer began during the calendar year, or January 1 of such calendar year, whichever is the later.

Example. On April 1, 1943, A, an individual, was employed by the X Real Estate Company to sell real estate on a commission basis, commissions to be paid only upon consummation of sales. On May 20, 1943, A received a commission of $300. Again on June 15, 1943, A received a commission of $400. The amount of the withholding exemption allowable in respect of the commission paid on May 20 is ($1.71 x 50) $85.50; and the withholding exemption allowable with respect to the commission paid on June 15 is ($1.71 x 26) $44.46.

(e) *Maximum withholding exemption.* Under section 466 (b) (5) the total withholding exemption allowable to any individual with respect to wages received from any one employer during a calendar year shall not exceed the amount which would have been allowable if such individual had an annual pay-roll period. Thus, the maximum amount of the exemption allowable with respect to wages paid to an employee by any one employer during a calendar year is $624.

If the amount of the exemption allowable with respect to wages paid for any period of one week or more exceeds the amount of wages paid with respect to such period, the unused portion of the exemption allowable with respect to such period may not be carried over to a subsequent period. Thus, if an employee's wages for a semimonthly pay-roll period are less than $26, the difference between such wages and the $26 exemption allowable with respect to such pay-roll period may not be carried forward to the subsequent pay-roll period.

(f) *Bonuses and commissions.* If an employee's remuneration for each pay-roll period consists of wages computed at a specified rate plus additional wages in the form of bonuses or commissions, the aggregate of the wages paid for each such period shall be considered as a single wage payment and only one withholding exemption shall be allowed with respect to such wages.

Example (1). A is employed as a salesman at a monthly salary of $100 plus commissions on sales made during the month. A withholding exemption of $52 is allowable against the aggregate wages, consisting of salary and commissions, considered as a single wage payment.

Example (2). B is employed as a mechanic at a specified rate per hour plus a bonus on production in excess of a fixed standard. Under the employer's pay-roll practice, wages are paid weekly and each wage payment consists of the wages for the current week computed at the regular rate plus the production bonuses earned during the preceding week. A withholding exemption of $12 is allowable against each such wage payment.

If an employee's compensation consists of wages paid with respect to a particular pay-roll period and in addition thereto bonuses or commissions paid with respect to a different period or without regard to any particular period, the amount of the withholding exemption allowable with respect to such wage payments shall, at the option of the employer, be determined in accordance with either of the following methods:

(1) The amount of the withholding exemption allowable with respect to the regular wage payment and the amount allowable with respect to the bonuses or commissions may be determined independently under the rules applicable to each. Thus, if a person receives a weekly salary for a 26-week period and at the end of such period receives a bonus paid with respect to the 6-month period, a withholding exemption of $12 is allowable in respect of each weekly wage payment, or an aggregate of $312 for the 26-week period, and a withholding exemption of $312 is allowable with respect to the bonus paid for the 6-month period. Since the aggregate of the withholding exemptions allowable with respect to the weekly wage and the bonus equals the maximum allowance of $624 for the calendar year in the case of such individual, no withholding exemption is allowable with respect to any further wages paid to such employee by the same employer during the calendar year; or

(2) The withholding exemption may be determined as if the aggregate of the additional wages and the regular wages constituted a single wage payment for the regular pay-roll period. For example, an employee is paid a monthly salary of $50 plus a bonus and commissions determined at the end of each 3-month period. The bonus and commission for a particular 3-month period amount to $375 which together with his regular monthly salary of $50 make a total of $425. The amount of the withholding exemption allowable with respect to the aggregate wages of $425 is $52.

§ 19.466–3 *Wage bracket withholding.* The use of the tables provided in section 466 (c) is optional with the employer. An employer may elect to use the wage bracket tables for determining the

amount of the tax to be withheld in the case of any one or more of his employees provided only that such employees are paid on a weekly, biweekly, semimonthly, or monthly basis. For example, an employer may elect to use the optional method in case of one group of employees on a particular pay roll and at the same time may use the exact 5 percent method provided in section 466 (a) in the case of another group of employees on a different pay roll.

In order to determine the amount of the tax to be withheld with respect to any wage payment, the employer merely refers to the table applicable to the particular pay-roll period. For example, an employee's earnings for a weekly pay-roll period, it will be found that the $35 to the table applicable to a weekly pay-roll period, it will be found that the $35 wage payment falls within the wage bracket from $32 to $36 and the amount of the tax to be withheld shown opposite such bracket is $1.10.

If an employer elects in the case of any employee to determine the tax under the wage bracket tables and such employee is paid in addition to his regular wages extra compensation in the form of bonuses, commissions, etc., no withholding exemption under section 466 (b) is allowable for the purpose of computing the amount of the tax to be withheld upon such additional compensation. In any such case, the amount of the tax to be withheld shall be determined in accordance with the following rules:

(a) If the employee's compensation for each pay-roll period consists of the regular wages plus such additional wages, the aggregate of the wages paid for each pay-roll period shall be considered as a single wage payment for the purpose of determining the appropriate wage bracket and the amount of the tax to be withheld under the table. For example, a salesman employed at a monthly salary of $100 plus commissions on sales made during each month received for a particular month, in addition to his regular salary, commissions amounting to $160. By reference to the table applicable to a monthly pay-roll period, it will be found that the $260 wage payment falls within the wage bracket from $240 to $280 and the amount of the tax to be withheld shown opposite such bracket is $10.40.

(b) If the employee's compensation consists of wages paid with respect to a particular pay-roll period and additional wages in the form of bonuses, commissions, etc., paid with respect to a different period or without regard to any particular period, the amount of the tax to be withheld may, at the option of the employer, be determined by either of the following methods: (1) The amount of the tax to be withheld on the regular wages shall be determined under the appropriate wage table, and the amount of the tax to be withheld on the additional wages shall be 5 percent of each such wage payment, or (2) the aggregate of the additional wages and the regular wages shall be considered as a single wage payment and the amount of the tax to be withheld shall be determined under the table applicable to the regular pay-roll period. For example, an employee is paid a weekly salary of $65 plus a bonus determined at the end of each three-month period. For a particular three-month period, the employee is paid a bonus of $115. Under the method provided in (1), the amount of the tax to be withheld on the weekly wages as shown on the table provided for a weekly pay-roll period is $2.60, and the amount of the tax to be withheld on the bonus is 5 percent of $115, or $5.75. Under the method provided in (2), the amount of the tax to be withheld on the aggregate wage payment of $180 under the table applicable to a weekly pay-roll period is $8.10.

If, in the case of an employee, the wage bracket tables for determining the amount of the tax to be withheld are used for only a portion of the calendar year, and the exact 5 percent method is used for the balance of the calendar year, the maximum withholding exemption allowable with respect to the wages paid by such employer to such employee during the portion of the calendar year following such change shall not exceed an amount equal to the product of the withholding exemption applicable with respect to such employee's pay-roll period times the number of such periods in the remaining portion of the calendar year.

Example. In the case of certain employees having a weekly pay-roll period ending on Thursday of each week, an employer used the wage bracket tables for determining the tax to be withheld during the first quarter of the calendar year 1943. For the pay-roll period ending on Thursday, April 1, 1943, and for subsequent pay-roll periods during the calendar year 1943, the employer used the exact 5 percent method for computing the amount of the tax to be withheld. The maximum amount of the withholding exemption allowable with respect to the wages paid each employee during the balance of the calendar year is $12 (the withholding exemption applicable to a weekly pay-roll period) multiplied by 40 (the number of weekly pay-roll periods remaining in the calendar year), or $480.

§ 19.466–4 *Tax paid by recipient.* Section 466 (d) provides that if the tax required to be withheld, collected and paid by the withhouding agent is paid by the recipient of the income, it shall not be re-collected from the withholding agent. Such payment does not, however, operate to relieve the withholding agent from liability for interest or additions o the tax imposed for failure to withhold, collect and pay the tax within the time prescribed by law or regulations made in pursuance of law. Interest and additions to the tax shall be computed from the date prescribed in section 468 for the making of the return and payment of the tax by the withholding agent to the date of payment of the tax by the recipient of the income. In general, for interest and additions to tax for failure to make return or pay the tax within the time prescribed by law, see sections 291 to 299, inclusive. For minimum addition to tax for failure to make return within the time prescribed by law, see section 470 (c).

§ 19.466–5 *Return of income and credit for tax withheld at source.* The entire amount of the wages from which the tax is withheld shall be included in gross income in the return required to be made by the recipient of the income without deductions for such tax. The tax withheld at source, however, is allowable as a credit against the victory tax imposed upon the recipient of the income and any excess thereof over the amount of the victory tax is allowable as a credit against the tax imposed by sections 11 and 12 or the tax imposed by section 400, as the case may be. Any excess of the tax withheld at source over the aggregate of the tax imposed by chapter 1 shall be refunded to the recipient of the income. If the tax has actually been withheld and collected at the source, refund shall be made to the recipient of the income even though such tax has not been paid over to the Government by the withholding agent. See section 322. For the purpose of the credit, the recipient of the income is the person subject to the tax imposed under chapter 1 upon the wages from which the tax was withheld. For instance, if a husband and wife domiciled in a community property State make separate returns, each reporting for income tax purposes one-half of the wages received by the husband, each spouse is entitled to one-half of the credit allowable for the tax withheld at source with respect to such wages.

Example. A and B are married and living together and have two dependent children throughout the calendar year 1943. Their joint return for 1943 discloses normal tax of $1,075.02, surtax of $6,605.33, and victory tax (before allowance of the credit provided in section 453) of $993.80. A credit under the provisions of section 453 is claimed on account of premiums paid in the amount of $628 on life insurance in force on September 1, 1942 and the purchase of War Bonds during the calendar year 1943 at a cost of $1,200. The victory tax withheld at the source from the wages of A amounts to $968.80. The tax liability of A and B for the calendar year 1943 is shown as follows:

Victory tax (gross)	$993.80
Credit claimed under section 453 (not to exceed post war credit):	
1. Premiums paid on life insurance	628.00
2. Purchase of War Bonds	1,200.00
Total	1,828.00
Post war credit: 44% of $993.80, or $1,200, whichever is the lesser	437.27
Credit allowable under section 453	437.27
Victory tax (net)	556.53
Less: Credit for tax withheld at source	968.80
Excess credit (allowable against other income tax	412.27
Income tax:	
Normal tax	1,075.02
Surtax	6,605.33
Total	7,680.35
Less: Balance of credit for tax withheld at source	412.27
Income tax payable	7,268.08

§ 19.466–6 *Included and excluded wages.* If a portion of the remuneration

paid by an employer to his employee for services performed during a pay-roll period constitutes wages, and the remainder does not constitute wages, all the remuneration paid the employee for services performed during such period shall for purposes of withholding be treated alike, that is, either all included as wages or all excluded. The time during which the employee performs services, the remuneration for which under section 465 (b) constitutes wages, and the time during which he performs services, the remuneration for which under such section does not constitute wages, determine whether all the remuneration for services performed during the pay-roll period shall be deemed to be included or excluded.

If one-half or more of the employee's time in the employ of a particular person in a pay-roll period is spent in performing services the remuneration for which constitutes wages, then all the wages paid the employee for services performed in that pay-roll period shall be deemed to be wages.

If less than one-half of the employee's time in the employ of a particular person in a pay-roll period is spent in performing services the remuneration for which constitutes wages, then none of the wages paid the employee for services performed in that pay-roll period shall be deemed to be wages.

Example (*1*). Employee A is employed by B who operates a farm and a store. The remuneration paid A for services on the farm is excepted as remuneration for agricultural labor, and the remuneration for services performed in the store constitutes wages. Employee A is paid on a monthly basis. During a particular month, A works 120 hours on the farm and 80 hours in the store. None of the remuneration paid A for services performed during the month is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the month constitutes wages.

During another month A works 75 hours on the farm and 120 hours in the store. All of the remuneration paid A for services performed during the month is deemed to be wages since the remuneration paid for one-half or more of the services performed during the month constitutes wages.

Example (*2*). Employee C is employed as a maid by D, a physician, whose home and office are located in the same building. The remuneration paid C for services in the home is excepted as remuneration for domestic service, and the remuneration paid for her services in the office constitutes wages. C is paid on a weekly basis. During a particular week C works 20 hours in the home and 20 hours in the office. All of the remuneration paid C for services performed during that week is deemed to be wages, since the remuneration paid for one-half or more of the services performed during the week constitutes wages.

During another week C works 22 hours in the home and 15 hours in the office. None of the remuneration paid C for services performed during that week is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the week constitutes wages.

The rules set forth in this section do not apply with respect to any remuneration paid for services performed by an employee for his employer if the periods for which remuneration is paid by the employer vary to the extent that there is no period which constitutes a pay-roll period within the meaning of section 465 (a). In such a case withholding is required with respect to that portion of such remuneration which constitutes wages.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 467. WITHHOLDING AGENT.

(a) *Collection of tax.* The tax required to be withheld by section 466 shall be collected by the person having control of the payment of such wages by deducting such amount from such wages as and when paid. As used in this subsection, the term "person" includes officers and employees of the United States, or of a State, Territory, or any political subdivision thereof, or of the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

(b) *Indemnification of withholding agent.* Every person required to withhold and collect any tax under this part shall be liable for the payment of such tax, and shall not be liable to any person for the amount of any such payment.

(c) *Adjustments.* If more or less than the correct amount of tax is withheld or paid for any quarter in any calendar year, proper adjustments, with respect both to the tax withheld or the tax paid, may be made in any subsequent quarter of such calendar year, without interest, in such manner and at such times as may be prescribed by regulations made by the Commissioner, with the approval of the Secretary.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.467–1 *Collection of and liability for tax.* Under the provisions of section 467, the withholding agent is required to collect the tax by deducting the amount thereof from the employee's wages as and when paid, either actually or constructively. The withholding agent is required to collect the tax notwithstanding the wages are paid in something other than money (for example, wages paid in stock or bonds; see § 19.465–2) and to pay the tax to the collector in money. If wages are paid in property other than money, necessary arrangements should be made between the employer and employee to insure that the amount of the tax is available for payment to the collector.

Every person required to withhold and collect the tax under section 466 from the wages of an employee is liable for the payment of such tax whether or not it is collected from the employee. If, for example, an employer deducts less than the correct amount of tax, or if he fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. See, however, section 466 (d) relieving the withholding agent from liability for the tax if such tax has been paid by the recipient of the income. The amount of any tax withheld and collected by a withholding agent is a special fund in trust for the United States. [§ 3661]

Except as otherwise expressly indicated or manifestly inconsistent therewith, all provisions of law, including statutes of limitations, applicable with respect to the assessment and collection and refund or credit of the taxes imposed by chapter 1 are applicable to the tax required to be collected at the source.

The withholding agent is relieved of liability to any other person for the amount of any tax withheld and paid to the collector pursuant to the provisions of section 466.

§19.467–2 *Quarterly adjustments*—(a) *In general.* If, for any quarter of the calendar year, more or less than the correct amount of the tax is withheld, or more or less than the correct amount of the tax is paid to the collector, proper adjustment, without interest, may be made in any subsequent quarter of the same calendar year. No adjustment, however, under the provisions of this section shall be made in respect of any quarter after the mailing of a statutory notice of deficiency under the provisions of section 272, the making of a jeopardy assessment under the provisions of section 273, or the filing of a claim for refund under the provisions of section 322, in respect of such quarter. Every return on which an adjustment for a preceding quarter is reported must have securely attached as a part thereof a statement, in duplicate, explaining the adjustment, and designating the quarterly return period in which the error occurred. If an adjustment of an overcollection of tax which the withholding agent has repaid to an employee is reported on a return, such statement shall include the fact that such tax was repaid to the employee.

(b) *Less than correct amount of tax withheld.* If none, or less than the correct amount, of the tax is deducted from any wage payment and the error is ascertained prior to the making of the return on Form V–1 for the quarter in which such wages are paid, the withholding agent shall nevertheless report on such return and pay to the collector the correct amount of the tax required to be withheld. If the error is not ascertained until after the making of the return on Form V–1 for the quarter in which such wages are paid, the undercollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year, subject, however, to the limitations noted in paragraph (a). The amount of any undercollection adjusted in accordance with this subsection shall be paid to the collector, without interest, at the time prescribed for payment of the tax for the quarter in which such adjustment is made. If an adjustment is made pursuant to this subsection but the amount thereof is not paid when due, interest thereafter accrues. (See section 294.)

If none, or less than the correct amount, of the tax is withheld from any wage payment, the withholding agent may correct the error by deducting the amount of the undercollection from remuneration of the employee, if any, under his control after he ascertains the error. Such deduction may be made even though the remuneration, for any reason, does not constitute wages. The obligation of an employee to the withholding

agent with respect to an undercollection of tax from the employee's wages not subsequently corrected by a deduction made as prescribed herein is a matter for settlement between the employee and the withholding agent. In this connection, see section 466 (d) relieving the withholding agent from liability for collection of the tax if such tax has been paid by the employee or other recipient of the wages.

(c) *More than correct amount of tax withheld.* If, in any quarter, more than the correct amount of tax is deducted from any wage payment, the overcollection may be repaid to the employee in any quarter of the same calendar year. If the amount of the overcollection is repaid, the withholding agent shall obtain and keep as part of his records the written receipt of the employee showing the date and amount of the repayment.

If an overcollection in any quarter is repaid and receipted for by the employee prior to the time the return on Form V–1 for such quarter is filed with the collector, the amount of such overcollection shall not be included in the return for such quarter.

Subject to the limitations provided in paragraph (a), if an overcollection in any quarter is repaid and receipted for by the employee after the time the return on Form V–1 for such quarter is filed and the tax is paid to the collector, the overcollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year.

Every overcollection not repaid and receipted for by the employee as provided in this paragraph must be reported and paid to the collector with the return on Form V–1 for the quarter in which the overcollection is made.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 468. RETURN AND PAYMENT BY WITHHOLDING AGENT.

In lieu of the time prescribed in sections 53 and 56 for the return and payment of the tax imposed by this chapter, every person required to withhold and collect any tax under section 466 shall make a return and pay such tax on or before the last day of the month following the close of each quarter of each calendar year. Every such person shall include with the final return for the calendar year a duplicate copy of each receipt required to be furnished under section 469. Every such person shall also keep such records and render under oath such statements with respect to the tax so withheld and collected as may be required under regulations prescribed by the Commissioner, with the approval of the Secretary.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.468–1 *Return and payment by withholding agent.* Every person required to withhold and collect any tax under section 466 shall make a return and pay such tax on or before the last day of the month following the close of each of the quarters ending March 31, June 30, September 30, and December 31. Such return is to be made on Form V–1, Return of Victory Tax Withheld, and must be filed with the collector of internal revenue for the district in which is located the principal place of business or office of the employer, or if he has no principal place of business or office, then in the district in which is located his legal residence. There shall be included with the return filed for the fourth quarter of the calendar year, or with the employer's final return, if filed at an earlier date, a duplicate of each Statement of Victory Tax Withheld (Form V–2) (See § 19.469–1), together with Reconciliation of Quarterly Returns of Victory Tax Withheld with Statements of Victory Tax Withheld (Form V–3). In the case of a large number of duplicate statements (Form V–2), they may be forwarded to the collector in a separate package, properly identified by reference to the return (Form V–1). In such case Form V–3 should accompany the duplicate statements (Form V–2). Employers with numerous establishments or pay rolls should assemble the duplicate statements by establishment or by pay-roll.

Every person required to withhold, collect, and pay any tax under section 466 shall keep such records as will indicate the persons employed during the year, payments to whom are subject to withholding, the periods of employment, and the amounts and dates of payment to such persons. Such records shall be kept at all times available for inspection by internal-revenue officers, and shall be retained so long as the contents thereof may become material in the administration of any internal-revenue law.

The return must be signed and sworn to by the employer or other person required to withhold, collect, and pay the tax. The return may be sworn to before any person authorized by law to administer oaths for general purposes, or, without charge, before any collector of internal revenue, or deputy collector.

If the person required to withhold, collect, and pay the tax under section 466 is a corporation, the return shall be made in the name of the corporation and shall be sworn to by the officers designated in section 52.

With respect to any tax required to be withheld under section 466 by a fiduciary, the return shall be made in the name of the individual, estate, or trust for which such fiduciary acts, and shall be sworn to by such fiduciary. For returns made by one of two or more joint fiduciaries, see section 142 (b).

The last return on Form V–1 for any employer required to withhold, collect, and pay any tax under section 466 who ceased to pay wages shall be marked "Final return" by such employer. Such final return shall be filed with the collector on or before the thirtieth day after the date on which the final payment of wages is made for services performed for such employer, and shall plainly show the period covered and also the date of the last payment of wages. There shall be executed as part of each final return a statement, in duplicate, giving the address at which the records required by this section will be kept, the name of the person keeping such records and, if the business has been sold or otherwise transferred to another person, the name and address of such person and the date on which such sale or other transfer took effect. If no such sale or transfer occurred or the employer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement. An employer who has only temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns, but shall enter on the face of any return on which no tax is required to be reported a statement showing the date of the last payment of wages and the date when he expects to resume paying wages.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 469. RECEIPTS.

(a) *Wages.* Every employer required to withhold and collect a tax in respect of the wages of an employee shall furnish to each such employee in respect of his employment during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made, a written statement showing the period covered by the statement, the wages paid by the employer to such employee during such period, and the amount of the tax withheld and collected under this part in respect of such wages.

(b) *Regulations.* The statements required to be furnished by this section shall be in lieu of the return required to be furnished by the employer with respect to his employee under section 147 and shall be furnished at such other times, shall contain such other information, and shall be in such form as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(c) *Extension of time.* The Commissioner, under such regulations as he may prescribe with the approval of the Secretary, may grant to any employer a reasonable extension of time (not in excess of 30 days) with respect to the statements required to be furnished to employees on the day on which the last payment of wages is made.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.469–1 *Receipts for tax withheld at source on wages*—(a) *In general.* Every employer or other person required to withhold and collect a tax under section 466 shall furnish to each employee in respect of his employment during the calendar year a written statement on Form V–2, showing the period covered, the wages paid to the employee during such period, and the amount of tax withheld. The Form V–2 shall show all remuneration actually or constructively paid to the employee during the calendar year whether or not constituting wages and whether or not tax has been with-

held therefrom. Statements prepared in substantially like form and size, but in no case larger than 8 x 3½ inches, will be acceptable. This statement shall be furnished to the employee on or before January 31 of the succeeding calendar year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made. Statements of Victory Tax Withheld (Form V–2) shall be prepared in duplicate, the original of which shall be furnished to the employee as prescribed. The duplicate statements shall be transmitted to the collector with Form V–1 for the fourth quarter of the calendar year and Form V–3.

For wages, salaries, or other remuneration paid in 1943 and subsequent years, the statement on Form V–2 shall take the place of Form 1099, Information Return.

(b) *Extension of time in case of termination of employment.* An extension of time, not exceeding thirty days, within which to furnish the statement required by section 469 (a) is granted any employer with respect to any employee whose employment is terminated during the calendar year. In the case of intermittent or interrupted employment where there is reasonable expectation on the part of both employer and employee of further employment, there is no requirement that a statement be immediately furnished the employee; but when such expectation ceases to exist, the statement must be furnished within thirty days from that time.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

SEC. 470. PENALTIES.

(a) *Penalties for fraudulent receipt or failure to furnish receipt.* In lieu of any other penalty provided by law (except the penalty provided by subsection (b) of this section), any person required under the provisions of section 469 to furnish a receipt in respect of tax withheld pursuant to this part who wilfully furnishes a false or fraudulent receipt, or who wilfully fails to furnish a receipt in the manner, at the time, and showing the information required under section 469, or regulations prescribed thereunder, shall for each such failure, upon conviction thereof, be fined not more than $1,000, or imprisoned for not more than one year, or both.

(b) *Additional penalty.* In addition to the penalty provided by subsection (a) of this section, any person required under the provisions of section 469 to furnish a receipt in respect of tax withheld pursuant to this part who wilfully furnishes a false or fraudulent receipt, or who wilfully fails to furnish a receipt in the manner, at the time, and showing the information required under section 469, or regulations prescribed thereunder, shall for each such failure be subject to a civil penalty of not more than $50.

(c) *Failure of withholding agent to file return.* In case of any failure to make and file return required by this part, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, the addition to the tax provided for in section 291 shall not be less than $5.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.470–1 *Penalties*—(a) *Fraudulent receipt or failure to furnish receipt.* Section 470 imposes criminal and civil penalties for the wilful failure to furnish a receipt in the manner, at the time, and showing the information required under section 469 or regulations prescribed thereunder or for wilfully furnishing a false or fraudulent receipt. The criminal penalty is a fine of not more than $1,000 or imprisonment for not more than one year, or both, and the civil penalty is a fine of not more than $50 for each such violation. Such penalties are in lieu of any other penalties provided by law respecting the failure to furnish a receipt or the furnishing of a false or fraudulent receipt.

(b) *Addition to tax for failure to file return.* In case of any failure to make and file a return required by section 468 within the time prescribed by law, unless failure to file the return within the prescribed time is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to wilful neglect, the addition to the tax provided by section 291 shall not be less than $5. For interest and additions to tax for failure to make return or pay tax within the time prescribed by law, see generally sections 291 to 299, inclusive; for criminal penalties, see section 145 and § 19.145–1.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * * *

Part III—Expiration Date and Definitions

SEC. 475. DEFINITIONS.

(a) *Net income.* When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the term "net income" shall be construed to mean "victory tax net income" for the purposes of this subchapter.

(b) *Date of cessation of hostilities in the present war.* As used in this subchapter, the term "date of cessation of hostilities in the present war" means the date on which hostilities in the present war between the United States and the governments of Germany, Japan, and Italy cease, as fixed by proclamation of the President or by concurrent resolution of the two Houses of Congress, whichever date is earlier, or in case the hostilities between the United States and such governments do not cease at the same time, such date as may be so fixed as an appropriate date for the purposes of this subchapter.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.475–1 *Definitions*—(a) *Net income as victory tax net income.* The term "net income" as used throughout the Code, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, shall be construed to mean "victory tax net income" for the purposes of the victory tax.

(b) *Date of cessation of hostilities in the present war.* The term "date of cessation of hostilities in the present war" means the date on which hostilities in the present war between the United States and the governments of Germany, Japan, and Italy cease, as fixed by proclamation of the President or concurrent resolution of both Houses of Congress, whichever date is earlier, or, in case the hostilities between the United States and such governments do not cease at the same time, such date as may be fixed by proclamation of the President or by concurrent resolution of both Houses of Congress as an appropriate date for the purposes of the victory tax.

SEC. 172. TEMPORARY INCOME TAX ON INDIVIDUALS. (Revenue Act of 1942, Title I.)

(a) The Internal Revenue Code is amended by inserting at the end of Chapter 1 the following new subchapter:

* * * *

SEC. 476. EXPIRATION DATE.

The taxes imposed by this subchapter shall not apply with respect to any taxable year commencing after the date of cessation of hostilities in the present war.

* * * * *

(g) *Effective date.* The provisions of this section shall take effect on January 1, 1943, and shall be applicable to all wages (as defined in Part II of Subchapter D) paid on or after such date.

§ 19.476–1 *Expiration date.* The victory taxes shall not apply with respect to any taxable year beginning after the date of cessation of hostilities in the present war.

PAR. 9. Treasury Decision 5187, approved November 30, 1942, is hereby superseded.

(Sec. 62 of the Internal Revenue Code (53 Stat. 32; 26 U.S.C., 1940 ed., 62); sec. 172 of the Revenue Act of 1942 (Pub. Law 753, 77th Cong.))

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

Approved: March 27, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43–4850; Filed, March 29, 1943; 5:12 p. m.]

[T. D. 5250]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

MISCELLANEOUS AMENDMENTS

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Supp.] to section 171 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding section 19.371–0 the following:

SEC. 171. AMENDMENTS TO SUPPLEMENT R. (Revenue Act of 1942, Title I.)

(a) *Exchanges and sales of property.* Section 371 (b) (relating to exchanges of property for property) is amended to read as follows:

(b) *Exchanges and sales of property by corporations.* No gain shall be recognized to a transferor corporation which is a registered

holding company or an associate company of a registered holding company, if such corporation, in obedience to an order of the Securities and Exchange Commission transfers property in exchange for property, and such order recites that such exchange by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor corporation is a member. If any such property so received is nonexempt property, gain shall be recognized unless such nonexempt property or an amount equal to the fair market value of such property at the time of the transfer is, within 24 months of the transfer, under regulations prescribed by the Commissioner with the approval of the Secretary, and in accordance with an order of the Securities and Exchange Commission, expended for property other than nonexempt property or is invested as a contribution to the capital, or as paid-in surplus, of another corporation, and such order recites that such expenditure or investment by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor corporation is a member. If the fair market value of such nonexempt property at the time of the transfer exceeds the amount expended and the amount invested, as required in the second sentence of this paragraph, the gain, if any, to the extent of such excess, shall be recognized. Any gain, to the extent that it cannot be applied in reduction of basis under section 372 (a) (2) shall be recognized. For the purposes of this subsection, a distribution in cancellation or redemption (except a distribution having the effect of a dividend) of the whole or a part of the transferor's own stock (not acquired on the transfer) and a payment in complete or partial retirement or cancellation of securities representing indebtedness of the transferor or a complete or partial retirement or cancellation of such securities which is a part of the consideration for the transfer, shall be considered an expenditure for property other than nonexempt property, and if, on the transfer, a liability of the transferor is assumed, or property of the transferor is transferred subject to a liability, the amount of such liability shall be considered to be an expenditure by the transferor for property other than nonexempt property. This subsection shall not apply unless the transferor corporation consents, at such time and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe, to the regulations prescribed under section 372 (a) (2) in effect at the time of filing its return for the taxable year in which the transfer occurs.

(b) *Amendment of section 371 (f).* Section 371 (f) is amended to read as follows:

(f) *Application of section.* The provisions of this section shall not apply to an exchange, expenditure, investment, distribution, or sale unless (1) the order of the Securities and Exchange Commission in obedience to which such exchange, expenditure, investment, distribution, or sale was made recites that such exchange, expenditure, investment, distribution, or sale is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, 49 Stat. 820 (U.S.C., title 15, sec. 79k (b)), (2) such order specifies and itemizes the stock and securities and other property which are ordered to be acquired, transferred, received, or sold upon such exchange, acquisition, expenditure, distribution, or sale, and, in the case of an investment, the investment to be made, and (3) such exchange, acquisition, expenditure, investment, distribution or sale was made in obedience to such order, and was completed within the time prescribed therefor.

* * * * *

(g) *Technical amendment.* Section 371 (e) is amended by striking out "or (b)".

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 2. The last sentence of the second paragraph of § 19.371–1 is amended by striking therefrom "or (b)" and substituting therefor the following: "(or, for taxable years beginning prior to January 1, 1942, section 371 (b))".

PAR. 3. Section 19.371–3 is amended as follows:

(A) By inserting immediately after the heading the following subheading: "(a) *Taxable years beginning before January 1, 1942.*"

(B) By striking the word "the" from the beginning of the first sentence and inserting in lieu thereof the following: "For taxable years beginning prior to January 1, 1942, the".

(C) By inserting at the end thereof the following new paragraph:

(b) *Taxable years beginning after December 31, 1941*—(1) *Application of section 371 (b), as amended.* Section 371 (b), as amended by section 171 of the Revenue Act of 1942:

(i) Is applicable only to taxable years beginning after December 31, 1941;

(ii) Applies only to the transfers specified therein with respect to which section 371 (d) is inapplicable; and

(iii) Deals only with such transfers if gain is realized upon the sale or other disposition effected by such transfers. If loss is realized the subsection is inapplicable and the application of other provisions of the Code must be determined. (See section 371 (g).) If section 371 (b) is applicable, the provisions of section 112 (other than the provisions of paragraph 8 of subsection (b)) are inapplicable, and the conditions under, and the extent to which, the realized gain is not recognized are set forth in subparagraphs (2), (3), (4) and (5) below.

(2) *Nonrecognition of gain; no nonexempt proceeds.* No gain is recognized to a transferor corporation upon the sale or other disposition of property transferred by such transferor corporation in exchange solely for property other than nonexempt property, as defined in section 373 (e), as amended, but only if all of the following requirements are satisfied:

(i) The transferor corporation is, under the definition in section 373 (b), a registered holding company or an associate company of a registered holding company;

(ii) Such transfer is in obedience to an order of the Securities and Exchange Commission (as defined in section 373 (a), as amended) and such order satisfies the requirements of section 371 (f), as amended;

(iii) The transferor corporation has filed the required consent to the regulations under section 372 (a) (2) (see subparagraph (6) of this paragraph); and

(iv) The entire amount of the gain, as determined under section 111, can be applied in reduction of basis under section 372 (a) (2).

(3) *Nonrecognition of gain; nonexempt proceeds.* If the transaction would be within the provisions of subparagraph (2) above, if it were not for the fact that the property received in exchange consists in whole or in part of nonexempt property (as defined in section 373 (e), as amended), then no gain is recognized if such nonexempt property, or an amount equal to the fair market value of such nonexempt property at the time of the transfer:

(i) Is expended within the required 24-month period for property other than nonexempt property; or

(ii) Is invested within the required 24-month period as a contribution to the capital, or as paid-in surplus, of another corporation;

but only if the expenditure or investment is made:

(iii) In accordance with an order of the Securities and Exchange Commission (as defined in section 373 (a), as amended) which satisfies the requirements of section 371 (f), as amended, and which recites that such expenditure or investment by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor corporation is a member; and

(iv) The required consent, waiver, and bond have been executed and filed. See subparagraphs (6) and (7) of this paragraph.

The following, for the purposes of this subparagraph and subparagraph (4) are treated as expenditures for property other than nonexempt property:

(*a*) A distribution in cancellation or redemption (except a distribution having the effect of a dividend) of the whole or a part of the transferor's own stock (not acquired on the transfer);

(*b*) A payment in complete or partial retirement or cancellation of securities representing indebtedness of the transferor or a complete or partial retirement or cancellation of such securities which is a part of the consideration for the transfer; and

(*c*) If, on the transfer, a liability of the transferor is assumed, or property of the transferor is transferred subject to a liability, the amount of such liability.

(4) *Recognition of gain in part; insufficient expenditure or investment in case of nonexempt proceeds.* If the transaction would be within the provisions of subparagraph (3), above, if it were not for the fact that the amount expended or invested is less than the fair market value of the nonexempt property received in exchange, then the gain, if any, is recognized, but in an amount not in excess of the amount by which the fair market value of such nonexempt property at the time of the transfer exceeds the amount so expended and invested.

(5) *Recognition of gain in part; inability to reduce basis.* If the transaction would be within the provisions of

subparagraph (2) or (3) if it were not for the fact that an amount of gain cannot be applied in reduction of basis under section 372 (a) (2), then the gain, if any, is recognized, but in an amount not in excess of the amount which cannot be so applied in reduction of basis. If the transaction would be within the provisions of subparagraph (4) if it were not for the fact that an amount of gain cannot be applied in reduction of basis under section 372 (a) (2), then the gain, if any, is recognized but in an amount not in excess of the aggregate of:

(i) The amount of gain which would be recognized under subparagraph (4) if there were no inability to reduce basis under section 372 (a) (2); and

(ii) The amount of gain which cannot be applied in reduction of basis under section 372 (a) (2).

(6) *Consent to regulations under section 372 (a) (2).* To be entitled to the benefits of the provisions of section 371 (b), as amended, a corporation must file with its return for the taxable year in which the transfer occurred a consent to have the basis of its property adjusted under section 372 (a) (2) (see § 19.372–2), in accordance with the provisions of the regulations in effect at the time of filing of the return for the taxable year in which the transfer occurs. Such consent shall be made in duplicate on Form 982A in accordance with these regulations and the instructions on the form or issued therewith.

(7) *Requirements with respect to expenditure or investment.* If the full amount of the expenditure or investment required for the application of subparagraph (3) of this paragraph has not been made by the close of the taxable year in which such transfer occurred, the taxpayer shall file with the return for such year an application for the benefit of the 24-month period for expenditure and investment, reciting the nature and time of the proposed expenditure or investment. When requested by the Commissioner, the taxpayer shall execute and file (at such time and in such form) such waiver of the statute of limitations with respect to the assessment of deficiencies (for the taxable year of the transfer and for all succeeding taxable years in any of which falls any part of the period beginning with the date of the transfer and ending 24 months thereafter) as the Commissioner may specify, and such bond with such surety as the Commissioner may require in an amount not in excess of double the estimated maximum income and excess profits taxes which would be payable if the corporation does not make the required expenditure or investment within the required 24-month period.

PAR. 4. Section 19.371–7 is amended by striking from the first sentence thereof the following: "or (*b*) property of a corporation which is a registered holding company or an associate company of a registered holding company is exchanged for other property as provided for in section 371 (b)," and inserting in lieu thereof the following: "or, for taxable years beginning prior to January 1, 1942, (*b*) property of a corporation which is a registered holding company or an associate company of a registered holding company is exchanged for other property as provided for in section 371 (b) prior to its amendment by the Revenue Act of 1942,"

PAR. 5. Section 19.371–8 is amended as follows:

(A) By inserting immediately after the heading the following subheading: "(a) *Taxable years beginning before January 1, 1942.*"

(B) By changing the first sentence to read as follows:

(a) *Taxable years beginning before January 1, 1942.* For taxable years beginning prior to January 1, 1942, the term "order of the Securities and Exchange Commission" is defined in section 373 (a) prior to its amendment by the Revenue Act of 1942.

(C) By inserting at the end thereof the following new paragraph:

(b) *Taxable years beginning after December 31, 1941.* For the taxable years beginning after December 31, 1941, the term "order of the Securities and Exchange Commission" is defined in section 373 (a), as amended. In addition to the requirements specified in that definition, section 371 (f), as amended, provides that the provisions of section 371 shall not apply to an exchange, expenditure, investment, distribution, or sale unless each of the following requirements is met:

(1) The order of the Securities and Exchange Commission must recite that the exchange, expenditure, investment, distribution, or sale is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

(2) The order shall specify and itemize the stocks and securities and other property (including money) which are ordered to be acquired, transferred, received, or sold upon such exchange, acquisition, expenditure, distribution, or sale, and, in the case of an investment, the investment to be made, so as clearly to identify such property.

(3) The exchange, acquisition, expenditure, investment, distribution, or sale shall be made in obedience to such order and shall be completed within the time prescribed in such order.

These requirements were not designed merely to simplify the administration of the provisions of section 371, and they are not to be considered as pertaining only to administrative matters. Each one of the three requirements is of the essence, and must be met if gain or loss is not to be recognized upon the transaction.

PAR. 6. There is inserted at the end of paragraph (b) of § 19.371–10 the following:

(*d*) In the case of any taxable year beginning after December 31, 1941, the term "exchange" shall, wherever occurring in this paragraph (other than this subparagraph) be read as "exchange, expenditure, or investment."

PAR. 7. There is inserted immediately preceding § 19.372–0 the following:

SEC. 171 AMENDMENTS TO SUPPLEMENT R. (Revenue Act of 1942, Title I.)

* * * * *

(c) *Amendment of section 372 (a).* Section 372 (a) is amended—

(1) by inserting after "(a) Exchanges Generally.—" the following: "(1) Exchanges subject to the provisions of section 371 (a).—;"

(2) by striking out "371 (a), (b), or (e)," and inserting in lieu thereof "371 (a) or (e)," and by striking out "371 (a) or (b)" and inserting in lieu thereof "371 (a)"; and

(3) by inserting at the end thereof the following:

(2) *Exchanges subject to the provisions of section 371 (b).* The gain not recognized upon a transfer by reason of section 371 (b) shall be applied to reduce the basis for determining gain or loss on sale or exchange of the following categories of property in the hands of the transferor immediately after the transfer, and property acquired within 24 months after such transfer by an expenditure or investment to which section 371 (b) relates on account of the acquisition of which gain is not recognized under such subsection, in the following order:

(1) Property of a character subject to the allowance for depreciation under section 23 (l);

(2) Property (not described in paragraph (1)) with respect to which a deduction for amortization is allowable under section 23 (t);

(3) Property with respect to which a deduction for depletion is allowable under section 23 (m) but not allowable under section 114 (b) (2), (3), or (4);

(4) Stock and securities of corporations not members of the system group of which the transferor is a member (other than stock or securities of a corporation of which the transferor is a subsidiary);

(5) Securities (other than stock) of corporations which are members of the system group of which the transferor is a member (other than securities of the transferor or of a corporation of which the transferor is a subsidiary);

(6) Stock of corporations which are members of the system group of which the transferor is a member (other than stock of the transferor or of a corporation of which the transferor is a subsidiary);

(7) All other remaining property of the transferor (other than stock or securities of the transferor or of a corporation of which the transferor is a subsidiary).

The manner and amount of the reduction to be applied to particular property within any of the categories described in paragraphs (1) to (7), inclusive, shall be determined under regulations prescribed by the Commissioner with the approval of the Secretary.

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 8. Section 19.372–0 is amended as follows:

(A) By striking out the first sentence and substituting therefor the following:

Section 113 (a) (17) provides that if property is acquired in a taxable year beginning before January 1, 1942, in any manner described in section 372, prior to its amendment by the Revenue Act of 1942, the basis shall be that provided in such section, prior to its amendment by such Act, with respect to such property. If the property was acquired in a taxable year beginning after December

81, 1941, in any manner described in section 372 (other than paragraph (a) (2)) after its amendment by such Act, the basis shall be that prescribed in such section (after its amendment by such Act) with respect to such property.

(B) By inserting after "In general", in the third sentence, the following: "and except as provided in § 19.372–2".

PAR. 9. Section 19.372–1 is amended as follows:

(A) By changing its heading to read as follows: *"Basis of property acquired upon exchanges under sections 371 (a), 371 (b) (prior to amendment by the Revenue Act of 1942), or 371 (e).*

(B) By inserting after "371 (b)" wherever the same appears, the following: "prior to its amendment by the Revenue Act of 1942 and in a taxable year beginning prior to January 1, 1942".

PAR. 10. Sections 19.372–2, 19.372–3 and 19.372–4 are each renumbered, respectively, 19.373–3, 19.372–4 and 19.372–5.

PAR. 11. There is inserted immediately after § 19.372–1 the following new section to read as follows:

§ 19.372–2 *Reduction of basis of property by reason of gain not recognized under section 371 (b), as amended*—(a) *Introductory.* In addition to the adjustments provided in section 113 (b), and the sections of these regulations relating thereto, which are required to be made with respect to the cost or other basis of property, a further adjustment shall be made in any case in which there shall have been a non-recognition of gain under section 371 (b), as amended, realized in a taxable year beginning after December 31, 1941. Such further adjustment shall be made with respect to the basis of the property in the hands of the transferor immediately after the transfer and of the property acquired within 24 months after such transfer by an expenditure or investment to which section 371 (b), as amended, relates, and on account of which expenditure or investment gain is not recognized. If the property is in the hands of the transferor immediately after the transfer the time of reduction is the day of the transfer; in all other cases the time of reduction is the date of acquisition. The effect of applying an amount in reduction of basis of property under such subsection is to reduce by such amount the basis for determining gain upon sale or other disposition, the basis for determining loss upon sale or other disposition, the basis for depreciation and for depletion, and any other amount which the Code prescribes shall be the same as any of such bases. For the purposes of the application of an amount in reduction of basis under such subsection, property is not considered as having a basis capable of reduction if:

(1) It is money, or

(2) If its adjusted basis for determining gain at the time the reduction is to be made is zero, or becomes zero at any time in the application of such subsection.

(b) *General rule.* Section 372 (a) (2) sets forth seven categories of property, the basis of which for determining gain or loss shall be reduced in the order stated.

The first category consists of all property of a character subject to the allowance for depreciation under section 23 (l) which is either in the hands of the transferor immediately after the transfer, or is acquired within 24 months after such transfer by an expenditure or investment resulting in the nonrecognition in whole or in part of gain, under subsection 371 (b). If any of the property in such category has a basis capable of reduction, the reduction must first be made before applying an amount in reduction of the basis of any property in the second or in a succeeding category, to each of which in turn a similar rule is applied.

In the application of the rule to each category, the amount of the gain not recognized shall be applied to reduce the cost or other basis of all the property in the category as follows: The cost or other basis (at the time immediately after the transfor or, if the property is not then held but is thereafter acquired, at the time of such acquisition) of each unit of property in the first category shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis at such time for determining gain, determined without regard to this section) in an amount equal to such proportion of the unrecognized gain as the adjusted basis (for determining gain, determined without regard to this section) at such time of each unit of property of the taxpayer in that category bears to the aggregate of the adjusted basis (for determining gain, computed without regard to this section) at such time of all the property of the taxpayer in that category. When such adjusted basis of the property in the first category has been thus reduced to zero, a similar rule shall be applied, with respect to the portion of such gain which is unabsorbed in such reduction of the basis of the property in such category, in reducing the basis of the property in the second category. A similar rule with respect to the remaining unabsorbed gain shall be applied in reducing the basis of the property in the next succeeding category.

(c) *Special cases.* With the consent of the Commissioner, the taxpayer may, however, have the basis of the various units of property within a particular category specified in subsection 372 (a) (2) adjusted in a manner different from the general rule set forth in paragraph (b) of this section. Variations from such general rule may, for example, involve adjusting the basis of only certain units of the taxpayer's property within a given category. A request for variations from the general rule should be filed by the taxpayer with its return for the taxable year in which the transfer of property has occurred.

Agreement between the taxpayer and the Commissioner as to any variations from such general rule shall be effective only if incorporated in a closing agreement entered into under the provisions of section 3760. If no such agreement is entered into by the taxpayer and the Commissioner, then the consent filed on Form 982A shall (except as provided in the next sentence) be deemed to be a consent to the application of such general rule, and such general rule shall apply in the determination of the basis of the taxpayer's property. If, however, the taxpayer specifically states on such form that it does not consent to the application of the general rule, then, in the absence of a closing agreement, the document filed shall not be deemed a consent within the meaning of the last sentence of subsection 371 (b).

PAR. 12. There is inserted immediately preceding § 19.373–1 the following:

SEC. 171. AMENDMENTS TO SUPPLEMENT R. (Revenue Act of 1942, Title I.)

* * * * *

(a) *Amendment of section 373 (a).* Section 373 (a) is amended to read as follows:

(a) The term "order of the Securities and Exchange Commission" means an order issued after May 28, 1938, by the Securities and Exchange Commission which requires, authorizes, permits, or approves transactions described in such order to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, 49 Stat. 820 (U.S.C., title 15, sec. 79k (b)), which has become or becomes final in accordance with law.

(e) *Amendment of section 373 (e) (1).* Section 373 (e) (1) is amended to read as follows:

(1) Any consideration in the form of evidences of indebtedness owed by the transferor or a cancellation or assumption of debts or other liabilities of the transferor (including a continuance of encumbrances subject to which the property was transferred);

(f) *Amendment of section 373 (e) (4).* Section 373 (e) (4) is amended to read as follows:

(4) Stock or securities which were acquired from a registered holding company or an associate company of a registered holding company which acquired such stock or securities after February 28, 1938, unless such or securities (other than obligations described as nonexempt property in paragraph (1), (2), or (3)) were acquired in obedience to an order of the Securities and Exchange Commission or were acquired with the authorization or approval of the Securities and Exchange Commission under any section of the Public Utility Holding Company Act of 1935, 49 Stat. 820 (U.S.C., title 15, sec. 79k (b));

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 13. Section 19.373–1 is amended as follows:

(A) By changing the parenthetical matter in the first sentence reading as follows: "(or must amend or supplement an order so issued and expressly state that it amends or supplements such an order)" to read as follows: "(or, in the case of an order issued during a taxable year beginning before January 1, 1942, must amend or supplement an order so issued and expressly state that it amends or supplements such an order)".

(B) By inserting in the second sentence in paragraph (a) after the words "order must" the following: "become or".

(C) By inserting in the first sentence of paragraph (e) immediately after the word "transferred" in the parenthetical clause the following: ", and for taxable years beginning after December 31, 1941, including the amount of any consideration in the form of evidences of indebtedness owed by the transferor".

(D) By changing subparagraph (4) of paragraph (e) to read as follows:

(4) For taxable years beginning before January 1, 1942, stock or securities which were acquired after February 28, 1938, unless such stock or securities were acquired in obedience to an order of the Securities and Exchange Commission (as defined in section 373 (a), prior to its amendment) and are not nonexempt property within the meaning of section 373 (e) (2) or (3). For taxable years beginning after December 31, 1941, stock or securities which were acquired from a registered holding company which acquired such stock or securities after February 28, 1938, or an associate company of a registered holding company which acquired such stock or securities after February 28, 1938 unless such stock or securities were acquired in obedience to an order of the Securities and Exchange Commission (as defined in section 373 (a), as amended) or were acquired with the authorization or approval of the Securities and Exchange Commission under any section of the Public Utility Holding Company Act of 1935, and are not nonexempt property within the meaning of section 373 (e) (1), (2), or (3).

PAR. 14. There is inserted immediately preceding § 19.113 (a) (18)–1 the following:

SEC. 171. AMENDMENTS TO SUPPLEMENT R. (Revenue Act of 1942, Title I.)

* * * * *

(h) *Basis.* Section 113 (a) (17) is amended to read as follows:

(17) *Property acquired in connection with exchanges and distributions in obedience to certain orders of the Securities and Exchange Commission.*—If the property was acquired in a taxable year beginning before January 1, 1942, in any manner described in section 372 prior to its amendment by the Revenue Act of 1942, the basis shall be that prescribed in such section (prior to its amendment by such Act) with respect to such property. If the property was acquired in a taxable year beginning after December 31, 1941, in any manner described in section 372 (other than subsection (a) (2)) after its amendment by such Act, the basis shall be that prescribed in such section (after its amendment by such Act) with respect to such property.

(Sec. 171 of the Revenue Act of 1942 (Public Law 753, 77th Congress), and section 62 of the Internal Revenue Code (53 Stat. 32; 26 U.S.C. 62).)

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

Approved: March 27, 1943.
JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-4851; Filed, March 29, 1943; 5:12 p. m.]

[T. D. 5251]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

TAXES AND OTHER CHARGES CHARGEABLE TO CAPITAL ACCOUNT

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to section 130 of the Revenue Act of 1942 (Public Law 753—77th Congress), approved October 21, 1942, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 19.24–1 the following:

SEC. 130. TAXES AND OTHER CHARGES CHARGEABLE TO CAPITAL ACCOUNT NOT DEDUCTIBLE BUT TREATED AS CAPITAL ITEMS. (Revenue Act of 1942, Title I.)

(a) *Deductions not allowable.* Section 24 (a) (relating to items not deductible) is amended by inserting at the end thereof the following new paragraph:

(7) Amounts paid or accrued for such taxes and carrying charges as, under regulations prescribed by the Commissioner with the approval of the Secretary, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such regulations, to treat such taxes or charges as so chargeable.

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 2. There is inserted immediately following § 19.24–4 the following new section:

§ 19.24–5 *Taxes and carrying charges chargeable to capital account and treated as capital items*—(a) *General.* Under the Code prior to its amendment by the Revenue Act of 1942, such items as social security taxes and interest on construction loans could not be capitalized for income tax purposes for the sole reason that they were expressly allowed as deductions. In accordance with section 24 (a) (7) as added by section 130 of that Act, such items may, under the provisions of these regulations, now be capitalized at the election of the taxpayer. Thus for taxable years beginning after December 31, 1941, taxes and carrying charges with respect to property, of the type described in this section, are chargeable to capital account at the election of the taxpayer notwithstanding that they are expressly deductible under section 23. No deduction is permitted for any items so treated.

(b) *Taxes and carrying charges.* The following items may upon the election of the taxpayer, in the manner provided in paragraph (c), be treated as chargeable to capital account (either as a component of original cost or other basis, for the purposes of section 113 (a), or as an adjustment to basis, for the purposes of section 113 (b) (1) (A)), notwithstanding that they are expressly deductible under section 23:

(1) In the case of unimproved and unproductive real property, annual taxes, interest on a mortgage, and other carrying charges;

(2) In the case of real property, whether improved or unimproved and whether productive or unproductive, expenditures (otherwise deductible) paid or incurred in the development thereof or in the construction of an improvement or additional improvement thereon, up to the time the development or construction work has been completed, such as interest on a loan made or continued to furnish funds for this purpose (but not including theoretical interest of a taxpayer using his own funds), taxes of the owner of the property measured by compensation paid to his employees and taxes of such owner imposed on the purchase of materials for such work or on the storage, use, or other consumption in the State of materials for such work which are purchased for storage, use, or other consumption in that State, and other necessary expenditures paid or incurred in connection therewith up to the time the development or construction work has been completed. The development or construction work with respect to which such items are incurred may relate to unimproved and unproductive real estate whether the construction work will make the property productive of taxable income (as in the case of a factory) or not (as in the case of a personal residence), or may relate to property already improved or productive (as in the case of a plant addition or improvement, such as the construction of another floor on a factory or the installation of insulation therein);

(3) In the case of personal property, taxes of an employer measured by compensation for services rendered in transporting machinery or other fixed assets to his plant or in installing them therein, interest on a loan to purchase such property or to pay for transporting or installing the same, and taxes of the owner thereof imposed on the purchase of such property or on the storage, use, or other consumption of such property in the State which is purchased for storage, use, or other consumption in that State, paid or incurred up to the date of installation or the date when such property is first put into use by the taxpayer, whichever date is later.

(4) Any other taxes and carrying charges with respect to property, otherwise deductible, which in the opinion of the Commissioner are, under sound accounting principles, chargeable to capital account.

If for any taxable year there are two or more items, such as social security taxes, use taxes, or any other type of items above described, relating to the same project to which the election is applicable, the taxpayer may elect to capitalize any one or more of such items even though he does not elect to capitalize the remaining items or to capitalize items of the same type relating to other projects. However, if several items of the same type are incurred with respect to a single project the election to capitalize

must, if exercised, be exercised as to all of items of that type.

Once, however, such an election is made under subparagraph (2), (3), or (4) above, to capitalize a given charge incurred with respect to a particular project, charges of the same type incurred with respect to the particular project in subsequent years, whether they be social-security taxes, use taxes, sales taxes, or any other item enumerated in any of these paragraphs, must also be capitalized for the entire period to which the election so to treat items of that type is applicable. The term "project" for this purpose in the case of items included in subparagraph (2) means the particular development or construction work with respect to which the charge as to which the election was exercised was incurred, and in the case of items included in subparagraph (3) this term means the act of transporting, installing, or putting into use of the machinery or other fixed assets. An election under subparagraph (1), however, may be exercised for a given year without regard to the manner in which the same type of item with respect to the same property was treated by the taxpayer for a prior year.

Example (1). A in 1942 and 1943 pays annual taxes and interest on a mortgage on a piece of vacant and unproductive property. Throughout 1943 he operates the property as a parking lot. A may capitalize the taxes and mortgage interest paid in 1942 but not the taxes and mortgage interest paid in 1943.

Example (2). X began in February, 1942 the erection of a building for himself. X in 1942 paid $6,000 social-security taxes in connection with the erection of the building, which in his 1942 return he elected to capitalize. X must continue to capitalize the social-security taxes paid in connection with the erection of this building until its completion in 1944.

Example (3). Assume the facts in example (2) except that in November 1942 X also begins to build a hotel which will be completed in 1945. In 1942 X pays $3,000 social-security taxes in connection with the erection of the hotel. X is not bound by the election to capitalize exercised in connection with the social-security taxes paid in erecting the building started in February 1942 but may deduct the $3,000 social-security taxes.

Example (4). X in 1942 began the erection of a building for himself, which would take three years to complete. X in 1942 paid $4,000 social-security taxes and $8,000 interest on a building loan in connection with this building. X may elect to capitalize the social-security taxes although he deducts the interest charges.

Example (5). A purchase machinery in 1943 for use in his factory. He pays social-security taxes on the labor for transportation and installation, as well as interest on a loan to obtain funds to pay for the machinery and for installation costs. A may capitalize the social-security taxes and the interest up to the date of installation or until the machinery is first put into use by him, whichever is later.

The sole effect of section 24 (a) (7) is to permit such items to be properly charged to capital account notwithstanding that a deduction is expressly provided therefor in section 23. Any item not charged to capital account which is otherwise deductible under section 23 is still deductible. An item may not be charged to capital account under this section where such treatment would be disallowed whether or not a deduction were expressly provided therefor in section 23 (such, for example, as maintenance expenses and the cost of repairs and upkeep of a personal residence). This section does not have the effect of disallowing an item to be treated as a capital item which would otherwise be allowed to be so treated nor does it have the effect of making deductible an item which is not so under section 23 (such, for example, as salaries or other compensation paid or incurred for services rendered in the construction of property).

In the absence of provision in this section for treating a given item as a capital item, this section has no effect on the treatment otherwise accorded such item. Thus, items which are otherwise deductible are deductible notwithstanding the provisions of this section, and items which are otherwise treated as capital items are to be so treated. Nor is the absence of a provision in this section to be construed as withdrawing or modifying the right now given to the taxpayer under some other provision of chapter 1 of the Code or of the regulations promulgated thereunder to elect to capitalize or to deduct a given item. (See § 19.23 (m)-16, making intangible drilling and development costs chargeable to capital or to expenses at the taxpayer's option and § 19.23 (c)-2, making certain Federal duties and excise taxes deductible unless the taxpayer has added them to the expenses of the business or the cost of the articles of merchandise.)

(c) *Manner of exercising collection.* If the taxpayer elects to capitalize an item or items under this section, such election shall be exercised by filing with the original return a statement for that year indicating the item or items (whether with respect to the same project or to different projects) which the taxpayer elects to treat as chargeable to capital account (either as a component of original cost or other basis, for the purposes of section 113 (a), or as an adjustment to basis, for the purposes of section 113 (b) (1) (A)).

(d) *Allocation.* If any tax or carrying charge with respect to property is in part a type of item described in (b) and in part a type of item or items with respect to which no option to treat as a capital item or as an allowable deduction is given, a reasonable proportion of such tax or carrying charge, determined in the light of all the facts and circumstances in each case, shall be allocated to each item. Apportionment must in all cases be reasonable.

Example. A, the owner of a factory on which a new addition is under construction, in 1942 pays its general manager, B, a salary of $4,000 and social-security taxes of $90 measured thereby. B spends nine-tenths of his time in the general business of the firm and the remaining tenth in supervising the construction work. A treats as expenses $3,600 of B's salary and charges the remaining $400 to capital account. A may also capitalize $9 of the $90 social-security taxes.

PAR. 3. The numbers of §§ 19.24-5, 19.24-6, 19.24-7, and 19.24-8 are changed to 19.24-6, 19.24-7, 19.24-8, and 19.24-9, respectively.

PAR. 4. There is inserted immediately preceding § 19.113 (b) (1)-1 the following:

SEC. 130. TAXES AND OTHER CHARGES CHARGEABLE TO CAPITAL ACCOUNT NOT DEDUCTIBLE BUT TREATED AS CAPITAL ITEMS. (Revenue Act of 1942, Title I.)

* * * * *

(b) *Technical amendment.* Section 113 (b) (1) (A) (relating to adjustment of basis) is amended by striking out", including taxes and other carrying charges on unimproved and unproductive real property".

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 5. Section 19.113 (b) (1)-1 is amended as follows:

(A) By striking out the word "In" at the beginning of the last sentence in the second paragraph and inserting in lieu thereof the following: "For taxable years beginning before January 1, 1942, in".

(B) By inserting after the third paragraph (*Example*) the following paragraph:

For taxable years beginning after December 31, 1941, capital expenditures and carrying charges with respect to property, whether real or personal, improved or unimproved and whether productive or unproductive, such as taxes and interest, which under these regulations there is an election to treat either as chargeable to capital account or as an allowable deduction in the manner provided in § 19.24-5 (c) but which have not been taken as deductions by the taxpayer in determining net income for the taxable year, or a prior taxable year, are properly chargeable to capital account. (See § 19.24-5.) The term "taxes" for this purpose includes duties and excise taxes (see § 19.23 (c)-2), but does not include income taxes.

(Sec. 62 of the Internal Revenue Code (53 Stat. 32; 26 U.S.C., 1940 ed., 62) and sec. 130 of the Revenue Act of 1942 (Pub. Law 753, 77th Cong.))

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

Approved: March 27, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-4876; Filed, March 30, 1943; 11:22 a. m.]

[T. D. 5252]

PART 21—DECLARED VALUE EXCESS-PROFITS TAX

DECLARED VALUE EXCESS-PROFITS TAX

Amendments of Treasury Decision 5091 In order to conform Treasury Decision 5091, approved October 17, 1941 [Part 21, Title 26, Code of Federal Regulations, 1941 Sup.], establishing regula-

tions relating to the declared value excess-profits tax imposed by Subchapter B of Chapter 2 of the Internal Revenue Code for income-tax taxable years ending after June 30, 1941, to sections 303 and 304 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, and to limit the application of the said regulations to years ended prior to July 1, 1942, such Treasury decision is hereby amended as follows:

PARAGRAPH 1. The heading of the Treasury decision is amended by changing the period at the end thereof to a comma and adding thereto the following: "and prior to July 1, 1942."

PAR. 2. Immediately following the quotation of section 601 there is inserted following:

SEC. 303. DECLARED VALUE EXCESS-PROFITS TAX FOR TAXABLE YEARS OF LESS THAN TWELVE MONTHS. (Revenue Act of 1942.)

(a) Section 601 (relating to the adjusted declared value) is amended by striking out the last sentence thereof.

* * * * *

(c) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1939.

PAR. 3. Immediately following the quotation of section 602 there is inserted the following:

SEC. 304. TECHNICAL AMENDMENTS MADE NECESSARY BY CHANGE IN BASE FOR CORPORATION TAX. (Revenue Act of 1942.)

Section 602 (relating to net income for purposes of the declared value excess-profits tax) is amended to read as follows:

SEC. 602. NET INCOME.

For the purposes of this subchapter the net income shall be the same as the net income for income tax purposes for the year in respect of which the tax under section 600 is imposed, computed without the deduction of the tax imposed by section 600, but with a credit against net income equal to the credit for dividends received provided in section 26 (b) of Chapter 1.

SEC. 303. DECLARED VALUE EXCESS-PROFITS TAX FOR TAXABLE YEARS OF LESS THAN TWELVE MONTHS. (Revenue Act of 1942.)

* * * * *

(b) Subchapter B of Chapter 2 is amended by inserting after section 604 the following new section:

SEC. 605. INCOME-TAX TAXABLE YEAR OF LESS THAN TWELVE MONTHS.

(a) *General rule.* If the income-tax taxable year is a period of less than twelve months on account of a change in the accounting period of the taxpayer, the net income determined under section 602 for such income-tax taxable year (referred to in this section as the "short taxable year") shall be placed on an annual basis by multiplying the amount thereof by the number of days in the twelve months ending with the close of the short taxable year and dividing by the number of days in the short taxable year. The tax shall be such part of the tax computed on such annual basis as the number of days in the short taxable year is of the number of days in the twelve months ending with the close of the short taxable year.

(b) *Exception.* If the taxpayer establishes the amount of the tax under section 600 for the period of twelve months beginning with the first day of the short taxable year, computed as if such twelve-month period were an income-tax taxable year, under the law applicable to the short taxable year, and using the adjusted declared value applicable in determining the tax for such short taxable year, then the tax determined under subsection (a) for the short taxable year shall be reduced to an amount which is such part of the tax computed for the twelve-month period as the net income for the short taxable year is of the net income established for such twelve-month period. The taxpayer (other than a taxpayer to which the next sentence applies) shall compute the tax and file its return without the application of this subsection. If, prior to one year from the date of the beginning of the short taxable year, the taxpayer has disposed of substantially all its assets, in lieu of the twelve-month period provided in the preceding provision of this subsection, the twelve-month period ending with the close of the short taxable year shall be used. For the purposes of this subsection, the net income for the short taxable year shall not be placed on an annual basis under the provisions of subsection (a), and the net income for the twelve-month period used shall in no case be considered less than the net income for the short taxable year. The benefits of this subsection shall not be allowed unless the taxpayer, at such time as regulations prescribed hereunder require, makes application therefor in accordance with such regulations, and such application, in the case of a taxpayer required to file return without regard to this subsection, shall be considered a claim for credit or refund. The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary for the application of this subsection.

(c) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1939.

PAR. 4. Section 21.0 (f) is amended by inserting immediately following "June 30, 1941," first occurring therein the following: ", and prior to July 1, 1942".

PAR. 5. Section 21.1 (c) is amended to read as follows:

(c) (1) "Income-tax taxable year" means the calendar year, a fiscal year ending during such calendar year, or the fractional part of a year, for which the corporation's net income is computed and for which its income tax returns are made for Federal income tax purposes.

(2) "Short taxable year" means such fractional part of a year.

PAR. 6. Section 21.1 (d) is amended as follows:

(A) By changing the first sentence to read as follows:

(1) "Net income," in the case of a year beginning prior to January 1, 1942, means "net income" within the contemplation of section 21 of the Internal Revenue Code.

(B) By adding at the end of the section the following:

(2) "Net income," in the case of a year beginning after December 31, 1941, means "net income" within the contemplation of section 21 of the Internal Revenue Code, with the following exceptions:

(i) Interest on obligations of the United States or instrumentalities thereof which is exempt by statute from excess-profits tax is not included in gross income and no deduction for amortization of premium on such obligations is allowable.

(ii) None of the credits allowed corporations against net income for income tax purposes is applicable in respect of the declared value excess-profits tax except the credit against net income for dividends received provided in section 26 (b) of the Internal Revenue Code. This credit is limited to 85 per centum of the dividends received from a domestic corporation subject to income taxation, and may not exceed 85 per centum of the taxpayer's adjusted net income reduced by the credit under section 26 (e) for income subject to the excess profits tax imposed by Subchapter E of Chapter 2.

(iii) The declared value excess-profits tax may not be deducted from net income in computing the declared value excess-profits tax.

PAR. 7. Section 21.3 is amended to read as follows:

§ 21.3 *Measure and rate of tax*—(a) *Domestic and foreign corporations.* With respect to income-tax taxable years ending after June 30, 1941, the declared value excess profits tax is imposed in an amount equal to the sum of (1) 6⅗ percent of such portion of the corporation's net income for the income-tax taxable year as is in excess of 10 percent and not in excess of 15 percent of the adjusted declared value plus (2) 13⅗ percent of such portion of its net income for the income-tax taxable year as is in excess of 15 percent of the adjusted declared value, as of the close of the last preceding income-tax taxable year (or as of the date of organization if the corporation had no preceding income-tax taxable year). (See example 1, § 21.4.) No variation is permitted between the adjusted declared value set forth in the corporation's capital stock tax return and the adjusted declared value set forth in its declared value excess-profits tax return.

(b) *Short taxable years*—(1) *General*—(i) *Old adjustment method superseded.* Prior to its retroactive amendment by section 303 (a) of the Revenue Act of 1942, Code section 601 provided that if the income-tax taxable year in respect of which the declared value excess-profits tax was imposed was a period of less than twelve months the adjusted declared value should be reduced to an amount which bore the same ratio thereto as the number of months in the period bore to twelve months. By the amendment this provision for adjustment of the declared value is made inapplicable to short taxable years beginning after December 31, 1939. It remains applicable to short taxable years beginning prior to January 1, 1940. As to the method of adjustment pursuant to Code section 605 added by section 303 (b) of the Revenue Act of 1942, see succeeding paragraphs.

(ii) *Several taxable years ending in one twelve-month period.* The declared value excess-profits tax for any short income-tax taxable year is governed by the adjusted declared value for the immediately preceding capital stock tax taxable year, even though a full income-tax taxable year is covered by the same declaration. The declared value excess-profits tax for any income-tax taxable years ending during the twelve-month period ended June 30, 1942, is governed by the adjusted declared value for the

capital stock tax taxable year ended June 30, 1941, regardless of the number of such income-tax taxable years ending within such twelve-month period. (See example 2, § 21.4.)

(2) *Change of accounting period*—(i) *Regular method of computation.* If, due to a change of accounting period an income-tax taxable year is a period of less than twelve months, the net income is to be placed on an annual basis for declared value excess-profits tax purposes. Under the general rule established, by Code section 605 (a) added by section 303 (b) of the Revenue Act of 1942, for declared value excess-profits tax purposes when a short taxable year is due to a change of accounting period, the net income for the short taxable year is put on an annual basis by multiplying the amount thereof by the number of days in the twelve months ending with the close of the short taxable year, and dividing by the number of days in the short taxable year. The tax for the short taxable year is that part of the tax on the net income computed on such annual basis as the number of days in the short taxable year is of the number of days in the twelve-month period. (See example 3, § 21.4.) Claim for refund or credit of any amount paid in excess of the amount due in accordance with the method provided by section 605 (a) may be made within the time allowed by the applicable statute of limitations.

(ii) *Special method of computation.* Section 605 (b) provides a special method of computing the declared value excess-profits tax liability in cases where the short taxable year is due to a change of accounting period. Under this method the tax for the short taxable year is determined by computing a tax on the basis of the net income for the twelve months beginning with the first day of the short taxable year, or (if prior to one year from the date of the beginning of the short taxable year, the taxpayer disposes of substantially all its assets) on the basis of the net income for the twelve-month period ending with the close of the short taxable year. In any case the net income for the twelve-month period shall be deemed to be at least as much as the net income of the short taxable year. The tax for the short taxable year shall be an amount which is the same percentage of the tax computed on the basis of the net income of the twelve-month period as the net income of the short taxable year is of the net income of the twelve-month period. (See example 4, § 21.4.)

(iii) *Application for use of special method.* A taxpayer desiring the benefit of paragraph (b) of section 605 must file with the Commissioner an application therefor, in the form of a claim for credit or refund, not later than the expiration of the time prescribed for the filing of a claim for credit or refund, or December 31, 1943, whichever is the earlier. If there is attached to the application a statement demonstrating that substantially all the assets of the taxpayer were disposed of prior to one year from the date of the beginning of the short taxable year, there may also be included a computation of tax liability in accordance with section 605 (b). (See subdivision (ii).) Substantially all the assets of a corporation are regarded as disposed of if it has ceased business and distributed so much of the assets used in its business that it cannot resume its customary operations with the remaining assets. If disposition of substantially all the assets did not occur within the year from the date of the beginning of the short taxable year there shall be attached to the application a computation of tax liability in accordance with section 605 (a) (see subdivision (i)), and a statement showing the income of the twelve-month period beginning with the first day of the short taxable year. Any statement or computation thus required shall be made on or in accordance with the income tax form prescribed for the short taxable year, as far as practicable. If the Commissioner determines that the taxpayer has established the amount of the net income for the applicable twelve-month period, any excess of the tax paid for the short taxable year over the tax computed under section 605 (b) (see subdivision (ii)) will be credited or refunded to the taxpayer in the same manner as in the case of an overpayment. For the purpose of determining liability under section 605 (b) the net income of the twelve-month period used shall in no case be considered to be less than the net income of the short taxable year.

The net income for the twelve-month period is computed under the same provisions of law as are applicable to the short period, as if the twelve-month period were an actual accounting period of the taxpayer. All items which fall in such twelve-month period must be included even if they are extraordinary in amount or of an unusual nature. If any other item partially applicable to such twelve-month period can be determined only at the end of a taxable year which includes only part of the twelve-month period, the taxpayer, subject to review by the Commissioner, shall apportion such item to the twelve-month period in such manner as will most clearly reflect the income for the twelve-month period.

PAR. 8. Section 21.4 is amended as follows:

(A) The word "example" in the heading and immediately preceding the first colon, is changed to "examples".

(B) After the word "Example" immediately preceding the statement of the example, there is inserted "(1)".

(C) At the end of the section there is inserted the following:

Example (2). The corporation indicated in example (1) properly files a return for the short taxable year beginning January 1, 1942, and ending April 30, 1942, for reasons other than a change in accounting period. The taxable net income for that period is $5,000. No declared value excess-profits tax is due since this amount of income would not be in excess of 10 percent of the value, $100,000, declared on the capital stock tax return for the year ended June 30, 1941.

Example (3). The circumstances are the same as in example (2) except that the short taxable year is due to change of accounting period. The present method of computation under section 605 (a) would be as follows:

Number of days in 12 months ending April 30, 1942	365
Number of days in short taxable year	120
$5,000 × 365/120	$15,208.33
Less: 10 percent of declared value ($100,000)	10,000.00
	5,208.33
Amount taxable at 6⁹⁄₁₀ percent	5,000.00
Amount taxable at 13³⁄₁₀ percent	208.33
Declared value excess-profits tax at 6⁹⁄₁₀ percent (6⁹⁄₁₀ percent of $5,000)	330.00
Declared value excess-profits tax at 13³⁄₁₀ percent (13³⁄₁₀ percent of $208.33)	27.50
Total declared value excess-profits tax for the twelve-month period	357.50
120/365 of $357.50=$117.53 declared value excess-profits tax due for short taxable year	

Example (4). The same corporation as in example (2) desires its declared value excess-profits tax computed in accordance with section 605 (b) on the basis of a twelve-month period including the short taxable year. The assets having been distributed in August, 1942, which was prior to one year from the date of the beginning of the short taxable year, computation must be on the basis of the twelve months ending with the close of such short taxable year. The income of such twelve-month period is $11,000. The computation is as follows:

Income for the short taxable year	$5,000
Income for the twelve-month period	11,000
10 percent of declared value ($100,000)	10,000
Difference	1,000
Declared value excess-profits tax (6 6/10 percent of $1,000)	66
5,000/11,000 of $66=$30	

This amount is less than that computed in accordance with section 605 (a) (see example (3)) and it may, if there has been compliance with the required procedure (see § 21.3 (b) (2) (iii)), be taken as the amount of the tax.

Amendments of Treasury Decision 4927

In order to conform Treasury Decision 4927, approved August 23, 1939, regulations relating to the excess-profits tax for years ended prior to July 1, 1941, imposed by Subchapter B of Chapter 2 of the Internal Revenue Code, to section 303 of the Revenue Act of 1942, such Treasury decision, as amended by Treasury Decision 4999, approved August 1, 1940, is hereby further amended as follows:

PARAGRAPH 1. The heading of the Treasury decision is amended by changing the period at the end thereof to a comma, and adding thereafter the following: "for years ending prior to July 1, 1941."

PAR. 2. Immediately following the quotation of section 601 there is inserted the following:

SEC. 303. DECLARED VALUE EXCESS-PROFITS TAX FOR TAXABLE YEARS OF LESS THAN TWELVE MONTHS. (Revenue Act of 1942.)

(a) Section 601 (relating to the adjusted declared value) is amended by striking out the last sentence thereof.

* * * * *

(c) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1939.

PAR. 3. Immediately following the quotation of section 602 there is inserted the following:

SEC. 303. DECLARED VALUE EXCESS-PROFITS TAX FOR TAXABLE YEARS OF LESS THAN TWELVE MONTHS. (Revenue Act of 1942.)

* * * * *

(b) Subchapter B of Chapter 2 is amended by inserting after section 604 the following new section:

SEC. 605. INCOME-TAX TAXABLE YEAR OF LESS THAN TWELVE MONTHS.

(a) *General rule.* If the income-tax taxable year is a period of less than twelve months on account of a change in the accounting period of the taxpayer, the net income determined under section 602 for such income-tax taxable year (referred to in this section as the "short taxable year") shall be placed on an annual basis by multiplying the amount thereof by the number of days in the twelve months ending with the close of the short taxable year and dividing by the number of days in the short taxable year. The tax shall be such part of the tax computed on such annual basis as the number of days in the short taxable year is of the number of days in the twelve months ending with the close of the short taxable year.

(b) *Exception.* If the taxpayer establishes the amount of the tax under section 600 for the period of twelve months beginning with the first day of the short taxable year, computed as if such twelve-month period were an income-tax taxable year, under the law applicable to the short taxable year and using the adjusted declared value applicable in determining the tax for such short taxable year, then the tax determined under subsection (a) for the short taxable year shall be reduced to an amount which is such part of the tax computed for the twelve-month period as the net income for the short taxable year is of the net income established for such twelve-month period. The taxpayer (other than a taxpayer to which the next sentence applies) shall compute the tax and file its return without the application of this subsection. If, prior to one year from the date of the beginning of the short taxable year, the taxpayer has disposed of substantially all its assets, in lieu of the twelve-month period provided in the preceding provision of this subsection, the twelve-month period ending with the close of the short taxable year shall be used. For the purposes of this subsection, the net income for the short taxable year shall not be placed on an annual basis under the provisions of subsection (a), and the net income for the twelve-month period used shall in no case be considered less than the net income for the short taxable year. The benefits of this subsection shall not be allowed unless the taxpayer, at such time as regulations prescribed hereunder require, makes application therefor in accordance with such regulations, and such application, in the case of a taxpayer required to file return without regard to this subsection, shall be considered a claim for credit or refund. The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary for the application of this subsection.

(c) *Taxable years to which amendment applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1939.

PAR. 4. Section 21.0 (f) is amended by inserting immediately after the words "Internal Revenue Code" the second time occurring, the following: "for income-tax taxable years ending prior to July 1, 1941."

PAR. 5. Section 21.3 amended by Treasury Decision 4999, is further amended as follows:

(A) By adding at the end of paragraph (b) a new sentence reading as follows:

In view of the retroactive amendment by section 303 (a) of the Revenue Act of 1942 (see paragraph (c)) whereby the second sentence of Code section 601 was eliminated, this paragraph is inapplicable to returns for years beginning after December 31, 1939, except insofar as it declares that no variation is permitted between the adjusted declared value set forth in the corporation's capital stock tax return and the adjusted declared value set forth in its declared value excess-profits tax return.

(B) By adding at the end of the section the following:

(c) *Short taxable years*—(1) *General*—(i) *Retroactive amendment by the Revenue Act of 1942.* Section 303 of the Revenue Act of 1942 made amendments retroactively applicable to the declared value excess-profits tax for income-tax taxable years beginning after December 31, 1939. Section 303 (a) eliminated the second sentence of Code section 601 providing for reduction of the adjusted declared value of the capital stock in case of a declared value excess-profits tax return for a period of less than twelve months. (See last sentence of paragraph (b).) Section 303 (b) added a new Code section 605 making provision, retroactively applicable to returns for years beginning after December 31, 1939, for placing the income on an annual basis when, on account of change in the accounting period the income-tax taxable year is a period of less than twelve months. By section 605 (b) a special method of dealing with such situation is provided. The application of the amendments to short taxable years beginning after December 31, 1939, is shown by paragraph (2) (i), (ii), and (iii).

(ii) *Several taxable years ending in one twelve-month period.* The declared value excess-profits tax for any short income-tax taxable year is governed by the adjusted declared value for the immediately preceding capital stock tax taxable year, even though a full-income-tax taxable year is covered by the same adjusted declared value. The declared value excess-profits tax for any income-tax taxable year is governed by the adjusted declared value for the capital stock tax year ending June 30 next preceding the close of the income-tax taxable year, regardless of the number of such income-tax taxable years ending within the period after such June 30 and prior to July 1 the following.

(2) *Change of accounting period*—(i) *Regular method of computation.* If, due to a change of accounting period an income-tax taxable year beginning after December 31, 1939, is a period of less than twelve months, the net income is to be placed on an annual basis for declared value excess-profits tax purposes. Under the general rule established, by Code section 605 (a) added by section 303 (b) of the Revenue Act of 1942, for declared value excess-profits tax purposes when the short taxable year is due to a change of accounting period, the net income for the short taxable year is put on an annual basis by multiplying the amount thereof by the number of days in the twelve months ending with the close of the short taxable year, and dividing by the number of days in the short taxable year. The tax for the short taxable year is that part of the tax on the net income computed on such annual basis as the number of days in the short taxable year is of the number of days in the twelve-month period. (See example (3), § 21.4.) Claim for refund or credit of any amount paid in excess of the amount due in accordance with the method provided by section 605 (a) may be made within the time allowed by the applicable statute of limitations.

(ii) *Special method of computation.* Section 605 (b) provides a special method of computing the declared value excess-profits tax liability in cases where the short taxable year is due to a change of accounting period. Under this method the tax for the short taxable year is determined by computing a tax on the basis of the net income for the twelve months beginning with the first day of the short taxable year or (if prior to one year from the date of the beginning of the short taxable year, the taxpayer disposes of substantially all its assets) on the basis of the net income for the twelve-month period ending with the close of the short taxable year. In any case the net income for the twelve-month period shall be deemed to be at least as much as the net income of the short taxable year. The tax for the short taxable year shall be an amount which is the same percentage of the tax computed on the basis of the net income of the twelve-month period as the net income of the short taxable year is of the net income of the twelve-month period. (See example (4), § 21.4.)

(iii) *Application for use of special method.* A taxpayer desiring the benefit of subsection (b) of section 605 must file with the Commissioner an application therefor, in the form of a claim for credit or refund, not later than the expiration of the time prescribed for the filing of a claim for credit or refund, or December 31, 1943, whichever is the earlier. If there is attached to the application a statement demonstrating that substantially all the assets of the taxpayer were disposed of prior to one year from the date of the beginning of the short taxable year, there may also be included a computation of tax liability in accordance with section 605 (b). (See subdivision (ii).) Substantially all the assets of a corporation are regarded as disposed of if it has ceased business and distributed so much of the assets used in its business that it cannot resume its customary operations with the remaining assets. If disposition of substantially all the assets did not occur within the year from the date of the beginning of the short taxable year there

shall be attached to the application a computation of tax liability in accordance with section 605 (a) (see subdivision (i)), and a statement showing the income of the twelve-month period beginning with the first day of the short taxable year. Any statement or computation thus required shall be made on or in accordance with the income tax form prescribed for the short taxable year, as far as practicable. If the Commissioner determines that the taxpayer has established the amount of the net income for the applicable twelve-month period, any excess of the tax paid for the short taxable year over the tax computed under section 605 (b) (see subdivision (ii)) will be credited or refunded to the taxpayer in the same manner as in the case of an overpayment. For the purpose of determining liability under section 605 (b) the net income of the twelve-month period used shall in no case be considered to be less than the net income of the short taxable year.

The net income for the twelve-month period is computed under the same provisions of law as are applicable to the short period, as if the twelve-month period were an actual accounting period of the taxpayer. All items which fall in such twelve-month period must be included even if they are extraordinary in amount or of an unusual nature. If any other item partially applicable to such twelve-month period can be determined only at the end of a taxable year which includes only part of the twelve-month period, the taxpayer, subject to review by the Commissioner, shall apportion such item to the twelve-month period in such manner as will most clearly reflect the income for the twelve-month period.

PAR. 6. Section 21.4 is amended as follows:

(A) The word "example" in the heading and immediately preceding the first semicolon is changed to "examples".

(B) After the word "Example" immediately preceding the statement of the example there is inserted "(1)".

(C) At the end of the section there is inserted the following:

Example (2). The corporation indicated in example (1) properly files a return for the short taxable year beginning January 1, 1940, and ending April 30, 1940, for reasons other than a change in accounting period. The taxable net income for that period is $5,000. No declared value excess-profits tax is due since this amount of income would not be in excess of 10 percent of the value, $100,000, declared on the capital stock tax return for the year ended June 30, 1939.

Example (3). The circumstances are the same as in example (2) except that the short taxable year is due to change of accounting period. The present method of computation under section 605 (a) would be as follows:

Number of days in 12 months ending April 30, 1940	366
Number of days in short taxable year	121
$5,000 × 366/121	$15,123.97
Less: 10 percent of declared value ($100,000)	10,000.00
	5,123.97
Amount taxable at 6 percent	5,000.00
Amount taxable at 12 percent	123.97
Declared value excess-profits tax at 6 percent (6 percent of $5,000)	$300.00
Declared value excess-profits tax at 12 percent (12 percent of $123.97)	14.88
Total declared excess-profits tax for the twelve-month period	$314.88

121/366 of $314.88 = $104.10 declared value excess-profits tax due for short taxable year. (Since the short taxable year ended prior to July 1, 1940, the 10 percent increase imposed with respect to taxable years ended after June 30, 1940, is inapplicable.)

Example (4). The same corporation as in Example (2) desires its declared value excess-profits tax computed in accordance with section 605 (b) on the basis of a twelve-month period including the short taxable year. The assets having been distributed in August, 1940, which was prior to one year from the date of the beginning of the short taxable year, computation must be on the basis of the twelve months ending with the close of such short taxable year. The income of such twelve-month period is $11,000. The computation is as follows:

Income for the short taxable year	$5,000
Income for the twelve-month period	11,000
10 percent of declared value ($100,000)	10,000
Difference	1,000
Declared value excess-profits tax (6 percent of $1,000)	60
5,000/11,000 of $60 (no 10 percent increase)	$27.27

This amount is less than that computed in accordance with section 605 (a) (see example (3) and it may, if there has been compliance with the required procedure (see § 21.3 (c) (2) (iii)), be taken as the amount of the tax.

(Secs. 62 and 603 of the Internal Revenue Code (53 Stat. 32, 111; 26 Stat. U.S.C., 1940 ed. 62, 603) and secs. 301 to 304, inclusive, Revenue Act of 1942 (Pub. Law 753, 77th Cong.))

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: March 27, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-4877; Filed, March 30, 1943; 11:22 a. m.]

[T. D. 5253]

PART 30—REGULATIONS UNDER THE EXCESS-PROFITS TAX ACT OF 1940

MISCELLANEOUS AMENDMENTS

In order to conform Regulations 109 [Part 30, Title 26, Code of Federal Regulations, 1941 Sup.] to sections[1] 201, 205 (b) and (c), 206, 207, 208, 209 (a), (b), and (d), 210, 211, 213, and 220 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding section 30.711 (a)-1 the following:

SEC. 205. COMPUTATION OF EXCESS PROFITS AND INVESTED CAPITAL OF INSURANCE COMPANIES. (Revenue Act of 1942, Title II.)

* * * * *

(b) Section 711 (a) (1) (relating to excess profits credit computed under income credit) is amended by inserting at the end thereof the following new paragraph:

(H) *Life insurance companies.* In the case of a life insurance company, there shall be deducted from the normal tax net income, the excess of (1) the product of (i) the figure determined and proclaimed under section 202 (b) and (ii) the excess profits net income computed without regard to this subparagraph, over (2) the adjustment for certain reserves provided in section 202 (c).

(c) Section 711 (a) (2) (relating to the excess profits credit computed under invested capital credit) is amended by inserting at the end thereof the following new subparagraph:

(J) In the case of a life insurance company, there shall be deducted from the normal tax net income, 50 per centum of the excess of (1) the product of (i) the figure determined and proclaimed under section 202 (b) and (ii) the excess profits net income computed without regard to this subparagraph, over (2) the adjustment for certain reserves provided in section 202 (c).

* * * * *

SEC. 206. TECHNICAL AMENDMENTS MADE NECESSARY BY CHANGE IN BASE FOR CORPORATION TAX. (Revenue Act of 1942, Title II.)

(a) *Disallowance of credit in computing excess-profits net income.*

(1) Section 711 (a) (1) (A) (relating to adjustment for taxes in computing excess profits net income under the income credit) is amended to read as follows:

(A) *Income subject to excess profits tax.* In computing such normal-tax net income the credit provided in section 26 (e) (relating to income subject to the tax imposed by this subchapter) shall not be allowed;

(2) Section 711 (a) (2) (C) (relating to adjustment for taxes in computing excess-profits net income under the invested capital credit) is amended to read as follows:

(C) *Income subject to excess profits tax.* In computing such normal-tax net income the credit provided in section 26 (e) (relating to income subject to the tax imposed by this subchapter) shall not be allowed;

(b) *Rules for computation of charitable, etc., deductions in computing excess profits net income repealed.*

(1) Section 711 (a) (1) (G) (relating to the deduction for charitable contributions, etc., in computing excess profits net income under the income credit) is repealed.

(2) Section 711 (a) (2) (I) (relating to the deduction for charitable contributions, etc., in computing excess profits net income under the invested capital method) is repealed.

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[1] Sec. 201. Taxable years to which amendments applicable. Sec. 205 (b) and (c). Computation of excess profits and invested capital of insurance companies. Sec. 206. Technical amendments made necessary by change in base for corporation tax. Sec. 207. Capital gains and losses in the computation of excess profits net income. Sec. 208. Retroactive treatment of involuntary conversions as capital transactions. Sec. 209 (a), (b), and (d). Nontaxable income from exempt excess output of mining and timber operations and from bonus income of mines, etc. Sec. 210. Net operating loss deduction adjustment. Sec. 211. Credit for dividends received in computation of excess profits net income in connection with invested capital credit. Sec. 213. Excess profits net income placed on annual basis. Sec. 220. Amortizable bond premium on certain Government obligations.

SEC. 207. CAPITAL GAINS AND LOSSES IN THE COMPUTATION OF EXCESS PROFITS NET INCOME. (Revenue Act of 1942, Title II.)

(a) *Excess profits credit computed under income credit.* Section 711 (a) (1) (B) is amended to read as follows:

(B) *Gains and losses from sales or exchanges of capital assets.* There shall be excluded gains and losses from sales or exchanges of capital assets held for more than 6 months.

(b) *Retirement of long-term bonds.* Section 711 (a) (1) (C) is amended by striking out "eighteen months" and inserting in lieu thereof "6 months".

(c) *Excess profits credit computed under invested capital credit.* Section 711 (a) (2) (D) is amended to read as follows:

(D) *Gains and losses from sales or exchanges of capital assets.* There shall be excluded gains and losses from sales or exchanges of capital assets held for more than 6 months.

(d) *Retirement of long-term bonds.* Section 711 (a) (2) (E) is amended by striking out "eighteen months" and inserting in lieu thereof "6 months".

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SEC. 201. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title II.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

SEC. 208. RETROACTIVE TREATMENT OF INVOLUNTARY CONVERSIONS AS CAPITAL TRANSACTIONS. (Revenue Act of 1942, Title II.)

Effective with respect to taxable years beginning after December 31, 1939, but not beginning after December 31, 1941, the second sentence of section 711 (a) (1) (B), section 711 (a) (2) (D), and section 711 (b) (1) (B) is amended to read as follows: "There shall be excluded the excess of the recognized gains from the sale, exchange, or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property held for more than eighteen months which is of a character which is subject to the allowance for depreciation provided in section 23 (l) over the recognized losses from the sale, exchange, or involuntary conversion of such property. For the purposes of this subparagraph, section 117 (h) (1) and (2) shall apply in determining the period for which the taxpayer has held property which is of a character which is subject to the allowance for depreciation provided in section 23 (l)."

SEC. 209. NONTAXABLE INCOME FROM EXEMPT EXCESS OUTPUT OF MINING AND TIMBER OPERATIONS AND FROM BONUS INCOME OF MINES, ETC. (Revenue Act of 1942, Title II.)

(a) *Income credit.* Section 711 (a) (1) (relating to excess profits credit computed under income credit) is amended by inserting at the end thereof the following new subparagraph:

(I) *Nontaxable income of certain industries with depletable resources.* In the case of a producer of minerals, or a producer of logs or lumber from a timber block, as defined in section 735, there shall be excluded nontaxable income from exempt excess output of mines and timber blocks and nontaxable bonus income provided in section 735.

(b) *Invested capital credit.* Section 711 (a) (2) (relating to excess profits credit computed under invested capital credit) is amended by inserting at the end thereof the following new subparagraph:

(K) *Nontaxable income of certain industries with depletable resources.* In the case of a producer of minerals, or a producer of logs or lumber from a timber block, as defined in section 735, there shall be excluded nontaxable income from exempt excess output of mines and timber blocks and nontaxable bonus income provided in section 735.

* * * * *

(d) *Retroactive exclusion of nontaxable bonus income.* The amendments made by this section inserting section 711 (a) (1) (I), section 711 (a) (2) (K), and section 735 (c), to the extent that they relate to nontaxable bonus income, shall be applicable to taxable years beginning after December 31, 1940.

SEC. 210. NET OPERATING LOSS DEDUCTION ADJUSTMENT. (Revenue Act of 1942, Title II.)

(a) Section 711 (a) (1) (relating to the excess profits credit computed under income credit) is amended by adding at the end thereof the following new subparagraph:

(J) *Net operating loss deduction adustment.* The net operating loss deduction shall be adjusted as follows:

(i) In computing the net operating loss for any taxable year under section 122 (a), and the net income for any taxable year under section 122 (b), no deduction shall be allowed for any excess profits tax imposed by this subchapter, and, if the excess profits credit for such taxable year was computed under section 714, the deduction for interest shall be reduced by the amount of any reduction under paragraph (2) (B) for such taxable year; and

(ii) In lieu of the reduction provided in section 122 (c), such reduction shall be in the amount by which the excess profits net income computed with the exceptions and limitations specified in section 122 (d) (1), (2), (3), and (4) and computed without regard to subparagraph (B), without regard to any credit for dividends received, and without regard to any credit for interest received provided in section 26 (a) exceeds the excess profits net income (computed without the net operating lees deduction).

(b) Section 711 (a) (2) (relating to the excess profits credit computed under invested capital credit) is amended by adding at the end thereof the following new subparagraph:

(L) *Net operating loss deduction adjustment.* The net operating loss deduction shall be adjusted as follows:

(i) In computing the net operating loss for any taxable year under section 122 (a), and for such taxable year was computed under section 122 (b), no deduction shall be allowed for any excess profits tax imposed by this subchapter, and, if the excess profits credit for such taxable year, was computed under section 714, the deduction for interest shall be reduced by the amount of any reduction under subparagraph (B) of this paragraph for such taxable year; and

(ii) In lieu of the reduction provided in section 122 (c), such reduction shall be in the amount by which the excess profits net income computed with the exceptions and limitations provided in section 122 (d) (1), (2), (3), and (4) and computed without regard to subparagraph (D), without regard to any credit for dividends received, and without regard to any credit for interest received provided in section 26 (a) exceeds the excess profits net income (computed without the net operating loss deduction).

(c) The amendments made by this section shall be effective as of the date of enactment of the Excess Profits Tax Act of 1940.

SEC. 211. CREDIT FOR DIVIDENDS RECEIVED IN COMPUTATION O EXCESS PROFITS NET INCOME IN CONNECTION WITH INVESTED CAPITAL CREDIT. (Revenue Act of 1942, Title II.)

(a) Section 711 (a) (2) (A) is amended to read as follows:

(A) *Dividends received.* The credit for dividends received shall apply, without limitation, to all dividends on stock of all corporations, except that no credit for dividends received shall be allowed with respect to dividends (actual or constructive) on stock of foreign personal holding companies or dividends on stock which is not a capital asset.

(b) The amendment made by subsection (a) shall be effective as of the date of enactment of the Excess Profits Tax Act of 1940.

SEC. 213. EXCESS PROFITS NET INCOME PLACED ON ANNUAL BASIS. (Revenue Act of 1942, Title II.)

(a) *General rule.* Section 711 (a) (3) (relating to taxable years of less than twelve months) is amended to read as follows:

(3) *Taxable year less than twelve months.* (A) *General rule.* If the taxable year is a period of less than twelve months the excess profits net income for such taxable year (referred to in this paragraph as the "short taxable year") shall be placed on an annual basis by multiplying the amount thereof by the number of days in the twelve months ending with the close of the short taxable year and dividing by the number of days in the short taxable year. The tax shall be such part of the tax computed on such annual basis as the number of days in the short taxable year is of the number of days in the twelve months ending with the close of the short taxable year.

(B) *Exception.* If the taxpayer establishes its adjusted excess profits net income for the period of twelve months beginning with the first day of the short taxable year, computed as if such twelve-month period were a taxable year, under the law applicable to the short taxable year, and using the credits applicable in determining the adjusted excess profits net income for such short taxable year, then the tax for the short taxable year shall be reduced to an amount which is such part of the tax computed on such adjusted excess profits net income so established as the excess profits net income for the short taxable year is of the excess profits net income for such twelve-month period. The taxpayer (other than a taxpayer to which the next sentence applies) shall compute the tax and file its return without the application of this subparagraph. If, prior to one year from the date of the beginning of the short taxable year, the taxpayer has disposed of substantially all its assets, in lieu of the twelve-month period provided in the preceding provisions of this subparagraph, the twelve-month period ending with the close of the short taxable year shall be used. For the purposes of this subparagraph, the excess profits net income for the short taxable year shall not be placed on an annual basis as provided in subparagraph (A), and the excess profits net income for the twelve-month period used shall in no case be considered less than the excess profits net income for the short taxable year. The benefits of this subparagraph shall not be allowed unless the taxpayer, at such time as regulations prescribed hereunder require, makes application therefor in accordance with such regulations, and such application, in case the return was filed without regard to this subparagraph, shall be considered a claim for credit or refund. The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary for the application of this subparagraph.

(b) *Taxable years to which amendment applicable.* The amendment made by this section shall be applicable to taxable years beginning after December 31, 1939.

PAR. 2. Section 30.711 (a)–1, as amended by Treasury Decision 5045, approved May 3, 1941, is further amended by striking out the sixth sentence thereof.

PAR. 3. Section 30.711 (a) 2, as amended by Treasury Decision 5092, ap-

proved October 21, 1941, is further amended as follows:

(A) By striking out the first two paragraphs and by inserting in lieu thereof the following paragraphs:

If the excess profits credit for the taxable year is computed under section 713, the excess profits net income for such year is the normal tax net income as recomputed with the adjustments provided in section 711 (a) (1).

For taxable years beginning before January 1, 1941, section 711 (a) (1) (A), as originally enacted, provides that the deduction for taxes is to be increased in an amount equal to the tax for the taxable year under chapter 1 (not including the tax imposed under section 102). The amount of such adjustment is the amount of such tax after the allowance of the credit for foreign taxes as provided by sections 31 and 131. For taxable years beginning after December 31, 1940, no adjustment is to be made on account of the tax under chapter 1. Furthermore, although the excess profits tax is allowed as a deduction in computing normal-tax net income under chapter 1 for taxable years beginning in 1941, and the credit provided in section 26 (e) for income subject to the excess profits tax is allowed as a credit in computing normal-tax net income for taxable years beginning after December 31, 1941 (and for the purpose of computing the tentative tax under section 108 (a) (1) (B) for fiscal years beginning in 1941 and ending after June 30, 1942), neither such deduction nor such credit is allowed under section 711 (a) (1) (A), as amended, in computing excess profits net income for taxable years beginning after December 31, 1940.

The nature of the adjustment to be made under section 711 (a) (1) (B) with respect to long-term capital gains and losses (as defined under chapter 1) is the same for all excess profits tax taxable years. The amendment made by section 207 (a) of the Revenue Act of 1942 conforms the language of section 711 (a) (1) (B) to the terms used in the definition of capital gains and losses under chapter 1 for taxable years beginning after December 31, 1941. In recomputing normal-tax net income for the purpose of determining the excess profits net income for the taxable year, both for excess profits tax taxable years beginning before January 1, 1942, and those beginning after December 31, 1941, there shall be excluded long-term capital gains and losses and the excess of short-term capital losses over short-term capital gains. For example, a corporation has $4,000 long-term capital gains, $3,000 short-term capital gains, and $6,000 short-term capital losses. The $4,000 long-term capital gains are to be excluded for excess profits tax purposes. Accordingly, the deduction for short-term capital losses for excess profits tax purposes is limited to $3,000, the amount of the short-term capital gains, as expressly provided under section 117 (d) prior to its amendment, and as resulting under section 117 (d), as amended, by reason of the exclusion of long-term capital gains. That is, for taxable years beginning after December 31, 1941, capital losses are allowed as a deduction only to the extent of capital gains, and since both long-term gains and losses are excluded for excess profits tax purposes, short-term losses are allowed only to the extent of the remaining short-term gains.

For taxable years beginning after December 31, 1939, and before January 1, 1942, there is to be excluded under section 711 (a) (1) (B), as amended by section 208 of the Revenue Act of 1942, the excess of the recognized gains from the sale, exchange, or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property held for more than 18 months which is of a character which is subject to the allowance for depreciation in section 23 (l) over the recognized losses from the sale, exchange, or involuntary conversion of such property. For this purpose, section 117 (h) (1) and (2) shall apply in determining the period for which the taxpayer has held property which is of a character which is subject to the allowance for depreciation provided in section 23 (l). For treatment of the gains and losses referred to in the first sentence of this paragraph (in case the property was held for more than 6 months), and of the gains and losses from the involuntary conversion of certain other property, as long-term capital gains and losses for taxable years beginning after December 31, 1941, see section 117 (j). Any such gains and losses treated as long-term capital gains and losses are excluded in computing excess profits net income under the provisions of section 711 (a) (1) (B), as amended by section 207 (a) of the Revenue Act of 1942.

(B) By changing the original third paragraph thereof as follows:

(a) By inserting immediately preceding the first sentence the following new sentence:

For the purpose of the adjustment under section 711 (a) (1) (C), the applicable number of months beyond which the obligation of the taxpayer must have been outstanding is 18 months for taxable years beginning before January 1, 1942, and 6 months for taxable years beginning after December 31, 1941.

(b) By striking out "18 months" wherever it appears and by inserting in lieu thereof "the applicable number of months".

(C) By inserting immediately after the original fifth paragraph thereof the following paragraphs:

Under the law applicable to taxable years beginning in 1941, in determining any deduction the amount of which is limited to a percentage of the taxpayer's net income (for example, corporate charitable contributions under section 23 (q)) or the amount of which is limited to a percentage of the taxpayer's net income from the property (for example, discovery or percentage depletion under section 114 (b) (2), (3) and (4)), such net income, or net income from the property, as the case may be, shall be computed without regard to the deduction for excess profits tax allowed in computing normal-tax net income for such years. For taxable years beginning after December 31, 1941, the deduction for excess profits tax is not allowed in computing net income under chapter 1, and, therefore, such deductions, which are limited to net income, or to net income from the property, for such taxable years, will be the same for excess profits net income as for normal-tax net income if there are no other adjustments affecting net income or, net income from the property to be made under section 711 (a) (1) in recomputing normal-tax net income. For excess profits tax taxable years, whether beginning before or after December 31, 1941, deductions which are limited by other items of income or deductions, or by the net income or the net income from property are to be computed upon the basis of such items or such net income or net income from property as adjusted under section 711 (a) (1) in recomputing normal-tax net income for the purpose of determining the amount of excess profits net income.

Section 711 (a) (1) (J) provides for recomputation of the net operating loss deduction in computing excess profits net income under the income credit for the purpose of the tax for taxable years beginning after December 31, 1939. The various steps in computing the deduction are to be taken in the same manner and for the same years as are provided in section 122 and in the regulations thereunder, except as prescribed in the rules set forth in section 711 (a) (1) (J). The exceptions prescribed by section 711 (a) (1) (J) require that in the computation of the net operating loss for any taxable year under section 122 (a) and in the computation of the net income for any taxable year under section 122 (b) no deduction shall be allowed for any excess profits tax and, if the excess profits credit was computed under the invested capital method for the taxable year in which the loss was sustained or the net income arose, the deduction for interest for such taxable year shall be reduced by the amount of any reduction for such taxable year prescribed under section 711 (a) (2) (B). Furthermore, in lieu of the reduction prescribed in section 122 (c) for converting the net operating loss carry-over for a taxable year beginning before January 1, 1941, or the aggregate of the net operating loss carry-overs and carry-backs to a taxable year beginning after December 31, 1940, into the net operating loss deduction, the reduction for such purpose shall be the amount by which the excess profits net income for the taxable year in which the deduction is allowable, computed with the exceptions and limitations specified in section 122 (d) (1), (2), (3), and (4) and computed without regard to section 711 (a) (1) (B) (excluding long-term capital gains and losses), without regard to any credit for dividends received, and without regard to any credit for interest received provided in section 26 (a) exceeds the excess profits net income for such taxable year (computed without any net operating loss deduction). The net operating loss deduction so computed with the adjustments prescribed by section 711 (a) (1) (J) is deducted in com-

puting normal-tax net income to determine excess profits net income, in lieu of the net operating loss deduction otherwise prescribed in sections 23 (s) and 122.

The computation of net operating loss, net operating loss carry-back and carry-over, and the net operating loss deduction for purposes of excess profits net income is illustrated by the following example:

Example. The X Corporation makes its income tax returns on a calendar year basis and under the accrual method of accounting. Its only net operating loss for the years 1939–1946, inclusive, occurs in 1944. Under section 122 (b), the net operating loss for 1944 first is to be carried back to 1942 and the balance of such carry-back, if any, computed as provided in sections 122 (b) and 711 (a) (1) (J) (i) is to be carried back to 1943. For 1942, 1943, and 1944, the facts with respect to the X Corporation are as follows:

	1942	1943	1944
(a) Tax exempt interest from State bonds	$1,000	$1,000	$1,000
(b) Dividends received	10,000	10,000	10,000
(c) Long-term capital gain	2,500	3,000	-------
(d) Interest from United States obligations	2,000	2,000	2,000
(e) Other items of gross income	200,000	300,000	20,000
(f) Total taxable gross income (sum of items (b), (c), (d), and (e))	214,500	315,000	32,000
(g) Deductions (other than net operating loss deduction; no capital losses)	154,500	177,000	115,000
(h) Net income or (loss)	60,000	138,000	(83,000)
(i) Credit for interest from United States obligations	2,000	2,000	2,000
(j) Adjusted net income	58,000	136,000	(85,000)
(k) Credit for dividends received (85 percent of amount in item (b) but not more than 85 percent of adjusted net income)	8,500	8,500	-------
(l) Normal tax net income (computed without net operating loss deduction and without credit for income subject to excess profits tax)	49,500	127,500	(85,000)

In order to determine the net operating loss for 1944 there must be added to the total gross taxable income of $32,000, the $1,000 of tax exempt interest, as provided in section 122 (d) (2). Accordingly, the net operating loss for 1944 is $82,000, the excess of $115,000 (item (g)) over $33,000 (the sum of item (f), $32,000, and item (a), $1,000). The net operating loss deduction for 1942 is the amount of this carry-back reduced as provided in section 711 (a) (1) (j) (ii). This reduction is the excess of the amount of excess profits net income for 1942 with certain adjustments provided in section 711 (a) (1) (J) (ii) over the amount of excess profits net income for 1942 (computed without the net operating loss deduction). The amount of excess profits net income for 1942 computed without the net operating loss deduction is $45,500, computed as follows:

Normal tax net income for 1942, as previously determined		$49,500
Less:		
Long-term capital gain	$2,500	
Credit for balance of dividends received	1,500	4,000
Excess profits net income (computed without net operating loss deduction)		45,500

The amount of excess profits net income computed with the adjustment provided in section 711 (a) (1) (J) (ii) from which the $45,500 is to be deducted is $61,000, computed as follows:

Excess profits net income (computed without net operating loss deduction in accordance with section 122 (d) (3))	$45,500
Plus:	
Tax exempt interest	1,000
Long-term capital gain	2,500
Amount of credit for dividends received	10,000
Amount of credit for interest received	2,000
Total	61,000

Since $61,000 exceeds $45,500 by $15,500, the net operating loss carry-back of $82,000 to 1942 is to be reduced by $15,500, leaving a net operating loss deduction of $66,500 for the purpose of determining excess profits net income for 1942.

In this example, the net operating loss carry-back from 1944 to 1943 is the excess of the carry-back, $82,000, over the net income for 1942 computed under sections 122 (b) (1) and 711 (a) (1) (J) (i) as follows:

Net income for 1942, as previously determined	$60,000
Plus:	
Tax exempt interest	1,000
Total	61,000

It will be noted that the excess profits tax for 1942 is not allowed under section 711 (a) (1) (J) (i) as a deduction in computing the above amount ($61,000) although it is allowed for income tax purposes as a deduction in computing net operating loss, as provided in section 122 (d) (6). The net operating loss carry-back to 1943 for purposes of excess profits tax therefore is $21,000 (the excess of $82,000 over $61,000). The net operating loss deduction for 1943 for purposes of excess profits net income for 1943 is the amount of $21,000 reduced as provided in section 711 (a) (1) (J) (ii). The amount of this reduction is computed in the same manner as the corresponding reduction was previously computed for 1942. That is, the excess profits net income for 1943, computed without net operating loss deduction, is $123,000, computed as follows:

Normal-tax net income, as previously determined		$127,500
Less:		
Long-term capital gain	$3,000	
Credit for balance of dividends received	1,500	4,500
Excess profits net income (computed without net operating loss deduction)		123,000

The amount which is in excess of this amount of $123,000 is $142,000, computed with the adjustments provided in section 711 (a) (1) (J) (ii) as follows:

Excess profits net income (computed without net operating loss deduction in accordance with section 122 (d) (3))	$123,000
Plus:	
Tax exempt interest	1,000
Long-term capital gain	3,000
Amount of credit for dividends received	10,000
Amount of credit for interest received	2,000
Total	139,000

The excess of $139,000 over $123,000 is $16,000. Since the net operating loss carry-back to 1943 ($21,000) must be reduced by this amount ($16,000) in determining the deduction for 1943, the net operating loss deduction allowable for the purpose of determining excess profits net income for 1943 is $5,000.

In this example, no net operating loss carry-over from 1944 is allowable to 1945 or 1946. The net operating loss for 1944, $82,000, does not exceed the sum of the net income for 1942 and 1943 when the net income for 1942 and 1943 is computed under section 122 (b) (2) and section 711 (a) (1) (J) (ii). The net income for 1942 as previously determined under such sections is $61,000 The net income for 1943 computed under such sections is $139,000 computed as follows:

Net income for 1943 as previously determined	$138,000
Plus: Tax exempt interest	1,000
Total	139,000

For a deduction from normal-tax net income in the case of life insurance companies for the purpose of excess profits net income for taxable years beginning after December 31, 1941, see section 711 (a) (1) (H), as added by section 205 (b) of the Revenue Act of 1942. For exclusion of nontaxable income from exempt excess output of mines and timber blocks and nontaxable bonus income provided in section 735 in the case of a producer of minerals, or a producer of logs or lumber from a timber block, as defined in section 735, for taxable years beginning after December 31, 1940, see section 711 (a) (1) (I), as added by section 209 (a) of the Revenue Act of 1942.

(D) By inserting at the end thereof the following paragraph:

The above example is applicable equally to 1942 and subsequent years assuming the same facts are present, and assuming that the corporation did not comply with the provisions of section 22 (b) (9) for excluding income from the retirement of its bonds and that the $400,000 of normal-tax net income is computed without the credit provided in section 26 (e) for income subject to the excess profits tax. The example also would be applicable for 1942 and subsequent years if the holding period of the property described in item (2) was less than 18 months, so long as the period was more than 6 months.

PAR. 4. Section 30.711 (a)–3, as amended by Treasury Decision 5092, is further amended as follows:

(A) By changing the first two sentences thereof to read as follows:

If the excess profits credit for the taxable year is computed under section 714, then the excess profits net income for such year is the normal-tax net income recomputed with the adjustments provided in section 711 (a) (2). Under section 711 (a) (2) (A), there must be eliminated in computing normal-tax net income the credit allowed under chapter 1 for dividends received on stock which is not a capital asset as defined in section 117, such as stock held primarily for sale to customers by a dealer in securities.

(B) By changing (a) (2) by adding at the end thereof the following new sentence:

If a taxpayer in its return for a taxable year beginning after December 31, 1941, has made the election under section 720 (d), the amount of interest on obligations held during the taxable year which are described in section 22 (b) (4) shall be reduced by the amount, if any, of the amortizable bond premium under section 125 attributable to such obligations, and only the amount of interest so reduced shall be added to normal-tax net income.

(C) By inserting at the end thereof the following paragraph:

The above example is applicable equally to 1942 and subsequent years under the same assumptions of fact as were made with respect to the example in § 30.711 (a)-2 and with the additional assumption that neither the Treasury bonds nor the State bonds were purchased at a premium.

PAR. 5. Section 30.711 (a)-4 is amended to read as follows:

§ 30.711 (a)-4 *Tax for period of less than 12 months*—(a) *Methods of computing tax for short taxable year; allowance.* Section 711 (a) (3), as amended by the Revenue Act of 1942, provides rules, under a general rule and under an exception to such rule, which are applicable to all short excess profits tax taxable years beginning after December 31, 1939 for the purpose of determining 12 months' experience and computing the tax for such years. A short taxable year is any taxable period of less than 12 months. If the period from the date of incorporation of a corporation to the end of its first accounting period, or the period from the beginning of its last accounting period to the date it ceases operations and is dissolved, retaining no assets, is a period of less than 12 months, such period is a short taxable year. In every case of a short taxable year, whether of a type resulting from a change of accounting period or of a type described in the preceding sentence, the excess profits net income for a period of 12 months used for the purpose of computing the tax under this section shall be used for all other purposes under this subchapter (except as otherwise expressly provided) as the excess profits net income of the taxpayer for the short taxable year. The tax imposed by section 710 for the short taxable year shall be computed under paragraph (b) of this section, except as otherwise provided in paragraph (c) of this section.

(b) *General rule.* Section 711 (a) (3) (A) provides that the excess profits net income for a short taxable year shall be placed on an annual basis by multiplying the amount thereof by the number of days in the twelve months ending with the close of the short taxable year and dividing by the number of days in the short taxable year. A tentative tax shall then be computed as though the excess profits net income were the amount so ascertained under the preceding sentence. The actual tax for the short taxable year shall be an amount which bears the same ratio to such tentative tax as the number of days in the short taxable year bears to the total number of days in the 12 months ending with the close of the taxable year.

(c) *Exception; tax for short period determined by actual 12-month adjusted excess profits net income.* If the taxpayer applies to the Commissioner in the manner provided in paragraph (d) of this section to have its tax computed under the provisions of section 711 (a) (3) (B), and if the taxpayer establishes the amount of its adjusted excess profits net income, computed for the 12-month period hereinafter described and under the rules hereinafter prescribed, then section 711 (a) (3) (B) provides that the tax for the short taxable year shall be reduced to an amount which is such part of the tax computed on the basis of the adjusted excess profits net income which the taxpayer has established for such 12-month period as the excess profits net income for the short taxable year is of the excess profits net income for such 12-month period. If such amount, however, is greater than the tax computed under paragraph (b) of this section, the tax for the short taxable year is the tax computed under paragraph (b). The 12-month period referred to above is the 12-month period beginning with the first day of the short taxable year, except that if the taxpayer has disposed of substantially all its assets prior to the end of such 12-month period, then it is the 12-month period ending with the last day of the short taxable year. If a corporation ceases business and distributes so much of the assets used in its business that it cannot resume its customary operations with the remaining assets, it has disposed of substantially all of its assets.

In computing the tax under section 711 (a) (3) (B), the excess profits net income for the short taxable year is not placed on an annual basis as provided in section 711 (a) (3) (A). The adjusted excess profits net income for the 12-month period is computed under the same provisions of law as are applicable to the short taxable year, with the use of the credits applicable in determining the adjusted excess profits net income for such short taxable year (as if this section were not applicable), and is computed as if the 12-month period were an actual accounting period of the taxpayer. All items which fall in such 12-month period must be included even if they are extraordinary in amount or an unusual nature. The adjustments provided in section 711 (a) (1) and (2) under the law applicable to such short taxable year shall be made upon the basis of the normal-tax net income for such 12-month period. The apportionment of items to such 12-month period shall be made in accordance with the method and principles applicable under § 19.47-2 (b) of Regulations 103. The excess profits net income for the 12-month period used shall in no case be considered less than the actual excess profits net income for the short taxable year.

(d) *Application to compute tax under section 711 (a) (3) (B).* A taxpayer desiring the benefit of section 711 (a) (3) (B) must file an application therefor. If at the time the return for the short taxable year is filed the taxpayer is able to determine that the 12-month period ending with the close of the short taxable year will be used in the computations under section 711 (a) (3) (B), then the tax on the return for the short taxable year may be determined under the provisions of section 711 (a) (3) (B). In such a case, an excess profits tax return form covering the 12-month period shall be attached to the return as a part thereof, and the return will then be considered the application for the benefits of section 711 (a) (3) (B) required by that section. In all other cases, the taxpayer shall file its return and compute its tax as provided in paragraph (b), and the application for the benefits of section 711 (a) (3) (B) shall be made in the form of a claim for credit or refund. The claim shall set forth the computation of the adjusted excess profits net income and the tax thereon for the 12-month period, and must be filed not later than June 15, 1943, or the time prescribed for filing the return for the first taxable year ending with or after the twelfth month after the beginning of the short taxable year, whichever date is later. For example, the taxpayer changes its accounting period from the calendar year basis to the fiscal year basis ending September 30, and files a return for the period from January 1, 1942, to September 30, 1942. Its application for the benefits of section 711 (a) (3) (B) must be filed not later than the time prescribed for filing its return for the first taxable year which ends on or after the last day of December, 1942, the 12th month after the beginning of the short taxable year. In this case, the taxpayer must file its application not later than December 15, 1943, the time prescribed for filing the return for its fiscal year ending September 30, 1943. However, if it obtains an extension of time for filing the return for such fiscal year, it may file its application during the period of such extension. If the Commissioner determines that the taxpayer has established the amount of the adjusted excess profits net income for the 12-month period, any excess of the tax paid for the short taxable year over the tax computed under section 711 (a) (3) (B) will be credited or refunded to the taxpayer in the same manner as in the case of an overpayment.

PAR. 6. There is inserted immediately preceding section 30.711 (b)-1 the following:

SEC. 207. CAPITAL GAINS AND LOSSES IN THE COMPUTATION OF EXCESS PROFITS NET INCOME. (Revenue Act of 1942, Title II.)

* * * * *

(e) *Taxable years in base period.* Section 711 (b) (1) (B) is amended to read as follows:

(B) *Gains and losses from sales or exchanges of capital assets.* There shall be excluded gains and losses from sales or exchanges of capital assets held for more than 6 months.

(f) *Retirement of long-term bonds.* Section 711 (b) (1) (C) is amended by striking out "eighteen months" and inserting in lieu thereof "6 months".

(g) *Capital gains and losses.* Section 711 (b) (2) is amended to read as follows:

(2) *Capital gains and losses.* For the purposes of this subsection the normal-tax net income and the special-class net income referred to in paragraph (1) shall be computed as if section 23 (g) (2), section 23 (k) (2), and section 117 were part of the revenue law applicable to the taxable year the excess profits net income of which is being computed, with the exception that the capital loss carry-over provided in subsection (e) (1) of section 117 shall be applicable to net capital losses for taxable years beginning after December 31, 1934. Such exception shall not apply for the purposes of computing the tax under this subchapter for any taxable year beginning before January 1, 1943.

* * * * *

SEC. 208. Retroactive

SEC. 208. RETROACTIVE TREATMENT OF INVOLUNTARY CONVERSIONS AS CAPITAL TRANSACTIONS. (Revenue Act of 1942, Title II.)

Effective with respect to taxable years beginning after December 31, 1939, but not beginning after December 31, 1941, the second sentence of setcion 711 (a) (1) (B), section 711 (a) (2) (D), and section 711 (b) (1) (B) is amended to read as follows: "There shall be excluded the excess of the recognized gains from the sale, exchange, or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property held for more than eighteen months which is of a character which is subject to the allowance for depreciation provided in section 23 (1) over the recognized losses from the sale, exchange, or involuntary conversion of such property. For the purposes of this subparagraph, section 117 (h) (1) and (2) shall apply in determining the period for which the taxpayer has held property which is of a character which is subject to the allowance for depreciation provided in section 23 (1).

SEC. 201. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title II.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 7. Section 30.711 (b)–1, as amended by Treasury Decision 5092, is further amended as follows:

(A) By striking out the matter in the example in the third paragraph reading "The adjustments required in computing the excess profits net income of the corporation for 1936 and 1939 are as follows:" and by inserting in lieu thereof the following: "For the purpose of computing the income credit applicable to an excess profits tax taxable year beginning before January 1, 1942, the adjustments required in computing the excess profits net income of the corporation for 1936 and 1939 are as follows:"

(B) By inserting immediately preceding the fourth paragraph the following sentences and paragraph:

For the purpose of computing the income credit applicable to an excess profits tax taxable year beginning on or after January 1, 1942, the results will be the same as those shown above although the form of the adjustments is somewhat different by reason of a change in terminology under the amendments made by the Revenue Act of 1942. The normal-tax net income for 1936 as adjusted under section 711 (b) (2), as amended, will be $72,000. The additions to normal-tax net income of $27,000 as made above, will stand (although the loss on the worthless stock and bonds will be added back because, under the amendments made by the Revenue Act of 1942, such loss will be considered a long-term capital loss; *i. e.*, loss from sale or exchange of capital assets held for more than 6 months). Under section 117 (d) (1), as amended, losses from sales or exchanges of capital assets are allowed only to the extent of gains from such sales or exchanges. It is assumed that under section 117 (j), as amended, the net loss of $5,000 from the sales of property (held for more than 6 months) of the character subject to the allowance for depreciation under section 23 (1) is an ordinary loss. Accordingly, under section 711 (b) (2), as amended, there is no deduction of net capital losses and only the $5,000 ordinary loss is to be subtracted from the $77,000 previously determined. No adjustment is required under section 711 (b) (1) (B), as amended, for 1936. For 1939, no adjustment is necessary under section 711 (b) (2), as amended. It is assumed that under section 117 (j), as amended, the $3,000 net gain from sales of property (held for more than 6 months) of the character subject to the allowance for depreciation provided in section 23 (1) is considered long-term capital gain. The adjustment for 1939 under section 711 (b) (1) (B), as amended, is the same as that shown above.

The following rules apply to the use of capital loss carry-overs to base period years when computing the income credit applicable to the excess profits tax taxable years indicated below:

(1) If the excess profits tax taxable year begins after December 31, 1940, and before January 1, 1942, the net short-term capital loss carry-over provided in section 117 (e), prior to its amendment by the Revenue Act of 1942, shall be applicable to net short-term capital losses for taxable years beginning after December 31, 1934, and for the purpose of determining such carry-over capital gains and losses shall be determined as if the provisions of section 23 (g) (2) and (k) (2) and section 117 of the Code, prior to amendment by the Revenue Act of 1942, were applicable to all of such years.

(2) If the excess profits tax taxable year begins in 1942, the net short-term capital loss carry-over provided in section 117 (e), prior to its amendment by the Revenue Act of 1942, shall be applicable to net short-term capital losses for taxable years beginning after December 31, 1934, and for the purpose of determining such carry-over capital gains and losses shall be determined as if the provisions of section 23 (g) (2) and (k) (2) and section 117 of the Code (other than section 117 (e)), as amended by the Revenue Act of 1942 were applicable to all of such years.

(3) If the excess profits tax taxable year begins on or after January 1, 1943, the capital loss carry-over provided in section 117 (e) (1), as amended by the Revenue Act of 1942, shall be applicable to net capital losses for taxable years beginning after December 31, 1934, and for the purpose of determining such carry-over capital gains and losses shall be determined as if the provisions of section 23 (g) (2) and (k) (2) and section 117 of the Code, as amended by the Revenue Act of 1942, were applicable to all of such years.

No capital loss carry-over is allowed to the base period years if the income credit is being computed for an excess profits tax taxable year beginning in 1940. Section 117 (e) (2), as added by the Revenue Act of 1942, has no application for the purposes of computing capital loss carry-overs to base period years.

(C) By inserting immediately after the original fourth paragraph the following new paragraph:

For the purpose of the adjustment under section 711 (b) (1) (C), the applicable number of months beyond which the obligation of the taxpayer must have been outstanding is 18 months if the adjustment is being made for the purpose of the income credit applicable to a taxable year beginning before January 1, 1942, but it is only 6 months if the adjustment is being made for the purpose of the income credit applicable to a taxable year beginning after December 31, 1941. The applicable number of months beyond which the obligation of the taxpayer must have been outstanding for the purpose of the adjustment under section 711 (b) (1) (D) is 18 months in every case.

PAR. 9. Section 30.711 (b)–2, as added by Treasury Decision 5045, is amended by inserting at the end of the fourth paragraph the following sentences:

If the excess profits tax taxable year is a taxable year of less than 12 months and the taxpayer places its excess profits net income on an annual basis as provided in section 711 (a) (3) (A) or establishes an adjusted excess profits net income for a 12-month period, which is used to compute the tax under section 711 (a) (3) (B), the deductions of the class as determined upon such annual basis or under such adjusted excess profits net income for such 12-month period used shall be considered as deductions of the class for the excess profits tax taxable year. Thus, the corporation in the example just given may have changed its accounting period in 1943 from a calendar year to a fiscal year ending September 30. If, in such case, the corporation had $125,000 of deductions of the class for the short taxable year January 1, 1943, through September 30, 1943, but, computed its tax under section 711 (a) (3) (B) and established an adjusted excess profits net income for the 12-month period January 1, 1943 through December 31, 1943, with $175,000 of deductions of the class, only $25,000 will be disallowed for the taxable year 1938 in determining the excess profits credit based on income for use against the excess profits net income for 1943.

PAR. 10. There is inserted immediately preceding section 30.720–1 the following:

SEC. 207. CAPITAL GAINS AND LOSSES IN THE COMPUTATION OF EXCESS PROFITS NET INCOME. (Revenue Act of 1942, Title II.)

* * * * *

(h) *Inadmissible asset ratio.*—Section 720 (c) is amended by striking out "short-term capital gain" and inserting in lieu thereof "gain from the sale or exchange of a capital asset held for not more than 6 months".

SEC. 220. AMORTIZABLE BOND PREMIUM ON CERTAIN GOVERNMENT OBLIGATIONS. (Revenue Act of 1942, Title II.)

The first sentence of section 720 (d) (relating to increase in excess profits net income where Government obligations treated as admissible assets) is amended to read as follows: "If the excess profits credit for any taxable year is computed under section 714, the taxpayer may in its return for such year elect to increase its normal-tax net income for such taxable year by an amount equal to the amount of the interest on, reduced by the amount of the amortizable bond premium under section 125 attributable to, all obligations held during the taxable year which are described in section 22 (b) (4) any part of the interest from which is excludible from gross

income or allowable as a credit against net income."

SEC. 201. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title II.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 11. Section 30.720–1, as amended by Treasury Decision 5045, is further amended as follows:

(A) By inserting in the fifth sentence, immediately after "taxable year" the first time it appears in such sentence, the following: "beginning before January 1, 1942".

(B) By inserting immediately after the fifth sentence thereof the following new sentence:

If a taxpayer in its return for a taxable year beginning after December 31, 1941 elects to increase its normal-tax net income for that year for the purpose of the excess profits tax by including all the interest derived from obligations described in section 22 (b) (4), reduced by the amount, if any, of the amortizable bond premium under section 125 attributable to such obligations (see section 19.125–1 of Regulations 103), all such obligations shall be considered admissible assets for such taxable year.

(C) By changing that part of the original sixth sentence thereof which reads "For the purpose of the preceding sentence," to read "For the purpose of the two preceding sentences,".

(D) By inserting in the first sentence of the second paragraph (not counting the divisions designated (a), (b), and (c) as paragraphs), immediately after "taxable year", the following: "(or, during a taxable year beginning after December 31, 1941, gain from sale or exchange of a capital asset held for not more than 6 months)".

(Sec. 62 of the Internal Revenue Code able year", the following: "(or, during a applicable by sec. 729 (a) of the Internal Revenue Code (54 Stat. 989; 26 U.S.C. 729 (a)), and secs. 201, 205 (b) and (c), 206, 207, 208, 209 (a), (b), and (d), 210, 211, 213, and 220 of the Revenue Act of 1942 (Public Law 753, 77th Congress))

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: March 27, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43–4878; Filed, March 30, 1943; 11:22 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

[Docket No. A–1888]

PART 321—MINIMUM PRICE SCHEDULE, DISTRICT NO. 1

ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 1 for the establishment of price classifications and minimum prices for rail and truck shipments and changes in the freight origin group numbers and shipping points for the coals of certain mines.

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 and changes in the Freight Origin Group Numbers and the shipping points for the coals of certain mines in District No. 1; and

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

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

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

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 321.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 321.24 (*General prices*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof; and commencing forthwith, the Freight Origin Group Numbers and shipping points appearing in the aforesaid Supplement R for the mines mentioned therein are effective in place of the Freight Origin Group Numbers and shipping points heretofore established for these mines.

No relief is granted herein for the coals of the Hillside Coal Co. Mine, Mine Index No. 3912, of A. G. Sewiskey (Hillside Coal Co.) in Size Group 3, as requested, for the reason that minimum prices were established for the Size Group 3 coals of this mine as Mine Index No. 3478 for truck shipment in Docket No. A–1440 and, therefore, Mine Index No. 3912 is deleted.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief tion 4 II (d) of the Bituminous Coal herein granted shall become final sixty (60) days from the date of this order, unless it shall otherwise be ordered.

Dated: March 18, 1943.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 321, Minimum Price Schedule for District No. 1 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

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

[Alphabetical listing of code members having railway loading facilities, showing price classifications by size group numbers]

Mine index No.	Code member	Mine name	Subdistrict No.	Seam	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
3743	Bonner, H. C.	Arcadia #83	12	E	Glen Campbell, Pa.[1]	PRR	[2] 50	†	†	G	(†)	(†)
3937	Brown, Earl M.	Brown #5	8	C	Clearfield, Pa.	B & O	113	(†)	(†)	F	(†)	(†)
1663	Bunker Hill Coal Co. (Andrew Bodnar).	Bunker Hill Coal Mine.	16	D	Garman, Pa.	NYC–PRR	60	(†)	(†)	E	(†)	(†)
3831	Dorsch Coal Co. (Elmer E. Dorsch).	Dorsch Coal Co.	26	B	Twin Rocks, Pa.	PRR	53	(†)	(†)	C	(†)	(†)
3938	Ferrari, Nick	Ferrari #2	6	D	Anita, Pa.	PRR	50	(†)	(†)	E	E	E
3939	Flickinger, L. S. (Mack Coal Co.).	Mack #5	23	E	Homer city, Pa.	PRR	81	(†)	(†)	G	(†)	(†)
3940	Fye, Ralph & Glenn (Glenn Fye).	Fye #5	9	D	Snow Shoe, Pa.	PRR	49	D	D	D	D	D
300	M. P. W. Coal Co., The (Arthur M. Pearce).	Matulas Coal Mining Co.	11	B	Timblin, Pa.[1]	P & S	119	H	H	H	J	J
3913	Thompson, W. O.	Thompson #1	5	D	Knoxdale, Pa.	P & S	119	(†)	(†)	E	(†)	(†)

†Indicates no classification effective for these size groups.
[1] Change in shipping point.
[2] Change in F. O. G.

NOTE: The above prices are applicable only via the respective Freight Origin Groups, Shipping Points and Railroads shown for the respective mines. Freight Origin Groups, Shipping Points and Railroads previously assigned to these mines are no longer applicable.

FOR TRUCK SHIPMENTS

§ 321.24 *General prices*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Subdistrict No.	County	Seam	All lump coal double screened top size 2" and over (1)	Double screened top size 2" and under (2)	Run of mine modified R/M (3)	2" and under slack (4)	¾" and under slack (5)
Beers, A. T.	3879	Beers	7	Clearfield	D	(†)	(†)	240	(†)	(†)
Brown, Earl M.	3937	Brown #5	8	Clearfield	C	(†)	(†)	240	(†)	(†)
Ferrari, Nick	3938	Ferrari #2	6	Jefferson	D	(†)	(†)	245	235	225
Flickinger, L. S. (Mack Coal Co.)	3939	Mack #5	23	Indiana	E	(†)	(†)	235	(†)	(†)
Fye, Ralph & Glenn (Glenn Fye)	3940	Fye #5	9	Centre	D	(†)	(†)	250	(†)	(†)
Kuhstos, Julius	3914	Little Cambria Plain.	39	Bedford	Kelly	(†)	(†)	240	(†)	(†)
Reese, Philip	3922	Reese's	9	Clearfield	C	(†)	(†)	245	(†)	(†)
Spanogle, Fred	3941	Green Valley	8	Clearfield	B	(†)	(†)	245	(†)	(†)
Thompson, W. O.	3913	Thompson #1	8	Jefferson	D	(†)	(†)	245	(†)	(†)

†Indicates no classification effective for this size group.

[F. R. Doc. 43-4801; Filed, March 29, 1943; 11:10 a. m.]

[Docket No. A-1876]

PART 323—MINIMUM PRICE SCHEDULE, DISTRICT NO. 3

ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 3 for the establishment of price classifications and minimum prices for the coals of certain mines and for a change in shipping point for the coals of the Christopher No. 6 Mine of Christopher Mining Company.

An original petition, pursuant to sec- 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. 3, and a change in the shipping point for the coals of the Christopher No. 6 Mine of Christopher Mining Company, also in District No. 3; and

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

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

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

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 323.6 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 323.23 (*General prices*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof; and, commencing forthwith, the shipping point appearing in the aforesaid Supplement R for the coals produced at the Christopher No. 6 Mine, Mine Index No. 4, shall be effective in lieu of the shipping point hitherto established for the coals produced at this mine.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

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

Dated: March 16, 1943.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 3

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 323, Minimum Price Schedule for District No. 3 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

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

[Alphabetical listing of code members having railway loading facilities, showing price classification by size, group numbers]

Mine index No.	Code member	Mine name	Seam	Shipping point	Railroad	Freight origin group No.	Size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
4	Christopher Mining Company [1]	Christopher #6 [1]	Pittsburgh	Annabelle, W. Va.[2]	B & O	61	DE	DE	DE	DE	DE	DE	DF	DF	DF	DF	B	B	B	B	B	B
5	Clair Corporation (F. D. Sinclair)[1]	Arthur [1]	Redstone	Lost Creek, W. Va.	B & O	60	F	F	F	F	F	H	F	F	F	F	(†)	(†)	(†)	(†)	(†)	(†)
152	Fizer & Gidley (Paul Gidley)[1]	Redbrush	Bakerstown	Snider, W. Va.	W. V. N.	71	G	G	G	G	G	G	G	G	G	G	(†)	(†)	(†)	(†)	(†)	(†)
1392	Freeport Gas Coal Company, Downing, Richard, Trustee.	Hilltop #2	Pittsburgh	Clarksburg, W. Va.	B & O	60	F	F	F	F	F	F	F	F	F	F	(†)	(†)	(†)	(†)	(†)	(†)
699	Nixon, R. S.	Nixon #1	Pittsburgh	Everson, W. Va.	B & O	61	F	F	F	F	F	F	F	F	F	F	(†)	(†)	(†)	(†)	(†)	(†)
1393	Nixon, R. S.	Nixon #2	Pittsburgh	Everson, W. Va.	B & O	61	DE	DE	DE	DE	DE	DE	DF	DF	DF	DF	B	B	B	B	B	B
717	Sturm, John E.	Robinson	Pittsburgh	Bridgeport, W. Va.	B & O	60	F	F	F	F	F	F	F	F	F	F	(†)	(†)	(†)	(†)	(†)	(†)

†Indicates no classification effective for these size groups.
[1] Indicates change in name.
[2] Indicates change in shipping point, Worthington, W. Va., no longer applicable.

NOTE.—For railroad fuel prices add these mine index numbers to the respective groups set forth in §323.8 (b) and §323.8 (c) in Minimum Price Schedule No. 1. *Group No. 1:* 4, 699, 717, 1392, 1393; *Group No. 2:* 5; *Group No. 6:* 152.

FOR TRUCK SHIPMENTS

§ 323.23 *General prices*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Seam	County	Size groups						
					Lump over 2", egg over 2" bottom size	Lump 2", egg 2" bottom size but over 1¼"	Lump 1¼" and under, egg 1¼" and under bottom size	All nut and pea 2" and under	Run of mine resultant over 2"	1¼" and 2" slack	¾" slack
					1	2	3	4	5	6	7
Christopher Mining Company.[1]	4	Christopher #6[1]	Pittsburgh	Marion	243	238	238	213	213	198	188
Clair Corporation (F. D. Sinclair).[1]	5	Arthur[1]	Redstone	Harrison	243	238	238	213	203	198	188
DeBerry, N. W	499	DeBerry	MV Freeport	Preston	245	245	245	220	220	210	200
Fizer & Gidley (Paul Gidley).[1]	152	Redbrush	Bakerstown	Preston	255	255	255	230	230	220	210
Freeport Gas Coal Company (Downing, Richard, Trustee).	1392	Hilltop #2	Pittsburgh	Harrison	243	238	238	213	213	198	188
Nixon, R. S.	1393	Nixon #2	Pittsburgh	Harrison	243	238	238	213	213	198	188
Sturm, John E.[1]	717	Robinson	Pittsburgh	Harrison	243	238	238	213	213	198	188

[1] Indicates change in name.

[F. R. Doc. 43-4803; Filed, March 29, 1943, 11:11 a. m.]

[Docket No. A-1893]

PART 330—MINIMUM PRICE SCHEDULE, DISTRICT NO. 10

ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 10 for establishment of price classifications and minimum prices for Mine Index No. 1625.

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 Elliott's Mine, Mine Index No. 1625 of Ed. A. Elliott, in District No. 10; and

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

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

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

It is ordered, That pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith § 330.25 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement T, which supplement is hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

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

Dated: March 13, 1943.

[SEAL] DAN H. WHEELER, *Director*.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 10

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 330, Minimum Price Schedule for District No. 10 and supplements thereto.

FOR TRUCK SHIPMENTS

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

Code member index name	Mine index No.	Mine	Seam	Prices and size group numbers																										
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	34
SECTION NO. 5																														
GREENE COUNTY																														
Elliott, Ed. A	1625	Elliott's	2	260	255	250	240	235	230	175	170	165	160	160	160	130	120	65	---	---	---	---	---	---	---	---	---	---	---	---	---

[F. R. Doc. 43-4800; Filed, March 29, 1943; 11:10 a. m.]

[Docket No. A-1882]

PART 332—MINIMUM PRICE SCHEDULE, DISTRICT NO. 12

ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 12 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 12.

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. 12; and

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

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

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

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 332.2 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and

§ 332.24 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

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

Dated: March 18, 1943.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 12

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 332, Minimum Price Schedule for District No. 12 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

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

Code member	Mine Index No.	Mine name	Mine origin group	Originating railroad	Mine origin group No.
Burk, Harold (H. B. Coal Company).	842	H. B. Coal Co. #2 [1]	Lovilia	CB&Q-Wab	40
Ex-L Coal Company	840	Ex-L #2 [1]	Flagler and Knoxville.	CB&Q	69
New Black Diamond Coal Co. (Guy Geneva).	404	New Black Diamond Coal Co. [1]	Albia	CB&Q-M&StL	30
Vanceunebrock Coal Co	494	Vanceunebrock No. 1 [1]	Flagler and Knoxville.	CB&Q	69
X-I Coal Co. (Nomie French)	837	No. 2 [1]	Bussey	Wab	31

[1] Indicates mines shipping via public sidings and ramps for railway delivery.

FOR TRUCK SHIPMENTS

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

Code member index	Mine index No.	Mine	Price group No.	County	Chunk	Standard Lump	Egg 8 x 2", 6 x 2"	Small egg, 4 x 2", 3 x 1½"	Mine run	Nut, 2 x 1¼", 1¼ x ¾", 1¼ x ⅝"	Dom. stoker, 1¼", 1 x ⅝"	Screenings, 2", 1½", 1¼ x 0	Ind. stoker, Cr. 2", 1½", 1¼" x 0	⅝" x 0
					1	2	3	4	5	6	7	8	9	10
Burk, Harold (H. B. Coal Company).	842	H. B. Coal Co. #2	18	Marion	305	295	285	275	275	275	275	165	225	105
Ex-L Coal Company	840	Ex-L #2	19	Marion	315	305	295	285	275	275	275	175	235	105
Jones, Thos. H	844	Rose Hill	18	Marion	305	295	285	275	275	275	275	165	225	105

[F. R. Doc. 43-4804; Filed, March 29, 1943; 11:11 a. m.]

[Docket No. A-1827]

PART 333—MINIMUM PRICE SCHEDULE, DISTRICT NO. 13

ORDER GRANTING RELIEF

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 13 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 13.

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. 13, including the coals produced in Size Group 10 for rail shipment at the New River Mine (Mine Index No. 21) of Brookside-Pratt Mining Company; and

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

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

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

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 333.6 (*General prices*) is amended by adding thereto Supplement R-I, § 333.7 (*Special prices—(a) Prices for shipment to all railroads and for exclusive use of railroads*) is amended by adding thereto Supplement R-II, § 333.7 (*Special prices*—(c) *Prices for shipment by railroad, applicable to all coal sold for steamship vessel fuel*) is amended by adding thereto Supplement R-III, § 333.24 (*General prices*) is amended by adding thereto Supplement R-IV, § 333.25 (*Special prices*—(b) *Prices for shipment to all railroads for locomotive fuel, station heating, power plants and other uses*) is amended by adding thereto Supplement R-V, § 333.27 (*Prices for shipment by river (free alongside) for all uses (except for railway locomotive fuel) for delivery via the Tennessee River to f. a. s. consumers in the States of Tennessee and Alabama*) is amended by adding thereto Supplement R-VI, § 333.34 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement T-I and § 333.43 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement T-II, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

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

No relief is granted for the coals produced in Size Group 10 for rail shipment at the New River Mine (Mine Index No. 21) of Brookside-Pratt Mining Company, as requested by petitioner for the reasons set forth in an order issued this day severing that portion of Docket No. A-1827, which relates to such coals and designating such portion as Docket No. A-1827 Part II.

Dated: March 11, 1943.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL RELIEF FOR DISTRICT NO. 13

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 333, Minimum Price Schedules for District No. 13 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 333.6 *General prices*—Supplement R–I

[Prices F. O. B. mines for shipment by railroad, applicable for all uses except railroad locomotive fuel, steamship bunker fuel and blacksmithing]

Mine index No.	Code member	Mine	Sub-district	Seam	Freight origin group
	BLOUNT COUNTY, ALA.				
1722	Lowe, Elzie [1]	Millie Cash	1	Black Creek	31
	WALKER COUNTY, ALA.				
1714	Taylor, Hubert [2]	Holly Grove #2	1	Jagger	101
	WINSTON COUNTY, ALA.				
1243	West, C. V. [3]	Kilgoar	1	Black Creek	111
	WINSTON COUNTY, ALA.				
1694	West, C. V. [4]	Kilgoar # 2	1	Black Creek	111

[1] Shipping Point: Warrior, Ala. Railroad: L&N. This mine shall have in Size Group 13, on each respective price table, the same price as is listed thereon for Mine Index No. 1309 (Floyd Cooper, Cooper's Mine, Price Schedule No. 2) and will be included in Group No. 120.

[2] Shipping Point: Townley, Ala. Railroad: St. L.-S. F. This mine shall have in Size Groups 1, 2, 6, 8, 12, 14, 15, 16, 17, 18 and 24, on each respective price table, the same prices as are listed thereon for Mine Index No. 33 (Taylor Coal Company (Hubert Taylor), Holly Grove Mine, Price Schedule No. 2), and will be included in Group No. 186.

[3] Shipping Point: Natural Bridge, Ala. Railroad: Sou. Ry. Change in shipping points and freight origin group. Shipping points at Lynn and Nauvoo, Ala., in Freight Origin Group 112 shall no longer be applicable.

[4] Shipping Point: Natural Bridge, Ala. Railroad: Sou. Ry. This mine shall have in Size Group 1, 4, 13, 22 and 23, on each respective price table, the same prices as are listed thereon for Mine Index No. 1243 (C. V. West, Kilgoar Mine, Price Schedule No. 2), and will be included in Group No. 108.

The following prices apply on coal for use in railroad locomotives and powerhouse plants. For station heating, use in dining cars, or other uses than stated above, commercial prices as listed in other sections of this price schedule shall apply.

§ 333.7 *Special prices*—(a) *Prices for shipment to all railroads and for exclusive use of railroads*—Supplement R

[Prices F. O. B. mines for shipment to all railroads and for exclusive use of railroads]

For all mines in subdistrict No. 1	For all sizes customarily furnished railroads for locomotive fuel					
Mine index No.	Central of Georgia [1]	Seaboard Air Line Railway [1]	St. Louis and San Francisco Railroad for consignment west of the Mississippi River	St. Louis and San Francisco Railroad for consignment east of the Mississippi River	A. B. & C. Railroad	All other railroads not specifically shown
1694–1714	250	250	230	250	----------	250

[1] Prices listed for Central of Georgia and Seaboard Air Line Railways shall also apply to controlled subsidiaries whose purchases of coal are directly made by the controlling system.

§ 333.7 *Special prices*—(c) *Prices for shipment by railroad, applicable to all coal sold for steamship vessel fuel*—Supplement R–III

[Subdistrict No. 1. Prices F. O. B. mines for shipment by railroad, applicable to all coal sold for steamship vesse fuel subject to price instructions and exceptions]

Mine index No.	Size groups and prices applicable for steamship vessel fuel						
	Mine group	14, 15, 16, 17, 18	12	13	18	19	23
1694	Black Creek	----------	------	315	------	315	305
1714	Carbon Hill, Big Seam	275	------	------	------	------	------

§ 333.24 *General prices*—Supplement R–IV

[Sub-district No. 3. Prices F. o. b. mines for shipment by railroad, applicable for all uses except railroad locomotive fuel, steamship bunker fuel and blacksmithing]

Mine index No.	Code member	Mine	Sub-district No.	Seam	Freight origin group
	HAMILTON COUNTY, TENN.				
1710	Board Fork Coal Company [1]	Board Fork #1	3	No. 9	200
1712	Board Fork Coal Company	Board Fork #2	3	No. 11	200
1708	Smith, Bert [2]	Montlake #2	3	No. 10	200
	MARION COUNTY, TENN.				
1553	Lusk & McMahan [3] (William G. Lusk)	No. 1	3	Sewanee	210
1711	Tate, R. L. [3]	Tate #1 and #2	3	Sewanee	210
	SEQUATCHIE COUNTY, TENN.				
1720	Tate & Morrison [4] (J. R. Morrison)	Stone Coal Bank #1	3	Sewanee	150

[1] Shipping Point: Rathburn, Tenn.; Railroad: C. N. O. & T. P. On each respective price table these mines shall have in each size group the same respective prices as are shown for mines included in Group No. 7.

[2] Shipping Point: Daisy, Tenn.; Railroad: C. N. O. & T. P. On each respective price table this mine shall have in each size group the same respective price as is shown for mines included in Group No. 7.

[3] Shipping Point: Platt Siding, and North Chattanooga, Tenn.; Railroad: Chattanooga Traction Company R. R. On each respective price table these mines shall have in each size group the same respective prices as are shown for mines included in Group No. 1.

[4] Shipping Point: Daus, Tenn.; Railroad: N. C. & St. L. On each respective price table this mine shall have in each size group the same respective price as is shown for mines included in Group No. 9.

§ 333.25 *Special prices*—(b) *Prices for shipment to all railroads for locomotive fuel, station heating, power plants and other uses*—Supplement R–V

[Prices F. O. B. mines for shipment to all railroads for locomotive fuel, station heating, power plants and other uses]

For mines in subdistrict No. 3	Size	Price
Mine Index No. 1553–1711, 1720	For all sizes except screenings	255
	Screenings with top size not more than 2"	245
1710–1712, 1708	For all sizes except screenings	250
	Screenings with top size not more than 2"	245

§ 333.27 *Prices for shipment by river (free alongside) for all uses (except for railway locomotive fuel) for delivery via the Tennessee River to f. a. s. consumers in the States of Tennessee and Alabama*—Supplement R–VI

[Subdistrict 5 (Tennessee-Georgia) free alongside deliveries]

Code member index	Mine	Mine index No.	County	Seam	Lump: over 2", egg: top size over 6"	Egg: top size 6" and under, bottom size 2" and under	Lump: 2" and under	Nut: top size 2" and under, bottom size 1" and under	Stoker: Top size 1½" and under, bottom size ⅝" and under	Stoker: Top size ⅜" and under, bottom size ¼" and under	Straight and modified M/R	Resultants: 5" and under	Resultants: 4" and under	Screenings: 2" and under	Screenings: 1½" and under	Screenings: 1¼" and under	Screenings: ¾" and under	Screenings: ⅜" and under	*Industrial coal
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
TENNESSEE-GEORGIA																			
Board Fork Coal Company	Board Fork #1	1710	Hamilton	No. 9	335	335	325	280	270	250	255	255	255	235	235	225	220	185	280
Board Fork Coal Company	Board Fork #2	1712	Hamilton	No. 11	335	335	325	280	270	250	255	255	255	235	235	225	220	185	280
Lusk & McMahan (William G. Lusk)	No. 1	1553	Marion	Sewanee	345	345	335	290	280	275	265	265	265	235	235	235	230	195	290
Phipps, L. P	Phipps	1718	Marion	Sewanee	345	345	335	290	280	275	265	265	265	235	235	235	230	195	290
Smith, Bert	Montlake #2	1708	Hamilton	No. 10	335	335	325	280	270	250	255	255	255	235	235	225	220	185	280
Tate, R. L	Tate #1 & #2	1711	Marion	Sewanee	345	345	335	290	280	275	265	265	265	235	235	235	230	195	290
Tate & Morrison (J. R. Morrison)	Stone Coal Bank #1	1720	Sequatchie	Sewanee	345	345	335	290	280	275	265	265	265	235	235	235	230	195	290

FOR TRUCK SHIPMENTS

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

Code member index	Mine	Mine index No.	Subdistrict	Seam	Lump: over 2", Egg: Top size over 6"	Egg: Top size 6" and under	Lump: 2" and under	Nut: Top size 3" and under, bot. size over ½"		Chestnut: Top size 3" and under, bot. size ½" and under		Chestnut: Top size 1½" and under, bot. size ¼" and under		Run of mine modified R/M	Resultants: 3" and under		Screenings: 1¼" and under		Industrial coal
								Wash	Raw	Wash	Raw	Wash	Raw	Raw	Wash	Raw	Wash	Raw	
					1	2	3	6	7	8	9	10	11	13	17	22	18	23	24, 25, 26
ALABAMA																			
BLOUNT COUNTY																			
Lowe, Elzie	Millie Cash	1722	2	Black Creek	385	385	370	375	355	340	330	325	315	315	305	295	295	280	315
WALKER COUNTY																			
Beasley & Barnett (Revis Beasley)	Early	1723	2	Black Creek	415	415	390	365	345	345	335	340	330	320	305	295	295	255	320
Taylor, Hubert	Holly Grove #2	1714	2	Jagger	310	310	305	325	305	------	------	300	280	260	265	230	260	210	260

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

Code member index	Mine	Mine index No.	Sub-district	Seam	Lump: Over 2"; egg: top size over 5"	Egg: Top size 5" and under; bottom size 2" and under	Lump: 2" and under	Nut: Top size 2" and under; bottom size 1" and under	Stoker: Top size 1½" and under; bottom size ½" and under	Stoker: Top size ¾" and under; bottom size ⅜" and under	Straight and modified M/R	Resultants: 6" and under	Resultants: 4" and under	Screenings: 2" and under	Screenings: 1½" and under	Screenings: 1¼" and under	Screenings: ¾" and under	Screenings: ⅜" and under	Industrial coal
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
TENNESSEE-GEORGIA																			
HAMILTON COUNTY, TENN.																			
Board Fork Coal Company	Board Fork #1	1710	4	No. 9	335	335	325	280	270	250	255	255	255	235	235	225	220	185	280
Board Fork Coal Company	Board Fork #2	1712	4	No. 11	335	335	325	280	270	250	255	255	255	235	235	225	220	185	280
Smith, Bert	Montlake #2	1708	4	No. 10	335	335	325	280	270	250	255	255	255	235	235	225	220	185	280
MARION COUNTY, TENN.																			
Higgins, J. D	Higgins	1717	4	Sewanee	345	345	335	290	280	275	265	265	265	235	235	235	230	195	290
Lusk & McMahan (William G. Lusk)	No. 1	1553	4	Sewanee	345	345	335	290	280	275	265	265	265	235	235	235	230	195	290
Phipps, L. P	Phipps	1718	4	Sewanee	345	345	335	290	280	275	265	265	265	265	235	235	230	195	290
Tate, R. L	Tate #1 and #2	1711	4	Sewanee	345	345	335	290	280	275	265	265	265	235	235	235	230	195	290
SEQUATCHIE COUNTY, TENN.																			
Tate & Morrison (J. R. Morrison)	Stone Coal Bank #1	1720	4	Sewanee	345	345	335	290	280	275	265	265	265	235	235	235	230	195	290

[F. R. Doc. 43-4802; Filed, March 29, 1943; 11:10 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IX—War Production Board

Subchapter B—Director General for Operations

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

PART 1128—CLOSURES FOR GLASS CONTAINERS

[Conservation Order M-104,[1] as Amended March 15, 1943]

§ 1128.1 *Conservation Order M-104*—(a) *Definitions.* (1) "Closure" means any sealing or covering device affixed or to be affixed to a glass container for the purpose of retaining the contents within the container.

(2) "Glass container" means any bottle, jar, or tumbler which is made of glass and which is suitable for packing any product.

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

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

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

(6) "Waste" means used closures and used cans, made of tinplate, terneplate, or blackplate; and scrap tinplate, terneplate, and blackplate produced in the ordinary course of manufacturing closures.

(7) "Rubber," whether a separate sealing ring or incorporated into a closure, means any polyvinyl acetate, or any crude rubber, latex, scrap rubber, reclaimed rubber, or synthetic rubber, as defined by Supplementary Order M-15-b, as amended from time to time.

(8) "Pack," unless particularly specified, means the number of closures used for packing a product during the base period specified.

(b) *Restrictions upon manufacture, sale, and delivery of closures.* (1) No person shall sell or deliver any closure made in whole or in part of tinplate, terneplate, blackplate, wire, rubber, or waste, except under a purchase order or contract validated by delivery to such person of a purchaser's certificate, manually signed by the purchaser or an authorized official of the purchaser, in substantially the form attached hereto as Exhibit A. No person shall manufacture, sell, or deliver any such closure which he knows or has reason to believe will be used in violation of any provision of this order.

(2) No person shall use any tinplate, terneplate, blackplate, waste or rubber for the manufacture of the following types of closures:

(i) Cover caps which serve as a protective or decorative closure in addition to any original sealing medium such as another closure or paraffin.

(ii) Double shell or semi-double shell caps.

(iii) Two-piece closures when both pieces are made of metal, except as permitted in paragraph (b) (3).

(3) No person shall use any tinplate, terneplate, blackplate, wire, or rubber for the manufacture of any closure of the home canning type, except as, and to the extent permitted in Schedule V attached to this order. No closure manufactured pursuant to Schedule V shall knowingly be sold to any person for packing any product for sale.

(4) No person shall use any tinplate, terneplate, or blackplate, except "rejects" or "electrolytic waste-waste," heavier than 90 pounds per base box, for the manufacture of crown caps.

(5) No person shall use for the manufacture of closures any tinplate with a tin coating in excess of 1.25 pounds per base box.

(c) *Restrictions upon purchase, acceptance of delivery, and use of closures.* No person shall, during any calendar year (or seasonal year or other period, when specified) purchase, accept delivery of, or use for packing a product, any closure made in whole or in part of tin-

[1] This document is a corrected restatement of Amendment 1 of Conservation Order M-104 as amended January 1, 1943, which appeared in the FEDERAL REGISTER of March 16, 1943, page 3619, and in the FEDERAL REGISTER of March 24, 1943, page 3579, and reflects the order in its completed form as of March 15, 1943. The effect of this amendment is to amend certain items in Schedules I and V.

plate, terneplate, blackplate, or rubber, except as, and to the extent permitted in Schedules I, II, III, and IV, attached to this order: *Provided, however,* That a jobber or retailer may obtain and sell closures in conformity with the provisions of this order. Blackplate may be used wherever tinplate or terneplate is specified. Closures made of waste shall not be used for packing any product for which closures made of tinplate, terneplate, and blackplate are totally prohibited.

(d) *Exceptions.* (1) Nothing in this order shall prohibit any person who used less than 5,000 closures during the calendar year 1942 from purchasing, accepting delivery of, or using without restriction, an aggregate of 5,000 closures during any subsequent calendar year.

(2) The restrictions imposed by this order shall not apply to the purchase, acceptance of delivery, or use of closures for packing any product not listed in the schedules attached to this order, when such closures, on or before December 23, 1942, were completely manufactured or were in the form of tinplate, terneplate, or blackplate fully lithographed with a person's private design cut into strips.

(3) No certificate shall be required for the sale or delivery of closures to:

(i) Retailers;

(ii) Persons purchasing closures from retailers.

(4) Nothing in this order shall prohibit the purchase, acceptance of delivery, or use (such use to be in addition to any quota specified in the schedules attached to this order) of closures by any of the following persons or by any person for packing any product to be delivered to or for the account of any of the following persons:

(i) Army, Navy, Marine Corps, Maritime Commission, or War Shipping Administration of the United States (including persons operating vessels for such Administration or Commission for use thereon).

(ii) Any person for packing products for retail sale or distribution through post-exchanges, sales commissaries, officers' messes, servicemen's clubs, ship service stores, or outlets; provided same are located at Army or Navy camps, are not operated for private profit and are established primarily for the use of Army or Navy enlisted personnel within Army or Navy establishments or on Army or Navy vessels.

(iii) American Red Cross or United Service Organizations.

(iv) Any agency of the United States purchasing for a foreign country pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(v) Any person in the Territory of Hawaii; provided that the exception provided by this paragraph (d) (4) (v) shall be limited to closures used in connection with the packing of products to be consumed in the said Territory.

(e) *Miscellaneous provisions*—(1) *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.

(2) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(3) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: Containers Division, War Production Board, Washington, D. C. Ref: M-104.

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

Issued this 15th day of March 1943.

CURTIS E. CALDER,
Director General for Operations.

EXHIBIT A

PURCHASER'S CERTIFICATE

One copy of this certificate is to be delivered to each person from whom purchases are made or closures made in whole or in part of tinplate, terneplate, blackplate, wire, zinc, or rubber. Such certificate shall cover all purchases present and future.

The undersigned purchaser hereby certifies to the seller herein and to the War Production Board that he is familiar with Conservation Order M-104, as heretofore amended, and that he will not use or sell any closures purchased from _____

_____
Name of seller

_____
Address of seller

pursuant to this or future purchase orders or contracts, in violation of the terms of such order.

Date _____

_____
Legal name of purchaser

By _____
Authorized official

_____
Title of official

_____
Address of purchaser

Section 35 (A) of the U. S. Criminal Code (18 U.S.C.A. 80) makes it a criminal offense to make a false statement or representation to any department or agency of the United States as to any matter within its jurisdiction.

SCHEDULE I—FOOD CLOSURES

[NOTE: Item 5 under "Milk and Dairy Products" was amended March 15, 1943]

A. Any person who used closures from January 1, 1942 to December 31, 1942, for packing a food product not listed in this Schedule I, may use an equal number of closures during the year 1943 for packing the products listed in this schedule, in addition to the quotas respectively specified.

B. Wherever the asterisk appears the packing quota relates to the number of closures and cans used for packing the applicable product.

C. Notwithstanding the provisions of paragraph (d) (4) of this order, the respective quotas specified for items 3 and 6 under Fruits and item 6 under Milk and Dairy Products shall include pack required to be set aside by any order of the Director General for Operations for purchase by government agencies.

D. No product packed in a can shall be repacked for sale in a glass container, by the same or a different person, in the same or a different form, except to the extent specifically permitted in this schedule.

E. Split year items such as "1941-2" appearing in the column "1943 Packing Quota" refer to specified seasonal year base periods to be used in computing permitted packs for subsequent seasonal years.

Product	1943 packing quota	Closure material indicated by X		
		Tinplate	Blackplate	Rubber
VEGETABLES AND VEGETABLE PRODUCTS				
1. Asparagus, green	Unlimited	X		X
2. Beans, with or without pork	25% 1941*	X		
3. Beans, fresh, including green, wax, lima, green soybeans, and fresh shelled beans.	Unlimited	X		X
4. Beets, including pickled beets. No whole beets larger than U. S. Standard ruby (medium) to be packed.	200% 1942-3	X		X
5. Carrots. Whole carrots not to be packed	150% 1942	X		X
6. Corn, fresh, sweet, cut	Unlimited	X		X
7. Peas, fresh, green	Unlimited	X		X
8. Spinach, and other green leafy vegetables limited to beet, collard, dandelion, kale, mustard, polk, and turnip greens.	300% 1941	X		X
9. Tomatoes	Unlimited	X		X
10. Tomato catsup and chili sauce, containing not less than 10.7 percent (specific gravity 1.045) or more than 25 percent, by weight, dry tomato solids:				
Closures without rubber	200% 1942	X		
Closures with rubber	150% of 1942	X		X
11. Tomato paste, containing not less than 25 percent, by weight, dry tomato solids.	50% 1942*	X		X
12. Tomato pulp or puree, containing not less than 10.7 percent (specific gravity 1.045) or more than 25 percent, by weight, dry tomato solids.	100% 1942	X		X
13. Tomato sauce including spaghetti sauce containing not less than 8.7 percent (specific gravity 1.037) by weight, dry tomato solids, and not less than 10.0 percent (specific gravity 1.042) by weight, total dry solids, salt free. In addition to salt the contents may contain pepper, spice oils, and other flavoring ingredients.	100% 1942*	X		X
14. Vegetables, dehydrated	Unlimited		X	

SCHEDULE I—FOOD CLOSURES—Continued

Product	1943 packing quota	Closure material indicated by X		
		Tinplate	Black-plate	Rubber
VEGETABLES AND VEGETABLE PRODUCTS—continued				
15. Vegetable juices, or mixtures thereof, undiluted, except for the addition of sweetening or seasoning.	Unlimited	X		
NOTE: When required for packing other products, tomato paste, tomato pulp or puree, tomato sauce, and tomato juice may be repacked from reusable cans, 5 gallon or larger.				
FRUITS				
1. Apples, including crabapples; whole apples not to be packed.	10% 1941-2*	X		X
2. Applesauce, including sauce from crabapples	10% 1941-2*	X		X
3. Apricots. Packing quota includes pack required to be set aside by any order of the Director General for Operations for purchase by government agencies.	100% 1942	X		X
4. Blackberries, black raspberries, boysenberries, dewberries, elder berries, gooseberries, loganberries, red raspberries, and youngberries.	225% 1942	X		X
5. Cherries, red sour pitted and sweet	200% 1942	X		X
6. Figs. Packing quota includes pack required to be set aside by any order of the Director General for Operations for purchase by government agencies.	100% 1942	X		X
7. Fruit cocktail, consisting of any combination of fruits listed in this Schedule I and grapes and pineapple: *Provided*, That the combination, by drained weight, shall consist of not less than 50 percent fruits listed in this Schedule I and may consist of not to exceed 10 percent grapes. Pineapple may be repacked from No. 10 or larger cans to the extent of 7 percent of the fruit cocktail.	Unlimited	X		X
8. Olives, ripe or green ripe, whole or minced	75% 1941-2*	X		X
9. Peaches, clingstone, halves, segments, or slices	Unlimited	X		X
10. Peaches, freestone, halves, segments, or slices. Not to be packed in California.	Unlimited	X		X
11. Pears. Whole pears, except seckle pears, not to be packed	Unlimited	X		X
12. Plums	150% 1942	X		X
13. Prunes, fresh Italian	200% 1942	X		X
FRUIT PRODUCTS				
1. Fruits, crushed	100% 1942*		X	
2. Fruit butters, conserves, jams, jellies, marmalades, and preserves.	100% 1942	X		X
3. Fruit juices or mixtures thereof, other than grapefruit juice, undiluted except for the addition of sweetening.	100% 1942*	X		X until 3/31/43
4. Grapefruit juice	100% 1942*	X		X
5. Fruit concentrates, liquid, when concentrated on a ratio of 5 or more to 1.	100% 1942*	X		X
6. Fruit concentrates, dry	Unlimited		X	
7. Nectars	100% 1942*	X		
8. Pectin, liquid	100% 1942*		X	
MEATS AND MEAT PRODUCTS				
1. Beef, dried	75% 1941	X		
2. Chicken, boned, and turkey, boned	50% 1942*	X		X
3. Chili Con Carne, when packed without beans and containing not less than 50 percent meat, by uncooked weight, exclusive of added tallow.	25% 1942*	X		X
4. Corned beef hash	100% 1941*	X		
5. Lamb's tongue, pickled	100% 1942	X		
6. Meat loaf, containing not less than 90 percent meat, by uncooked weight and no added water. When packed as a chopped product, meat loaf may contain not more than 10 percent of the following ingredients: cereal, whole milk, eggs, and seasoning.	25% 1942*	X		X
7. Meat spreads, including ham, tongue, liver, beef, and sandwich spreads. When packed as a spread, the chopped product shall contain not less than 65 percent meat, by cooked weight, with added cereal or other products. When packed as deviled ham or deviled tongue, the product shall consist of chopped meat without added cereal or other products.	25% 1942*	X		X

SCHEDULE I—FOOD CLOSURES—Continued

Product	1943 packing quota	Closure material indicated by X		
		Tinplate	Black-plate	Rubber
MEATS AND MEAT PRODUCTS—continued				
8. Chopped luncheon meats, consisting of chopped, seasoned meat with not to exceed 3 percent added water, by weight.	25% 1942*	X		X
9. Mince meat, fresh apples only	100% 1942		X	
10. Pig's feet and cutlets, pickled, semi-boneless	100% 1942	X		
11. Sausage in casings, Vienna style, containing no cereal or similar substance and not to exceed 10 percent added water, by weight.	100% 1942	X		X
12. Tongue	100% 1942*	X		X
FISH AND SHELLFISH				
1. Clams, soft, hard, or razor	100% 1942	X		X
2. Clam broth	100% 1942*	X		
3. Crabmeat	100% 1942	X		X
4. Fish flakes, except dried fish flakes	100% 1942	X		X
5. Fish, pickled	Unlimited	X		
6. Fish pastes, including shellfish paste	100% 1942*		X	
7. Lobsters, including spiny lobsters	100% 1942*	X		X
8. Oysters	100% 1942	X		
9. Shrimp	100% 1942	X		X
SOUPS				
Seasonal: Limited to soups which shall contain not less than 7 percent, by weight, of dry solids; from any one or more of the following fresh unfrozen vegetables: asparagus, peas, spinach, tomatoes.	Unlimited	X		
Non-seasonal: Limited to the following kinds of soup which shall contain not less than the specified percentage, by weight of dry solids from fresh, brined, or frozen vegetables, meats, or other products listed in Schedules I or II, in Order M-81, provided that no person shall use for packing such soups, more than 35 percent by weight, of the frozen vegetables which he used for this purpose during 1942.	75% 1942*	X		
MILK AND DAIRY PRODUCTS				
1. Cheese spreads, processed	100% 1942	X		
2. Cheese spreads, unprocessed (e. g. limburger)	100% 1942	X		
3. Condensed milk, sweetened, as defined by the Federal Security Administration, July 2, 1940, paragraph 18,525 page 2444, Federal Register, and 18,530, page 2445, as amended, Federal Register, August 8, 1941, pages 3973 and 3974.	100% 1942*	X		
4. Cultured milk—"Cultured milks" as classified herein refers only to those cultured or fermented milk or skim milk products which develop pressure within the container (glass bottles) due to fermentation which is produced by the addition of certain materials to milk or skim milk such as sugar, yeast, cultures, and the like.	100% 1942		X	
5. Fluid milk, with or without flavoring. Quota: Until 9/30/43 100 percent of corresponding period of 1941.	See product column.		X	
6. Ice cream mix, dry. Packing quota includes pack required to be set aside by any order of the Director General for Operations for purchase by government agencies.	50% 1942*	X		X
7. Malted milk, including chocolate milk, dry	Unlimited		X	
SYRUPS AND HONEY				
1. Syrups—blended, bottlers, cane, corn, maple, molasses, sorghum, malt.	100% 1942*		X	
2. Chocolate or cocoa syrup	100% 1942*		X	
3. Honey	Unlimited		X	
OLIVES, PICKLES, RELISHES, CONDIMENTS AND SAUCES				
1. Pickles, piccalilli, and relishes	100% 1942	X		
2. Mustard	100% 1942	X		
3. Green olives	100% 1941	X		
4. Horseradish	100% 1942	X		
5. Sauces—beefsteak, cooking, soya, tobasco, and worcestershire.	100% 1942	X		

SCHEDULE I—FOOD CLOSURES—Continued

Product	1943 packing quota	Closure material indicated by X		
		Tinplate	Black-plate	Rubber
EDIBLE OILS AND DRESSINGS				
1. Dressings—Mayonnaise, Russian, salad and Thousand Island.	125% 1942		X	
2. French dressing	100% 1942	X		
3. Oil, edible liquid	125% 1942*		X	
4. Sandwich spread, other than meat spreads	125% 1942		X	
5. Tartar sauce	100% 1942		X	
MISCELLANEOUS FOODS				
1. Baby foods: Consisting of food products of small particle size or in liquid or semiliquid form made from the following ingredients: fruits (except dried apricots, dried pears, dried peaches, dried or dehydrated apples); vegetables; meats; poultry products; dairy products; sugar; salt or seasoning; yeast or yeast derivatives. Frozen fruits and vegetables may be used, provided that no person shall use more than 35 percent, by weight, of the amount which he used for baby foods in 1942. Potatoes and cereals may be used only in combination with other permitted products, and only provided the combined potato and cereal content does not exceed 12 percent, by weight, of the total product. Pineapple from No. 10 cans and tomato products from 5-gallon reusable cans may be used in packing baby foods.	125% 1942	X		X
Formulas—dry or liquid	125% 1942*		X	
2. Cherries, maraschino	100% 1942		X	
3. Baking powder	100% 1942*		X	
4. Dyes, certified colors	75% 1942		X	
5. Extracts	100% 1942	X		
6. Malt, dry	100% 1942*		X	
7. Milk fortifiers	100% 1942		X	
8. Nut butters	150% 1942		X	
9. Soups, dehydrated	100% 1942		X	
10. Spice	100% 1942		X	
11. Vinegars	100% 1942	X		
12. Special food products, for human consumption only, limited to foods other than usual table foods. Quota: No person shall pack any special food product unless he packed the product in substantially the same form in 1942, and unless he obtains prior permission upon application to the War Production Board.	(1)	(1)	(1)	(1)

[1] See product column.

SCHEDULE II—DRUG PRODUCTS CLOSURES

A. From December 23, 1942, to December 31, 1942, any person may pack without quota restriction any product listed in this Schedule II.

B. The packing quota relates to the number of closures and cans used for packing the applicable product.

Product, for medicinal or health purposes only	1943 packing quota	Closure material indicated by x		
		Tinplate	Black-plate	Rubber
1. Alcohol, rubbing or medicated	100% 1942		x	
2. Artificial salts	100% 1942		x	
3. Biological preparations	Unlimited	x		x
4. Blood plasma	Unlimited	x		x
5. Capsules	100% 1942		x	
6. Chemicals, dry	Unlimited	x		
7. Chemicals, liquid	Unlimited	x		
8. Citrate of magnesia	100% 1942		x	x
9. Cordials, medicinal	100% 1942		x	
10. Effervescent salts	100% 1942		x	
11. Elixirs	100% 1942		x	
12. Emulsions	100% 1942		x	
13. Extracts	100% 1942		x	
14. Flavors	100% 1942		x	
15. Fluid extracts	100% 1942		x	
16. Fluid glycerates	100% 1942		x	
17. Glycerites	100% 1942		x	
18. Glycerogelatins	100% 1942		x	
19. Honeys	100% 1942		x	
20. Jellies, aqueous	100% 1942		x	
21. Liniments	100% 1942		x	

SCHEDULE II—DRUG PRODUCTS CLOSURES—Continued

Product, for medicinal or health purposes only	1943 packing quota	Closure material indicated by x		
		Tinplate	Blackplate	Rubber
22. Liniment of ammonia	100% 1942	x		
23. Local anesthetic solutions (injectible)	Unlimited	x		x
24. Lotions	100% 1942		x	
25. Magmas	100% 1942	x		
26. Medicinal wines	100% 1942		x	
27. Oleoresins	100% 1942		x	
28. Oleates	100% 1942		x	
29. Oils, fixed, volatile, or medicated	100% 1942	x		
30. Ointments, cerates, petrolatum, pastes	100% 1942		x	
31. Ointments, ophthalmic	100% 1942	x		
32. Pills, tablets, troches, lozenges	100% 1942		x	
33. Powders	100% 1942		x	
34. Prescriptions	Unlimited	x		
35. Proprietary preparations	100% 1942		x	
36. Soaps	100% 1942	x		
37. Solutions, aqueous or bulk intravenous	100% 1942	x		x
38. Solution of ammonia	100% 1942	x		
39. Solution of iodine	100% 1942	x		x
40. Solution of hydrogen peroxide	100% 1942	x		
41. Solutions, parenteral	Unlimited	x		x
42. Solutions, ophthalmic or nasal	100% 1942	x		
43. Spirits	100% 1942		x	
44. Spirit of ammonia, aromatic	100% 1942	x		
45. Spirit of ammonia, anisated	100% 1942	x		
46. Spirit of ether compound and spirit of ether	100% 1942	x		
47. Suppositories	100% 1942		x	
48. Syrups	100% 1942		x	
49. Tinctures	100% 1942		x	
50. Tincture of iodine	100% 1942	x		x
51. Vinegars	100% 1942	x		
52. Waters	100% 1942		x	
53. Water, laxative, purgative or medicinal	100% 1942		x	

SCHEDULE III—CHEMICALS, HOUSEHOLD AND INDUSTRIAL SUPPLY CLOSURES

A. From December 23, 1942 to December 31, 1942 any person may pack without quota restriction any product listed in this Schedule III.

B. The packing quota relates to the number of closures and cans used for packing the applicable product.

Product	1943 packing quota	Closure material indicated by x		
		Tinplate	Blackplate	Rubber
1. Adhesives, glass mucilages, and pastes	100% 1942		x	
2. Alcohol	100% 1942		x	
3. Ammonia	100% 1942	x		
4. Anti-freeze	100% 1942		x	
5. Automotive maintenance or repair items, liquid or paste	100% 1942		x	
6. Bluings	100% 1942	x		
7. Bleaches	100% 1942	x		x
8. Cements	100% 1942		x	
9. Chemicals, dry	Unlimited		x	
10. Chemicals, liquid	Unlimited	x		
11. Chemicals, reagent	Unlimited	x		
12. Cleaners	100% 1942		x	
13. Compounds for grinding, polishing, or sealing	100% 1942		x	
14. Dressings for industrial purposes	100% 1942		x	
15. Dyes	75% 1942	x		
16. Essential oils, distilled or cold pressed	100% 1942	x		
17. Embalming fluid	Unlimited		x	
18. Fir. extinguisher fluids	100% 1942		x	
19. Fungicides, insecticides, and livestock or agricultural solutions or sprays.	100% 1942		x	
20. Glycerin	100% 1942		x	
21. Graphite with liquid	100% 1942		x	
22. Hypochlorite powders	100% 1942	x		
23. Inks	100% 1942	x		
24. Ink eradicators	100% 1942	x		
25. Lighter fluids	100% 1942		x	
26. Lye	100% 1942		x	
27. Oils, lubricating and machine	100% 1942		x	
28. Paints, varnishes, enamels, shellacs, lacquers, lacquer thinners, lacquer stains, paint thinners, varnish removers, turpentine and linseed oil.	100% 1942		x	
29. Phenols	Unlimited	x		
30. Photographic supplies	100% 1942	x		
31. Poisons	100% 1942		x	
32. Polishes, liquid or paste	100% 1942		x	
33. Putty	100% 1942		x	
34. Soap—hand	100% 1942		x	
35. Shoe white, liquid or cream	100% 1942		x	
36. Solvents	100% 1942		x	
37. Waxes	100% 1942		x	
38. Wood preservatives and fillers	100% 1942		x	

Schedule IV—Beverage Closures

A. From December 23, 1942, to December 31, 1942, any person shall have the option of using closures for the bottling of malt and non-alcoholic beverages in accordance with the provisions of Order M-104 as amended September 26, 1942, or in accordance with this schedule. On and after January 1, 1943, no person shall use closures for such purpose except in accordance with this schedule.

Product—Bottling quota	Closure material
Product: Malt beverages, including only beer, ale, porter, near-beer, and mixtures thereof. Quota: Any person who produced in 1941 less than 65,000 barrels may use in any calendar month, commencing with December 1, 1942, 100 percent, and any person who produced in 1941 over 65,000 barrels may use in any calendar month, commencing with December 1, 1942, 70 percent of the number of closures affixed by him to glass containers during the corresponding month of 1941. In the case of a person who packed all or part of his 1941 production in cans, each such can may be counted as a closure affixed to a glass container. In the case of a person who did not produce any malt beverages in 1941, such beverages bottled by him, shall be considered as having been produced by him, and his authorized usage of closures shall be calculated accordingly.	Tinplate and blackplate allocated for purposes of crown manufacture, only, and in inventory of crown manufacturer or bottler on or before December 11, 1942. Also rejects and electrolytic waste-waste.
Product: Non-alcoholic beverages, including only carbonated soft drinks; non-carbonated soft drinks; unflavored carbonated waters; unflavored naturally carbonated and still waters; drinks consisting of fruit juices, vegetable juices, and combinations thereof, where less than 85 percent by weight of such drinks is pure fruit juice, vegetable juice, or a mixture thereof; and sterilized milk drinks made with powdered milk. Quota: Any person who used in 1941 less than 5,000 gross of closures, may use during any calendar quarter, commencing with October 1, 1942, 100 percent of the number of closures affixed by him to glass containers during the corresponding quarter of 1941. Any person who used in 1941 more than 5,000 and less than 7,000 gross of closures, may use not to exceed 5,000 gross of closures in any twelve-month period, commencing with October 1, 1942; the number used during any calendar quarter to be at the same proportionate rate he affixed closures to glass containers during the corresponding quarter of 1941. Any person who used in 1941 more than 7,000 gross of closures, may use during any calendar quarter, commencing with October 1, 1942, 70 percent of the number of closures affixed by him to glass containers during the corresponding quarter of 1941.	Tinplate and blackplate allocated for purposes of crown manufacture only, and in inventory of crown manufacturer or bottler on or before December 11, 1942. Also rejects and electrolytic waste-waste.

(1) No person, other than a jobber purchasing for resale, shall accept delivery of malt beverage or non-alcoholic beverage closures which would increase his inventory beyond 20 percent of the number of such closures and cans which he used in 1941 for packing malt beverages and non-alcoholic beverages.

(2) Closures for waters. Except with regard to items listed in Schedule II, no closures made of tinplate, terneplate, or blackplate shall be affixed to glass containers smaller than 12 fluid ounces, for packing unflavored carbonated, natural or mineral waters, unless such glass containers were manufactured on or before June 1, 1942.

(3) All persons who bottle malt beverages or non-alcoholic beverages, shall report upon Form PD-519 to the Containers Division, War Production Board, Washington D. C.

Schedule V—Home Canning Closures

Note: Schedule V was amended in its entirety March 15, 1943.

Description of closure	Manufacturer's quota from October 1, 1942 to September 30, 1943	Closure material indicated by X		
		0.50 Tinplate	Rubber	Wire bails
1. Shoulder seal jar rings for 70 mm Mason finish.	Subject to allocation of rubber.	----	X	
2. Top seal jar rings for use with 70 mm glass disc.	Subject to allocation of rubber.	----	X	
3. Top seal metal lids, 70 mm. [1]	Unlimited	X	X	
4. Bands for 70 mm top seal metal lids. [1]	Unlimited	X	----	
5. Bands for use with 70 mm. glass lids.	Unlimited	X	----	
6. Lightening type, 70 mm.	Unlimited	----	----	X
7. Top seal metal lids, smaller than 70 mm.	Unlimited	X	X	
8. One piece metal closures, 70 mm shoulder seal type. [1]	Unlimited	X	X	
9. One piece metal closures, 70 mm top seal type. [1]	Unlimited	X	X	

[1] No manufacturer or jobber of glass containers shall sell any jars, intended for home canning, which are made with 70 mm screw finish and which are manufactured on or after April 15, 1943 unless 40 percent or more of such jars have glass lids, screw bands and top seal jar rings attached to them.

CONFIDENTIAL—For use of Federal War Agencies only

Form PD-519

UNITED STATES OF AMERICA

WAR PRODUCTION BOARD

Report Period (Month or Quarter) _____

Name of Company _____

Address _____

Closures for malt beverages and non-alcoholic beverages; Inventories, receipts and use by bottlers.

INSTRUCTIONS

Bottlers of malt beverages shall report monthly, and bottlers of non-alcoholic beverages by calendar quarters. On or before the tenth day following the period reported, please send one copy of this report to each supplier from whom you obtain beverage closures, and one copy to Containers Division, War Production Board, Washington, D. C. Ref: M-104. This form may be reproduced in same size and format.

Check applicable beverages:

Malt____Non-alcoholic____

Closures made of tinplate, terneplate or blackplate:	
Permitted inventory under M-104	_____ gross
On hand first day of period	_____ gross
Received during period	_____ gross
Used, subject to quota, during period	_____ gross
Used, for sale to exempt agencies, during period	_____ gross
On hand last day of period	_____ gross
Closures made from waste:	
On hand first of period	_____ gross
Received during period	_____ gross
Used during period	_____ gross
On hand last day of period	_____ gross
Re-used crowns used during period	_____ gross

CERTIFICATION

The undersigned certifies that the above information is complete and correct to the best of his knowledge and belief:

_____ _____

Name of Bottler — Signature of Authorized Official

_____ _____

Date — Title

Section 35 (a) of the United States Criminal Code, 18 U.S.C.A. 80, makes it a criminal offense to make a false statement or representation to any department or agency of the United States as to any matter within its jurisdiction.

[F. R. Doc. 43-4817; Filed, March 29, 1943; 3:39 p. m.]

Subchapter B—Executive Vice Chairman

AUTHORITY: Regulations in this subchapter issued under P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 FR. 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.

PART 3208—CRITICAL COMMON COMPONENTS

[General Scheduling Order M-293, Amendment 1]

Section 3208.1 *General Scheduling Order M-293* (8 F.R. 2472, 2756) is hereby amended in the following respects:

1. Subparagraph (2) of paragraph (c) is amended by deleting the term "April 1, 1943" in the first sentence and substituting in lieu thereof "May 1, 1943" so that the subparagraph shall read as follows:

(2) On and after May 1, 1943 (or such later date as may be specified in the applicable form), notwithstanding any preference rating which other orders may bear or any directive, rule or regulation of the War Production Board, each manufacturer shall deliver Class X critical common components only in accordance with the schedule filed pursuant to paragraph (c) (1), as the same may be changed by the War Production Board.

2. Subparagraph (1) of paragraph (d) is amended by deleting the term "April 1, 1943" in the first sentence and substituting in lieu thereof "May 1, 1943" so that the subparagraph shall read as follows:

(d) *Placing and acceptance of orders for Class Y critical common components.* (1) Except as otherwise provided in the annexed schedule, on and after May 1, 1943 no person shall place an order with a manufacturer, and no manufacturer shall accept an order, for any Class Y critical common component unless accompanied by a specific authorization of the War Production Board. Such authorization may specify the manufacturer with whom the order may be placed. Applications for such authorization may be made to the War Production Board by the person seeking to place an order on the applicable form designated in Column 3 of the annexed schedule.

Issued this 29th day of March 1943.

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

[F. R. Doc. 43-4852; Filed, March 29, 1943; 5:14 p. m.]

PART 1049—INCANDESCENT, FLUORESCENT AND OTHER ELECTRIC DISCHARGE LAMPS

[General Limitation Order L-28, as Amended March 30, 1943]

Whereas the demands of national defense have created a shortage of nickel, brass, copper and other materials used in the manufacture of incandescent lamps; action has already been taken to conserve the supply and direct the distribution of such materials to insure deliveries for defense and essential civilian requirements; and the present supply of these materials will be insufficient for defense and essential civilian requirements unless their use in the manufacture of incandescent lamps is curtailed;

§ 1049.1 *General Limitation Order L-28*—(a) *Definitions.* For the purposes of this order:

(1) "Incandescent lamp" means any hermetically-sealed lamp or bulb, designed primarily to produce light, which makes use of a metal or carbon filament or metal wire strip, foil, or compound as the source of light.

(2) "Fluorescent lamp" means any hermetically-sealed electric discharge lamp or tube (other than a cold-cathode tube) in which the radiant energy from the electric discharge is converted by suitable phosphor coatings into visible wave lengths.

(3) "Glow discharge lamp" means any hermetically-sealed electric discharge lamp or tube (other than a fluorescent lamp) containing gases or vapors and designed to operate at impressed voltages of less than one thousand volts to produce visible light.

(4) "Blackout lamp" means any incandescent lamp having a lumen output of less than 1 lumen per watt, with an opaque coating on more than 50% of the external or internal glass surface.

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

(6) "Manufacturer" means any person who produces or assembles any incandescent, fluorescent or glow discharge lamp or part therefor, or who coats, etches or otherwise marks any such lamps for use by any other person.

(7) "Wholesaler" means any person (other than a manufacturer) engaged in the business of selling incandescent, fluorescent or glow discharge lamps to dealers for resale, whether or not he also sells such lamps to the public.

(8) "Dealer" means any person (other than a manufacturer or wholesaler) engaged in the business of selling incandescent, fluorescent or glow discharge lamps to the public.

(9) "Military exemption order" means a purchase order, contract or subcontract for incandescent, fluorescent or glow discharge lamps, or parts for such lamps, to be purchased (or physically incorporated into lamps to be purchased) by or for the account of the Army or Navy of the

United States, the United States Maritime Commission, the War Shipping Administration, or the Panama Canal, or the armed forces of any country eligible for Lend-Lease assistance pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act), when accompanied by a certification in the following form, signed by the appropriate procuring officer or the person placing such order:

This is to certify that all lamps (or lamp parts) specified in this order are to be used by the United States Army (or Navy, Maritime Commission, War Shipping Administration or Panama Canal, or armed services of a Lend-Lease country) on ships, aircraft, vehicles or weapons, or outside the continental limits of the United States.

Name

By ---

Any provision of this order which expressly permits the fulfillment of a military exemption order shall be deemed to permit a manufacturer to produce lamps or lamp parts to replace in his inventory lamps or lamp parts which, though not produced pursuant to military exemption orders, have been delivered by him pursuant to military exemption orders.

(b) *General restrictions.* (1) During the period of three months beginning October 1, 1942, and during each succeeding period of three months until otherwise ordered by the War Production Board, no manufacturer shall produce bases for incandescent, fluorescent and glow discharge lamps having a total weight greater than 31¼% of the total weight of such bases produced by him during 1940, except that any such manufacturer may, in addition to the foregoing quota, produce additional bases:

(i) Having a total weight equal to any part of his quota for the next succeeding period of three months: *Provided*, That he reduces his quota for such succeeding period of three months by an equivalent amount; and

(ii) Having a total weight equal to any unused part of his quota for the preceding period of three months.

(2) No manufacturer shall produce any incandescent lamps designed primarily for use on Christmas trees, or for advertising, decorative or display purposes.

(3) (i) Commencing April 1, 1943, no manufacturer shall produce or deliver any incandescent, fluorescent or glow discharge lamps except in accordance with the schedules approved or prescribed by the War Production Board as hereinafter provided; and no manufacturer shall alter such approved or prescribed production or delivery schedules unless authorized or directed to do so by the War Production Board.

(ii) On or before April 15, 1943, each manufacturer shall file with the War Production Board a statement in writing which shall include such manufacturer's proposed production schedules and his proposed delivery schedules for incandescent, fluorescent and glow discharge lamps respectively, so far as then planned, but in any event for not less than the three calendar months following March 31, 1943. This reporting requirement has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(iii) The War Production Board will notify manufacturers of its approval or disapproval of the production and delivery schedules for the calendar quarter, or longer period, covered in such schedules. The War Production Board 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 War Production Board; allocate any order listed on the report to any other manufacturer; or direct the delivery of any incandescent lamps so listed to any other person, at the established price and terms.

(iv) If any schedule for production or deliveries approved under the provisions of this order does not correspond to the authorized production schedule approved for the same quarter under the Controlled Materials Plan (on Form CMP–4B, or any other designated form), then the schedule approved under this order shall constitute the authorized production schedule of that manufacturer.

(4) No wholesaler or dealer shall sell, lease, trade, lend, deliver, ship or transfer any photoflash or photoflood incandescent lamps, except:

(i) To a manufacturer, wholesaler or dealer;

(ii) In fulfillment of purchase orders or contracts bearing preference ratings of AA–5 or higher.

(5) No manufacturer or reclaimer of bases for incandescent, fluorescent or glow discharge lamps shall sell, transfer or deliver any bases for such lamps, except with the specific authorization of the War Production Board. On or before the 20th day of each calendar month, each manufacturer or reclaimer of bases for incandescent, fluorescent or glow discharge lamps shall file with the War Production Board a statement on Form PD–532 of the total metal weight of bases for incandescent and glow discharge lamps and the total number of bases for fluorescent lamps which he expects to be able to transfer or deliver during the next succeeding calendar month. The War Production Board shall thereupon authorize on Form PD–532 each manufacturer or reclaimer of bases for incandescent, fluorescent or glow discharge lamps to deliver a maximum metal weight of bases for incandescent and glow discharge lamps and a maximum number of bases for fluorescent lamps during the succeeding calendar month to such manufacturers and other persons as said War Production Board may deem appropriate.

(6) No manufacturer shall produce any blackout lamp or convert any incandescent lamp into a blackout lamp by etching, painting or otherwise coating it, except:

(i) In fulfillment of a specific order, contract or subcontract for blackout lamps produced according to specifications approved by the Army or Navy of the United States for delivery of such lamps to or for the account of the Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, or the Panama Canal, or

(ii) Pursuant to specific authorization granted by the War Production Board.

(7) No manufacturer shall produce or accept delivery of any lamp leads, filament supports, terminals or lamp bases containing nickel, copper, brass or chromium, except:

(i) In electroplated coatings (except that no nickel may be used for plating lamp bases);

(ii) In alloys of controlled thermal expansion properties, provided that such alloys may be used only for sealing in glass in the minimum size and length required for such practical sealing;

(iii) Copper or nickel in sheathing on ferrous wire or strip, commonly called "copperweld" or "nickel-clad" or "copper-clad";

(iv) Brass in base eyelets, or pins;

(v) Brass bases for incandescent or glow discharge lamps in fulfillment of military exemption orders; or

(vi) Pursuant to specific authorization of the War Production Board granted on Form PD–556 pursuant to an application filed on Form PD–556.

(8) No manufacturer shall produce any incandescent, flourescent or glow discharge lamps containing brass bases, except:

(i) Incandescent or glow discharge lamps in fulfillment of military exemption orders; or

(ii) Pursuant to specific authorization of the War Production Board.

(9) Notwithstanding the provisions of Priorities Regulation No. 1, Priorities Regulation No. 3, and any other War Production Board orders or regulations, no person shall apply or extend a rating of less than AA–5 to any order for incandescent, fluorescent or glow discharge lamps, and no rating less than AA–5 shall have any force or effect with respect to the acceptance and filling of any order for incandescent, fluorescent or glow discharge lamps.

(c) *Intra-company deliveries.* The restrictions of this order with respect to deliveries prohibit or restrict deliveries not only to other persons, including affiliates or subsidiaries, but also from

one branch, division or section of a single enterprise to another branch, division, or section of the same or any other enterprise under common ownership or control.

(d) *Avoidance of excessive inventories.* Manufacturers shall not accumulate for use in the manufacture of incandescent, fluorescent or glow discharge lamps, or parts therefor, inventories of raw materials, semi-processed materials, or finished parts in quantities in excess of the minimum amounts necessary to maintain production of such lamps or parts as permitted by this order.

(e) *Records.* All persons affected by this order shall keep and preserve, for not less than two years, accurate and complete records concerning inventories, production and sales.

(f) *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.

(g) *Reports.* Each person to whom this order applies shall file with the War Production Board such reports and questionnaires as said Board shall from time to time prescribe.

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

(i) *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 by forwarding a letter addressed to the War Production Board, Consumers' Durable Goods Division, Washington, D. C., Ref.: L-28, setting forth the pertinent facts and the reasons why such person considers that he is entitled to relief. The War Production Board may thereupon take such action as it deems appropriate.

(j) *Applicability of other orders.* In so far as any other order heretofore or hereafter issued by the War Production Board, limits the use of any material in the production of incandescent, fluorescent or glow discharge lamps, or parts therefor, to a greater extent than the limits imposed by this order, the restrictions in such other order shall govern unless otherwise specified therein.

(k) *Applicability of regulations.* Except as provided in subparagraph (b) (9), this order and all transactions affected thereby are subject to all applicable provisions of the regulations of the War Production Board, as amended from time to time.

(l) *Routing of Correspondence.* All reports to be filed and other communications concerning this order should be addressed to the War Production Board, Consumers' Durable Goods Division, Washington, D. C., Ref.: L-28.

Issued this 30th day of March 1943.

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

[F. R. Doc. 43-4868; Filed, March 30, 1943; 11:16 a. m.]

PART 1164—RUBBER SEALED CLOSURES FOR GLASS CONTAINERS

[Revocation of Conservation Order M-119]

Section 1164.1 Conservation Order M-119 is hereby revoked.

Issued this 30th day of March 1943.

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

[F. R. Doc. 43-4870; Filed, March 30, 1943; 11:16 a. m.]

PART 3067—TEXTILE BAGS AND PAPER SHIPPING SACKS

[Conservation Order M-221, as Amended March 30, 1943]

The fulfillment of requirements for the defense of the United States has created shortages in the supplies of textile and paper bags 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:

NOTE: Preamble amended March 30, 1943

§ 3067.1 *Conservation Order M-221*—(a) *Definitions.* For the purposes of this order:

(1) "Textile bag" means any shipping container made of cotton fabric, burlap, or other fabric, excepting bale covers and textile wrappings.

(2) "Paper shipping sack" means any single-wall, duplex, or multi-wall paper sack designed for packaging a particular commodity for storage or for shipment, exclusive of container shipping sacks (sacks used for combining a number of packages into a single shipping unit), overslip shipping sacks (sacks used as containers for single packages), combination textile-paper bags (bags made of laminated textile and paper), grocers and variety bags (as defined in Order L-261), and bags made wholly from special protective papers (such as cellophane, glassine, parchment, or waxed paper).

(3) [Revoked March 30, 1943]

(4) "New textile bag" means any textile bag when neither the fabric or the bag has been previously used.

(5) "Used textile bag" means any textile bag when the bag or the fabric previously has been used one or more times.

(6) [Revoked March 30, 1943]

(7) "Dealer" means any person whose principal business is that of buying, selling or reconditioning empty textile bags.

NOTE: Paragraph (7) amended March 30, 1943

(8) "User" means any person who acquires textile or paper bags for use in his business.

(9) A person shall be deemed a "commercial emptier" at such times when in any of the three immediately preceding calendar months he acquired in his business and emptied 400 filled textile bags.

(10) "Wool bag" means any new or used textile bag, made of burlap, between 5½ and 7½ feet in length, ordinarily used to package wool: *Provided,* That such bag shall not be considered a wool bag when no longer capable of carrying any of the following: grease wools, scoured wools, noils, wool wastes or mohair.

(11) A "heavy #1 wool bag" means a wool bag, either new or used, made of 12 ounce or heavier burlap and capable of being packed or repacked to its intended capacity with any of the following: grease wools, Territory, California or Texas wools or mohair.

(12) A "light #1 wool bag" means any new wool bag made of less than 12 ounce burlap.

(13) A "#2 wool bag" means any used wool bag other than a heavy #1 wool bag.

(b) *General restrictions*—(1) *Restrictions on textile bags and paper shipping sacks.* (i) No person shall manufacture, sell, offer for sale, deliver, rent, supply, distribute, purchase, accept delivery or acquire textile bags or paper shipping sacks which he has reason to believe will be used for any purpose prohibited by this order.

(ii) On and after May 1, 1943, no person shall commercially manufacture any textile bag or paper shipping sack designed for packaging any commodity listed in Schedule I of this order, except in the sizes specified for that commodity in Schedule I.

(iii) The restriction of subparagraph (b) (1) (ii) shall not apply to bags or sacks ordered by a user for packaging any listed commodity to be exported by him, provided he supplies the bag manufacturer with a written certification in substantially the following form, signed manually or as provided in Priorities Regulation No. 7:

The bags and sacks ordered herewith are for packaging commodities for export by the undersigned and therefore need not correspond with the sizes specified in Order M-221 for the commodities concerned.

Company_____
By_____
Title_____
Date_____

Any such certification shall constitute a representation to the War Production Board and to the bag manufacturer. The bag manufacturer shall be entitled to rely thereon unless he has reason to believe it is not true.

(2) *Restrictions on textile bags.* (i) No person shall sample the contents of any new or used textile bag except by opening the closure or by inserting a probe or trier without damage to the fabric and no commercial emptier shall remove the contents of any textile bag except by opening the closure, unless the contents have become so caked or solidified that salvage of the bag is not practicable.

(ii) No person shall use any new or used textile bag for packing mohair unless the word "Mohair" appears in legible type on both sides of the bag.

(iii) No person shall purchase or accept delivery of any new or used textile bag to be used for protection against air raids or other war hazards.

(iv) No user or commercial emptier shall accept delivery of any full or empty new or used textile bags at a time when, or when by virtue of the delivery, the user's or commercial emptier's inventory of new or used empty textile bags is or will be in excess of a practical minimum working inventory and in no event in excess of the aggregate number of new or used empty textile bags which will be required to carry on his business during the next sixty days.

(v) No person shall use any new textile bags made of burlap for packing any material, other than mohair; wool; and wool products; agricultural products except flour, refined sugar, salt, tankage, or fertilizer: *Provided*, That this restriction shall not apply to any bags manufactured or in process of manufacture prior to January 13, 1943.

(vi) No manufacturer of or dealer in textile bags made of burlap, during any calendar year, shall sell or deliver to any user, nor shall any user accept delivery of more than 50 percent of the number of new textile bags made of burlap delivered to the user during the calendar year 1941, except that this restriction shall not apply to bags for packing mohair, wool or wool products, or to bags made of burlap of weights less than 7 ounces per 40 inch width per yard.

(vii) No dealer, user or commercial emptier shall change the size of any textile bag made of burlap while it has a commercial use as a bag with or without mending.

(viii) No user shall pack any products other than the following: agricultural products (including but not limited to beans, coffee, cotton, feed, flour, fruits, grain, meal, nuts, potatoes, poultry grits, rice, salt, seeds, starch, sugar, tobacco or vegetables) cement, chemicals, core sand, currency, coin, or securities, fertilizer, glues, gypsum, malt, meats, metal abrasives, metal parts, pastes, plaster, sand, shell-fish, tire chains or such other products as may be authorized by the War Production Board, pursuant to application on Form PD-556, in new textile bags made of cotton: *Provided*, That this restriction shall not apply to any bags manufactured or in process of manufacture prior to January 13, 1943.

(ix) No manufacturer of new textile bags shall overstitch the raw edge or selvage edge of a bag.

(x) No manufacturer of new textile bags shall incorporate therein any metal eyelets or grommets.

(xi) No dealer or commercial emptier shall sell or deliver any used textile bag to any user unless such bag shall have been processed and repaired and all holes, including trier or probe holes, properly mended or patched: *Provided*, That nothing in this paragraph (b) (2) (xi) shall prevent the delivery of any bag for the purpose of repair, or delivery to the owner. For the purposes of this provision, "process" means to clean a used textile bag by washing, brushing, vacuuming or any other method sufficient to prepare the bag for further reuse.

(xii) No dealer in textile bags or commercial emptier shall sell or deliver any textile bag which has been used for packing raw sugar, and which is capable of carrying raw sugar, to any user except for packing raw sugar.

(xiii) Unless specifically authorized by the War Production Board no person shall export any empty or filled new or used textile bag made from burlap. The requirement for such authorization is in addition to, and not in place of, any applicable export licensing requirements of the Board of Economic Warfare. For the purposes of this restriction, "export" means any shipment from the continental United States (the 48 States and the District of Columbia). Application for authorization for such export shall be made by letter or telegram to the War Production Board stating the pertinent facts, including (*a*) the destination of the bags or packed material, (*b*) the source from which the bags have been or are to be acquired, and, if the bags are to be used as export containers, (*c*) the products to be packed in them, and (*d*) whether, so far as the exporter knows, any other type of container would be satisfactory for the purpose. Such applications concerning exports which also require licensing by the Board of Economic Warfare shall be submitted through that agency to the War Production Board. The restriction of this subdivision shall not apply to:

(I) The export of empty used sugar bags to a sugar producer or sugar processor located outside the continental United States, unless the exporter of such bags has reason to believe that the bags will not be used for packing sugar (raw or refined);

(II) Completing the transshipment of textile bags which are in transit from a point outside the continental United States to another such point and which have been landed in the continental United States (in a free zone or free port or in bond) pending such transshipment.

(c) *Restrictions on wool bags.* (1) No user shall use a heavy #1 wool bag except for grading wools or for packing grease wools or mohair, known to the trade as Territory, California or Texas wools or mohair.

(2) No user shall use a light #1 wool bag except for packing Territory, California, Texas, grease or scoured wools, or mohair, carbonized wool, carbonized noils, carbonized card waste, fine white garnetts, fine white laps, cut wool tops, broken wool tops, or wool backings.

(3) No user shall use a #2 wool bag except for packing grease wools, fleece wools, pulled wools, scoured wools or noils, or wool wastes, whether or not carbonized.

(4) No user shall use any wool bag for any purpose other than for packing or wrapping wool or wool products.

(5) No user shall use any top cover bags made from burlap for any purpose other than for packing top wool.

(d) *Miscellaneous provisions* — (1) *General exceptions.* The restrictions imposed by this order shall not apply to:

(i) Any textile bags or paper shipping sacks manufactured to meet the packaging specifications of and delivered to, or for the account of, the Army, Navy, Maritime Commission, United States Post Office, Federal Reserve System, United States Treasury Department, War Shipping Administration, or any agency procuring for delivery pursuant to the Act of Congress of March 11, 1941, entitled, "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(ii) The sale, delivery, or use of any textile bag made of burlap, when such bag is manufactured from burlap set aside pursuant to any provision for Stockpiling of Imports, in Conservation Order M-47, as amended from time to time.

(2) *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.

(3) *Reports.* On the fifteenth day of each month, every dealer, user or commercial emptier of new or used textile bags, who has (or had) in his possession at any time during the year 1942 more than 15,000 empty textile bags, exclusive of new textile bags made of cotton, shall report upon Form PD-645 to the Containers Division, War Production Board, Washington, D. C. the information required by said form.

(4) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of appeal: *Provided*, That appeals from the restrictions of paragraph (b) (2) (vi) shall be by application in triplicate on Form PD-188-c.

(5) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is

guilty of a crime, and upon conviction, may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

Issued this 30th day of March 1943.

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

SCHEDULE I—BAG AND SACK SIZES FOR SPECIFIED COMMODITIES

Textile bags and paper shipping sacks designed for any commodity listed in Column (1) below may be manufactured only in the sizes specified for that commodity in Column (2) below. The symbol "S" in Column (2) represents the following group of sizes: 2, 5, 10, 25, 50, 100 lbs. or more.

Commodity (1)	*Bag sizes (net weight capacity unless otherwise indicated)* (2)
Beans	S
Cement (Portland)	94 lbs.
Feed (livestock, poultry)	S
Flour (milled wheat)[1]	S
Meal	S
Plaster (gypsum)	S—gross weight
Potatoes	S, 15 lbs.
Rice	S, 3 lbs.
Salt	2, 4, 10, 25, 50, 100 lbs. or more
Seeds	S, 1, 2 bus.
Starch (corn)	S
Sugar (refined cane, beet)	S, 3 lbs.

[1] "Flour (milled wheat)" means any product resulting from the milling of wheat flour, including blends of wheat flours and bleached, bromated, enriched phosphated, and self-rising flours, but excluding durum wheat products (semolina), farina, pancake flour, cake flour and cereals.

[F. R. Doc. 43-4871; Filed, March 30, 1943; 11:16 a. m.]

PART 3168—FANS AND BLOWERS

[General Limitation Order L-280 as Amended March 30, 1943]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain critical materials and facilities used in the manufacture of fans and blowers 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.

§ 3168.1 *General Limitation Order L-280*—(a) *Definitions.* For the purposes 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) "Fan or blower" means any new device or machine which moves, compresses or exhausts air or other gases by centrifugal, rotary or axial means; except (i) wall type propeller fans having a blade diameter of less than 17 inches; (ii) ceiling, air circulator, desk, wall bracket, and portable window fans, and pedestal type fans of a portable nature; (iii) fans and blowers manufactured by a person solely for incorporation into other machinery or devices (including pulverizers, stokers, and boilers) also manufactured by him; (iv) propeller type fans for use as a part of internal combustion engines; and (v) critical turbo-blowers as defined by Limitation Order L-163, as amended.

(3) "Manufacturer" means any person who engages in the fabrication or assembly of fans or blowers, and includes sales and distribution outlets controlled by any such person.

(4) "Dealer" means any person who purchases fans or blowers for resale; except sales and distribution outlets controlled by a manufacturer, and except persons who purchase fans or blowers solely for resale as a component part of a boiler, pulverizer or stoker.

(5) "Delivery" includes delivery of a fan or blower from one affiliate to another or from one branch, division or section of a single enterprise to another branch, division or section of the same enterprise, where the recipient affiliate, branch, division or section will use the fan or blower.

(6) "New" as applied to a fan or blower means any fan or blower which has not been delivered to a purchaser for use.

(7) "Approved order" means:

(i) Any order for a fan or blower bearing a preference rating of AA-5 or higher; or

(ii) Any order for a fan or blower which the War Production Board approves pursuant to subparagraph (b) (3) hereof.

(b) *Restrictions on acceptance of orders for, and delivery of fans and blowers.* (1) After February 28, 1943, no manufacturer or dealer shall accept any order for a fan or blower unless the order is an approved order; and after March 31, 1943, no manufacturer shall deliver any fan or blower in fulfillment of any order unless the order is an approved order.

(2) The limitations and restrictions of paragraph (b) (1) above shall not apply to any order for repair parts (i) in an amount not exceeding $500 for any single fan or blower, or 50% of the original sales price of the fan or blower to be repaired, whichever is less in any particular case; or (ii) in any amount, for the repair of a fan or blower when there has been an actual breakdown or suspension of operations thereof because of damage, wear and tear, destruction or failure of parts or the like, and the essential repair and maintenance parts are not otherwise available.

(3) Any manufacturer or dealer may apply for authorization to deliver orders on his books which are not approved orders by filing a report thereof in duplicate on Form PD-795, together with a statement of the percentage of completion of each such order. The War Production Board may thereupon approve any such orders regardless of the rating thereof, or may rerate any such orders in order to constitute them approved orders.

(4) No manufacturer shall accept any order for a fan or blower if he knows or has reasonable cause to believe that he will be unable to make delivery on or before the delivery date specified in the order. Any order received by a manufacturer, specifying a delivery date which the manufacturer knows or has reasonable cause to believe he will be unable to meet, shall be returned by the manufacturer to the proposed purchaser within twenty days after the receipt thereof.

(5) The limitations and restrictions of this paragraph (b) shall not apply to the acceptance by a dealer of any order for centrifugal type air booster, furnace fan, or underfire coal burning fans having a capacity of 2500 CFM and less, with motors of ¼ HP and less, to be delivered for use on or in connection with a furnace.

(c) *Delivery schedules.* (1) After February 28, 1943, no manufacturer shall deliver any fan or blower unless the same has been included in a delivery schedule thertofore approved by the War Production Board in accordance with the provisions of subparagraph (2) below.

(2) On or before the 24th day of February 1943, and on or before the 18th day of each succeeding calendar month, every manufacturer of fans and blowers shall file a report on Forms PD-795 and 796, giving such information as shall be required thereby, including his delivery schedule for fans and blowers for the two calendar months immediately following. The delivery of all fans and blowers shown on such schedule as proposed to be made in such two calendar months shall be deemed to be approved by the War Production Board upon the receipt of such Forms PD-795 and 796 by the War Production Board, unless the War Production Board shall otherwise direct. The War Production Board may at any time revoke such approval as to any or all fans or blowers so listed for delivery, change the schedule of deliveries or prescribe a new schedule, allocate any order held by any manufacturer to any other manufacturer, or direct the delivery of any fan or blower, in production or completed, to any other person at the established price and terms. No manufacturer shall change the schedule of deliveries as so approved, changed or prescribed by the War Production Board, without specific authorization of the War Production Board.

(d) *Schedules of specifications.* The War Production Board may at any time, and from time to time, issue schedules (by amendments to this order) establishing required specifications for fans or blowers. Upon and after the date of issuance of any such schedule of specifications, or such other date as shall be prescribed therein, no person shall accept any order for, fabricate, assemble, sell, deliver, accept delivery of or use any fans or blowers or parts therefor except in accordance with the terms of such schedule. As used in this paragraph the term "required specifications" shall mean specifications fixed for the fabrication, assembly, production, con-

struction or other manufacture of fans or blowers and designed to eliminate, reduce, or conserve the use of critical materials in fans or blowers or parts, by simplifying or standardizing the fans or blowers; specifying the operating conditions under which they may be used; restricting the numbers of sizes, types, models, or kinds produced or the kinds or quantities of materials used by a manufacturer; or requiring substitution of less critical materials for more critical materials; or by establishing other requirements for the manufacture, sale, delivery or use of such fans or blowers.

(e) *Miscellaneous provisions* — (1) *Appeals.* An appeal may be taken either by a manufacturer or by his proposed purchaser from any provision of this order or from any action taken hereunder by the War Production Board. Any such appeal shall be made by filing a letter, in triplicate, referring to the particular provision or action appealed from, and stating fully the grounds of the appeal.

(2) *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 such persons shall execute and file with the War Production Board, such reports and questionnaires as the War Production Board shall request from time to time.

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

(4) *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 Division, Washington, D. C., Ref.: L-280.

Issued this 30th day of March 1943.

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

[F. R. Doc. 43-4869; Filed, March 30, 1943; 11:16 a. m.]

PART 3211—BISMUTH CHEMICALS

[General Preference Order M-295 as Amended March 30, 1943]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of bismuth chemicals 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:

§ 3211.1 *General Preference Order M-295*—(a) *Definitions.* (1) "Bismuth chemicals" means any chemical compound of bismuth, in crude or refined form, including, but not limited to, bismuth subcarbonate bismuth subnitrate, bismuth subsalicylate, bismuth nitrate, bismuth hydrate, sodium bismuthate, etc. The term does not include standard dosage forms (tablets, capsules, ampoules, liquid preparations, etc.).

(2) "Producer" means any person engaged in the production of bismuth chemicals, and includes any person who imports bismuth chemicals or has bismuth chemicals produced for him pursuant to toll agreement.

(3) "Distributor" means any person who purchases bismuth chemicals solely for the purpose of resale without further processing and without changing the form thereof.

(b) *Restrictions on deliveries and use* (1) On and after April 1, 1943, no person shall deliver, accept delivery of, or use bismuth chemicals, except as specifically authorized or directed by the War Production Board.

(2) Authorizations or directions with respect to deliveries or use in each calendar month will so far as practicable be issued by the War Production Board prior to the commencement of such month but the War Production Board may at any time at its discretion and notwithstanding the provisions of paragraph (c) hereof, issue directions with respect to, deliveries to be made or accepted, or with respect to use or uses which may or may not be made of bismuth chemicals to be delivered or then on hand. Such authorizations or directions may be made by the War Production Board without regard to preference ratings applicable to particular orders.

(3) Each person specifically authorized to use or accept delivery of bismuth chemicals shall use such material for the purpose authorized, and only for such purpose, except as otherwise specifically directed by the War Production Board.

(4) Bismuth chemicals allocated for inventory shall not be used except as specifically directed by the War Production Board. Bismuth chemicals allocated to fill a specified order or class of orders shall, where and to the extent that such order or class of orders is not for any reason filled, revert to inventory as though allocated therefor.

(c) *Exceptions to requirement for authorization.* Notwithstanding the provisions of paragraph (b) (1), specific authorization of the War Production Board shall not be required for:

(1) Delivery by any producer or distributor to any person in any calendar month, and acceptance of delivery by any person from any producer or distributor in any calendar month, of not more than 25 lbs. of any bismuth chemical;

(2) Use by any person in any calendar month of not more than 25 lbs. of any bismuth chemical;

(3) Delivery to, or acceptance of delivery by, any person of bismuth chemicals packaged in containers of one pound or less, for resale to retail druggists, and delivery to, or acceptance of delivery by retail druggists of bismuth chemicals so packaged;

(4) Delivery of bismuth chemicals by, or use of bismuth chemicals by, the United States Army or Navy, the Coast Guard, the United States Maritime Commission and War Shipping Administration;

(5) Delivery of bismuth chemicals by any person to another person for compounding into standard dosage forms pursuant to toll agreement, where the person making delivery has received specific authority to compound such bismuth chemicals and retains title to such bismuth chemicals and to the product made therefrom; also the acceptance of delivery of bismuth chemicals by such other person for such purpose and under such terms, and the use by such other person in compounding bismuth chemicals into standard dosage forms.

(d) *Applications and reports.* (1) Each person seeking authorization to accept delivery of, or to use bismuth chemicals during any calendar month beginning with April, 1943, whether for his own consumption or resale, shall file application therefor on or before the 15th of the preceding month on Form PD-600, in the manner prescribed therein, subject to the following special instructions:

(i) Copies of Form PD-600 may be obtained at local field offices of the War Production Board.

(ii) Five copies shall be prepared, of which three shall be forwarded to War Production Board, Chemicals Division, Washington, D. C., Ref.: M-295, one forwarded to the producer or distributor with whom applicant's order is placed, and the fifth retained for applicant's file. At least one of the copies filed with War Production Board shall be signed by applicant by a duly authorized official. Where the application is solely for authorization to use, no copy will be sent to the producer or distributor.

(iii) In the heading, under "Name of chemical," specify "Bismuth chemicals" under "WPB Order No.", specify "M-295;" under "Indicate unit of measure," specify "pounds".

(iv) In heading at top of Table I, specify the month and year for which authorization for acceptance of delivery or use is sought.

(v) In Columns 1, 11 and 19, specify grade and quality; for example, subcarbonate, nitrate, sodium bismuthate, USP, etc.

(vi) In Column 3 (Primary Product), applicant will specify the exact name of the product or products in the manufacture or preparation of which he will use bismuth chemicals or in which he will incorporate bismuth chemicals. Distributors ordering bismuth chemicals for resale, will specify "Resale". If purchase is for inventory, specify "Inventory"

(vii) In Column 4, applicant will specify in each case (including case where his purchase is for "resale") ultimate use to be made of product (as, for example, "medicinal"), and will also specify in each case whether his customer is Army, Navy, other government agency, Lend-Lease, or commercial customer. If application is for bismuth chemicals for inventory, leave Column 4 blank.

(2) Each producer or distributor seeking authorization to make delivery of bismuth chemicals during any month, beginning with April, 1943, shall file application therefor on or before the 20th day of the preceding month. Such application shall be made on Form PD-601 in the manner prescribed therein, subject to the following special instructions:

(i) Copies of Form PD–601 may be obtained at local field offices of the War Production Board.

(ii) Four copies shall be prepared, of which three shall be forwarded to War Production Board, Chemicals Division, Washington, D. C., Ref: M–295, the fourth to be retained by the producer or distributor.

(iii) Each producer who has filed application on Form PD–600 specifying himself as his supplier, shall list his own name as customer on Form PD–601 and shall list his request for allocation in the manner prescribed for other customers.

(iv) In the heading under "Name of chemical", specify "Bismuth chemicals"; under "WPB Order No.", specify "M–295"; under "This schedule is for deliveries to be made during month of ----------", specify month and year during which deliveries covered by application are to be made; under "Indicate unit of measure", specify "pounds".

(v) In Column 1, list customers and if it is necessary to use more than one sheet, number each sheet in order and show grand totals for all sheets on the last sheet, which is the only one that need be certified It is not necessary, however, to list names of customers to whom deliveries are to be made during the next month pursuant to paragraphs (c) (1) and (c) (3) of this order, but insert in Column 1 "Total small order and small package deliveries (estimated)", and in Column 4, state the estimated quantity. Although under paragraph (c) (4), deliveries by the government agencies there listed need not be authorized, proposed deliveries to such agencies should be listed separately in Column 1, and the quantity to be delivered specified in Column 5.

[NOTE: The last sentence of paragraph (v) was amended March 30, 1943]

(vi) In Columns 3 and 8, the producer or distributor will specify grades and quality, as indicated in the Forms PD–600 filed with him by his customers.

(vii) The producer or distributor may, if he wishes, leave Column 5 blank.

(3) The War Production Board may require each person affected by this order to file such other reports as may be prescribed, and may issue special directions to any such person with respect to preparing and filing Forms PD–600 and PD–601.

(e) *Notification of customers.* Each supplier shall notify his regular customers as soon as possible of the requirements of this order, but failure to receive such notice shall not excuse any person from complying with the terms hereof.

(f) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of the War Production Board, as amended from time to time.

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

(3) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to War Production Board, Chemicals Division, Washington, D. C., Ref.: M–295.

Issued this 30th day of March 1943.

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

[F. R. Doc. 43–4872; Filed, March 30, 1943; 11:16 a. m.]

PART 3219—COAL TAR

[Conservation Order M–297]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of coal tar acids 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:

§ 3219.1 *Conservation Order No. M–297*—(a) *Definitions.* For the purpose of this order:

(1) "Coal tar" means tar produced by the destructive distillation of bituminous coal or lignite, and includes crude coal tar and refined coal tar.

(2) "Refined coal tar" means coal tar freed from water by evaporation or by distillation which is continued until the residue is of any desired consistency.

(3) "Coal tar oil" means any distillate of coal tar.

(4) "Tar acids" means phenol, cresols and xylenols, and any homologues thereof which are constituents of coal tar.

(5) "Producer" means any person who produces or imports coal tar, including any person who has coal tar produced for him pursuant to toll agreement.

(6) "Distiller" means any person who distills coal tar or who extracts tar acids from coal tar oil, including any person who has coal tar or coal tar oil so processed for him pursuant to toll agreement.

(b) *Restrictions on delivery and use.* (1) On and after May 1, 1943, no producer or distiller shall burn as fuel or otherwise use coal tar, except for purposes of distillation, and no producer or distiller shall deliver coal tar to a person other than a distiller, unless:

(i) The coal tar shall have a low-boiling tar acid content of less than ½ of 1%, determined in accordance with paragraph (c) (1); or

(ii) Specifically authorized by the War Production Board upon application pursuant to paragraph (d).

(2) On and after May 1, 1943, no distiller shall use coal tar oil, except for the extraction of tar acids, and no distiller shall deliver coal tar oil to any person other than a distiller, unless:

(i) The coal tar oil shall have been produced or received by such distiller prior to May 1, 1943; or

(ii) The coal tar oil, without processing for the extraction of tar acids, shall have a low-boiling tar acid content of less than 1½% as determined in accordance with paragraph (c) (2); or

(iii) The coal tar oil, if processed for the extraction of tar acids, shall have a low-boiling tar acid content of less than 1% as determined in accordance with paragraph (c) (2); or

(iv) Specifically authorized by the War Production Board upon application: (a) Pursuant to paragraph (d) hereof if the total tar acid content of the coal tar oil equals less than 5% of such oil, or (b) Pursuant to General Preference Order M–27, as now or hereafter amended, if the total tar acid content of the coal tar oil equals 5% or more of such oil.

(3) The War Production Board, at its discretion, may from time to time issue special directions to any producer or distiller with respect to distillation, processing, use or delivery of coal tar or coal tar oil by such producer or distiller.

(c) *Methods of test.* For the purpose of this order:

(1) The low-boiling tar acid content of any coal tar shall be determined from a representative sample of such tar by the following procedure: The sample of the coal tar shall be distilled by Method A. S. T. M. D 20–30 to an indicated temperature of 270 degrees Centigrade. The total quantity of tar acids contained in the total distillate to 270 degrees Centigrade shall be determined by Method A. S. T. M. D 453–41 (omitting distillation required by paragraph 3 (a) thereof) and shall be stated as a percentage by volume of the original sample of coal tar on a water-free basis. Such percentage shall be considered the low-boiling tar acid content of the coal tar of which the sample was representative.

(2) The low-boiling tar acid content of any coal tar oil shall be determined from a representative sample of such oil by the following procedure: The sample of the coal tar oil shall be distilled by Method A. S. T. M. D 246–42 to an indicated temperature of 270 degrees Centigrade. The total quantity of tar acids contained in the total distillate to 270 degrees Centigrade shall be determined by Method A. S. T. M. D 453–41 and shall be stated as a percentage by volume of the original sample of coal tar oil on a water-free basis. Such percentage shall be considered the low-boiling tar acid content of the coal tar oil of which the sample was representative.

(d) *Applications and reports.* (1) Each producer or distiller seeking authorization to use or deliver coal tar pursuant to paragraph (b) (1) (ii), and each distiller seeking authorization to use or deliver coal tar oil pursuant to paragraph (b) (2) (iv) when such coal tar oil has a total tar acid content of less than 5%, shall file application on Form PD–602 in the manner prescribed therein, subject to the following instructions for the purpose of this order:

(i) *Form PD–602.* Copies of Form PD–602 may be obtained at local field offices of the War Production Board.

(ii) *Time.* Application on Form PD–602 shall be filed on or before the 20th day of the month preceding the month for which authorization to use or make delivery is requested.

(iii) *Number of copies.* Four copies of each application shall be prepared, of

which one shall be retained by the applicant and three certified copies shall be forwarded to the War Production Board, Chemicals Division, Washington, D. C., Ref: M–297.

(iv) *Heading.* Under name of chemical, specify coal tar or coal tar oil, as the case may be; leave blank the space for grade; specify order number M–297; specify the month during which the coal tar or coal tar oil is to be used or delivered; under unit of measure, specify gallons; and otherwise fill in as indicated.

(v) *Column 1.* List alphabetically names of proposed deliveries. At the end of this list the applicant shall indicate his request for authorization for his own use by inserting words, "own use" in this column and by filling in the other columns as in the case of any other customer.

(vi) *Column 1a.* Specify the purpose for which the coal tar or the coal tar oil will be used, either by the proposed deliveree or by the applicant. For example, specify open hearth fuel, creosote solutions, saturating roofing felt, or road paving.

(vii) *Columns 4, 5, 5a, and 6.* Fill in as indicated, leaving Column 6 blank.

(viii) *Column 7.* If application is for coal tar, state in this column whether tar wanted is crude or refined, and state the low-boiling tar acid content of such tar as determined pursuant to paragraph (c) (1). If application is for coal tar oil, state in this column the low-boiling tar acid content of such oil as determined pursuant to paragraph (c) (2).

(ix) *Rolling stock requirements.* Leave the columns blank at the end of Table 1 relating to number of covered hopper cars and number of tank cars required.

(x) *Table II.* Leave blank.

(2) Each producer or distiller who does not know the purpose for which the coal tar or coal tar oil to be delivered by him pursuant to application under paragraph (d) (1) will be used, may request such information from the prospective deliveree and such prospective deliveree shall furnish such information upon such request.

(3) Receipt by a producer or distiller of Form PD–602 signed by the War Production Board shall constitute authorization to such producer or distiller to use for the purposes specified, or to deliver, the quantities of coal tar or coal tar oil indicated in Column 6.

(4) The War Production Board may require each person affected by this order to file such other reports as may be prescribed, and may issue special directions to any producer or distiller with respect to preparing and filing Form PD–602.

(e) *Notification of customers.* Each producer and distiller shall, as soon as practicable, notify each of his regular customers of the requirements of this order and all amendments hereto, and shall, upon receipt of authorization on Form PD–602, notify each customer listed therein of the quantity of coal tar or coal tar oil authorized for delivery to him.

(f) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected hereby are subject to all applicable War Production Board regulations as amended from time to time.

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

(3) *Communications to the War Production Board.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: War Production Board, Chemicals Division, Washington, D. C. Ref: M–297.

Issued this 30th day of March 1943.

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

[F. R. Doc. 43–4873; Filed, March 30, 1943; 11:17 a. m.]

PART 3221—RIBOFLAVIN

[General Preference Order M–299]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of riboflavin 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:

§ 3221.1 *General Preference Order No. M–299*—(a) *Definitions.* (1) "Riboflavin" means riboflavin (lactoflavin, vitamin G, vitamin B_2) in crude or refined form. The term does not include standard dosage forms (tablets, capsules, ampoules, solutions, etc.), combinations in feeds, foods or beverages, nor riboflavin concentrates of natural origin.

(2) "Producer" means any person engaged in the production or processing of riboflavin, and includes any person who imports riboflavin or has riboflavin produced for him pursuant to toll agreement.

(3) "Distributor" means any person who purchases riboflavin solely for the purpose of resale without further processing and without changing the form thereof.

(b) *Restrictions on deliveries and use.* (1) On and after April 1, 1943, no person shall deliver, accept delivery of, or use riboflavin except as specifically authorized or directed by the War Production Board.

(2) Authorizations or directions with respect to deliveries or use in each calendar month will so far as practicable be issued by the War Production Board prior to the commencement of such month, but the War Production Board may at any time at its discretion and notwithstanding the provisions of paragraph (c) hereof, issue directions with respect to deliveries to be made or accepted, or with respect to the use or uses which may or may not be made of riboflavin to be delivered or then on hand. Such authorizations or directions may be made by the War Production Board without regard to preference ratings applicable to particular orders.

(3) Each person specifically authorized to use or accept delivery of riboflavin shall use such material for the purpose authorized and only for such purpose, except as otherwise specifically directed by the War Production Board. Riboflavin allocated for inventory shall not be used except as specifically directed by the War Production Board.

(4) Riboflavin allocated to fill a specified order or class of orders shall, where and to the extent that such order or class of orders is not for any reason filled, revert to inventory as though originally allocated therefor.

(c) *Exceptions to requirement for authorization.* Notwithstanding the provisions of paragraph (b) (1), specific authorization of the War Production Board shall not be required for:

(1) Delivery by any producer or distributor to any person in any calendar month, or acceptance of delivery by any person from any producer or distributor in any calendar month, of not more than five grams of riboflavin.

(2) Use by any person in any calendar month of not more than five grams of riboflavin.

(3) Delivery of riboflavin by any person to another person for compounding into standard dosage forms pursuant to toll agreement, where the person making delivery has previously received specific authorization from the War Production Board to compound such riboflavin and retains title to such riboflavin and to the product made therefrom; also the acceptance of delivery by such other person for such purpose and under such terms, and the use by such other person in compounding riboflavin into standard dosage forms.

(d) *Applications and reports.* (1) Each person requiring authorization to accept delivery of riboflavin during any calendar month beginning with May, 1943, whether for his own consumption or for resale (or to use riboflavin in any such calendar month), shall file application therefor on or before the 15th day of the preceding month. Applications for acceptance of delivery or use in April, 1943, shall be filed as many days as possible in advance of the intended date of acceptance or use. In any case, applications shall be made on Form PD–600 in the manner prescribed therein, subject to the following special instructions:

(i) Copies of Form PD–600 may be obtained at local field offices of the War Production Board.

(ii) Five copies shall be prepared, of which three shall be forwarded to War Production Board, Chemicals Division, Washington, D. C., Ref: M–299, one forwarded to the producer or distributor with whom applicant's order is placed, and the fifth retained for applicant's file. At least one of the copies filed with the War Production Board must be signed by applicant by a duly authorized offi-

cial. Where the application is solely for authorization to use, no copy need be sent the producer or distributor.

(iii) In the heading, under "Name of chemical", specify "Riboflavin"; under "WPB Order No.", specify "M–299"; under "Indicate unit of measure", specify "Grams".

(iv) In heading at top of Table I, specify month and year for which authorization for acceptance of delivery or use is sought.

(v) In Columns 1, 11 and 19, specify quality; for example, USP, crude.

(vi) In Column 3 (Primary Product) applicant will specify the exact name of the product or products in the manufacture or preparation of which he will use riboflavin or in which he will incorporate riboflavin. Distributors ordering riboflavin for resale (as riboflavin) will specify "Resale". If purchase is for inventory, state "Inventory".

(vii) In Column 4 (Product End Use), applicant will specify in each case, including case where his purchase is for "resale", ultimate use to be made of product (as, for example, "medicinal"). He will also specify in each case whether his customer is Army, Navy, other government agency, Lend-Lease, or commercial customer, and in Column 10 will state contract numbers of Army, Navy or other government contracts. If application is for riboflavin for inventory leave Column 4 blank.

(2) Each producer or distributor seeking authorization to make delivery of riboflavin during any calendar month, beginning with May, 1943, shall file application therefor on or before the 20th day of the preceding month. Application for delivery in April, 1943, will be filed as many days as possible in advance of the proposed date of delivery. In any case, the application shall be made on Form PD–601 in the manner prescribed therein, subject to the following special instructions:

(i) Copies of Form PD–601 may be obtained at local field offices of the War Production Board.

(ii) Prepare four copies and forward three to the War Production Board, Chemicals Division, Washington, D. C., Ref.: M–299, the fourth to be retained by the producer or distributor. At least one of the copies filed with the War Production Board must be signed by applicant by a duly authorized official.

(iii) Each producer who has filed application on Form PD–600 specifying himself as supplier, shall list his own name as customer on Form PD–601 and shall list his request for allocation in the manner prescribed for other customers.

(iv) In the heading under "name of chemical", specify "Riboflavin"; under "WPB Order No.", specify "M–299"; under "This schedule is for deliveries to be made during the month of ____"; specify month and year during which deliveries covered by application are to be made; under "Indicate unit of measure", specify "grams".

(v) In Column 1, list customers and if it is necessary to use more than one sheet, number each sheet in order and show grand totals for all sheets on the last sheet, which is the only one that need be certified. It is not necessary, however, to list names of customers to whom small order deliveries are to be made during the next month pursuant to paragraph (c) (1) of this order, but insert in Column 1 "Total small order deliveries (estimated)", and in Column 4, state the estimated quantity. Where customer is Army, Navy, or other government agency, applicant will specify in Column 7 the applicable contract numbers.

(vi) In Columns 3 and 8, the producer or distributor will specify quality; for example, USP, crude.

(vii) The producer or distributor may, if he wishes, leave Column 5 blank.

(3) The War Production Board may require each person affected by this order to file such other reports as may be prescribed, and may issue special directions to any such person with respect to preparing and filing Forms PD–600 and PD–601.

(e) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected hereby are subject to all applicable provisions of War Production Board regulations, as amended from time to time.

(2) *Notification of customers.* Each supplier shall notify his regular customers as soon as possible of the requirements of this order, but failure to receive such notice shall not excuse any person from complying with the terms hereof.

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

(4) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Chemicals Division, Washington, D. C. Ref: M–299.

Issued this 30th day of March 1943.

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

[F. R. Doc. 43–4874; Filed, March 30, 1943; 11:17 a. m.]

Subchapter C—Director, Office of War Utilities

PART 4500—ELECTRIC, GAS, WATER, AND STEAM UTILITIES: MATERIALS

[Supplementary Utilities Order U–1–d as Amended March 29, 1943]

§ 4500.5 *Supplementary Utilities Order U–1–d.* Notwithstanding the provisions of paragraph (h) of Utilities Order U–1, electric, gas, and water facilities may be built by producers to serve premises, the construction or remodeling of which is authorized under paragraph (b) (4) of Limitation Order L–41 by the issuance of a specific direction, order, certificate, or other authorization for construction: *Provided,* That the following conditions are satisfied:

(a) *Industrial or commercial consumers.* (1) The cost of material for such utility facilities is less than $1,500 in the case of underground construction, or $500 in the case of other construction;

(2) Facilities can be built with an expenditure (including service drop or service pipe and any portion built by or for the consumer) of not more than 60 pounds of copper in conductor for electric service, 250 pounds of iron or steel pipe for gas service (or the equivalent length of lead or lead alloy pipe or tubing) or 250 pounds of iron or steel pipe for water service, and the producer has so certified in a letter addressed to the War Production Board and attached to the builder's application for L–41 approval. Each producer must preserve on its own books a record of each work order, job, or project initiated under this paragraph.

(b) *Domestic consumers.* (1) The cost of material for such utility facilities is less than $1,500 in the case of underground construction, or $500 in the case of other construction;

(2) The electric, gas, or water facilities (including service drop or service pipe and any portion built by or for the consumer) can be built within the limits established by the Housing Utilities Standards, issued by the War Production Board, and the producer has so certified in a letter attached to the builder's application for L–41 approval. Each producer must preserve on its own books a record of each work order, job, or project initiated under this paragraph.

Issued this 29th day of March 1943.

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

[F. R. Doc. 43–4818; Filed, March 29, 1943; 3:39 p. m.]

Chapter XI—Office of Price Administration

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

[MPR 119,[1] Amendment 2]

ORIGINAL EQUIPMENT TIRES AND TUBES

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

Maximum Price Regulation 119 is amended in the following respects:

1. Section 1315.1451 (g) is added to read as follows:

(g) On any passenger-car original equipment tires or tubes on which a Defense Supplies Corporation pool charge

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

[1] 7 F.R. 3509, 8936, 8948.

has been paid, the seller may add the amount of such charge to the prices established by paragraphs (b) to (f), inclusive.

2. Section 1315.1451 (h) is added to read as follows:

(h) Notwithstanding any other provisions of this regulation, this regulation shall not apply between April 1, 1943, and June 1, 1943, to original equipment tires and tubes made in whole or in part of Buna S synthetic rubber which are sold for the equipment of vehicles which the War Department, Navy Department, Marine Corps, Coast Guard or Maritime Commission has contracted to purchase.

3. Section 1315.1454 is amended to read as follows:

§ 1315.1454 *Adjustable pricing.* No person subject to this regulation shall enter into any agreement permitting the adjustment of the prices of original equipment tires and tubes to prices which may be higher than the maximum prices provided by §§ 1315.1451 and 1315.1452, except in the following cases. Any person may offer or agree to adjust or fix prices to or at prices not in excess of the maximum prices in effect at the time of delivery. Any person may offer or agree to sell or buy original equipment tires and tubes at prices in excess of the maximum prices in effect at the time the offer is made, in order to reflect the increase in the price of crude rubber occurring after March 31, 1943: *Provided,* That no person shall pay or receive prices for original equipment tires and tubes which are in excess of the maximum prices in effect at the time of delivery. In an appropriate situation, where a petition for amendment requires extended consideration, the Price Administrator may, upon application, grant permission to agree to adjust prices upon deliveries made during the pendency of the petition in accordance with the disposition of the petition.

This amendment shall become effective April 1, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4821; Filed, March 29, 1943; 4:19 p. m.]

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

[MPR 149,[1] Amendment 8]

MECHANICAL RUBBER GOODS

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

Section 1315.25a is added to read as follows:

§ 1315.25a *Adjustable pricing.* Notwithstanding any other provisions of this regulation, any person may offer or agree to sell or buy mechanical rubber goods at a price in excess of the maximum price in effect at the time the offer is made, in order to reflect the increase in the price of crude rubber occurring after March 31, 1943: *Provided,* That no person shall pay or receive a price for mechanical rubber goods which is in excess of the maximum price in effect at the time of delivery.

This amendment shall become effective April 1, 1943.

(Pub. Laws 421, 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4819; Filed, March 29, 1943; 4:19 p. m.]

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

[MPR 220,[1] Amendment 6]

CERTAIN RUBBER COMMODITIES

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

Section 1315.1560a is added to read as follows:

§ 1315.60a. *Adjustable pricing.* Notwithstanding any other provisions of this regulation, any person may offer or agree to sell or buy any commodity covered by this regulation at a price in excess of the maximum price in effect at the time the offer is made, in order to reflect the increase in the price of crude rubber occurring after March 31, 1943: *Provided,* That no person shall pay or receive a price for any commodity covered by this regulation which is in excess of the maximum price in effect at the time of delivery.

This amendment shall become effective April 1, 1943.

(Pub. Laws 421, 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4820; Filed, March 29, 1943; 4:19 p. m.]

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

[MPR 300,[2] Amendment 5]

MAXIMUM MANUFACTURERS' PRICES FOR RUBBER DRUG SUNDRIES

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

Section 1315.1761a is added to read as follows:

§ 1315.1761a *Adjustable pricing.* Notwithstanding any other provisions of this regulation, any person may offer or agree to sell or buy rubber drug sundries at a price in excess of the maximum price in effect at the time the offer is made, in order to reflect the increase in the price of crude rubber occurring after March 31, 1942: *Provided,* That no person shall pay or receive a price for rubber drug sundries which is in excess of the maximum price in effect at the time of delivery.

This amendment shall become effective April 1, 1943.

(Pub. Laws 421, 729, 77th Cong.; E. O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4822; Filed, March 29, 1943; 4:20 p. m.]

PART 1335—CHEMICALS

[RPS 99]

ACETYLSALICYLIC ACID; ORDER OF REVOCATION

Revised Price Schedule No. 99 (§§ 1335.801 to 1335.809, inclusive) is hereby revoked.

This order of revocation shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4823; Filed, March 29, 1943; 4:12 p. m.]

PART 1335—CHEMICALS

[RPS 103]

SALICYLIC ACID; ORDER OF REVOCATION

Revised Price Schedule No. 103 (§§ 1335.951 to 1335.959, inclusive) is hereby revoked.

This order of revocation shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4825; Filed, March 29, 1943; 4:12 p. m.]

PART 1335—CHEMICALS

[RPS 104]

VITAMIN C; ORDER OF REVOCATION

Revised Price Schedule No. 104 (§§ 1335.901 to 1335.909, inclusive) is hereby revoked.

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

[1] 7 F.R. 3889, 7173, 8699, 8948, 10103, 10143, 10993; 8 F.R. 1312.

[2] 8 F.R. 867, 1369, 1388, 1585, 2667, 3071.

This order of revocation shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4824; Filed, March 29, 1943; 4:12 p. m.]

PART 1335—CHEMICALS

[MPR 354]

COPPER SULPHATE

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

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1[1] issued by the Office of Price Administration, Maximum Price Regulation No. 354 is hereby issued.

Sec.

1335.1001 Applicability of this regulation.
1335.1002 Relation to the General Maximum Price Regulation.
1335.1003 Records and reports.
1335.1004 Prohibited practices.
1335.1005 Methods of preventing or penalizing sales at higher than maximum prices.
1335.1006 Petitions for amendment.
1335.1007 Definitions.
1335.1008 Federal and state taxes.
1335.1009 Notification of changes in maximum prices.
1335.1010 Effective dates.
1335.1011 Appendix A: Maximum prices.

AUTHORITY: §§ 1335.1001 to 1335.1011, inclusive, issued under Pub. Laws 421 and 729, 77th Cong.; E.O. No. 9250, 7 F.R. 7871.

§ 1335.1001 *Applicability of this regulation*—(a) *Commodities covered by this regulation.* This regulation applies to the grades of copper sulphate (including monohydrated copper sulphate) set forth in Appendix A (§ 1335.1011 (a) (1) (i) and (ii)). Such grades of copper sulphate are referred to as "copper sulphate" in this regulation.

(b) *Prohibition of sales at higher than maximum prices.* On and after the effective date of this regulation regardless of any contract or other obligation:

(1) No person shall sell or deliver any copper sulphate at higher prices than the maximum prices established by this regulation.

(2) No person shall buy or receive any copper sulphate in the course of trade or business at higher prices than the maximum prices established by this regulation. No agricultural consumer shall be considered a buyer in the course of trade or business.

(3) No person shall agree, offer, solicit, or attempt to do any of the foregoing.

(4) Lower prices than the maximum prices established by this regulation may be charged, demanded, offered, or paid.

(c) *Transactions excluded from this regulation and covered by other regulations*—(1) *Sales at retail for use as an agricultural insecticide or fungicide.* This regulation establishes maximum prices for sales at retail of copper sulphate for use as an agricultural insecticide or fungicide only if such sales are made in quantities of 100 pounds or more by a manufacturer or distributor of copper sulphate. Maximum prices for all other sales at retail of copper sulphate for use as an agricultural insecticide or fungicide are established by Maximum Price Regulation No. 144[2]—Retail Prices of Agricultural Insecticides and Fungicides.

(2) *Sales in the territories and possessions.* This regulation applies only to the forty-eight states of the United States and the District of Columbia and does not apply to the territories and possessions of the United States.

(3) *Exports.* This regulation does not apply to exports except as it establishes domestic maximum prices which are used as base prices for the determination of export prices. The maximum prices at which any person may export copper sulphate are established by the Revised Maximum Export Price Regulation.[3]

§ 1335.1002 *Relation to the General Maximum Price Regulation.*[4] The General Maximum Price Regulation shall not apply to sales or deliveries covered by this regulation except as specified below:

(a) The following sections of the General Maximum Price Regulation apply to all sales and deliveries covered by this regulation.

(1) Section 1499.14 (Sales slips and receipts.)

(2) Section 1499.29 (a) (5) (6) (7) of Supplementary Regulation No. 14 (Exclusion of certain sales to United States agencies).

(3) Section 1499.29 (b) of Supplementary Regulation No. 14 (War contracts with United States and other governments).

(b) The following sections of the General Maximum Price Regulation shall be applicable to sellers for whom maximum prices are established by § 1335.1011 (b).

(1) Section 1499.5 (Transfers of business or stock in trade).

(2) Section 1499.11 (Base period records).

(3) Section 1499.15 (Registration)—insofar as applicable to persons other than manufacturers selling at retail.

(4) Section 1499.16 (Licensing)—insofar as applicable to persons other than manufacturers selling at retail.

§ 1335.1003 *Records and reports.* (a) Every person making sales of copper sulphate for which maximum prices are established by § 1335.1011 (b) of this regulation shall keep for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942, as amended, remains in effect, records showing as precisely as possible the basis upon which he determined maximum prices for such copper sulphate. Such records shall include in the case of sales for which maximum prices are established by § 1335.1010 (b) (2) the seller's existing records relating to the cost of the copper sulphate delivered to him during the month in which he determined a maximum price for such copper sulphate under the General Maximum Price Regulation or, if he received no deliveries during that month, the last month prior thereto in which he received deliveries.

(b) All sellers and all buyers in the course of trade or business of copper sulphate for which maximum prices are established by this regulation must keep records which will show a complete description of the product sold or purchased, the amount sold or purchased, the name and address of the buyer or seller, the date of the sale and the price. Such records must be kept for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942, as amended, is in effect. No agricultural consumer shall be considered a buyer in the course of trade or business. Customary records, such as invoices, showing the above information will constitute compliance with this paragraph (b).

(c) Such person shall keep such other records and submit such other reports in addition to or in place of the records required by paragraphs (a) and (b) of this section as the Office of Price Administration may from time to time require.

§ 1335.1004 *Prohibited practices*—(a) *General.* Any practice which is a device to secure the effect of a higher-than-ceiling price without actually raising the dollars and cents price is as much a violation of this regulation as an outright over-ceiling price. This applies to devices making use of commissions, services, transportation arrangements, premiums, special privileges, tying agreements, trade understandings, transactions with or through the agency of subsidiaries or affiliates, or the like.

(b) *Specific prohibited practices.* The following are among the specific practices prohibited:

(1) Securing the effect of a higher price by changing credit terms, or cash or other discounts or allowances, or practices relating to the payment of freight charges or other transportation cost from what they were during the three-month period ending March 31, 1942. This includes reducing the cash discount period, decreasing credit periods, making greater charges for the extension of credit, or requiring purchasers to pay part or all of the transportation charges where no such requirement was made during such three-month period.

(2) Breaking up an order which would normally be a single order into a series of smaller orders in order to evade the maximum price limitations set forth in this regulation.

(c) *Adjustable pricing.* A price may not be made adjustable to a maximum price which will be in effect at some time

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

[1] 7 F.R. 8961; 8 F.R. 3312.

[2] 7 F.R. 3720, 5665, 7248.

[3] 7 F.R. 5059, 7242, 8829, 9000, 10530.

[4] 8 F.R. 3096.

after delivery of copper sulphate subject to this regulation has been completed. But the price may be made adjustable to the maximum price in effect at the time of delivery. In appropriate situations where a petition for amendment requires extended consideration, the Price Administrator may, upon application, grant permission to agree to adjust prices upon deliveries made during the pendency of the petition in accordance with the disposition of the petition.

§ 1335.1005 *Methods of preventing or penalizing sales at higher than maximum prices*—(a) *Enforcement.* Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, suits for treble damages and proceedings for suspension of licenses provided by the Emergency Price Control Act of 1942, as amended.

(b) *Licensing.* Supplementary Order No. 11 (§ 1305.15) licenses all sellers under this regulation who are distributors as the term "distributor" is defined in the order. This order, in brief, provides that a license is necessary for resellers other than resellers at retail to make sales under this regulation. A license is automatically granted to these sellers. It is not necessary to apply specially for the license, but a registration may later be required. The Emergency Price Control Act of 1942, as amended, and Supplementary Order No. 11 describe the circumstances under which licenses may be suspended.

§ 1335.1006 *Petitions for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1.

§ 1335.1007 *Definitions.* (a) When used in this regulation the term:

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

(2) "Purchaser of the same class" and "class of purchasers" refer to the practice adopted by the seller in setting different prices for commodities for sales to different purchasers or kinds of purchasers (for example, manufacturer, wholesaler, jobber, retailer, government agency, public institution, individual consumer) or for purchasers located in different areas or for different quantities or grades or under different conditions of sale.

(3) "Most closely competitive seller of the same class". Seller of the same class means a seller (i) performing the same function (for example, manufacturing, distributing, retailing), (ii) of similar type (for example, department store, mail order house, chain store, general store, cooperative, farm commissary, cut-rate store), (iii) dealing in the same type of commodities, and (iv) selling to the same class of purchaser. A seller's most closely competitive seller of the same class shall be a seller of the same class who (*a*) is selling the same or similar commodity and (*b*) is closely competitive in the sale of such commodities and (*c*) is located nearest to the seller.

(4) "Copper sulphate" means the grades of copper sulphate (including monohydrated copper sulphate) set forth in Appendix A (§ 1335.1011 (a) (1) (i) and (ii)). Except for the monohydrated grade, the other grades listed refer to the grades of the compound $CuSO_4.5\ H_2O$.

(5) "Seller's cost of acquisition per unit of the copper sulphate for which he determined a maximum price under the General Maximum Price Regulation" means the delivered price at his place of business paid by him per unit after all allowances, discounts, or other price differentials on the largest delivery of such copper sulphate to him during that month in which he determined his maximum prices for such copper sulphate under the General Maximum Price Regulation, or if he received no deliveries during that month, during the last month prior thereto in which he received deliveries.

(6) "Seller's present replacement cost per unit for copper sulphate" means the maximum prices per unit established under this regulation for such copper sulphate delivered at his place of business in the quantities normally purchased by him.

(7) "Distributor" means a reseller of copper sulphate who, during the three-month period ending March 31, 1942, sold more than fifty per cent of the copper sulphate sold by him during that period at or below the manufacturer's list prices.

(8) "Manufacturer's list prices" means the quoted or published prices of a manufacturer for sales to resellers other than distributors, or for sales to industrial consumers other than agricultural consumers.

(9) "Sale" at retail" means a sale or selling to an ultimate consumer, including an agricultural consumer, but not including other industrial or commercial consumers.

(10) "Manufacturer" means a person who produces copper sulphate.

(11) "Transportation costs" or "freight charges"shall be deemed to include the tax imposed by section 620 of the Revenue Act of 1942 (Pub. Law 753, 77th Cong.; approved October 21, 1942), as if it were a like increase in the rate or the amount charged by the carrier for the transportation in question.

(12) "Eastern territory" means the District of Columbia and all the states of the United States except California, Oregon, Washington, Utah, and Idaho.

(13) "Western territory" means the states of California, Oregon, Washington, Utah, and Idaho.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942, as amended, shall apply to other terms used in this regulation.

§ 1335.1008 *Federal and state taxes.* Any tax upon, or incident to, the sale or delivery of copper sulphate for which maximum prices are established by this regulation imposed by any statute of the United States or statute or ordinance of any state or subdivision thereof, or any increase in such tax shall be treated as follows in determining the seller's maximum price for such commodity and in preparing the records of such seller with respect thereto:

If the statute or ordinance imposing such tax or increase does not prohibit the seller from stating and collecting the tax or increase separately from the purchase price, and the seller does separately state it, the seller may collect, in addition to the maximum price, the amount of the tax or increase actually paid by him or an amount equal to the amount of tax paid by any prior vendor and separately stated and collected from the seller by the vendor from whom he purchased: *Provided,* That in those cases where the maximum price was determined under § 1335.1011 (b), such amount may only be collected if at the time a maximum price under the General Maximum Price Regulation was determined by the seller or by his most closely competitive seller of the same class, as the case may be, such amount was not included in the maximum price so determined.

§ 1335.1009 *Notification of changes in maximum prices.* Any manufacturer making sales to any seller at retail (other than a distributor) of copper sulphate for use as an agricultural insecticide or fungicide shall attach the following notification to the invoices sent such seller covering deliveries of copper sulphate during the period between April 3, 1943 and July 3, 1943. Any person other than a manufacturer making sales of copper sulphate to such a seller at retail shall attach the following notification to the invoices sent to such seller covering deliveries of copper sulphate during the period between May 3, 1943 and August 3, 1943.

Under an OPA maximum price regulation our ceiling price for sales of copper sulphate (specify grade and container) to you has been reduced by $_____. Under the provisions of Maximum Price Regulation No. 144—Retail Prices of Agricultural Insecticides and Fungicides, you are required to reduce your ceiling prices on copper sulphate we shipped to you after (manufacturer insert April 3, 1943) (other sellers insert May 3, 1943) and which you sell at retail for use as an agricultural insecticide or fungicide by the same amount as our ceiling prices for sales to you have been reduced.

§ 1335.1010 *Effective dates.* This regulation (§§ 1335.1001 to 1335.1011, inclusive) shall become effective as to sales or deliveries by manufacturers, on April 3, 1943, and as to sales or deliveries by other persons, on May 3, 1943.

§ 1335.1011. *Appendix A: Maximum prices for copper sulphate*—(a) *Sales by manufacturers and distributors in quantities of 100 pounds or more*—(1) *Base prices*—(i) *Copper sulphate produced in Eastern territory*—(*a*) *99% Crystals.*

Amounts	*Per cwt., f. o. b. works. Bags or barrels*
36,000 lbs. or more	$5.00
7,200 lbs. to but not including 36,000 lbs	5.15
2,700 lbs. to but not including 7,200 lbs	5.25
700 lbs. to but not including 2,700 lbs	5.50

(b) *Crystal snow.*

25 cents per hundred weight may be added to the prices set forth in subdivision (a) above.

(c) *Powdered.*

50 cents per hundred weight may be added to the prices set forth in subdivision (a) above.

(d) *Monohydrated.*

Container	Per cwt. Freight paid to Missouri River and to Mississippi River south of St. Louis, Mo.	
	36,000 lbs. or more	Less than 36,000 lbs.
200 lb. drums	$8.95	$10.05
12½ lb. bags in 200 lb. drums	9.95	10.95

(e) *Application of quantity differentials.* If quantities of 36,000 pounds or more consisting of more than one grade or type of package of copper sulphate are sold, the maximum price applicable to each grade or type of package of copper sulphate shall be the price for quantities of 36,000 pounds or more.

(ii) *Copper sulphate produced in Western territory—(a) 99% crystals and snow crystals.*

Amounts	Per cwt., f. o. b. works		
	100 lb. bags	20 lb. bags	Barrels (400 or 500 lbs.)
15 tons or more	$5.00	$5.50	$5.10
10 tons to but not including 15 tons	5.10	5.60	5.30
5 tons to but not including 10 tons	5.20	5.70	5.40
2 tons to but not including 5 tons	5.30	5.80	5.50
400 lbs. to but not including 4000 lbs.	5.40	5.90	5.60
100 lbs. to but not including 400 lbs.	5.50	6.00	5.70

(b) *Powdered.*

50 cents per hundred weight may be added to the prices set forth in subdivision (a) above.

(c) *Cartons.*

	99 percent crystals and snow crystals	Powdered
5 lb. cartons, per case of 10	$9.00	$9.50
1 lb. cartons, per case of 50	13.00	13.50

(d) *Monohydrated.*

Containers	Per cwt., f. o. b. works	
	30,000 lbs. or more	Less than 30,000 lbs.
100 lb. drums	$9.20	$9.70
200 lb. drums	8.95	9.45
400 lb. drums	8.70	9.20

(e) *Application of quantity differentials.* If quantities of 30,000 pounds or more consisting of more than one grade or type of package of copper sulphate are sold, the maximum price applicable to each grade or type of package of copper sulphate shall be the price for quantities of 30,000 pounds or more.

(iii) *Other containers.* For sales in containers other than those for which base prices are specifically established in subdivision (i) or (ii) of this subparagraph (1), the base price per 100 pounds shall be the base price per 100 pounds established in whichever one of such subdivisions is applicable for the same grade and quantity of copper sulphate in the most nearly similar type of container of the next larger size or, if there is no next larger size, of the largest size.

(2) *Maximum prices.* On a sale to any purchaser the seller shall apply to the applicable base price established in subparagraphs (1), (2), or (3) the same cash or other discounts or allowances, credit terms, and practices relating to the payment of freight charges and other transportation costs as were applied during the three-month period ending March 31, 1942, to the manufacturer's list prices on deliveries by the seller to that purchaser, or in case no deliveries were made to that purchaser during said three-month period as were applied on deliveries to a purchaser of the same class.

(b) *Sales other than those for which maximum prices are established in paragraph* (a). Maximum prices for sales of copper sulphate other than sales for which maximum prices are established in paragraph (a) or sales at retail for use as an agricultural insecticide or fungicide are established as set forth below:

(1) *Copper sulphate produced in Eastern territory—(i) Where seller determined maximum prices for such sales under the General Maximum Price Regulation prior to April 3, 1943.* The maximum price for sales to any class of purchasers shall be the seller's maximum price for sales to a purchaser of the same class as determined under the General Maximum Price Regulation prior to April 3, 1943, less twenty-five cents per 100 pounds for the monohydrated grade or fifteen cents per 100 pounds for other grades.

(ii) *Where seller did not determine maximum prices for such sales under the General Maximum Price Regulation prior to April 3, 1943.* The maximum price for sales to any class of purchasers shall be the maximum price established under this regulation for sales to a purchaser of the same class by the seller's most closely competitive seller of the same class.

(2) *Copper sulphate produced in Western territory—(i) Where seller determined maximum prices for such sales under the General Maximum Price Regulation prior to April 3, 1943.* The maximum price per unit for sales to any class of purchasers shall be the seller's maximum price per unit for sales to a purchaser of the same class as determined under the General Maximum Price Regulation prior to April 3, 1943, less the amount computed in subdivision (a) below.

(a) From the seller's cost of acquisition per unit for the copper sulphate for which he determined a maximum price under the General Maximum Price Regulation he shall subtract his present replacement cost per unit for such copper sulphate.

(ii) *Where the seller did not determine maximum prices for such sales under the General Maximum Price Regulation prior to April 3, 1943.* The maximum price to any class of purchasers shall be the maximum price established under this regulation for sales to a purchaser of the same class by the seller's most closely competitive seller of the same class.

(c) *Containers.* No charges may be made for containers except as specified in paragraph (a). The seller may, however, require the buyer to return containers, and if he does so, he may charge a reasonable deposit for the return of such containers. Such deposit must be repaid to the buyer upon the return of the container in good condition, reasonable wear and tear excepted, within a reasonable time. Transportation costs with respect to the return of empty containers to the seller shall, in all cases, be borne by the seller. Where the seller requires the return of a container, the maximum prices for the copper sulphate contained therein as established in paragraphs (a) and (b) shall be reduced by the reasonable value of the container.

Where the return of containers is required, the amount deducted for the reasonable value of the container from the maximum prices established by paragraphs (a) or (b) shall be separately stated on the invoice.

The reasonable value of the container shall be considered to be:

(1) The specific dollar-and-cents maximum price, if any, established by any applicable regulation of the Office of Price Administration for an emptied container of the same kind which has not been reconditioned for reuse, f. o. b. buyer's plant or,

(2) If no such specific dollar-and-cents maximum price has been established, the difference between the replacement cost to the seller who packaged the copper sulphate in the container of the same kind of new container, delivered at his plant, and the sum of the average cost to him of reconditioning the used container for reuse and the average cost to him of transporting such used container to his plant. Until the end of the first full calendar month following April 3, 1943, the average cost of transportation and of reconditioning may be estimated if no actual costs are available for the preceding month. For every calendar month thereafter the average cost of transportation and of reconditioning shall be computed as equal to the actual average cost of these items during the calendar month immediately preceding.

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4826; Filed, March 29, 1943; 4:13 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 237,[1] Amendment 12]

ADJUSTED AND FIXED MARK-UP REGULATION FOR SALES OF CERTAIN FOOD PRODUCTS AT WHOLESALE

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

Maximum Price Regulation No. 237 is amended in the following respects:

1. In § 1351.519, item 17 is added to read as follows:

§ 1351.519 *Appendix B:*

[Figures to be used by wholesale distributors in determining new maximum prices under § 1351.503 of this regulation (new maximum prices are required after the effective date of this regulation)]

Food product	Last date for determining new maximum prices under this regulation	Last date for filing new maximum prices with appropriate OPA district or State offices	Figure to be multiplied by net cost of item in determining new maximum prices under this regulation		
			Class 1, retail-owned cooperative	Class 2, cash and carry	Class 3, service and delivery
*	*	*	*	*	*
17. Honey	April 15, 1943	April 25, 1943	1.115	1.14	1.19

2. Section 1351.519 (2) (q) is added to read as follows:

q. Honey shall mean all extracted honey (including combinations of extracted and comb honey) packaged in containers of a capacity of 15 pounds or less.

This amendment shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4829; Filed, March 29, 1943; 4:14 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 238[1] Amendment 13]

ADJUSTED AND FIXED MARK-UP REGULATION FOR SALES OF CERTAIN FOOD PRODUCTS AT RETAIL

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

Maximum Price Regulation 238 is amended in the following respects:

1. In § 1351.619, item 17 is added to read as follows:

§ 1351.619 *Appendix B:*

[Figures to be used by retail distributors in determining new maximum prices under § 1351.603 of this regulation (new maximum prices are required after the effective date of this regulation)]

Food product	Last day for determining new maximum prices under this regulation	Figure to be multiplied by net cost of item in determining new maximum prices under this regulation				
		Independent retailer with annual volume			Class 4, chain retailer with annual volume under $250,000	Class 5, any retailer (chain or independent) with annual volume $250,000 or more
		Class 1, under $20,000	Class 2, $20,000 but less than $50,000	Class 3, $50,000 but less than $250,000		
*	*	*	*	*	*	*
17. Honey	May 1, 1943	1.32	1.32	1.32	1.31	1.31

2. Section 1351.619 (2) (q) is added to read as follows:

q. Honey shall mean all extracted honey (including combinations of extracted and comb honey) packaged in containers of a capacity of 15 pounds or less.

This amendment shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4830; Filed, March 29, 1943; 4:15 p. m.]

[1] 7 F.R., 8205, 8427, 8808, 9183, 9973, 10013, 10715; 8 F.R. 373, 569, 1200, 2106, 2671.

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 255,[2] Amendment 7]

PERMITTED INCREASES FOR WHOLESALERS OF CERTAIN FOODS

Canned fruits, berries and juices, as listed.
Frozen fruits, berries and vegetables.
Fruit preserves, jams and jellies.
Apple butter.
Canned apples.
Apple sauce.
Apple juice.
Canned boned chicken and turkey.
Maple sugar.
Fountain fruits.
Tamales.
Tortillas.
Potato chips.
Raisin filled or topped biscuits and crackers.
Fig bars.
Bakers' fillings for fruit pie and pastry.
Peanut candy.
Canned chili con carne.
Shoestring potatoes.
Julienne potatoes.
Pretzels.
Canned prune juice, canned dried prunes, canned prune concentrate, and all other canned dried prune products.
Canned chicken and noodle dinner.
Canned chicken a la king.
Canned homestyle chicken.

A statement of the considerations involved in the issuance of Amendment 7 to Maximum Price Regulation 255 has been issued and filed with the Division of the Federal Register.*

Maximum Price Regulation 255 is amended in the following respects:

1. In § 1351.703 (d) paragraphs (23) and (28) are hereby revoked.

This amendment shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4827; Filed, March 29, 1943; 4:13 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[Rev. MPR 256,[1] Amendment 4]

PERMITTED INCREASES FOR RETAILERS OF CERTAIN FOODS

Canned fruits, berries and juices, as listed.
Frozen fruits, berries and vegetables.
Fruit preserves, jams and jellies.
Apple butter.
Canned apples.
Apple sauce.
Apple juice.
Canned boned chicken and turkey.
Maple sugar.
Fountain fruits.
Tamales.
Tortillas.
Potato chips.
Raisin filled or topped biscuits and crackers.
Fig bars.
Peanut candy.
Canned chili con carne.
Shoestring potatoes.
Julienne potatoes.
Pretzels.
Canned prune juice, canned dried prunes, canned prune concentrate, and all other canned dried prune products.
Canned chicken and noodle dinner.
Canned chicken a la king.
Canned homestyle chicken.

A statement of the considerations involved in the issuance of Amendment 4 to Revised Maximum Price Regulation 256 has been issued and filed with the Division of the Federal Register.*

Revised Maximum Price Regulation 256 is amended in the following respects:

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

[1] 7 F.R. 8209, 8808, 9184, 10013, 10227, 10714; 8 F.R. 120, 374, 532, 1116, 2106, 2672.

[2] 8 F.R. 2988.

[1] 7 F.R. 8893, 10473; 8 F.R. 1266, 2106, 2673.

1. In § 1351.203 (b), subparagraphs (22) and (27) are hereby revoked.

This amendment shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F. R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4828; Filed, March 29, 1943; 4:14 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 275,[1] Amendment 4]

EXTRACTED HONEY

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.*

Maximum Price Regulation No. 275 is amended in the following respects:

1. Section 1351.1302 is amended to read as follows:

§ 1351.1302 *Exempt sales.* The provisions of this Maximum Price Regulation No. 275 shall not be applicable to sales at wholesale and sales at retail, except (a) that resales of "bulk honey" shall be covered by this regulation; and (b) all sales of "packaged honey" by the packager thereof shall be covered by this regulation; and (c) sales at retail of "bulk honey" by the producer shall be governed by § 1351.1319 (b) (5) of this regulation.

2. Section 1351.1314 is hereby revoked.

3. Section 1351.1319 (a) (2) is amended to read as follows:

(2) "Bulk honey" means honey in container of more than 15 pounds capacity.

4. Section 1351.1319 (a) (3) is amended to read as follows:

(3) "Packaged honey" means honey in a container of 15 pounds capacity or less.

5. Section 1351.1319 (b) (3) is amended by inserting after the phrase "CIF Port of Entry", the phrase "Duty included".

6. Section 1351.1319 (b) (5) is added to read as follows:

(5) The maximum price for "bulk honey" when sold by the producer at retail shall be 15¢ per pound, f. o. b. shipping point.

7. Section 1351.1319 (e) is amended to read as follows:

(e) *Maximum prices for bulk honey which is resold*—(1) *Resales by persons other than importers.* A seller, other than an importer, shall determine his maximum price, f. o. b. shipping point, for bulk honey which he resells in the same manner as that provided for the seller of "Packaged honey": *Provided,* (i) That he must employ his "base period" price and not 102% thereof, and (ii) that in computing his "base price" he shall base his computations only upon resales of "bulk honey" made during the base period to the particular "class of purchaser" for which he is determining his maximum price. The term "class of purchaser" refers to the practice prevailing during the base period of offering classes or groups of purchasers different prices on the same honey items.

(2) *Resales by importers.* Importers who resell "bulk honey" shall determine their maximum price f. o. b. their shipping point for such resales by applying the applicable "markup" to the CIF port of entry price, duty included, which they paid for the "bulk honey". The importer's "markup" for carload sales shall be 10% and for less than carload sales 15%.

(3) *Inability to compute price under this paragraph.* Resellers of "bulk honey" who are unable to compute their maximum price under this paragraph (e) shall adopt as their own maximum prices the maximum prices established by their most closely competitive sellers of the same class who sell to the same class of purchasers.

8. Section 1351.1319 (h) is added to read as follows:

(h) A seller may take as his maximum price for any item of "packaged honey" either the prices established pursuant to paragraph (c) of § 1351.1319 or the prices set forth in the following table. Persons who price their items in accordance with the prices set forth in this table, need not with respect to such items file the forms required by § 1351.1313. The prices in this table are f. o. b. packing plant and are prices before discounts of any kind. Each seller shall reduce these prices to reflect his own customarily established trade allowances, including but not limited to discounts for prompt payment and quantity of sale.

CEILING PRICES ON "PACKAGED HONEY"

[F. o. b. packing plant]

Size container	Prices on sales to wholesalers, commercial, industrial, governmental and institutional users			Prices on sales directly to retailers			Prices on sales directly to domestic users
	Price per case of 24	Price per case of 12	Price per case of 6	Price per case of 24	Price per case of 12	Price per case of 6	Price per container
2-oz.	$1.41	$.76		$1.61	$.87		$.08
2½-oz.	1.51	.81		1.72	.92		.08
3-oz.	1.61	.86		1.84	.98		.09
4-oz.	1.81	.96		2.06	1.09		.10
4½-oz.	1.92	1.01		2.19	1.15		.11
5-oz.	2.02	1.06		2.30	1.21		.11
5½-oz.	2.14	1.12		2.44	1.28		.12
6-oz.	2.27	1.18		2.59	1.35		.12
7-oz.	2.52	1.31		2.87	1.49		.14
8-oz.	2.77	1.44		3.16	1.64		.15
8½-oz.	2.92	1.51		3.33	1.72		.16
9-oz.	3.06	1.58		3.49	1.80		.17
10-oz.	3.35	1.72		3.82	1.96		.18
11-oz.	3.64	1.87		4.15	2.13		.20
11½-oz.	3.79	1.94		4.32	2.21		.21
12-oz.	3.93	2.02		4.48	2.30		.22
13-oz.	4.21	2.16		4.80	2.46		.23
14-oz.	4.49	2.29		5.12	2.61		.25
14½-oz.	4.62	2.38		5.27	2.69		.25
15-oz.	4.76	2.43		5.43	2.77		.26
16-oz.	5.04	2.57		5.75	2.93		.28
17-oz.	5.31	2.71		6.05	3.09		.29
17½-oz.	5.45	2.78		6.21	3.17		.30
18-oz.	5.59	2.84		6.37	3.24		.31
19-oz.	5.86	2.98		6.68	3.40		.32
20-oz.	6.14	3.12		7.00	3.56		.34
21-oz.	6.41	3.26		7.31	3.72		.35
22-oz.	6.68	3.39		7.62	3.86		.37
23-oz.	6.96	3.53		7.93	4.02		.38
23½-oz.	7.10	3.60		8.00	4.10		.39
24-oz.	7.23	3.67		8.24	4.18		.40
30-oz.	8.88	4.49		10.12	5.12		.49
2-lbs.	9.42	4.76		10.74	5.43		.52
2-lbs. 1-oz.	9.67	4.88		11.02	5.56		.53
2-lbs. 2-oz.	9.90	5.00		11.29	5.70		.54
2-lbs. 4-oz.	10.38	5.24		11.83	5.97		.57
2-lbs. 5-oz.	10.62	5.36		12.11	6.11		.58
2-lbs. 7-oz.	11.10	5.60		12.65	6.38		.61
2-lbs. 8-oz.	11.34	5.72		12.93	6.52		.62
2-lbs. 9-oz.	11.62	5.86		13.25	6.68		.64
2-lbs. 10-oz.	11.90	6.00		13.57	6.84		.65
2-lbs. 11-oz.	12.19	6.15		13.90	7.01		.67
2-lbs. 12-oz.	12.48	6.29		14.23	7.17		.69
2-lbs. 13-oz.	12.76	6.43		14.55	7.33		.70
2-lbs. 14 oz.	13.04	6.57		14.87	7.49		.72
2-lbs. 15 oz.	13.32	6.71		15.18	7.65		.73
3-lbs.	13.61	6.85		15.52	7.81		.75
3-lbs. 4-oz.		7.27			8.29		.79
4-lbs 8-oz.		9.35	$4.68		10.66	$5.34	1.02
5-lbs.		10.18	5.09		11.61	5.80	1.11
5-lbs. 14-oz.		11.78	5.89		13.43	6.71	1.29
6-lbs.		12.01	6.00		13.69	6.84	1.32
9-lbs.			8.72			9.95	1.92
10-lbs.			9.64			10.99	2.12
12-lbs.			11.57			13.19	2.54

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

[1] 7 F.R. 9955; 8 F.R. 542, 1228, 2337.

This amendment shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

JOHN E. HAMM,
Acting Administrator.

Approved:

PAUL H. APPLEBY,
Acting Secretary of Agriculture.

[F. R. Doc. 43-4836; Filed, March 29, 1943; 4:17 p. m.]

PART 1355—LEAD

[RPS 69,[1] Amendment 4]

PRIMARY LEAD

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

Section 1355.9 (a) is amended by revising the table of maximum prices contained therein to read as follows:

Grade or type	Maximum price per pound (delivered buyer's rail receiving point)		
	St. Louis	New York	Other points
Pigs			
(1) Common lead	6.35¢	6.50¢	Base price.
(2) Corroding lead	6.45¢	6.60¢	Base price plus .10¢.
(3) Chemical lead	6.45¢	6.60¢	Base price plus .10¢.
(4) Copperized lead made from:			
(a) Common lead	6.40¢	6.55¢	Base price plus .05¢.
(b) Corroding lead	6.50¢	6.65¢	Base price plus .15¢.
Billets			
(1) Common lead	6.60¢	6.75¢	Base price plus .25¢.
(2) Corroding lead	6.70¢	6.85¢	Base price plus .35¢.
(3) Chemical lead	6.70¢	6.85¢	Base price plus .35¢.
(4) Copperized lead made from:			
(a) Common lead	6.65¢	6.80¢	Base price plus .30¢.
(b) Corroding lead	6.75¢	6.90¢	Base price plus .40¢.
Ingots or linked ingots			
(1) Common lead	6.85¢	7.00¢	Base price plus .50¢.
(2) Corroding lead	6.95¢	7.10¢	Base price plus .60¢.
(3) Chemical lead	6.95¢	7.10¢	Base price plus .60¢.
(4) Copperized lead made from:			
(a) Common lead	6.90¢	7.05¢	Base price plus .55¢.
(b) Corroding lead	7.00¢	7.15¢	Base price plus .65¢.

This amendment shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March, 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4837; Filed, March 29, 1943; 4:13 p. m.]

PART 1378—COMMODITIES OF MILITARY SPECIFICATIONS FOR MILITARY PURPOSES

[MPR 157,[2] Amendment 7]

SALES AND FABRICATION OF TEXTILES, APPAREL AND RELATED ARTICLES FOR MILITARY PURPOSES

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

Section 1378.6a is added to read as follows:

§ 1378.6a *Adjustable pricing.* Notwithstanding any other provisions of this regulation, any person may offer or agree to sell or buy a commodity containing crude rubber at a price in excess of the maximum price in effect at the time the offer is made, in order to reflect the increase in the price of crude rubber occurring after March 31, 1943: *Provided,* That no person shall pay or receive a price for a commodity covered by this regulation which is in excess of the maximum price in effect at the time of delivery.

This amendment shall become effective April 1, 1943.

(Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4838; Filed, March 29, 1943; 4:19 p. m.]

PART 1394—RATIONING OF FUEL AND FUEL PRODUCTS

[RO 11,[1] Amendment 55]

FUEL OIL RATIONING REGULATIONS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Section 1394.5201 (b) (7) is amended by substituting the phrase "March 29, 1943" for the phrase "April 6, 1943."

This amendment shall become effective on March 29, 1943.

(Pub. Law 471, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.; Pub. Law 421, 77th Cong.; W.P.B. Directive No. 1, 7 F.R. 562; Supp. Directive No. 1-0, 7 F.R. 8418; E.O. 9125, 7 F.R. 2719)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4839; Filed, March 29, 1943; 4:18 p. m.]

PART 1396—FINE CHEMICALS AND DRUGS

[RPS 101, as Amended]

CITRIC ACID; ORDER OF REVOCATION

Revised Price Schedule No. 101, as amended (§§ 1396.851 to 1396.859, inclusive) is hereby revoked.

This order of revocation shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4841; Filed, March 29, 1943; 4:12 p. m.]

PART 1404—RATIONING OF FOOTWEAR

[RO 17, Amendment 8]

SHOES

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Ration Order 17 is amended in the following respect:

1. Section 1.4a is added to read as follows:

SEC. 1.4a *Consumers may get extra shoes when in localities having no shoe stores.* (a) Any person residing in the United States who needs more than two pairs of shoes at one time because his occupation requires him to be away from home and in a locality where he has no access to establishments selling shoes for a long period of time, may apply to his local Board for stamps (or temporary shoe purchase certificates) for the additional number of pairs of shoes needed by him during such period. Application shall be made in writing and shall contain all information on which the eligibility of the applicant is based.

This amendment shall become effective March 29, 1943.

(Pub. Law 671, 76th Cong. as amended by Pub. Laws 89, 421 and 507, 77th Cong.; W.P.B. Dir. 1, 7 F.R. 562, Supp. Dir. 1-T, 8 F.R. 1727; E.O. 9125, 7 F.R. 2719)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4846; Filed, March 29, 1943; 4:18 p. m.]

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

[1] 7 F.R. 1339, 2132, 2278, 2997, 8948; 8 F.R. 612.

[2] 7 F.R. 4273, 4541, 4618, 5180, 5716, 6004, 6424, 8948.

[1] 7 F.R. 8480, 8708, 8809, 8897, 9316, 9396, 9492, 9427, 9430, 9621, 9478, 10153, 10081, 10379, 10530, 10531, 10780, 10707, 11118, 11071, 1466, 11005; 8 F.R. 164, 237, 437, 369, 374, 535, 439, 444, 607, 608, 977, 1204, 1235, 1282, 1681, 1636, 1859, 2194, 2432, 2598, 2781, 2730, 2887, 2942, 2993, 2887, 3106, 3521, 3628.

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 13,[1] Amendment 7]

PROCESSED FOODS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Ration Order 13 is amended in the following respect:

Section 5.10 (c) is amended by adding "after March 31, 1943" after the phrase "processed foods".

This amendment shall become effective March 29, 1943.

NOTE: All reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507, and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; W.P.B. Directive 1, 7 F.R. 562; Food Directive 3, 8 F.R. 2005, and Food Directive 5, 8 F.R. 2251)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4847; Filed, March 29, 1943; 4:18 p. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 13,[1] Amendment 8]

PROCESSED FOODS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Ration Order 13 is amended in the following respect:

1. The following items are added to the list in Appendix A:

Apple cider.
Apple juice.

This amendment shall become effective 12:01 a. m., March 29, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; W.P.B. Directive 1, 7 F.R. 562; Food Directive 3, 8 F.R. 2005, and Food Directive 5, 8 F.R. 2251)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4848; Filed, March 29, 1943; 4:17 p. m.]

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

[1] 8 F.R. 1840, 2288, 2677, 2681, 2684, 2943, 3179.

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 13,[1] Rev. Supp. 1]

PROCESSED FOODS

Supplement 1 and Amendment 1 thereto, to Ration Order 13, are amended to read as follows:

§ 1407.1102 *Revised Supplement 1 to Ration Order 13.* The following supplement to Ration Order 13, which is annexed to and made a part of § 1407.1101, is hereby issued:

(a) Processed food shall have the point values set forth in the Official Table of Point Values (No. 2) which is made a part hereof: [2]

(b) The industrial user allotment factors which are referred to in section 6.6 (c) of Ration Order 13 are as follows:

(1) Canned and bottled processed foods, and dry beans, peas, and lentils—2.5;

(2) Dried and dehydrated processed foods, including dried and dehydrated soups and soup mixtures—5.1;

(3) Frozen processed foods—3.3.

(c) The wholesale factor which is referred to in section 4.6 (b) of Ration Order 13 is 6.

(d) The retail factor which is referred to in section 5.8 (b) of Rational Order 13 is 3.

This supplement shall become effective 12:01 a. m. on March 29, 1943.

(Pub. Law 671, 76th Cong. as amended by Pub. Laws 89, 421, and 507, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; W.P.B. Directive 1, 7 F.R. 562; Food Directive 3, 8 F.R. 2005, and Food Directive 5, 8 F.R. 2251)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4842; Filed, March 29, 1943; 4:20 p. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 16,[3] Amendment 2]

MEAT, FATS, FISH AND CHEESES

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Ration Order 16 is amended in the following respects:

1. In the *Preamble* under the undesignated head note *How Retailers and Wholesalers Operate*, the word "his" between the word "sell" and the word "points" is deleted and the word "with" is inserted in its place.

2. Section 2.3 (f) is added to read as follows:

(f) *Consumers may give up points before delivery of butter or rationed cheeses.* A consumer may also acquire "butter" or "rationed cheeses" from a mobile conveyance operated on a regular delivery route by giving up stamps before he acquires the foods. If the seller or transferor cannot fill all or any part of the order, he will return a ration check for the difference. The consumer must exchange that check, at any board, for a certificate which he can then use to get foods covered by this order.

3. Section 2.5 (b) is amended by deleting the comma after the word "above" and inserting a parenthesis in its place.

4. Section 3.1 (a) is amended by deleting the words "wholly from foods not covered by this order, (whether or not they are later processed)."

5. Section 3.1 (b) is amended by deleting the first sentence and inserting in its place the following sentence: Any person may lend any foods he produces, primarily for consumption in his own household, wholly from foods not covered by this order (whether or not they are later processed) to any consumer, without the surrender of points.

6. Section 3.1 (b) is amended by inserting a comma between the word "produced" and the word "in".

7. Section 4.3 (a) (1) (i) is amended by deleting the word "thereby" and inserting the words "there by" in its place.

8. Section 4.4 (b) is amended by deleting the word "both" and inserting the word "all" in its place.

9. Section 4.6 (a) is amended by deleting the word "price" and inserting the word "place" in its place.

10. Section 6.8 (d) is amended by inserting between the word "his" and the word "transfers" the word "other".

11. Section 6.9 (a) is amended by deleting the word "customers" and inserting the word "consumers".

12. Section 6.10 (a) is amended by deleting the word "condition" and inserting the word "conditions" in its place.

13. Section 6.10 (c) (2) is amended by deleting the word "is".

14. Section 7.4 (b) is amended by inserting the following sentence between the sentence ending with the word "establishments" and the sentence beginning with the word "If": If he has any such foods at, or in transit to, any place which is not his industrial user establishment, for industrial use at that establishment, he must include them in the inventory of that establishment.

15. The text of section 7.5 (d) is redesignated as section 7.5 (c).

16. Section 9.2 (h) is added to read as follows:

(h) *Certain primary distributors and retailers.* Any primary distributor or retailer who receives stamps or certificates from consumers before the time when "butter" or "rationed cheeses" are transferred from his mobile conveyance

[1] 8 F.R. 1840, 2288, 2677, 2681, 2684, 2943, 3179.

[2] Filed with the Division of the Federal Register as part of the original document.

[3] 8 F.R. 3595.

operated on a regular delivery route, must open a ration bank account.

17. Section 9.3 (a) is amended by deleting the last sentence, which is within parentheses, and inserting in its place the following sentence: However, any person who sells or transfers foods covered by this order to consumers may retain and need not deposit in his ration bank account enough loose one-point stamps for use in returning excess points to consumers pursuant to section 2.3 (c). (Section 3.2 (a) states another exception to this paragraph.)

18. Section 10.2 (b) is amended by deleting the number "10" and inserting the number "11".

19. Section 10.4 (c) (1) is amended by inserting the following sentence between the sentence ending with the word "consumers" and the sentence beginning with the word "If": "f he sells from a truck or other mobile conveyance, the tables must be posted in it.

20. Section 10.4 (j) is added to read as follows:

(j) *Transfers of butter and rationed cheeses from mobile conveyances.* (1) "Butter" or "rationed cheeses" may also be transferred to consumers from mobile conveyances operated on a regular delivery route if a certificate or stamps are received before the time the foods are transferred.

(2) If the transferor fails to deliver foods equal in point value to the points received, he shall issue and return to the consumer a ration check for the balance.

(3) No primary distributor or retailer may receive stamps or certificates from and make transfers to consumers under this paragraph unless he has a ration bank account.

21. Section 10.7 (b) is amended by inserting between the word "registered" and the word "separately" the words ", or are to be registered,".

22. Section 10.9 (a) is amended by adding to and at the end of the last sentence the following words: "and transfers of 'butter' and 'rationed cheeses' from mobile conveyances."

23. Section 10.10 (b) is amended to read as follows:

(b) The Collector of Customs shall turn over, each month, to the District Office for the area in which the point of entry is located, all points received by him in this way during the preceding month.

24. Section 11.10 (a) (2) is amended to read as follows:

(2) A person engaged principally and primarily in the business of adjusting losses or of reconditioning or selling damaged articles.

25. Section 12.3 (a) is amended by deleting the words "will be" between the word "establishment" and the word "located" and inserting the word "is" in their place.

26. Section 17.6 is added to read as follows:

SEC. 17.6 *Office of Price Administration may require applicants to give information.* (a) The Washington office, a "board", or a district manager, State director or regional administrator may require any person who files an application or an appeal under this order to appear in person, to bring witnesses and to supply any information needed for passing on his case.

27. Section 22.1 (a) is amended by inserting between the word "the" and the word "War" the words "Maritime Commission,".

28. The head-notes of section 22.5 and section 22.5 (a) are amended to read as follows:

SEC. 22.5 *Veterans' Administration may apply for certificates under General Ration Order 5.* (a) The Veterans' Administration may obtain foods covered by this order for institutional use and may use such foods in accordance with the provisions of General Ration Order 5.

29. Section 22.7 (b) is amended by deleting the word "Cutsoms" and inserting the word "Customs" in its place.

30. Section 24.1 (a) is amended by deleting from the definition of "butter" the quotation mark before the word "edible" and inserting a quotation mark between that word and the word "fat"; by inserting in that definition between the words "defined by" and the word "section" the words "chapter 840,"; and by inserting therein between the words "amended by" and the word "section" the words "chapter 784,".

31. Section 24.1 (a) is amended by inserting in the definition of "margarine" between the words "defined in" and the word "section" the words "chapter 840,"; by deleting from that definition the number "210" and inserting the number "209" in its place; and by inserting therein between the words "amended by" and the word "section", the words "chapter 882,".

32. Section 24.1 (a) is amended by deleting the definition of the word "refine" and inserting in its place the following definition: "Refine" means to treat with caustic soda, soda ash, or otherwise reduce the free fatty acid content.

This amendment shall become effective March 29, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; W.P.B. Dir. 1, 7 F.R. 562, and Supp. Dir. 1-M, 7 F.R. 7234; Food Dir. 1, 8 F.R. 827; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471.)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F.R. Doc. 43-4843; Filed, March 29, 1943; 4:18 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 15 Under § 1499.18(c), as Amended, of GMPR]

STEIN-HALL MANUFACTURING COMPANY

Order No. 15 under § 1499.18(c), as amended, of the General Maximum Price Regulation; Docket No. GF3-2882.

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

§ 1499.1515 *Adjustment of maximum price for sales of wheat flour adhesive PMS-23 by Stein-Hall Manufacturing Company.* (a) The maximum price for the sale of wheat flour adhesive PMS-23 by Stein-Hall Manufacturing Company, 2841 South Ashland Avenue, Chicago, Illinois, shall be $3.48 per hundred pounds.

(b) All discounts, trade practices, and practices relating to the payment of transportation charges in effect during March 1942 on the sale of wheat flour adhesive PMS-23 by Stein-Hall Manufacturing Company shall apply to the maximum price set forth in paragraph (a).

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

(d) This Order No. 15 may be revoked or amended by the Price Administrator at any time.

This order shall become effective March 30, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4845; Filed, March 29, 1943; 4:15 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Amendment 143 to Supp. Reg. 14[1] to GMPR[2]]

SULFURIC ACID SOLD ON LONG TERM CONTRACTS

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

Section 1499.73 (a) (87) is added to read as follows:

§ 1499.73 (a) * * *

(87) *Sulfuric acid sold on long term contracts.* (i) The maximum prices for sales of sulfuric acid by any manufacturer thereof to any buyer under a contract entered into prior to March 1942 under which the contract price is to be adjusted for fluctuations in the cost of raw materials, labor, or both, shall be the maximum prices for such sales determined under § 1499.2 of the General Maximum Price Regulation: *Provided,* That

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

[1] 7 F.R. 5486, 5709, 6008, 5911, 6271, 6369, 6477, 6473, 6774, 6775, 6793, 6887, 6892, 6776, 7011, 7012, 6965, 7250, 7289, 7203, 7365, 7401, 7453, 7400, 7510, 7536, 7604, 7538, 7511, 7536, 7535, 7739, 7671, 7812, 7914, 7946, 8237, 8024, 8199, 8351, 8358, 8524, 8652, 8707, 8881, 8899, 9082, 8950, 9131, 8953, 8954, 8955, 8959, 9043, 9196, 9397, 9391, 9495, 9496, 10381, 9639, 9496, 9496, 9786, 9900, 9901, 10069, 1011, 10022, 10151, 10231 10294, 10346, 10381, 10480, 10583, 10537, 10705, 10557, 10583, 10865, 11005; 8 F.R. 276, 439, 535, 494, 589, 863, 980, 1030, 876, 878.

[2] 8 F.R. 3096.

the buyer and seller adjust prices under such a contract on any delivery completed after April 2, 1943 to a price not in excess of the maximum price established under any maximum price regulation to be issued by the Office of Price Administration specifically establishing maximum prices for sulfuric acid.

This amendment shall become effective April 3, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4844; Filed, March 29, 1943; 4:13 p. m.]

PART 1396—FINE CHEMICALS AND DRUGS

[MPR 353]

CERTAIN FINE CHEMICALS

Saccharin.	Ethyl vanillin.
Caffeine.	Coumarin.
Anhydrous caffeine.	Salicylic acid.
Theobromine.	Acetylsalicylic acid.
Citrated caffeine.	Citric acid.
Vanillin.	Ascorbic acid.

In the judgment of the Price Administrator, it is necessary and proper, in order to effectuate the purposes of the Emergency Price Control Act of 1942, as amended, that maximum prices be established for the sale of certain fine chemicals. The following regulation supersedes Revised Price Schedules Nos. 99,[1] 101 as amended,[2] 103,[3] and 104,[4] and supersedes the provisions of the General Maximum Price Regulation [5] insofar as the sales of these fine chemicals are covered by this regulation. The Price Administrator has ascertained and given due consideration to the prices of certain fine chemicals prevailing between October 1 and October 15, 1941, and has made adjustments for such relevant factors as he has determined and deemed to be of general applicability. So far as practical, the Price Administrator has advised and consulted with representative members of the industry which will be affected by this regulation.

The maximum prices established by this regulation are, in the judgment of the Price Administrator, generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250. A statement of the considerations involved in the issuance of this regulation has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, Maximum Price Regulation No. 353 is hereby issued.

Sec.

1396.51 Applicability of this regulation.
1396.52 Trade practices and terms relating to maximum prices.
1396.53 Records and reports.
1396.54 Prohibited practices.
1396.55 Methods of preventing or penalizing sales at higher than maximum prices.
1396.56 Petitions for amendment.
1396.57 Definitions.
1396.58 Effective dates.
1396.59 Appendix A: Maximum prices.

AUTHORITY: §§ 1396.51 to 1396.59, inclusive, issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.

§ 1396.51 *Applicability of this regulation*—(a) *Commodities covered by this regulation.* This regulation applies only to the fine chemicals listed below:

Saccharin.
Caffeine.
Anhydrous caffeine.
Theobromine.
Citrated caffeine.
Vanillin.
Ethyl vanillin.
Coumarin.
Salicylic acid.
Acetylsalicylic acid.
Citric acid.
Ascorbic acid.

These fine chemicals are referred to in this section as the "fine chemicals listed above."

A definition of each of these chemicals as used in this regulation is given in § 1396.57 *Definitions.*

(b) *Prohibition of sales at higher than maximum prices.* On and after April 3, 1943, regardless of any contract or other obligation, no person shall sell or deliver and no person shall buy or receive in the course of trade or business any of the fine chemicals listed above at higher prices than the maximum prices established by this regulation; no person shall agree, offer, solicit, or attempt to do any of the foregoing.

Lower prices than the maximum prices established by this regulation may be charged, demanded, offered, or paid.

(c) *Transactions excluded from this regulation and covered by other regulations.* The maximum prices established by this regulation shall apply to all sales and deliveries of the fine chemicals listed above except as provided in the following six subparagraphs:

(1) *Sales at retail.* This regulation does not apply to sales at retail. The maximum prices for sales at retail of the fine chemicals listed above are the maximum prices established by the General Maximum Price Regulation.

(2) *Sales of reagent grades.* This regulation does not apply to sales of reagent grades

(i) To a person for use in medicinal or chemical preparations where such reagent grades have been customarily used, or

(ii) To a person who purchases for resale to a person mentioned in subdivision (i).

The maximum prices for sales of reagent grades of the fine chemicals listed above to the purchasers mentioned in subdivisions (i) and (ii) are the maximum prices established by the General Maximum Price Regulation.

(3) *Sales in tablet or capsule form.* This regulation does not apply to sales in tablet or capsule form. The maximum prices for sales of the fine chemicals listed above in tablet or capsule form are the maximum prices established by the General Maximum Price Regulation.

(4) *Sales in the territories and possessions.* This regulation applies only to the forty-eight states of the United States and the District of Columbia and does not apply to the territories and possessions of the United States.

(5) *Exports.* This regulation does not apply to exports except as it establishes domestic maximum prices which are used as base prices for the determination of export prices. The maximum prices at which any person may export the fine chemicals listed above are established by Revised Maximum Export Price Regulation.[6]

(6) *Imports.* This regulation does not apply to imports. The maximum prices which an importer may charge for the fine chemicals listed above which have been imported are established by Revised Supplementary Regulation No. 12 [7] to the General Maximum Price Regulation.

§ 1396.52 *Trade practices and terms relating to maximum prices*—(a) *Containers.* The maximum prices established by this regulation shall not be increased by any charges for containers. Sellers may, however, require the return of containers of 25 pound size or larger. When sales are made in containers which are to be returned, the seller may require a reasonable deposit for the return of such containers, but the deposit must be refunded to the buyer upon return of the containers in good condition within a reasonable time. Transportation costs with respect to the return of empty containers to the seller for which a deposit has been charged shall in all cases be borne by the seller. If the seller permits the buyer to furnish his own containers, the transportation costs with respect to sending the empty containers to the seller shall in all cases be borne by the seller.

(b) *Discounts, credit terms, and transportation charges.* Each seller shall apply to the maximum prices established by this regulation for each fine chemical the same discounts, credit terms, and practices relating to the payment of freight charges and other transportation costs which were in effect on October 15, 1941, on sales by the seller of the particular fine chemical.

(c) *Broker's commissions.* If the buyer purchases through a broker or other agent acting for the buyer, the sum of the price paid by the buyer to the seller plus the commission, fee, or other charge paid by the buyer to his broker or other agent may not exceed the maximum prices established by this regulation.

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

[1] 7 F.R. 1393, 2132, 8203, 8948.
[2] 7 F.R. 3897, 7602, 8948.
[3] 7 F.R. 1402, 2132, 8203, 8948.
[4] 7 F.R. 1403, 2132, 7530, 8948.
[5] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4497, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5565, 5484, 5775, 5784, 5783, 6058, 6081, 6007, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 8942, 9434, 9615, 9616, 9732, 10155, 10454; 8 F.R. 371, 1204, 1317, 2029, 2110, 2346, 3096.

[6] 7 F.R. 5059, 7242, 8829, 9000, 10530.
[7] 7 F.R. 10532; 8 F.R. 611, 2035.

(d) *Federal and state sales taxes.* There may be added to the maximum prices established by this regulation the amount of any tax upon the sale or delivery of a fine chemical imposed by a statute of the United States or statute or ordinance of a state or subdivision thereof, if but only if,

(1) The statute or ordinance requires or permits the seller to state the tax separately from the purchase price, and

(2) The tax is separately stated and collected by the seller.

(e) *Adjustable pricing.* A seller and a buyer may agree to adjust a purchase price to a price not in excess of the maximum price in effect at the time of delivery. But a price may not be made adjustable to a maximum price which will be in effect at some time after the delivery. For example, if a contract is made for the sale of a fine chemical to be delivered six months later, the contract may provide that the purchase price will be adjusted upward to the new maximum price if prior to the time of delivery a higher maximum price has been established for the fine chemical. But the parties may not agree to adjust the purchase price of a fine chemical to be delivered one month later to the maximum price in effect six months later.

In an appropriate situation where a petition for amendment requires extended consideration, the Price Administrator may, upon application, grant permission to agree to adjust prices upon deliveries made during the pendency of the petition in accordance with the disposition of the petition.

§ 1396.53 *Records and reports.* (a) Every seller making a sale of one pound or more of any of the fine chemicals for which maximum prices are established by this regulation after April 2, 1943, shall keep, for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942, as amended, remains in effect, complete and accurate records of each sale of one pound or more showing:

(1) The date,

(2) The name and address of the seller and of the buyer,

(3) The name of the fine chemical and the kind and grade,

(4) The quantity,

(5) The size of the container,

(6) The price charged or received,

(7) The cash discount or credit terms, and

(8) The transportation provisions.

If a seller retains an invoice or a duplicate copy of an invoice containing this information in his files for the specified period, he will have complied with the record requirements of this section.

(b) A primary distributor of one or more of the fine chemicals for which maximum prices are established by this regulation shall submit to the Office of Price Administration in Washington, D. C. before May 1, 1943, a list of these fine chemicals of which he is a primary distributor.

(c) Persons affected by this regulation shall submit such reports to the Office of Price Administration as may from time to time be required.

§ 1396.54 *Prohibited practices*—(a) *General.* Any practice which is a device to evade the price limitations set forth in this regulation, whether by direct or indirect methods, or by the use of commissions, service charges, transportation charges, premiums, combination sales, tying-agreements, and the like, in connection with the sale of a fine chemical alone or together with any other commodity, is prohibited by this regulation.

(b) *Specific prohibited practices.* The following are among the specific practices prohibited:

(1) Securing the effect of a higher price by changing credit practices or cash discounts or practices relating to the payment of transportation charges from those in effect on October 15, 1941. This includes reducing the cash discount period, decreasing credit periods, making greater charges for extension of credit or requiring purchasers to pay part or all of the transportation charges where no such requirement was made on October 15, 1941.

(2) Selling the fine chemical in tablet or capsule form or diluted or in solution in order to evade the maximum prices established by this regulation.

(3) Breaking up a sale which would normally be a single sale into a series of smaller sales in order to evade the price limitations set forth in this regulation.

(4) Charging a purchasing commission based on the quantity or value of the fine chemical purchased, if the commission plus the purchase price is higher than the maximum price permitted by this regulation.

§ 1396.55 *Methods of preventing or penalizing sales at higher than maximum prices*—(a) *Enforcement.* Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, suits for treble damages and proceedings for suspension of licenses provided by the Emergency Price Control Act of 1942, as amended.

(b) *Licensing.* Supplementary Order No. 11 [8] licenses all sellers under this regulation who are distributors as the term "distributor" is defined in the order. This order, in brief, provides that a license is necessary for primary distributors and resellers to make sales under this regulation. A license is automatically granted to these sellers. It is not necessary to apply specially for the license, but a registration may later be required. The Emergency Price Control Act of 1942, as amended, and Supplementary Order No. 11 describe the circumstances under which licenses may be suspended.

§ 1396.56 *Petitions for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1.[9]

§ 1396.57 *Definitions.* (a) When used in this regulation the term:

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

(2) "Fine chemicals" means the following chemicals:

Saccharin.
Caffeine.
Anhydrous caffeine.
Theobromine.
Citrated caffeine.
Vanillin.
Ethyl vanillin.
Coumarin.
Salicylic acid.
Acetylsalicylic acid.
Citric acid.
Ascorbic acid.

Each of these chemicals is defined as it is used in this regulation in the subparagraphs which immediately follow.

(3) "Saccharin" includes saccharin U. S. P. and soluble saccharin U. S. P. and all other grades and kinds of saccharin.

(4) "Caffeine" includes caffeine U. S. P. and all other grades and kinds of caffeine except anhydrous caffeine.

(5) "Anhydrous caffeine" means caffeine with a water content not in excess of one percent by weight.

(6) "Theobromine" includes all grades and kinds of theobromine.

(7) "Citrated caffeine" includes citrated caffeine U. S. P. and all other grades and kinds of citrated caffeine.

(8) "Vanillin" includes vanillin U. S. P. and all other grades and kinds of vanillin.

(9) "Eugenol-vanillin" means vanillin produced by the eugenol process.

(10) "Lignin-vanillin" means vanillin produced by the lignin process.

(11) "Guaiacol-vanillin" means vanillin produced by the guaiacol process.

(12) "Ethyl vanillin" includes all grades and kinds of ethyl vanillin, a compound which is sometimes also referred to as bourbonal, ethylprotal, ethovan, vanillal, vanirome, or vanillodine.

(13) "Coumarin" includes coumarin N. F. and all other grades and kinds of coumarin.

(14) "Salicylic acid" includes salicylic acid U. S. P. and all other grades and kinds of salicylic acid.

(15) "Acetylsalicylic acid" includes acetylsalicylic acid U. S. P. and all other grades and kinds of acetylsalicylic acid.

(16) "Citric acid" include citric acid U. S. P. and all other grades and kinds of citric acid.

(17) "Ascorbic acid" includes ascorbic acid U. S. P. and all other grades and kinds of ascorbic acid, a compound which is sometimes also referred to as Vitamin C.

(18) "Producer" means a person who sells or deliver the particular fine chemical which he has synthesized, extracted,

[8] 7 F.R. 6167, 11007.

[9] 7 F.R. 8961; 8 F.R. 3313.

processed or otherwise made or manufactured, or which he has had some other person synthesize, extract, process or otherwise make or manufacture for him from materials supplied in whole or in part by him.

(19) "Primary distributor" means a person who purchases a particular fine chemical for resale and who, during the period from October 1, 1941, to March 31, 1942, made more than half of his purchases of that particular fine chemical during that period from producers at a discount of 5 percent or more from the producer's list prices. As used in this definition, "producer's list prices" means the quoted or published prices of a producer for sales to resellers or industrial consumers.

The determination of whether a person is a primary distributor or a reseller of a fine chemical must be made for each of the fine chemicals and a person may be a primary distributor of one fine chemical and a reseller of another.

(20) "Reseller" means any person selling a fine chemical of which he is neither the producer nor a primary distributor. A person may be a reseller of one fine chemical and a producer or a primary distributor of another. For example, a wholesale druggist will usually be a reseller.

(21) "Sale at retail" means a sale or delivery of a fine chemical to an ultimate consumer other than an industrial or commercial user.

(22) "Commercial or industrial user" means a person who purchases a fine chemical for use as a raw material in his production of a finished or semi-finished product.

(23) "Reagent grade" means a grade which is purer than the U. S. P. or N. F. grade and which was marketed and recognized as such prior to October 1, 1941.

(24) "Importer" means any person who purchases or receives a fine chemical, whenever the purchase or receipt involves the transportation of the fine chemical to the forty-eight states of the United States or District of Columbia from any place outside this area.

(b) Unless the context otherwise requires, the definitions set forth in section 203 of the Emergency Price Control Act of 1942, as amended, shall apply to other terms used in this regulation.

§ 1396.58 *Effective dates.* This regulation shall become effective April 3, 1943, *Provided,* That Revised Price Schedules Nos. 99, 101 as amended, 103, and 104 shall remain in effect until this Maximum Price Regulation No. 353 shall become effective April 3, 1943.

§ 1396.59 *Appendix A: Maximum prices.* The maximum prices for sales in container sizes for which no maximum prices are listed in each of the tables below shall be the maximum prices applicable to the next larger container size.

(a) *Saccharin*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of saccharin by producers and primary distributors are established as follows:

SACCHARIN—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Container size	Sold in quantities of—		
	1,000 lbs. and over	100 up to 1,000 lbs.	Less than 100 lbs.
100 lbs. or more	$1.30	$1.40	
25 lbs.	1.33	1.45	$1.60
5 lbs.	1.35	1.50	1.65
1 lb.	1.50	1.65	1.80
¼ lb.	1.65	1.80	1.95
1 oz.	2.05	2.20	2.35

(2) *Sales by resellers.* The maximum prices for sales of saccharin by resellers are established as follows:

SACCHARIN—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—			
	1,000 lbs. and over	100 up to 1,000 lbs.	10 up to 100 lbs.	Less than 10 lbs.
100 lbs. or more	$1.50	$1.61		
25 lbs.	1.53	1.67	$1.84	
5 lbs.	1.55	1.73	1.90	$2.15
1 lb.	1.73	1.90	2.07	2.34
¼ lb.	1.90	2.07	2.24	2.56
1 oz.	2.36	2.54	2.70	3.04

(b) *Caffeine*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of caffeine by producers and primary distributors are established as follows:

CAFFEINE—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Container size	Sold in quantities of—		
	100 lbs. and over	25 up to 100 lbs.	Less than 25 lbs.
100 lbs. or more	$2.80		
25 lbs.	2.83	$2.95	
10 lbs.	2.85	3.00	$3.15
5 lbs.	2.88	3.10	3.25
1 lb.	2.95	3.60	3.65
¼ lb.	3.05	3.93	3.98
1 oz.	3.25	4.91	4.96

(2) *Sales by resellers.* The maximum prices for sales of caffeine by resellers are established as follows:

CAFFEINE—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—		
	100 lbs. and over	25 up to 100 lbs.	Less than 25 lbs.
100 lbs. or more	$3.22		
25 lbs.	3.25	$3.40	
10 lbs.	3.28	3.45	$4.10
5 lbs.	3.31	3.57	4.23
1 lb.	3.39	4.14	4.75
¼ lb.	3.51	4.52	5.16
1 oz.	3.74	5.65	6.40

(c) *Anhydrous caffeine*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of anhydrous caffeine by producers and primary distributors, except as provided in subparagraph (2), are established as follows:

ANHYDROUS CAFFEINE—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Container size	Sold in quantities of—		
	100 lbs. and over	25 up to 100 lbs.	Less than 25 lbs.
100 lbs. or more	$3.00		
25 lbs.	3.03	$3.15	
10 lbs.	3.05	3.20	$3.35
5 lbs.	3.08	3.30	3.45
1 lb.	3.15	3.80	3.85
¼ lb.	3.25	4.13	4.18
1 oz.	3.45	4.96	4.96

(2) *Exception for sales by certain producers.* Each of the producers enumerated below may sell anhydrous caffeine of which he is the producer to industrial or commercial consumers at prices no higher than $9.00 per pound:

Casco Chemical Works, New York, New York.

Fallek Products, New York, New York.

Verona Chemical Company, Newark, New Jersey.

Robert & Company, New York, New York.

S. B. Penick & Company, New York, New York.

American Chlorophyll, Inc., Alexandria, Virginia.

(3) *Sales by resellers.* The maximum prices for sales of anhydrous caffeine by resellers are established as follows:

ANHYDROUS CAFFEINE—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—		
	100 lbs. and over	25 up to 100 lbs.	Less than 25 lbs.
100 lbs. or more	$3.45		
25 lbs.	3.48	$3.62	
10 lbs.	3.51	3.68	$4.36
5 lbs.	3.54	3.80	4.49
1 lb.	3.62	4.37	5.01
¼ lb.	3.74	4.75	5.44
1 oz.	3.97	5.70	6.40

(d) *Theobromine*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of theobromine by producers and primary distributors are established as follows:

THEOBROMINE—PRODUCERS AND PRIMARY DISTRIBUTORS

Container size	*Maximum price per pound*
25 lbs. or more	$2.80
10 lbs.	2.90
5 lbs.	3.00
1 lb.	3.15
¼ lb.	3.37
1 oz.	4.43

(2) *Sales by resellers.* The maximum prices for sales of theobromine by resellers are established as follows:

THEOBROMINE—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—	
	25 lbs. and over	Less than 25 lbs.
25 lbs. or more	$3.22	
10 lbs.	3.34	$3.77
5 lbs.	3.45	3.90
1 lb.	3.62	4.10
¼ lb.	3.88	4.40
1 oz.	5.12	5.76

(e) *Citrated caffeine*—(1) Sales by *producers and primary distributors.* The maximum prices for sales of citrated caffeine by producers and primary distributors are established as follows:

CITRATED CAFFEINE—PRODUCERS AND PRIMARY DISTRIBUTORS

Container size:	Maximum price per pound
100 lbs. or more	$1.95
25 lbs	2.05
10 lbs	2.30
5 lbs	2.30
1 lb	2.38
¼ lb	2.61
1 oz	3.68

(2) *Sales by resellers.* The maximum prices for sales of citrated caffeine by resellers are established as follows:

CITRATED CAFFEINE—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—	
	25 lbs. and over	Less than 25 lbs.
100 lbs. or more	$2.25	
25 lbs	2.36	
10 lbs	2.65	$2.99
5 lbs	2.65	2.99
1 lb	2.74	3.09
¼ lb	3.00	3.40
1 oz	4.24	4.80

(f) *Vanillin*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of vanillin by producers and primary distributors are established as follows:

VANILLIN—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound by type of vanillin]

Container size	Eugenol-vanillin	Guaiacol-vanillin or Lignin-vanillin
25 lbs. or over	$2.60	$2.35
5 lbs	2.65	2.40
1 lb	2.75	2.50
¼ lb	2.90	2.65
1 oz	3.20	2.95

(2) *Sales by resellers.* The maximum prices for sales of vanillin by resellers are established as follows:

VANILLIN—RESELLERS

[Maximum price per pound, by type of vanillin]

Container size	Eugenol-vanillin		Guaiacol-vanillan or Lignin-vanillin	
	Sold in quantities of—		Sold in quantities of—	
	5 lbs. or more	Less than 5 lbs.	5 lbs. or more	Less than 5 lbs.
5 lbs. or over	$3.05		$2.76	
1 lb	3.16	$3.58	2.88	$3.25
¼ lb	3.34	3.77	3.05	3.40
1 oz	3.68	4.16	3.39	3.84

(g) *Ethyl vanillin*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of ethyl vanillin by producers and primary distributors are established as follows:

ETHYL VANILLIN—PRODUCERS AND PRIMARY DISTRIBUTORS

Container size:	Maximum price per pound
25 lbs. or more	$5.25
5 lbs	5.30
1 lb	5.40
¼ lb	5.55
1 oz	5.85

(2) *Sales by resellers.* The maximum prices for sales of ethyl vanillin by resellers are established as follows:

ETHYL VANILLIN—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—	
	5 lbs. and over	Less than 5 lbs.
25 lbs. or more	$6.04	
5 lbs	6.10	
1 lb	6.21	$7.02
¼ lb	6.38	7.22
1 oz	6.73	7.68

(h) *Coumarin*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of coumarin by producers and primary distributors are established as follows:

COUMARIN—PRODUCERS AND PRIMARY DISTRIBUTORS

Container size:	Maximum price per pound
5 lbs. or more	$2.75
1 lb	2.90
¼ lb	3.10
1 oz	3.25

(2) *Sales by resellers.* The maximum prices for sales of coumarin by resellers are established as follows:

COUMARIN—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—	
	5 lbs. and over	Less than 5 lbs.
5 lbs. or more	$3.16	
1 lb	3.34	$3.77
¼ lb	3.57	4.04
1 oz	3.74	4.32

(i) *Salicylic acid*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of salicylic acid by producers and primary distributors are established as follows:

SALICYLIC ACID—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Quantity or container size	U. S. P.	Technical
Carload	$.28	$.26
100 lbs up to carload	.35	.33
50 lbs	.37	.35
25 lbs	.38	.36
5 lbs	.44	.42
1 lb	.46	.44

(2) *Sales by resellers.* The maximum prices for sales of salicylic acid by resellers are established as follows:

SALICYLIC ACID—RESELLERS

[Maximum price per pound]

Container size	U. S. P.		Technical	
	Sold in quantities of—		Sold in quantities of—	
	25 lbs. and over	Less than 25 lbs.	25 lbs. and over	Less than 25 lbs.
100 lbs. or more	$.40		$.38	
50 lbs	.43		.40	
25 lbs	.44		.41	
5 lbs	.51	$.57	.48	$.55
1 lb	.53	.60	.51	.57

(j) *Acetylsalicylic acid*—(1) *Sales by producers and primary distributors.* The maximum prices for sales of acetylsalicylic acid by producers and primary distributors are established as follows:

ACETYLSALICYLIC ACID—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Container size	50 mesh powdered or 20–40 mesh crystals	Any special mixture or formulae	10% starch granulation	16% starch granulation	20% starch granulation
100 lbs. or more	$.40	$.45	$.40	$.38	$.36
25 lbs	.41	.46	.41	.39	.37
5 lbs	.54	.59	.54	.52	.50
1 lb	.56	.61	.56	.54	.52

(2) *Sales by resellers.* The maximum prices for sales of acetylsalicylic acid by resellers are established as follows:

ACETYLSALICYLIC ACID—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of 25 lbs. or more				
	50 mesh powdered or 20–40 mesh crystals	Any special mixture or formulae	10% starch granulation	16% starch granulation	20% starch granulation
100 lbs. or more	$.46	$.52	$.46	$.44	$.41
25 lbs	.47	.53	.47	.45	.43
5 lbs	.62	.68	.62	.60	.58
1 lb	.64	.70	.64	.62	.60

[Maximum price per pound]

Container size	Sold in quantities of less than 25 lbs.				
	50 mesh powdered or 20–40 mesh crystals	Any special mixture or formulae	10% starch granulation	16% starch granulation	20% starch granulation
5 lbs. or more	$.70	$.77	$.70	$.68	$.65
1 lb	.73	.79	.73	.70	.68

(k) *Citric acid*—(1) *Sales by producers and primary distributors*—(i) *Citric acid U. S. P., granular, fine granular, and crystal.* The maximum prices for sales of citric acid U. S. P., granular, fine granular, and crystal, by producers and primary distributors are established as follows:

CITRIC ACID U. S. P., GRANULAR, FINE GRANULAR, AND CRYSTAL—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Container size	Sold in quantities of—					
	Carload or more	10,000 lbs. up to carload	200 up to 10,000 lbs.	100 up to 200 lbs.	25 up to 100 lbs.	Less than 25 lbs.
200 lbs. or more	$.20	$.205	$.21	------	------	------
100 lbs. or 112 lbs	.21	.21	.215	$.215	------	------
50 lbs	.22	.22	.22	.225	$.23	------
25 lbs	.23	.23	.23	.235	.24	------
5 lbs	.25	.25	.25	.255	.28	$.29

(ii) *Citric acid U. S. P. powdered.* The maximum prices for sales of citric acid U.S.P., powdered, by producers and primary distributors are established as follows:

CITRIC ACID, U. S. P., POWDERED—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Container size	Sold in quantities of—					
	Carload or more	10,000 lbs. up to carload	200 up to 10,000 lbs.	100 up to 200 lbs.	25 up to 100 lbs.	Less than 25 lbs.
200 lbs. or more	$.205	$.21	$.215	------	------	------
100 lbs	.215	.215	.22	$.22	------	------
50 lbs	.225	.225	.225	.23	$.235	------
25 lbs	.235	.235	.235	.24	.245	------
5 lbs	.255	.255	.255	.26	.285	$.30

(iii) *Citric acid anhydrous, granular and fine granular.* The maximum prices for sales of citric acid anhydrous, granular and fine granular, by producers and primary distributors are established as follows:

CITRIC ACID ANHYDROUS, GRANULAR AND FINE GRANULAR—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Container size	Sold in quantities of—					
	Carload and over	10,000 lbs. up to carload	200 up to 10,000 lbs.	100 up to 200 lbs.	25 up to 100 lbs.	Less than 25 lbs.
200 lbs. or more	$.225	$.23	$.235	------	------	------
100 lbs	.235	.235	.24	$.24	------	------
50 lbs	.245	.245	.245	.25	$.255	------
25 lbs	.255	.255	.255	.26	.265	------
5 lbs	.275	.275	.275	.28	.305	$.315

(iv) *Citric acid anhydrous, powdered.* The maximum prices for sales of citric acid anhydrous, powdered, by producers and primary distributors are established as follows:

CITRIC ACID ANHYDROUS, POWDERED—PRODUCERS AND PRIMARY DISTRIBUTORS

[Maximum price per pound]

Container size	Sold in quantities of—					
	Carload and over	10,000 lbs. up to carload	200 up to 10,000 lbs.	100 up to 200 lbs.	25 up to 100 lbs.	Less than 25 lbs.
200 lbs. or more	$.23	$.235	$.24	------	------	------
100 lbs	.24	.24	.245	$.245	------	------
50 lbs	.25	.25	.25	.255	$.26	------
25 lbs	.26	.26	.26	.265	.27	------
5 lbs	.28	.28	.28	.28	.31	$.32

(2) *Sales by resellers*—(i) *Citric acid U.S.P., granular, fine granular, and crystal.* The maximum prices for sales of citric acid U.S.P., granular, fine granular, and crystal, by resellers are established as follows:

CITRIC ACID U. S. P., GRANULAR, FINE GRANULAR, AND CRYSTAL—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—				
	10,000 lbs. and over	200 up to 10,000 lbs.	100 up to 200 lbs.	25 up to 100 lbs.	Less than 25 lbs.
200 lbs. or more	$.24	$.24	------	------	------
100 lbs. or 112 lbs	.24	.25	$.28	------	------
50 lbs	.255	.255	.29	$.30	------
25 lbs	.265	.265	.31	.31	------
5 lbs	.29	.29	.33	.36	$.38

(ii) *Citric acid U.S.P. powdered.* The maximum prices for sales of citric acid U.S.P. powdered, by resellers are established as follows:

CITRIC ACID U. S. P. POWDERED—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—				
	10,000 lbs. and over	200 up to 10,000 lbs.	100 up to 200 lbs.	25 up to 100 lbs.	Less than 25 lbs.
200 lbs. or more	$.24	$.25	------	------	------
100 lbs	.25	.255	$.29	------	------
50 lbs	.26	.26	.30	$.31	------
25 lbs	.27	.27	.31	.32	------
5 lbs	.295	.295	.34	.37	$.38

(iii) *Citric acid anhydrous, granular and fine granular.* The maximum prices for sales of citric acid anhydrous, granular and fine granular, by resellers are established as follows:

CITRIC ACID ANHYDROUS, GRANULAR AND FINE GRANULAR—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—				
	10,000 lbs. and over	200 up to 10,000 lbs.	100 up to 200 lbs.	25 up to 100 lbs.	Less than 25 lbs.
200 lbs. or more	$.265	$.27	------	------	------
100 lbs	.27	.275	$.31	------	------
50 lbs	.28	.28	.325	$.33	------
25 lbs	.295	.295	.34	.345	------
5 lbs	.315	.315	.36	.40	$.41

(iv) *Citric acid anhydrous, powdered.* The maximum prices for sales of citric acid anhydrous, powdered, by resellers are established as follows:

CITRIC ACID ANHYDROUS, POWDERED—RESELLERS

[Maximum price per pound]

Container size	Sold in quantities of—				
	10,000 lbs. and over	200 up to 10,000 lbs.	100 up to 200 lbs.	25 up to 100 lbs.	Less than 25 lbs.
200 lbs. or more	$.27	$.275	------	------	------
100 lbs	.275	.28	$.32	------	------
50 lbs	.29	.29	.33	$.34	------
25 lbs	.30	.30	.34	.35	------
5 lbs	.32	.32	.37	.40	$.42

(l) *Ascorbic acid.* (1) *Sales by producers and primary distributors.* The maximum prices for sales of ascorbic acid by producers and primary distributors are established as follows:

ASCORBIC ACID—PRODUCERS AND PRIMARY DISTRIBUTORS

Container size:	*Maximum price per ounce*
1,000 ounces or more	$1.00
500 ounces	1.01
50 ounces	1.04
25 ounces	1.07
5 ounces	1.12
1 ounce	1.20

(2) *Sales by resellers.* The maximum prices for sales of ascorbic acid by resellers are established as follows:

ASCORBIC ACID—RESELLERS

[Maximum price per ounce]

Container size	Sold in quantities of—	
	25 ounces and over	Less than 25 ounces
1,000 ounces or more	$1.15	------
500 ounces	1.16	------
50 ounces	1.20	------
25 ounces	1.23	------
5 ounces	1.29	$1.46
1 ounce	1.38	1.56

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4840; Filed, March 29, 1943; 4:12 p. m.]

Chapter XIII—Petroleum Administration for War

PART 1515—PETROLEUM PRODUCTION OPERATIONS

[Petroleum Administrative Order 11]

The fulfillment of the requirements for the defense of the United States has created a shortage of materials necessary for the production of petroleum for defense, for private account, and for export; and the following order is deemed necessary in the public interest to promote the national defense, and to provide adequate supplies of petroleum for military and other essential purposes.

Pursuant to Conservation Order M–68 as amended January 4, 1943, (§ 1047.1), § 1047.1 (Conservation Order M–68) is renumbered § 1515.6 of this chapter and amended to read as follows:

§ 1515.6 *Petroleum Administrative Order No. 11*—(a) *Scope of this order.* Except as otherwise modified by the provisions of any order issued as a supplement to this order, the provisions of this order shall be applicable to petroleum production operations in the United States, its territories or possessions, but not elsewhere, and to the delivery, acquisition, or use of material for such operations.

(b) *Definitions.* (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) "Material" means any commodity, equipment, accessory, part, assembly, or product of any kind.

(3) "Petroleum" means petroleum, petroleum products, and associated hydrocarbons, including but not limited to natural gas, except that natural gas which has entered into gas transmission lines from field gathering lines shall not be so included.

(4) "Production" means any operation directly incident to:

(i) The discovery, development, or depletion of petroleum pools; or

(ii) The extraction or recovery of natural gasoline and associated hydrocarbons.

(5) "Production operation" means any use of material for construction, expansion, improvement, reconstruction, remodeling, alteration, maintenance, repair, or replacement incident to production.

(6) "Maintenance or repair" means (without regard to accounting practice) any use of material in production consisting of any of the following:

(i) The upkeep of material or equipment in a sound working condition; or

(ii) The restoration of material or equipment which has been rendered unsafe or unfit for service by wear and tear, damage, destruction, failure of parts or similar causes; or

(iii) A capital addition (excluding the installation or replacement of pumping or other artificial lifting equipment and the deepening or plugging back of any well) not exceeding in material cost $500 for any one complete operation which has not been subdivided for the purpose of coming within this definition.

Provided, That upkeep or restoration shall not include any use of material for the improvement of material or equipment by the replacement of material which is still serviceable in the existing material or equipment.

(7) "Exploratory well" means any well located at least two miles from every drilling or producible well: *Provided,* That exploratory well shall not include any well located in any field or area which at the time of the drilling of such well has been "proven" to be productive only of gas or condensate, or both, by the drilling of wells other than such well.

(8) "Pool" means any underground accumulation of crude petroleum or associated hydrocarbon substances, including but not limited to natural gas, constituting a single and separate reservoir or source of supply within a field, area or horizon, whether or not presently discovered or developed.

(9) "Lease equipment" means fixed or stationary equipment or material for direct or indirect use in production installed on any property located within the productive boundaries of any field including but not limited to oil treating equipment, salt water disposal or injection equipment, fresh water wells and the equipment therefor, or production office or camp facilities located adjacent to any field: *Provided,* That lease equipment shall not include: an oil, gas, or condensate well; well equipment, pumping or artificial lifting facilities, or flow, lead, and gathering lines for such well; cycling plants; pressure maintenance plants; secondary recovery plants; or plants for the extraction or recovery of natural gasoline and associated hydrocarbons or for other treatment or processing of gas.

(10) "Property interest" means any interest of an oil or gas lessee: *Provided,* That where no oil or gas lease exists on any parcel of land, the property interest in such land shall be deemed to be the aggregate of the interests in such land covering the right to drill for and produce petroleum.

(11) "Condensate field" means any field or pool designated as such by Exhibit A of this order, as amended from time to time.

(c) *Restrictions on acquisition and use of material.* Subject to the provisions of paragraph (f) of this order, no person shall accept delivery of, acquire, or use material for a production operation except where:

(1) Such material is to be used for maintenance or repair.

(2) Such material is to be used exclusively for operations directly involved in the search for and discovery of a previously unknown pool by means of geological, geophysical, or geochemical prospecting, or the drilling or completion of any exploratory well.

(3) Such material is to be used to complete any well actually being drilled on March 31, 1943, in conformity with any previously issued Conservation Order M–68 (§ 1047.1), or supplementary order thereto.

(4) Such material is to be used to construct, install, or extend a crude oil gathering line from the first valve on the discharge side of the lease or field shipping tank or battery where petroleum is first gauged to any transportation facility or such material is to be used to construct, install, or extend a field gathering line for the transmission of gas from the well-head connection to the point at which such gas leaves the gathering line: *Provided,* That material shall not be used to construct, install, or extend any such gathering line,

(i) Which duplicates in whole or in part the transportation functions of any existing gathering line or gathering lines; or

(ii) Which has a material cost when completed of more than $2,500.

(5) Such material is to be used for pumping or other artificial lifting equipment to be installed on a well located on any lease or tract on which the number of wells to which pumping or other artificial lifting equipment is attached does not at any time exceed an average of one well to every ten surface acres of the part or parts of such lease or tract which are contained within the productive limits of the field; or such material is to be used for pumping or other artificial lifting equipment to be installed on a well located on any lease or tract of ten acres or less on which no other well is located to which pumping or other artificial lifting equipment is attached and which lease or tract has not been subdivided or rearranged for the purpose of making the provisions hereof available.

(6) Such material is to be used to drill, complete, equip, connect, or provide additions to any oil well in any discovered oil field (other than a condensate field) in which the surface is divided into quarter-quarter sections (north, south, east or west quarter-quarters), on a quarter-quarter section of at least 35 surface acres in conformity with a uniform well-spacing pattern, as defined by paragraph (d) (1) of this order, of not more than one single drilling or producible well to each such quarter-quarter section.

(7) Such material is to be used to drill, complete, equip, connect, or provide additions to any oil well in any discovered oil field (other than a condensate field) in which the surface is not divided into quarter-quarter sections, in conformity with a uniform well-spacing pattern as defined by paragraph (d) (2) of this order, of not more than one single drilling or producible well to each 40 surface acres.

(8) Such material is to be used for lease equipment.

(9) Such material is to be used to plug-back and recomplete any oil well which conforms to all of the provisions of paragraph (c) (6) or (c) (7), whichever is applicable, except the provisions requiring that such well be the only well located upon the drilling unit and that such well be located at least 990 feet from every other drilling or producible well: *Provided,* That such well is not recompleted as a gas or condensate well.

(10) Such material is to be used in conformity with an exception issued under Conservation Order M–68 in response to an application in accordance with any OPC Form PD–214, an order issued as a supplement to this order, or an authorization of the Petroleum Administration for War issued in response to an application filed in accordance with paragraph (g) of this order.

(d) *Determination of uniform well-spacing pattern*—(1) *Quarter - quarter section drill units.* Each oil well located on a drilling unit consisting of a quarter-quarter section of at least 35 surface acres, pursuant to paragraph (c) (6) of this order, shall be drilled in accordance with a uniform well-spacing pattern, only where:

(i) Such well bears the same geographical relationship to the quarter-quarter section on which it is drilled as the first well spudded in the same field subsequent to December 23, 1941, on an approximately square drilling unit (consisting of at least 40 surface acres or a quarter-quarter section of at least 35 surface acres), bears to the drilling unit upon which it is located: *Provided,* That any well located within 100 feet of the point at which an identical geographical relationship would be attained or within 150 feet of the center of a quarter-quarter section shall, subject to paragraphs (d) (1) (iii) to (d) (1) (vii), inclusive, be deemed to conform to a uniform well-spacing pattern; or

(ii) Such well conforms only to paragraphs (d) (1) (iii) to (d) (1) (vii), inclusive, if it is the first well spudded in the field subsequent to December 23, 1941, on an approximately square drilling unit (consisting of at least 40 surface acres or a quarter-quarter section of at least 35 surface acres); and

(iii) All separate property interests in the quarter-quarter section upon which such well is drilled are first consolidated with each other; and

(iv) Such well is the only drilling or producible well located on the quarter-quarter section; and

(v) Such well is drilled at least 990 feet from every other drilling or producible well; and

(vi) Such well is drilled at least 330 feet from every lease line, property line, or subdivision line which separates unconsolidated property interests and from every border of the quarter-quarter section upon which such well is located; and

(vii) Such well is drilled with due diligence to maintain a vertical well-bore.

(2) *Drilling units other than quarter-quarter sections.* Each oil well located on a drilling unit consisting of not less than 40 surface acres, pursuant to paragraph (c) (7) of this order, shall be drilled in accordance with a uniform well-spacing pattern, only where:

(i) The drilling unit upon which such well is drilled consists entirely of acreage which is not attributable to any other oil well located within the same lease or property; and

(ii) All separate property interests in the drilling unit upon which such well is drilled are first consolidated with each other; and

(iii) The direct linear distance between any two points which are farthest removed from each other on the drilling unit upon which such well is drilled does not exceed the length of the diagonal of a rectangle, the length of which is twice its width and which is equivalent in surface acreage to such drilling unit; and

(iv) No portion of the drilling unit attributed to such well falls within 330 feet of any other drilling or producible well located within the same lease or property; and

(v) Such well is drilled at least 990 feet from every other drilling or producible well; and

(vi) Such well is drilled at least 330 feet from every lease line, property line, or subdivision line which separates unconsolidated property interests; and

(vii) Such well is drilled with due diligence to maintain a vertical well-bore.

(e) *Computation of attributable acreage.* (1) The acreage attributable to any well spudded on or before December 23, 1941, shall be determined by assigning to such well an acreage equivalent to that in the existing well density or drilling pattern contiguous to such well.

(2) The acreage attributable to any well spudded subsequent to December 23, 1941, shall be the same as the drilling unit assigned to such well pursuant to Conservation Order M-68, any Supplementary M-68 order, any exception issued pursuant to a determination under Conservation Order M-68, or pursuant to this order, any order issued as a supplement to this order, or any authorization issued in response to an application filed in accordance with paragraph (g) of this order, whichever is applicable.

(f) *Restrictions on installation of pumping or other artificial lifting equipment.* Notwithstanding the provisions of paragraphs (c) (5), (c) (6), (c) (7), and (c) (9), no person shall install pumping or other artificial lifting equipment upon any well prior to the time at which such well ceases to flow naturally or upon any well which will not be produced immediately after the installation of such pumping or other artificial lifting equipment and continuously thereafter to the extent permitted by law: *Provided,* That the provisions of this paragraph shall not apply to the installation of pumping or other artificial lifting equipment upon any well which has ceased to flow naturally at a rate at least equal to its "allowable production."

(g) *Application for exceptions pursuant to paragraph* (c) *(10).* (1) Applications for exception (authorization to accept delivery of, acquire, or use material for a production operation which does not conform to the provisions of paragraphs (c) (1) to (c) (9), inclusive) shall be made under paragraph (c) (10) of this Order in quadruplicate by letter and shall contain:

(i) The information specified in PAW Form PD-1 for any operation directly incident to the discovery, development or depletion of petroleum pools.

(ii) The information specified in PAW Form PD-2 for any operation incident to the extraction or recovery of natural gasoline or associated hydrocarbons.

(2) Information required for an authorization to accept delivery of, acquire, or use material shall be addressed to:

(i) The Director of Production where a crude oil operation, including pressure maintenance, repressuring, and secondary recovery operations; or

(ii) The Director of Natural Gas and Natural Gasoline where a natural gas, natural gasoline, or condensate operation.

Such information shall, unless otherwise directed, be submitted to the Petroleum Administration for War, Interior Building, Washington, D. C., Ref: PAO 11.

(h) *Revocation of Supplementary M-68 orders.* Supplementary Order No. M-68-1 (§ 1047.6), Supplementary Order No. M-68-2 (§ 1047.7), Supplementary Order No. M-68-4 (§ 1047.9), Supplementary Order No. M-68-6 (§ 1047.11), Petroleum Administrative Order No. 2 (§ 1515.1), and Petroleum Administrative Order No. 6 (§ 1515.2), as such orders may have been amended from time to time are hereby revoked except with respect to wells the actual physical drilling of which was either commenced or concluded pursuant to any such order on or prior to March 31, 1943, or except with respect to natural gasoline extraction plants the construction, expansion, improvement, reconstruction, remodeling, or alteration of which was either commenced or concluded pursuant to any such order on or prior to March 31, 1943. This action shall not be construed to relieve any person of the necessity of complying with any such order as to any well purportedly spudded under such order on or prior to March 31, 1943, or to affect any liabilities or penalties incurred thereunder, or to affect the status of any administrative process, any prosecution or the application of any penalty in connection with any such liabilities.

(i) *Directions.* The Petroleum Administration for War may, from time to time, issue directions with respect to the delivery, acquisition, or use of material for production purposes.

(j) *Violations.* Any person who wilfully violates any provision of this order, or who, by any act or omission, falsifies records kept or information furnished in connection with this order is guilty of a crime and upon conviction may be punished by fine or imprisonment.

Any person who wilfully violates any provision of this order may be prohibited from delivering or receiving any material under priority control, or such other action may be taken as is deemed appropriate.

(k) This order shall be effective on and after March 31, 1943.

(E.O. 9276, 7 F.R. 10091; E.O. 9125, 7 F.R. 2719; sec. 2 (a) Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 30th day of March 1943.

R. K. DAVIES,
Deputy Petroleum Administrator for War.

EXHIBIT A—CONDENSATE FIELDS

The following fields are hereby declared to be condensate fields for the purposes of this order: *Provided,* That where the name of a field is succeeded by the names of one or more pools or geological formations in parenthesis only the pools or formations so designated shall be deemed to be a condensate field:

EAST CENTRAL TEXAS

Field	County
Barron	Limestone.
Bethany	Panola.
Carthage	Panola.
Cayuga	Anderson, Henderson, Freestone.
Chapel Hill	Smith.
Grapeland	Houston.
Hawkins (Sub-Clarksville)	Wood.
Long Lake	Anderson, Freestone, Leon.
Opelika	Henderson.
Rodessa (Hill Sand)	Cass and Marion.
Tri-Cities	Henderson.
Willow Springs	Gregg.

EXHIBIT A—CONDENSATE FIELDS—Con.

TEXAS UPPER GULF COAST

Field	County
Aldine	Harris.
Alief	Harris.
Angleton	Brazoria.
Bammel	Harris.
Blessing	Matagorda.
Bucksnag	Colorado.
Buttermilk Slough	Matagorda.
Chocolate Bayou	Brazoria.
Dickinson-Gillock	Galveston.
Eureka Heights (Deep)	Harris.
Francitas	Jackson.
Joyce Richardson	Harris.
Hamman	Matagorda.
Katy	Waller.
Lake Creek	Montgomery.
Lissie	Wharton.
Needville	Fort Bend.
North Houston	Harris.
Old Ocean	Brazoria.
Orange Hill	Austin.
Palacios	Matagorda.
Pledger	Brazoria.
Port Lavaca	Calhoun.
Provident City	Lavaca.
Red Fish Reef	Chambers.
Rosenberg	Fort Bend.
Rosalyn	Harris.
Shepherd	San Jacinto.
Sheridan	Colorado.
South Anahuac	Chambers.
Texana	Jackson.
Vienna	Lavaca.
West Aldine	Harris.
Willow Slough	Chambers.

SOUTH TEXAS

Agua Dulce	Nueces.
Alice	Jim Wells.
Banquette	Nueces.
Ben Bolt	Jim Wells.
Blucher	Jim Wells.
Carolina—Texas	Webb.
Caloma Creek	Calhoun.
East Plymouth	San Patricio.
La Blanca	Hidalgo.
La Gloria	Jim Wells, Brooks.
La Rosa	Refugio.
La Reforma	Starr.
McAllen	Hidalgo.
McLean	Webb.
Mercedes	Hidalgo.
North Sweden (Hiawatha) sand on east flank of pool, only	Duval.
Nordheim	DeWitt.
Quinto Creek	Jim Wells.
Saint Charles	Aransas.
Sandia	Jim Wells.
San Salvador	Hidalgo.
Sejita	Duval.
Shield	Nueces.
Sinton	San Patricio.
Stratton	Nueces, Jim Wells, Kleberg.
Tuleta, West	Bee.
Weslaco	Hidalgo.
Yorktown	DeWitt.

SOUTH LOUISIANA

Abbeville	Vermilion.
Bateman Lake	St. Mary.
Branch	Acadia.
Belle Isle	St. Mary.
Chine	Jefferson Davis.
Deer Island	Terrebonne.
DaLarge	Terrebonne.
Delta Farms	La Fourche, Jefferson.
Erath	Vermilion.
Gibson	Terrebonne.
Krotz Springs	St. Landry.
La Fourche Crossing	La Fourche.
Lake Arthur	Jefferson Davis.
Lake Chicot	St. Martin.
Lake Long	La Fourche.
Lake Mongoulois	St. Martin.
Lakeside	Cameron.
LaPlace	St. John the Baptist.
Lewisburg	St. Landry.
Lirette	Terrebonne.
Little Chenicre	Cameron.
North Elton	Allen.
North Tepetate	Acadia.
Pecan Island	Vermilion.
Pecan Lake	Cameron.
Point au Fer	Terrebonne.
South Elton	Jefferson Davis.
South Jennings	Jefferson Davis.
Thornwell	Jefferson Davis.
Unknown Pass	Orleans.
West Gueydan	Vermilion.
West Mermentau	Jefferson Davis.

EXHIBIT A—CONDENSATE FIELDS—Con.

NORTH LOUISIANA

Field	County
Athens	Claiborne.
Bear Creek	Bienville.
Beekman	Morehouse.
Calvin	Winn.
Cotton Valley	Webster.
Lisbon	Claiborne.
Rodessa (Hill Sand)	Caddo.
Sibley	Webster.
Sligo	Bossier.
Sugar Creek	Claiborne.

ARKANSAS

Big Creek	Columbia.
Dorcheat	Columbia.
Macedonia	Columbia.
McKamie	Lafayette.
Texarkana	Miller.

CALIFORNIA

Helm	Fresno.
Paloma	Kern.

[F. R. Doc. 43-4863; Filed, March 30, 1943; 11:00 a. m.]

PART 1515—PETROLEUM PRODUCTION OPERATIONS

[Supplementary Order 1 to Petroleum Administrative Order 11]

General exception pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11.

§ 1515.7 *Supplementary Order No. 1 to Petroleum Administrative Order No. 11*—(a) *Scope of this order.* Except as otherwise modified by the provisions of any other order issued as a supplement to Petroleum Administrative Order No. 11 or by the provisions of any authorization issued pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11, the provisions of this order shall, to the extent provided herein, be applicable to natural gas production operations in the Appalachian Region, southeastern Kansas, northeastern Oklahoma, and all of the State of Missouri, but not elsewhere.

(b) *Definitions.* The definitions of Petroleum Administrative Order No. 11 shall apply in this order. In addition:

(1) "Area One" means the area and formations specified in paragraph (a) of Exhibit A hereof.

(2) "Area Two" means the area and formations specified in paragraph (b) of Exhibit A hereof.

(c) *Gas wells drilled in Area One.* Pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11, any person may accept delivery of, acquire, or use material for a natural gas production operation in Area One: *Provided,* That:

(1) Such material is used to drill, complete, equip, connect, or provide additions to any gas well in any gas field in conformity with a uniform well-spacing pattern, as defined by paragraph (d) of this order, of not more than one single drilling or producible gas well to each 160 surface acres.

(2) Such material is used to plug-back, deepen, recondition, recomplete, rework, or treat a gas well only within that pool from which such well is producing or last produced, for the purpose of maintaining or increasing the productivity of such well.

(3) Such material is used to plug-back or deepen from one pool to another, recondition, rework, treat, equip, connect, or provide additions to any gas well spudded in Area One on or before December 23, 1941, where such well has attributed to it a drilling unit of at least 160 surface acres, no part of which is attributable to any other gas well.

(d) *Determination of uniform well-spacing pattern in Area One.* Each gas well located in Area One on a drilling unit consisting of not less than 160 surface acres shall be drilled pursuant to paragraph (c) (1) of this order in accordance with a uniform well-spacing pattern, only where:

(1) The drilling unit upon which such well is drilled consists entirely of acreage which is not attributable to any other gas well located on the same lease or property; and

(2) No other drilling or producible gas well is drilled or located on such drilling unit; and

(3) All separate property interests in the drilling unit upon which such well is drilled are first consolidated with each other; and

(4) No portion of the drilling unit attributed to such well falls within 660 feet of any other drilling or producible well located within the same lease or property; and

(5) Such well is drilled at least 1,980 feet from every other drilling or producible gas well spudded subsequent to December 23, 1941, at least 990 feet from every other drilling or producible gas well spudded on or before December 23, 1941, and at least 990 feet from every drilling or producible oil well; and

(6) Such well is drilled at least 660 feet from every lease line, property line, or subdivision line which separates any unconsolidated property interests; and

(7) Such well is drilled with due diligence to maintain a vertical well-bore.

(e) *Gas well drilled in Area Two.* Pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11, any person may accept delivery of, acquire, or use material for a natural gas production operation in Area Two: *Provided,* That:

(1) Such material is used to drill, complete, equip, connect, or provide additions to any gas well in any gas field in conformity with a uniform well-spacing pattern, as defined by paragraph (f) of this order, of not more than one single drilling or producible gas well to each 40 surface acres.

(2) Such material is used to plug-back, deepen, recondition, recomplete, rework, or treat a gas well only within that pool from which such well is producing or last produced, for the purpose of maintaining or increasing the productivity of such well.

(3) Such material is used to plug-back or deepen from one pool to another, recondition, recomplete, rework, treat, equip, connect, or provide additions to any gas well spudded in Area Two on or before December 23, 1941, where such

well has attributed to it a drilling unit of at least 40 surface acres, no part of which is attributable to any other gas well.

(f) *Determination of uniform well-spacing pattern in Area Two.* Each gas well located in Area Two on a drilling unit consisting of not less than 40 surface acres shall be drilled pursuant to paragraph (e) (1) of this Order in accordance with a uniform well-spacing pattern, only where:

(1) The drilling unit upon which such well is drilled consists entirely of acreage which is not attributable to any other gas well located on the same lease or property; and

(2) No other drilling or producible gas well is drilled or located on such drilling unit; and

(3) All separate property interests in the drilling unit upon which such well is drilled are first consolidated with each other; and

(4) No portion of the drilling unit attributed to such well falls within 660 feet of any other drilling or producible well located within the same lease or property; and

(5) Such well is drilled at least 990 feet from every other drilling or producible gas well spudded subsequent to December 23, 1941, at least 990 feet from every other drilling or producible gas well spudded on or before December 23, 1941, and at least 990 feet from every drilling or producible oil well; and

(6) Such well is drilled at least 330 feet from every lease line, property line, or subdivision line which separates any unconsolidated property interests; and

(7) Such well is drilled with due diligence to maintain a vertical well-bore.

(g) *Computation of attributable acreage.* (1) The acreage attributable to any well spudded on or before December 23, 1941, shall be determined by assigning to such well an acreage equivalent to that in the existing well density or drilling pattern contiguous to such well.

(2) The acreage attributable to any well spudded subsequent to December 23, 1941, shall be the same as the drilling unit assigned to such well pursuant to Conservation Order M-68, any Supplementary M-68 Order, any exception issued pursuant to a determination under Conservation Order M-68, or pursuant to Petroleum Administrative Order No. 11, or any exception or supplementary order thereto.

(h) *Violations.* Any person who wilfully violates any provision of this order, or who, by any act or omission, falsifies records kept or information furnished in connection with this order is guilty of a crime and upon conviction may be punished by fine or imprisonment.

Any person who wilfully violates any provision of this order may be prohibited from delivering or receiving any material under priority control, or such other action may be taken as is deemed appropriate.

(i) This order shall be effective on and after March 31, 1943.

(E.O. 9276, 7 F.R. 10091; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 30th day of March 1943.

R. K. DAVIES,
Deputy Petroleum Administrator for War.

EXHIBIT A

(a) Area One includes only the Onandaga Limestone, Oriskany Sandstone and Devonian Shale horizons in the States of Kentucky, New York, Ohio, Pennsylvania, and West Virginia.

(b) Area Two includes:

(i) Any horizons other than the Onandago Limestone, Oriskany Sandstone, and Devonian Shale horizons in the States of Kentucky, New York, Ohio, Pennsylvania, and West Virginia; and

(ii) Any horizon in the State of Missouri, that portion of the State of Kansas which lies east of Range Two (2) east of the Sixth Principal Meridian, and that portion of the State of Oklahoma included in the counties of Adair, Cherokee, Craig, Creek, Delaware, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Pawnee, Rogers, Sequoyah, Tulsa, Wagoner and Washington.

[F. R. Doc. 43-4864; Filed, March 30, 1943; 11:00 a. m.]

PART 1515—PETROLEUM PRODUCTION OPERATIONS

[Supplementary Order 2 to Petroleum Administrative Order 11]

General exception pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11.

§ 1515.8 *Supplementary Order No. 2 to Petroleum Administrative Order No. 11*—(a) *Scope of this order.* Except as otherwise modified by the provisions of any other order issued as a supplement to Petroleum Administrative Order No. 11 or by the provisions of any authorization issued pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11, the provisions of this order shall, to the extent provided herein, be applicable to secondary recovery operations in the discovered oil fields of the States of New York and Pennsylvania and to the drilling, completing or providing of additions to oil wells in the discovered oil fields of the States of New York, Pennsylvania, and West Virginia, but not elsewhere.

(b) *Definitions.* The definitions of Petroleum Administrative Order No. 11 shall be applicable in this order.

(c) *Secondary recovery operations in New York and Pennsylvania.* Pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11, any person may accept delivery of, acquire, or use material for secondary recovery operations by means of artificial water drive, gas drive, or air drive, in the discovered oil fields of Allegany and Cattaraugus Counties, New York, and McKean, Warren, Crawford, Forest, and Venango Counties, Pennsylvania.

(d) *Oil well drilling in New York, Pennsylvania, and West Virginia.* Pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11, any person may accept delivery of, acquire or use material to drill, complete or provide additions to any oil well in any discovered oil field in the States of New York, Pennsylvania, and West Virginia: *Provided,* That:

(1) As to any such oil well which is drilled or completed at a depth of not more than 1,000 feet:

(i) The drilling unit upon which such well is drilled consists of at least 5 surface acres upon which no other drilling or producible well is located;

(ii) All separate property interests in the drilling unit upon which such well is drilled are first consolidated with each other;

(iii) Such well is drilled at least 400 feet from every other drilling or producible oil well;

(iv) Such well is drilled at least 200 feet from every lease line, property line or subdivision line which separates any unconsolidated property interest.

(2) As to any such oil well which is drilled or completed at a depth of more than 1,000 feet and not more than 2,500 feet:

(i) The drilling unit upon which such well is drilled consists of at least 10 surface acres upon which no other drilling or producible well is located;

(ii) All separate property interests in the drilling unit upon which such well is drilled are first consolidated with each other;

(iii) Such well is drilled at least 500 feet from every other drilling or producible oil well;

(iv) Such well is drilled at least 300 feet from every lease line, property line or subdivision line which separates any unconsolidated property interest.

(3) As to any such oil well which is drilled or completed at a depth of more than 2500 feet:

(i) The drilling unit upon which such well is drilled consists of at least 20 surface acres upon which no other drilling or producible well is located;

(ii) All separate property interests in the drilling unit upon which such well is drilled are first consolidated with each other;

(ii) Such well is drilled at least 660 feet from every other drilling or producible oil well;

(iv) Such well is drilled at least 330 feet from every lease line, property line or subdivision line which separates any unconsolidated property interest.

(e) *Violations.* Any person who wilfully violates any provision of this order, or who, by any act or omission, falsifies records kept or information furnished in connection with this order is guilty of a crime and upon conviction may be punished by fine or imprisonment.

Any person who willfully violates any provision of this order may be prohibited from delivering or receiving any material under priority control, or such other action may be taken as is deemed appropriate.

(f) This order shall be effective on and after March 31, 1943.

(E.O. 9276, 7 F.R. 10091; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th

Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 30th day of March 1943.

R. K. DAVIES,
Deputy Petroleum Administrator for War.

[F. R. Doc. 43-4865; Filed, March 30, 1943; 11:00 a. m.]

PART 1515—PETROLEUM PRODUCTION OPERATIONS

[Supplementary Order 3 to Petroleum Administrative Order 11]

GENERAL EXCEPTION PURSUANT TO PARAGRAPH (C) (9) OF PETROLEUM ADMINISTRATIVE ORDER NO. 11

§ 1515.9 *Supplementary Order No. 3 to Petroleum Administrative Order No. 11*—(a) *Scope of this order.* Except as otherwise modified by the provisions of any other order issued as a supplement to Petroleum Administrative Order No. 11 or by the provisions of any authorization issued pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11, the provisions of this order shall, to the extent provided herein, be applicable to "plug-back" operations in the Smackover Field Ouachita and Union Counties, Arkansas, but not elsewhere.

(b) *Definitions.* The definitions of Petroleum Administrative Order No. 11 shall apply in this order.

(c) *Wells located in the Smackover Field, Ouachita and Union Counties, Arkansas.* Pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11, any person may accept delivery of, acquire, or use material to plug-back any well located in the Smackover Field of Ouachita and Union Counties, Arkansas, from the formation or formations from which such well is producing to any shallower formation or formations and to recomplete such well in such shallower formation or formations.

(d) *Violations.* Any person who wilfully violates any provision of this order, or who, by any act or omission, falsifies records kept or information furnished in connection with this Order is guilty of a crime and upon conviction may be punished by fine or imprisonment.

Any person who wilfully violates any provision of this order may be prohibited from delivering or receiving any material under priority control, or such other action may be taken as is deemed appropriate.

(e) This order shall be effective on and after March 31, 1943.

(E.O. 9276, 7 F.R. 10091; E.O. 9125, 7 F.R. 2719; sec. 2(a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 30th day of March 1943.

R. K. DAVIES,
Deputy Petroleum Administrator for War.

[F. R. Doc. 43-4866; Filed, March 30, 1943; 11:00 a. m.]

PART 1515—PETROLEUM PRODUCTION OPERATIONS

[Supplementary Order 4 to Petroleum Administrative Order 11]

General Exception pursuant to paragraph (c) (10) of Petroleum Administrative Order No. 11.

The fulfillment of the requirements for the defense of the United States has created a shortage of materials necessary for the production of petroleum for defense, for private account, and for export; and the following order is deemed necessary in the public interest, to promote the national defense, and to provide adequate supplies of petroleum for military and other essential purposes.

§ 1515.10 *Supplementary Order No. 4 to Petroleum Administrative Order No. 11.* Pursuant to Conservation Order M-68 as amended January 4, 1943 (§ 1047.1), § 1047.8 (Supplementary Order M-68-3) is renumbered § 1515.10 of this chapter and is reissued effective March 31, 1943.

(E.O. 9276, 7 F.R. 10091; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 30th day of March 1943.

R. K. DAVIES,
Deputy Petroleum Administrator for War.

[F. R. Doc. 43-4867; Filed, March 30, 1943; 11:00 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

[Tariff Circular MF 2, Supplement 3]

PART 187—FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS

ORDER MODIFYING CONTRACT CARRIER SCHEDULES

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 18th day of March, A. D. 1943.

In the matter of regulations governing the form, publication and inspection of schedules of contract carriers of property by motor vehicle.

The matter of regulations governing the form, publication and inspection of schedules of contract carriers of property by motor vehicle, filed pursuant to section 218 of the Interstate Commerce Act, being under consideration and good cause appearing therefor:

It is ordered, That schedules of contract carriers of property by motor vehicle, filed pursuant to section 218 of said act, shall be constructed, published, filed and kept open for public inspection in accordance with regulations heretofore adopted and promulgated in Tariff Circular MF No. 2, and Supplement No. 1 thereto (§§ 187.7 to 187.11, inclusive, of Title 49; Code of Federal Regulations), and as modified and supplemented by Supplement No. 3 to said Tariff Circular MF No. 2;

It is further ordered, That the said Supplement No. 3 to said Tariff Circular MF No. 2, be, and it is hereby approved and made effective May 1, 1943.

Sections 187.7 and 187.8 [section 2 of Tariff Circular MF No. 2] are amended as follows:

1. Cancel paragraph (a) of § 187.7 [Rule 7] and substitute:

§ 187.7 *Publication, filing, and posting of schedules.*—(a) *Schedules must be filed by contract carriers.* (1) Contract carriers shall file schedules which conform to these regulations unless otherwise authorized by the Commission.

(2) The Commission may, for reasons deemed sufficient, direct at any time the reissue of any schedule.

2. Cancel paragraph (d) of § 187.7 [Rule 7], and substitute:

(d) *Number of copies filed; letters of transmittal.* (1) Issuing carriers shall file with the Commission three copies of each schedule supplement to, or revised page of, a schedule.

(2) All copies, together with copies of actual contracts, proposed contracts, or amendments to contracts which it is necessary to file with a schedule, supplement, or revised page of a schedule to comply with § 187.8 (r) hereof, shall be included in one package accompanied by a letter of transmittal (in duplicate if a receipt is desired) listing the publications and copies of actual or proposed contracts or amendment to contracts enclosed therewith.

(3) Each transmittal letter must bear the signature of the person issuing the schedule, supplement or revised page; or it may bear the personal signature of the carrier's authorized representative: *provided,* That a properly attested authorization to submit publications for filing by such party accompanies the transmittal letter or has previously been submitted and is in effect. The Commission may decline to accept for filing any publication which is not accompanied by a transmittal letter properly signed.

(4) The package and letter of transmittal shall be addressed to the Interstate Commerce Commission, Bureau of Motor Carriers, Section of Traffic, Washington, D. C. All postage or other charges must be prepaid.

3. Cancel paragraph (p) of § 187.8 [Rule 8], and substitute:

§ 187.8 *Form and contents of schedules.* * * *

(p) *Tables of minimum rates or charges.* (1) The tables of minimum rates or charges shall be shown immediately following the rules, and shall state minimum rates or charges actually maintained and charged.

(2) The commodities on which the rates or charges apply shall be shown on the same page on which the rates or charges are published or there shall be shown on such pages a statement of the page or item containing a list of such commodities.

(3) Minimum rates or charges shall be published only on such commodities and from and to such points and for such services as are stated in actual contracts.

(4) Tables of minimum rates or charges shall be arranged alphabetically by points of origin and destination, except that, if it is desired to group points by states, they may be arranged in alphabetical order by states, the points in each state also being shown in alphabetical order.

(5) The minimum rates or charges shall be stated in cents, or dollars and cents per 100 pounds, per mile, per hour, per ton of 2,000 pounds, per ton of 2,240 pounds, per truckload (of stated amount), or other definable measure.

4. Add the following paragraph (r) to § 187.8 [Rule 8]:

(r) *Schedules covering new services.* (1) Each schedule or supplement to, or revised page of a schedule submitted for filing, which states minimum rates or charges for services not provided for in the carrier's effective schedule or schedules on file with the Commission, shall be accompanied by a true copy of the actual contract or proposed contract, or amendment to an existing contract between the carrier and the shipper for whom such services are to be performed.

(2) The actual or proposed contract or amendment to a contract, filed in accordance with the provisions of this paragraph, shall show the actual rates and charges for the services to be performed thereunder.

(3) The provisions of §§ 187.8 (p) and 187.8 (r) do not apply to the filing of contracts for the transportation of bullion, currency, jewels and other precious or very valuable articles. Copies of such contracts are not required to be filed with the Commission.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 43-4808; Filed, March 29, 1943; 11:17 a. m.]

Notices

WAR DEPARTMENT.

[Civilian Restrictive Order 29]

COW CREEK WAR RELOCATION PROJECT AREA

ORDER OF RESCISSION

MARCH 19, 1943.

Headquarters Western Defense Command and Fourth Army, Office of the Commanding General, Presidio of San Francisco, California.

Whereas, by Civilian Restrictive Order No. 28, this headquarters, dated January 28, 1943 (8 F.R. 1598), the boundaries of Cow Creek War Relocation Project Area were designated and particularly described, and

Whereas, Cow Creek War Relocation Project Area is no longer in use as a War Relocation Project:

Now, therefore, I, J. L. DeWitt, by virtue of the authority vested in me by the President of the United States and by the Secretary of War and my powers and prerogatives as Commanding General, Western Defense Command, do hereby declare that:

1. Civilian Restrictive Order No. 28, this headquarters, is hereby rescinded.

2. Nothing herein contained shall operate to affect any offense committed or any penalty incurred because of violations of the previous Public Proclamations or Civilian Restrictive Orders heretofore issued by this headquarters.

J. L. DEWITT, *Lieutenant General, U. S. Army, Commanding.*

[F. R. Doc. 43-4853; Filed, March 30, 1943; 9:37 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. B-310]

SOUTHWESTERN ILLINOIS COAL CORPORATION

ORDER GRANTING APPLICATION FOR RESTORATION OF CODE MEMBERSHIP

A written complaint dated August 5, 1942, having been filed herein on August 7, 1942, by Bituminous Coal Producers Board for District No. 10, complainant, pursuant to section 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act"), alleging wilful violations by Southwestern Illinois Coal Corporation, a corporation, 1317 Fletcher Trust Building, Indianapolis, Indiana, of the Act, the Bituminous Coal Code (the "Code") and rules and regulations promulgated thereunder; and

An order having been issued herein on February 27, 1943 revoking and cancelling the code membership of said Southwestern Illinois Coal Corporation in the Code and providing, pursuant to section 5 (c) of the Act, for the payment to the United States of a tax in the amount of $829.37 as a condition precedent to the restoration of Southwestern Illinois Coal Corporation to membership in the Code; and

Southwestern Illinois Coal Corporation having filed with the Bituminous Coal Division (the "Division") on March 19, 1943, its application for restoration to code membership; and

It appearing from said application and other information in the possession of the Division that said Southwestern Illinois Coal Corporation paid to the Deputy Collector of Internal Revenue at Indianapolis, Indiana, on March 14, 1943, the sum of $829.37 as required by the Order issued herein on February 27, 1943, as a condition precedent to the restoration of its code membership;

Now, therefore, it is ordered, That the said application filed with the Division on March 19, 1943, by Southwestern Illinois Coal Corporation for restoration of its code membership be, and the same hereby is, granted.

It is further ordered, That said restoration of the code membership of Southwestern Illinois Coal Corporation be, and the same hereby is, effective as of 12:01 a. m., on March 25, 1943.

Dated: March 29, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-4861; Filed, March 30, 1943; 11:02 a. m.]

[Docket No. B-360]

PROVIDENCE COAL MINING COMPANY

NOTICE OF FILING OF APPLICATION, ETC.

Notice of filing of application as amended for disposition of compliance proceeding without formal hearing pursuant to § 301.132 of the rules of practice and procedure before the Bituminous Coal Division.

Notice is hereby given that an application dated February 18, 1943, for disposition of the above entitled matter without formal hearing was filed with the Bituminous Coal Division (the "Division") on February 22, 1943, pursuant to § 301.132 of the Rules of Practice and Procedure before the Bituminous Coal Division by Providence Coal Mining Company, the above named code member (the "code member") which application was denied by letter dated March 4, 1943. Pursuant to permission granted by the Division the code member on March 12, 1943, filed with the Division a supplemental application dated March 10, 1943, amending the aforesaid application.

The application as amended was filed with respect to a written complaint dated October 8, 1942, filed with the Division on October 12, 1942, pursuant to the provisions of section 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act") by the Bituminous Coal Producers Board for District No. 9, complainant, alleging that the said code member had violated the Act, the Bituminous Coal Code (the "Code") and rules and regulations issued thereunder, as more fully described in said complaint.

In said application as amended, the code member:

1. Admits that it is a code member operating the Providence No. 3 Mine, Mine Index No. 65, located in Webster County, Kentucky in District No. 9.

2. Admits that it wilfully violated section 4 II (e) of the Act and Part II (e) of the Code by selling during the period October 22, 1940 to April 9, 1941, inclusive, through the Kirkpatrick Coal Company, a registered distributor, Memphis, Tennessee, agent of the Kentucky Coal Agency, Madisonville, Kentucky and subagent of the Code Member, for rail shipment to various purchasers a total of 143.27 tons of various sizes of coal produced by the Code Member at prices ranging from 5 cents to 15 cents per ton below the effective minimum prices established for said coal by the Division.

3. Admits that it wilfully violated section 4 II (e) of the Act and Part II (e) of the Code by selling during the period October 26, 1940 to April 2, 1941, inclusive, for rail shipment to various purchasers a total of 771.97 tons of various sizes of coal to various purchasers at prices ranging from 10 cents to 25 cents

below the effective minimum prices established for said coal by the Division.

4. Consents to the issuance of an order directing it to cease and desist from further violations of the Act, the Code and regulations thereunder and to the entry of an order revoking and cancelling its code membership upon the basis of the foregoing admitted violations.

5. Agrees that it will pay a tax upon the basis of the foregoing admitted violations in the amount of $653.17 as a condition precedent to the restoration of its code membership.

6. Represents that, to the best of its knowledge and belief it has not committed any violations of the Act, the Code or rules and regulations thereunder other than the foregoing admitted violations and further represents that in the process of abandonment of the mine the coal referred to in paragraphs 1 and 2 hereof was coal obtained from pillars standing in the aforesaid mine for a period of years and that the said coal was of inferior quality and grade, and difficult to sell in the open market.

7. Agrees to execute any and all instruments necessary to dispose of this proceeding in the event that the application, as amended, is granted.

All interested parties may, if they desire to do so, file with the Division recommendations or requests for informal conferences with respect to said application as amended, within fifteen (15) days from the date of publication of this notice.

Dated: March 29, 1943.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 43-4862; Filed, March 30, 1943; 11:02 a. m.]

Bureau of Reclamation.

SAN LUIS VALLEY PROJECT, COLORADO

FIRST FORM RECLAMATION WITHDRAWAL

FEBRUARY, 26, 1943.

THE SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 28, 1934 (48 Stat. 1269), as amended, it is recommended that the following described lands be withdrawn from public entry under the first form of withdrawal, as provided in section 3 of the Act of June 17, 1902 (32 Stat. 388), and that departmental order of November 25, 1941, establishing Colorado Grazing District No. 8 be modified and made subject to the withdrawal effected by this order.

SAN LUIS VALLEY PROJECT, COLORADO

NEW MEXICO PRINCIPAL MERIDIAN

Mogote Reservoir Site

Township 33 North, Range 8 East:
Section 5—All;
Section 8—All;
Section 11—NW¼;
Township 34 North, Range 8 East:
Section 33—All;
Section 34—All.

Respectfully,

JOHN C. PAGE,
Commissioner.

I concur: March 23, 1943.

ARCHIE D. RYAN,
Acting Director of the Grazing Service.

I concur: March 11, 1943.

FRED W. JOHNSON,
Commissioner of the General Land Office.

The foregoing recommendation is hereby approved, as recommended, and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

MICHAEL W. STRAUS,
First Assistant Secretary.

MARCH 24, 1943.

[F. R. Doc. 43-4882; Filed, March 30, 1943; 11:49 a. m.]

DEPARTMENT OF LABOR.

Division of Public Contracts.

LUGGAGE, LEATHER GOODS, BELTS AND WOMEN'S HANDBAG INDUSTRY

DETERMINATION OF PREVAILING MINIMUM WAGE

This matter is before me pursuant to section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036, 41 U.S.C. Supp. III, sec. 35), entitled "an Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes," otherwise known as the Walsh-Healey Public Contracts Act.

On November 12, 1942, the Deputy Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor issued a Notice of Opportunity to Show Cause on or before December 3, 1942, why I should not make a determination that the prevailing minimum wage for persons employed in the Luggage, Leather Goods, Belts, and Women's Handbag Industry is not less than 40 cents an hour or $16 per week of 40 hours, provided that apprentices and learners may be employed in accordance with the applicable regulations under the Fair Labor Standards Act, and defining the Luggage, Leather Goods, Belts, and Women's Handbag Industry as follows:

(a) The manufacture from any material of luggage including, but not by way of limitation, trunks, suitcases, traveling bags, brief cases, sample cases; the manufacture of instrument cases covered with leather, imitation leather, or fabric including, but not by way of limitation, portable radio cases; the manufacture of small leather goods and like articles from any material except metal; the manufacture of women's, misses', and children's handbags, pocketbooks, purses, and mesh bags from any material except metal; but not the manufacture of bodies, panels, and frames from metal, wood, fiber, or paper board for any of the above articles.

(b) The manufacture from leather, imitation leather, or fabric of cut stock and parts for any of the articles covered in paragraph (a) of this section.

(c) The manufacture of men's, boys', women's, misses', and children's separate belts from leather, imitation leather, or other material or fabric.

The notice sets forth that: (1) The prevailing minimum wage determination for the Luggage and Saddlery Industries, issued by the Acting Secretary of Labor on July 12, 1938, as amended on September 26, 1939, provides that the prevailing minimum wage for the employees engaged in the performance of Government contracts, subject to the Walsh-Healey Public Contracts Act, for the manufacture or supply of luggage, including mail satchels or pouches, and carrier's tie straps and leather pouches (consisting of a leather pouch or pocket of holster type with belt loop used for carrying pliers and knife), is 40 cents an hour for the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Delaware, Washington, Oregon, California, Idaho, Nevada, Arizona, Montana, Wyoming, Utah, Colorado, and New Mexico, and 37½ cents for the other 26 States and the District of Columbia; (2) on July 1, 1942, the Administrator of the Wage and Hour Division issued, pursuant to the Fair Labor Standards Act of 1938, a wage order for the Luggage, Leather Goods and Women's Handbag Industry effective July 27, 1942, establishing a minimum wage of 40 cents an hour for that industry under the Fair Labor Standards Act; (3) the definition of the Luggage, Leather Goods, and Women's Handbag Industry, contained in the Wage Order of the Administrator, includes within its scope substantially all the products covered by my Luggage and Saddlery Prevailing Minimum Wage Determination, and it appears desirable, for the purpose of coordinating the administration of the Fair Labor Standards Act and the Public Contracts Act, to adopt the definition contained in the Luggage, Leather Goods, and Women's Handbag Industry Wage Order for the purposes of this wage determination; (4) it is desirable to extend the proposed wage determination to articles which are subject to the wage order of the Administrator of the Wage and Hour Division for the Belts Division of the Apparel Industry, effective July 15, 1940; (5) substantially all employees subject to the proposed wage determination for the Luggage, Leather Goods, Belts, and Women's Handbag Industry are engaged in commerce or in the production of goods for commerce, as that term is defined in the Fair Labor Standards Act of 1938, and, consequently, the aforementioned wage orders of the Administrator have the effect of establishing not less than 40 cents an hour as the prevailing minimum wage in the Lug-

gage, Leather Goods, Belts, and Women's Handbag Industry as defined in the proposed wage determination; (6) it appears desirable, for the purpose of coordinating the administration of the Fair Labor Standards Act and the Public Contracts Act, to provide that apprentices and learners may be employed under the proposed determination at subminimum wage rates in accordance with the present applicable regulations of the Administrator of the Wage and Hour Division.

This notice was sent to members of the industry, to trade unions, to trade associations, and publications, and was duly published in the FEDERAL REGISTER (7 F.R. 9440). No objections, protests, or any statements in opposition to the proposed amendments have been received.

On December 16, 1942, the Administrator of the Wage and Hour Division issued a notice denying the applications of the National Authority for the Ladies' Handbag Industry, and sundry other parties, to employ learners at subminimum wages in the Luggage, Leather Goods, and Women's Handbag Industry, and stating that there is no need at this time for the issuance of regulations providing for the employment of learners at subminimum wage rates in the Luggage, Leather Goods, and Women's Handbag Industry. This notice was predicated on a recommendation of the Presiding Officer, duly designated to conduct a hearing in that matter, that it is not necessary in order to prevent curtailment of opportunities for employment to provide for the employment of learners at subminimum wages in any occupation in any branch of the Luggage, Leather Goods, and Women's Handbag Industry. Consequently, it is no longer necessary that I provide that learners may be employed in accordance with the present applicable regulations issued by the Administrator of the Wage and Hour Division in the performance of Government contracts for the manufacture or supply of the articles covered in paragraphs (a) and (b) of the definition of the Luggage, Leather Goods, Belts, and Women's Handbag Industry.

Upon consideration of all the facts and circumstances, I hereby determine that:

(1) The Luggage, Leather Goods, Belts, and Women's Handbag Industry is defined for the purpose of this determination as follows:

(a) The manufacture from any material of luggage including, but not by way of limitation, trunks, suitcases, traveling bags, brief cases, sample cases; the manufacture of instrument cases covered with leather, imitation leather, or fabric including, but not by way of limitation, portable radio cases; the manufacture of small leather goods and like articles from any material except metal; the manufacture of women's, misses', and children's handbags, pocketbooks, purses, and mesh bags from any material except metal; but not the manufacture of bodies, panels, and frames from metal, wood, fiber, or paper board for any of the above articles.

(b) The manufacture from leather, imitation leather, or fabric of cut stock and parts for any of the articles covered in paragraph (a) of this section.

(c) The manufacture of men's, boys', women's, misses', and children's separate belts from leather, imitation leather, or other material or fabric.

(2) The prevailing minimum wage for persons employed in the performance of contracts with agencies of the United States Government subject to the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036, 41 U.S.C. Supp. III, sec. 35) for the manufacture or furnishing of the products of the Luggage, Leather Goods, Belts, and Women's Handbag Industry is not less than 40 cents an hour or $16 per week of 40 hours, arrived at either upon a time or piece work basis; provided that apprentices may be employed at subminimum rates in accordance with the present applicable regulations issued by the Administrator of the Wage and Hour Division under the Fair Labor Standards Act, which I hereby adopt for the purposes of this determination; and provided further that learners may be employed at subminimum rates in the performance of contracts for the manufacture or furnishing of articles covered by paragraph (c) of the definition of this industry in accordance with the present applicable regulations issued by the Administrator of the Wage and Hour Division under the Fair Labor Standards Act, which I hereby adopt for the purposes of this determination.

This determination shall be effective and the minimum wage hereby established shall apply to all contracts subject to the Public Contracts Acts, bids for which are solicited or negotiations otherwise commenced by the contracting agency on or after April 20, 1943.

Nothing in this determination shall affect such obligations for the payment of minimum wages as an employer may have under the Fair Labor Standards Act of 1938, or any wage order thereunder, or under any other law or agreement more favorable to employees than the requirements of this determination.

Dated: March 30, 1943.

FRANCES PERKINS,
Secretary of Labor.

[F. R. Doc. 43-4884; Filed, March 30, 1943; 11:53 a. m.]

KNITTING, KNITWEAR AND WOVEN UNDERWEAR INDUSTRY

DETERMINATION OF PREVAILING MINIMUM WAGE

This matter is before me pursuant to section 1(b) of the Act of June 30, 1936 (49 Stat. 2036, 41 U.S.C. Supp. III 35), entitled "An act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes," otherwise known as the Walsh-Healey Public Contracts Act.

On July 8, 1942, the Assistant Administrator of the Public Contracts Division of the Department of Labor issued Notice of Opportunity to Show Cause on or before July 29, 1942, why I should not make a determination that the prevailing minimum wage for persons employed in the Knitting, Knitwear, and Woven Underwear Industry is 40 cents an hour or $16 for a week of 40 hours, *Provided*, That learners and handicapped workers may be employed in accordance with the applicable regulations under the Fair Labor Standards Act, and defining the Knitting, Knitwear, and Woven Underwear Industry as follows:

(a) The manufacturing, dyeing, or other finishing of any knitted fabric made from any yarn or mixture of yarns, and the manufacturing of knitted towels and cloths;

(b) The knitting from yarn or manufacturing from purchased knitted fabric of all knitted garments, sections of garments, or garment accessories except gloves, mittens, hosiery, and men's and boys' suits, overcoats, topcoats, tailored uniforms and men's summer wash suits;

(c) The manufacturing of underwear from any woven fabric.

The notice sets forth that: (1) On February 3, 1942, I issued a determination that the prevailing minimum wage for employees engaged in the performance of Government contracts, subject to the Walsh-Healey Public Contracts Act, in the Knitted and Men's Woven Underwear and Commercial Knitting Industry is 40 cents an hour or $16 for a week of 40 hours; (2) it appears desirable to extend the Knitted and Men's Woven Underwear and Commercial Knitting Industry determination to certain related products such as knitted outerwear, and to change the title of the determination to conform to the new definition; (3) substantially every article included in the Knitting, Knitwear, and Woven Underwear Industry, as defined for the purposes of the proposed wage determination, is covered by one of enumerated wage orders of the Administrator of the Wage and Hour Division under the Fair Labor Standards Act of 1938, established a minimum wage of 40 cents an hour; (4) substantially all employees subject to the proposed wage determination are engaged in commerce or in the production of goods for commerce and consequently the aforementioned wage orders of the Administrator of the Wage and Hour Division have the effect of establishing a minimum wage of not less than 40 cents an hour in the Knitting, Knitwear, and Woven Underwear Industry as defined for the purposes of the proposed determination.

This notice was sent to members of the industry, trade unions, trade associations, and publications, and was duly published in the FEDERAL REGISTER (7 F.R. 5285). Statements in opposition to the proposed amendments have been received from four trade associations and one trade union. Statements have also been received in support of the proposed amendments.

The International Ladies' Garment Workers' Union objected to the proposed rate. Since the primary purpose of this proceeding is to coordinate the applicable minimum wages under the Fair Labor Standards Act and the Public Contracts Act and the evidence submitted

seems only to support such action, I am unable to allow this objection.

The four trade associations objected solely to the proposed definition of the industry upon the ground that there was a departure from traditional trade boundary lines. The proposed definition is designed primarily for the convenience of the purchasing officers of contracting agencies and in no way affects industry lines as drawn under the Fair Labor Standards Act or for any purpose other than the administration of the Walsh-Healey Public Contracts Act. I find it advisable, however, to grant the request of the National Knitted Outerwear Association for modification of the proposed definition to include the manufacturing of bathing suits made of any woven fabric. These bathing suits are at present subject to the wage order of the Administrator of the Wage and Hour Division for the Knitted Outerwear Industry, establishing a 40-cent minimum wage, and, since it appears that substantially all employees engaged in their manufacture are engaged in commerce or in the production of goods for commerce, I find that they are manufactured under the prevailing minimum wage of not less than 40 cents an hour. Also, since belts made from purchased knitted fabric are included in the Luggage, Leather Goods, Belts, and Women's Handbag Industry, for which a determination of a prevailing minimum wage of 40 cents an hour has been proposed by Notice of Opportunity to Show Cause dated November 12, 1942, such belts should be expressly excluded from the definition of the Knitting, Knitwear, and Woven Underwear Industry contained in this determination. The language of paragraph (b) of the definition has been modified to make clear that it covers the manufacture of knitted garments, garment sections, and garment accessories by concerns engaged in making knitted fabric from yarn as well as by concerns producing such articles from purchased knitted fabric. The exceptions contained in this paragraph of the definition have also been clarified in minor respects.

I find that the proposed definition, with these modifications, is well adapted to the purpose of efficient administration of the Walsh-Healey Public Contracts Act.

On August 12, 1942, I issued regulations (ti. 41, c. 2, Code of Federal Regulations, § 201.1102), effective September 15, 1942, permitting the employment of handicapped workers at subminimum rates under the Walsh-Healey Public Contracts Act in accordance with the regulations of the Administrator of the Wage and Hour Division under the Fair Labor Standards Act of 1938. The issuance of these regulations makes it unnecessary to include in the proposed determination the provisions as to the employment of handicapped workers.

Upon consideration of all the facts and circumstances, I hereby determine that:

(1) The Knitting, Knitwear, and Woven Underwear Industry is defined for the purposes of this determination as follows:

(a) The manufacturing, dyeing, or other finishing of any knitted fabric made from any yarn or mixture of yarns, and the manufacturing of knitted towels and cloths;

(b) The knitting from yarn or manufacturing from knitted fabric of knitted garments, sections of garments, or garment accessories except gloves, mittens, hosiery, belts manufactured from purchased knitted fabric, and any product the manufacture of which is covered by the prevailing minimum wage determination of the Secretary for the Suit and Coat Branch of the Uniform and Clothing Industry;

(c) The manufacturing of underwear and bathing suits from any woven fabric.

(2) The prevailing minimum wage for persons employed in the performance of contracts with agencies of the United States Government subject to the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036, 41 U.S.C., Supp. III 35) for the manufacture or furnishing of the products of the Knitting, Knitwear, and Woven Underwear Industry is not less than 40 cents an hour or $16 for a week of 40 hours, arrived at either upon a time or piecework basis, provided that learners and apprentices may be employed at subminimum rates in accordance with the present applicable regulations issued by the Administrator of the Wage and Hour Division under the Fair Labor Standards Act, which I hereby adopt for the purposes of this determination.

This determination shall be effective and the minimum wage hereby established shall apply to all contracts subject to the Public Contracts Act, bids for which are solicited or negotiations otherwise commenced by the contracting agency on or before April 20, 1943, except that learners and apprentices may be employed at subminimum rates, in accordance with the present applicable regulations of the Administrator of the Wage and Hour Division, on or after April 20, 1943, in the performance of contracts, bids for which were solicited or negotiations otherwise commenced by the contracting agency prior to that date.

Nothing in this determination shall affect such obligations for the payment of minimum wages as the employer may have under any law or agreement more favorable to employees than the requirements of this determination.

Dated: March 30, 1943.

FRANCES PERKINS,
Secretary of Labor.

[F. R. Doc. 43-4883; Filed, March 30, 1943; 11:53 a. m.]

FEDERAL HOUSING ADMINISTRATION.

2¾ PERCENT MUTUAL MORTGAGE INSURANCE FUND DEBENTURES, SERIES B

NOTICE OF CALL FOR PARTIAL REDEMPTION, BEFORE MATURITY

MARCH 23, 1943.

Pursuant to the authority conferred by the National Housing Act (48 Stat. 1246; U.S.C., title 12, sec. 1701 et seq.) as amended, public notice is hereby given that 2¾ percent Mutual Mortgage Insurance Fund debentures, Series B, of the denominations and serial numbers designated below, are hereby called for redemption, at par and accrued interest, on July 1, 1943, on which date interest on such debentures shall cease:

Denomination:	*Serial numbers (all numbers inclusive)*
$50	1,457 to 1,511
$100	5,260 to 5,554
$500	1,706 to 1,769
$1,000	6,470 to 6,757
$5,000	453 to 485
$10,000	47 to 49

The debentures first issued, as determined by the serial numbers, were selected for redemption by the Commissioner, Federal Housing Administration, with the approval of the Secretary of the Treasury.

No transfers or denominational exchanges in debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after April 1, 1943. This does not affect the right of the holder of a debenture to sell and assign the debenture on or after April 1, 1943, and provision will be made for the payment of final interest due July 1, 1943, with the principal thereof to the actual owner, as shown by the assignments thereon.

The Commissioner of the Federal Housing Administration hereby offers to purchase any debentures included in this call at any time from April 1 to June 30, 1943, inclusive, at par and accrued interest, to date of purchase.

Instructions for the presentation and surrender of debentures for redemption on or after July 1, 1943, or for purchase prior to that date will be given by the Secretary of the Treasury.

ABNER H. FERGUSON,
Commissioner.

Approved: March 27, 1943.

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

[F. R. Doc. 43-4855; Filed, March 30, 1943; 9:44 a. m.]

2¾ PERCENT HOUSING INSURANCE FUND DEBENTURES, SERIES D

NOTICE OF CALL FOR PARTIAL REDEMPTION, BEFORE MATURITY

MARCH 23, 1943.

Pursuant to the authority conferred by the National Housing Act (48 Stat. 1246; U.S.C., Title 12, sec. 1701 et seq.) as amended, public notice is hereby given that 2¾ percent Housing Insurance Fund debentures, Series D, of the denominations and serial numbers designated below, are hereby called for redemption, at par and accrued interest, on July 1, 1943, on which date interest on such debentures shall cease:

Denomination:	*Serial numbers (all numbers inclusive)*
$50	1
$100	1 to 3
$500	1
$1,000	1 to 3
$5,000	1
$10,000	1 to 161

The debentures first issued, as determined by the serial numbers, were selected for redemption by the Commis-

sioner, Federal Housing Administration, with the approval of the Secretary of the Treasury.

No transfers or denominational exchanges in debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after April 1, 1943. This does not affect the right of the holder of a debenture to sell and assign the debenture on or after April 1, 1943, and provision will be made for the payment of final interest due July 1, 1943, with the principal thereof to the actual owner, as shown by the assignments thereon.

The Commissioner of the Federal Housing Administration hereby offers to purchase any debentures included in this call at any time from April 1 to June 30, 1943, inclusive, at par and accrued interest, to date of purchase.

Instructions for the presentation and surrender of debentures for redemption on or after July 1, 1943, or for purchase prior to that date will be given by the Secretary of the Treasury.

ABNER H. FERGUSON,
Commissioner.

Approved: March 27, 1943.

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

[F. R. Doc. 43-4854; Filed, March 30, 1943; 9:44 a. m.]

OFFICE OF DEFENSE TRANSPORTATION.

[Special Order ODT LB-10]

CAPITAL TRANSIT COMPANY

DIRECTION TO REFRAIN FROM OPERATION OF BUSES OVER SPECIFIED ROUTE

Pursuant to Executive Orders 8989 (6 F.R. 6725), 9156 (7 F.R. 3349) and 9294 (8 F.R. 221), and in order to assure the orderly and expeditious movement of necessary passenger traffic and to conserve and providently utilize manpower and existing transportation facilities and service, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. Capital Transit Company (hereinafter called carrier) shall refrain from operating buses in the District of Columbia, for the transportation of passengers over the following route:

From a terminal in Tenley Circle, southerly along Tenley Circle, Nebraska Avenue, Ward Circle, Nebraska Avenue, Loughboro Road, Maud Street and Macomb Street to Sherrier Place, thence continuing over a loop west on Sherrier Place to Manning Place, north on Manning Place to MacArthur Boulevard, east on MacArthur Boulevard to Macomb Street, thence north over southbound route reversed to Tenley Circle.

2. As used herein the term "bus" means any rubber-tired vehicle used upon the streets, highways, or other thoroughfares in the transportation of passengers.

3. The carrier shall forthwith file with the Public Utility Commission of the District of Columbia, a copy of this order.

4. Communications concerning this order should be addressed to the Division of Local Transport, Office of Defense Transportation, Washington, D. C., and should refer to "Special Order ODT LB-10".

This order shall become effective March 29, 1943, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 29th day of March, 1943.

JOSEPH B. EASTMAN,
Director, Office of Defense Transportation.

[F. R. Doc. 43-4849; Filed, March 29, 1943; 4:47 p. m.]

OFFICE OF PRICE ADMINISTRATION.

[Order 77 Under RPS 64[1]]

ENTERPRISE FOUNDRY, INC.

APPROVAL OF MAXIMUM PRICES

Order No. 77 under Revised Price Schedule No. 64—Domestic Cooking and Heating Stoves.

On February 23, 1943, and March 2, 1943, Enterprise Foundry, Inc., Belleville, Illinois, completed applications pursuant to § 1356.1 (d) of Revised Price Schedule No. 64, for approval of maximum prices for a coal heater designated in the application as Model D 28, and for a coal and wood range designated in the application as Model 4916 BE.

Due consideration has been given to the application and an opinion, issued simultaneously herewith, has been filed with the Division of the Federal Register For the reasons set forth in the opinion and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, *It is hereby ordered:*

(a) Enterprise Foundry Inc., may sell, offer to sell, transfer or deliver the following models to dealers at prices no higher than those specified:

	F. o. b. factory
Model D 28	$6.98
Model 4916 BE	38.87

subject to discounts, allowances and terms no less favorable than those in effect, with respect to the comparable Models K-2-E and 4916 CE respectively.

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

(c) Unless the context otherwise requires, the definitions set forth in § 1356.11 of Revised Price Schedule No. 64 shall apply to terms used herein.

This Order No. 77 shall become effective on the 30th day of March 1943.

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4832; Filed, March 29, 1943; 4:17 p. m.]

[1] 7 F.R. 1329, 1836, 2000, 2132, 4404, 5872, 6221, 8948, 8 F.R. 1974.

[Order 173 Under MPR 120]

FRED J. BROWN

ORDER GRANTING ADJUSTMENT

Order No. 173 under Maximum Price Regulation No. 120—Bituminous Coal Delivered from Mine or Preparation Plant; Docket No. 3120-260.

For the reasons set for in an opinion issued simultaneously herewith, and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with § 1340.207 (d) of Maximum Price Regulation No. 120, *It is ordered:*

(a) Coals produced by Fred J. Brown at the Fred J. Brown Mine, Mine Index No. 1560 at Millersburg, Ohio, in District No. 4, may be sold and purchased for shipment by truck or wagon at prices not to exceed the following respective prices per net ton, f. o. b. the mine:

Size group	3	6
Maximum prices	$3.40	$2.80

(b) Within thirty (30) days from the effective date of this order, the said Fred J. Brown shall notify all persons purchasing his coals of the adjustments granted in paragraph (a) of this order, and shall include a statement that if the purchaser is subject to Revised Maximum Price Regulation No. 122 in the resale of coal, the adjustments granted in this order do not authorize any increase in the purchaser's resale price except in accordance with and subject to the conditions stated in Revised Maximum Price Regulation No. 122.

(c) This Order No. 173 may be revoked or amended by the Administrator at any time.

(d) 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.

(e) This Order No. 173 shall become effective March 30, 1943.

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4834; Filed March 29, 1943; 4:16 p. m.]

[Order 228 Under MPR 188]

EASTERN BATTERY CORPORATION

APPROVAL OF MAXIMUM PRICES

Order No. 228 under § 1499.158 of Maximum Price Regulation No. 188—Manufacturers' Maximum Prices for Specified Building Materials and Consumers' Goods Other than Apparel.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended and Executive Order No. 9250, *It is ordered:*

(a) Eastern Battery Company, 44 West 18th Street, New York, N. Y., may sell and deliver its three new hearing aid batteries described in an application dated February 8, 1943, at prices no higher than those set forth below:

Battery	Sales to hearing aid manufacturers and distributors	Sales to dealers
22½ volt	$0.54	$0.65
33 volt	.75	.90
45 volt	.95	1.15

Ten percent may be added for sales of less than 12 batteries.

All prices are delivered prices. However, if the shipment to the purchaser weighs less than 100 pounds, because of the size of the purchaser's orders, the purchaser may be required to pay transportation charges in addition to the maximum prices.

The terms of all sales shall be 2% for cash 10 days after receipt of goods.

(b) This Order No. 228 may be revoked or amended by the Price Administrator at any time.

This Order No. 228 shall become effective on the 30th day of March 1943.

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4835; Filed, March 29, 1943; 4:15 p. m.]

[Order 4 Under MPR 189]

M. A. HANNA COMPANY

ORDER GRANTING ADJUSTMENT

Order No. 4 under Maximum Price Regulation No. 189—Bituminous Coal Sold for Direct Use as Bunker Fuel; Docket No. 3189-4.

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, as amended, and Executive Order No. 9250, and in accordance with § 1340.307 (a) (1) of Maximum Price Regulation No. 189, *It is ordered:*

(a) The M. A. Hanna Company, Leader Building, Cleveland, Ohio, may sell and any person may purchase low volatile bituminous coal produced in Districts 7 and 8 for bunker fuel use f. o. b. Lambert's Point piers, Hampton Roads, Virginia, at prices not to exceed the price of $6.51 per gross ton.

(b) This Order No. 4 may be revoked or amended by the Administrator at any time.

(c) Unless the context otherwise requires, the definitions set forth in § 1340.308 of Maximum Price Regulation No. 189 shall apply to the terms used herein.

(d) This Order No. 4 shall become effective March 30, 1943.

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4831; Filed, March 29, 1943; 4:16 p. m.]

[Correction to Order 160 Under MPR 188]

SIMMONS COMPANY

APPROVAL OF MAXIMUM PRICE

Correction to Order No. 160 under § 1499.158 of Maximum Price Regulation No. 188—Manufacturers' Maximum Prices for Specified Building Materials and Consumers' Goods Other Than Apparel.

Pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250: *It is ordered,* That the price of $.334 set forth in paragraph (a) of Order No. 160 for each 2" size of Galvanized Manila Rope Thimble is corrected to read $1.334 per Thimble instead of $.334 per Thimble.

* * * * *

This correction to Order No. 160 shall be effective as of the 15th day of February 1943.

Issued this 29th day of March 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-4833; Filed, March 29, 1943; 4:16 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

THEODORE T. GOLDEN

ORDER REVOKING REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 29th day of March, A. D. 1943.

In the matter of Theodore T. Golden, 730 Fifteenth Street NW., Washington, D. C.

Proceedings having been instituted pursuant to an order of the Commission to determine whether the registration of Theodore T. Golden as a broker-dealer should be revoked pursuant to section 15 (b) of the Securities Exchange Act of 1934, hearings having been held after due notice, the Commission having considered the matter, being duly advised in the premises, having this day entered its findings and opinion herein to the effect that the said Theodore T. Golden has willfully violated certain provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934, and certain Rules and Regulations of the Commission thereunder and that revocation of the said registration is in the public interest;

It is ordered, on the basis of said findings and opinion, That the registration of Theodore T. Golden as a broker-dealer be, and it hereby is, revoked; and

It is further ordered, That the request of the said Theodore T. Golden to withdraw said registration be, and it hereby is, denied.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 43-4880; Filed, March 30, 1943; 11:49 a. m.]

[File No. 70-691]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 29th day of March 1943.

Notice is hereby given that an application has been filed pursuant to the Public Utility Holding Company Act of 1935 by Public Service Company of Indiana, Inc., a subsidiary of Hugh M. Morris, Trustee of Midland United Company, a registered holding company;

All interested persons are referred to said application which is on file in the offices of the Commission for a statement of the transactions therein proposed which are summarized as follows:

Public Service Company of Indiana, Inc., proposes to issue and sell to the public $38,000,000 principal amount of its First Mortgage Bonds, Series E, 3¼%, due May 1, 1973. The proceeds to be derived from the sale of such securities are to be used for the purpose of retiring the $38,000,000 aggregate principal amount of First Mortgage Bonds, Series A, 4%, due September 1, 1969, of Public Service Company of Indiana, a predecessor constituent company of applicant, whose bonds have been heretofore assumed by applicant.

At the present time there is outstanding applicable to Public Service Company of Indiana, Inc., a condition imposed by this Commission concerning a debt retirement program (Holding Company Act Release No. 3520, May 9, 1942). In connection with the issuance of the new bonds the applicant proposes certain sinking fund requirements. The application indicates that the effect of such sinking fund provisions will result in debt retirement "in an amount substantially equal to the funded debt required to be retired during such period under the provisions of said condition of this Commission". The applicant expressly requests that the Commission remove this presently effective condition.

The application indicates that the company proposes to offer the bonds for competitive bidding pursuant to Rule U-50 promulgated under the Public Utility Holding Company Act of 1935.

It appearing to the Commission that it is appropriate in the public interest

and the interest of investors and consumers that a hearing be held with respect to such matters and that the application shall not be granted except pursuant to further order of this Commission;

It is ordered, That a hearing on such matters under the applicable provisions of said Act and rules of the Commission thereunder be held on the 15th day of April, 1943, at 10 o'clock a. m., e. w. t., 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 in which such hearing will be held. At such hearing cause shall be shown why such application should be granted. Any person desiring to be heard in connection with these proceedings or desiring to intervene herein shall file with the Secretary of the Commission on or before the 10th day of April, 1943, his request or application therefor as provided by Rule XVII of the Rules of Practice of the Commision.

It is further ordered, That Paul Littlefield 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 such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commision's Rules of Practice.

It is further ordered, That, without limiting the scope of the issues presented by the application otherwise to be considered in these proceedings, particular attention will be directed at the hearing to the following matters and questions:

1. Whether it is in the public interest and in the interest of investors and consumers and in conformity with the applicable provisions of the Act to grant the application.

2. Whether it is appropriate in the public interest and for the protection of investors to abrogate the condition heretofore imposed on Public Service Company of Indiana, Inc., regarding a debt retirement program.

3. Specifically, whether the sinking fund provisions proposed in connection with the new Series E bonds of Public Service Company of Indiana, Inc., are sufficient to give adequate protection to investors, consumers and the public.

4. Whether, and to what extent, it is appropriate in the public interest or for the protection of investors and consumers to impose terms and conditions with respect to the proposed transactions.

5. Generally, whether the proposed transactions meet the requirements of the appropriate provisions of the Act and Rules and Regulations promulgated thereunder.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 43-4881; Filed, March 30, 1943; 11:49 a. m.]

WAR PRODUCTION BOARD.

[Preference Rating Order P-19-e, Serial No. 758-e]

TEXAS STATE HIGHWAY PROJECT

CANCELLATION OF REVOCATION ORDER

Builder: Texas State Highway Department, Austin, Texas. Project: On state route 117, Perryton to Lipscomb County Line. Identified as FAS 662-A (2).

The revocation of preference rating order issued on January 15, 1943 is hereby cancelled; the ratings assigned by said preference rating order are hereby restored; and said preference rating orders shall have full force and effect.

Issued March 29, 1943.

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

[F. R. Doc. 43-4816; Filed, March 29, 1943; 3:39 p. m.]