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The President

EXECUTIVE ORDER 9328

[STABILIZATION OF WAGES, PRICES, AND SALARIES]

By virtue of the authority vested in me by the Constitution and the statutes, and particularly by the First War Powers Act, 1941, and the Act of October 2, 1942, entitled "An Act to Amend the Emergency Price Control Act of 1942, to Aid in Preventing Inflation, and for Other Purposes," as President of the United States and Commander in Chief of the Army and Navy, and in order to safeguard the stabilization of prices, wages and salaries, affecting the cost of living on the basis of levels existing on September 15, 1942, as authorized and directed by said Act of Congress of October 2, 1942, and Executive Order No. 9250 of October 3, 1942,[1] and to prevent increases in wages, salaries, prices and profits, which, however justifiable if viewed apart from their effect upon the economy, tend to undermine the basis of stabilization, and to provide such regulations with respect to the control of price, wage and salary increases as are necessary to maintain stabilization, it is hereby ordered as follows:

1. In the case of agricultural commodities the Price Administrator and the Administrator of Food Production and Distribution (hereinafter referred to as the Food Administrator) are directed, and in the case of other commodities the Price Administrator is directed to take immediate steps to place ceiling prices on all commodities affecting the cost of living. Each of them is directed to authorize no further increases in ceiling prices except to the minimum extent required by law. Each of them is further directed immediately to use all discretionary powers vested in them by law to prevent further price increases direct or indirect, to prevent profiteering and to reduce prices which are excessively high, unfair or inequitable. Nothing herein, however, shall be construed to prevent the Food Administrator and the Price Administrator, subject to the general policy directives of the Economic Stabilization Director, from making such readjustments in price relationships appropriate for various commodities, or classes, qualities or grades thereof or for seasonal variations or for various marketing areas, or from authorizing such support prices, subsidies or other inducements as may be authorized by law and deemed necessary to maintain or increase production, provided that such action does not increase the cost of living. The power, functions and duties conferred on the Secretary of Agriculture under section 3 of the Emergency Price Control Act of 1942 (Public Law 421, 77th Cong.) and under section 3 of the Act of October 2, 1942 (Public Law 729, 77th Cong.) are hereby transferred to, and shall be exercised by the Food Administrator.

2. The National War Labor Board, the Commissioner of Internal Revenue and other agencies exercising authority conferred by Executive Order No. 9250 or Executive Order 9299[2] and the regulations issued pursuant thereto over wage or salary increases are directed to authorize no further increase in wages or salaries except such as are clearly necessary to correct substandards of living, provided that nothing herein shall be construed to prevent such agencies from making such wage or salary readjustments as may be deemed appropriate and may not have heretofore been made to compensate, in accordance with the Little Steel Formula as heretofore defined by the National War Labor Board, for the rise in the cost of living between January 1, 1941 and May 1, 1942. Nor shall anything herein be construed to prevent such agencies, subject to the general policies and directives of the Economic Stabilization Director, from authorizing reasonable adjustments of wages and salaries in case of promotions, reclassifications, merit increases, incentive wages or the like, provided that such adjustments do not increase the level of production costs appreciably or furnish the basis either to increase prices or to resist otherwise justifiable reductions in prices.

3. The Chairman of the War Manpower Commission is authorized to forbid the employment by any employer of any

[1] 7 F.R. 7871.

[2] 8 F.R. 1669.

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FEDERAL REGISTER

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new employee or the acceptance of employment by a new employee except as authorized in accordance with regulations which may be issued by the Chairman of the War Manpower Commission, with the approval of the Economic Stabilization Director, for the purpose of preventing such employment at a wage or salary higher than that received by such new employee in his last employment unless the change of employment would aid in the effective prosecution of the war.

4. The attention of all agencies of the Federal Government, and of all State and municipal authorities, concerned with the rates of common carriers or other public utilities, is directed to the stabilization program of which this order is a part so that rate increases will be disapproved and rate reductions effected, consistently with the Act of October 2, 1942, and other applicable federal, state or municipal law, in order to keep down the cost of living and effectuate the purposes of the stabilization program.

5. To provide for the consistent administration of this order and Executive Order No. 9250, and other orders and regulations of similar import and for the effectuation of the purposes of the Act of October 2, 1942, the Economic Stabilization Director is authorized to exercise all powers and duties conferred upon the President by that Act, and the Economic Stabilization Director is authorized and directed to take such action and to issue such directives under the authority of that Act as he deems necessary to stabilize the national economy, to maintain and increase production and to aid in the effective prosecution of the war. Except insofar as they are inconsistent with this order or except insofar as the Director shall otherwise direct, powers and duties conferred upon the President by the said Act and heretofore devolved upon agencies or persons other than the Director shall continue to be exercised and performed by such agencies and persons.

6. Except insofar as they are inconsistent with this order, Executive Order 9250 and the regulations issued pursuant thereto shall remain in full force and effect.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 8, 1943.

[F. R. Doc. 43-5606; Filed, April 9, 1943; 11:44 a. m.]

EXECUTIVE ORDER 9325

PAYMENT OF EXPENSES OF THE OFFICE OF ALIEN PROPERTY CUSTODIAN

By virtue of the authority vested in me by the Constitution and statutes of the United States, particularly by Title III of the First War Powers Act, 1941, it is hereby ordered as follows:

1. Until it is otherwise provided, the Alien Property Custodian is authorized and empowered to pay out of any funds lawfully in his custody or under his control all necessary expenses incurred by the Office of Alien Property Custodian in carrying out the powers and duties vested in him pursuant to Title III of the First War Powers Act, 1941, and the applicable orders issued thereunder. Such

expenses shall be allocated and recovered as provided in section 2 hereof.

2. The Alien Property Custodian is authorized to retain, allocate and recover, as a charge against any specific property or any other property of which the former owner of the specific property was divested, expenses attributable to such specific property with respect to which he has exercised or may hereafter exercise any power heretofore or hereafter conferred upon him. In addition to such expenses, the Alien Property Custodian is authorized to retain, allocate and recover at such time or times as he may deem practicable, as a charge against money or property in his custody or under his control, such amounts as may be necessary in connection with the general administrative expenses of the Office of Alien Property Custodian which have been or may be paid and which are not practicably allocable to a specific property.

3. The power and authority herein granted shall not be limited by the filing of a claim or the institution of a suit relating to any property subject to the authority of the Alien Property Custodian.

4. This order shall not be construed as a limitation upon or in derogation of any powers heretofore granted.

5. The Office of Alien Property Custodian shall submit to the Bureau of the Budget (a) prior to April 30, 1943, an estimate of general administrative expenses for the remainder of the current fiscal year, (b) prior to the end of the current and of each subsequent fiscal year, at such time as may be specified by the Director of the Bureau of the Budget, an estimate of such expenses for the succeeding fiscal year, and (c) any supplemental estimates of such expenses if and as the need arises. After April 30, 1943, no general administrative expenses authorized to be paid pursuant to this order shall be incurred or paid by the Office of Alien Property Custodian beyond the amounts approved by the Director of the Bureau of the Budget upon submissions as above set forth.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 7, 1943.

[F. R. Doc. 43-5574; Filed, April 8, 1943; 3:39 p. m.]

EXECUTIVE ORDER 9326

TRANSFER OF JURISDICTION OVER CERTAIN LAND CONTAINING OIL AND GAS DEPOSITS FROM THE WAR DEPARTMENT TO THE DEPARTMENT OF THE INTERIOR

CALIFORNIA

WHEREAS the land hereinafter described has been acquired by the United States for use of the War Department in the construction and operation of the Cerritos Channel; and

WHEREAS the land is reported to be within the geologic structure of a producing oil field and subject to drainage of its oil and gas deposits by wells on adjacent lands held in private ownership; and

WHEREAS it is necessary in the public interest that such protective action be taken as will prevent loss to the United States by reason of the drainage or threatened drainage of oil from the lands; and

WHEREAS, in order to facilitate such action, it is considered advisable to transfer jurisdiction over such land so far as the oil and gas deposits are concerned to the Department of the Interior:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

1. The jurisdiction over the oil and gas deposits in the following-described land in the State of California is hereby transferred from the War Department to the Department of the Interior:

A tract of land 600 feet wide known as the Cerritos Channel, lying partly within the corporate limits of the City of Los Angeles, and partly within the corporate limits of the city of Long Beach, County of Los Angeles, State of California, and more particularly described as follows:

Beginning at Station 13 of the "Inner Bay Exception" of the United States Patent to the Rancho San Pedro, said Station 13 also being U. S. Engineers Station 408; thence:

N. 33°51′ W., 631.32 feet along the line of said "Inner Bay Exception" to a point; thence:

N. 74°16′41″ E., 6,905.55 feet to a point, said point being S. 18°48′ W., 18.24 feet from Station 36 of the San Pedro Rancho and Los Cerritos Compromise line; thence:

Leaving said Compromise line S. 14°52′20″ E., 500 feet to a point; thence:

N. 88°20′10″ W., 300 feet to Station 35 of the San Pedro Rancho and Los Cerritos Compromise Line; thence:

S. 48°42′ E., 228.21 feet to a point on said Compromise Line; thence:

S. 74°16′ W., 6,552.31 feet to the point of beginning, containing 92.64 acres, more or less.

2. The Secretary of the Interior shall take such action as may be necessary to protect the United States from loss on account of drainage or threatened drainage of oil and gas from such land.

3. The jurisdiction of the Department of the Interior over such land shall be subject to the primary jurisdiction of the War Department over the land for flood-control and navigation purposes.

4. All moneys received as royalties under leases, or otherwise, on account of oil and gas extracted from such land shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 7, 1943.

[F. R. Doc. 43-5575; Filed, April 8, 1943; 3:39 p. m.]

EXECUTIVE ORDER 9327

PROVIDING FOR THE MORE EFFECTIVE HANDLING OF GOVERNMENTAL PROBLEMS IN CONGESTED PRODUCTION AREAS IN ORDER TO FURTHER THE SUCCESSFUL PROSECUTION OF THE WAR

By virtue of the authority conferred on me by the Constitution and statutes and especially by the First War Powers Act, 1941, in order to promote the successful prosecution of the war by providing for the more effective handling of governmental problems in Congested Production Areas, it is hereby ordered:

1. For the purposes of this order a Congested Production Area is an area which, by reason of a large increase in population and activity due to the war, is lacking in adequate services or facilities.

2. There is established a Committee for Congested Production Areas herein referred to as the Committee), consisting of the Director of the Bureau of the Budget, as Chairman, and one member designated by the President from each of the following departments and agencies: Department of War, Department of the Navy, War Production Board, Federal Works Agency, National Housing Agency, and War Manpower Commission. The Committee shall meet from time to time at the call of the Chairman, and any action or decision taken or approved by the majority in attendance at any meeting shall be deemed to be the action of the Committee. The Chairman and each member or his designated alternate shall have one vote.

3. In order to deal effectively with problems arising out of congestion in Congested Production Areas, it shall be the duty and responsibility of the Committee

(a) To designate those areas which are to be considered Congested Production Areas for the purposes of this order and to modify or terminate such designations as it may deem advisable;

(b) To cooperate with and supplement the efforts of State and local governments with respect to such problems in such areas;

(c) To coordinate the activities of all Federal agencies insofar as they affect problems arising out of congestion in such areas;

(d) To prescribe such policies and action as may be necessary to effectuate such coordination.

4. The Committee shall employ a suitable person as Director to carry out the decisions and policies of the Committee and administer its affairs. The Director may employ such personnel as the Committee may deem necessary.

5. The Director may designate, subject to the approval of the Committee, an Area Director for each Congested Production Area. Such Area Director shall be responsible to the Director and, under the general policies of the Committee, shall be responsible for securing coordination of all Federal agencies which deal with problems arising out of congestion within his area. He shall promptly report to the Director any problems or situations which he is unable to resolve, and the Director shall advise with the Federal agencies concerned to the end that coordination may be secured. The Area Director may recommend to the Director such policies and action as he deems advisable to further the purposes of this order and facilitate the prosecution of the war.

6. Each Area Director, after consultation with local, State, and Federal

officials in the area, and with the approval of the Director, shall designate an Area Advisory Council which may include representatives of the State government, local governments, and local communities in his area, and Federal agencies having supply or operating facilities in the area which are directly related to the war program. The Area Advisory Council shall meet upon the call of the Area Director for the purpose of advising with him concerning problems arising out of congestion within his area.

7. In order that the purposes of this order may be carried out with a minimum of delay, coordination shall be secured as far as possible at the area level, and appropriate authority shall be delegated by the several departments and agencies concerned to their respective supervisory officials within such areas, and the names of such officials shall be reported to the Director. The policies and decisions of the Committee with respect to any Congested Production Area shall be controlling on all Federal agencies to which they apply. Appropriate orders and instructions shall be issued by the departments and independent agencies affected to insure compliance with the policies and decisions of the Committee.

8. This order shall continue in effect until the termination of Title I of the First War Powers Act, 1941.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 7, 1943.

[F. R. Doc. 43-5576; Filed, April 8, 1943; 3:39 p. m.]

Regulations

TITLE 7—AGRICULTURE

Chapter VIII—Food Distribution Administration [1]

PART 802—SUGAR DETERMINATION

1944 CROP YEAR IN VIRGIN ISLANDS

Determination of farming practices to be carried out in connection with the production of sugarcane of the 1944 crop year in the Virgin Islands, pursuant to the Sugar Act of 1937, as amended.

Pursuant to the provisions of section 301 (e) of the Sugar Act of 1937, as amended, the following determination is hereby issued:

§ 802.55b *Farming practices to be carried out in connection with the production of sugarcane of the 1944 crop year.* The requirements of section 301 (e) of the Sugar Act of 1937, as amended, shall be deemed to have been met with respect to any farm in the Virgin Islands if:

(a) Food crops for human consumption are grown during the period February 1, 1943, to January 31, 1944, on the type of land and in the manner set forth below:

(1) The land to be used for the production of the food crops shall be land suitable for the production of sugarcane.

(2) The food crops planted must be among the following: beans (any type), cowpeas, corn, rice, yams, potatoes (Irish and sweet), gandules (plant crop), tanier, apio, cassaba (yuca).

(3) The acreage of such food crops shall be equal to not less than 10% of the land on the farm on which sugarcane is growing on January 31, 1943 (but in no event less than one-tenth of an acre): *Provided, however,* That not less than 60% of such acreage shall be planted to such leguminous crops as are included in (2) above.

(4) The land devoted to the crops in question shall be suitably prepared by plowing or disking, adequately seeded, and cultivated in a workmanlike manner to assure a good stand at the time of maturity; and

(b) The tops and trash cut from the sugarcane during the 1944 harvest season are applied to the land from which the sugarcane is harvested, except where such land is devoted to the interplanting of the food crops specified in (2) above in the manner set forth in (4) above.

(Sec. 301, 50 Stat. 910; 7 U.S.C. 1940 ed. 1131)

Done at Washington, D. C., this 8th day of April 1943. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 43-5609; Filed, April 9, 1943; 11:39 a. m.]

[1] Formerly Sugar Branch.

Chapter IX—Food Distribution Administration

PART 935—MILK IN THE OMAHA-COUNCIL BLUFFS MARKETING AREA

Order, as amended, regulating the handling of milk in the Omaha-Council Bluffs marketing area.

It is provided in Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of the act, issue and amend orders regulating such handling of certain agricultural commodities (including milk and its products) as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities.

Sec.
935.1 Findings and determinations.
935.2 Order relative to handling.
935.3 Definitions.
935.4 Market administrator.
935.5 Classification of milk.
935.6 Minimum prices.
935.7 Reports of handling.
935.8 Application of provisions.
935.9 Determination of uniform prices to producers.
935.10 Payments for milk.
935.11 Expenses of administration.
935.12 Effective time, suspension, and termination of order.
935.13 Liability of handlers.
935.14 Agents.

AUTHORITY: §§ 935.1 to 935.14, inclusive, issued under 48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U.S.C. 1940 ed. 601 et seq.

§ 935.1 *Findings and determinations*—(a) *Findings.* Pursuant to the act and rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR 900.1–900.17; 6 F.R. 6570, 7 F.R. 3350, 8 F.R. 2813), a public hearing was held upon certain proposed amendments to the tentatively approved marketing agreement, as amended, and to the order, as amended, regulating the handling of milk in the Omaha-Council Bluffs marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is hereby found that:

(1) The aforesaid order, as amended and as hereby amended, and all of the terms and conditions of said order, as amended and as hereby amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in the Omaha-Council Bluffs marketing area, a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to sections 2 and 8 (e) of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices set forth in the aforesaid order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The aforesaid order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in the aforesaid tentatively approved marketing agreement, as amended, upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that handlers of at least 50 percent of the volume of milk covered by this order, as amended, which is marketed within the Omaha-Council Bluffs marketing area refused or failed to sign the tentatively approved marketing agreement, as amended, regulating the handling of milk in the Omaha-Council Bluffs marketing area; and it is further determined that:

(1) The refusal or failure of such handlers to sign said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interest of producers of milk which is produced for sale in the Omaha-Council Bluffs marketing area; and

(3) The issuance of this order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of the approval of this order, as amended, and who, during the determined representative period, were engaged in the production of milk for sale in said Omaha-Council Bluffs marketing area.

§ 935.2 *Order relative to handling.* It is therefore ordered that, from and after the effective date hereof, the handling of milk in the Omaha-Council Bluffs marketing area shall be in conformity to and in compliance with the terms and conditions of this order, as amended.

§ 935.3 *Definitions.* The following terms used herein shall have the following meanings:

(1) "Omaha-Council Bluffs marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of the cities of Omaha, Nebraska, and Council Bluffs, Iowa; the territory within Kane, Lake, Garner, and Lewis townships in Pottawattamie County, Iowa; and the territory within East Omaha, Florence, Union, Benson, McHugh, Moorehead, McArdle, Loveland, Ralston, Ashland, and May precincts in Douglas County, Nebraska; and the territory within Gilmore, Highland, and Bellevue townships in Sarpy County, Nebraska.

(2) "Person" means any individual, partnership, corporation, association, or any other business unit.

(3) "Producer" means any person, irrespective of whether any such person is also a handler, who produces milk which is received at the plant of a handler which is approved by the proper health authorities and from which milk is disposed of in the marketing area. This definition shall be deemed to include any person who produces milk which a cooperative association causes to be diverted from the plant of a handler from which milk is disposed of in the marketing area, to a plant from which no milk is disposed of in the marketing area.

(4) "Handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from sources other than his own production, all, or a portion of which milk is disposed of as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This definition shall be deemed to include a cooperative association which causes milk to be delivered from a producer to a handler, or causes milk of a producer to be delivered to a plant from which no milk is disposed of in the marketing area, for the account of such cooperative association and for which such cooperative association collects payment.

(5) "Market administrator" means the agency which is described in § 935.4, for the administration hereof.

(6) "Delivery period" means the current marketing period beginning with the first to, and including, the 15th day of each month, and from the 16th to, and including, the last day of each month.

(7) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

(8) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is or who may be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture of the United States.

(9) "Cooperative association" means any cooperative association of producers which the Secretary determines (i) to have its entire activities under the control of its members and (ii) to have and to be exercising full authority in the sale of milk of its members.

(10) "Emergency milk" means milk received by a handler from sources other than producers or other handlers under a temporary permit issued by the proper health authorities.

§ 935.4 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions hereof; and

(2) Report to the Secretary complaints of violation of the provisions hereof.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Pay, out of the funds provided by § 935.11, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate;

(4) Unless otherwise directed by the Secretary, publicly disclose to handlers and producers the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to § 935.7 or (b) made payments pursuant to § 935.10; and

(5) Promptly verify the information contained in the reports submitted by handlers.

§ 935.5 *Classification of milk*—(a) *Basis of classification.* Milk of a producer which a cooperative association causes to be delivered to a plant from which no milk is disposed of in the marketing area, for the account of such cooperative association and for which such cooperative association collects payment, and milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

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

(1) Class I milk shall be all milk, plain or flavored, containing more than 1.0 percent of butterfat which is disposed of in the form of milk and all milk not accounted for as Class II milk or Class III milk;

(2) Class II milk shall be all milk used to produce cream which is disposed of in the form of cream for consumption as cream, except milk the skim milk of which is disposed of as Class I milk; and

(3) Class III milk shall be (i) all milk used to produce a milk product other than that specified in Class II and (ii) all milk accounted for as actual plant shrinkage but not to exceed 3 percent of the total receipts of milk from producers.

(c) *Interhandler and nonhandler sales.* Milk sold or delivered by a handler, which is not a cooperative association, to another handler, and milk sold or delivered by a handler to a person who is not a handler but who distributes milk or manufactures milk products, shall be classified as Class I milk: *Provided,* That if the selling handler on or before the 5th day after the end of the delivery period furnishes to the market administrator a statement which is signed by the buyer and seller that such milk was disposed of as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

(d) *Sales of a cooperative association which is a handler.* Milk caused to be delivered from a producer to a handler by a cooperative association, for the account of such cooperative association, and for which such cooperative association collects payment, shall be ratably apportioned among the receiving handler's total Class I, Class II, and Class III milk. Milk caused to be delivered by such cooperative association to a plant from which no milk is disposed of in the marketing area, shall be classified as Class I milk: *Provided,* That if such cooperative association, on or before the 5th day after the end of the delivery period, furnishes to the market administrator a statement which is signed by the buyer and seller that such milk was disposed of as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

§ 935.6 *Minimum prices.* Each handler shall pay at the time and in the manner set forth in § 935.10 not less than the following prices for milk of 3.8 percent butterfat content:

(a) *Class I milk.* The price per hundredweight for Class I milk during each delivery period shall be as set forth in the table in paragraph (b) of this section.

(b) *Class II milk.* The price per hundredweight for Class II milk during each delivery period shall be as set forth in the following table:

When the Class III price computed pursuant to paragraph (c) of this section is—	The Class I price shall be—	The Class II price shall be—
Under $1.50	$2.00	$1.65
$1.50 or more but under $1.70	2.20	1.85
$1.70 or more but under $1.90	2.40	2.05
$1.90 or more but under $2.10	2.60	2.25
$2.10 or more but under $2.30	2.60	2.45
$2.30 or more but under $2.50	3.00	2.65
$2.50 or more but under $2.70	3.20	2.85
$2.70 or more but under $2.90	3.40	3.05
$2.90 or more but under $3.10	3.60	3.25
$3.10 or over	3.80	3.45

(c) *Class III milk.* The price per hundredweight for Class III milk during each delivery period shall be computed by the market administrator as follows: multiply by 3.8 the average price of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture for the delivery period during which such milk was received plus or minus 0.95 cent per hundredweight for each one cent that such average price of 93-score butter is above or below 20 cents, add 21 cents, and add a figure determined as follows: add 5 cents per hundredweight for each full one-half cent that the price of dry skim milk for human consumption is above 7 cents per pound. For purposes of determining this adjustment, the price per pound of dry skim milk to be used shall be the arithmetical average of the carlot prices for dry skim milk both spray and roller process for human consumption delivered at Chicago, as reported by the United States Department of Agriculture during the delivery period including in such average the quotations for any part of the preceding delivery period which were not published and available for the price determination of such dry skim for the previous delivery period. In the event the United States Department of Agriculture does not publish carlot prices for dry skim milk for human consumption delivered at Chicago, the average of the carlot prices for dry skim milk for human consumption f. o. b. manufacturing plant, as reported by the United States Department of Agriculture for the Chicago area shall be used. In the latter event such price shall be subject to the following adjustments: add or subtract 3 cents per hundredweight for each full one-half cent that the price of dry skim milk for human consumption f. o. b. manufacturing plant, is above or below 6 cents per pound.

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

(1) On or before the 5th day after the end of each delivery period, (i) the receipts at each plant of milk from producers, (ii) the receipts at each plant of milk and cream from other handlers, (iii) the receipts at each plant of milk produced by him, if any, (iv) the receipts at each plant of milk and cream from any other source with the source indicated, and (v) the utilization of all receipts of milk and cream for the delivery period.

(2) On or before the 5th day after the end of each delivery period, the receipts of emergency milk as follows: (i) the amount of such milk and the average butterfat test thereof, (ii) the date or dates upon which such milk was received during the delivery period, (iii) the plant from which such milk was shipped, (iv) the price per hundredweight paid or to be paid for such milk, and (v) such other information with respect thereto as the market administrator may request.

(c) *Reports of payments to producers.* Each handler shall submit to the market administrator on or before the 20th day after the end of each delivery period his producer pay roll for such delivery period which shall show for each producer (1) the net amount of the payment to such producer with the prices, deductions, and charges involved and (2) the total delivery of milk with the average butterfat test thereof.

(d) *Reports of cooperative associations.* On or before the 5th day after the end of each delivery period, each cooperative association which is a handler shall report to the market administrator the quantity of milk of any producer which it causes to be delivered to a plant from which no milk is disposed of in the marketing area.

(e) *Verification of reports.* Each handler, including a cooperative association which is a handler, shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section and (2) those facilities which are necessary for the sampling, weighing, and testing of the milk of each producer.

§ 935.8 *Application of provisions*—(a) *Handlers who are also producers.* (1) In the case of a handler who is also a producer and who purchases or receives no milk from other producers, the market administrator shall exclude from the computations made pursuant to § 935.9 the quantity of milk disposed of by such handler.

(2) In the case of a handler who is also a producer and who purchases or receives milk from other producers, the market administrator shall, before making the computations pursuant to § 935.9, (i) exclude from the total pounds of milk in each class the total pounds of milk which were purchased or received in the respective classes from other handlers and (ii) exclude pro rata from the remaining pounds of milk in each class the total pounds of milk received from such handler's own farm production.

(b) *Purchases of milk from a handler who is also a producer.* In the case of a handler who purchases or receives milk in bulk from a handler who is also a producer, the market administrator, in making the computations pursuant to § 935.9 for such purchasing handler, shall add an amount equal to the difference between the value of such milk (1) at the price for the class in which such milk was classified and (2) at the price for Class III milk.

(c) *Payment for excess butterfat.* In the case of a handler who disposes of butterfat in excess of the butterfat which, on the basis of his records, has been received, the market administrator, in making the computations pursuant to § 935.9, shall add an amount equal to the value of such butterfat (or 3.8 percent milk equivalent) in accordance with its classifications.

(d) *Purchases of emergency milk.* The market administrator, before making the computations pursuant to § 935.9 shall deduct pro rata out of each class the total pounds of emergency milk received by each handler during the delivery period.

§ 935.9 *Determination of uniform prices to producers*—(a) *Computation of the amount to be paid producers by each handler.* For each delivery period the market administrator shall compute, subject to the provisions of § 935.8, the amount to be paid producers by each handler for milk received from them including the milk of producers which a cooperative association caused to be delivered to a plant from which no milk is disposed of in the marketing area by (1) multiplying the hundredweight of such milk in each class by the price applicable pursuant to § 935.6, (2) adding together the resulting values of each class, and (3) adding any amounts pursuant to § 935.8 (b) and § 935.8 (c).

(b) *Computation and announcement of the uniform price.* For each delivery period the market administrator shall compute and announce the uniform price per hundredweight of milk as follows:

(1) Combine into one total the respective values of milk, computed pursuant to paragraph (a) of this section for each handler who made the reports prescribed by § 935.7 and who made the payments prescribed by paragraphs (c) and (d) of § 935.10;

(2) Add the amount of cash balance in the producer-settlement fund;

(3) Divide the result by the total quantity of milk represented in the sum obtained pursuant to subparagraph (1) of this paragraph;

(4) Subtract not less than 4 cents nor more than 5 cents per hundredweight of milk for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments, or delinquencies in payment by handlers. This result shall be known as the uniform price for such delivery period for milk of producers containing 3.8 percent butterfat; and

(5) On or before the 6th day after the end of each delivery period, notify all handlers, and make public announcement of these computations, of the uniform price per hundredweight of milk, and of the Class III price.

§ 935.10 *Payments for milk*—(a) *Time and method of payment.* On or before the 10th day after the end of each delivery period each handler shall pay

each producer, for milk received during the delivery period which was not caused to be delivered by a cooperative association for the account of such cooperative association and for which such cooperative association receives payment, an amount of money representing not less than the total value of such milk, at the uniform price per hundredweight, computed pursuant to § 935.9 (b) and subject to the butterfat differential set forth in paragraph (f) of this section.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as "the producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c), (d), and (g) of this section and out of which he shall make all payments to handlers pursuant to paragraphs (e) and (g) of this section.

(c) *Payments to the producer-settlement fund.* On or before the 8th day after the end of each delivery period each handler shall pay, subject to the provisions of paragraph (d) of this section, to the market administrator the amount by which the total value of the milk received by him from producers during the delivery period is greater than the amount obtained by multiplying the hundredweight of milk received from producers by such handler by the uniform price.

(d) *Payments made through a cooperative association.* On or before the 10th day after the end of each delivery period, each handler, with respect to milk which is caused to be delivered to him from producers by a cooperative association for the account of such cooperative association and for which such cooperative association collects payments, shall make payment to such cooperative association at not less than the class prices set forth in § 935.6, and subject to the provisions of § 935.5 (d) and to the butterfat differential set forth in paragraph (f) of this section, for the utilization value of such milk. On or before the 10th day after the end of each delivery period such cooperative association shall pay to the market administrator the amount by which the utilization value of such milk and of the milk of each producer which it causes to be delivered to a plant from which no milk is disposed of in the marketing area, is greater than the amount obtained by multiplying the hundredweight of all such milk by the uniform price.

(e) *Payment out of producer-settlement fund.* On or before the 10th day after the end of each delivery period, the market administrator shall pay to each handler for payment to producers, with respect to milk which was not caused to be delivered to such handler by a cooperative association for the account of such cooperative association and for which such cooperative association collects payments, the amount, if any, by which the total value of such milk received from producers by such handler is less than the amount obtained by multiplying the hundredweight of such milk received from producers by such handler by the uniform price. On or before the 10th day after the end of each delivery period, the market administrator shall pay to a cooperative association which is a handler, for payment to producers, the amount, if any, by which the total value of milk of producers caused to be delivered to a handler and to a plant from which no milk is disposed of in the marketing area by such cooperative association is less than the amount obtained by multiplying the hundredweight of such milk by the uniform price. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 10th day after the end of each delivery period, has not received the balance of such reduced payment from the market administrator shall be deemed to be in violation of paragraph (a) of this section if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

(f) *Butterfat differential.* If any handler has received from any producer, during the delivery period, milk having an average butterfat content other than 3.8 percent, such handler shall add to the uniform price for such producer for each one-tenth of 1 percent of average butterfat content in milk above 3.8 percent not less than, or shall deduct from the uniform price for such producer for each one-tenth of 1 percent of average butterfat content in milk below 3.8 percent not more than, 3 cents per hundredweight if the average price of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, is less than 30 cents, 3½ cents if such average price of butter is 30 cents or more but less than 35 cents, or 4 cents if such average price of butter is 35 cents or more but less than 40 cents, 4½ cents if such average price of butter is 40 cents or more but less than 45 cents, 5 cents if such average price of butter is 45 cents or more but less than 50 cents, or 5½ cents if such average price of butter is 50 cents or more.

(g) *Adjustment of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or out of the producer-settlement fund pursuant to paragraphs (c), (d), and (e) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (c) of this section, the market administrator shall, within 5 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment to such producer of less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

§ 935.11 *Expense of administration*—(a) *Payments by handlers.* As his prorata share of the expense of administration hereof, each handler, with respect to all milk received from producers during the delivery period, shall pay to the market administrator on or before the 10th day after the end of the delivery period that amount per hundredweight, and not to exceed 2 cents per hundredweight, which is announced on or before the 8th day after the end of the delivery period by the market administrator, subject to review by the Secretary. As its prorata share of the expense of administration hereof, a cooperative association, which is a handler, shall pay to the market administrator on or before the 10th day after the end of the delivery period, with respect to the milk of any producer which it causes to be delivered to a plant from which no milk is disposed of in the marketing area, an amount per hundredweight equivalent to that required to be paid by other handlers pursuant to this paragraph.

(b) *Suits by the market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's prorata share of expense set forth in this section.

§ 935.12 *Effective time, suspension, and termination of the order, as amended*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Termination of the order, as amended.* The Secretary may terminate or suspend this order, as amended, whenever he finds that this order, as amended, obstructs or does not tend to effectuate the declared policy of the act.

This order, as amended, shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(1) The market administrator, or such other person as the Secretary may designate, (i) shall continue in such capacity until discharged by the Secretary, (ii) from time to time account for all receipts and disbursements and deliver all funds

or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (iii) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 935.13 *Liability*—(a) *Liability of handlers.* The liability of the handlers hereunder is several and not joint, and no handler shall be liable for the default of any other handler.

§ 935.14 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

Issued at Washington, D. C., this 6th day of April 1943, to be effective on and after the 11th day of April 1943. Witness my hand and the official seal of the Department of Agriculture.

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

APRIL 7, 1943.

Approved:

JAMES F. BYRNES,
Director of Economic Stabilization.

[F. R. Doc. 43-5549; Filed, April 8, 1943; 11:23 a. m.]

PART 948—MILK IN THE SIOUX CITY, IOWA, MARKETING AREA

Order, as amended, regulating the handling of milk in the Sioux City, Iowa, marketing area.

It is provided in Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of the act, issue and amend orders regulating such handling of certain agricultural commodities (including milk and its products) as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities.

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AUTHORITY: §§ 948.1 to 948.13, inclusive, issued under 48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U.S.C. 1940 ed. 601 et seq.

§ 948.1 *Findings and determinations*—(a) *Findings.* Pursuant to the act and the rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR 900.1-900.17; 6 F.R. 6570; 7 F.R. 3350; 8 F.R. 2813), a public hearing was held upon certain proposed amendments to the tentatively approved marketing agreement, as amended, and to the order, as amended, regulating the handling of milk in the Sioux City, Iowa, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is hereby found that:

(1) The aforesaid order, as amended, and as hereby amended, and all of the terms and conditions of said order as amended and as hereby amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in the Sioux City, Iowa, marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to sections 2 and 8 (e) of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices set forth in the aforesaid order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The aforesaid order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in the aforesaid tentatively approved marketing agreement, as amended, upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that handlers of at least 50 percent of the volume of milk covered by this order, as amended, which is marketed within the Sioux City, Iowa, marketing area refused or failed to sign the tentatively approved marketing agreement, as amended, regulating the handling of milk in the Sioux City, Iowa, marketing area; and it is further determined that:

(1) The refusal or failure of such handlers to sign said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interest of producers of milk which is produced for sale in the Sioux City, Iowa, marketing area; and

(3) The issuance of this order as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of the approval of this order, as amended, and who, during the determined representative period, were engaged in the production of milk for sale in the said Sioux City, Iowa, marketing area.

§ 948.2 *Order relative to findings.* It is therefore ordered that, from and after the effective date hereof, the handling of milk in the Sioux City, Iowa, marketing area shall be in conformity to and in compliance with the terms and conditions of this order, as amended.

§ 948.3 *Definitions.* As used herein the following terms shall have the following meanings:

(1) "Sioux City, Iowa, marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of Sioux City, Iowa; South Sioux City, Nebraska; Stevens, South Dakota; and that territory within the following townships or precincts: Woodbury and Concord in Woodbury County, Iowa; Hancock, Perry, and Hungerford in Plymouth County, Iowa; Big Sioux and Jefferson in Union County, South Dakota; and Dakota and Covington in Dakota County, Nebraska.

(2) "Person" means any individual, partnership, corporation, association, or any other business unit.

(3) "Producer" means any person, irrespective of whether such person is also a handler, who, in conformity with the applicable health regulations, produces milk which is received at the plant of a handler from which milk is disposed of in the marketing area. This definition shall also include any person who produces milk which a cooperative association causes to be delivered to a plant from which no milk is disposed of in the marketing area.

(4) "Handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all or a portion of which milk is disposed of as milk in the marketing area and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This definition shall also include a cooperative association with respect to milk caused to be delivered from a producer to a plant from

which no milk is disposed of in the marketing area, for the account of such cooperative association and for which such cooperative association collects payments.

(5) "Market administrator" means the agency which is described in § 948.4 for the administration hereof.

(6) "Delivery period" means the then current marketing period from the first to, and including, the 15th day of each month, and from the 16th to, and including, the last day of each month.

(7) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended, by the Agricultural Marketing Agreement Act of 1937.

(8) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is or who may be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture of the United States.

(9) "Cooperative association" means any cooperative association of producers which the Secretary determines (i) to have its entire activities under the control of its members and (ii) to have and to be exercising full authority in the sale of milk of its members.

(10) "Emergency milk" means milk received by a handler from sources other than producers or other handlers under a temporary permit issued by the proper health authorities.

§ 948.4 *Market administrator* — (a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have power to:

(1) Administer the terms and provisions hereof; and

(2) Report to the Secretary complaints of violation of the provisions hereof.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Pay, out of the funds provided by § 948.11, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate;

(4) Unless otherwise directed by the Secretary, publicly disclose to handlers and to producers, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to § 948.7 or (ii) made payments pursuant to § 948.10; and

(5) Promptly verify the information contained in the reports submitted by handlers pursuant to § 948.7.

§ 948.5 *Classification of milk*—(a) *Milk to be classified.* Milk of each producer caused to be delivered by a cooperative association which is a handler to a plant from which no milk is disposed of in the marketing area, and all milk received from producers and other handlers, by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section, subject to the provisions of paragraph (c) of this section.

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

(1) Class I milk shall be all milk containing more than 1½ percent of butterfat which is disposed of in the form of milk, whether plain or flavored, and all milk not accounted for as Class II milk and Class III milk;

(2) Class II milk shall be all milk used to produce cream which is disposed of in the form of cream (for consumption as cream); and

(3) Class III milk shall be (i) all milk used to produce a milk product other than that specified as Class II milk and (ii) all milk accounted for as actual plant shrinkage (but such plant shrinkage shall not exceed 3 percent of the total receipts of milk from producers).

(c) *Interhandler and nonhandler sales.* Milk disposed of by a handler to another handler, and milk disposed of by a handler to a person who is not a handler but who distributes milk or manufactures milk products, shall be classified as Class I milk: *Provided,* That if the selling handler and the purchaser, on or before the 5th day after the end of the delivery period, each furnish to the market administrator similar signed statements that such milk was disposed of as Class II or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

§ 948.6 *Minimum prices.* Each handler shall pay at the time and in the manner set forth in § 948.10 not less than the following prices for milk of 3.5 percent butterfat content:

(a) *Class I milk.* The price per hundredweight for Class I milk during each delivery period shall be as set forth in the table in paragraph (b) of this section.

(b) *Class II milk.* The price per hundredweight for Class II milk during each delivery period shall be as set forth in the following table:

When the price computed pursuant to paragraph (d) of this section is—	The Class I price shall be	The Class II price shall be
Under $1.50	$1.85	$1.55
$1.50 or more but under $1.70	2.05	1.75
$1.70 or more but under $1.90	2.25	1.95
$1.90 or more but under $2.10	2.45	2.15
$2.10 or more but under $2.30	2.65	2.35
$2.30 or more but under $2.50	2.85	2.55
$2.50 or more but under $2.70	3.05	2.75
$2.70 or more but under $2.90	3.25	2.95
$2.90 or more but under $3.10	3.45	3.15
$3.10 or over	3.65	3.35

(c) *Class III milk.* The price per hundredweight for Class III milk shall be the price resulting from the following computation by the market administrator: determine the average of the prices per hundredweight ascertained to have been paid for milk of 3.5 percent butterfat content received during the next preceding delivery period at the following plants:

Concern:	*Location of plant*
Carnation Milk Co.	Northfield, Minn.
Carnation Milk Co.	Waverly, Iowa.
Borden Milk Products Co.	Sterling, Ill.
Libby McNeill and Libby.	Morrison, Ill.
Fort Dodge Creamery Co.	Fort Dodge, Iowa.

(d) *Basic price.* The basic price to be used in determining the Class I and Class II prices shall be computed by the market administrator as follows: multiply by 3.8 the average price of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture for the delivery period during which such milk is received, plus or minus 0.95 cent per hundredweight for each 1 cent that such average price of 92-score butter is above or below 20 cents, add 21 cents, and add a figure determined as follows: add 3 cents per hundredweight for each full one-half cent that the price of dry skim milk for human consumption is above 7 cents per pound. For purposes of determining this adjustment, the price per pound of dry skim milk to be used shall be the arithmetical average of the carlot prices for dry skim, both spray and roller process, for human consumption delivered at Chicago, as reported by the United States Department of Agriculture during the delivery period, including in such average the quotations for any part of the preceding delivery period which were not published and available for the price determination of such dry skim milk for the previous delivery period. In the event the United States Department of Agriculture does not publish carlot prices for dry skim milk for human consumption delivered at Chicago, the average of the carlot prices for dry skim milk for human consumption f. o. b. manufacturing plant, as reported by the United States Department of Agriculture for the Chicago area, shall be used. In the latter event such price shall be subject to the following adjustment; add or subtract 3 cents per hundredweight for each full one-half cent that the price of dry skim milk for human consumption, f. o. b. manufacturing plant, is above or below 6 cents per pound.

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

(1) On or before the 5th day after the end of each delivery period, (i) the receipts at each plant of milk from producers, (ii) the receipts at each plant of milk and cream from handlers, (iii) the receipts at each plant of milk produced

by him, (iv) the receipts at each plant of milk and cream from any other source, with the source indicated, and (v) the utilization of all receipts of milk and cream for the delivery period.

(2) On or before the 5th day after the end of each delivery period, the receipts of emergency milk as follows: (i) the amount of such milk and the average butterfat test thereof, (ii) the date or dates upon which such milk was received during the delivery period, (iii) the plant from which such milk was shipped, (iv) the price per hundredweight paid or to be paid for such milk, and (v) such other information with respect thereto as the market administrator may request.

(b) *Reports as to producers.* Each handler shall furnish to the market administrator:

(1) On or before the 5th day after the end of each delivery period, a list showing the name and address of each person who produces milk from whom the handler received milk for the purpose of fulfilling his total Class I and Class II milk requirements during the delivery period: *Provided,* That such list shall contain only persons who produce milk which is (i) commingled with milk from which such handler fulfilled his Class I and Class II milk requirements or (ii) diverted by a cooperative association which is a handler to a plant from which no milk is disposed of in the marketing area.

(2) Within 5 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator, (i) the name and address, (ii) the total pounds of milk received, (iii) the average butterfat test of milk received, and (iv) the number of days upon which milk was received.

(3) As soon as possible after first receiving milk from any producer, (i) the name and address of such producer, (ii) the date upon which such milk was first received, and (iii) the plant at which such producer's milk was received.

(c) *Reports of payments.* Each handler shall submit to the market administrator, on or before the 20th day after the end of each delivery period, his producer pay roll for such delivery period which shall show for each producer (1) the net amount of the payment made pursuant to § 948.10 with the prices, deductions, and charges involved, and (2) his total delivery of milk with average butterfat test thereof.

(d) *Verification of records.* Each handler shall (1) permit the market administrator or his agent, during the usual hours of business, to verify the information contained in reports submitted in accordance with this section, and (2) make available to the market administrator or his agent those facilities which are necessary for the sampling, check-weighing, and testing of the milk of each producer.

If, in the verification of the reports of any handler made pursuant to paragraph (a) of this section, it is necessary for the market administrator to examine the records of milk and cream handled in a plant of the handler from which no milk is disposed of in the marketing area, such handler shall make such records available to the market administrator.

§ 948.8 *Application of provisions*—(a) *Handlers who are also producers.* (1) The provisions of §§ 948.6, 948.9, 948.10, and 948.11 shall not apply to a handler who purchases or receives no milk from producers other than milk of his own production.

(2) In the case of a handler who is also a producer and who purchases or receives milk from other producers, the market administrator before making the computations pursuant to § 948.9 shall (i) exclude from the total pounds of milk in each class the total pounds of milk which were purchased or received in the respective classes from other handlers and (ii) exclude pro rata from the remaining pounds of milk in each class the total pounds of milk received from such handler's own farm production.

(b) *Purchases of milk from a handler who is also a producer.* In the case of a handler who purchases or receives milk in bulk from a handler who is also a producer, the market administrator, in making the computations pursuant to § 948.9 for such purchasing handlers, shall add an amount equal to the difference between the value of such milk (1) at the price for the class in which such milk was classified and (2) at the price for Class III milk.

(c) *Purchases of emergency milk.* The market administrator, before making the computation pursuant to § 948.9, shall deduct pro rata out of each class the total pounds of emergency milk delivered by each handler during the delivery period.

(d) *Payment for excess butterfat.* In the case of a handler who disposes of butterfat in excess of the butterfat which, on the basis of his records, has been received, the market administrator, in making the computations pursuant to § 948.9, shall add an amount equal to the value of such butterfat (or 3.5 percent milk equivalent) in accordance with its classification.

§ 948.9 *Determination of uniform prices to producers*—(a) *Computation of the amount to be paid producers by each handler.* For each delivery period the market administrator shall compute, subject to the provisions of § 948.8, the amount to be paid producers by each handler for milk received from them, by (1) multiplying the hundredweight of such milk in each class by the price applicable pursuant to § 948.6, (2) adding together the resulting values of such class, and (3) adding any amounts pursuant to § 948.8 (b) and (d).

(b) *Computation and announcement of uniform prices.* For each delivery period the market administrator shall compute and announce the uniform price per hundredweight of milk as follows:

(1) Combine into one total the respective values of milk computed pursuant to paragraph (a) of this section for each handler who made the reports to the market administrator prescribed by § 948.7, and who has made the payments to the market administrator prescribed in § 948.10 (d);

(2) Add the amount of cash balance in the producer-settlement fund less any amount due handlers pursuant to § 948.10;

(3) Divide the resulting amount by the total hundred-weight of milk of producers;

(4) Subtract from the figure computed pursuant to subparagraph (3) of this paragraph not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the uniform price for such delivery period for milk of producers containing 3.5 percent butterfat; and

(5) On or before the 7th day after the end of each delivery period, notify all handlers and publicly announce these computations, the uniform price per hundredweight of milk, and the butterfat differential computed pursuant to § 948.10 (b).

§ 948.10 *Payments for milk*—(a) *Time and method of payment.* On or before the 10th day after the end of each delivery period, each handler shall make payment, subject to the butterfat differential set forth in paragraph (b) of this section, for milk received by such handler during such delivery period, as follows:

(1) To each producer, except as set forth in subparagraph (2) of this paragraph, not less than the uniform price per hundredweight, computed pursuant to § 948.9 (b); and

(2) To a cooperative association for milk which it caused to be delivered to a handler from producers and for which such cooperative association collects payments, a total amount equal to not less than the sum of the individual payments otherwise payable to such producers under subparagraph (1) of this paragraph.

(b) *Butterfat differential.* If any handler has purchased or received from any producer milk having an average butterfat content other than 3.5 percent, such handler, in making the payments pursuant to subparagraphs (1) and (2) of paragraph (a) of this section, shall add for each one-tenth of 1 percent of average butterfat content in milk above 3.5 percent not less than, or shall deduct for each one-tenth of 1 percent of average butterfat content in milk below 3.5 percent not more than:

(1) Three cents per hundredweight when the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, is less than 30 cents;

(2) Three and one-half cents per hundredweight when such average price of 92-score butter is 30 cents or more but less than 35 cents;

(3) Four cents per hundredweight when such average price of 92-score butter is 35 cents or more, but less than 40 cents;

(4) Four and one-half cents per hundredweight when such average price of 92-score butter is 40 cents or more, but less than 45 cents;

(5) Five cents per hundredweight when such average price of 92-score butter is 45 cents or more, but less than 50 cents;

(6) Five and one-half cents per hundredweight when such average price of 92-score butter is 50 cents or more, but less than 55 cents; and

(7) Six cents per hundredweight when such average price of 92-score butter is 55 cents or more.

(c) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to paragraphs (d) and (f) of this section and out of which he shall make all payments to handlers pursuant to paragraphs (e) and (f) of this section.

(d) *Payments to the producer-settlement fund.* On or before the 7th day after the end of each delivery period, each handler shall pay to the market administrator for payment to producers through the producer-settlement fund, the amount by which the total utilization value of the milk of producers received by such handler during the delivery period is greater than the sum obtained by multiplying the hundredweight of such milk by the appropriate prices required to be paid by handlers pursuant to paragraph (a) of this section.

(e) *Payments out of producer-settlement fund.* On or before the 9th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers the amount if any, by which the total utilization value of such milk of producers received by such handler, during the delivery period, is less than the sum obtained by multiplying the hundredweight of such milk of producers by the appropriate price required to be paid by handlers pursuant to paragraph (a) of this section. On or before the 9th day after the end of each delivery period the market administrator shall pay to each cooperative association, with respect to milk of producers which it caused to be delivered to a plant from which no milk is disposed of in the marketing area, for the account of such cooperative association and for which such cooperative association collects payment, for payment to producers, the amount, if any, by which the total utilization of such milk is less than the sum obtained by multiplying the hundredweight of such milk by the appropriate price required to be paid by handlers pursuant to paragraph (a) of this section. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 10th day after the end of the delivery period, has not received the balance of such reduced payment from the market administrator, shall be deemed to be in violation of paragraph (a) of this section if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

(f) *Adjustment of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to the producer-settlement fund made pursuant to paragraph (d) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to paragraph (e) of this section, the market administrator shall, within 5 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment of less than is required by this section, the handler shall make up such payment not later than the time of making payment to producers next following such disclosure.

§ 948.11 *Expense of administration*—(a) *Payment by handlers.* As his pro rata share of the expense of the administration hereof, each handler, with respect to all milk received from producers and produced by such handler, during the delivery period, shall pay to the market administrator, on or before the 7th day after the end of such delivery period, an amount not to exceed 4 cents per hundredweight, the exact amount to be determined by the market administrator, subject to review by the Secretary. As its pro rata share of the expense of the administration hereof, a cooperative association which is a handler shall pay to the market administrator, on or before the 8th day after the end of the delivery period, with respect to the milk of each producer which it caused to be delivered to a plant from which no milk is disposed of in the marketing area, an amount per hundredweight equal to that required to be paid by other handlers pursuant to this paragraph.

(b) *Suits by the market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's prorata share of expenses as required by paragraph (a) of this section.

§ 948.12 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to paragraph (b) of this section.

(b) *Suspension and termination.* Any or all provisions hereof, or any amendment hereto, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handlers, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The market administrator, or such other person as the Secretary may designate, (1) shall continue in such capacity until discharged by the Secretary, (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant hereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 948.13 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

Issued at Washington, D. C., this 6th day of April 1943, to be effective on and after the 11th day of April 1943. Witness my hand and the official seal of the Department of Agriculture.

CLAUDE R. WICKARD,
Secretary of Agriculture.

APRIL 7, 1943.

Approved:

JAMES F. BYRNES,
Director of Economic Stabilization.

[F. R. Doc. 43-5550; Filed, April 8, 1943; 11:23 a. m.]

Chapter X—Food Production Administration

[FPO 5, Directive 2]

PART 1206—FERTILIZER

CHEMICAL FERTILIZER CONTAINING CHEMICAL NITROGEN

§ 1206.102 *Directive 2—(a) Distribution and delivery of chemical fertilizer containing chemical nitrogen for use on field corn.* Pursuant to the provisions of paragraphs (d) (1) and (d) (2) of Food Production Order No. 5,[1] the distribution and delivery of chemical fertilizer containing chemical nitrogen for use on field corn in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin, shall be governed by the following directions:

(1) Before making delivery of mixed chemical fertilizer containing chemical nitrogen to any person for use on field corn in the above-mentioned States, fertilizer manufacturers, dealers, or agents shall accept any applications received for such fertilizer for use on Group A crops and provide for delivery of such fertilizer for use on such Group A crops as provided in paragraph (h) (3) of Food Production Order No. 5.[1]

(2) Before delivering mixed chemical fertilizer containing chemical nitrogen to any person for use on field corn in the above-mentioned States, in excess of 50 percent of such person's requirements, fertilizer manufacturers, dealers or agents shall first make provision for delivering such fertilizer to the extent of 50 percent of the requirements of all eligible applications for such fertilizer for use on field corn in the above-mentioned States.

(3) In delivering mixed chemical fertilizer containing chemical nitrogen to persons in the above-mentioned States for use on field corn in excess of 50 percent of the requirements of such persons, fertilizer manufacturers, dealers or agents shall, so far as practicable, deliver to each of such persons the same percentage of his requirements.

(4) Fertilizer manufacturers, dealers or agents shall make available as high a percentage of mixed chemical fertilizer containing chemical nitrogen for delivery and use on other Group B crops as is made available for use on field corn.

(E.O. 9280, 9322, 7 F.R. 10179; 8 F.R. 9322; FPO 5, 8 F.R. 947)

Issued this 8th day of April 1943.

[SEAL] M. CLIFFORD TOWNSEND,
Director of Food Production.

[F. R. Doc. 43-5586; Filed, April 8, 1943; 4:12 p. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Amendment 21-2, Civil Air Regulations]

PART 21—AIRLINE TRANSPORT PILOT RATING

PERIODIC PHYSICAL EXAMINATIONS

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 2nd day of April 1943.

[1] 8 F.R. 947, 2955, 3689, 3750.

Effective April 2, 1943, § 21.400 of the Civil Air Regulations is amended as follows:

By striking the proviso which reads as follows:

§ 21.400 *Periodic physical examinations.* * * *

Provided, That the holder of an airline transport pilot certificate may, in lieu of each alternate periodic physical examination by such medical examiner of the Administrator, submit evidence satisfactory to the Administrator that he has within the preceding 15 days met at least the physical requirements prescribed in this Part by passing a physical examination prescribed by the air carrier by which he is employed.

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

By the Civil Aeronautics Board.

[SEAL] FRED A. TOOMBS,
Acting Secretary.

[F. R. Doc. 43-5607; Filed, April 9, 1943; 11:46 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

[T. D. 5257]

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

RELIEF FOR INSTALLMENT BASIS TAXPAYERS AND TAXPAYERS WITH INCOME FROM LONG-TERM CONTRACTS

In order to conform Regulations 109 [Part 30, Title 26, Code of Federal Regulations, 1941 Sup.] to section 222 (d) and (e) (2) of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended by inserting immediately preceding the heading "Part II—Rules in Connection With Certain Exchanges. Supplement A—Excess Profits Credit Based on Income," which immediately precedes section 740, the following:

SEC. 222. RELIEF PROVISIONS. (Revenue Act of 1942, Title II.)

* * * * *

(d) *Installment basis and other taxpayers.* Subchapter E of Chapter 2 is amended by inserting after section 735 the following new section:

SEC. 736. RELIEF FOR INSTALLMENT BASIS TAXPAYERS AND TAXPAYERS WITH INCOME FROM LONG-TERM CONTRACTS.

(a) *Election to accrue income.*—In the case of any taxpayer computing income from installment sales under the method provided by section 44 (a), if such taxpayer establishes, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, that the average volume of credit extended to purchasers on the installment plan in the four taxable years preceding the first taxable year beginning after December 31, 1941, was more than 125 per centum of the volume of such credit extended to such purchasers in the taxable year, or the average outstanding installment accounts receivable at the end of each of the four taxable years preceding the first taxable year beginning after December 31, 1941, was more than 125 per centum of the amount of such accounts receivable at the end of the taxable year, or if the taxpayer was not in existence for four previous taxable years, the taxable years during which the taxpayer was in existence, in either case including only such years for which the income was computed under the method provided in section 44 (a), it may elect, in its return for the taxable year, for the purposes of the tax imposed by this subchapter, to compute, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, its income from installment sales on the basis of the taxable period for which such income is accrued, in lieu of the basis provided by section 44 (a). Except as hereinafter provided, such election shall be irrevocable when once made and shall apply also to all subsequent taxable years, and the income from installment sales for each taxable year before the first year with respect to which the election is made but beginning after December 31, 1939, shall be adjusted for the purposes of this subchapter to conform to such election. In making such adjustments, no amount shall be included in computing excess profits net income for any excess profits tax taxable year on account of installment sales made in taxable years beginning before January 1, 1940. If the taxpayer establishes, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary that in a taxable year subsequent to the year with respect to which an election has been made under the preceding provisions of this subsection it would not be eligible to elect such accrual method, the taxpayer may in accordance with such regulations elect in its return for such year to abandon such accrual method. Such election shall be irrevocable when once made and shall preclude any further elections under this subsection. For the taxable year for which the latter election is made and subsequent taxable years, income shall be computed in accordance with section 44 (c).

* * * * *

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.

§ 30.736 (a)-1 *Taxpayers reporting income on installment basis; eligibility for relief—(a) In general.* Section 736 (a) provides excess profits tax relief with respect to a taxpayer which computes its income for the taxable year from installment sales under the method provided by section 44 (a), if such taxpayer establishes that either:

(1) The average volume of credit extended to purchasers on the installment plan in the four taxable years preceding the first taxable year of the taxpayer beginning after December 31, 1941, was more than 125 percent of the volume of such credit extended to such purchasers in the taxable year, or

(2) The average outstanding installment accounts receivable at the end of each of the four taxable years preceding the first taxable year of the taxpayer beginning after December 31, 1941, was more than 125 percent of the amount of such accounts receivable at the end of the taxable year.

If the taxpayer was not in existence for the four taxable years preceding its first taxable year beginning after December 31, 1941, the average volume of credit or the average outstanding installment accounts, as the case may be, for the years preceding such first taxable year shall be computed for such years as the taxpayer was in existence. The average volume of credit or the average outstand-

ing installment accounts shall be computed only with respect to those years for which the income was computed pursuant to the method provided by section 44 (a), and shall not be computed with respect to any year for which the income was reported on the cash or the straight accrual basis. The years with respect to which such computations are made need not be consecutive taxable year.

The average volume of credit for the appropriate years preceding the taxpayer's first taxable year beginning after December 31, 1941 (hereinafter called the "installment base period"), shall be the aggregate of the volumes of credit extended during each of such years divided by the number of months in such years and multiplied by twelve. If the taxable year with respect to which the election is being made is a year of less than twelve months, the number of months in such year shall be used for the purposes of the preceding sentence instead of twelve. The average outstanding installment accounts receivable shall be the aggregate of the amounts of the installment accounts receivable at the end of each of the taxable years in the installment base period divided by the number of years in such period.

(b) *Definitions and determinations.* For the purposes of this section:

(1) An installment sale means any sale upon credit which the purchaser agrees to repay in two or more scheduled payments, regardless of the maturity of such credit or the amount of the down payment or of each payment, and which for the purposes of the income tax under Chapter I is reported on the installment basis. An installment sale shall not include any casual sale of personal property, and shall not include any sale of real property unless the initial payments received in cash or property (other than evidences of indebtedness of the purchaser) during the taxable period in which the sale is made do not exceed 30 percent of the selling price and unless the taxpayer is regularly engaged in the business of selling real property upon such basis.

(2) The volume of credit for a taxable year is the amount equal to the difference between the amount of net sales (gross sales minus sales returns and allowances) and the amount of the down payments in cash or in other property (other than evidence of indebtedness of the purchaser). The sales price of an article shall include the amount of any service or credit charge but shall not include the amount of any sales tax or other excise tax imposed upon the sale whether or not charged to the purchaser. The down payment shall be the payment made at the time of the sale and shall not include the amount of any sales tax or other excise tax charged to the purchaser and included in the down payment.

(3) The outstanding accounts receivable at the end of a taxable year shall be the aggregate of the net debit amounts in the installment accounts receivable of the taxpayer at the end of such taxable year. Installment accounts receivable shall be the accounts reflecting the amounts due the taxpayer from installment sales. In computing the net debit amount of such accounts for the installment base period, there shall be allowed as credits not only payments, trade-ins, and returns and allowances but also the amount of installment accounts receivable which have been ascertained to be worthless and have been charged off under section 23 (k) of the Revenue Act of 1938 and have been allowed as a deduction in computing the net income, or which have become worthless under section 23 (k) (1) of the Internal Revenue Code as amended by section 124 of the Revenue Act of 1942, and which have been allowed as a deduction. With respect to the taxable year for which eligibility for relief under section 736 (a) and this section is being determined, in addition to the credits for payments, trade-ins, and returns and allowances, there shall be allowed as a credit the amount of installment accounts receivable which have been determined to be worthless under section 23 (k) (1) of the Internal Revenue Code as amended by section 124 of the Revenue Act of 1942, and which have been allowed as a deduction in computing the net income for such year. In determining the amount of installment accounts receivable at the end of the taxable year for which eligibility for relief under section 736 (a) is being determined, no credit shall be allowed based upon the sale, hypothecation, or other disposition (other than by payment by the purchaser) of any installment account receivable unless it is the practice of the taxpayer to sell, hypothecate, or make other disposition of a portion of its installment accounts receivable, and unless such sales, hypothecations, or other dispositions have been made in the installment base period. If such sales, hypothecations, or other dispositions have been made in such period, credits may be allowed in computing the amount of installment accounts receivable at the close of the taxable year for which eligibility is being determined. Such credit, however, shall not exceed an amount which bears the same ratio to the installment accounts receivable at the close of the taxable year which the total credit attributable to sales, hypothecations, or other dispositions (other than by payment by the purchaser) during the taxable years in the installment base period bears to the aggregate of the installment accounts receivable at the end of each of the taxable years in such period.

§ 30.736 (a)–2 *Election to compute excess profits income on straight accrual basis.* If a taxpayer computing income from installment sales under the method provided by section 44 (a) establishes eligibility for relief under section 736 (a) and § 30.736 (a)–1 with respect to a taxable year beginning after December 31, 1941, it may elect in its excess profits tax return for such year to compute income attributable to installment sales on the basis of the taxable period for which such income is accrued, in lieu of the basis provided by section 44 (a), pursuant to which income for any taxable year is determined to be that proportion of the installment payments actually received during the year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

A taxpayer electing to compute income from installment sales on the basis of the taxable period for which such income is accrued, pursuant to section 736 (a) and this section, must file with its excess profits tax return for the year in which such election is made the following:

(a) A statement of the taxable years in the installment base period for which income from installment sales was reported for the purposes of the income tax under chapter 1 under the method provided by section 44 (a) and a statement that for the taxable year income from such sales is reported upon such basis for purposes of the income tax under Chapter 1.

(b) A schedule setting forth in columnar form the details of the computation of the volume of credit extended to purchasers on the installment plan in the taxable year and in each taxable year in the installment base period or of the amount of the outstanding installment accounts receivable at the end of the taxable year and at the end of each taxable year in the installment base period, or both, and the computation of the ratio between such volume of credit extended in the taxable year and in the installment base period, or between such outstanding accounts receivable at the end of the taxable year and the average of such outstanding accounts for the installment base period, or both.

(c) A schedule setting forth the installment accounts receivable which have been sold, hypothecated, or otherwise disposed of during the taxable year and during the installment base period, and the ratio that such sales, hypothecations or other dispositions bear to installment accounts receivable outstanding at the close of the taxable year and at the end of each taxable year of the installment base period.

(d) Amended income and excess profits tax returns for each taxable year beginning after December 31, 1939, and prior to the taxable year for which the election is made, to reflect the effects of the computation of income from installment sales for the purposes of the excess profits tax for such years on the basis of the taxable period for which such income is accrued. If the recomputation produces an overassessment for any of such years, the taxpayer should file a claim for refund on Form 843 with the amended returns for such years.

If the taxpayer elects in a taxable year beginning after December 31, 1941, and under the provisions of section 736 (a) and this section to compute its income from installment sales on the straight accrual basis, such election shall be irrevocable when once made and shall apply also to all subsequent taxable years and the income from installment sales for each taxable year before the first year with respect to which the election is made, but beginning after December 31, 1939, shall be adjusted for the purposes of the excess profits tax computation to conform to such election. Since no change in the computation of income from the installment basis to the straight accrual basis can be made for any year

beginning prior to January 1, 1940, as a result of such election, no recomputation can be made for any year in the base period. If the taxpayer uses the excess profits credit based on income pursuant to section 713 or section 742, the average base period net income shall be the actual average base period net income with income from installment sales computed under the method pursuant to which such income was reported for the purposes of the income tax under Chapter 1 for the taxable years in such period. If the taxpayer uses the excess profits credit based on invested capital pursuant to section 714, the determination of accumulated earnings and profits shall be made without regard to any adjustment resulting from election made under section 736 (a) and this section, except as such election is reflected in the amount of income tax or excess profits tax payable for taxable years beginning after December 31, 1939. The election made pursuant to section 736 (a) and this section to compute income on the straight accrual basis in lieu of the basis provided in section 44 (a) shall apply only with respect to excess profits net income for purposes of the excess profits tax imposed by Subchapter E of Chapter 2. For purposes of the income tax under Chapter 1, or the surtax on personal holding companies or the declared value excess profits tax under Chapter 2, income shall be computed upon the basis provided in section 44 (a).

If the taxpayer does not satisfy the eligibility requirements of section 736 (a) and § 30.736 (a)–1 for its first taxable year beginning after December 31, 1941, it is not precluded from electing for any subsequent taxable year in which it satisfies such eligibility requirements to compute its income from installment sales upon the straight accrual basis. Moreover, the taxpayer need not elect under section 736 (a) and this section to compute its income from installment sales upon the straight accrual basis for the first taxable year beginning after December 31, 1941, with respect to which such eligibility requirements are satisfied. Failure so to elect does not preclude an election for a subsequent taxable year with respect to which the eligibility requirements are met.

For a new election to return to the installment basis of reporting income for a taxable year in which the taxpayer would not be eligible to elect to compute income from installment sales on the straight accrual basis pursuant to section 736 (a) and this section subsequent to the year in which such election was made, see § 30.736 (a)–4.

§ 30.736 (a)–3 *Computation of income on straight accrual basis.* If the taxpayer has elected under section 736 (a) and § 30.736 (a)–2 to compute for excess profits tax purposes its income from installment sales on the basis of the taxable year for which such income is accrued, in lieu of the basis provided by section 44 (a), the gross income of the taxpayer from installment sales shall be computed upon such accrual basis. Likewise all deductions under section 23 allowable in computing net income and attributable to such sales, shall be computed upon the straight accrual basis. However, no income or deductions (including deductions for bad debts) shall be included in the computation of excess profits net income for any excess profits tax taxable year on account of installment sales made in taxable years beginning before January 1, 1940.

Any deductions under section 23 which are limited to a percentage of net income (computed without regard to such deductions, as for example, the deduction for charitable contributions which is allowed by section 23 (q)) shall be determined on the basis of such net income with income from installment sales determined upon the straight accrual basis, and not on the basis of such net income for the purposes of the income tax under Chapter 1. The deduction for bad debts under section 23 (k) shall be allowed only with respect to debts which have become worthless within the taxable year. No reserve for bad debts arising from installment accounts receivable may be set up for excess profits tax purposes, and no bad debt deduction shall be allowed for any additions to such a reserve. Only those debts which have become worthless within the taxable year and which are allowed as a deduction in the computation of net income for the purposes of the income tax under Chapter 1 for the taxable year shall be allowed in the determination of the bad debt deduction for excess profits tax purposes under section 736 (a). If a debt reflected in installment accounts receivable was created in a prior excess profits tax taxable year for which the income for excess profits tax purposes was computed upon the straight accrual basis or was recomputed upon the straight accrual basis pursuant to an election made under section 736 (a) and § 30.736 (a)–2, and the total amount of the profit represented by such installment accounts receivable was included in gross income for such year, the amount of the deduction for the bad debt shall be computed upon the straight accrual basis and shall not be limited to the unrecovered cost of the goods or article sold in consideration of such debt.

In computing the net operating loss deductible for the purposes of the excess profits tax for a taxable year pursuant to section 23 (s), section 122, and section 711 (a) (1) (J) or section 711 (a) (2) (L):

(a) The net operating loss under section 122 (a) for any prior or subsequent taxable year and the net income under section 122 (b) for any prior taxable year shall be determined by computing income from installment sales upon the straight accrual basis if for the purposes of the excess profits tax for such prior or subsequent years the income would be so computed upon the straight accrual basis pursuant to an election made under section 736 (a) and § 30.736 (a)–2;

(b) The net operating loss under section 122 (a) for any subsequent taxable year shall be determined by computing income from installment sales upon the installment method provided by section 44 (a) if for the purposes of the excess profits tax for such year income from installment sales would be so computed under the method provided by section 44 (a) pursuant to an election made under section 736 (a) to abandon the straight accrual method (see § 30.736 (a)–4);

(c) The net operating loss for a taxable year beginning in 1939 shall be the net operating loss determined under the provisions of Chapter 1 applicable to such year, without regard to any election subsequently made under section 736 (a);

(d) The excess profits net income for the taxable year in which the net operating loss deduction is computed shall, for the purposes of the reduction provided by section 711 (a) (1) (J) (ii) or section 711 (a) (2) (L) (ii) be determined by computing income from installment sales under the straight accrual basis pursuant to the election made under section 736 (a) and § 30.736 (a)–2.

In computing normal tax net income for the purposes of determining excess profits net income, the credit for dividends received shall be limited to 85 percent of the adjusted net income computed by placing income from installment sales on the straight accrual basis as provided in this section, instead of on the installment basis.

The unused excess profits credit under section 710 (c) (2) for any excess profits tax taxable year for which the excess profits net income is computed by determining income from installment sales on the straight accrual basis pursuant to the election exercised under section 736 (a) and § 30.736 (a)–2 shall be computed with regard to the excess profits net income so computed. For any excess profits tax taxable year for which income from installment sales is computed under the method provided by section 44 (a), pursuant to an election under section 736 (a) and § 30.736 (a)–4 to abandon the straight accrual basis, the unused excess profits credit shall be computed with regard to the excess profits net income so computed. The adjusted excess profits net income used in the computation of the unused excess profits credit carry-back and carry-over under section 710 (c) (3) shall be the adjusted excess profits net income computed by determining income from installment sales on the straight accrual basis as described in this section. The unused excess profits credit adjustment for any taxable year shall be the aggregate of the unused excess profits credit carry-overs and unused excess profits credit carry-backs to such taxable year, and shall be applied against excess profits net income for such year computed by determining income from installment sales on the straight accrual basis. However, no unused excess profits credit carry-back may be used against excess profits net income for an excess profits tax taxable year beginning prior to January 1, 1941, regardless of the fact that the excess profits net income for such year had been increased by income from installment sales computed on the straight accrual basis, whereas if such income had been computed on the installment basis the income from installment sales would be attributable to a subsequent taxable year to which an un-

used excess profits credit carry-back would be allowed. For the computation of the unused excess profits credit adjustment, see section 710 (c) and § 30.710-4.

If an election is made under section 736 (a) and § 30.736 (a)–2 for an excess profits tax taxable year beginning after December 31, 1941, or for a subsequent taxable year, to compute excess profits net income on the straight accrual basis in lieu of the installment basis:

(a) With respect to a taxable year beginning in 1940, the income tax determined under Chapter 1 shall be based upon normal tax net income which includes income from installment sales computed under the method provided by section 44 (a) and the excess profits tax shall be based upon adjusted excess profits net income which shall include income from installment sales computed upon the straight accrual basis as described in this section. The amount of the income tax shall be allowed as an adjustment under section 711 (a) (1) (A), in computing excess profits net income based on income, and under section 711 (a) (2) (C), in computing excess profits net income based on invested capital, as applicable to a taxable year beginning on January 1, 1940.

(b) With respect to a taxable year beginning in 1941 and not ending after June 30, 1942, the normal tax and surtax determined under Chapter 1 shall be based upon normal tax net income and surtax net income which include income from installment sales computed under the method provided by section 44 (a), and the excess profits tax shall be based upon adjusted excess profits net income which shall include income from installment sales computed upon the straight accrual basis as described in this section. The excess profits tax allowed as a deduction under the provisions of section 23 (c), applicable to a taxable year beginning on January 1, 1941, in the computation of net income for normal tax and surtax purposes shall be the amount of excess profits tax determined pursuant to the election under section 736 (a).

(c) With respect to taxable years beginning in 1941 and ending after June 30, 1942, the tentative normal tax and surtax for the purposes of the tentative tax provided in section 108 (a) (1) (A) and the tentative excess profits tax provided in section 710 (a) (3) (A) shall be computed as described in the preceding paragraph (b), and the tentative normal tax and surtax for the purposes of the tentative tax provided in section 108 (a) (1) (B) and the tentative excess profits tax provided in section 710 (a) (3) (B) shall be computed as described in the succeeding paragraph (d).

(d) With respect to a taxable year beginning after December 31, 1941, the normal tax and surtax determined under Chapter 1 shall be based upon normal tax net income and surtax net income which include income from installment sales computed under the method provided by section 44 (a), and the excess profits tax shall be determined upon the basis of adjusted excess profits net income which shall include income from installment sales computed upon the straight accrual basis as described in this section. The normal tax net income and the corporation surtax net income for the purposes of the normal tax and surtax under Chapter 1 shall be determined by using as the credit under section 26 (e) (relating to income subject to excess profits tax) the amount of adjusted excess profits net income computed by determining income from installment sales upon the straight accrual basis. For the purposes of determining the excess profits tax under section 710 (a) (1) (B), as an amount which when added to the normal tax and surtax for such year equals 80 percent of the corporation surtax net income computed without regard to the credit under section 26 (e), the corporation surtax net income shall include income from installment sales computed upon the straight accrual basis described in this section, the credit for dividends received used in computing corporation surtax net income shall be limited to 85 percent of the net income which shall include income from installment sales computed upon such straight accrual basis, and the normal tax and surtax shall be the actual normal tax and surtax determined under Chapter 1.

The income tax and excess profits tax for any taxable year recomputed as provided in this section pursuant to the election under section 736 (a) shall be the income tax and the excess profits tax for such year for the purposes of the provisions of Supplement L of Chapter 1, relating to assessment and collection of deficiency, the provisions of Supplement M of Chapter 1, relating to interest and additions to the tax, and the provisions of Supplement O, of Chapter 1, relating to overpayments. Any amount of excess profits tax deferred under section 710 (a) (5) on account of relief claimed under section 722, any amount of foreign tax credit under section 729 (c) and (d) which is limited to a portion of the excess profits tax imposed, any credit for debt retirement under section 783, and any amount of post war refund under section 780 shall be computed with respect to the excess profits tax so determined. Likewise, any amount of foreign tax credit under section 131 which is limited to a portion of the income tax imposed shall be computed with respect to the income tax so determined.

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

Example. Corporation I, which came into existence early in 1936, is a retail dealer selling personal property on the installment plan. It computes its income on the calendar year basis under the method provided in section 44 (a). It has established that the average outstanding installment accounts receivable at the end of the years 1938, 1939, 1940, and 1941 is more than 125 percent of the amount of outstanding installment accounts receivable at the end of 1942. It therefore elects under section 736 (a) and § 30.736 (a)–2 to compute its income from installment sales upon the straight accrual basis for purposes of the excess profits tax for the year 1942; income from such sales for the years 1940 and 1941 must also be computed upon the straight accrual basis. The net income of corporation I from installment sales computed upon the installment method and upon the straight accrual basis, the deductions (not including any deduction for excess profits tax) and the amount of income which will not be subject to excess profits tax as a result of the election under section 736 (a) are shown in the following schedule:

Taxable year	Income accrued	Years in which income is realized by collection and reported upon the installment basis							Unrealized income 12/31/42
		1936	1937	1938	1939	1940	1941	1942	
1936	$200,000	$70,000	$50,000	$50,000	$30,000				
1937	300,000		100,000	100,000	50,000	$50,000			
1938	350,000			120,000	150,000	50,000	$30,000		
1939	400,000				150,000	100,000	100,000	$50,000	
1940	450,000					200,000	150,000	100,000	
1941	480,000						250,000	200,000	$30,000
1942	540,000							500,000	40,000
Income	2,720,000	70,000	150,000	270,000	380,000	400,000	530,000	850,000	70,000
Deductions	530,000	50,000	60,000	65,000	75,000	90,000	90,000	100,000	
Net income	2,190,000	20,000	90,000	205,000	305,000	310,000	440,000	750,000	70,000

	1940	1941	1942	Unrealized income Dec. 31, 1942
Net income from installment sales for taxable years beginning after December 31, 1939, computed upon installment basis	$400,000	$530,000	$850,000	$70,000
Net income from installment sales for taxable years beginning after December 31, 1939, computed upon accrual basis	450,000	480,000	540,000	
Increase in excess profits net income caused by change to accrual basis	50,000			
Decrease in excess profits net income caused by change to accrual basis		50,000	310,000	70,000

Income subject to excess profits tax upon installment basis (sum of incomes for 1940, 1941, 1942, and income unrealized as of December 31, 1942) $1,850,000

Income subject to excess profits tax upon accrual basis (sum of incomes for 1940, 1941, and 1942) 1,470,000

Income which is not subject to excess profits tax if election is made under section 736 (a) to compute income from installment sales upon the accrual method $380,000

Assume that except for the deductions for income tax, excess profits tax, or for the credit for income subject to excess profits tax,

there are no adjustments to net income shown in the preceding schedule in computing normal tax net income, corporation surtax net income, or excess profits net income, and that dividends out of earnings and profits were distributed for each year in the base period equal to the amount of the net income for such year. The average base period net income pursuant to section 713 (d) and (f) for 1940 is $254,675, *i. e.*, one-half of the sum of $171,175 (the income for 1938 less the amount of the income tax for such year (pursuant to section 711 (b) (1) (A) applicable with respect to a taxable year beginning in 1940)), $254,675 (the income for 1939 less the amount of the income tax for such year computed as provided above), and $165,215 (one-half of the amount by which the aggregate of the incomes for 1938 and 1939 (computed as provided above) exceeds the aggregate of the incomes for 1936 of $17,760 and 1937 of $77,660 (computed as provided above) but not in excess of $254,675. The excess profits credit based on income for 1940 is $241,941.25 (95 percent of $254,675). The average base period net income pursuant to section 713 (d) and (f) for 1941 and subsequent years is $305,000, *i. e.*, one-half of the sum of $205,000 (the income for 1938), $305,000 (the income for 1939), and $200,000 (one-half of the amount by which the aggregate of the incomes for 1938 and 1939 exceeds the aggregate of the incomes for 1936 and 1937), but not in excess of $305,000. The excess profits credit based on income for such years is $289,750 (95 percent of $305,000). The income tax and excess profits tax computed for each of the years 1940, 1941, and 1942 without regard to, and pursuant to an election under section 735 (a), would be as follows:

1940 INCOME TAX

1. Net income (installment basis)		$310,000
2. Normal tax (22½ percent)		68,510
3. Defense tax (10 percent of tax computed at 19 percent, *i. e.*, 1.9 percent)		5,890
4. Total tax		74,400

1940 EXCESS PROFITS TAX

WITHOUT REGARD TO SECTION 736 (a)

5. Net income (installment basis)		$310,000
6. Less income tax		74,400
7. Excess profits net income		235,600
8. Less: Excess profits credit	$241,941.25	
9. Specific exemption	5,000.00	246,941.25
10. Adjusted excess profits net income		0
11. Excess profits net income (item 5; in computing unused excess profits credit, 1941 law is applicable and no deduction for income tax is allowed)		810,000
12. Less: Excess profits credit (item 34; in computing unused excess profits credit, excess profits credit is computed under law applicable to 1941)		289,750
13. Unused excess profits credit		0

PURSUANT TO ELECTION UNDER SECTION 736 (a)

14. Net income (accrual basis)		$360,000
15. Less income tax		74,400
16. Excess profits net income		285,600
17. Less: Excess profits credit	$241,941.25	
18. Specific exemption	5,000.00	246,941.25
19. Adjusted excess profits net income		38,658.75
20. Excess profits tax ($5,000 plus 30 percent of $18,658.75)		10,597.63

1941 INCOME TAX

WITHOUT REGARD TO SECTION 736 (a)

21. Net income (installment basis)		$440,000
22. Less excess profits tax (item 37)		64,125
23. Normal tax net income, and corporation surtax net income		375,875
24. Normal tax (24 percent)		$90,210.00
25. Surtax ($1,500 plus 7 percent of $350,875)		26,061.25
26. Total tax		116,271.25

PURSUANT TO ELECTION UNDER SECTION 736 (a)

27. Net income (installment basis)		$440,000
28. Less excess profits tax (item 42)		39,362.50
29. Normal tax net income and corporation surtax net income		400,637.50
80. Normal tax (24 percent)		96,153.00
31. Surtax ($1,500 plus 7 percent of $375,637.50)		27,794.63
82. Total tax		123,947.63

1941 EXCESS PROFITS TAX

WITHOUT REGARD TO SECTION 736 (a)

33. Excess profits net income (installment basis)		$440,000
34. Less: Excess profits credit	$289,750	
85. Specific exemption	5,000	294,750
86. Adjusted excess profits net income		145,250
87. Excess profits tax ($41,500 plus 50 percent of $45,250)		64,125

PURSUANT TO ELECTION UNDER SECTION 736 (a)

88. Excess profits net income (accrual method)		$390,000
89. Less: Excess profits credit	$289,750	
40. Specific exemption	5,000	294,750
41. Adjusted excess profits net income		95,250
42. Excess profits tax ($19,000 plus 45 percent of $45,250)		$39,362.50

1942 INCOME TAX

WITHOUT REGARD TO SECTION 736 (a)

43. Net income (installment basis)		$750,000
44. Less: Credit under section 26 (e) for income subject to excess profits tax (item 58)		455,250
45. Normal tax net income and corporation surtax net income		294,750
46. Normal tax (24 percent)		70,740
47. Surtax (16 percent)		47,160
48. Total tax		117,900

PURSUAPT TO ELECTION UNDER SECTION 736 (a)

49. Net income (installment basis)		$750,000
50. Less credit under section 26 (e) for income subject to excess profits tax (item 63)		145,250
51. Normal tax net income and corporation surtax net income		604,750
52. Normal tax (24 percent)		145,140
53. Surtax (16 percent)		96,760
54. Total tax		241,900

1942 EXCESS PROFITS TAX

WITHOUT REGARD TO SECTION 736 (a)

55. Excess profits net income (installment basis)		$750,000
56. Less: Excess profits credit	$289,750	
57. Specific exemption	5,000	294,750
58. Adjusted excess profits net income		455,250
59. Excess profits tax (90 percent)		409,725

PURSUANT TO ELECTION UNDER SECTION 736 (A)

60. Excess profits net income (accrual basis)		$440,000
61. Less: Excess profits credit	$289,750	
62. Specific exemption	5,000	294,750
63. Adjusted excess profits net income		145,250
64. Excess profits tax (90 percent)		130,725
65. Corporation surtax net income (accrual basis (item 60))		440,000
66. 80 percent of item 65		352,000
67. Less income tax under chapter 1 (item 54)		241,900
68. Item 66 less item 67		110,100
69. Excess profits tax (item 64 or item 68, whichever is the lesser)		110,100

	1940	1941	1942	Total
Tax computed without regard to section 736 (a):				
Income tax	$74,400	$116,271.25	$117,900	$308,571.25
Excess profits tax	0	64,125.00	409,725	473,850.00
Total	74,400	180,396.25	527,625	782,421.25
Tax computed pursuant to election under section 736 (a):				
Income tax	74,400.00	123,947.63	241,900	440,247.63
Excess profits tax	10,597.63	39,362.50	110,100	160,060.13
Total	84,997.63	163,310.13	352,000	600,307.76
Tax saving resulting from election under section 736 (a)		17,086.12	175,625	192,711.12
Increase in tax resulting from election under secton 736 (a)	10,597.63			10,597.63
Net tax saving				182,113.49

§ 30.736 (a)–4 *Election to abandon straight accrual basis and to return to installment basis.* If the taxpayer establishes for any excess profits tax taxable year subsequent to the year in which it elected under the provisions of section 736 (a) and § 30.736 (a)–2 to compute for excess profits tax purposes income from installment sales on the straight accrual basis that:

(a) Such election was based upon a comparison of the average volume of credit extended to purchasers on the installment plan in the installment base period with the volume of credit for such year, and that such average volume of credit extended in the installment base period is not more than 125 percent of the volume of credit extended to purchasers on the installment plan in the taxable year, or

(b) Such election was based upon a comparison of the average outstanding accounts receivable for the installment base period with the amount of such accounts receivable at the end of such year, and that such average outstanding accounts receivable for the installment base period is not more than 125 percent of the amount of such accounts receivable at the end of the taxable year,

the taxpayer may elect in its excess profits tax return for the taxable year to abandon for excess profits tax purposes the computation of income from installment sales on the straight accrual basis and may elect under the method provided by section 44 (a) to compute its income from installment sales as that proportion of installment payments actually received in the taxable year which the gross profit realized or to be realized when payment is completed, bears to the total contract price. When made, such election shall be irrevocable and shall be applicable not only to the taxable year for which the election is made but also to all subsequent excess profits tax taxable years. No such election may be made if subsequent to the year for which the taxpayer has elected under section 736 (a) and § 30.736 (a)–2 to compute its income from installment sales on the straight accrual basis, the taxpayer has received permission from the Commissioner under section 41 and § 19.41–2 to change its accounting method for purposes of the income tax under Chapter 1 to the straight accrual basis. An election made under section 736 (a) and this section to abandon the straight accrual basis and to resume the installment basis method provided by section 44 (a) precludes any further election under section 736 (a) and § 30.736 (a)–2, and no future election can be made to compute, for excess profits tax purposes, income from installment sales on the straight accrual basis.

If the election under section 736 (a) and this section is made to resume the installment method of computing income from installment sales, the income from such sales computed upon such basis shall be included in excess profits net income for the taxable year for which the election is made and for all subsequent excess profits tax taxable years. Such income shall be computed in accordance with section 44 (c), and amounts received during any such year on account of sales or other disposition of property made in any prior year (whether the income for such prior year was computed on the installment or the straight accrual basis) shall not be excluded in the computation of excess profits net income.

In computing the net operating loss deduction pursuant to section 23 (s), section 122, and section 711 (a) (1) (J) or section 711 (a) (2) (L) for the purposes of the excess profits tax for a taxable year for which income from installment sales is computed under the method provided by section 44 (a) pursuant to an election under section 736 (a) and this section to abandon the straight accrual basis:

(a) The net operating loss under section 122 (a) and the net income under section 122 (b) for any prior taxable year shall be determined by computing income from installment sales upon the basis, straight accrual basis or installment basis provided by section 44 (a), used in computing excess profits net income for such year,

(b) The net operating loss for any subsequent taxable year shall be determined by computing income from installment sales upon the installment basis method provided in section 44 (a),

(c) The excess profits net income for the taxable year for which the net operating loss deduction is computed shall, for the purposes of the reduction provided by section 711 (a) (1) (J) (ii) or section 711 (a) (2) (L) (ii), be determined by computing income from installment sales under the installment basis method provided by section 44 (a).

The unused excess profits credit under section 710 (c) (2) for any prior excess profits tax taxable year and the adjusted excess profits net income for any such year (used in the computation of the unused excess profits credit carry-over) shall be determined upon the basis of the excess profits net income for such year which shall include income from installment sales computed upon the basis, straight accrual basis or installment basis provided by section 44 (a), used in computing excess profits net income for such year. The unused excess profits credit for a subsequent excess profits tax taxable year shall be determined upon the basis of the excess profits net income which shall include income from installment sales computed upon the installment method provided by section 44 (a). The unused excess profits credit adjustment for any taxable year shall be the aggregate of the unused excess profits credit carry-overs and unused excess profits credit carry-backs to such year. For the computation of the unused excess profits credit adjustment, see section 710 (c) and § 30.710–4.

With respect to those excess profits tax taxable years for which the taxpayer has resumed the computation of income from installment sales on the installment basis provided by section 44 (a), normal tax net income and corporation surtax net income for the purposes of computing the excess profits tax shall, prior to any adjustments under section 711 (a) and section 710 (a) (1) (B), be the normal tax net income and the corporation surtax net income used in the computation of the normal tax and the surtax under chapter 1.

SEC. 222. RELIEF PROVISIONS. (Revenue Act of 1942, Title II.)

* * * * *

(d) *Installment basis and other taxpayers.* Subchapter E of Chapter 2 is amended by inserting after section 735 the following new section:

SEC. 736. RELIEF FOR INSTALLMENT BASAS TAXPAYERS AND TAXPAYERS WITH INCOME FROM LONG-TERM CONTRACTS. (Revenue Act of 1942, Title II.)

* * * * *

(b) *Election on long-term contracts.* In the case of any taxpayer computing income from contracts the performance of which requires more than 12 months, if it is abnormal for the taxpayer to derive income of such class, or, if the taxpayer normally derives income of such class but the amount of such income of such class includible in the gross income of the taxable year is in excess of 125 per centum of the average amount of the gross income of the same class for the four previous taxable years, or, if the taxpayer was not in existence for four previous taxable years, the taxable years during which the taxpayer was in existence, it may elect, in its return for such taxable year for the purposes of this subchapter, or in the case of a taxable year the return for which was filed prior to the date of the enactment of the Revenue Act of 1942, within 6 months after the date of the enactment of such Act, to compute, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, such income upon the percentage of completion method of accounting. Such election shall be made in accordance with such regulations and shall be irrevocable when once made and shall apply to all other contracts, past, present, or future, the performance of which required or requires more than 12 months. The net income of the

taxpayer for each year prior to that with respect to which the election is made shall be adjusted for the purposes of this subchapter, including the computation of excess profits net income in each taxable year of the base period under section 711 (b), to conform to such election but for purposes of chapter 1, the tax imposed by this subchapter for any prior taxable year on account of the adjustment required by this subsection shall be considered a part of the tax imposed by this subchapter for the taxable year in which such income is, without regard to this subsection, includible in gross income. Income described in this subsection shall not be considered abnormal income under section 721.

* * * * *

(e) *Retroactive application of provisions relative to general relief and income from long-term contracts.*

* * * * *

(2) Subsection (b) of section 736 and so much of subsection (c) as is applicable thereto shall be applicable only with respect to taxable years beginning after December 31, 1941, except that, if a taxpayer, within six months after the date of enactment of this Act and in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, elects to have such subsections apply retroactively to all taxable years beginning after December 31, 1939, such amendments shall also be applicable to such taxable years.

§ 30.736 (b)–1 *Taxpayers with income from long-term contracts; eligibility for relief.* Section 736 (b) provides relief with respect to a taxpayer which computes, pursuant to section 42 and § 19.42–4 (b), income from contracts the performance of which requires more than twelve months (hereinafter called "long-term contracts") for the taxable year in which such contracts are finally completed and accepted (hereinafter called the "completed contract basis"), if such taxpayer establishes that either:

(a) It is abnormal for the taxpayer to derive income from such class of long-term contracts, or

(b) The taxpayer normally derives income from such class of long-term contracts, but the amount of such income of such class includible in the gross income of the taxpayer for the taxable year is in excess of 125 percent of the average amount of the gross income of the same class for the four previous taxable years, or if the taxpayer was not in existence for four previous taxable years, the taxable years during which the taxpayer was in existence (hereinafter called the "long-term contract base period"). In determining whether performance required a period of more than twelve months, only the period beginning with the commencement of the work and ending with its completion shall be taken into account. If twelve months or less elapse between the beginning of the work and its completion, the contract is not a long-term contract even though more than twelve months may have elapsed between the execution of such contract and the completion of its performance.

The average amount of gross income from long-term contracts in the long-term contract base period of a taxpayer shall be the aggregate of the gross incomes from such long-term contracts for each year in such base period divided by the number of months in such period and multiplied by twelve. If the taxable year for which the election under section 736 (b) and § 30.736 (b)–2 is made is a year of less than twelve months, the number of months in such year shall be used for the purposes of the preceding sentence instead of twelve. For the definition of gross income see section 22 (a).

§ 30.736 (b)–2 *Election to report income upon percentage of completion basis.* If the taxpayer satisfies the eligibility requirements provided in section 736 (b) and § 30.736 (b)–1 with respect to a taxable year beginning after December 31, 1939, it may elect in its excess profits tax return for such year, or if the election is made for a taxable year the excess profits tax return for which was filed prior to October 21, 1942 (the date of enactment of the Revenue Act of 1942) it may elect not later than April 21, 1943 (six months after the date of enactment of the Revenue Act of 1942), to compute its income from long-term contracts upon the percentage of completion method of accounting provided in § 19.42–4 (a).

If the election to compute income from long-term contracts upon the percentage of completion method of accounting is made in an excess profits tax return filed on or after October 21, 1942, the taxpayer shall file with its return for such year the following:

(a) A schedule setting forth in columnar form a comparison between the gross income from long-term contracts reported in the long-term contract base period and the gross income from long-term contracts which would be reported upon the completed contract basis for the taxable year, together with a statement of the percentage which the latter bears to the average of the former.

(b) A schedule showing the recomputation of the average base period net income and the excess profits net income for each year in the base period with income from long-term contracts computed upon the percentage of completion method of accounting. Included in this schedule shall be an analysis of all long-term contracts entered into, the income from which has been reported in income tax returns for the purposes of chapter 1 for the taxable years beginning with the first taxable year in the base period of the taxpayer and ending with the taxable year for which the election is made, and including all long-term contracts which in such year of election are in the process of completion. The schedule shall contain a statement of the percentage of completion of such contracts for all such years supported, if possible, by architect's certificates or, if such certificates are not obtainable for such prior years, by other competent evidence establishing the percentage of completion claimed for such years.

(c) Amended excess profits tax returns for each prior excess profits tax taxable year for which a recomputation is necessitated by reason of the election to recompute income from long-term contracts upon the percentage of completion method of accounting, and amended income tax returns if necessary to reflect the recomputation of excess profits tax for such prior year. If the recomputation has produced an overassessment for any of such years, the taxpayer should file a claim for refund on Form 843 with the amended returns for such years.

If the taxpayer desires to make the election under section 736 (b) for an excess profits tax taxable year, the return for which was filed prior to October 21, 1942, such election shall be made by the taxpayer filing an amended excess profits tax return for such year and an amended income tax return for such year, if necessary to reflect the recomputation of the excess profits tax for the year, on or before April 21, 1943. The additional information set forth in the preceding paragraph, shall also be filed with such returns.

If the taxpayer elects under the provisions of section 736 (b) and this section to compute its excess profits net income from long-term contracts upon the percentage of completion method of accounting, such election shall be irrevocable when once made. The election shall apply to all other long-term contracts entered into by the taxpayer, whether completed in the past, or in the taxable year, or whether such contracts are partly performed and are to be completed in the future, and to contracts which may be entered into in the future as well as to contracts which have already been entered into by the taxpayer. The income for excess profits tax purposes for each taxable year prior to the year in which the election is made to compute excess profits net income from long-term contracts upon the percentage of completion method of accounting shall be adjusted to conform to such method. The excess profits net income under section 711 (b) for each taxable year in the base period, for the purposes of computing the average base period net income under section 713 or section 742, shall also be adjusted so as to conform to such election and the income from long-term contracts shall be computed upon the percentage of completion method of accounting. If the taxpayer uses the excess profits credit based upon invested capital pursuant to section 714, the determination of accumulated earnings and profits shall be made without regard to any adjustment resulting from any election made under section 736 (b) or this section, except as such election is reflected in the amount of income tax or excess profits tax payable for taxable years beginning after December 31, 1939.

The election made pursuant to section 736 (b) and this section to compute income from long-term contracts upon the percentage of completion method of accounting shall apply only with respect to average base period net income and to excess profits net income for an excess profits tax taxable year. For purposes of the income tax under Chapter 1, or the surtax on personal holding companies or the declared value excess profits tax under Chapter 2, income from such contracts shall be computed upon the completed contract basis.

If the taxpayer does not satisfy the eligibility requirements of section 736 (b)

and § 30.736 (b)–1 for a taxable year beginning prior to January 1, 1943, it is not precluded from electing for any subsequent excess profits tax taxable year with respect to which it satisfies such eligibility requirements to compute its income from long-term contracts on the percentage of completion basis for the purposes of the excess profits tax. Moreover, the taxpayer need not elect under section 736 (b) and this section to compute income from long-term contracts on the percentage of completion basis for the first excess profits tax taxable year with respect to which the eligibility requirements are satisfied. Failure so to elect does not preclude an election for a subsequent excess profits tax taxable year with respect to which the eligibility requirements are met.

§ 30.736 (b)–3 *Computation of net income upon percentage of completion method of accounting*—(a) *Excess profits tax taxable year.* If a taxpayer has elected under section 736 (b) and § 30.736 (b)–2 to compute for excess profits tax purposes its net income from long-term contracts upon the percentage of completion method of accounting, in lieu of the completed contract basis, gross income from such long-term contracts shall be reported for each excess profits tax taxable year upon the basis of percentage of completion of such contract in such year. There shall be deducted from such gross income for a taxable year all expenditures made during such year on account of the contract, account being taken of the material and supplies on hand at the beginning and end of the taxable year for use in connection with the work under the contract but not yet so applied. Any deductions under section 23 which are limited to a percentage of net income (computed without regard to such deduction, as for example, the deduction for charitable contributions which is allowed by section 23 (q)) shall, for excess profits tax purposes, be determined upon the basis of such net income with the income from long-term contracts computed upon the percentage of completion method of accounting, and not upon the basis of net income for chapter 1 purposes. No reserve for bad debts arising from accounts receivable from long-term contracts may be set up for excess profits tax purposes unless a reserve has been established for income tax purposes.

In computing the net operating loss deduction for the purposes of the excess profits tax for a taxable year pursuant to section 23 (s), section 122, and section 711 (a) (1) (J) or section 711 (a) (2) (L), the net operating loss under section 122 (a) and the net income under section 122 (b) for any taxable year prior or subsequent to the taxable year in which the election under section 736 (b) and § 30.736 (b)–2 is made shall be determined by computing income from long-term contracts upon the percentage of completion method of accounting. The excess profits net income for the taxable year for which the net operating loss deduction is computed shall, for the purposes of the reduction provided by section 711 (a) (1) (J) (ii) or section 711 (a) (2) (L) (ii), be determined by computing income from long-term contracts upon the percentage of completion method of accounting.

In computing normal tax net income for the purposes of determining excess profits net income, the credit for dividends received shall be limited to 85 percent of the adjusted net income computed by determining income from long-term contracts upon the percentage of completion method of accounting as provided in section 736 (b) and this section, instead of upon the completed contract basis.

With respect to a taxable year beginning after December 31, 1941, or with respect to the tentative excess profits tax computation under section 710 (a) (3) (B) in the case of a taxable year beginning in 1941 and ending after June 30, 1942, the excess profits tax may be computed under section 710 (a) (1) (B) as an amount which when added to the normal tax and surtax computed under Chapter 1, or under section 108 (a) (1) (B) if the taxable year begins in 1941 and ends after June 30, 1942, equals 80 percent of the corporation surtax net income computed without regard to the credit under section 26 (e) (relating to income subject to excess profits tax). For such purpose, the corporation surtax net income shall be determined by computing the income from long-term contracts upon the percentage of completion method of accounting. The credit for dividends received used in computing corporation surtax net income shall be limited to 85 percent of the net income determined by computing income from long-term contracts upon the percentage of completion method of accounting, and the normal and surtax shall be the actual normal tax and surtax determined under Chapter 1, or under section 108 (a) (1) (B) if the taxable year begins in 1941 and ends after June 30, 1942.

The unused excess profits credit under section 710 (c) (2) for any excess profits tax taxable year for which the excess profits net income is determined by computing income from long-term contracts upon the percentage of completion method of accounting pursuant to the election exercised under section 736 (b) and § 30.736 (b)–2 shall be computed with regard to the excess profits net income so computed. The adjusted excess profits net income used in the computation of the unused excess profits credit carry-back and carry-over under section 710 (c) (3) shall be the adjusted excess profits net income determined by computing income from long-term contracts upon the percentage of completion method of accounting as described in this section. The unused excess profits credit adjustment for any taxable year shall be the aggregate of the unused excess profits carry-overs and unused excess profits credit carry-backs to such taxable year, and shall be applied against excess profits net income for such year determined by computing income from long-term contracts upon the percentage of completion method of accounting. However, no unused excess profits carry-back may be used against excess profits net income for an excess profits tax taxable year beginning prior to January 1, 1941, regardless of the fact that the excess profits net income for such year has been increased by income from long-term contracts computed upon the percentage of completion method of accounting, whereas if such income had been computed upon the completed contract basis it would be attributable to a subsequent taxable year to which an unused excess profits credit carry-back would be allowed. For the computation of the unused excess profits credit adjustment, see section 710 (c) and § 30.710–4.

The excess profits tax for a taxable year recomputed as provided in this section shall be the excess profits tax for such year for the purposes of the provisions of Supplement L of Chapter 1, relating to assessment and collection of deficiency, the provisions of Supplement M of Chapter 1, relating to interest and additions to tax, and the provisions of Supplement O of Chapter 1, relating to overpayments. Any amount of excess profits tax deferred under section 710 (a) (5) on account of relief claimed under section 722, any amount of foreign tax credit under section 729 (c) and (d) which is limited to a portion of the excess profits tax imposed, any credit for debt retirement under section 783, and any amount of post-war refund under section 780 shall be computed with respect to the excess profits tax so determined.

In no event shall income from long-term contracts computed for excess profits tax purposes upon the percentage of completion method of accounting pursuant to an election under section 736 (b) and § 30.736 (b)–2 be considered abnormal income under section 721.

(b) *Taxable year in the base period.* If a taxpayer elects, pursuant to section 736 (b) and § 30.736 (b)–2, to compute its income from long-term contracts upon the percentage of completion method of accounting, the excess profits net income for a taxable year in the base period to be used in computing the average base period net income shall be computed pursuant to section 711 (b) but with income from long-term contracts computed upon the percentage of completion method of accounting as described in § 30.736 (b)–3 in lieu of the completed contract basis method. In such event gross income attributable to each long-term contract shall be placed in the appropriate year in the base period upon the percentage of completion method of accounting, regardless of whether such contract was completed in a subsequent year in the base period or in an excess profits tax taxable year and regardless of when gross income from such contract was reported for income tax purposes under Chapter 1. Likewise, gross income attributable to each long-term contract completed during a taxable year in the base period shall be included in income for such year only to the extent to which such income is attributable to the percentage of the contract completed in such year. Gross income attributable to the percentage of the contract completed prior

to the base period shall be excluded in the computation of excess profits net income for a taxable year in the base period and consequently from average base period net income. There shall be deducted from such gross income for each taxable year in the base period all expenditures made during the taxable year on account of the contract, account being taken of the material and supplies on hand at the beginning and end of each year for use in connection with the work under the contract but not yet so applied.

(c) *Adjustment of income tax liability.* For purposes of the normal tax and surtax and of the surtax on corporations improperly accumulating surplus imposed by Chapter 1, the excess profits tax imposed by Subchapter E of Chapter 2 for any taxable year on account of the adjustment in excess profits tax for such year required by the recomputation of income from long-term contracts upon the percentage of completion method of accounting pursuant to the election under section 736 (b), shall be considered a part of the excess profits tax imposed by Subchapter E of Chapter 2 for the taxable year in which such income is, without regard to the provisions of section 736 (b), includible in gross income.

The excess profits tax imposed by Subchapter E of Chapter 2 for any excess profits tax taxable year on account of the recomputation of income from long-term contracts required by section 736 (b) shall be the amount by which the excess profits tax imposed for such year with the income from long-term contracts computed upon the percentage of completion method of accounting exceeds the excess profits tax imposed for such year computed upon the completed contract basis method of accounting. The amount of such increase in excess profits tax which is attributable to the inclusion in excess profits net income for such year of income from long-term contracts computed upon the percentage of completion method of accounting shall be added to the excess profits tax imposed for the year in which the income from such long-term contracts would be includible in gross income under the completed contract basis method of accounting. The amount of such increase shall be the increase prior to the inclusion in the excess profits tax for the taxable year in which the increase is determined of any increase in a prior taxable year attributable to a contract the gross income from which would be reported upon the completed contract basis for the year for which the increase is determined. If an increase in excess profits tax for a taxable year is due to income attributable to two or more contracts which are not completed in such year but the income from which is included in excess profits net income for such year upon the percentage of completion method of accounting, the portion of such increase attributable to each contract shall be the same proportion of the total increase for such year which the income attributable to such contract for such year is of the total income from such contracts for such year. The amount of income computed upon the percentage of completion method of accounting which is attributable to a contract in any taxable year shall be the gross income (so computed) minus the direct costs for such year on account of such contract, but shall not include any deductions, expenses, or costs which are not directly charged to such contract under the method of cost accounting employed by the taxpayer. The increase in excess profits tax so attributed to each contract shall be considered to be a part of the excess profits tax for the taxable year in which such contract is completed and in which the income would be reported under the completed contract basis method of accounting.

For the purposes of the deduction under section 23 (c) (2) for excess profits tax with respect to a taxable year beginning in 1941, or of the credit under section 26 (e) for income subject to excess profits tax with respect to a taxable year beginning after December 31, 1941, the excess profits tax for any taxable year for which an increase in tax is considered to be part of the tax for a subsequent taxable year shall be deemed to be the excess profits tax computed for such year upon the completed contract basis method of accounting, increased by any increase in excess profits tax for a prior taxable year due to income from long-term contracts being computed upon the percentage of completion method of accounting if the income from such contracts would have been reported for the taxable year upon the completed contract basis.

If the excess profits tax imposed for an excess profits tax taxable year recomputed pursuant to the election under section 736 (b) is less than the excess profits tax imposed for such prior year computed without regard to the election under section 736 (b), there is no amount of excess profits tax attributable to any contract which is to be completed in a future year and the income from which, computed upon the completed contract basis, would be included in gross income for such future year. Consequently no adjustment in the excess profits tax for such future year is to be made. With respect to the taxable year for which the excess profits tax recomputed pursuant to the election under section 736 (b) is less than the excess profits tax computed without regard to such election, the excess profits tax for the purposes of Chapter 1 shall be the excess profits tax computed pursuant to the election under section 736 (b) increased by any increase in excess profits tax for a prior taxable year due to income from long-term contracts being computed upon the percentage of completion method of accounting if the income from such contracts would have been reported for the taxable year upon the completed contract basis.

The excess profits tax imposed by Subchapter E of Chapter 2 for any taxable year shall be the tax prior to the tax deferment under section 710 (a) (5), prior to the credit for foreign taxes under section 729 (c) and (d), prior to the credit for debt retirement under section 783, and prior to the adjustment under section 734 in case of position inconsistent with prior income tax liability. The recomputation pursuant to the election under section 736 (b) of excess profits tax imposed for any taxable year involves not only a recomputation of the excess profits net income for such taxable year by placing income from long-term contracts upon the percentage of completion method of accounting, but also a recomputation of the average base period net income upon such accounting method, if the excess profits credit based on income pursuant to section 713 is used.

If income from long-term contracts is computed upon the percentage of completion method of accounting pursuant to the election under section 736 (b), the following rules are applicable in determining, for the purposes of chapter 1, the excess profits tax, and the method of utilizing such tax, for a taxable year in which income from such contracts would be reported upon the completed contract basis:

(i) Since there is no deduction or credit for the purposes of the income tax under chapter 1 for taxable years beginning in 1940 on account of the excess profits tax or income subject to excess profits tax, there is no adjustment for Chapter 1 purposes for such years under section 736 (b).

(ii) With respect to taxable years beginning in 1941 and not ending after June 30, 1942, the excess profits tax is allowed as deduction under section 23 (c) (2) in the computation of net income. Thus any increase in excess profits tax for a taxable year beginning in 1940 on account of the recomputation upon the percentage of completion method of accounting of income from long-term contracts which would, if the provisions of section 736 (b) were inapplicable, be reported in the taxable year beginning in 1941 shall be deemed a part of the excess profits tax for such taxable year beginning in 1941 and shall be deducted under section 23 (c) (2) applicable to such year in computing the income tax imposed by Chapter 1 for such year.

(iii) The income tax for a taxable year beginning in 1941 and ending after June 30, 1942, is computed as the sum of the proportionate parts of two tentative income taxes. (See section 108 (a) (1).) The excess profits tax for such year is computed in a comparable manner. Thus any increase in excess profits tax for a taxable year beginning in 1940, as a result of the adjustments required by section 736 (b) must be deemed a part of both tentative excess profits taxes for the purposes of computing both tentative income taxes. The first tentative income tax is computed according to the law applicable to taxable years beginning on January 1, 1941. Therefore, the first tentative excess profits tax, including any increase in excess profits tax for a taxable year beginning in 1940, resulting from section 736 (b), shall be deducted under section 23 (c) in computing net income for the purposes of such income tax. The second tentative income tax is computed with regard to certain amendments made by the Revenue Act of 1942 to section 26 (e) appli-

cable to taxable years beginning after December 31, 1941, which provide for a credit against adjusted net income for income subject to excess profits tax instead of a deduction under section 23 (c) for the excess profits tax. Consequently, the computation of the second tentative income tax shall be made in accordance with the principles prescribed for taxable years beginning after December 31, 1941.

(iv) In the case of taxable years beginning after December 31, 1941, there is allowed as a credit by section 26 (e) in computing normal tax net income and surtax net income, the amount of income subject to excess profits tax. If the excess profits tax is computed pursuant to an election under section 736 (b), such income is the amount of which the excess profits tax computed under section 710 (a) (1) (A) is 90 percent. For purposes of the credit provided by section 26 (e), the amount of excess profits tax so computed is considered to include the increase in excess profits tax imposed for a year beginning prior to January 1, 1942, and attributable to a contract which is completed, and the income from which would be reported on the completed contract basis, in a taxable year beginning after December 31, 1941. Consequently, the excess profits tax for a year beginning in 1942 would be deemed to include any increase in excess profits tax for a taxable year beginning in 1940 or 1941 and attributable to a contract ending in 1942.

(v) In the case of the surtax on corporations improperly accumulating surplus the amount of excess profits tax payable for a taxable year beginning in 1940 shall be deducted in determining section 102 net income for such year pursuant to section 102 (d) (1) (A) as applicable to such year, the amount of excess profits tax payable for a taxable year beginning in 1941 (whether or not such year ends after June 30, 1942) shall be deducted under section 23 (c) (2) in computing net income for section 102 purposes for such year, and the credit under section 26 (e) for income subject to excess profits tax for a year beginning in 1942 or in subsequent years shall be deducted in determining section 102 net income for such year pursuant to section 102 (d) (1) (D).

The income tax for a taxable year recomputed as provided in this section shall be the income tax for such year for the purposes of the provisions of Supplement L of Chapter 1, relating to assessment and collection of deficiency, the provision of Supplement M of Chapter 1, relating to interest and additions to tax, and the provisions of Supplement O of Chapter 1, relating to overpayments. Any amount of foreign tax credit under section 131 which is limited to a portion of the income tax imposed shall be computed with respect to the income tax so determined.

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

Example. Corporation C, which came into existence early in 1935, is a contractor deriving all its income from the performance of long-term contracts requiring more than twelve months to complete. It computes its income for income tax purposes on the calendar year basis under the provisions of section 42 and § 19.42–1 (b). It has established that gross income from long-term contracts completed in 1942 is in excess of 125 percent of the average amount of gross income from such contracts in 1938, 1939, 1940, and 1941. It therefore elects under section 736 (b) and § 30.736 (b)–2 to compute its income from long-term contracts upon the percentage of completion method of accounting. Income from such contracts must be computed upon the percentage of completion method of accounting for the excess profits tax taxable years 1940, 1941, 1942, and subsequent years and also for the base period years 1936, 1937, 1938, and 1939. The net income of corporation C from long-term contracts computed upon the percentage of completion method of accounting and upon the completed contract basis method of accounting, and the deductions (not including any deduction based upon excess profits tax) are shown in the following schedule:

	1935	1936	1937	1938	1939	1940	1941	1942
Income from contracts upon completed contract basis (gross income minus expenditures)	----	$50,000	$150,000	----	$110,000	$200,000	$220,000	$250,000
Other deductions (not including excess profits tax or credit for income subject to excess profits tax)	$7,000	8,000	8,000	$10,000	11,000	12,000	15,000	11,000
Net income upon completed contract basis	(7,000)	42,000	142,000	(10,000)	99,000	188,000	205,000	239,000
Income from contracts upon percentage of completion method (gross income minus expenditures):								
Contract A	30,000	20,000	----	----	----	----	----	----
Contract B	40,000	60,000	50,000	----	----	----	----	----
Contract C	----	----	30,000	40,000	40,000	----	----	----
Contract D	----	----	----	70,000	80,000	50,000	----	----
Contract E	----	----	----	----	10,000	90,000	40,000	----
Contract F	----	----	----	----	----	25,000	55,000	----
Contract G	----	----	----	----	----	----	150,000	100,000
Contract H (incomplete Dec. 31, 1942)	----	----	----	----	----	----	70,000	50,000
Total	70,000	80,000	80,000	110,000	130,000	165,000	315,000	150,000
Other deductions (not including excess profits tax or credit for income subject to excess profits tax)	7,000	8,000	8,000	10,000	11,000	12,000	15,000	11,000
Net income upon percentage of completion method	63,000	72,000	72,000	100,000	119,000	153,000	300,000	139,000

Assume that except for the deductions for income tax, excess profits tax, or for the credit for income subject to excess profits tax, there are no adjustments to net income shown in the preceding schedule in computing normal tax net income, corporation surtax net income, or excess profits net income, and that dividends out of earnings and profits were distributed for each year in the base period equal to the amount of the net income computed upon the completed contract basis for such year. The average base period net income computed upon the completed contract basis is determined under section 713 (d) and (e), since the income for the last half of the base period does not exceed the income for the first half. The average base period net income upon which is based the excess profits credit based on income for 1940 is $60,346.25, the aggregate of the incomes for 1936, 1937, and 1939 (the deficit for 1938 being excluded) reduced by the amount of the income tax for each such year pursuant to section 711 (b) (1) (A) applicable with respect to taxable years beginning in 1940, *i. e.*, the sum of $36,860, $121,860, and $82,665 divided by four. The excess profits credit based on income for 1940 is $57,328.94 (95 percent of $60,346.25). The average base period net income upon which is based the excess profits credit based on income for 1941 is $70,750, *i. e.*, the aggregate of the incomes for 1936, 1937, and 1939 (the deficit for 1938 being excluded) divided by four. The excess profits credit based on income for 1941 is $67,212.50 (95 percent of $70,750). The average base period net income upon which is based the excess profits credit based on income for 1942 is $88,437.50, *i. e.*, the aggregate of the incomes for 1936, 1937, and 1939 plus $70,750 assumed to be the excess profits net income for 1938 under section 713 (e) (1) (75 percent of the average of the incomes for 1936, 1937, and 1939) divided by four. The excess profits credit based on income for 1942 is $84,015.63 (95 percent of $88,437.50). The average base period net income computed upon the percentage of completion method of accounting is determined under section 713 (d) and (f), since the income for the last half of the base period exceeds the income for the first half. The average base period net income for 1940 is $102,665, *i. e.*, one-half of the sum of $100,000 (the income for 1938 less the amount of the income tax for such year computed upon the completed contract basis and pursuant to section 711 (b) (1) (A) applicable with respect to a taxable year beginning in 1940), $102,665 (the income for 1939 less the amount of the income tax for such year computed as provided above), and $41,972.50 (one-half of the amount by which the aggregate of the incomes for 1938 and 1939 computed as provided above) exceeds the aggregate of the incomes for 1936 of $66,860 and 1937 of $51,860 (computed as provided above) but not in excess of $102,665. The ex-

cess profits credit based on income for 1940 is $97,531.75 (95 percent of $102,665). The average base period net income for 1941 and subsequent years is $119,000, *i. e.*, one-half of the sum of $100,000 (the income for 1938), $119,000 (the income for 1939), and $37,500 (one-half of the amount by which the aggregate of the incomes for 1938 and 1939 exceeds the aggregate of the incomes for 1936 and 1937) but not in excess of $119,000. The excess profits credit based on income for such years is $113,050 (95 percent of $119,000). The income and excess profits tax computed for each of the years 1940, 1941, and 1942 without regard to, and pursuant to an election under section 736 (b) is as follows:

1940 Income Tax

1. Net income (completed contract basis)		$188,000
2. Normal tax (22½0 percent)		41,548
3. Defense tax (10 percent of tax computed at 19 percent, *i. e.*, 1.9 percent)		3,572
4. Total tax		45,120

1940 Excess Profits Tax

WITHOUT REGARD TO SECTION 736 (b)

5. Net income (completed contract basis)		$188,000.00
6. Less income tax (item 4)		45,120.00
7. Excess profits net income		142,880.00
8. Less: Excess profits credit	$57,328.94	
9. Specific exemption	5,000.00	62,328.94
10. Adjusted excess profits net income		80,551.06
11. Excess profits tax ($14,000 plus 35 percent of $30,551.06)		24,692.87

PURSUANT TO ELECTION UNDER SECTION 736 (b)

12. Net income (percentage of completion method)		$153,000.00
13. Less income tax (item 4)		45,120.00
14. Excess profits net income		107,880.00
15. Less: Excess profits credit	$97,531.75	
16. Specific exemption	5,000.00	102,531.75
17. Adjusted excess profits net income		5,348.25
18. Excess profits tax (25 percent of item 17)		1,337.06

1941 Income Tax

WITHOUT REGARD TO SECTION 736 (b)

19. Net income (completed contract basis)		$205,000.00
20. Less excess profits tax (item 35)		57,893.75
21. Normal tax net income and corporation surtax net income		147,106.25
22. Normal tax (24 percent)		35,305.50
23. Surtax $1,500 plus 7 percent of $122,106.25)		10,047.44
24. Total tax		45,352.94

PURSUANT TO ELECTION UNDER SECTION 736 (b)

25. Net income (completed contract basis)		$205,000.00
26. Less excess profits tax (item 44)		57,893.75
27. Normal tax net income and corporation surtax net income		147,106.25
28. Normal tax (24 percent)		35,305.50
29. Surtax $1,500 plus 7 percent of $122,136.25)		10,047.44
30. Total tax		45,352.94

1941 Excess Profits Tax

WITHOUT REGARD TO SECTION 736 (b)

31. Excess profits net income (completed contract basis)		$205,000.00
32. Less: Excess profits credit	$67,212.50	
33. Specific exemption	5,000.00	72,212.50
34. Adjusted excess profits net income		132,787.50
35. Excess profits tax ($41,500 plus 50 percent of $32,787.50)		57,893.75

PURSUANT TO ELECTION UNDER SECTION 736 (b)

36. Excess profits net income (percentage of completion method)		$300,000
37. Less: Excess profits credit	$113,050	
38. Specific exemption	5,000	118,050
39. Adjusted excess profits net income		181,950
40. Excess profits tax ($41,500 plus 50 percent of $81,950)		82,475
41. Increase in excess profits tax due to election under section 736 (b) (item 40 minus item 35)		24,581.25
42. Portion of increase attributable to contract G completed in 1942 (150,000/220,000 of $24,581.25)		16,759.94
43. Portion of increase attributable to contract H not completed by December 31, 1942 (70,000/220,000 of $24,581.25) to be added to excess profits tax for year in which Contract H is completed		7,821.31
44. Excess profits tax to be deducted under section 23 (c) (2) in computing 1941 net income for chapter 1 purposes (item 35)		57,893.75

1942 Income Tax

WITHOUT REGARD TO SECTION 736 (B)

45. Net income (completed contract basis)		$239,000.00
46. Less credit under section 26 (e) for income subject to excess profits tax (item 56)		149,984.37
47. Normal tax net income and corporation surtax net income		89,015.63
48. Normal tax and surtax (40 percent)		35,606.25

PURSUANT TO ELECTION UNDER SECTION 736 (B)

49. Net income (completed contract basis)		$239,000.00
50. Less credit under section 26 (e) for income subject to excess profits tax (item 64)		39,572.16
51. Normal tax net income and completed contract and corporation surtax net-income		199,427.84
52. Normal tax and surtax (40 percent)		79,771.14

1942 Excess Profits Tax

WITHOUT REGARD TO SECTION 736 (B)

53. Excess profits net income (completed contract basis)		$239,000.00
54. Less: Excess profits credit	$84,015.63	
55. Specific exemption	5,000.00	89,015.63
56. Adjusted excess profits net income		149,984.37
57. Excess profits tax (90 percent)		134,985.93

PURSUANT TO ELECTION UNDER SECTION 736 (b)

58. Excess profits net income (percentage of completion method)		$139,000
59. Less: Excess profits credit	$113,050	
60. Specific exemption	5,000	118,050
61. Adjusted excess profits net income		20,950
62. Excess profits tax (90 percent)		18,855
63. Excess profits tax upon which is based credit under section 26 (e) for 1942 income tax purposes (item 62 plus item 42)		35,614.94
64. Credit under section 26 (e) for income subject to excess profits tax for 1942 income tax purposes (amount of which $35,614.94 (item 63) is 90 percent)		39,572.16

	1940	1941	1942	Total
Tax computed without regard to section 736 (b):				
Income tax	$45,120.00	$45,352.94	$35,606.25	$126,079.19
Excess profits tax	24,692.87	57,893.75	134,985.93	217,572.55
Total	69,812.87	103,246.69	170,592.18	343,651.74
Tax computed pursuant to election under section 736 (b):				
Income tax	45,120.00	45,352.94	79,771.14	170,244.08
Excess profits tax	1,337.06	82,475.00	18,855.00	102,667.06
Total	46,457.06	127,827.94	98,626.14	272,911.14
Tax saving resulting from election under section 736 (b)	23,355.81		71,966.04	95,321.85
Increase in tax resulting from election under section 736 (b)		24,581.25		24,581.25
Net tax saving				70,740.60

SEC. 222. RELIEF PROVISIONS. (Revenue Act of 1942, Title II.)

* * * * *

(d) *Installment basis and other taxpayers.* Subchapter E of Chapter 2 is amended by inserting after section 735 the following new section:

SEC. 736. RELIEF FOR INSTALLMENT BASIS TAXPAYERS WITH INCOME FROM LONG-TERM CONTRACTS. (Revenue Act of 1942, Title II.)

* * * * *

(c) *Adjustment on account of change.* If an adjustment specified in subsection (a) or subsection (b), as the case may be, is, with respect to any taxable year, prevented, on the date of the election by the taxpayer under subsection (a) or subsection (b), as the case may be, or within two years from such date, by any provision or rule of law (other than this section and other than section 3761, relating to comprises), such adjustment shall nevertheless be made if in respect of the taxable year for which adjustment is sought a notice of deficiency is mailed or a claim for refund is filed, as the case may be, within two years after the date such election is made. If at the time of the mailing of such notice of deficiency or the filing of such claim for refund, the adjustment is so prevented, then the amount of the adjustment authorized by this subsection shall be limited to the increase or decrease in the tax imposed by Chapter 1 and this subchapter previously determined for such taxable year which results solely from the effect of subsection (a), or subsection (b), as the case may be, and such amount shall be assessed and collected, or credited or refunded, in the same manner as if it were a deficiency or an overpayment, as the case may be, for such taxable year and as if on the date of such election, two years remain before the expiration of the period of limitation upon assessment or the filing of claim for refund for the taxable year. The tax previously determined shall be ascertained in accordance with section 734 (d). The amount to be assessed and collected under this subsection in the same manner as if it were a deficiency or to be refunded or credited in the same manner as if it were an overpayment, shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain or loss, other than one resulting from the effect of subsection (a) or subsection (b), as the case may be. Such amount, if paid, shall not be recovered by a claim or suit for refund, or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain or loss, other than one resulting from the effect of subsection (a) or subsection (b), as the case may be.

* * * * *

(e) *Retroactive application of provisions relative to general relief and income from long-term contracts.*

* * * * *

(2) Subsection (b) of section 736 and so much of subsection (c) as is applicable thereto shall be applicable only with respect to taxable years beginning after December 31, 1941, except that, if a taxpayer, within six months after the date of enactment of this Act and in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, elects to have such subsections apply retroactively to all taxable years beginning after December 31, 1939, such amendments shall also be applicable to such taxable years.

* * * * *

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.

§ 30.736 (c)–1 *Adjustment on account of change arising from election under section 736 (a) or section 736 (b).* The recomputation of the tax liability authorized by section 736 (c) applies to the income tax and to the surtax on corporations improperly accumulating surplus, imposed by chapter 1, and to the excess profits tax imposed by subchapter E of chapter 2. Under section 736 (c), if the adjustment of any of such taxes imposed for any taxable year, to give effect to the recomputations provided under section 736 (a) (in the case of an installment basis taxpayer) or under section 736 (b) (in the case of a taxpayer with long-term contracts), is prevented on the date of the election by the taxpayer under section 736 (a) or section 736 (b), as the case may be, or within two years from such date by any provision of law (other than section 736 and other than section 3761, relating to compromises) or by any rule of law, including the doctrine of res adjudicata, an adjustment shall nevertheless be made if with respect to the taxable year for which such adjustment is sought a notice of deficiency is mailed or a claim for refund is filed, as the case may be, within two years after the date such election was made. Section 736 (c) applies only if at the time of filing of a claim for refund or the mailing of the notice of the deficiency the adjustment would otherwise be prevented by the running of the statute of limitations, by the execution of a closing agreement, by the operation of the rule of res adjudicata, or because of other reasons. For reference to provisions which would prevent adjustment except for the provisions of section 736 (c), see § 19.3801 (b)–0. Section 736 (c) is not applicable if, on the date of the filing of the claim for refund or the mailing of the notice of deficiency, adjustment of the tax liability is permissible without recourse to such section.

The amount of the adjustment authorized by section 736 is limited to the increase or decrease in the tax imposed by Chapter 1 or the tax imposed by Subchapter E of Chapter 2 previously determined for the taxable year which results solely from the revision of the excess profits tax liability effectuated by section 736 (a) or section 736 (b), as the case may be, and the collateral effects of such revision upon items of income, deductions, credits, average base period net income, etc., already taken into account in ascertaining the tax previously determined. The tax previously determined shall be ascertained in accordance with section 734 (d). See § 30.734–4. If the amount of the adjustment determined under section 736 (c) represents an increase in tax, it is to be treated in the same manner, and assessed and collected as if it were a deficiency for the taxable year; if the amount of the adjustment represents a decrease in tax, it is to be treated, credited, or refunded, in the same manner as if it were an overpayment for the taxable year. In either case the increase or decrease shall be treated as if on the date of the election pursuant to section 736 (a) or section 736 (b), as the case may be, two years remain before the expiration of the period of limitation upon assessment or the filing of a claim for refund for the taxable year. The amount of the adjustment considered as a deficiency or as an overpayment, as the case may be, will bear interest to the extent provided by the internal revenue laws applicable to deficiencies and overpayments for the taxable year for which the adjustment is made.

The amount of any adjustment under section 736 (c) to be collected in the same manner as if it were a deficiency and the amount of any adjustment to be refunded or credited in the same manner as if it were an overpayment, as the case may be, shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption or gain or loss other than one resulting from the effect of section 736 (a) or section 736 (b), as the case may be.

The amount of any adjustment under the provisions of section 736 (c) which is refunded may not subsequently be recovered in a suit for erroneous refund based upon any adjustment other than one resulting from the revision of excess profits tax liability occasioned by the recomputation of tax pursuant to an election under section 736 (a) or section 736 (b), as the case may be. The amount of any adjustment under section 736 (c) which is assessed and collected as a deficiency may not thereafter be recovered by the taxpayer in any suit for refund based upon any adjustment other than one resulting from the revision of excess profits tax liability occasioned by the recomputation of tax pursuant to an election under section 736 (a) or section 736 (b), as the case may be.

(Sec. 62 of the Internal Revenue Code (53 Stat. 32; 26 U.S.C., 62) as made applicable by sec. 729 (a) of the Internal Revenue Code (54 Stat. 789; 26 U.S.C. 729 (a)) and sec. 222 (d) and (e) (2) of the Revenue Act of 1942 (Pub. Law 753, 77th Cong.))

[SEAL] NORMAN D. CANN,
Acting Commissioner of Internal Revenue.

APRIL 7, 1943.

Approved:

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-5554; Filed, April 8, 1943; 11:18 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VIII—Board of Economic Warfare

Subchapter B—Export Control

[Amendment 51]

PART 808—PROCEDURE RELATING TO SHIPMENT OF LICENSED EXPORTS TO THE OTHER AMERICAN REPUBLICS

APPLICATION PROCEDURE[1]

Subparagraph (6) of paragraph (f) *Certain associations; multiple consignors* of § 806.6 *Application procedure* is hereby amended by deleting therefrom the words "and the carrier vessel" wherever such words appear in said subparagraph.

(Sec. 6, 54 Stat. 714; Pub. Law 75, 77th Cong.; Pub Law. 638, 77th Cong.; Order 3 and Delegation of Authority 25, 7 F.R. 4951; Delegation of Authority 31, 7 F.R. 9807)

PAUL CORNELL,
Chief of Office, Office of Exports.

Dated April 7, 1943.

[F. R. Doc. 43-5605; Filed, April 9, 1943; 11:30 a. m.]

Chapter IX—War Production Board

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 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 1010—SUSPENSION ORDERS

[Suspension Order S-271]

GEORGE L. OLES CO.

The George L. Oles Company, Youngstown, Ohio, is a corporation engaged in the general retail food business, and is a wholesale receiver of coffee within the meaning of Conservation Order M-135. During the months of July, August, September and October, 1942, the company accepted deliveries of 4,300 lbs. of coffee in excess of its quota as established by conservation Order M-135. The responsible officers of the company knew of the existence of Conservation Order M-135, that it restricted the operations of their business, but made no effort to learn its terms. Consequently, the above over-deliveries of coffee constitute a wilful violation of Conservation Order M-135.

This wilful violation of Conservation Order M-135 has hampered and impeded the war effort.

In view of the foregoing facts: *It is hereby ordered,* That:

§ 1010.271 *Suspension Order No. S-271.* (a) The George L. Oles Company, Youngstown, Ohio, its successors and assigns, shall not accept deliveries of coffee in any form from any person, except as hereafter specifically authorized in writing by the War Production Board.

(b) No person shall deliver coffee in any form to the George L. Oles Company, or its successors and assigns, except as hereinafter specifically authorized in writing by the War Production Board.

(c) Nothing contained in this order shall be deemed to relieve the George L. Oles Company, its successors and assigns, from any restriction, prohibition or provision of any other order or regulation of the War Production Board except insofar as the same may be inconsistent with the provisions hereof.

(d) This order shall take effect on April 10, 1943, and shall expire on July 10, 1943, at which time it shall have no further force or effect.

Issued this 8th day of April 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-5578; Filed, April 8, 1943; 3:37 p. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-274]

GARFUNKEL, INC.

Garfunkel, Inc., is a New Jersey corporation located at 750 Newark Avenue, Jersey City, New Jersey. It operates a retail store at the above address where it sells new fluorescent lighting fixtures over the counter. During the period June 1st through October 21, 1942, the respondent made twenty separate sales of fluorescent lighting fixtures totalling over one hundred fixtures, none of which sales were in accordance with the restrictions of Limitation Order L-78. The company knew of the existence of Limitation Order L-78, but made no effort to learn of its provisions.

These sales were in wilful violation of Limitation Order L-78, and have impeded and hampered the war effort of the United States. In view of the foregoing; *It is hereby ordered,* That:

§ 1010.274 *Suspension Order No. S-274.* (a) Deliveries of material or equipment to Garfunkel, Inc., its successors and assigns, shall not be accorded priority over deliveries under any other contract or order, and no preference rating shall be applied or assigned to such delivery by any preference rating certificate, preference rating order, general preference order, or any other orders or regulations of the War Production Board, except as hereafter specifically authorized in writing by the War Production Board.

(b) No allocation to Garfunkel, Inc., its successors and assigns, shall be made of any material, the supply or distribution of which is governed by any order of the War Production Board, except as hereafter specifically authorized in writing by the War Production Board.

(c) Nothing contained in this order shall be deemed to relieve Garfunkel, Inc., its successors and assigns, from any restriction, prohibition or provision contained in any order or regulation of the War Production Board, except in so far as the same may be inconsistent with the provisions hereof.

(d) This order shall take effect on April 10, 1943, and shall expire on July 10, 1943 at which time it shall have no further force or effect.

Issued this 8th day of April 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-5579; Filed, April 8, 1943; 3:37 p. m.]

PART 3096—CONSERVATION OF PAPER AND PAPERBOARD

[General Conservation Order M-241-a, as amended April 7, 1943[1]]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply, for defense, for private account and for export, of various materials and facilities required in the manufacture and distribution of pulp, paper and paperboard; and the following order is deemed necessary in the public interest and to promote the national defense:

§ 3096.2 *General Conservation Order M-241-a*—(a) *Definitions.* For the purpose of this order:

(1) "Converter" means any person engaged in the business of manufacturing from pulp, paper and/or paperboard any of the commodities or articles referred to in paragraph (b).

(b) *Restrictions on consumption of pulp, paper and/or paperboard in the manufacture of certain converted products.* (1) No converter shall during the first calendar quarter of 1943, or any calendar quarter thereafter, consume in the manufacture of any article or class of articles on List A any quantity, in tons, of pulp, paper and/or paperboard greater than the quantity determined by applying the percentage figure on List A opposite the designation of such article or class of articles to either, at the option of the converter:

[1] 8 F.R. 1574, 1710, 2327, 2562, 3161.

[1] This document is a re-statement of amendment 1 to M-241-a as amended February 8, 1943, which appeared in the FEDERAL REGISTER of April 8, 1943, page 4508, and reflects the order in its completed form as of April 7, 1943.

(i) The quantity, in tons, of pulp, papaper and/or paperboard consumed by such converter in the manufacture of such article or class of articles during the corresponding quarter of 1942; or

(ii) One-fourth of the total quantity of pulp, paper and/or paperboard consumed by such converter in the manufacture of such article or class of articles during the entire calendar year of 1942.

(2) From and after February 15, 1943, no converter shall manufacture out of pulp, paper or paperboard any article or class of articles on List B except that for a period of 90 days from February 15, 1943, such converter may manufacture any article or class of articles on List B from pulp, paper or paperboard held by him in inventory on January 15, 1943.

(3) It shall be the duty of each converter to determine in the first instance which, if any, of his products are included among the articles and classes of articles on List A and B. In case of doubt he may apply to the War Production Board, in writing, describing the product in question, for a specific ruling, by telegram or letter, determining whether or not the same is so included. The War Production Board may of its own motion in any case, by telegram or letter, issue a specific ruling determining whether or not a particular product of a particular converter is so included.

(c) *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, except to the extent that any provision hereof may be inconsistent therewith, in which case the provisions of this order shall govern.

(d) *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.

(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.* All persons affected by this order shall execute and file with the War Production Board such reports and questionnaires as said Board shall from time to time request.

(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, materials under priority control and may be deprived of priorities assistance.

(i) *Communications.* All communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Pulp and Paper Division, Washington, D. C. Ref.: M-241-a.

Issued this 7th day of April 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

LIST A

NOTE: List A amended April 7, 1943.

Articles or class of articles:	*Percentages*
Chair seat covers	75
Coasters and mats, such as beer mats, and coasters of the type commonly used for households, hotels, taverns, restaurants, etc	50
Dishes, plates and spoons	90
Doilies, mats (place, table and tray) and tray covers	60
Expansion pockets, unprinted	90
Facial tissue	90
File folders, unprinted	90
Fly paper	90
Laundry specialties to wit— (a) Shirt bands (2" wide or less), (b) Collar circles, (c) Collar supports	90
Napkins	95
Photo mounts	75
Salt and pepper shakers	90
Shelf and drawer lining—Retail packages	60
Slippers	75
Tablecovers	60
Toilet tissue	110
Towels	95
Venetian blinds	90

LIST B

NOTE: List B amended April 7, 1943.

Articles and classes of articles in the manufacture of which pulp, paper or paperboard may not be used after February 15, 1943.

Aprons.
Ash trays.
Bakers decorative specialties, such as:
(a) Pie collars and rings.
(b) Cake circles.
(c) Cake laces.
(d) Casserole collars.
Bird cage specialties, such as:
(a) Bird cage bottoms.
(b) Bird cage covers and hoods.
(c) Bird cage food holders.
Bouquet holders for displays, corsages, etc.
Chop holders.
Combs.
Costumes.
Dusters and dusting paper.
Finger bowl liners.
Hanger protectors.
Novelties—holiday, party, advertising and decoration, such as:
(a) Garlands.
(b) Serpentines.
(c) Horns.
(d) Hats.
(e) Table decorations and place cards.
(f) Streamers, including those for window display and decoration.
(g) Flower pot covers.
(h) Costumes.
(i) [Deleted April 7, 1943]
(j) Artificial flowers and flower specialties.
(k) Confetti.
(l) Festoons.
(m) Fireworks (except such items manufactured pursuant to duly authenticated orders from the Armed Forces).
(n) Bouquets.
(o) Skewers.
Poker chips.
Punch boards, pullboards and similar articles.
Shirt protectors and envelopes.
Shirt bands (wider than 2").
Shirt boards.
Shirt displayers.
Window drapes.

[F. R. Doc. 43-5577; Filed, April 8, 1943; 3:37 p. m.]

PART 1075—CONSTRUCTION

[General Preference Order P-55-b, as Amended April 9, 1943]

Preference Rating Order P-55 is hereby amended to read as follows:

Name of Owner: _____
Address: _____

§ 1075.10 *Preferenee Rating Order P-55-b: Authorization of housing construction.* Construction of the housing project, hereinafter described, is hereby authorized under Conservation Order L-41, subject to the following conditions and directions:

(a) This authorization is issued in lieu of Preference Rating Order P-55. Any reference in any order of the War Production Board to said Preference Rating Order P-55 shall constitute a reference to this authorization.

(b) *Definitions.* (1) "Owner" means the specific person to whom this order is addressed above.

(2) "Builder" means the owner and any building contractor or subcontractor with whom the owner has placed a contract pursuant to which such contractor or subcontractor has agreed to furnish critical material.

(3) "Accommodations" means either family dwelling units or rooming accommodations.

(4) "Housing project" means the housing project described in the builder's application comprising a maximum of _____ family dwelling units and _____ rooming accommodations.

(5) "Critical material" means any material or product included in the War Housing Critical List, and only such material or products. Copies of this list may be obtained from any field office of the War Production Board.

(6) "Application" means the owner's application on Form PD-105 with material list Form PD-105A, Serial No. _____, dated _____.

(c) *Restrictions on use of materials.* The builder shall not order or accept delivery of any critical material to be incorporated into the housing project or incorporate any critical material into the housing project other than that specifically set forth and approved in the application, and then only in accord-

ance with the terms of the allotment on Form CMP–H–1.

(d) *Liability of owner.* The owner and any other person who now holds or hereafter acquires any beneficial interest in the housing project or any part thereof, is hereby ordered to comply with all the representations, certifications and promises made by said owner in the application, except where and to the extent such other person is relieved of such responsibility by regulation of the National Housing Agency.

(e) *Applicability of War Production Board regulations.* This order and all transactions affected thereby are subject to the provisions of all regulations of the War Production Board.

(f) This order shall take effect on the issuance of an authorized construction schedule with allotments or preference rating, if any, pursuant to application Forms CMP–H–1, but shall be effective for only those accommodations which are so authorized by said construction schedule within _____ days from the date this order is countersigned. This order shall be ineffective for any accommodations not authorized within the above period on Forms CMP–H–1, or for any accommodations so authorized but in excess of the maximum number specified in pargaraph (b) (4) above.

(g) Serially numbered copies of this order may be issued to named persons in the name of the War Production Board by regional directors and persons designated by them, and shall incorporate all of the provisions hereof except this section (g).

Issued this 9th day of April 1943.

WAR PRODUCTION BOARD
By J. JOSEPH WHELAN,
Recording Secretary.

An allotment number and preference rating for the purchase of materials as authorized for allotment and priorities assistance on the approved copy of the application returned to the owner will be issued upon presentation of Application Form CMP–H–1, properly filled in, to the office of the National Housing Agency, where application for this order was first made.

[F. R. Doc. 43–5601; Filed, April 9, 1943; 11:33 a. m.]

PART 1157—CONSTRUCTION MACHINERY AND EQUIPMENT

[Limitation Order L–192 as Amended April 9, 1943]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply for defense, for private account and for export, of rubber and other materials used in the production of construction machinery and equipment and repair parts; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1157.10 *Limitation Order L–192*—(a) *Revocation of Limitation Order L–82 and L–82–a.* This order, as of November 30, 1942, supersedes Limitation Orders Nos. L–82 and L–82–a. Notwithstanding the revocation of Limitation Orders Nos. L–82 and L–82–a issued November 7th, 1942, every person subject to the terms thereof immediately prior to such date shall abide by the terms of such orders until November 30, 1942, as though their text were fully incorporated in this order.

(b) *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.

(c) *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) "Producer" means any person engaged in the manufacture of equipment.

(3) "Equipment" means that construction machinery and equipment listed in Schedules A, B, C, and D attached hereto, but shall not include any equipment on rubber tired chassis or running gear built for or usable for the transportation of commodities or persons.

(4) "New", when applied to equipment, means any equipment which has never been received or accepted by any person acquiring it for use.

(5) "Repair part" means any part manufactured for use in the repair and maintenance of equipment; but does not include components or attachments which change the functional operations of the equipment as originally shipped.

(6) "War agency" means the Army, Navy, Maritime Commission, War Shipping Administration, Canadian Department of Munitions and Supply, and the government of any foreign country receiving aid pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(7) "Essential project" means a construction project undertaken by, or contracted by or for the account of a war agency or the Defense Plant Corporation, or any other construction project granted a preference rating of A–1–k or higher under any order in the P–19 series; but does not include any mine operating under a serial number of Preference Rating Order P–56.

(8) "Rubber" means all kinds of natural, reclaimed and synthetic rubber.

(d) *Procedure for Placing and Receiving Equipment Orders*—(1) *For Schedule A equipment.* No person shall place or accept any order for new equipment listed in Schedule A, except according to the following procedure:

(i) Every person, except a war agency, desiring to place such an order shall file an application for authorization to purchase on Form PD–556 in quintuplicate with the War Production Board regional office in the region in which such person desires to use such equipment. Such application when approved by the War Production Board shall establish all conditions under which such order may be placed with the supplier including the assignment of preference ratings if not previously granted.

(ii) Every person, except a war agency, who applies for such equipment by filing Form PD–556, thereby makes representation that he has complied with all the terms of Limitation Order L–196 as amended.

(iii) A war agency shall furnish the Construction Machinery Division, War Production Board, Washington, D. C., with Form PD–556 made out in duplicate at the time that any order for such equipment is placed with a producer.

(iv) No person shall accept an order for such equipment from any person except a war agency, unless such order is accompanied by such authorization on Form PD–556.

(2) *For Schedule B equipment.* Nothing in this order shall prevent any person from placing or accepting an order for new equipment listed in Schedule B, subject to all applicable regulations of the War Production Board.

(3) *For Schedule C equipment.* (i) No person, except a war agency, may place an order for new equipment listed on Schedule C, and no person may accept such an order unless it is placed by a war agency and accompanied by an authorization to purchase on Form PD–556.

(ii) A war agency must file an application for authorization to purchase such equipment on Form PD–556 in quadruplicate with the Construction Machinery Division, War Production Board, Washington, D. C. A war agency may also file such an application for such equipment for use by a prime contractor on a construction project for such agency.

(4) *For Schedule D equipment.* In addition to such limitations and prohibitions as may be imposed by Order L–217 and all schedules thereto, on and after June 1, 1943, no person shall place or accept any order for new equipment listed in Schedule D.

(e) *Restrictions on production of equipment.* (1) No producer shall use or put into process any materials for the production or assembly of

(i) Any new equipment except in accordance with such production schedules as may be approved by the War Production Board as provided in paragraph (f) hereof;

(ii) Any new equipment designed for or requiring rubber tires except to fill an order placed by a war agency or unless the authorization on Form PD–556 required by paragraph (d) hereof specifically so provides;

(iii) Any parts to be physically incorporated into new equipment in excess of those required by approved production schedules: *Provided,* That this subparagraph (e) (1) (iii) shall not apply to the production of repair parts or components or attachments;

(iv) Any new equipment listed in Schedule C, except to fill an order authorized by the War Production Board on Form PD–556 pursuant to paragraph (d) (3) hereof.

(2) In addition to such limitations and prohibitions as may be imposed by Order L–217 and all schedules thereto, on and after May 1, 1943, no producer shall

use or put into process any materials for the production or assembly of any equipment listed in Schedule D.

(f) *Production schedules.* (1) On or before November 25, 1942, and on or before the 15th day of each succeeding calendar month, every producer shall file in quadruplicate on Form PD–697 a statement of his production for the previous month and his proposed production schedule of all new equipment projected for all additional monthly periods for which production may be planned. Approval or modification of such production schedule of all new equipment for the three calendar months succeeding such filing, or for such shorter time as production may be planned, will be indicated on an approved copy of said Form PD–697 returned to such producer prior to the first day of the calendar month succeeding such filing. Except as provided in paragraph (f) (2) hereof, no producer shall change his production schedules as approved or changed by the War Production Board without specific authorization of the War Production Board.

(2) Any producer of new equipment listed in Schedule B may produce all or any one or more items of such equipment appearing on his approved production schedules on Form PD–697 at any time during the months for which the schedules were approved, and need not therefore in that regard produce in strict accordance or sequence with the individual monthly production schedules approved: *Provided,* That the total quantity of each item produced during such period shall not exceed that authorized on such approved schedules.

(g) *Inventory reports.* On or before November 25, 1942, and on or before the 15th day of each succeeding calendar month, every producer shall file in quadruplicate on Form PD–697, a statement of finished unsold inventory, as of the last day of the preceding calendar month, of new equipment including that in the possession of his dealers and distributors. Every dealer and distributor, on the fifth day of the month, shall report his inventory of new equipment as of the last day of the preceding calendar month to the producer from whom such equipment was purchased, or, if not purchased, to the producer for whom the distributor or dealer is acting as agent.

(h) *Prohibiting transfer and use of new equipment.* On and after November 30, 1942, no producer shall use for other than experimental or demonstration purposes, or sell, lease, trade, lend, deliver, ship or transfer, any new equipment and no person shall accept the same unless

(1) Such equipment is then in transit to such person, or

(2) Such use, sale, lease, trade, loan, delivery, shipment or transfer has been specifically approved by the War Production Board as follows:

(i) On or before November 25, 1942, and on or before the 15th day of each succeeding calendar month, every producer shall file in quadruplicate on Form PD–697 a statement showing his proposed delivery schedule of all unfilled orders of new equipment, his shipments made during the calendar month previous to filing, and also his shipments during the current month to the date of filing. Approval of a delivery schedule of all new equipment for the calendar month succeeding such filing, whether or not such equipment is actually shipped during that month, will be indicated on an approved copy of said form returned to such producer prior to the first day of that month.

(ii) The delivery of all new equipment as scheduled for delivery on or before November 30, 1942, and previously authorized under Limitation Orders L–82 and L–82–a, shall be deemed to be authorized, unless the War Production Board shall otherwise direct.

(iii) The War Production Board may at any time revoke any delivery authorization provided for in subparagraphs (h) (2) (i) or (h) (2) (ii) above as to any or all new equipment included therein, direct or change the schedule for deliveries of any new equipment, allocate any order for any new equipment listed on a producer's Form PD–697 to any other producer, or direct the delivery of any new equipment to any other person, at regularly established prices and terms.

(iv) Except as provided in subparagraph (h) (2) (v) hereof, and notwithstanding any preference rating heretofore or hereafter granted, no producer shall change his schedule of deliveries of any new equipment as approved or changed by the War Production Board, without specific authorization of the War Production Board.

(v) Any producer may deliver any item of new equipment listed in Schedule B to the amount permitted by approved production schedules regardless of his schedule of deliveries of such equipment as listed on his current Form PD–697. Such deliveries shall be subject to all applicable Regulations of the War Production Board.

(i) *Restrictions on resale, rental and use.* (1) Every person, except a war agency, to whom delivery of any new equipment listed in Schedule A or C has been authorized pursuant to this order, must use such equipment on the project described in the authorization to purchase and will be subject to the provisions of paragraphs (i) (2) and (i) (3) hereof.

(2) Every person except a war agency, thirty days prior to the sale, lease or use on any other project of such equipment, shall complete, sign and return Form WPB 1333 to the Used Construction Machinery Regional Specialist in the War Production Board Regional office in the region in which the PD–556 was originally approved for such equipment.

(3) The War Production Board at any time on two weeks' written notice, may require any such person who owns such equipment to sell, lease, or use such equipment as directed.

(4) Nothing in this order shall be deemed to affect the applicability of Limitation Order L–196.

(j) *Procedure and restrictions on sale and delivery of repair parts—*(1) *Repairs for actual or impending breakdown or maintenance.* (i) No producer, dealer, or distributor shall sell or deliver repair parts for actual or impending breakdown or for maintenance of equipment in sound working condition to any person other than another producer, dealer, or distributor, unless such person has furnished the information and certification called for below in a writing signed by such person and in substantially the following form:

This order covers Repair Parts needed for actual or impending breakdown or maintenance of _____ which has been registered under L–196. Model Number _____ Serial Number _____ Rating _____ Project Identification _____ (Under project identification, if for War Agency give prime contract number of project otherwise state type of work for which parts are intended, e. g., mining, highway construction, housing, etc.)
In accordance with Limitation Order L–192 with the terms of which I am familiar.
Date_____ _____
Purchaser
By: _____

Such certification shall constitute a representation to the War Production Board that such repair parts are required for the purpose of repair of actual or impending breakdown or maintenance of the particular equipment, and, unless the applicant is a war agency, that the applicant does not have parts available or on order for this purpose and that such applicant has registered the equipment for which the repair parts are sought in accordance with the provisions of Limitation Order L–196 providing for registration of used construction equipment. This certification shall, for the purposes of this order, supplant the certification required in Preference Rating Order P–100.

(ii) No person, except a producer, dealer, distributor, or a war agency, shall purchase for stock or inventory repair parts (in excess of that required for the purpose of repair of impending breakdown or for maintenance of equipment in sound working condition on the current job), without specific authorization of the War Production Board on Form PD–556, submitted in duplicate. On such Form PD–556 the applicant must supply under section 5 thereof, adequate reasons why this stock or inventory must be acquired, which shall include the following information: quantity, make and model number of equipment for which parts are intended, present inventory of such parts, duration and preference rating of project on which such equipment is now working, and the distance from normal source of supply for such repair parts.

(iii) All orders for repair parts for actual or impending breakdown or maintenance of equipment in use on essential projects, as defined in paragraph (c) (7) hereof, shall carry the highest preference rating of such project. However, this subparagraph (j) (1) (iii) shall not be construed to prevent the use of any higher individual rating which may be authorized for emergency repairs pursuant to any regulation, order, or directive of the War Production Board.

(2) *Repair parts for reconditioning or rebuilding used equipment.* No producer, dealer, or distributor shall sell or deliver repair parts for purposes of reconditioning or rebuilding used equipment (except to a war agency, or to a person who has contracted to recondition or rebuild equipment owned by a war agency and to whom such war agency has properly extended a preference rating, or to a mine operating under a serial number of preference rating Order P–56), unless the order for such repair parts is accompanied by an authorization of the War Production Board, application for which shall be on Form PD–556 submitted in duplicate listing individually the repair parts requested and their approximate value.

(3) *Spares.* Orders for repair parts intended to be used as spares for new equipment listed in Schedules A and C shall be placed with the producer at the same time as the order for such new equipment, and shall be listed on the Form PD–556 on which such new equipment is requested.

(4) No producer shall deliver to war agencies in any one month, any repair part whatsoever in excess of seventy-five (75) percent of his combined production and inventory of such repair part during such month if such delivery would prevent deliveries of such repair part to fill orders properly placed by other persons, pursuant to provisions of paragraphs (j) (1), (2), and (3) above, without specific authorization of the War Production Board on Form PD–556. "Other persons" as used in this paragraph (j) (4) shall not include dealers or distributors who have ordered such repair part for their stock or to fill orders not yet sold.

(k) *Substitution and conservation of critical materials.* In the manufacture of any item of equipment or repair parts, no producer shall use any alloy steel, stainless steel, aluminum, magnesium, copper, brass, bronze, zinc, nickel, tin, cadmium, or fabricated rubber products where the use of other less critical materials will not impair the efficiency of operation of such item.

(l) *Records.* All persons affected by this order shall keep and preserve for not less than two (2) years accurate and complete records concerning inventories, purchases, production and sale.

(m) *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.

(n) *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.

(o) *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.

(p) *Communications.* All communications concerning this order, except where specific reference is made therein to the contrary, shall be addressed to Construction Machinery Division, War Production Board, Washington, D. C., Ref: L–192.

Issued this 9th day of April 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

SCHEDULE A

Angledozers and modifications thereof
Bulldozers and modifications thereof
Conveyors, construction material, portable belt type and for portable plants
Cranes, crawler mounted power
Cranes, tractor mounted power
Cranes, rubber tired mounted power except freight handling lift trucks
Crushers, gyratory and cone portable type
Crushers, jaw (sizes 9" x 14" to 30" x 44" openings, inclusive); except those intermediate sizes as indicated in Schedule D (Ref. L–217), and except those sizes of a type designed exclusively for mining and smelting
Crushers, roll, construction aggregates, portable type, except those sizes and types as indicated in Schedule D (Ref. L–217)
Crushing plants, portable type
Derricks, guy, contractors and material handling, stationary type
Derricks, stiff leg, contractors and material handling, stationary type
Distributors, bituminous
Ditchers, ladder
Ditchers, wheel
Draglines (see cranes)
Draglines, slack line
Draglines, walking
Drilling machines, blast hole drills, churn drill type
Drilling machines, rock portable mounted
Dryers, construction aggregate
Excavators (see power shovels)
Finishers, concrete
Finishers, bituminous paving
Grapples
Hammers, pile
Heaters, and circulators, tank car
Jacks, mud
Loaders, portable bucket (other than coal)
Loaders, portable snow
Logging arches, tractor drawn
Mixers, aggregate pulverizer
Mixers, agitator concrete truck type, except those sizes and types as indicated in Schedule D (Ref. L–217)
Mixers, concrete truck mounted with elevating towers
Mixers, concrete construction, above 7 cubic feet except those sizes and types as indicated in Schedule D (Ref. L–217)
Pavers, concrete
Plants, stabilizing
Plants, asphalt, including travel mix type
Plants, bituminous patch, hot or cold mixer type (more than 10 ton per hour capacity)
Plows, snow (rotary and blower types)
Power control units for tractors (both cable and hydraulic)
Pumps, concrete, except for well cementing
Pumps, portable engine or electric-motor-driven pumping units mounted on skids, with or without handles, or trailer mounted larger than 90,000 gallons per hour, self-priming centrifugal pumps, horizontal or vertical triplex piston road pumps, ordinarily used for contractor's purposes or by contractors for dewatering and supply, as defined and approved in contractors pumps standards by the Associated General Contractors of America, Inc. (A. G. C.) February 21, 1941; except those sizes and types as indicated in Schedule D (Ref. L–217)
Rippers, road
Scrapers, carrying and hauling, both drawn and self-propelled, except sizes listed in Schedule D
Shovels, crawler mounted power
Shovels, rubber tired mounted power
Shovels, tractor mounted power
Sprayers, (maintenance units) bituminous material (over 300 gallon capacity)
Spreaders, concrete
Wagons, contractors crawler
Winches, tractor and truck mounted

SCHEDULE B

Backfill tampers
Breakers, paving
Buckets, clamshell
Buckets, concrete
Buckets, dragline
Buckets, orange peel
Buckets, scraper (bottomless) for dragline operation
Clay diggers
Derricks, small stiff leg, guy, pole, tripod, and setter types with hand power hoists or winches of not over 4 ton maximum capacity
Drills, jack hammer
Drills, rock, except portable mounted
Form tamping and pulling machines
Heaters, asphalt surface
Heaters, concrete mixer
Hoists, contractors and material handling, hand type and power driven having specifications not exceeding 6,000 pounds line pull at 200 FPM line speed or not exceeding 1,300,000 foot pounds effort based on second wrap of cable
Joint and crack filling machines
Kettles, bituminous heating
Mixers, concrete construction, 7 cubic feet and smaller; except those sizes and types as indicated in Schedule D (Ref. L–217)
Mixers, plaster and mortar
Paving breakers
Plants, bituminous patch, hot or cold mixer type (10 ton per hour capacity and under)
Pumps, portable engine or electric motor driven pumping units, mounted on skids, with or without handles, or trailer mounted 90,000 gallons per hour and smaller self-priming centrifugal pumps, plunger pumps, or diaphragm pumps ordinarily used for contractors purposes or by contractors for dewatering and supply as defined and approved by the Associated General Contractors of America, Inc. (A. G. C.) February 21, 1941, excluding farm type, industrial type and underwriters approved fire fighting pumps; except those sizes and types as indicated in Schedule D (Ref. L–217)
Screen, rotary, vibrator and gravity types, other than coal, mining, industrial or those for screening mud on well drilling, used as a component part of or replacement for a portable crushing, screening or mashing plant
Sprayers, (maintenance units) bituminous material (300 gallon capacity and smaller)
Spreaders, aggregate
Vibrators, concrete
Winches, contractor (see hoists)

SCHEDULE C

The items of equipment appearing in Schedule C may be ordered and produced only for military purposes as provided in paragraphs (d) (3) and (e) (1) (iv).

Batchers, construction material
Batching plants, construction type
Bins, construction material, portable
Bins, construction material, stationary
Brooms, contractors rotary
Buggies and carts, concrete hand operated
Buggies and carts, concrete power propelled
Chutes, concrete handling
Concrete surfacing machines
Discs, road, harrow type for construction work
Discs, road, wheel mounted type
Distributors, water (street sprinklers)
Ditchers, blade
Dredges and dredge equipment, except mining
Drilling machines, portable water well, churn drill type
Earth boring machines, vertical auger type
Finegraders and subgraders, self-propelled type
Finishers and rodding machines for wet concrete
Forms, concrete road
Graders, blade or pull type earth moving
Graders, elevating earth moving
Graders, self-propelled earth moving
Hoists, contractor and material handling exceeding 6,000 pounds line pull at 250 FPM line speed or exceeding 1,300,000 foot pounds effort based on second wrap of cable
Hoppers, portable concrete
Maintainers, road
Maintainers, shoulder
Plows, cable laying
Plows, snow (V and blade types—truck, tractor, grader or railroad mounted, including wings)
Rollers, road portable
Rollers, road pneumatic tired
Rollers, road tandem
Rollers, road three wheeled
Rollers, tamping and sheepsfoot
Scarifiers—complete machines not attachments
Screening plants, portable type
Sweepers, street
Sweepers, street motor pick-up
Towers, concrete placing
Towers, material elevating
Washing and screening plants, portable type

SCHEDULE D

The manufacture of items of equipment appearing in Schedule D will be discontinued in accordance with paragraph (e) (2).

Any item to the extent prohibited by any schedule to Limitation Order L-217
Finegraders and subgraders, drawn type
Graders, under truck type
Joint levellers
Scrapers, carrying and hauling, over 15 cu. yd. struck capacity
Scrapers, drag, fresno and rotary, except those under jurisdiction of Limitation Order L-170

[F. R. Doc. 43-5604; Filed, April 9, 1943; 11:33 a. m.]

PART 1293—HAND TOOLS SIMPLIFICATION

[Schedule IV to Limitation Order L-157, as Amended April 9, 1943 [1]]

HEAVY FORGED HAND TOOLS

§ 1293.5 *Schedule IV to Limitation Order L-157*—(a) *Definitions.* For the purposes of this schedule:

(1) "Producer" means any person who manufactures, stamps, forges, or otherwise fabricates heavy forged hand tools.

(2) "Heavy forged hand tools" means such (i) bars, (ii) blacksmiths' anvil tools, (iii) mauls and hammers or sledges weighing 4 pounds or over, (iv) hoes weighing 3½ pounds or over, (v) mattocks, (vi) picks, (vii) railway track tools, (viii) tongs, (ix) wedges, (x) mine blasting hand tools, mine breast drills and miscellaneous forged hand tools, as are listed in Table 1 through Table 10 of Appendix A of this Schedule, and all other tools as are listed in said Tables.

(b) *Limitations.* Parts manufactured for repair and maintenance of any heavy forged hand tools are not subject to the limitations of this Schedule.

(c) *Simplified practices.* Pursuant to Limitation Order L-157 the sizes, types, grades, weights and finishes set forth in Appendix A and Tables 1 through 10 of this schedule are established for the manufacture of heavy forged hand tools.

(d) *Effective date of simplified practices.* On and after the 3rd day of November, 1942, no heavy forged hand tool which does not conform to the size, type, grade, finish, weight and standard established by paragraph (c) of this schedule (and set forth in Appendix A and tables hereto) shall be produced by any producer except upon approval of the War Production Board.

(e) *Records covering materials, work in progress, etc.* Each producer of heavy forged hand tools shall execute and file with the War Production Board such reports and questionnaires as said Board shall from time to time require.

Issued this 9th day of April 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[1] The effect of this amended order is to amend table 6 in its entirety.

APPENDIX A TO SCHEDULE IV

Explanations and Limitations

(1) *Finishes.* Faces, bits, points, and other commonly ground parts of a heavy forged hand tool shall not have a finish finer than the finish resulting from the use of a 60-grit emery wheel, dry, when good commercial technique is employed, except that sample tools selected from a lot for inspection may be polished to as fine a degree as may be necessary for such inspection. All other surfaces of heavy forged hand tools shall not be finished other than by applying a coating of paint, enamel, or lacquer over the natural forged surface, free from scale.

(2) *Sizes.* Weights given herein are exclusive of wooden handles. Dimensions and weights are subject to commercial tolerances.

(3) *Eyes.* The shapes of eyes specified by number herein and the dimensions of eyes, except those for which dimensions are given herein, shall conform with the diagrams and data on eye shapes and sizes shown pp. 10 to 18, inclusive, of Simplified Practice Recommendation R17-35, Forged Tools, issued by the National Bureau of Standards.

(4) Chisels cold, chisels hot, as both such types of chisel are set forth in Table 2 of this Appendix: Chisels, track (designs 1 and 2, A. R. E. A.) as set forth in table 7 of this Appendix; mauls, Pittsburgh or Bell pattern (designs 1 and 2, A. R. E. A.) as set forth in table 3 of this Appendix; and blacksmiths' double face sledges in 6-, 8-, 10-, and 12-pound sizes as set forth in table 3 of this Appendix; may be made of carbon steel or of such National Emergency alloy steels as are permitted by the War Production Board. All other tools listed in this Schedule, Appendix and Tables shall be made of carbon steel only.

(5) No producer shall offer the tools listed herein in more than one grade, finish, or kind of steel, except as provided in paragraph 4 above.

(6) Reference herein to "the forged hammers schedule" and to "the forged hatchets schedule" refer to Schedule II of Limitation Order L-157.

TABLE 1.—BARS

Chisel point:

Diameter of octagon or hexagon	inch	⅝	¾	⅞	1
Length	inches	18	24	30	36

Claw, carpenters' and wrecking:

Carpenters, gooseneck (the nail-pulling claw end bent around to form an angle of approximately 30 degrees with shaft of the bar, the other end wedge shaped and offset at an angle of about 30 degrees):

Size of Hexagon or octagon	inches	½	¾	¾	¾
Length	do	12	24	30	36

Carpenters', gooseneck (the nail-pulling claw end bent by a double bend to an angle of from 90 to 120 degrees with the shaft of the bar, the other end wedge shaped and offset at an angle of about 30 degrees):

Size of octagon or hexagon	inch	¾	¾	¾
Over all length	inches	24	30	36

Wrecking or straight (both ends offset at an angle of approximately 30 degrees, in opposite directions, one end wedge shaped and the other provided with a claw):

Diameter of octagon or hexagon	inch	¾	¾	¾
Length	inches	24	30	36

Claw, railroad:

A. R. E. A.[a] design No. 1: 5 feet long, approximately 28 pounds.
A. R. E. A. design No. 2: 5 feet long, approximately 28 pounds.
Double end (for railroad and boat spikes): 30-pound.
Flextoe.
Light, with railroad standard heel: 4-foot, 20-pound, for ½-inch spike.
Small, without heel:
3-foot, 8-pound, for ⅜ and ½-inch spikes.
2½ foot, 6-pound, for ⅜ and ½-inch spikes.
Other railroad claw-bars: None.
Coal or slate (one end tapered to a point, the other wedge-shaped and offset): 4½-foot, 1-inch octagon or hexagon, 11½-pound.
Crow, pinch-point; 3-pound, ¾-inch, 2-foot; and 6-pound, ⅞-inch, 3-foot.

See footnote at end of table.

Crow, pinch-and wedge-point:

Weight each ---------- pounds--	12	18	22	26
Size ---------- inches--	1⅛	1¼	1⅜ or 1½	1½
Length ---------- do--	51	60	63	66

[a] See Specifications and Plans for Track Tools, published by the American Railway Engineering Association, Construction and Maintenance Section, Association of American Railroads, 1942, annual edition.

TABLE 1.—BARS—Continued

Crow, pinch, locomotive (with toothed heel): None.

Crow, pinch, with heel: 29-pound, 66-inch.

Crow, pinch or jimmy (or miners, or Dillonvale. Has offset wedge-shaped point): None.

Digging, post-hole:

With tamper: 5½ to 6 feet long, 1 inch in diameter; blade 3 inches wide, tamper 2¼ inches in diameter, one model only.

With loop end: None.

With point end: 8 feet long 1⅛-inch octagon or hexagon.

Flagging or paving: None.

Lining, diamond-shaped point:

Weight each ---------- pounds--	18	26
Size ---------- inches--	1¼	1½
Length ---------- inches--	60	66

Lining, round point: None.

Pinch or jimmy bar (one end wedge-shaped and offset, other end straight, round, and tapered):

Size of octagon or hexagon ---------- inch--	¾	⅞	1
Length ---------- inches--	26	30	36

Shackle: None.

Tamping, chisel end: A. R. E. A. plan No. 14; approximately 13 pounds.

Tamping, diamond tamp, spear end: None.

Tamping, end (offset loop handle): None.

Tamping, plain end: None.

Tamping, spade end: None.

Tamping, spear end: 15-pound, 68-inch, 4-inch tamper, 4¾-inch spear.

Tamping, telegraph (wide tamp): None. (See Digging.)

Tamping, with wooden handle: None.

Timber (both ends offset at an angle of approximately 30 degrees, diamond-shaped point on one end, and chisel point on the other): 17-pound, 1⅛-inch stock, 5-foot.

TABLE 2.—BLACKSMITHS' ANVIL TOOLS

Chisels, cold:

Sizes of stock at eye			
inches--	1¼	1½	1¾
Length ---------- do--	6	7	8
Bit ---------- do--	1¼	1½	1¾
Weight ---------- pounds--	2	3	5

Chisels, hot:

Sizes of stock at eye			
inches--	1¼	1½	1¾
Length ---------- do--	7⅜	8¼	9¾
Bit ---------- do--	1½	2	2¼
Weight ---------- pounds--	2	3	5

Flatters:

Sizes of face ---------- inches--	2	2½	3	4

Fullers, top:

Sizes of groove, inches, ¼, ⅜, ½, ¾, 1, 1¼, 1½, 1¾, 2.

Fullers, bottom (shank 2⅜ inches long for all sizes); Sizes of groove, inches, ¼, ⅜, ½, ¾, 1, 1¼, 1½, 1¾, 2.

Hardies (shank 2⅜ inches long for all sizes):
Sizes of square shank, inches, ½, ⅝, ¾, ⅞, 1, 1⅛, 1¼.
Bit, inches, 1⅝, 1¾, 1⅞, 2, 2⅛, 2¼, 2⅜.

Heading tools:

Diameter of hole (inches)	Length (inches)	Size of head (inches)
¼	15	1¼ x 2¼
⅜	15	1¼ x 2¼
½	15	1¼ x 2¼
⅝	15	1¼ x 2¼
¾	16	1⅜ x 2½
⅞	16	1⅜ x 2½
1	16	1⅜ x 2½

Punches, round end:

Sizes of round punch ---------- inches--	¼	⅜	½	⅝	¾	⅞	1
Stock at eye ---------- do----	1⅛	1⅛	1¼	1⅜	1⅜	1½	1½
Length ---------- do----	7	7¼	7½	7¾	8	8¼	8½

Punches, square end:

Sizes of square punch ---------- inches--	¼	⅜	½	⅝	¾	⅞	1
Stock at eye ---------- do----	1⅛	1⅛	1¼	1⅜	1⅜	1½	1½
Length ---------- do----	7	7¼	7½	7¾	8	8¼	8½

Set hammers:

Square sizes of stock at face ---------- inches--	1¼	1½	1¾
Weight ---------- pounds--	1½	2	2¾

Swages, top: Sizes of peen, inches, ¼, ⅜, ½, ⅝, ¾, ⅞, 1 1¼, 1½, 1¾, 2, 2½, and 3.

Swages, bottom: Sizes of peen, inches, ¼, ⅜, ½, ⅝, ¾, ⅞, 1, 1¼, 1½, 1¾, 2, 2½, and 3.

TABLE 3.—HAMMERS, MAULS, AND SLEDGES

Hammers:

Blacksmiths', double-face (See sledges).

Blacksmiths', hand, cross peen: (For smaller sizes see forged hammers schedule.)

Weight ---------- pounds--		4
Length ---------- inches--		5½
Eye size No. ----------		2
Eye size ---------- inches--	¾	by 1

Bush: 6-pound.

Caulking: None.

Drilling, hand: (See forged hammers schedule.)

Engineers', hand, cross peen: (See also sledges, blacksmiths'): 4-pound. (For smaller sizes see forged hammers schedule.)

Engineers', double face: 4-pound.[1] (For smaller sizes see forged hammers schedule.)

Macadam: None.

Masons': None.

Masons', with teeth: None.

Napping: 4-pound, 6¼-inch; No. 2, ¾ by 1 inch eye, and 6-pound, 6¾-inch, No. 2, 1 by 1¼ eye.

Paving: None.

Riveting: None. (For machinists' riveting hammers see forged hammers schedule.)

Slashing: None.

[1] Same as 4-pound blacksmiths' double face sledge.

TABLE 3.—HAMMERS, MAULS, AND SLEDGES—Continued

Spalling, single face:

Weight—pounds	4	6	8	16	20
Length—inches	6	6½	7¾	9½	10½
Eye No.	2	2	2	2	2
Eye sizes—inches	¾ by 1	1 by 1¼	1 by 1¼	1 by 1⅜	1¼ by 1½

Spalling, double face:

Weight—pounds	8	12	16	
Length—inches	6½	7	8	
Eye No.	2	2	2	
Eye size—inches	1 by 1¼	1 by 1⅜	1 by 1⅜	

Striking, Missouri pattern: None.

Striking, short or Oregon pattern: None.

Striking, long or Nevada pattern:

Weight (pounds)	Length (inches)	Eye No.	Eye size (inches)
4	5¾	2	¾ by 1
6	6½	2	1 by 1¼
8	7¼	2	1 by 1¼
10	7¾	2	1 by 1⅜
12	8	2	1 by 1⅜
16	8½	2	1 by 1⅜

Mauls:

Coal: None.

Ship or top: 5-pound, 8¾-inch; Eye No. 2, 1 by 1¼ inch.

Spike, railroad:

Standard pattern (any two of the following):

Weight—pounds	4	8	10
Length—inches	9	12	12¾
Eye No.	2	2	2
Eye size—inches	¾ by 1	1 by 1⅜	1 by 1⅜

Pittsburgh or bell pattern:

A. R. E. A. design No. 1: 14-inch, approximately 10-pound.

A. R. E. A. design No. 2: 15-inch, approximately 10-pound.

Woodchoppers':

Straight bit, oval eye: None.

Oregon pattern, single-bit-axe eye: None.

Oregon pattern, double-bit-axe eye:

Weight—pounds	6	8
Length—inches	8½	9⅛
Eye No.	5	5
Eye size—inches	⅞ by 2⅛	⅞ by 2⅛

Oregon pattern, oval eye:

Weight—pounds	6	8
Length—inches	8½	9⅛
Eye No.	2	2
Eye size—inches	1 by 1¼	1 by 1¼

Sledges:

Blacksmiths', cross peen:

Weight—pounds	6	8	10	12	16
Length—inches	6½	7	7½	8	9
Eye No.	2	2	2	2	2
Eye size—inches	1 by 1¼	1 by 1¼	1 by 1⅜	1 by 1⅜	1 by 1⅜

Blacksmiths', straight peen:

Weight—pounds	8	12	14
Length—inches	7	8	8½
Eye No.	2	2	2
Eye size—inches	1 by 1¼	1 by 1⅜	1 by 1⅜

Blacksmiths', double face:

Weight (pounds)	Length (inches)	Eye No.	Eye size (inches)
4	5¼	2	¾ by 1
6	6	2	1 by 1¼
8	6½	2	1 by 1¼
10	7	2	1 by 1⅜
12	7½	2	1 by 1⅜
20	8¾	2	1¼ by 1½

Moulders: None.

New England pattern, cross peen: None.

Ore: None.

Stone, flat face: None.

Stone, oval face:

Weight—pounds	8	12	16	20
Length—inches	7¼	8¼	9¼	9¾
Eye No.	2	2	2	2
Eye size—inches	1 by 1¼	1 by 1⅜	1 by 1⅜	1¼ by 1½

TABLE 4.—HOES

Accomac: 5-pound (nominal), blade 5⅞ to 6¾ inches, length 11 to 11¾ inches.
Clay: None.
Grub: 3½-pound, 3¾-inch bit, 10¾ inches long, No. 8 eye.
Grub, Baltimore pattern: None.
Hazel: None.
Palmetto (Accomac type, but with heavier blade): None.
Vineyard: None.

TABLE 5.—MATTOCKS

Asphalt, double eye: 10-pound, 3-inch bits, 20 inches long.
Asphalt, single eye: None.
Brush: None.
Cutter:
3-pound, 13 inches over all, eye No. 7.
5-pound, 15¾ inches over all, eye No. 6.
Nursery: None.
Pick: 5-pound, 3½-inch blade, 19 inches over all, eye No. 6.
Pick and cutter: None.
Pick, intrenching: To be in accordance with U. S. Army Specification No. 17–171.

TABLE 6—PICKS

NOTE: Table 6 amended in its entirety April 9, 1943.
Boiler, or scaling hammer: 1-pound.
Canadian pattern, with sleeve: None.
Coal miners, lip eye:
Cutting or straight pattern
Mining or anchored pattern, short, and
Mining or anchored pattern, long:
1½-pound: eye No. 10, but with larger opening 2¾ by ¾ inch.
2-pound, 2½-pound, 3-pound, 3½-pound, 4-pound, 5-pound: eye No. 10, but with larger opening 3 by 1 inch.
Coal miners anthracite pattern: None.
Coal miners, adze eye: None.
Coal, special construction (attached to handle by means of a collar and bolt): None.
Concrete (similar in shape to quarry pick): None.
Contractors, diamond pointed: None.
Contractors, point and chisel ends: 9-pound, 30-inch, eye No. 6.
Contractors, round pointed, or Yankee pattern: 8-pound, 30-inch, eye No. 6.
Drifting:

Weight—pounds	4	5	6
Length—inches	21	25	26
Eye No.	10	10	10

Drifting (all other models): None.
Mill: 2-pound.
Poll, or mining: 5-pound, 16-inch, eye No. 10.
Poll, or locomotive: 5 to 6 pound. One model only.
Poll, or zinc mining: None.
Prospectors': (See forged hammers schedule.)
Quarry: None.
Railroad or clay:
Double pointed: 7-pound (A.R.E.A. design) 25-inch, eye No. 6, 8-pound, 26-inch, eye No. 6;
Point and chisel ends: 6-pound, 23-inch, eye No. 6; 7-pound (A.R.E.A. design) 25-inch, eye No. 6, and 9-pound, 27-inch, eye No. 6.
Eyeless: None
Rock or ore:
Point and chisel ends: 7-pound, 22-inch, eye No. 6.
Double pointed: 7-pound, 22-inch, eye No. 6.
Stone: None.
Surface: None.
Tamping:
A. R. E. A. V-tamp: 8-pound approximately, 24½-inch, eye No. 6; 10-pound tamp, 24½ inches long, eye No. 6, T or V tamp (one only).
T-tamp: eyeless: None.
Diamond tamp: None.
Diamond tamp, eyeless: None.
Trimmers': None.

TABLE 7.—RAILWAY TRACK TOOLS NOT ELSEWHERE CLASSIFIED

Chisel, broom: None.
Chisel, track (alloy or open hearth steel):
A. R. E. A. design No. 1, 5¼-pound, 9¼ inches long;
A. R. E. A. design No. 2, 5½-pound, 10½ inches long.
Fork, rail: A. R. E. A. design, 13-pound.
Puller, spike: A. R. E. A. design, 4-ball, 2½-pound.
Punch, tie plug: A. R. E. A. design, 4-pound.
Punch, track, round point: A. R. E. A. design, 5½-pound.

TABLE 7.—RAILWAY TRACK TOOLS NOT ELSEWHERE CLASSIFIED—Continued

Tongs, girder rail: Maximum weight 18 pounds.
Tongs, rail: A. R. E. A. design, 22-pound.
Tongs, tie: A. R. E. A. design, 10-pound. (May be furnished with lugs.)
Tongs, timber: Old or new A. R. E. A. design.
Wrenches, track, single and double end: A. R. E. A. design, jaw openings as desired.
Wrenches, track, mine:
Double end, S pattern:
For ½- and ⅝-inch bolts, 10½ inches long over all, maximum weight 1½ pounds, jaw opening as desired.
Single end, other end tapered for lining up holes:
For ½-inch bolts, 11½ inches long over all, maximum weight 1½ pounds, jaw opening as desired.

TABLE 8.—TONGS

Bit, with oblong boxed jaws:
Curved pattern: 3½-pound.
Straight pattern: None.
Blacksmiths' bolt, curved lip, fluted jaw:

Diameter of bolt—inches	¼	⅜	½	⅝	¾	⅞	1	1½
Length—do	18	18	20	22	22	24	24	26

Gad, flat jaw: 24-inch.
Horseshoers': 16-inch.
Pick: 24-inch.
Pick-up, double: 24-inch.
Pick-up, single: 24-inch.
Rivet: 24-inch.
Rivet heaters: 30-inch and 42-inch.
Sticker, straight or curved: 20-inch.
Straight fluted lip: 18-, and 24-inch.

TABLE 9.—WEDGES

Bucking, Pacific coast: 6-pound.
Coal: 2-, 2½-, 3-, and 3½-pound (one pattern only, to be proportioned as desired between the present short and long patterns.)
Coal, anthracite pattern: 2-, 2½, 3-, and 3½-pound.
Falling, broad pattern with ear: None.
Falling, Pacific coast: 5- and 8-pound.
Falling, Lake Superior pattern (sometimes called a splitting wedge): None.
Falling, narrow pattern: None.
Falling, Oregon pattern: None.
Falling, Puget Sound pattern: None.
Falling, Townsend pattern: None.
Frost: 16-pound.
Hanging (any wedges with holes in center of head): None.
Rock: None.
Saw, heavy pattern, with ear: None.
Saw, improved: ½-, 1-, 2-, and 3-pound.
Splitting, cedar: None.
Splitting, Oregon: 6-pound.
Standard or square head: 3-, 4-, 5-, and 6-pound.
Stave: 3- and 4-pound.
Stone: 2- and 4-pound.
Tie: None.
Truckee, or round head: 4-, 5-, and 6-pound.
Truckee, flared bit: None.
Wood, prouty: None.

TABLE 10.—MISCELLANEOUS FORGED HAND TOOLS, MINE BLASTING HAND TOOLS, AND MINE BREAST DRILLS

Axe, stone, double bit: None.
Bull points, hand:

Length—inches	12	15	24
Bar size—do	⅞	1	1¼

Chisel, side: 5-pound.
Chisels, welders' hot, alloy steel: 5-pound, 2-inch bit, stock at eye 1¼-inches, eye No. 2, eye size ¾ x 1 inch.
Chisels (varieties similar to blacksmiths' cold and hot chisels, such as drift, splitting, car, foundry, etc.): None.
Drift pin, barrel type and plug or taper type:

Diameter of stock—inches	7/16	9/16	11/16	13/16	15/16	1 1/16	1 3/16
Length—inches	6	6½	7	7½	8	8½	9

Froes, cooper: 5-pound, 14-inch.
Gouge, handle: None.
Punch, backing out:

Diameter of face—inches	⅜	½	⅝	¾	⅞	1
Stock at eye—do	1⅛	1¼	1⅜	1⅜	1½	1½
Over all length—do	7¼	7½	7¾	8	8¼	8½

Rivet header or rivet set (also known as button sets): To be made in one type only:

Size of rivet—inches	½	⅝	¾	⅞
Weight—pounds	2½	3	4	5

MINE BLASTING TOOLS

Needles, copper: None.
Needles, steel: None.
Tamp drills, copper headed: None.
Tamp drills, all steel: None.
Scraper and copper headed tamper (with steel scraper): None.
Scraper and copper headed tamper (with detachable copper scraper): None.
Scrapers, double end (one end detachable copper): None.
Scrapers, double end, all steel: Diameter of steel body, ⅜-inch; lengths 6 and 7 feet.
Scrapers, spoon and sump type: None.
Scraper and tamper, all steel: None.
Scraper, all steel, with loop handle: None.

MINE BREAST DRILLS

Breast augers, complete, single and double crank:

Length, including that of twist and crank stem (feet)	Length of twist (feet)	Sizes of oval augers (inches)	Size of conveyor augers (inches)
6	5	1¼, 1½	1½
7	6	1¼, 1½, 2	1½
8	7	1½	1½
9	8	1½	1½

Cranks, for breast augers, single and double: Lengths of stems (distance from threaded end to crank) 6- and 18-inch.
Twists, for single and double crank breast augers (with 6-inch shanks threaded for coupling to crank):

Length of twist, exclusive of shank (feet)	Sizes of oval augers (inches)	Size of conveyor augers (inches)
5	1¼, 1½	1½
6	1¼, 1½, 2	1½
7	1½	1½
8	1½	1½

[F. R. Doc. 43-5602; Filed, April 9, 1943; 11:33 a. m.]

PART 3063—FOOTWEAR

[Conservation Order M-217, as Amended April 9, 1943]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of shoe manufacturing material 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:

§ 3063.1 *Conservation Order M-217*—(a) *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, except Priorities Regulation 17, which shall be inapplicable to footwear.

(b) *Definitions.* For the purposes of this order:

(1) "Put into process" means the first cutting of leather or fabric in the manufacture of footwear.

(2) "Footwear" includes house slippers but does not include foot covering designed to be worn over shoes.

(3) "Work shoes" means any shoes or boots with unlined quarters which are designed to be worn at any form of work requiring specially heavy or substantially made footwear.

(4) "Horizontal quarter seams" means seams on quarters running in a predominantly horizontal direction (i. e. parallel to the sole).

(5) "Design and construction" of footwear means the make-up of the footwear in every detail, so that any two items of footwear of the same design and construction are necessarily identical, except in size; but does not refer to the means whereby the footwear is manufactured.

(6) "Cattle hide leather" means any leather made from cattle hides, including hides of bulls, cows, and steers, and calf and kip skins (but excluding slunks), and shall also include buffalo hides.

(7) "Pintucking" means a raised effect on the surface of footwear accomplished by either single or double needle stitching, but does not include the raised seam on a moccasin type vamp.

(8) "House slippers" means any footwear designed exclusively for indoor or house wear.

(9) "Padded sole house slippers" means slippers having conventional padded soles where the outsole is made of fabric, imitation leather or split leather not over 2½ ounces in weight and is directly stitched to the upper or to a platform cover.

(10) "Line" means footwear of any one of the following types:

Men's dress,
Men's work,
Youths' and boys',
Women's and growing girls',
Misses' and children's,
Infants',
House slippers, and
Athletic,

to the extent that such type of footwear is manufactured for sale in the same manufacturer's price range; *Provided*, That:

(i) Footwear of substantially identical kind and quality sold in more than one price range to different types of purchasers shall be deemed one line; and

(ii) In case the sale by the manufacturer is at retail or to a purchaser controlled by the manufacturer, the applicable price range shall be the retail price range.

(11) "Price range" shall have the usual trade significance, provided that the highest list price in the range does not exceed the lowest in the range by more than ten (10%) per cent, or twenty-five (25) cents a pair, whichever is the greater.

(12) "Civilian footwear" as used in paragraph (i) means boots, shoes, slippers and other foot coverings made in whole or in part of leather or with rubber soles, not including rubber footwear.

(c) *Curtailment in the use of materials and colors in the manufacture of footwear.* (1) No person shall manufacture, or put into process any leather or fabric for the manufacture of, any footwear with:

(i) Leather seam laps gauging over ½ inch in width.

(ii) Horizontal quarter seams, on lined low quarter shoes.

(iii) Wing or shield tips on men's shoes and boys' shoes over size 6, or wing tips or long shield tips on women's, girls', misses', youths', little gents' and children's shoes and boys' shoes of sizes 6 and under.

(iv) Full overlay tips or full overlay foxings, except on work shoes and house slippers with fabric uppers.

(v) Woven vamp or quarter patterns.

(vi) Quarter collars, except on unlined shoes and house slippers.

(vii) Bows or other ornaments, if made of leather in whole or in part.

(viii) Outside leather taps, on footwear other than men's high shoes, unless the middle sole is of synthetic composition material.

(ix) Leather slip soles other than those cut from bellies or offal.

(x) More than one full leather sole, in goodyear welt footwear other than work shoes.

(xi) Full breasted heels, except on hand-turned footwear.

(xii) Welting in excess of ½ inch in width and 5/32 inch in thickness in shoes other than work shoes, or welting in excess of 9/16 inch in width and 5/32 inch in thickness in work shoes.

(xiii) Straps, buckles, knife pockets or decorative stitching on boots or work shoes.

(xiv) Men's one-piece leather uppers (i. e., vamp and quarter cut in one piece and seamed up the back).

(xv) Extension stitched heel seats, except on prewelts in all sizes, stitchdowns in all sizes, children's shoes up to and including size 3, and established orthopedic footwear.

(xvi) Metal nail heads for studs or any metal for decorative purposes.

(xvii) Any stitching thread made from reserved Egyptian cotton (as defined in Conservation Order M-117) or reserved American extra staple cotton (as defined in Conservation Order M-197) for any decorative or any non-functional purpose.

(xviii) Any non-functional or decorative stitching except:

(*a*) Not more than four rows of non-functional stitching on imitation tips, foxings, saddles, mudguards and moccasin type vamps.

(*b*) Not more than an aggregate of four rows of functional and non-functional stitching parallel to the vamp, tip, foxing, saddle, and moccasin seams.

(*c*) Design stitching solely to permit direct non-stop stitching between cutouts.

(xix) Any strippings, braidings, pintuckings, lacings or overlays, except those serving a necessary functional purpose.

(xx) Straps passing over, under or through a tongue or vamp.

(xxi) Raised quarter or raised back seams (other than vertical back seams), except on genuine moccasins.

(xxii) Multiple straps, on Roman sandals.

(xxiii) Kiltie or other ornamental tongues, if made of leather in whole or in part.

(xxiv) Platform soles and platform effects, on all footwear of heel height over 1⅜ inches, using size 4B as the standard.

(xxv) Leather covered platforms or leather platform effects, on any footwear.

(xxvi) Heels gauging over 2⅛ inches in height, using size 4B as the standard.

(xxvii) Metal spikes, on golf shoes.

(xxviii) Caulk or storm welting.

(xxix) Rawhide or other leather laces, except on work shoes.

(2) No person shall use in the manufacture of any footwear any steel shanks of any gauge except:

18 gauge	.045 minimum,	50 carbon steel.
21 gauge	.032 minimum,	50 carbon steel.
19 gauge	.040 minimum,	low carbon or basic steel.

unless such shanks were in said person's inventory on September 10, 1942, or were subsequently acquired from a producer of steel shanks who had, prior to September 10, 1942, rolled steel plate for shanks of a different gauge.

(3) No person shall put into process any leather for the manufacture of any boots except men's blucher high-cut laced boots 10 inches or under in height (measured from heel seat, using size 7 as the standard) and men's and women's utility work cowboy boots.

(4) No person shall put into process any leathers or fabrics for the manufacture of footwear of more than one color (subject to unavoidable deviations in shade normally experienced in finishing leathers or dyeing fabrics). This restriction shall apply to the color of stitching, lacing and bindings, but shall not apply to the color of linings and soles. Nothing in this paragraph shall prevent unavoidable discoloring of thread, leather, and perforations as a result of antiquing, or the use of:

(i) Embossed leather or genuine reptiles of the colors permitted in para-

graph (f) (1) below but having slight variations in shade caused by normal finishing of such leathers, or

(ii) Embossed leather or genuine reptiles of any color or colors (in all-over shoes) if finished prior to October 16, 1942.

(5) No person shall put into process for the manufacture of footwear any leather or fabric except leather or fabric finished or dyed in accordance with paragraph (f) below: *Provided, however,* That nothing contained in this paragraph (c) (5) shall prevent any person from using:

(i) Any solid color white cattle hide, turftan, bluejacket blue, gold or silver leather finished prior to March 16, 1943.

(ii) Any other solid color leather or any genuine or imitation reptile leather of any color or colors (in all-over shoes) finished prior to October 16, 1942.

(iii) Any solid color turftan or bluejacket blue fabric acquired by the manufacturer prior to February 20, 1943; or

(iv) Any other solid color fabric dyed prior to September 13, 1942 and acquired by the manufacturer prior to February 16, 1943.

(v) Natural colored retan leather in the manufacture of work shoes.

(6) No person shall put into process any cattle hide upper leather (other than kip sides, kipskins and calf) or upper leather splits gauging 4½ ounces or over for the manufacture of any footwear except work shoes, cowboy utility boots and lined police type high shoes.

(7) No person shall put into process any cattle hide upper leather, or grain leather outsoles (except heads, bellies, shins and shanks of 5 iron or less) for the manufacture of house slippers or romeos.

(8) No person shall attach any leather outsoles or outside leather taps to any footwear having raised or flat seam mocassin type vamps (including genuine moccasins utilizing soles) or mudguard vamps, any saddle-type footwear, or any footwear with imitation wing tips, imitation stitched moccasin types, imitation stitched mudguards and imitation stitched saddles; *Provided, however,* That nothing in this subparagraph (c) (8) shall apply to women's and girls' shoes with heels 1⅛ inches and over in height, using size 4B as the standard.

(9) No person shall put into process any patent leather for the manufacture of men's shoes.

(10) No person shall put into process any upper leather or leather or rubber soles for the manufacture of men's sandals.

(11) No person shall manufacture any leather or part leather bows for use on footwear.

(d) *Restrictions on styling and types manufactured.* (1) No person shall put into process any leather or fabric for the manufacture of any footwear of a design and construction not utilized by him between September 1, 1940 and December 31, 1942: *Provided, however,* That this paragraph shall not prevent correction of patterns to the extent necessary to remove features prohibited by this order.

The War Production Board may make exceptions to this paragraph in favor of patterns or designs which will conserve leather or other materials.

(2) No person shall put into process any leather or fabric for the manufacture of any women's evening slippers, except those using gold or silver upper leather finished prior to March 16, 1943 with split, head, belly, shin or shank outsoles of 5 iron or less.

(3) No person shall put into process any leather or fabric for the manufacture of any footwear for the special purpose of retail display.

(e) *Exceptions to paragraphs* (c) *and* (d) *above.* The foregoing prohibitions and restrictions of this order shall not apply to:

(1) Footwear the soles other than insoles of which are made wholly from materials other than leather or rubber (which may, however, utilize leather for hinges or for tabs, heel inserts or other nonskid or soundproofing features covering not more than 25% of the area of the bottom of the sole).

(2) Special types of footwear made for the physically deformed or maimed.

(3) Football, baseball, hockey, skating, bowling, track, and ski shoes and other similar footwear designed for use in active participation in sports which require specially constructed footwear for such use. This does not include golf shoes.

(4) Footwear forming part of historical or other costumes for theatrical productions.

(5) Infants' soft sole footwear.

(6) Footwear the uppers of which are made of shearlings not reserved for military use under General Conservation Order M–94.

(f) *Restriction on tanning and dyeing.* (1) No person shall finish any leather for use as upper leather except in the following colors (subject to unavoidable deviations in shade normally experienced in finishing leathers):

Black.
White, except in cattle hide leathers.
Army russet and town brown, as appearing on the Fall 1942 color card of the Textile Color Card Association of the United States, Inc.

(2) No person shall color any leather or dye any fabric for use in shoe uppers except in the colors mentioned in paragraph (f) (1) above, (subject to unavoidable deviations in shade normally experienced in tanning and dyeing).

(3) No person engaged in the business of shoe manufacturing shall dye any new footwear except in the colors mentioned in paragraph (f) (1) above.

(4) The restrictions in this paragraph shall not apply to the dyeing of fabrics for use in padded sole house slippers or footwear of the type referred to in paragraph (e) (1) above.

(g) *General exceptions.* The prohibitions and restrictions of this order shall not apply to footwear to be delivered to, or for the account of, the Army or Navy of the United States (excluding Post Exchanges and Ships' Service Stores), the United States Naval Academy at Annapolis, Md., the United States Military Academy at West Point, New York, the United States Maritime Commission, The Panama Canal, the Coast and Geodetic Survey, the Coast Guard, the Civil Aeronautics Authority, the National Advisory Committee for Aeronautics, the Office of Scientific Research and Development and the War Shipping Administration; or to, or for the account of, the government of any of the following countries: Belgium, China, Czechoslovakia, Free France, Greece, Iceland, Netherlands, Norway, Poland, Russia, Turkey, United Kingdom including its Dominions, Crown Colonies and Protectorates, and Yugoslavia; or on any contract or purchase order placed by any agency of the United States Government for footwear to be delivered to, or for the account of, the Government of any country listed above, or any other country, including those in the Western Hemisphere, pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act), or to custom-made footwear delivered for personnel of the Army or Navy of the United States.

(h) *Restrictions relating to sales and deliveries.* (1) No person shall sell or deliver any new footwear manufactured in the United States of America in violation of this order.

(2) No tanner or sole cutter shall deliver any leather to any shoe manufacturer if he knows or has reason to believe said leather is to be used in violation of the terms of this order.

(3) The prohibitions and restrictions of this paragraph shall not apply to:

(i) Deliveries of footwear or leather by, or to, any person having temporary custody thereof for the sole purpose of transportation or public warehousing.

(ii) Any bank, banker or trust company affecting or participating in a sale

or delivery of footwear or leather solely by reason of the presentation, collection, or redemption of an instrument, whether negotiable or otherwise.

(4) In making sales or delivery of any footwear, no person shall make discriminatory cuts in quantity or quality between customers who meet such person's regularly established prices, terms and credit requirements, or between customers and his own consumption of said footwear. Reduction in sales or deliveries proportionate with any curtailment in supply available for nonmilitary use shall not constitute a discriminatory cut.

[Paragraph (4) amended April 9, 1943]

(i) *Restrictions on production of lines of footwear.* (1) Except on specific authorization of the War Production Board, no person shall in any six (6) months' period beginning March 1, 1943, complete the manufacture of more civilian footwear within any line than permitted in the table shown below:

Description	*Maximum permitted amount or percentage per line*
House slippers	75% of number manufactured from July 1, 1942 to December 31, 1942, inclusive
All others	100% of number manufactured from July 1, 1942 to December 31, 1942, inclusive

(2) Except on specific authorization of the War Production Board, no person shall manufacture any line of civilian footwear not manufactured by him in the period from July 1st, 1942 to December 31st, 1942.

(3) *Exceptions:* Notwithstanding the provisions of paragraphs (i) (1) or (i) (2)

(i) A lower priced line of the same type of civilian footwear may be substituted in whole or in part for a higher priced line.

(ii) The unused quota of any higher priced line may be added to a lower priced line of the same type of civilian footwear.

(iii) The manufacture of civilian footwear in a line not manufactured in the period from July 1, 1942 to December 31, 1942, may be completed if such footwear was put into process prior to February 19, 1943.

(j) *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.

(k) *Records.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, purchases, production and sales.

(l) *Reports.* Each person affected by this order shall execute and file with War Production Board such reports and questionnaires as may be required by said Board from time to time.

(m) *Communications.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Textile, Clothing and Leather Division, Washington, D. C., Ref.: M–217.

(n) *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.

(o) *Effective dates.* The effective dates of the respective amended paragraphs of this order are as follows: Paragraphs (a), (b) (6) through (b) (8), (c) (4), (c) (5), (d) (1), (e) (3), (e) (5), (e) (6), (f) (2), (f) (3), (f) (4) and (g), February 13, 1943; paragraphs (j), (k), (l), (m), (n) and (o), February 19, 1943; paragraphs (b) (10), (b) (11), (b) (12) and (i), March 1, 1943; paragraph (f) (1), March 15, 1943; paragraph (c) (8), May 31, 1943; all other amended paragraphs, April 30, 1943.

[Paragraph (o) amended April 9, 1943]

Conservation Order M–217 as issued September 10, 1942 shall remain in full force and effect except as superseded on the effective dates, as stated above, of the foregoing amended paragraphs.

Issued this 9th day of April 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

INTERPRETATION 1

The word "manufacture" in line two of paragraph (c) (1) of § 3063.1 (Conservation Order M–217), refers to the operation whereby the features mentioned in subdivisions (i) to (xvii), inclusive, of said paragraph became a part of the footwear.

Illustration: Subdivision (iv) refers to full overlaid tips or full overlaid foxings except on work shoes. The order prohibits the placing of full overlay tips or full overlay foxings on dress shoes after October 31, 1942. But it does not prohibit the completion of the shoe if an overlaid tip or an overlaid foxing has been affixed prior to said date. (Issued October 6, 1942.)

[F. R. Doc. 43–5603; Filed, April 9, 1943; 11:33 a. m.]

Chapter XI—Office of Price Administration

PART 1404—RATIONING OF FOOTWEAR

[RO 17,[1] Amendment 9]

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 respects:

1. Section 2.3 (a) is amended by deleting the first three sentences and substituting instead the following: (a) Every establishment must file an inventory of its supply of shoes and ration currency (on OPA Form R–1701) before April 18, 1943. After that date, no establishment may transfer or acquire new shoes until it has filed an inventory in the way required by this order. The inventory shall be taken as of the close of business on April 10, 1943. (However, the District Office may in proper cases permit the filing of a late inventory and the transfer and acquisition of shoes after April 17, 1943 by an establishment filing a late inventory.)

2. Section 2.3 (a) is further amended by adding after the last sentence of the paragraph the following: "Only shoes which are rationed at the time the inventory is taken should be included in the inventory."

3. Section 2.4 is amended to read as follows:

SEC. 2.4 *What establishments must open ration bank accounts.* Every establishment having access to ration banking facilities must open a ration bank account on or after April 12, 1943 if it has a dollar checking account in any bank. No other establishment may open a shoe ration account except that:

(1) An establishment owned by a government agency may open a shoe ration account even though it does not have a dollar checking account;

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

[1] 8 F.R. 1749, 2040, 2487, 2943, 3315, 3371, 3853, 4129, 3948.

(2) A person owning one establishment having a dollar checking account in any bank may open shoe ration accounts for other establishments owned by him even though he does not maintain a separate checking account for each establishment;

(3) A person owning two or more establishments located in the same city or community may open a joint account for them, if separate inventories are filed for each such establishment.

4. Section 2.5 (a) is amended by adding at the end of the first sentence: "except as otherwise permitted by the above section."

5. Section 2.5 (b) is amended to read as follows:

(b) To open the account, the owner of the establishment must file with the bank its inventory on OPA Form R-1701 and comply with the procedure set forth in General Ration Order 3A. All distributors who are entitled to a shoe purchase allowance under section 2.6 may make out and present deposit slip for the amount of the shoe purchase allowance, which will be credited to the account.

6. Section 2.6 is amended by deleting the last sentence and substituting instead the following: "If the inventory is filed at the District Office, the District Office will issue to the establishment a registration number and a certificate for the amount of its shoe purchase allowance."

7. Section 2.7 (a) is amended to read as follows:

(a) *Transfer must be made for ration currency.* An establishment may transfer shoes to a consumer or to another establishment if it first gets ration currency from him. However, shoes may be transferred between establishments for which a joint account is opened as provided in section 2.4, without the surrender of ration currency. Only ration checks drawn on the account of the purchaser may be used as ration currency for transfers between establishments except as permitted under section 2.8.

8. Section 2.7 (b) is amended by deleting the phrase "Until the time set for filing the inventory" and substituting instead the words "Until April 25, 1943, inclusive" and by deleting the phrase "within ten days" and substituting instead the words "before May 6, 1943."

9. Section 2.8 is amended to read as follows:

SEC. 2.8 *Distributors having no ration bank account use ration currency.* Any distributor who has received a registration number from the District Office shall use stamps and certificates which he has received (including ration currency received as an initial allowance) to repay his supplier for shoes shipped to him on credit before April 26, 1943. After all ration "debts" have been repaid, he may replenish his stock by sending to his supplier his registration number together with ration currency for the number of shoes ordered. He may present ration currency received by him to the District Office and receive in exchange certificates in such denominations as he desires equal in total to the ration currency surrendered. Ration currency may be forwarded to a supplier only within 20 days after its expiration for consumer use or to the District Office within the time it is valid for deposit as provided in the next section. An establishment forwarding a certificate to a supplier or to the District Office must endorse its name on the reverse side.

10. Section 2.9 (a) is amended to read as follows:

(a) *Time for depositing is limited.* A War Ration Stamp received by an establishment may be deposited to its shoe ration bank account within 30 days after the end of its valid period. A special shoe stamp or certificate (including the Temporary Shoe Purchase Certificate) may be so deposited within 60 days after the date of its issue. Stamps or certificates not deposited within this time are void. However, all certificates are valid for deposit before May 1, 1943, regardless of the date of their issue. (There is no limit on the time when shoe ration checks may be deposited.)

This amendment shall become effective April 8, 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. 1T, 8 F.R. 1727; E.O. 9125, 7 F.R. 2719)

NOTE: The reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5541; Filed, April 8, 1943; 10:19 a. m.]

PART 1312—LUMBER AND LUMBER PRODUCTS

[MPR 109,[1] Amendment 4]

AIRCRAFT LUMBER

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 1312.353 (b) is amended by adding, after the words "Office of Price Administration", the following: "A petition for exception or application for adjustment under this paragraph shall be filed with the Office of Price Administration in the manner provided for applications for adjustment under Revised Procedural Regulation No. 1".

This amendment shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5558; Filed, April 8, 1943; 1:00 p. m.]

PART 1340—FUEL

[MPR 120,[1] Amendment 51]

BITUMINOUS COAL DELIVERED FROM MINE OR PREPARATION PLANT

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

Section 1340.207 is hereby amended in the following respects:

1. The words "or exception from the" in paragraphs (a), (b) and (c) and the words "or exception" in paragraph (f) (1) are deleted.

2. References in paragraph (f) to "petition(s)", "petitioner", "petitioner's", and to "petitions for adjustment or exception" are amended to read "application(s)", "applicant", "applicant's" and "applications for adjustment", respectively.

3. References in paragraphs (e) and (f) (3) to "Procedural Regulation No. 1, as amended," are amended to read "Revised Procedural Regulation No. 1".

4. Paragraph (g) is amended to read as follows:

(g) Persons seeking any modification of this Maximum Price Regulation No.

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[1] 7 F.R. 2238, 5667, 8585, 8948, 10100; 8 F.R. 270.

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

[1] 7 F.R. 3168, 3447, 3901, 4336, 4342, 4404, 4540, 4541, 4700, 5059, 5560, 5607, 5827, 5835, 6169, 6218, 6265, 6272, 6472, 6325, 6524, 6744, 6898, 7777, 7670, 7914, 7942, 8354, 8650, 8948, 9783, 10470, 10581, 10790, 10993, 11008, 11012; 8 F.R. 926, 1388, 1629, 1679, 1747, 1971, 2023, 2030, 2273, 2284, 2501, 2497, 2713, 2873, 2920, 2921, 2997, 3216, 3855.

120 or the addition of an adjustment category not included therein may file petitions for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, issued by the Office of Price Administration. The petitioners should submit and the Office of Price Administration will consider all relevant data with respect to costs and realizations and the necessity of the Amendment in view of the war effort and of the policy of the Emergency Price Control Act of 1942, as amended, and this Maximum Price Regulation No. 120, to eliminate the danger of inflation, and such other data that should be considered in connection with the proposed modification or the proposed addition of an adjustment category.

This amendment shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5559; Filed, April 8, 1943; 12:58 p. m.]

PART 1340—FUEL

[MPR 120,[1] Amendment 51]

BITUMINOUS COAL DELIVERED FROM MINE OR PREPARATION PLANT

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

A new subdivision (i) is added to § 1340.231 (b) (2), to read as set forth below:

§ 1340.231 *Appendix T: Maximum prices for bituminous coal produced in District No. 20.* * * *

(b) * * *

(2) *Maximum prices in cents per net ton for shipment by truck or wagon to all destinations, for all uses.* * * *

(i) *Special price instruction.* (a) The maximum prices for shipment by truck or wagon for the Williams Mine (Mine Index No. 167) of L. J. Williams & Sons (L. J. Reed and Ross Williams) shall be as follows:

Size groups:	*Maximum prices*
3	$3.85
4	3.75
7	3.05
8	2.70

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

[1] 7 F.R. 3168, 3447, 3901, 4336, 4342, 4404, 4540, 4541, 4700, 5059, 5560, 5607, 5827, 5835, 6169, 6218, 6265, 6272, 6472, 6325, 6524, 6744, 6898, 7777, 7670, 7914, 7942, 8354, 8650, 8948, 9783, 10470, 10581, 10780, 10993, 11008, 11012; 8 F.R. 926, 1388, 1629, 1679, 1747, 1971, 2023, 2030, 2273, 2284, 2501, 2497, 2713, 2873, 2920, 2997, 2921, 3216, 3855.

(b) The maximum prices for shipment by truck or wagon from all other mines in Iron County, Utah, in District No. 20 shall be as follows:

Size groups:	*Maximum prices*
10	$2.20
11	2.15
15	2.55

and the maximum prices for shipment by truck or wagon from all other mines in Iron County, Utah, in District No. 20 shall be as follows:

Size groups:	*Maximum prices*
3	$5.10
4	5.00
7	4.30
8	3.95
10	3.00
11	2.95
15	3.35

This amendment to Maximum Price Regulation No. 120 shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5560; Filed, April 8, 1943; 12:58 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 271,[1] Amendment 9]

CERTAIN PERISHABLE FOOD COMMODITIES, SALES EXCEPT 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 No. 271 is amended in the following respects:

1. Section 1351.1002 (b) (3) (vi) is added to read as follows:

(vi) For white potatoes packed in paper bags the country shipper may add 20¢ per cwt. for 10 lb. bags, 15¢ per cwt. for 15 lb. bags and 10¢ per cwt. for 25 lb. bags to the maximum prices listed in Appendix A.

2. Section 1351.1003 (e) is added to read as follows:

(e) Where charges for precooling or preheating cars of potatoes have been customarily paid by the purchaser, such charges, if actually incurred, may be added by the purchaser to his "net cost," as defined above.

3. Section 1351.1013 (a) (3) is added to read as follows:

(3) Sales and deliveries by any person of Australian brown onions of the 1943 crop to the United States or any purchasing agency thereof.

4. Section 1351.1017 is amended to read as follows:

§ 1351.1017 *Appendix A: Maximum prices for perishable food f. o. b. shipping point.*

[1] 7 F.R. 9179, 10715; 8 F.R. 233, 1748, 1981, 3397, 3733, 3853.

WHITE POTATOES (1942 LATE CROP)

[Maximum price per 100 lbs., U. S. No. 1 grade and in bags][1]

State	Producing area	Variety	1943		
			April	May	June
NORTH ATLANTIC					
Maine	All	All	$2.30	$2.40	$2.40
New Hampshire	All	All	2.60	2.50	2.40
Vermont	All	All	2.60	2.50	2.40
Massachusetts	All	All	2.60	2.50	2.40
Rhode Island	All	All	2.60	2.50	2.40
Connecticut	All	All	2.60	2.50	2.40
New York	Long Island	All	2.45	2.45	2.45
	Rest of State	All	2.45	2.55	2.55
New Jersey	All	All	2.65	2.65	2.75
Pennsylvania	All	All	2.45	2.55	2.55
EAST NORTH CENTRAL					
Ohio	All	All	2.60	2.60	2.65
Indiana	All	All	2.60	2.60	2.70
Illinois	All	All	2.60	2.60	2.80
Michigan	All	All	2.35	2.45	2.45
Wisconsin	All	Red Skinned	2.40	2.50	2.50
		Round White	2.25	2.35	2.35
WEST NORTH CENTRAL					
Minnesota	Hollandale District	All	2.35	2.45	2.45
	Rest of State	Red Skinned	2.35	2.45	2.45
		Round White	2.05	2.15	2.15
Iowa	Hollandale District	All	2.35	2.45	2.45
	Rest of State	All	2.60	2.60	2.40
Missouri	All	All	2.60	2.60	2.45
North Dakota	All	Red Skinned	2.25	2.35	2.35
		Round White	2.05	2.15	2.15
South Dakota	All	Red Skinned	2.35	2.45	2.45
		Round White	2.15	2.25	2.25
Nebraska	All	All	2.30	2.40	2.40
Kansas	All	All	2.55	2.60	2.35

See footnotes at end of table.

WHITE POTATOES (1942 LATE CROP)—Continued

State	Producing area	Variety	1943		
			April	May	June
SOUTH ATLANTIC					
Delaware	All	All	$2.60	$2.65	$2.65
Maryland	All	All	2.55	2.55	2.55
Virginia	All	All	2.70	2.70	2.55
West Virginia	All	All	2.70	2.70	2.70
WEST					
Montana	All	All	2.35	2.40	2.50
Idaho	All	All	2.30	2.40	2.40
Wyoming	Counties of Platt, Niobrara, Goshen, and Laramie.	All	2.30	2.40	2.40
	Rest of State	All	2.30	2.40	2.55
Colorado	Greeley District	All	2.30	2.40	2.40
	San Luis Valley	All	2.30	2.40	2.40
	Western Slope	Russet Bur	2.25	2.35	2.35
	Western Slope	Other Var	2.20	2.30	2.30
New Mexico	All	All	2.65	2.65	2.65
Arizona	All	All	2.70	2.70	2.65
Utah	All	All	2.10	2.20	2.20
Nevada	All	All	2.25	2.35	2.40
Washington	All	All	2.45	2.55	2.55
Oregon	Malheur County	All	2.30	2.40	2.40
	Rest of State	All	2.50	2.60	2.60
California	Modoc and Siskiyou Counties	All	2.50	2.60	2.60
	Rest of State	All	2.55	2.65	2.65

[1] The following differentials for certain grades, sizes, packages and types of pack shall be applicable to country shippers of white potatoes, and for California (Counties of San Luis Obispo, Kern, San Bernardino, and all counties south thereof):

(a) Grade differentials:

(1) For white potatoes: U. S. Extra No. 1 grade or better, packed in bags, the country shipper may add 10¢ per cwt. to the maximum prices for U. S. No. 1 grade listed in Appendix A.

(2) For white potatoes which grade below U. S. No. 1 grade, but which are 85% U. S. No. 1, U. S. Commercial, or better, packed in bags, the country shipper shall subtract 10¢ from the maximum prices for U. S. No. 1 grade listed in Appendix A.

(3) For white potatoes of grades lower than 85% U. S. No. 1, U. S. Commercial or better, including ungraded and unclassified white potatoes packed in bags, the country shipper shall subtract 30¢ per cwt. from the maximum prices for U. S. No. 1 grade listed in Appendix A.

(b) Size differentials applicable to all grades:

(1) For white potatoes, 6 ounce minimum size, packed in bags, the country shipper may add 15¢ per cwt. to the maximum price for each grade.

(2) For white potatoes of 2-inch minimum size or U. S. Size A, packed in bags, the country shipper may add 10¢ to the maximum price for each grade.

(c) Packaging differentials applicable to all grades and sizes:

(1) For white potatoes packed in paper bags the country shipper may add 20¢ per cwt. for 10 lb. bags, 15¢ per cwt. for 15 lb. bags and 10¢ per cwt. for 25 lb. bags to the maximum prices listed in Appendix A.

(2) For white potatoes, packed in cotton or mesh bags of 25 pounds, the country shipper may add 20¢ per cwt. to the maximum price for each grade and size.

(3) For white potatoes, packed in 15-pound bags of cotton or mesh, the country shipper may add 30¢ per cwt. to the maximum price for each grade and size.

(4) For white potatoes, packed in 10-pound bags of cotton or mesh, the country shipper may add 40¢ per cwt. to the maximum price for each grade and size.

(5) For white potatoes sold either in bulk or in containers furnished by the purchaser, the country shipper shall subtract 15¢ from the maximum prices for each grade and size.

(d) Baking-type pack differentials applicable to maximum prices listed for U. S. No. 1 grade:

(1) For white potatoes, U. S. No. 1 grade or better, 6 ounce minimum to 14 ounce maximum, or 2½ inch minimum to 4 inch maximum, packed in bags, the country shipper may add 35¢ to the maximum prices for U. S. No. 1 grade listed in Appendix A.

(2) For white potatoes, 6 ounce minimum to 14 ounce maximum, or 2½ inch minimum to 4 inch maximum, hand selected and graded, washed and brushed and specially packed in wooden boxes or cardboard cartons of approximately 60 pounds, the country shipper may add $1.25 per cwt. to the maximum prices for U. S. No. 1 grade listed in Appendix A.

(3) For white potatoes, 6 ounce minimum to 14 ounce maximum, or 2½ inch minimum to 4 inch maximum hand selected and graded, washed and brushed and specially packed in 10-pound mesh bags, or in kraft bags containing 10 mesh bags (each such mesh bag containing approximately 5 pounds), the country shipper may add $1.25 per cwt. to the maximum prices for U. S. No. 1 grade listed in Appendix A.

(4) For white potatoes, 6 ounce minimum to 14 ounce maximum, or 2½ inch minimum to 4 inch maximum, hand selected and graded, washed and brushed and specially packed in 50-pound kraft bags, the country shipper may add 60¢ per cwt. to the maximum price for U. S. No. 1 grade listed in Appendix A.

DRY ONIONS (1942 LATE CROP)

[Maximum prices per 50 lb. graded and in bags] [1]

States	1943		
	April	May	June
	Dollars per 50 lbs.	*Dollars per 50 lbs.*	*Dollars per 50 lbs.*
Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island	$2.05	$2.15	$2.15
New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia	2.10	2.20	2.20
Ohio, West Virginia	2.05	2.15	2.15
Indiana, Kentucky	2.00	2.10	2.10
Michigan	1.95	2.05	2.05
Wisconsin	1.90	2.00	2.00
Illinois, Iowa, Missouri, Nebraska, Kansas	1.95		
Minnesota, North Dakota, South Dakota	1.90	2.00	2.00
Colorado, Wyoming, Utah, Nevada, New Mexico, Arizona	1.75	1.85	1.85
Idaho, Montana, Washington	1.65	1.75	1.75
Oregon	1.75	1.85	1.85
California	1.80	1.90	1.90
Other States:			
West of Mississippi River	1.95	2.05	2.05
East of Mississippi River	2.00	2.10	2.10

[1] These prices apply only to dry onions produced in the calendar year 1942 and are subject to the following differentials:

(a) For white onions, U. S. Grade No. 1, in 50-pound sacks, the country shipper may add 30¢ per 50 pounds to the maximum prices shown above.

(b) For dry onions, U. S. Grade No. 1, 3 inches and larger in 50-pound sacks, the country shipper may add 20¢ per 50 pounds to the maximum prices shown above.

(c) For dry onions, graded and packed in 10-pound sacks or less, the country shipper may add 15¢ per 50 pounds to the maximum prices shown above.

(d) For white boiler and pickler onions, graded and packed in 50-pound sacks, the country shipper may add $1.00 per 50 pounds to the maximum price.

(e) For dry onions, ungraded and packed in sacks of any size, the country shipper shall subtract 15¢ per 50 pounds from the maximum price shown above.

(f) For dry onions, ungraded and unsacked, the country shipper shall subtract 30¢ per 50 pounds from the maximum prices shown above.

(g) If the purchaser furnishes sacks, the country shipper shall subtract 15¢ per 50 pounds from the maximum price.

(h) For dry onions, graded and packed in mesh bags of 10 lbs. or less, the country shipper may add 25¢ per 50 lbs. to the maximum prices shown above.

(i) For dry onions, graded and packed in mesh bags of 25 lbs., the country shipper may add 10¢ per 50 lbs. to the maximum prices shown above.

EARLY WHITE POTATOES (1943 CROP) [1]

[Maximum price per 100 pounds] [2]

State	Producing area	Varieties	Maximum prices	Period
SOUTH ATLANTIC				
N. Carolina	All	All	$2.40	Feb. 8, 1943, thru June 30, 1943.
S. Carolina	All	All	2.50	Feb. 8, 1943, thru June 30, 1943.
Georgia	All	All	2.50	Feb. 8, 1943, thru June 30, 1943.
Florida	Counties of Charlotte Glades, Martin and all counties south thereof.	All	3.75	Feb. 8, 1943, thru June 30, 1943.
	Northern	All	3.10	Feb. 8, 1943, thru June 30, 1943.
	Western	All	2.50	Feb. 8, 1943, thru June 30, 1943.

[1] Maximum prices listed above shall apply only to "Early White potatoes" harvested and sold during the 1943 crop year.

[2] These prices are subject to the following differentials. (a) For early white potatoes sold either in bulk or in containers furnished by the purchaser, the country shipper shall subtract 15¢ per 100 lbs. from the maximum price listed above.

EARLY WHITE POTATOES (1943 CROP)—Continued

(Maximum price per 100 pounds)

State	Producing area	Varieties	Maximum prices	Period
SOUTHERN CENTRAL				
Tennessee	All	All	$2.40	Feb. 8, 1943, thru June 30, 1943.
Alabama	All	All	2.50	Feb. 8, 1943, thru June 30, 1943.
Mississippi	All	All	2.50	Feb. 8, 1943, thru June 30, 1943.
Arkansas	All	All	2.50	Feb. 8, 1943, thru June 30, 1943.
Louisiana	All	All	2.50	Feb. 8, 1943, thru June 30, 1943.
Oklahoma	All	All	2.50	Feb. 8, 1943, thru June 30, 1943.
Texas	Counties of Tapata, Jim, Hogg, Brooks, Kennedy, and all counties south thereof.	All	3.75	Feb. 8, 1943, thru June 30, 1943.
	Eagle Lake	All	2.50	Feb. 8, 1943, thru June 30, 1943.
	Northeast	All	2.40	Feb. 8, 1943, thru June 30, 1943.
WEST				
California	Counties of San Luis Obispo, Kern, San Bernardino, and all counties south thereof.	All	2.70	April 8, 1943, to April 30, 1943.
			2.45	May 1, 1943, to May 31, 1943.
			2.20	June 1, 1943, to June 30, 1943.
Arizona	All	All	2.45	Feb. 8, 1943, thru June 30, 1943.
New Mexico	All	All	2.40	Feb. 8, 1943, thru June 30, 1943.

[1] See notes on preceding page.

EARLY DRY ONIONS[1]

[Maximum prices per 50 pounds][2]

State	Producing area	Varieties	Maximum price	Period
All	All	All except white	$2.40	April 8, 1943 through April 15, 1943.
All	All	All except white	2.15	April 16, 1943 through April 30, 1943.
All	All	All except white	1.90	May 1, 1943 through May 31, 1943.
All	All	All except white	1.75	June 1, 1943 through June 30, 1943.

[1] The maximum prices listed above are applicable only to "Early dry onions" harvested and sold during the periods set forth.

[2] These prices are subject to the following differentials.

(a) For *white* early dry onions, the country shipper may add 15¢ per 50 lbs. to the maximum prices listed above.

(b) For white boiler and white pickler early dry onions, the country shipper may add $1.00 per 50 lbs. to the maximum prices listed above.

(c) For early dry onions sold in bulk or in containers furnished by the purchaser, the country shipper shall subtract 15¢ per 50 lbs. from the maximum price for each variety.

This amendment shall become effective April 8, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

Approved:

CHESTER C. DAVIS,
Administrator,
Food Production and Distribution.

[F. R. Doc. 43-5561; Filed, April 8, 1943; 12:57 p. m.]

PART 1381—SOFTWOOD LUMBER

[MPR 26,[1] Amendment 13]

DOUGLAS FIR AND OTHER WEST COAST LUMBER

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 1381.57 (a) is amended by adding, after the words "Office of Price Administration", the following: "A petition for exception or application for adjustment under this paragraph shall be filed with the Office of Price Administration in the manner provided for applications for adjustment under Revised Procedural Regulation No. 1".

This amendment shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5562; Filed, April 8, 1943; 1:01 p. m.]

PART 1381—SOFTWOOD LUMBER

[MPR 253[1], Amendment 3]

REDWOOD LUMBER AND MILLWORK

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 1381.407 (b) is amended by adding, after the words "Office of Price Administration", the following: "A petition for exception or application for adjustment under this paragraph shall be filed with the Office of Price Administration in the manner provided for applications for adjustment under Revised Procedural Regulation No. 1".

This amendment shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5563; Filed, April 8, 1943; 1:00 p. m.]

PART 1384—HARDWOOD LUMBER PRODUCTS

[MPR 176,[1] Amendment 3]

ROTARY CUT SOUTHERN HARDWOOD BOX LUMBER

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 1384.7 is amended by adding a sentence at the end of the paragraph to read as follows: "A petition for exception or application for adjustment under this section shall be filed with the Office of Price Administration in the manner provided for applications for adjustment under Revised Procedural Regulation No. 1".

This amendment shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5564; Filed, April 8, 1943; 1:00 p. m.]

PART 1384—HARDWOOD LUMBER PRODUCTS

[MPR 176,[1] Amendment 4]

ROTARY CUT SOUTHERN HARDWOOD BOX LUMBER

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 1384.3 is hereby revoked and a new § 1384.3 is added to read as follows:

§ 1384.3 *Adjustable pricing.* 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. In an appropriate situation, where a petition for amendment or for adjustment or exception 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 14, 1943.

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

[1] 7 F.R. 4573, 5180, 5360, 6163, 6388, 6424, 7285, 7942, 8384, 8877, 8948; 8 F.R. 138, 1811, 8253.

[1] 7 F.R. 9230, 10848; 8 F.R. 4136.

[1] 7 F.R. 5180, 7243, 7454, 8949; 8 F.R. 2993.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5565; Filed, April 8, 1943; 12:58 p. m.]

PART 1407—RATIONING OF FOODS AND FOOD PRODUCTS

[RO 16,[1] Amendment 5]

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. Section 10.10 (a) is amended to read as follows:

(a) Any person who imports foods covered by this order (other than in accordance with section 11.11) must give up points equal to the point value of those foods to the Collector of Customs (or his deputy) at or before the time the foods are released or delivered to him by the Collector.

2. Section 11.11 (c) is added to read as follows:

(c) No points need be given up for a release or delivery of foods covered by this order by an authorized customs official:

(1) Upon request by the Department of State, to representatives of foreign governments who are within the classes of persons specified in Article 432 (a) or Article 433 (c), Customs Regulations of 1937.

(2) To members of the armed forces of the United Nations, other than those of the United States, who are on duty within the United States, where the foods are consigned or addressed to them and are intended for their personal or official use.

(3) To enemy prisoners of war and enemy civilian internees and detainees in the United States, where the foods are consigned or addressed to them.

This amendment shall become effective April 14, 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 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5566; Filed, April 8, 1943; 12:59 p. m.]

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

[1] 8 F.R. 3591, 3715, 3949, 4137.

PART 1411—COMPENSATORY ADJUSTMENT

[Compensatory Adjustment Reg. 1,[1] Amendment 6]

WARTIME INCREASES IN THE COST OF TRANSPORTING COAL

Compensatory Adjustment Regulation No. 1 is amended in the following respects:

1. Section 1411.2 (a) (1) is amended by deleting the words "two copies" and inserting in lieu thereof the words "one copy".

2. Section 1411.2 (b) (3) is amended to read as follows:

(3) A copy of the invoice or other billing memorandum rendered by the shipper of the bituminous coal the transportation of which is the basis of the application, and a copy of the freight bill and insurance bill (if any) actually paid in connection with such transportation: *Provided,* That an applicant need not furnish a copy of the freight bill where such freight was paid by his supplier and the invoice rendered by such supplier separately states the amount of freight actually paid.

3. Section 1411.4 (a) (1) is amended to read as follows:

(1) "Person" includes: an individual; corporation; partnership; association or any other organized group of persons; the legal successor or representative of any of the foregoing; and the transferee of the business, assets or stock in trade of any such person. It shall not include the United States or any agency thereof, any other government or its political subdivisions, or any agency of the foregoing.

4. Section 1411.5a (b) (1) is amended by deleting the words "two copies" and inserting in lieu thereof the words "one copy".

5. Section 1411.5a (b) (3) (iii) is amended by adding the clause: *"Provided,* That an applicant need not furnish a copy of the freight bills if such freight was paid by his supplier and the invoice rendered by such supplier separately states the amount of freight actually paid."

6. Section 1411.5a (b) (3) (iv) (*b*) is amended by inserting after the phrase "from New York Harbor" the phrase "and Philadelphia piers".

7. Section 1411.5a (b) (3) (v) is amended by adding the clause: *"Provided, further,* That the transportation cost incurred on or after May 18, 1942, shall not include the amount of any tax levied upon the transportation of such coal".

The reporting provisions of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This Amendment No. 6 shall be effective as of April 14, 1943.

[1] 7 F.R. 3749, 3900, 6005, 6149, 7744, 10531, 8 F.R. 3629.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5567; Filed, April 8, 1943; 12:59 p. m.]

PART 1421—IRON AND STEEL FOUNDRY PRODUCTS

[MPR 244,[1] Amendment 5]

GRAY IRON CASTINGS

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

1. Section 1421.151 (d) is amended by deleting the date "January 15, 1942" set forth in (2) therein, and by inserting in lieu thereof the date "January 15, 1943."

This amendment shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5568; Filed, April 8, 1943; 12:58 p. m.]

PART 1434—MATCHES

[MPR 365]

WOOD MATCHES

In the judgment of the Price Administrator, it is necessary and proper to establish maximum prices for wood matches by a separate maximum price regulation. The Price Administrator has ascertained and given due consideration to the prices of matches 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 practicable, the Price Administrator has advised and consulted with representative members of the industry which will be affected by this regulation.

In the judgment of the Price Administrator, the maximum prices established by this regulation are and will be generally fair and equitable and will effectuate the purposes of said Act. 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.*

§ 1434.1 *Maximum prices for wood matches.* 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. 365

[1] 7 F.R. 8558, 8942, 8948, 10781; 8 F.R. 3002, 3629.

(Wood Matches), which is annexed hereto and made a part hereof, is hereby issued.

AUTHORITY: § 1434.1 issued under Pub. Laws 421 and 729, 77th Cong.; E. O. 9250, 7 F.R. 7871.

MAXIMUM PRICE REGULATION NO. 365—WOOD MATCHES

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Appendix A—Maximum delivered prices for "strike anywhere" wood matches.
Appendix B—Maximum delivered prices for "strike-on-box" wood matches.

SECTION 1 *Prohibition against dealing in wood matches at prices above the maximum prices.* On and after April 14, 1943, regardless of any contract, agreement, lease or other obligation:

(a) No person for whom maximum prices are established under this regulation shall sell, deliver or transfer wood matches at prices higher than the appropriate maximum prices set forth in Appendices A and B of this Maximum Price Regulation No. 365.

(b) No person shall buy or receive wood matches in the course of trade or business at higher prices than the appropriate maximum prices set forth in Appendices A and B of this Maximum Price Regulation No. 365.

(c) No person shall agree, offer, solicit or attempt to do any of the foregoing: *Provided,* That the provisions of this Maximum Price Regulation No. 365 shall not apply to sales or deliveries of wood matches to a purchaser if prior to April 14, 1943, wood matches have been received by a carrier other than a carrier owned or controlled by the seller for shipment to such purchaser.

The basic pricing provisions of this regulation, for different types of sellers, are as follows:

Strike-anywhere wood matches:
For manufacturers ..... Appendix A (a)
For distributors ..... Appendix A (b)
For retailers ..... Appendix A (c)
Strike-on-box wood matches:
For manufacturers ..... Appendix B (a)
For distributors ..... Appendix B (b)
For retailers ..... Appendix B (c)

SEC. 2 *Adjustable pricing.* 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.

SEC. 3 *Export sales.* The maximum prices at which a person may export matches covered by this Maximum Price Regulation No. 365 shall be determined in accordance with the provisions of the Revised Maximum Export Price Regulation[1] issued by the Office of Price Administration.

SEC. 4 *Less than maximum prices.* Lower prices than those established by this Maximum Price Regulation No. 365 may be charged, paid or offered.

SEC. 5 *Federal and State taxes.* Any tax upon, or incident to, the sale or delivery of matches, imposed by any statute of the United States or statute or ordinance of any State or subdivision thereof, 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 does not prohibit the seller from stating and collecting the tax 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 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, however,* That the tax on the transportation of all property (excepting coal) imposed by section 620 of the Revenue Act of 1942 shall, for purposes of determining the applicable maximum price of any product covered by this Maximum Price Regulation No. 365 be treated as though it were an increase of 3% in the amount charged by every person engaged in the business of transporting property for hire. It shall not be treated as a tax for which a charge may be made in addition to the maximum price.

SEC. 6 *Applicability of the General Maximum Price Regulation.*[2] The provisions of this Maximum Price Regulation No. 365 supersede the provisions of the General Maximum Price Regulation with respect to sales and deliveries of matches for which maximum prices are established by this Maximum Price Regulation No. 365.

SEC. 7 *Evasion.* The price limitations established by this Maximum Price Regulation No. 365 shall not directly or indirectly, be circumvented or evaded by modifying, discontinuing, or altering any customary trade practice of the seller, or by splitting orders, or by deteriorating the quality of any commodity, or by changing the selection or style of processing or the wrapping or packaging of matches covered by this Maximum Price Regulation No. 365, or by any other means.

SEC. 8 *Enforcement.* Persons violating any provision of this Maximum Price Regulation No. 365 are subject to the criminal penalties, civil enforcement action, license suspension proceedings and suits for treble damages provided for by the Emergency Price Control Act of 1942.

SEC. 9 *Records and notification to the trade.* (a) Every person, except retailers, making sales of matches after April 13, 1943, shall keep for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942 remains in effect, accurate records of each sale, showing the date thereof, the name and address of the buyer, the price contracted for or received and the quantity of each type and grade of matches.

(b) Such persons shall submit such reports to the Office of Price Administration and shall keep such other records in addition to or in place of the records required in paragraph (a) of this section as the Office of Price Administration may from time to time require, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(c) The manufacturer shall attach a copy of Appendix A (b) to all billings on sales of "strike-anywhere" wood matches made to distributors for a period of ninety (90) days after the effective date of this regulation.

(d) The manufacturer shall insert a copy of Appendix A (c) in each case of "strike-anywhere" wood matches shipped for a period of ninety (90) days after the effective date of this regulation, except that no such notice need be inserted in cases already prepared for shipment on the effective date of this regulation.

(e) The manufacturer shall attach a copy of Appendix B (b) to all billings on sales of "strike-on-box" wood matches made to distributors for a period of ninety (90) days after the effective date of this regulation.

(f) The manufacturer shall insert a copy of Appendix B (c) in each case of "strike-on-box" wood matches shipped for a period of ninety (90) days after the effective date of this regulation, except that no such notice need be inserted in cases already prepared for shipment on the effective date of this regulation.

On all the foregoing notifications, the manufacturers shall add the following statement: "Cessation of this notification will not constitute revocation thereof."

SEC. 10 *Licensing.* The registration and licensing provisions of §§ 1499.15 and 1499.16 of the General Maximum Price Regulation are applicable to every person subject to this Maximum Price Regulation No. 365 selling at wholesale or retail any matches covered by this Maximum Price Regulation No. 365. When used in this section the terms "selling at wholesale" and "selling at retail" have the definition given to them by §§ 1499.20 (p) and 1499.20 (o) respectively, of the General Maximum Price Regulation.

SEC. 11 *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[3] issued by the Office of Price Administration.

SEC. 12 *Definitions.* (a) When used in this Maximum Price Regulation No. 365 the term:

(1) "Person" includes an individual, corporation, partnership, association, any other organized group of persons, or

[1] 7 F.R. 5059, 7242, 5529, 9000, 10530; 8 F.R. 8846.

[2] 8 F.R. 3096.

[3] 7 F.R. 8961; 8 F.R. 3313, 3533.

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, and any agency of the foregoing.

(2) "Manufacturer" includes any person who manufactures any type of matches covered by this Maximum Price Regulation No. 365, and any person who distributes matches as an agent or other representative of a manufacturer.

(3) "Distributor" includes any person other than a manufacturer or a retailer, the major portion of whose sales are to retailers, industrial, commercial and institutional users, or other distributors.

(4) "Retailer" includes all persons the major portion of whose sales are resale items sold to the ultimate consumer other than an industrial or commercial user.

(5) "Case" refers to the shipping container in which matches are packed.

(6) "Strike-anywhere" match means a wood splint match, normally strikeable on any surface.

(7) "20 cubic inch box" means a box of "strike-anywhere" matches of 2⅜" splint-length containing an average count of 335 matches, subject to 5% tolerance, or of 2⅛" splint-length containing an average count of 10% more matches, subject to 5% tolerance.

(8) "16 cubic inch box" means a box of "strike-anywhere" matches of 2⅜" splint-length containing an average count of 275 matches, subject to 5% tolerance, or of 2⅛" splint-length containing an average count of 10% more matches, subject to 5% tolerance.

(9) "Strike-on-box" or "safety" wood matches are wood or veneer splint matches, normally strikeable on the box only, through special preparation of the match head and the striking surface of the box.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used herein.

SEC. 13 *Applicability.* The provisions of this Maximum Price Regulation No. 365 shall be applicable within the continental limits of the United States.

APPENDIX A—MAXIMUM DELIVERED PRICES FOR STRIKE-ANYWHERE WOOD MATCHES

(a) *Manufacturers' maximum delivered prices per case for strike-anywhere wood matches.*

Type	(1) Number of boxes per case	Maximum carload price	Maximum price for less-than-carloads
0's (penny size)	720	$3.65	$3.75
16 cu. in.	144	3.75	3.85
20 cu. in.	144	4.40	4.50
20 cu. in.	100	3.10	3.20

(2) Discounts for prompt payment of invoices shall be continued at not less than the customary percentage rate, and must be computed upon the manufacturer's price, exclusive of Federal excise tax. The period for such discounts need not exceed ten (10) days, but must be at least that long.

(b) *Distributors' maximum delivered prices.* (1) The distributor's maximum delivered price shall be 115% of the actual price charged by the manufacturer. In determining the "actual price charged by the manufacturer" upon which the mark-up may be computed, the distributor shall:

(i) Deduct all discounts, differentials and allowances except the discount for prompt payment.

(ii) Not include any charge which he may have incurred for local unloading and/or local trucking.

(iii) Not include Federal Excise Tax.

(2) Federal Excise Tax may be added to the distributor's maximum price.

Example: Assume the distributor's total acquired cost of a case of wood matches is $4.60, made up of $3.75 manufacturer's price, $.80 Federal Excise Tax, and $.05 local inbound trucking. He must deduct the $.80 and the $.05, leaving $3.75 as the manufacturer's price.

	$3.75	Manufacturer's delivered price
Multiplying by	115%	
	1875	
	375	
	375	
	$4.3125	Distributor's maximum price
	.80	Federal Excise Tax
Total	$5.11	

(3) The term "Distributor's maximum delivered price" includes free delivery within the limits of the free delivery zone recognized by the distributor during March, 1942. On shipments made beyond such free delivery zone, the distributor may add to his maximum delivered price as determined above, his customary delivery charges, or the applicable local common carrier rate, whichever is less; and such expense shall be separately included in the invoice or other evidence of sale.

(c) *Retailers' maximum delivered prices.* (1) The retailer's maximum delivered prices shall be as follows:

INDEPENDENT STORES

Quantity	0's	16's	20's
One box	$.01	$.05	$.06
Package of 10 boxes	.10	------	------
Package of 12 boxes	.10	------	------

CHAIN STORES AND SUPERMARKETS

Quantity	0's	16's	20's
One box	$.01	$.04	$.05
Package of 10 boxes	.10	------	------
Package of 12 boxes	.10	------	------

(2) The term "Chain stores and supermarkets" shall include all retail food stores which are in a group of four (4) stores centrally owned, or any retail food store, however owned or grouped, which individually did a gross sales volume of $250,000 or more in the calendar year 1942. (The definitions and explanations of stores classed 4 and 5 in Maximum Price Regulation No. 238 are incorporated in this definition.)

(3) The term "Independent stores" shall include all retail stores which do not qualify as chain stores or supermarkets, in accordance with the definition in subparagraph (2) above.

(4) The term "Retailer's maximum delivered price" means a price for the item delivered into the hands of the consumer, except that on mail order sales, postage, when incurred, may be added to the maximum prices set forth in paragraph (c) (1) above.

APPENDIX B—MAXIMUM DELIVERED PRICES FOR "STRIKE-ON-BOX" WOOD MATCHES

(a) *Manufacturers' maximum delivered prices per case for "Strike-on-box" wood matches.* (1) The manufacturer's maximum delivered price, which may in no event exceed the highest price charged during March, 1942, as determined in accordance with the provisions of the General Maximum Price Regulation, shall be as follows per case of 720 boxes:

$3.65 in lots of 11 cases or more

$4.02 in lots of less than 11 cases

(2) Discounts for prompt payment of invoices shall be continued at not less than the customary percentage rate, and must be computed upon the manufacturer's price, exclusive of Federal Excise Tax. The period for such discounts need not exceed ten (10) days, but must be at least that long.

(b) *Distributors' maximum delivered prices.* (1) The distributor's maximum delivered price shall be 115% of the actual price charged by the manufacturer. In determining the "actual price charged by the manufacturer" upon which the mark-up may be computed, the distributor shall:

(i) Deduct all discounts, differentials and allowances except the discount for prompt payment.

(ii) Not include any charge which he may have incurred for local unloading and/or local trucking.

(iii) Not include Federal Excise Tax.

(2) Federal Excise Tax may be added to the distributor's maximum price.

Example: Assume the distributor's total acquired cost of a case of wood matches is $4.28, made up of $3.65 manufacturer's price, $.58 Federal Excise Tax, and $.05 local inbound trucking. He must deduct the $.58 and the $.05, leaving $3.65 as the manufacturer's price.

	$3.65	
Multiplying by	115%	
	1825	
	365	
	365	
	$4.1975 or $4.20	Distributor's maximum price
	.58	Federal Excise Tax
	$4.78	

(3) The term "Distributor's maximum delivered price" includes delivery within the limits of the free delivery zone recognized by the distributor during March, 1942. On shipments beyond such free delivery zone, the distributor may add to his maximum delivered price as determined above, his customary delivery charges or applicable local common carrier rate, whichever is less; and such expense shall be separately included in the invoice or other evidence of sale.

(c) *Retailers' maximum delivered prices.* (1) The retailer's maximum delivered prices shall be as follows:

One box	$.01
Package of 10 boxes	.10
Package of 12 boxes	.10

(2) The term "Retailer's maximum delivered price" means a price for the item delivered into the hands of the consumer, except that on mail order sales, postage, when incurred, may be added to the maximum prices set forth in paragraph (c) (1) above.

This regulation shall become effective April 14, 1943.

NOTE: All reporting and record keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5569; Filed, April 8, 1943; 12:57 p. m.]

PART 1499—COMMODITIES AND SERVICES

[GMPR, Amendment 50]

AUCTION SALES OF USED PERSONAL PROPERTY

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

The General Maximum Price Regulation is amended in the following respects:

Section 1499.9 (b) (4) is amended to read as follows:

(4) At a bona fide auction of used household or personal effects, except that this exemption shall not apply to any sale at auction conducted in, by, or for a retail or wholesale establishment regularly engaged in the business of selling such goods other than by auction.

This amendment shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5572; Filed, April 8, 1943; 12:58 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Amendment 1 to Order 201 Under § 1499.3 (b) of GMPR]

RICHMOND LACE WORKS

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register,* *It is hereby ordered:*

In § 1499.1437, paragraph (a) is amended by adding thereto the items set forth below:

§1499.1437 *Maximum prices for the sale of certain lace patterns by Richmond Lace Works, Inc.*—(a) * * *

Pattern No.	Gauge and machine used	Width	Maximum price
13350	9 point (24 carriage set out)	53 racks per 36" web	$.7800 per sq. yd.
13117	7 point (36 carriage set out)	36 racks per 2½" web	$7.63 per gross yds.
13120	7 point (44 carriage set out)	38 racks per 11" web	$2.8427 per doz. yds.
13252	7 point (60 carriage set out)	39 racks per 11" web	$2.7019 per doz. yds.
13293	7 point (60 carriage set out)	42 racks per 4¾" web	$13.28 per gross yds.
13291	7 point (60 carriage set out half width)	33 racks per 2¼" web	$6.82 per gross yds.
13324	7 point (24 carriage set out)	33 racks per 36" web	$.5728 per sq. yd.
13364	7 point (72 carriage set out)	36 racks per 36" web	$.663 per sq. yd.

Amendment No. 1 (§ 1499.1437 (a)) to Order No. 201 shall become effective April 14, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5571; Filed, April 8, 1943; 12:57 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Amendment 1 to Order 291 Under § 1499.3 (b) of GMPR]

FAINER BRAND FROZEN FOODS

For the reasons set forth in an opinion issued simultaneously herewith, paragraphs (a) and (e) of Order No. 291 under § 1499.3 (b) of the General Maximum Price Regulation are amended and paragraph (h) is added; all to read as set forth below:

§ 1499.1727 *Authorization of maximum prices for sales of Fainer Brand Frozen Foods by Fainer Frozen Foods, Pasadena, California, by authorized wholesalers and by retailers.* (a) On and after April 9, 1943, the maximum price net f. o. b. Pasadena, California, for sales by Fainer Frozen Foods, having its principal place of business at 915 South Arroyo Parkway, Pasadena, California, of "Fainer Frozen Foods" shall be:

$1.20 per dozen of 1 pound packages.
$2.28 per dozen of 2 pound packages.

for Fainer Brand baked beans and hominy,

$1.44 per dozen of 1 pound packages.
$2.76 per dozen of 2 pound packages.

for Fainer Brand chili beans and spaghetti with soup stock and tomato sauce, and

$1.92 per dozen of 1 pound packages.
$3.72 per dozen of 2 pound packages.

for Fainer Brand chili and beans and spaghetti with meat sauce.

* * * * *

(e) On and after April 9, 1943, Fainer Frozen Foods shall supply a written notification to each authorized wholesale distributor before or at the time of the first delivery of "Fainer Frozen Foods" to a distributor, and for a period of three months thereafter shall include with each shipping unit of "Fainer Frozen Foods" a written notification to retailers. If such a retailer notification is enclosed in a shipping unit, a legend shall be affixed outside of such unit to read "Retailer's Notice Enclosed." The written notifications, for each type of purchaser, shall include the following appropriate statements:

Notification From Fainer Frozen Foods to Authorized Wholesale Distributors

OPA has authorized us to charge wholesalers the following net selling prices, f. o. b. Pasadena, California, for "Fainer Frozen Foods:"

$1.20 per dozen 1 pound packages.
$2.28 per dozen 2 pound packages.

for Fainer Brand baked beans and hominy,

$1.44 per dozen 1 pound packages.
$2.76 per dozen 2 pound packages.

for Fainer Brand chili beans and spaghetti with soup stock and tomato sauce, and

$1.92 per dozen 1 pound packages.
$3.72 per dozen 2 pound packages.

for Fainer Brand chili and beans and spaghetti with meat sauce, subject to all customary discounts, cold storage allowances and other allowances. Wholesalers are authorized to establish a ceiling price by adding to the net cost of these items 33 per cent of such net cost. Net cost is cost at the customary receiving point less all discounts, other than for prompt payments and excluding charges for local hauling. Retailers shall establish ceiling prices by adding to their net cost 36 percent of their net cost. Each individual ceiling price determined by any seller shall be figured to the nearest cent (raise one-half cent fractions to the next even cent). A copy of the notification to retailers is included in every shipping unit of these items. If the initial sale of any of these items to any retailer is a split case sale, wholesalers are required to provide such retailer with a copy of the retail notification so enclosed. OPA requires that you keep this notice for examination.

Notification From Fainer Frozen Foods to Retailers

OPA authorizes retailers to establish ceiling prices for "Fainer Frozen Foods" in 1 pound and 2 pound packages by adding to the net cost of these items 36 percent of their net cost. Net cost is the invoice cost at the customary receiving point less all discounts, other than for prompt payment, and excluding charges for local hauling. Such ceiling prices shall be figured to the nearest cent (raise one-half cent fractions to the next even cent). OPA requires that you keep this notice for examination.

* * * * *

(h) This amendment No. 1 to Order No. 291 (§ 1499.1727) shall become effective April 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5570; Filed, April 8, 1943; 12:57 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 373 Under § 1499.3 (b) of GMPR]

CLINTON LABORATORIES, INC.

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

§ 1499.1860 *Approval of maximum prices for sales of a new type of polishing rouge by Clinton Laboratories, Inc.* (a) The maximum prices for sales by the Clinton Laboratories, Inc., Clinton, New York, of its new type polishing rouge shall be the prices set forth below:

	Per pound
Sales in drums	$.07
Sales in 5-pound containers	.08

(b) All discounts, trade practices, and practices relating to the payment of transportation charges in effect during March 1942 on the sale of its old type polishing rouge by Clinton Laboratories, Inc., shall apply to the maximum prices set forth in paragraph (a).

(c) This Order No. 373 may be revoked or amended by the Price Administrator at any time.

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

(d) This order shall become effective April 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5573; Filed, April 8, 1943; 12:59 p. m.]

PART 1316—COTTON TEXTILES

[MPR 11,[1] Amendment 3]

FINE COTTON 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.*

Maximum Price Regulation 11 is amended in the following respects:

1. In § 1316.4 Table 1 is amended by adding the following constructions under:

Type and Construction of Cloth				*Cents per yard*
Poplins:				
37½"	102/206 x 48	3.15	(ply warp single filling)	29.80
Mechanical boat cloth ply yarns:				
50"	52 x 46	1.60		91.00
Insect netting:				
39"-40"	50 x 52	8.00		15.00
45½"	50 x 52	6.85		17.35
49½"	50 x 52	6.28		18.15

2. In § 1316.4 Table 1 is amended by amending the prices for aeroplane cloth to read as follows:

Type and Construction of Cloth			*Cents per yard*
Aeroplane ply yarns:			
36½"	80 x 86	4.00	43.89
39"	80 x 84	3.61	44.87
Aeroplane mercerized ply yarns:			
36½"	80 x 84	4.00	45.90

This amendment shall become effective April 8, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5590; Filed, April 5, 1943; 5:04 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 271, Amendment 8]

CERTAIN PERISHABLE FOOD COMMODITIES, SALES EXCEPT 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 271 is amended in the following respects:

1. Section 1351.1001 (a) (1) is amended to read as follows:

(1) All white flesh potatoes, whether used for human consumption or as seed potatoes.

2. Section 1351.1001 (c) (3) is amended to read as follows:

(3) Appendix C sets forth maximum prices for seed potatoes which were previously exempt from this regulation. Under its terms selected seed potatoes authorized for sale at a 75 cents differential per 100 pounds under § 1351.1019 (d) of this amendment and certified seed potatoes may be sold only as seed for planting, except that Commodity Credit Corporation may sell selected seed potatoes for human consumption at tablestock prices when Commodity Credit Corporation has a surplus of selected seed potatoes. To insure compliance with this provision, various conditions are established which sellers and buyers are required to meet before sales may be made of selected seed potatoes authorized by this amendment for sale at a differential of 75 cents per 100 pounds over tablestock prices and certified seed potatoes.

3. Section 1351.1008 is amended to read as follows:

§ 1351.1008 *Evasion.* The price limitations which are set forth in this Maximum Price Regulation No. 271 shall not be evaded, whether by direct or indirect methods, in connection with any offer, solicitation, agreement, sale, delivery, purchase or receipt of, or relating to any of the commodities listed in any appendix hereof, alone or in conjunction with any other commodity, or by way of commission, service, transportation, or any other charge or account, discount, premium, or other privilege, or by tying-agreement or other trade understanding, or otherwise.

4. Section 1351.1013 (a) (3) is added to read as follows:

(3) Sales of tablestock potatoes to the Army, Navy, Marines, and Lend Lease Administration which are shipped prior to May 1, 1943, may be made at a differential of 10 cents per 100 pounds over the maximum prices established for tablestock potatoes in Appendix A.

5. Section 1351.1019 (b) is amended to read as follows:

(b) *Prohibitions on sale of selected seed potatoes authorized by this amendment for sale at a differenial of 75 cents per 100 pounds over tablestock maximum prices and certified seed potatoes.* Selected seed potatoes authorized by this amendment for sale at a differential of 75 cents per 100 pounds over tablestock maximum prices and certified seed potatoes may be bought, sold or used only as seed for planting, except that Commodity Credit Corporation may sell selected seed potatoes for human consumption at tablestock prices when Commodity Credit Corporation has a surplus of selected seed potatoes.

6. Section 1351.1910 (d) is amended to read as follows:

(d) *Sales of selected seed potatoes by country shippers.* The maximum price that any country shipper may charge for selected seed potatoes, domestic or imported, shall be the same as the maximum price established for the country shipper in Appendix A for the same variety, grade and size of white potatoes: *Provided,* That a differential of 75 cents per 100 pounds over tablestock maximum prices may be charged for the sale of selected seed potatoes in the following instances:

(1) Selected seed potatoes sold, delivered or in transit prior to April 10, 1943, and

(2) Selected seed potatoes sold by a farmer or country shipper to the Commodity Credit Corporation, and

(3) Selected seed potatoes sold by a farmer or country shipper to a grower or dealer having a written certification from a United States Department of Agriculture's State or County War Board that the selected seed potatoes which said grower or dealer proposes to purchase are to be used only as seed for planting in the area served by the War Board, and

(4) Selected seed potatoes sold by one farmer to another farmer when the seed potatoes were grown in the same or adjacent county and will be used only for planting purposes in said same or adjacent county.

7. Section 1351.1019 (f) is amended to read as follows:

(f) *Conditions of sale of selected seed potatoes authorized by this amendment for sale at a differential of 75 cents per 100 pounds over tablestock maximum prices and certified seed potatoes.* No sale may be made of selected seed potatoes authorized by this amendment for sale at a differential of 75 cents per 100 pounds over tablestock maximum prices or certified seed potatoes unless the following conditions are met.

(1) *Sales in bulk.* Selected seed potatoes authorized by this amendment for sale at a differential of 75 cents per 100 pounds over tablestock maximum prices and certified seed potatoes shall have been packed in sacks of 50 pounds or over when sold by a country shipper or intermediate seller except that sales may be made in bulk by a farmer selling direct to a commercial, industrial or institutional user.

(2) *Buyer's statement.* The buyer shall furnish the seller with a statement in writing that such selected or certified seed potatoes are being purchased "only for use or for resale as seed for planting and not for human consumption, for processing, or any other purpose." The buyer is required to furnish the seller with such written statement prior to sale.

(3) *Sellers tag.* When selected seed potatoes authorized by the amendment for sale at a differential of 75 cents per 100 pounds over tablestock maximum prices and certified seed potatoes are sold in sacks or other containers there shall be attached to the sack, or other container, prior to shipment from the farm or country shipping point, a label or tag stating that such potatoes are "seed potatoes, not to be used or sold for human consumption" and marked with an identifying lot number plus the name and address of the seller who at-

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

[1] 8 F.R. 361, 2206.

tached such label or tag at the farm or country shipping point.

When such seed potatoes are sold in bulk by a farmer direct to a commercial, industrial or institutional user, he shall state upon an invoice or other written evidence of sale an identifying lot number and his name and address.

(4) *Seller's statement on invoice.* The seller of selected seed potatoes authorized by this amendment for sale at a differential of 75 cents per 100 pounds over tablestock maximum prices and certified seed potatoes shall furnish the buyer with an invoice or other written evidence of sale which, in addition to the customary facts stated by the seller, shall include the following statement:

As required by Maximum Price Regulation 271, I have agreed to sell and you have agreed to buy these seed potatoes only for use or resale as seed for planting and not for human consumption or any other purpose. I have also received from you a statement in writing to that effect.

The identifying lot number with which these seed potatoes have been labeled or tagged is _____ and the name and address of the seller who attached such label or tag is _____.

The type, variety grade and size of these seed potatoes are_____.

My selling price, which does not exceed my maximum price, is_____.

(5) *Report.* The seller shall mail after each sale or delivery of selected seed potatoes authorized by this amendment for sale at a differential of 75 cents per 100 pounds over tablestock maximum prices and certified seed potatoes a copy of his invoice or other written evidence of the sale within 24 hours after the day of shipment, or, if the invoice cannot be made until receipt of an inspection certificate, within 24 hours after receipt by the shipper of said certificate, to the nearest district or state office of the Office of Price Administration.

8. Section 1351.1019 (g) is amended to read as follows:

(g) *Addition, alteration or removal of tag or label prohibited.* No person shall attach any tag or label to a sack, bag or other container of potatoes stating that such potatoes are selected seed potatoes authorized by this amendment for sale at a differential of 75 cents per 100 pounds over tablestock maximum prices or are certified seed potatoes, except at the farm or country shipping point as expressly required above.

No person shall alter or modify any tag or label attached to a sack, bag or other container of such seed potatoes.

No person, except a planter, shall remove or detach any tag or label attached as above provided to a sack, or other container of such seed potatoes.

9. Section 1351.1019 (h) is amended to read as follows:

(h) *Definitions.* "Certified seed potatoes" means white flesh potatoes inspected and certified by a state agency as seed for planting.

"Selected seed potatoes" means white flesh potatoes selected by the farmer or country shipper as specially qualified for use as seed for planting, and duly invoiced, tagged, or labeled as selected seed potatoes at the farm or country shipping point.

"Tablestock potatoes" means white flesh potatoes for which prices are established in Appendix A.

This amendment shall become effective April 8, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.[1]

PRENTISS M. BROWN,
Administrator.

Approved:

CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 43-5593; Filed, April 8, 1943; 5:04 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 329,[2] Amendment 3]

PURCHASES OF MILK FROM PRODUCERS FOR RESALE AS FLUID MILK

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.*

The effective date provision of Maximum Price Regulation 329 is amended to read as follows:

This Maximum Price Regulation No. 329 shall become effective February 13, 1943.

This Amendment No. 3 shall become effective April 8, 1943.

(Pub. Laws 421, 729; 77th Cong.; E.O. 9250; 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

Approved:

CHESTER C. DAVIS,
Administrator,
Office of Food Production and Distribution.

[F. R. Doc. 43-5594; Filed, April 8, 1943; 5:04 p. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 13,[3] Amendment 12]

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 respects:

1. The last sentence of section 4.6 (e) is amended to read as follows:

(e) * * * A wholesaler who does not have enough points at the time of his registration may accumulate points and forward them later. However, until he has given up points equal to his excess inventory, he may not acquire during any one calendar month processed foods having a point value of more than 25 percent of the number of points he received for his sales or transfers of processed foods during March 1943.

2. Section 4.7 (a) is amended by adding the following to the end thereof:

(a) * * * Furthermore, regardless of his actual inventory, he may, during a calendar month, acquire processed foods for the purpose of keeping his stocks balanced, in an amount not more than 25 percent of the number of points he received for his sales or transfers of processed foods during March 1943.

This amendment shall become effective April 8, 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; WPB Directive 1, 7 F.R. 562; Food Directive 3, 8 F.R. 2005, and Food Directive 5, 8 F.R. 2251)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5587; Filed, April 8, 1943; 5:03 p. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 13,[1] Amendment 13]

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:

The last sentence of section 5.8 (e) is amended to read as follows:

(e) * * * A retailer who does not have enough points at the time of registration may accumulate and forward them later. However, until he has given up points equal to his excess inventory, he may not acquire during any one calendar month processed foods having a point value of more than 25 percent of the number of points he received for his sales or transfers of processed foods during March 1943.

This amendment shall become effective April 8, 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 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5592; Filed, April 8, 1943; 5:04 p. m.]

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

[1] 7 F.R. 9179, 10715; 8 F.R. 233, 1748, 1981, 3397, 3733, 3853.

[2] 8 F.R. 2038, 2874, 3252, 3621.

[3] 8 F.R. 1840, 2288, 2677, 2681, 2684, 2943, 3179, 3949, 4342.

[1] 8 F.R. 1840, 2288, 2677, 2681, 2684, 2943, 3179, 3949, 4342.

PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[Temporary MPR 28,[1] Amendment 4]

CERTAIN PERISHABLE FRUITS AND VEGETABLES

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.*

Temporary Maximum Price Regulation No. 28 is amended in the following respects:

Section 1439.254 (b) is amended and a new paragraph (c) is added to read as follows:

(b) Sales and deliveries by a farmer of any listed commodity grown on his farm to a country shipper and sales and deliveries to an ultimate consumer, if during the preceding month the farmer's sales to ultimate consumers of all food and food products produced on his farm did not exceed $75. This regulation shall also apply to any sales and deliveries by a farmer directly to wholesalers, retailers, commercial, industrial and institutional users.

(c) Such sales at retail as are covered by Amendment No. 6 to Maximum Price Regulation 268.[2]

This amendment shall become effective April 8, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

Approved by:

CHESTER C. DAVIS,
Administrator, Food Production and Distribution.

[F. R. Doc. 43-5589; Filed, April 8, 1943; 5:03 p. m.]

PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[Temporary MPR 29,[3] Amendment 3]

CERTAIN PERISHABLE VEGETABLES; SPINACH AND LETTUCE

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

Temporary Maximum Price Regulation No. 29 is amended in the following respects:

Section 1439.305 (b) is amended and a new paragraph (c) is added to read as follows:

(b) Sales and deliveries by a farmer of any listed commodity grown on his farm to a country shipper and sales and deliveries to an ultimate consumer, if during the preceding month the farmer's sales to ultimate consumers of all food and food products produced on his farm did not exceed $75. This regulation shall also apply to any sales and deliveries by a farmer directly to wholesalers, retailers, commercial, industrial and institutional users.

(c) Such sales at retail as are covered by Amendment No. 6 to Maximum Price Regulation No. 268.[2]

This amendment shall become effective April 8, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

Approved by:

CHESTER C. DAVIS,
Administrator, Food Production and Distribution.

[F. R. Doc. 43-5588; Filed, April 8, 1943; 5:03 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 42 Under SR 15 to GMPR]

WARWICK DELIVERY SERVICE

Order No. 42 under § 1499.75 (a) (3) of Supplementary Regulation No. 15 to the General Maximum Price Regulation; Docket No. GF3-2173.

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

§ 1499.1342 *Adjustment of maximum prices for contract carrier services by Ellis W. Leritz, doing business as Warwick Delivery Service.* (a) Ellis W. Leritz, doing business as the Warwick Delivery Service, of 2616 Warwick Boulevard, Kansas City, Missouri, hereinafter referred to as applicant, may charge as his maximum rates for the hauling and delivery service performed for Montgomery Ward & Company, from its mail order and retail stores in Kansas City, Missouri and Kansas City, Kansas, as follows:

For each one and one-half ton truck used in regular service eight hours a day with a driver and helper, from $2.65 per hour to $2.85 per hour. For each one and one-half ton truck with driver and helper not used in regular service, from $2.95 per hour to $3.15 per hour.

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

(c) This Order No. 42 (§ 1499.1342) may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 42 (§ 1499.1342) is hereby incorporated as a section of Supplementary Regulation No. 14 which contains modifications of maximum prices established by § 1499.2.

(e) This order shall be applicable as of September 28, 1942.

(f) This Order No. 42 (§ 1499.1342) shall become effective April 8, 1943.

(Pub. Laws No. 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5591; Filed, April 8, 1943; 5:04 p. m.]

PART 1347—PAPER, PAPER PRODUCTS AND RAW MATERIALS FOR PAPER AND PAPER PRODUCTS, PRINTING AND PUBLISHING

[MPR 359]

CERTAIN CONVERTED PAPER PRODUCTS

Corrected Print

Certain converted paper products, including plates, dishes, spoons and forks and liquid-tight cylindrical containers.

In the judgment of the Price Administrator, it is necessary and proper to establish maximum prices for sales of certain converted paper products by a separate price regulation.

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.* In the judgment of the Price Administrator, the maximum prices established by this Maximum Price Regulation No. 359 are and will be generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended. So far as practicable, the Price Administrator has advised and consulted with members of the industry which will be affected by this regulation.

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, issued by the Office of Price Administration, Maximum Price Regulation No. 359 is hereby issued.

SEC.

1347.551 Prohibition against dealing in certain converted paper products at prices above the maximum prices.
1347.552 Less than maximum prices.
1347.553 Export sales.
1347.554 Federal and State taxes.
1347.555 Adjustable pricing.
1347.556 Transfers of business or stock in trade.
1347.557 Petitions for amendment.
1347.558 Discounts and allowances.
1347.559 Evasion.
1374.560 Enforcement.
1347.561 Licensing.
1347.562 Records and reports.
1347.563 Definitions.
1347.564 Applicability.
1347.565 Applicability of general maximum price regulation.
Appendix A—Maximum prices for plates.
Appendix B—Maximum prices for dishes.
Appendix C—Maximum prices for spoons and forks.
Appendix D—Maximum prices for liquid-tight cylindrical containers.

AUTHORITY: §§ 1347.551 to 1347.565, inclusive, issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.

§ 1347.551 *Prohibition against dealing in certain converted paper products at prices above the maximum prices.* On and after April 10, 1943, regardless of any contract, agreement, lease or other obligation:

(a) No person for whom maximum prices are stablished under this regulation shall sell, deliver, or transfer certain converted paper products at prices higher than the maximum prices set forth in Appendices A, B, C, and D of this Maximum Price Regulation No. 359.

(b) No person shall buy or receive from a manufacturer certain converted

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

[1] 8 F.R. 2396, 2499, 2888, 3328.

[2] 7 F.R. 9184; 8 F.R. 322, 1747, 2483, 2664, 3527, 3732.

[3] 8 F.R. 2499, 2888, 3328.

paper products in the course of trade or business at higher prices than the maximum prices set forth in Appendices A, B, and C of this Maximum Price Regulation No. 359.

(c) No person shall buy or receive certain converted paper products from any person, other than a retailer, in the course of trade or business at higher prices than the maximum prices set forth in Appendix D of this Maximum Price Regulation No. 359.

(d) No person shall agree, offer, solicit or attempt to do any of the foregoing: *Provided,* That the provisions of this Maximum Price Regulation No. 359 shall not apply to sales or deliveries of certain converted paper products to a purchaser if prior to April 10, 1942 such converted paper products have been received by a carrier other than a carrier owned or controlled by the seller for shipment to such purchaser.

§ 1347.552 *Less than maximum prices.* Lower prices than those established by this Maximum Price Regulation No. 359 may be charged, demanded, paid or offered.

§ 1347.553 *Export sales.* The maximum price at which a person may export certain converted paper products shall be determined in accordance with the provisions of the Revised Maximum Export Price Regulation, issued by the Office of Price Administration.

§ 1347.554 *Federal and State taxes.* Any tax upon, or incident to, the sale or delivery of certain converted paper products, imposed by any statute of the United States or statute or ordinance of any state or subdivision thereof, 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 does not prohibit the seller from stating and collecting the tax 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 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, however,* That the tax on the transportation of all property (excepting coal) imposed by section 620 of the Revenue Act of 1942 shall, for purposes of determining the applicable maximum price of any product covered by this Maximum Price Regulation No. 359, be treated as though it were an increase of 3% in the amount charged by every person engaged in the business of transporting property for hire. It shall not be treated as a tax for which a charge may be made in addition to the maximum price.

§ 1347.555 *Adjustable pricing.* Any person may offer or agree to adjust or fix prices to and at prices not in excess of the maximum prices in effect at the time of delivery.

§ 1347.556 *Transfers of business or stock in trade.* If the business, assets or stock in trade of any business are sold or otherwise transferred after April 9, 1943, and the transferee carries on the business, or continues to deal in the same type of commodities or services in an establishment separate from any other establishment previously owned or operated by him, the maximum prices of the transferee shall be the same as those to which his transferor would have been subject if no such transfer had taken place, and his obligation to keep records in accordance with § 1347.562 shall be the same. The transferor shall either preserve and make available for so long as the Emergency Price Control Act of 1942 remains in effect, or turn over, to the transferee all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the record provisions of this Maximum Price Regulation No. 359.

§ 1347.557 *Petitions for amendment.* Any person seeking an amendment of any provision of this Maximum Price Regulation No. 359 may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, issued by the Office of Price Administration.

§ 1347.558 *Discounts and allowances.* Every manufacturer shall continue to grant to persons buying certain converted paper products, differentials, discounts, allowances and terms of sale not less favorable to the purchaser than those generally in effect during the period of October 1 to 15, 1941, for a sale of such certain converted paper products by such manufacturer to a purchaser of the same class.

§ 1347.559 *Evasion.* Price limitations set forth in this Maximum Price Regulation No. 359 shall not be evaded whether by direct or indirect methods, in connection with any offer, solicitation, agreement, sale, delivery, purchase or receipt of, or relating to certain converted paper products, alone or in conjunction with any other commodity or by way of commission, service, transportation, or other charge, or discount, premium or other privilege or other trade understanding or otherwise.

§ 1347.560 *Enforcement.* Persons violating any provision of this Maximum Price Regulation No. 359 are subject to the criminal penalties, civil enforcement action, license suspension proceedings and suits for treble damages provided for by the Emergency Price Control Act of 1942.

§ 1347.561 *Licensing.* The provisions of Supplementary Order No. 19, licensing distributors of paper and paper products, are applicable to every distributor selling any of the commodities for which maximum prices are now, or hereafter established by Maximum Price Regulation No. 359. The term "distributor" shall have the meaning given to it by Supplementary Order No. 19.

§ 1347.562 *Records and reports.* (a) Every person for whom maximum prices are established under this regulation shall keep for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942 remains in effect accurate records of each sale of certain converted paper products made after April 9, 1943, showing the date thereof, the name and address of the buyer, the price contracted for or received and the quantity of each type and grade of certain converted paper products.

(b) Such persons shall submit such reports to the Office of Price Administration and shall keep such other records in addition to or in place of the records required in paragraph (a) of this section as the Office of Price Administration may from time to time require, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

§ 1347.563 *Definitions.* (a) When used in this Maximum Price Regulation No. 359, the term:

(1) "Basis weight" means the weight in pounds per 1,000 square feet of paperboard.

(2) "Certain converted paper products" includes all commodities for which maximum prices are now or hereafter established by this Maximum Price Regulation No. 359.

(3) "Plates" includes all substitutes for china or tin food, pie, cake, or ice cream receptacles embossed, stamped, or pressed from paperboard, or molded from woodpulp.

(4) "Dishes" includes all dishes and trays made from wood veneer or paperboard, the ends of which are either glued or held together with staples or by any other means, or a tray or dish molded from woodpulp; the sizes and grades of such dishes include those specified in Simplified Practice Recommendation No. 187–42, Food Trays or Dishes, issued by the National Bureau of Standards, Washington, D. C.

(5) "Spoons and forks" includes all spoons and forks manufactured from vulcanized fibre and all shaped and bowled wood spoons and forks.

(6) "Liquid tight cylindrical containers" includes all straight sidewall containers spirally wound on a mandrel to a thickness of two or more plies and made of chemical and/or mechanical pulp paperboard.

(7) "Cake circle" means a round paperboard or molded disc customarily used by bakers for carrying, dispensing, or handling cakes excepting cake circles made of single or double faced white lined corrugated paperboard.

(8) "Depth" is the measured vertical distance from the inside bottom surface of a plate to the top side of the rim.

(9) "Deep, extra deep, and western deep" means plates with a depth range of $\frac{7}{8}$ to $1\frac{5}{8}$ inches.

(10) "Shallow and medium plates" includes all plates with a depth range of from $\frac{1}{2}$ to $\frac{3}{4}$ of an inch, inclusive.

(11) "Diameter of plates" shall be measured from the outside edges of the top rim of plates.

(12) "Groundwood plates" includes all plates made from paperboard whose principal component is mechanical pulp.

(13) "Luncheon plates, luncheon and ice cream plates" includes all plates whose general use is service of luncheons, sandwiches, ice cream, etc.

(14) "Molded plates and dishes" includes all plates and dishes made from

wet pulp formed to shape in molds with vacuum and air pressure.

(15) "Paperboard" includes all kinds, grades, types, calipers, colors, and patterns of paperboard unless otherwise limited by the context.

(16) "Embossed, pressed or stamped paperboard plates" includes all plates made by embossing, pressing or stamping to shape by use of dies.

(17) "Solid white plates" includes all plates made from paperboard of 100% chemical pulp.

(18) "Vulcanized fibre" includes paper or board produced by treating unsized paper with either zinc chloride or sulphuric acid to cause a partial gelatinization of the cellulose and then laminating into the proper thickness over heated cylinders.

(19) "White lined plates" includes all plates made from paperboard lined with chemical pulp.

(20) "Resale packages" includes all plates, plain or printed, carton packed, transparent wrapped or banded and intended for sale at retail.

(21) "Manila out, white in; white out, manila in; special bleached all white" includes all containers made of one ply of manila and one ply of white lined paperboard or made of two plies of white lined paperboard.

(22) "Solid bleached all white" includes all liquid tight cylindrical containers made wholly of bleached chemical pulp paperboard.

(23) "Stock printed" includes all liquid tight cylindrical containers printed on body sidewall in abstract design without brand or other customer identification.

(24) "Special printed" includes all liquid tight cylindrical containers, the body sidewall or cover or both of which are printed with the consumer's identification, including brand name or company name.

(25) "Brown out, Manila in" includes all liquid tight cylindrical containers made of solid manila paperboard as the inside ply and brown colored or kraft colored paperboard as the outside ply.

(26) "Regular wax" refers to all liquid tight cylindrical containers the inner and outer plies of which have been wax treated to insure their liquid tightness.

(27) "Heavy wax" refers to all liquid tight cylindrical containers which have been treated by dipping in or otherwise treating the finished container with paraffine.

(28) "Sizes" shall be determined by the liquid measurement of the liquid tight cylindrical container or the avoirdupois carrying capacity in terms of butter.

(29) "Diameter of liquid tight cylindrical containers" shall be the inside diameter of the liquid tight cylindrical container and not including the thickness of the sidewall.

(30) "Snap disc" includes round flat discs printed with customer brand or other identification and which may be inserted in the top of the lid by customer.

(31) "Manufacturer" includes any person who manufactures or converts certain converted paper products covered by this regulation and any person who distributes as an agent or representative of the manufacturer of certain converted paper products.

(32) "Distributor" includes any person who buys certain converted paper products from the manufacturer or any other seller and who resells the same.

(33) "Consumer" includes any person who buys certain converted paper products to use as packaging for vending his products.

(34) "Zone A" consists of the following: All of the States of Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Illinois except Moline and Rock Island; southern peninsula of Michigan, cities of Cape Girardeau, Hannibal, New Madrid, Ste. Genevieve, and St. Louis, Mo., Virginia, except Bristol, all cities south of an east and west line drawn just south of Chippewa Falls, Wisconsin.

(35) "Zone B" [1] consists of the following: All of the states of Alabama, Arkansas, Florida, Georgia, Iowa, Louisiana, Minnesota, Mississippi, North Carolina, South Carolina, Tennessee, cities of Moline and Rock Island, Illinois; cities of Atchison, Kansas City, Lawrence, Leavenworth and Topeka, Kansas; northern peninsula of Michigan, Missouri; cities of Auburn, Lincoln, Nebraska City, Omaha and Plattsmouth, Nebraska; Fargo and Grand Forks, North Dakota; Sioux Falls, South Dakota; Bristol, Virginia; Wisconsin north of an east and west line drawn just south of Chippewa Falls.

(36) "Zone C" [1] consists of the following: All of the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wyoming, Kansas except portion in Zone B, Nebraska except portion in Zone B, North Dakota except portion in Zone B, South Dakota except portion in Zone B.

(37) "Zone 1" [2] includes all territory east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas except El Paso.

(38) "Zone 2" [2] includes Washington, Oregon, California, Montana, Idaho, Nevada, Utah, Arizona, Wyoming, Colorado, New Mexico, and El Paso, Texas.

(39) "Eastern zone" [2] includes all territory east of the eastern boundary of Montana, Wyoming, Utah, New Mexico and a line drawn south to Mexico (El Paso, Texas, is not included in eastern zone).

(40) "Western zone" [2] includes all territory west of the eastern boundary of Montana, Wyoming, Utah, New Mexico and a line drawn south to Mexico.

(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 herein.

§ 1347.564 *Applicability of the General Maximum Price Regulation.* The provisions of this Maximum Price Regulation No. 359 supersede the provisions of the General Maximum Price Regulation [4] in respect to sales and deliveries of certain converted paper products for which maximum prices are established by this Maximum Price Regulation No. 359.

§ 1347.565 *Applicability.* The provisions of this Maximum Price Regulation No. 359 shall be applicable to the continental United States but not the territories and possessions of the United States.

APPENDIX A: MANUFACTURERS' MAXIMUM PRICES FOR MOLDED WOODPULP AND PAPERBOARD PLATES

(a) *Manufacturers' maximum delivered prices in quantities of less than 50,000 units to points in Zone A for molded woodpulp plates and certain plates embossed, pressed, or stamped from groundwood paperboard of a basis weight of 100 lbs. or more.*

(1) MAXIMUM PRICES PER THOUSAND UNITS [1]

Diameter (inches)	Round and square plates [3]	Medium depth plates	Deep, extra deep, western deep plates	Luncheon plates	Luncheon and ice cream [3] plates smooth finish	Cake circles
4	.97					
4¼	1.09					
4⅜	1.09					
4⅝	1.19					
4½			1.80		[4] 1.43	
4½					[5] 1.63	
5	1.92		2.06	1.92		
5¼						2.44
5¾	[6] 1.92	[7] 2.06				
6		2.06	2.06	2.06	2.48	2.71
7		2.71	3.01	2.71		3.25
7½		2.98				
8		3.25	3.84	3.25	3.93	3.74
8½			4.12		5.08	
9		3.74	4.32	3.74	4.49	4.59
10		5.09	5.62	5.09	6.17	
10¼		5.09			[8] 7.88	

[1] The maximum prices shall be proportionately decreased for sales of less than 1,000 units. For example, the maximum price for 500—6 inch luncheon plates shall be $1.03.

[2] For plates taped or banded in bundles of 100 add $0.06 per thousand.

[3] Manufactured only by Keyes Fibre Company. Chi-Net Brand.

[4] Round plate—packed 1,000 to case, taped in bundles of 100.

[5] Square plate—packed in 1,000 to case, taped in bundles of 100.

[6] ⅝" depth.

[7] ¾" depth.

[8] Partition plate.

(b) *Manufacturers' maximum delivered prices in quantities of less than 50,000 units to points in Zone A for certain plates embossed, pressed or stamped from groundwood paperboard.*

(1) MAXIMUM PRICES PER THOUSAND UNITS [1]

Diameter (inches)	Basis weight 65 to 85 lb.	Deep extra deep western deep plates basis weight 65 to 85 lb.	Basis weight 56 to 65 lb.	Flat cake circles basis weight 65 to 85 lb.
4¼			.88	
5	1.78	1.91		
5¼				2.26
5¾	1.91			
6	1.91	1.91	1.76	2.51
7	2.51	2.78	2.30	3.01
7½	2.76			
8	3.01	3.55	2.75	3.46
8½		3.81		
9	3.46	4.01	3.14	4.25
10	4.71	5.20		
10¼	4.71			

[1] See Note 3 above.

[1] Applies to Appendices A, B, and C.

[2] Supra note 1.

[3] Applies to Appendix D.

[4] 8 F.R. 3096.

(c) *Manufacturers' maximum delivered prices in quantities of less than 50,000 units to points in Zone A for certain plates embossed, stamped, or pressed from solid white lined paperboard, or solid white paperboard.*

(1) MAXIMUM PRICES PER THOUSAND UNITS [1]

Diameter (inches)	White lined 69 lb. basis weight or solid white 61 lb. basis weight	White lined basis weight 77 lb.-88 lb.	White lined basis weight 104 pounds and up
4¼	1.15		
6	2.00	2.55	3.39
7	2.60		
8	3.05	4.05	4.77
9	3.37	5.05	5.40
9 [2]		5.25	
10¾ [2]		7.85	

[1] See note 3 above.
[2] Compartment.

(d) *Manufacturers' maximum prices for shipments in quantities of more than 50,000 units.* (1) Manufacturer's maximum prices for shipments of molded woodpulp plates in quantities of 50,000 to less than carload (any assortment of plates) shall be those established in paragraph (a) of this appendix.

(2) The manufacturer of embossed, stamped, or pressed paperboard plates shall deduct 7½% from the maximum prices as established in paragraphs (a), (b) and (c) of this appendix where sales are made in quantities from 50,000 units (any assortment of plates) up to but not including a carload.

(3) Where sales of any plates are made in carload quantities (any assortment of plates), 10% shall be deducted from the maximum prices as established in paragraphs (a), (b) and (c) of this appendix.

(e) *Manufacturers' maximum delivered prices for deliveries to points outside of Zone A.* Where a manufacturer delivers molded woodpulp and all paperboard plates to points outside of Zone A, his maximum price shall be determined as follows:

Point of delivery:	*Percentage addition to maximum price*
Zone B	5%
Zone C	5%, and 5%

(f) *Manufacturers' maximum delivered prices for resale packages.* (1) The manufacturer's maximum prices for resale packages of molded woodpulp and paperboard plates shall not exceed that price at which the item was sold by the manufacturer during the period of October 1 to December 31, 1941, at prices based upon a price list which was published, or circulated to the trade, or to the manufacturer's salesmen.

(2) Duplicate copies of such price lists shall be filed with the Office of Price Administration, Washington, D. C., within thirty days after April 10, 1943. The prices established by such price lists shall be subject to nonretroactive disapproval or adjustment by letter of the Office of Price Administration.

(g) *Manufacturers' maximum delivered prices for certain specialty items.* (1) The manufacturer's maximum prices for certain specialty items, such as banana split plates, utility bowls and cuspidors, shall be that price at which the item was sold by the manufacturer during the period October 1 to 15, 1941, at prices based upon a list which was published, or circulated to the trade, or to the manufacturer's salesmen.

(2) Duplicate copies of such price lists shall be filed with the Office of Price Administration, Washington, D C., within thirty days after April 10, 1943. The prices established by such price lists shall be subject to nonretroactive disapproval or adjustment by letter of the Office of Price Administration.

APPENDIX B: MANUFACTURERS' MAXIMUM DELIVERED PRICES IN QUANTITIES OF LESS THAN 200,000 UNITS FOR WHITE LINED PAPERBOARD, MOLDED WOODPULP AND WOOD FOOD DISHES

(a) *Maximum price per thousand for less than 200,000 units.*

Size and number of dish	Material from which manufactured	
	Paperboard	Wood or Woodpulp
25	[1] 1.69 1.61	1.52
50	[1] 1.97 1.87	1.80
100	[1] 2.46 2.34	2.22
200	[1] 3.12 2.96	2.81
300	[1] 5.36 5.09	4.08
500		4.60
1000	[1] 14.74 14.00	13.30

[1] Applies to "Diamond Brand" sold by Berst-Foster-Dixfield Company.

(b) *Differentials for more than 200,000 units.* (1) For sales of paperboard dishes in quantities of 200,000 units (any assortment of dishes) up to carload, the manufacturer shall deduct 5% from the maximum prices established in paragraph (a) of this appendix.

(2) For sales of dishes in carload quantities, (any assortment of dishes) the manufacturer shall deduct 10% from the maximum prices established in paragraph (a) of this appendix.

(c) *Manufacturers' maximum prices for shipments to points outside Zone 1.* (1) The manufacturer's maximum prices for shipments of wood and molded woodpulp dishes in Zone 2 shall be a price not in excess of 10% above the maximum prices as established in paragraph (a) of this appendix.

(2) Maximum prices established under paragraph (a) above for paperboard dishes shall be maximum delivered prices for all zones.

APPENDIX C: MANUFACTURERS' MAXIMUM DELIVERED PRICES FOR VULCANIZED FIBRE SPOONS AND FORKS AND WOOD VENEER SPOONS AND FORKS.

(a) *Maximum delivered prices for packaged spoons and forks made of vulcanized fibre.*

(1) MAXIMUM DELIVERED PRICES IN ZONE 1

Spoons and forks (length in inches)	Count per package	Price per gross packages
3¼	18	$7.20
3½	22	7.92
3¾	11	4.32
4⅛	12	7.20
4⅛	14	7.92
4⅛	7	4.32
4¾	12	7.20
4¾	14	7.92
4¾	17	4.32
5⅛	6	7.20
5⅛	8	7.92
5⅛	4	4.32
6½	8	7.20
6½	10	7.92
6½	5	4.32

(2) Maximum delivered prices in Zone 2 shall be a price not in excess of 5% above the maximum prices as established in accordance with paragraph (a) (1) of this appendix.

(3) *Quantity discounts.* An amount not less than the following discounts for quantity purchases (any assortment of spoons and forks) shall be deducted from the maximum prices established in paragraph (a) of this appendix.

	Percent
20 to 49 dozen packages	5
50 to 99 dozen packages	7½
100 dozen packages and up	10

(b) *Manufacturers' maximum delivered prices to points in Zone 1 for bulk spoons and forks made of vulcanized fibre.*

(1) DELIVERED PRICES IN ZONE 1

Spoons and forks (lengths in inches)	Packing		Price per thousand
	Per carton	Per case	
2¼	1,000	10,000	$1.45
2½	100	10,000	1.70
3¼	1,000	10,000	2.00
3¼	500	5,000	2.00
3¾	100	10,000	2.25
4⅛	1,000	10,000	3.05
4⅛	500	5,000	3.05
4⅛	100	5,000	3.30
5¼	1,000	10,000	3.30
5¼	500	5,000	3.30
5¼	100	5,000	3.55
5⅝	500	5,000	6.00
5⅝	100	5,000	6.25
6½	500	5,000	4.70
6½	100	5,000	4.95
3½	1,000	5,000	2.15
3½	100	5,000	2.40
4¾	1,000	10,000	3.25
4¾	500	5,000	3.25
4¾	100	5,000	3.50
5⅛	1,000	10,000	3.50
5⅛	500	5,000	3.50
5⅛	100	5,000	3.75

(2) *Maximum delivered prices in Zone 2* shall be a price not in excess of $0.10 per thousand above the maximum prices for Zone 1.

(3) *Quantity discounts.* An amount not less than the following discounts for quantity purchases (any assortment of spoons and forks) shall be deducted from the maximum prices established in paragraph (b) of this Appendix.

	Percent
25,000 to 99,000	5
100,000 and over	10

(c) *Manufacturers' maximum prices for bowled and shaped wood veneer spoons and forks.* (1) The manufacturers' maximum prices for bowl type wood veneer spoons and forks which are bulk packed or packed for resale, and for shaped type wood veneer spoons and forks which are packed for resale, shall be a price not in excess of that price at which the item was sold by the manufacturer during the period of October 1–31, 1941, at prices based upon a price list which was published, or circulated to the trade, or to the manufacturer's salesmen.

(2) Duplicate copies of such price lists shall be filed with the Office of Price Administration, Washington, D. C., within thirty days after April 10, 1943. The prices established by such price lists shall be subject to nonretroactive disapproval or adjustment by letter of the Office of Price Administration.

(d) Where the specifications (such as size, grade, style, basis weight) of any

item differ from the specifications set forth in Appendices A, B, and C, application for approval of a maximum price for the sale of such item shall be filed with the Office of Price Administration. The application shall contain the differences in specifications, the complete cost data, and the proposed maximum price. The Office of Price Administration may approve, disapprove or adjust the proposed maximum price by letter, and sales may not be made prior to approval.

APPENDIX D: MANUFACTURERS' MAXIMUM PRICES FOR LIQUID TIGHT CYLINDRICAL CONTAINERS.

(a) *Manufacturers' maximum delivered prices per thousand units to distributors for carload shipments to points in the eastern zone for liquid tight cylindrical containers.*

Size liquid or avoirdupois	Manila in white out, white out manila in, special bleached all white	Solid bleached all white heavy wax	Stock printed	Brown out manila in special bleached all white regular wax	Brown out manila in special bleached all white parchment lined
¼ pint	$10.55				
½ pint	12.30	$16.82	$13.06		
10 ounce	12.97	18.34			
12 ounce	13.82	19.10			
14 ounce	14.20	19.57			
Pint, 3⅜" diameter	14.82	20.09	15.58		
Pint, 4¼" diameter	15.58	20.90			
24 ounce	17.00	23.60			
Quart	19.00	25.65	19.76		
3 pint	28.97	38.00			
½ gallon, 4½" diameter	36.58	45.60	38.00		
½ gallon, 5 or 5½" diameter	40.66	49.73			
Gallon	70.15	86.35	73.00		
1 pound		22.70		$16.95	$18.38
2 pound		35.00		27.69	29.69
3 pound		44.89		36.00	38.47
5 pound		67.78		55.10	58.61
10 pound		93.25		76.38	81.37

(b) *Manufacturers' maximum delivered prices to distributors in less than carload quantities (any assortment of liquid tight cylindrical containers).* (1) The manufacturer's maximum delivered price to distributors in less than carload quantities of any assortment of liquid tight cylindrical containers shall be 10% above the maximum prices established in paragraph (a) of this appendix.[5]

(c) *Manufacturers' and distributors' maximum delivered prices to consumers.* (1) Manufacturers' and distributors' maximum carload prices to consumers shall be 5% above the maximum price set forth in paragraph (a) of this appendix.[6]

(2) Manufacturers' and distributors' maximum prices to consumers in lots of 50 cases to carloac shall be 11% above the maximum prices as set forth in paragraph (a) of this appendix.[7]

(3) Manufacturers' and distributors' maximum prices to consumers in lots of 25 to 50 cases shall be 18% above the maximum prices set forth in paragraph (a) of this appendix.[8]

(4) Manufacturers' and distributors' maximum prices to consumers in lots of 10 to 25 cases shall be 25% above the maximum prices as set forth in paragraph (a) of this appendix.[9]

(5) Manufacturers' and distributors' maximum prices to consumers in lots of less than 10 cases shall be 35% above the maximum prices as set forth in paragraph (a) of this appendix.[10]

(d) *Manufacturers' maximum delivered price for deliveries to points outside of the eastern zone.*

Point of delivery	Percentage addition
Western zone	5%

(e) *Manufacturers' maximum prices for drop shipments to less than carload buying distributors for account of carload buying distributors.* (1) Where a manufacturer makes a drop shipment of less than carload quantity to a distributor who does not buy in carload quantities for the account of a carload buying distributor, he shall allow the carload buying distributor a commission of not less than 5% on the basis of the price for the quantity ordered and shipped, if the less-than-carload buying distributor is located outside of a 25-mile radius from the carload buying distributor.

(f) *Manufacturers' maximum delivered prices for special printed liquid tight cylindrical containers.* (1) Manufacturers' maximum price for special printed liquid tight cylindrical containers sold to distributors shall be determined by adding standard printing charges set forth in paragraph (g) to the maximum prices set forth in paragraph (c) of this appendix.

(i) The manufacturer shall allow the distributor a discount of not less than 10 per cent when shipment is made at less than carload rate of freight. The manufacturer shall allow the distributor not less than 10 per cent plus 5 per cent when shipment is made in less than carload quantities at the carload rate of freight. The manufacturer shall allow the distributor a discount of not less than 5 per cent when shipment of one design is made in a carload at the carload rate of freight.

(2) Manufacturers' and distributors' maximum prices for special printed liquid tight cylindrical containers sold to consumers shall be determined by adding the standard printing charges set forth in paragraph (g) of this section to the maximum prices set forth in paragraph (c) 1, 2, 3, 4, 5, of this appendix.

(g) *Manufacturers' maximum printing charges for body sidewall and covers per thousand.*

	Body sidewall—sizes up to and including quarts and 1 lb. tubs			Body sidewall for sizes larger than quarts			Covers of all sizes	
	1 color	2 color	3 color	1 color	2 color	3 color	1 color	2 color
2½ M to 5 M	$2.90	$3.10	$3.30	$3.50	$4.00	$4.50	$0.70	$0.85
5 M to 10 M	1.90	2.10	2.30	2.50	3.00	3.50	.65	.80
10 M to 25 M	1.40	1.60	1.80	2.00	2.50	3.00	.60	.75
25 M to 50 M	1.10	1.30	1.50	1.70	2.20	2.70	.40	.55
50 M and over	1.00	1.20	1.40	1.60	2.10	2.60	.20	.35

(h) *Manufacturers' maximum prices for printed snap discs.*

	One color	Two color
3⅜" diameter	$1.00	$1.25
4¼" diameter	1.50	1.75

(1) Manufacturers shall allow a discount of not less than 10 per cent on sales of snap discs to distributors.

(i) *Manufacturers' maximum prices for art work and engravings.* (1) Manufacturers' charges for art work and engravings shall not exceed such charges as were in effect during the period of October 1–15, 1941.

(j) *Manufacturers' maximum prices for liquid tight cylindrical containers which cannot be established by paragraph (a) of this section.* (1) Manufacturers' maximum prices for liquid tight cylindrical containers of special depth shall be computed by adding the additional per inch cost of body sidewall to the price of the nearest size in depth.

(2) Manufacturers' maximum prices for liquid tight cylindrical containers made with a special inner liner or outer sleeve shall be computed by adding the cost of the liner stock or outer sleeve to the price of the containers established by paragraphs (a) or (j) (1) of this appendix plus the cost for winding, laminating or otherwise affixing the liner or sleeve to the container. Conversion shall be computed on the basis of the hand, machine hour, or piece work rates in effect during October 1–15, 1941.

This regulation shall become effective April 10, 1943.

NOTE: All reporting and record keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 7th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5492; Filed, April 7, 1943; 5:29 p. m.]

[5] Multiply by 1.11.
[6] Multiply by 1.053.
[7] Multiply by 1.1175.
[8] Multiply by 1.1875.
[9] Multiply by 1.2675.
[10] Multiply by 1.3575.

PART 1351—FOOD AND FOOD PRODUCTS

[Rev. MPR 270,[1] Amendment 4]

DRY EDIBLE BEANS, SALES EXCEPT AT WHOLESALE AND 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.*

1. Section 1351.1215 (a) (2) and (3) are amended to read as follows:

(2) "Country shipper" means any person, including a farmer, who cleans, polishes, stores or loads at a country shipping point and who makes sales and deliveries directly to any other person whether for his own account, the account of another or for the joint account of himself and another. The term includes farmers' cooperatives and associations.

(3) "Country shipping point" means any place in or near the producing area where dry edible beans are cleaned, polished, stored or loaded and otherwise made ready for shipment.

This amendment shall become effective April 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

Approved by:
CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 43-5618; Filed, April 9, 1943; 11:49 a. m.]

PART 1377—WOODEN CONTAINERS

[MPR 320,[2] Amendment 3]

EASTERN AND CENTRAL WOODEN AGRICULTURAL CONTAINERS

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 320 is amended in the following respects:

1. Section 1377.202 (a) is amended to read as follows:

(a) *Products covered by the regulation.* This regulation, under the term "Eastern and Central wooden agricultural containers", covers the following types of containers manufactured in the states of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin: * * *

2. In § 1377.206 (b), the first sentence is amended to read as follows:

(b) *Addition to basic maximum price.* In all pick-up sales and truck shipments (either from a factory or a warehouse) of less than a minimum truckload amount, the following addition may be made to the basic maximum price: (This addition does not preclude other additions which the seller is entitled to make).

3. In § 1377.216 (b), the first paragraph is amended by deleting the phrase, "in price tables II to VI, inclusive" and inserting in its place the phrase, "in price tables II to VII, inclusive".

4. In § 1377.216 (b), Table II, Note 2 is amended by the addition of the following sentence: "For covers without 2 loop fasteners deduct 3¢ per dozen."

5. Section 1377.216 (b), Table VI, is amended by adding the word "hundred" in the "units" column following the three items "carrier crates."

6. Section 1377.216 (b) is amended by the addition of Table VII to read as follows:

NOTES: 1. The New England Area includes the states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island.

2. All crates are priced unitized but knocked down, unless otherwise specified.

TABLE VII

CRATES AND PARTS PRODUCED IN THE NEW ENGLAND AREA

Container description	Units	Approximate weight (pounds)	Minimum truckload	Zone 7
1⅛ bu. apple box, 11" x 13" x 17", New England type, without tops	Hundred	5	1,250	$21.50
1⅛ bu. apple box, 11⅛" x 13⅝" x 16⅛", New England type, without tops	Hundred	5	1,250	21.50
¼ barrel cranberry box, 9¼" x 10½" x 15"	Hundred	6	1,250	28.00
Field crates, 11" x 14" x 17" (½" ends, ¾" sides and bottom, 1¼" x 1¼" cleats)	Hundred	6	1,000	28.00
Field crates, 11" x 14" x 17" (¾" ends, ½" sides and bottom, 1¼" x 1¼" cleats)	Hundred	8	1,000	35.00
1⅛" bu. apple box top slats ¼" x 2⅛" x 17¾" or 5/16" x 1⅛" x 17¾"	Thousand			7.50
1⅛" bu. apple box parts, New England type 11" x 13" x 17" or 11⅛" x 13¾" x 16¼":				
Ends	Hundred			5.11
Sides	Hundred			3.22
Bottoms	Hundred			4.84

3. All dimensions on crates are inside, unless otherwise specified.

4. For all stock and customer printing add ¼¢ per impression: die charge extra for customer's account.

5. For dyed cleats add ½¢ per crate.

6. For making up crates (except those already priced made-up) add 3¢ per crate.

7. All parts are complete or unitized units, not sets.

The effective date of this amendment shall be April 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5619; Filed, April 9, 1943; 11:49 a. m.]

PART 1389—APPAREL

[Correction to MPR 330[1]]

RETAILERS' AND WHOLESALERS' PRICES FOR WOMEN'S, GIRLS' AND CHILDREN'S OUTERWEAR GARMENTS

Maximum Price Regulation 330 is corrected in the following respects:

1. In § 1389.554 (f) (2), the words "the base period", appearing at the end thereof, are corrected to read "March, 1942."

2. In § 1389.554 (c), in the third paragraph thereof, being the first example in Rule 1, the number "200" which appears in the third sentence of such paragraph, is corrected to read "250."

3. In § 1389.554 (c) in the eighth paragraph thereof, being the example following Rule 2, the number "$10.75" which appears in the sixth sentence thereof, is corrected to read "$10.95".

4. Appendix B: Example of a Pricing Chart, is corrected in the following respects:

a. In the first table of the pricing chart, the number "38.6" which is the third number listed in Column "(D)" of that table, is corrected to read "38.5."

b. In the second table of the pricing chart, the number "33.7" which is the fifth number listed in Column "(D)" of that table, is corrected to read "34.1."

c. In subparagraph (b) 4, Step 1, the words "(Column A)" are corrected to read "(Column B)", and the words "(Column B)" are corrected to read "(Column C)".

d. In subparagraph (b) 4, Step 2, the words "(Column B)" are corrected to read "(Column C)".

e. In the example following Step 2, the words "(Column A)" are corrected to read "(Column B)" and the words "(Column B)" in both places where such words appear, are corrected to read "(Column C)".

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

[1] 7 F.R. 1061.

[2] 8 F.R. 1885, 3529, 3843.

[1] 8 F.R. 2209.

Effective date of corrections. This correction shall become effective as of February 24, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5620; Filed, April 9, 1943; 11:49 a. m.]

PART 1410—WOOL

[MPR 163,[1] Amendment 11]

WOOLEN AND WORSTED CIVILIAN APPAREL FABRICS

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 1410.102 (b) is amended to read as follows:

(b) *Meltons.* The maximum price per yard for manipulated all wool meltons, 31-34 ozs., shall be the aggregate of (1) the actual cost per yard of raw materials, but in no case higher than $0.975, and (2) $0.875 per yard.

This amendment shall become effective April 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5621; Filed, April 9, 1943; 11:49 a. m.]

PART 1421—IRON AND STEEL FOUNDRY PRODUCTS

[MPR 241,[2] Amendment 3]

MALLEABLE IRON CASTINGS

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 241 is amended in the following respects:

1. Section 1421.114 (a) (5) is amended to read as follows:

(5) (i) "Malleable iron castings" means all ferrous castings sold to railroads and other classes of purchasers having a definite ductility resulting from an annealing process and known as malleable iron, pearlitic malleable iron or by a trade name. The term includes such ferrous castings sold either with or without subsequent processing thereon, such as (without limitation), machining, galvanizing, plating and japanning, but does not include: (*a*) malleable iron castings sold in an assembly with other materials (except bolts, nuts, screws, rivets or other industrial fastenings), (*b*) malleable iron castings purchased from the seller on which the purchaser has performed subsequent processing and (*c*) malleable iron castings sold as another commodity by a regular manufacturer of such other commodity or by a purchaser from such manufacturer.

(ii) A seller of malleable iron castings is considered a regular manufacturer of another commodity when (*a*) he represents himself in the trade as a manufacturer of such other commodity through the issuance of catalogues, price lists or other advertising matter, circulated generally to the trade, in which such commodity is designated by name, (*b*) he owns the patterns used for the production of such other commodity, and (*c*) he customarily produces such other commodity for, and sells such commodity from, stock. A seller of malleable iron castings who believes that he is a regular manufacturer of another commodity, but who does not meet each of the requirements specified in the foregoing items (*a*), (*b*), and (*c*) may nevertheless be considered a regular manufacturer of another commodity if he is recognized in the trade as a source of supply of such other commodity and he applies to the Office of Price Administration for a determination, or the Office of Price Administration makes a determination without such application, that he is a regular manufacturer of such other commodity.

2. Section 1421.114 (a) (11) is added to read as follows:

(11) "Seller" shall include sellers of malleable iron castings who are producers and those who are not producers. For the purpose of determining maximum prices under paragraph (b) of § 1421.116 of this regulation, but for no other purpose, if a seller owns and operates a number of different foundries each such foundry shall be considered a separate seller.

3. Section 1421.114 (a) (12) is added to read as follows:

(12) "Producer of malleable iron castings" and "producer" mean a person who is engaged in the business of casting the malleable iron and shall include such person whether or not he performs subsequent processing on such castings or causes subsequent processing to be performed on such castings by another, the producer retaining title to the castings.

4. Section 1421.114 (a) (13) is added to read as follows:

(13) "Foundry" includes, in the case of a seller of malleable iron castings who is not a producer, a plant, establishment or place of business.

5. Section 1421.116 (b) (1) (i) is amended to read as follows:

(i) The seller shall employ the applicable pricing method which was in use at the foundry on October 15, 1941, and which has been or will be filed with the Office of Price Administration in accordance with § 1421.111 herein, employing each of the pricing factors reflected in such method at the levels prevailing at such time, except as specified in subparagraphs (3), (4) and (5) hereinbelow, including: labor rates (applied in accordance with subparagraph (2) below); materials costs (applied in accordance with subparagraph (3) below); overhead (burden) rates (applied in accordance with subparagraph (4) below); subcontracted machinery service costs (applied in accordance with subparagraph (5) below); mark-up, margin or profit (applied in accordance with subparagraph (6) below: *Provided however*, That in the case of a seller of a malleable iron casting who is not the producer thereof, such seller shall compute his maximum price for such casting by adding to the price at which he purchased such casting, not to exceed the maximum price of the casting under this regulation for the producer thereof, a mark-up, margin or profit determined in accordance with subparagraph (6) of this paragraph (b), and by adjusting this sum in accordance with the following subdivision (ii).

This amendment shall become effective April 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5622; Filed, April 9, 1943; 11:49 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 374 Under § 1499.3 (b) of GMPR]

ROCHESTER SMELTING & REFINING CO.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register,* and pursuant to and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, Executive Order No. 9250 and § 1499.3 (b) of the General Maximum Price Regulation, *It is hereby ordered:*

§ 1499.1861 *Maximum price at which Rochester Smelting & Refining Co., Inc. may sell and deliver zinc die cast notched bars.* (a) The maximum price at which the Rochester Smelting & Refining Co., Inc. of Rochester, New York, may sell and deliver zinc die cast notched bars to any person shall be 6.80¢ per pound, f. o. b. point of shipment.

(b) As used in this order, the term "zinc die cast notched bars" shall mean notched bars of uniform alloy content suitable for galvanizing purposes and containing approximately 5% of aluminum, small percentages of copper, tin, lead, iron, and magnesium, and balance zinc.

(c) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective as of March 27, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5616; Filed, April 9, 1943; 11:50 a. m.]

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

[1] 7 F.R. 4513, 4733, 4734, 5827, 5872, 6887, 6973, 7454, 7603, 8941, 8948; 8 F.R. 262, 608, 1682.

[2] 7 F.R. 8427, 8941, 8948; 8 F.R. 325.

PART 1499—COMMODITIES AND SERVICES

[Order 375 under § 1499.3 (b) of GMPR]

PROCESSED FOOD COMMODITIES WHICH CANNOT BE PRICED UNDER § 1499.2

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

§ 1499.1862 *Method of determining maximum prices for processed food commodities which cannot be priced under § 1499.2 of the General Maximum Price Regulation*—(a) *Authorization; applicability.* (1) Sellers other than sellers at wholesale or retail are authorized to determine their maximum selling prices for processed food commodities which cannot be priced under § 1499.2 of the General Maximum Price Regulation by the formula set forth in paragraph (b) of this order.

(2) The pricing formula set forth in paragraph (b) may be applied at the seller's election. In any case where a seller does not choose to price under that paragraph he shall make application for authorization of a maximum price under paragraph (d) of this order.

(3) This order is applicable only to processed food commodities which are subject to the General Maximum Price Regulation rather than to a specific maximum price regulation or schedule, and, further, it is applicable only if the seller cannot determine his maximum price for the product under § 1499.2 of the General Maximum Price Regulation.

(4) The term "processed food commodities" as used in this order includes all food items used as nutrition and nourishment for human consumption, and all ingredients used in the preparation of such food items—the food items themselves or the ingredients having been subjected to processing as defined in the General Maximum Price Regulation.

(b) *Pricing formula.* If the seller elects to price under this paragraph, his maximum price per customary selling unit shall be:

(1) His total "direct cost" per unit of the food commodity being priced, calculated as follows:

(i) The total cost per unit of all ingredients and packaging materials subject to maximum prices established by the Office of Price Administration, at the current maximum prices applying to the class of purchasers to which he belongs, plus

(ii) The cost per unit of every ingredient and packaging material, for which no maximum price has been prescribed by the Office of Price Administration, figured at the current market price of the ingredient or packaging material in question, plus

(iii) The direct labor costs per unit figured at the October 3, 1942, wage rates or as adjusted and approved by the War Labor Board, applying to each class of direct labor employed in the manufacture of the commodity being priced, plus

(iv) Transportation charges by the usual mode of transportation, if the cost factors used in (i) and (ii) above are not delivered costs, and if such charges are customarily incurred from his customary supply point to his customary receiving point,

(2) Multiplied by a markup percentage determined as follows:

(i) The maximum selling price established under the General Maximum Price Regulation or other maximum price regulation in effect at the time of the calculation reported under paragraph (c) for the most closely comparable commodity produced by him with a cost structure similar to that of the commodity being priced, divided by

(ii) His current cost of ingredients, packaging materials and direct labor of that commodity.

As used in this order "most closely comparable commodity" means a food commodity which is most nearly similar and whose "direct cost" is closest to and in no event is less than two-thirds of the "direct cost" of the commodity being priced, and where similar methods are employed in its sale and merchandising to those which will be used in the sale and merchandising of the commodity being priced hereunder.

As used in this paragraph "current" means current at the time of calculating the price reported under paragraph (c) of this section.

(3) The markup percentage determined hereunder shall be used as the multiplying factor only if the computation thereof as prescribed results in a figure of 150% or less,—i. e., the maximum selling price determined under this paragraph for any food commodity shall not exceed 150% of the cost of ingredients, packaging materials and direct labor thereof.

(4) The maximum price determined under the provisions of this paragraph (a) shall be subject to discounts, transportation allowances or other allowances and price differentials no less favorable than those given with respect to the comparable food commodity used in the calculation of the maximum price under this paragraph.

(5) In deciding whether items of labor cost are to be applied as separate items in figuring the price or are to be treated as overhead, the seller shall follow his customary practice. Thus, if a seller treated cleaning labor as an item of overhead in March 1942 he must continue so to treat it in figuring the maximum price.

(6) The seller shall employ no cost factors in addition to those which he used with respect to the comparable commodity by which he determined his percentage markup under paragraph (b) and shall make no changes in the method of application of those factors which would result in a higher price.

(7) The following are examples showing the proper methods to use in selecting the "most closely comparable commodity," as described in this paragraph (b):

Case 1. Assume the producer is pricing a new "cold type" of flaked breakfast cereal whose direct cost is $1.50 per case.

The other comparable products which this same seller manufactures are: A "hot type" breakfast cereal whose direct cost is $1.10 per case, a "cold type" shredded breakfast cereal whose direct cost is $1.05 per case, and a "cold type" flaked breakfast cereal whose direct cost is 98¢ per case. The correct product to use in applying the markup percentage, if 150% or less, is the "cold type" shredded breakfast cereal, since it is more closely comparable than the "hot type" cereal and the direct cost is within the two-thirds limitation, whereas the flaked breakfast cereal does not meet this requirement.

Case 2. Assume the producer is pricing a new dehydrated bean soup whose direct cost is 51 cents per dozen. The product will be sold directly to retailers. Other processed food commodities which this manufacture produces are:

A candy bar whose direct cost is 47 cents per box of 24 and which sells at 64 cents per box directly to wholesalers; potato chips in 10 cent packages whose direct cost is 60 cents per dozen and which sell at 90 cents per dozen directly to retailers; and bottled orange drink whose direct cost is 62 cents per dozen and which sells directly to retailers at 90 cents per dozen.

Each of the products is entirely dissimilar, but the comparable product to use is potato chips. The candy bar cost is closest to the cost of the new product, but the candy bar is not sold directly to retailers, whereas the new product will be. Both the potato chips and the bottled orange drink have markups within the 150 percent limit. The potato chip product must be selected as the comparable commodity because its cost is closest to the cost of the new product.

Case 3 Assume the producer is pricing a new formula "frozen baked beans" whose direct cost is $1.65 per dozen. The other commodities produced by him are: Fresh baked beans whose percentage markup is 168 percent, canned baked beans whose percentage markup is 160 percent, frozen fish flakes whose percentage markup is 158 percent, and canned fish flakes whose percentage markup is 150 percent. The correct product to use in applying the markup percentage is the "canned fish flakes" since this is the only comparable commodity with a markup of 150 percent or less. A further qualification, of course, is that the direct cost of the "canned fish flakes" must not be less than two-thirds of the direct cost of the "frozen baked beans."

(c) *Reporting.* Within 10 days after a producer has determined a maximum price pursuant to the provisions of paragraph (b) of this order, he shall report such price to the Office of Price Administration, Washington, D. C. Such report shall set forth, in addition to the price, (1) a description and identification of the food commodity for which such price was determined, and (2) a statement of facts which differentiate such food commodity from other food commodities delivered or offered for delivery during March 1942 by such producer and by other competitive sellers of the same class, and (3) a statement that the maximum price reported was determined in accordance with paragraph (b) of this order, and the facts in support of such statement. The producer, in this connection, shall submit a statement breaking down the price reported showing all the calculations entering into the determination of "direct cost" and maximum selling price of both the product being priced and the most closely comparable commodity used, including statements from customary suppliers of any ingredients or packaging materials for which no maximum price exists showing the purchase price thereof. The maximum

price reported by a producer in accordance with the provisions of this paragraph (c) shall be subject to adjustment at any time by the Price Administrator.

(d) *Application for authorization.* In any case where a producer of a food commodity cannot or does not elect to price under paragraph (b) of this order, he shall make application to the Office of Price Administration, Washington, D. C., for authorization of a maximum price for his new product. Such application shall set forth (1) a description in detail, including brand name to be used, if any, of the commodity for which a maximum price is sought and a statement of the facts which differentiate the commodity from other commodities delivered during March 1942 by such producer and any other competitive sellers of the same class; (2) a detailed and itemized current cost breakdown of the proposed new product, and for each size thereof, for which a maximum price is sought, showing all cost component factors separately (i e., raw materials, direct labor, factory overhead, selling, advertising and administrative costs, and freight if sold on a delivered basis), and the identical current cost breakdown structure of any other commodity which contributes substantially to his total volume of business; (3) the specific desired selling price to each class of purchasers for each size, including a statement regarding the necessity for the desired selling price and any discounts or trade practices and allowances which will be applicable to the requested list prices, and, for comparison, the applicant shall indicate the maximum selling prices with discounts and allowances for the other commodity as indicated in (2) above; and (4) the method of distribution to be employed by the seller in marketing the new commodity—i. e., whether it is to be sold to specific classes of purchasers, such as wholesalers, retailers, directly to consumers or other classes of purchasers. Upon receipt of such application the Office of Price Administration will authorize the maximum price or a method of determining the maximum price for the applicant or for sellers of the commodity generally including purchasers for resale or for a class of such sellers.

(e) *Exceptions.* Roasters and sellers of pure coffee or pure coffee and chicory combined shall not apply the formula set forth in paragraph (b), but shall make application for authorization of a maximum price under the provisions of paragraph (d) of this order. "Coffee" means roasted coffee, either whole bean or ground, decaffeinated coffee and coffee concentrates.

(f) *Provision for revocation or amendment of this order.* This order may be revoked or amended by the Price Administrator at any time, but its revocation or amendment shall have no effect upon prior sales or deliveries, except that prior contracts may be affected from the date of revocation or amendment or from such subsequent date as the Price Administrator may specify.

(g) This Order No. 375 shall become effective April 10, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5617; Filed, April 19, 1943; 11:51 a. m.]

TITLE 46—SHIPPING

Chapter I—Bureau of Customs

Subchapter A—Documentation, Entrance and Clearance of Vessels

[T. D. 50843]

WAIVER OF COASTWISE LAWS

MERCHANDISE TRANSPORTATION BETWEEN PUERTO RICO AND U. S.

APRIL 6, 1943.

Section 27 of the Merchant Marine Act, 1920, as amended, waived to permit certain vessels to transport merchandise between points in Puerto Rico and points in the continental United States under certain conditions.

An order waiving compliance with the provisions of section 27 of the Merchant Marine Act, 1920, as amended.

Upon the written recommendation of the Administrator of the War Shipping Administration and by virtue of the authority vested in me by the provisions of section 501 of the Second War Powers Act, 1942 (Public Law 507, 77th Congress), I hereby waive compliance with the provisions of section 27 of the Merchant Marine Act, 1920, as amended (46 USC 883), to the extent necessary to permit any vessel of the United States of 50 gross tons or over which is under limited or restricted registry to transport merchandise between points in Puerto Rico and points on the Atlantic or Gulf coasts of the United States on condition that:

(a) None of the merchandise so transported shall be transshipped while en route between Puerto Rico and the continental United States; and

(b) The collector of customs at the port of departure of the vessel has been notified by the representative of the War Shipping Administration whose district embraces that port that:

(1) The vessel is in possession of a United States ship's warrant;

(2) All cargo laden on board in the continental United States and destined for Puerto Rico has been approved by a representative of the War Shipping Administration and by the Department of the Interior, or that all cargo laden on board in Puerto Rico and destined for the continental United States has been approved by the representative of the War Shipping Administration at San Juan, Puerto Rico, as the case may be; and

(3) The requirements for filing rates pursuant to the applicable statute and regulations of the United States Maritime Commission have been complied with.

I deem that such action is necessary in the conduct of the war.

[SEAL] HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 43-5597; Filed, April 9, 1943; 10:57 a. m.]

Chapter II—Coast Guard: Inspection and Navigation

AMENDMENT TO REGULATIONS: APPROVAL OF EQUIPMENT

By virtue of the authority vested in me by R.S. 4405, 4417a, 4418, 4426, 4433, 4482, 4488, 4491, as amended, 49 Stat. 1544, 54 Stat. 163–167 (46 U.S.C. 375, 391a, 392, 404, 411, 475, 481, 489, 367, 526–526t), and Executive Order 9083 dated February 28, 1942 (7 F.R. 1609), the following amendment to the Inspection and Navigation regulations and approval of miscellaneous items of equipment for the better security of life at sea are prescribed:

Subchapter O—Regulations Applicable to Certain Vessels and Shipping During Emergency

Subchapter O is amended by the addition of a new Part 151 reading as follows:

PART 151—MARINE ENGINEERING, MATERIALS; REGULATIONS DURING EMERGENCY

Sec.
151.1 Definition of terms.
151.2 Bronze castings.

§ 151.1 *Definition of terms.* Certain terms used in the regulations of this part are defined as follows:

(a) *Emergency.* The term "emergency" means the Unlimited National Emergency proclaimed by the President on May 27, 1941.

§ 151.2 *Bronze castings.* The provisions covering the use of Grade A bronze in § 51.20–1 of this chapter are hereby suspended for the duration of the emergency, and this material will be permitted for the construction of the pressure containing parts of valves and pipe fittings which are subjected to working pressures up to 200 pounds per square inch and/or temperatures not exceeding 388° F.

MISCELLANEOUS ITEMS OF EQUIPMENT APPROVED

The following miscellaneous items of equipment for the better security of life at sea are approved:

DAVITS

Landley Steward Mechanical Davit, Size 5–7–0 (Dwg. No. 130–D, dated 27 May 1942), (Maximum working load of 3,750 pounds per arm), manufactured by The Landley Company, Inc., New York, N. Y.

Landley Steward Mechanical Davit, Size 6–6–0–X–X (Dwg. No. 100–D, dated 2 February 1942) (Maximum working load of 3,000 pounds per arm), manufactured by The Landley Company, Inc., New York, N. Y.

Welin Gravity Davit, Type 76–99 (Dwg. No. 2400, dated 12 October 1942) (Maximum working load of 13,500 pounds per arm), manufactured by Welin Davit & Boat Corporation, Perth Amboy, N. J.

SKATES AND SKID FENDERS FOR LIFEBOATS

Skates for lifeboats (Dwg. No. HF366, dated 21 January 1943), manufactured by Bethlehem Steel Company, Shipbuilding Division, Baltimore Yard.

Skates for lifeboats (Dwg. No. Standard O–62–G, dated 30 November 1942), manufactured by Bethlehem Steel Company, Sparrows Point, Md.

RING LIFE BUOY

30" cork ring life buoy, 10 segments, Approval No. B–182 manufactured by Bloomingdale Manufacturing Company, Butler, N. J.

LIFE PRESERVER

Adult block cork life preserver (Dwg. dated 2 March 1943) Approval No. B–183, manufactured by Bloomingdale Manufacturing Company, Butler, N. J.

DAYTIME DISTRESS SIGNALS (SMOKE)

Chemurgic Daytime Distress Signals (Orange Smoke) (Dwg. No. D–350, dated 18 March 1943), manufactured by Chemurgic Corporation, Signal Division, Richmond, Calif.

FISHING KIT

Emergency fishing kit, manufactured by E. H. Peckinpaugh Company, Chattanooga, Tenn.

April 8, 1943.

R. R. WAESCHE,
Commandant.

[F. R. Doc. 43–5598; Filed, April 9, 1943; 11:14 a. m.]

VESSELS ENGAGED IN BUSINESS CONNECTED WITH CONDUCT OF THE WAR

CONDITIONAL WAIVER OF MANNING REQUIREMENTS

Having determined upon investigation that there is a shortage of experienced personnel in the merchant marine industry due to the increase in the number of ships required to be manned and the demands of other industries and the armed services upon the available manpower of the country, and that as a result of such shortage the masters of merchant vessels engaged in business connected with the conduct of the war have been unable to obtain the number of experienced personnel required for their vessels by or pursuant to law and to avoid delays in sailing have departed with deficiencies in such complements, thereby giving rise to the penalties provided by law; therefore, to avoid delays in the sailings of such merchant vessels, to insure that vessels sailing with deficiencies in their complements have on board the best qualified crews available, to make inoperative with respect to certain vessels which sail with unavoidable deficiencies in their complements the penalties provided by law, to provide a simplified and uniform procedure for accomplishing the foregoing, and otherwise to further the conduct of the war, I find, in the case of vessels engaged in business connected with the conduct of the war, that the waiver of the navigation and vessel inspection laws is necessary in the conduct of the war, to the extent and in the manner and upon the terms and conditions set forth in the succeeding paragraph.

Extent, terms, and conditions of waivers. The master of any vessel engaged in business connected with the conduct of the war may, if such action is necessary to permit such vessel to sail without delay, substitute for any licensed officer or rated seaman required as part of the complement of such vessel by or pursuant to law, any licensed officer of lower rank, who is an American citizen, or any certificated seaman of lower rating: *Provided,* That (1) the deficiency in complement is not caused by the consent, fault or collusion of the master, owner or any other person interested in the vessel, (2) the master, over a reasonable period prior to the time fixed for the signing on of his crew, makes every reasonable effort to obtain such required licensed officer or rated seaman, (3) the person substituted for such required licensed officer or rated seaman is, in the opinion of the master, the best qualified substitute therefor that the master could obtain, (4), the master is of the opinion that the vessel is sufficiently manned for the contemplated voyage, and (5) the master, prior to departure prepares, executes, certifies, and files with, or sends to the Shipping Commissioner before whom the crew was signed on or, in cases when the crew is not required to be signed on before a Shipping Commissioner, to the nearest Merchant Marine Inspector in Charge, two copies of a report of each substitution made. One copy of such report shall also be submitted to the Collector of Customs at the time when application for clearance is made. In making such report the following form shall be used:

UNITED STATES COAST GUARD
CREW DEFICIENCY REPORT

_____
Place

_____
Date

Name of vessel _____ Owner or operator _____

This is to report that in order to permit my vessel to sail without delay on a voyage beginning on or about this date, it was necessary for me to make substitutions in the required complement for my vessel as set forth below. I certify that the deficiency was not caused by my fault or collusion, or, to the best of my knowledge, by the fault or collusion of the owner or of any other person interested in the vessel; that prior to the signing on of my crew I made every reasonable effort to secure the complement of licensed officers and rated men required by or pursuant to law for this vessel and was unsuccessful; that the substitutes listed below are the best qualified men I could obtain for the positions which they occupy; and, that in my opinion my vessel is sufficiently manned for this voyage.

Crew deficiencies		Substitutes	
Rank or rating	Name	Rank or rating	License or certificate No.

Master's Signature _____

Penalties. The failure of the master of any vessel departing with a deficiency in the required complement therefor to execute and submit the reports required hereunder, or a false certification in any such report by such master shall be considered misconduct within the meaning of R. S. 4450, as amended, 46 U. S. C. 239, and shall constitute grounds for suspension or revocation of the license of such master; and shall subject him and the owners to all other penalties provided by law. No penalty shall be imposed as a consequence of any substitution made in accordance with this regulation.

Authority for waiver. This conditional waiver is made and is effective pursuant to, and under authority of, section 501 of the Second War Powers Act, 1942 (Pub. 507, 77th Cong.), and the order of the Acting Secretary of the Navy, October 1, 1942, 7 F.R. 7979.

R. R. WAESCHE,
Commandant.

APRIL 8, 1943.

[F. R. Doc. 43–5599; Filed, April 9, 1943; 11:14 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Geological Survey.

OIL AND GAS UNIT PLAN

NOTICE OF PROPOSED REGULATIONS

Notice is hereby given that the Acting Director of the Geological Survey has recommended to the Secretary of the Interior the promulgation of the following regulations for the development and operation as a unit of oil or gas areas, fields, or pools, involving public land. Within 60 days from the date of publication of this notice in the FEDERAL REGISTER oil and gas lessees, operators, members of the petroleum industry generally, and others who may be interested in or affected by said regulations, may file written comments, criticisms and suggestions with respect to them in the Office of the Director of the Geological Survey, Washington, D. C.

If the response to this notice warrants such action, the Director of the Geological Survey, with the approval of the Secretary of the Interior, may designate an officer or officers to conduct a hearing or hearings on the proposed regulations, at which interested parties will be given an opportunity to be heard orally.

OSCAR L. CHAPMAN,
Assistant Secretary.

APRIL 6, 1943.

PROPOSED REGULATIONS FOR TITLE 30, CHAPTER II

PART 226—OIL AND GAS UNIT PLAN REGULATIONS

Sec.

226.1 Scope and purpose of regulations.
226.2 Other regulations.
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226.6 Unit operator.
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226.11 Leases modified and extended.
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226.13 Nonunitized land.
226.14 Term.
226.15 State laws.
226.16 Filing.
226.17 Approval of agreement.
226.18 Recording.
226.19 Appeals.
226.20 Form of agreement and related documents.

AUTHORITY: §§ 226.1 to 226.20, inclusive, issued under the following statutes: Sec. 32, 41 Stat. 450, sec. 27, 46 Stat. 1524, sec. 17, 49 Stat. 676, 30 U.S.C. 184, 184a, 189, 226.

§ 226.1 *Scope and purpose of regulations.* The regulations in this part describe the procedure under which oil and gas lessees of Federal land and their representatives, for the purpose of more properly conserving the oil or gas resources of any area, field, or pool, may, or may not be required to, unite with each other or jointly or separately with others in collectively adopting and operating under an agreement or other arrangement that embraces a plan of development and operation of any single area, field, or pool. These regulations shall apply to all agreements as defined in § 226.3 (a) and (b), *infra,* including agreements as so defined hereafter approved and those previously approved insofar as consistent with the provisions of previously approved unit agreements.

§ 226.2 *Other regulations.* These regulations are supplementary to and are not intended to supersede the oil and gas operating regulations for oil and gas leases. (30 CFR §§ 221.1 to 221.67, 7 F.R. 4132–4141.)

§ 226.3 *Definitions.* The following terms, as used in the regulations in this part, shall have the meanings here indicated:

(a) "Unit agreement" means an agreement or plan of development consummated pursuant to these regulations by which deposits of oil, gas, and associated fluid hydrocarbons made subject thereto shall be produced under an operating program to be carried out in an orderly, reasonable, efficient, and equitable manner by a single operator.

(b) "Cooperative agreement" means an agreement consummated pursuant to these regulations by which deposits of oil, gas, and associated fluid hydrocarbons made subject thereto shall be produced by two or more operators under a cooperative plan of prospecting for and producing such deposits in an orderly, reasonable, efficient, and equitable manner. Any agreement or plan of development defined in this paragraph or in paragraph (a), *supra,* is called an agreement in these regulations.

(c) "Unit area" means the gross area included in an agreement.

(d) "Unitized land" means the part of a unit area committed to an agreement.

(e) "Unitized substances" means deposits of oil, gas, and associated fluid hydrocarbons recovered or recoverable by operation under and pursuant to an agreement.

(f) "Unit operator" means the person, association, partnership, trustee, corporation, or other business entity designated to conduct and manage operations on unitized land under an agreement.

(g) "Secretary" means the Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(h) "Director" means the Director of the Geological Survey, Washington, D. C., or any person duly authorized to act in his behalf.

(i) "Supervisor" means a representative of the Secretary, under administrative direction of the Director, authorized and empowered to supervise and direct oil and gas operations, or any subordinate of such representative acting under his direction.

§ 226.4 *Unit area; how designated.* The Director, on his own motion, or upon receipt and consideration of an application filed by one or more lessees, owners of operating rights, or others having substantial interests in land proposed to be unitized, is authorized in his discretion to designate a unit area which shall comprise as nearly as practicable a single structural unit and to determine the depth of a test well reasonably adequate to determine the presence or absence of commercial deposits of unitized substances within the unit area. Where wells already drilled tend to disprove the oil and gas possibilities of an area or where, in the opinion of the Director, such possibilities are purely conjectural, tenuous, and hypothetical, a unit area will not be designated.

§ 226.5 *Parties.* The owners of any right, title, or interest in the oil and gas deposits underlying the unit area shall be invited to join in the agreement. If an owner fails or refuses to execute the agreement, a copy of the letter of invitation, with evidence of delivery thereof to him, and a copy of any reply to such invitation, must be submitted when the agreement is forwarded for approval. The Secretary, in his discretion, may seek to determine the grounds for failure of any party to join in an agreement. In the event an owner refusing to execute an agreement is the possessor of an interest in public lands, any authority vested in the Secretary by law or regulation may be invoked to enforce joinder in the agreement or to permit operation of such land independently subject to such limitations as may be deemed appropriate to permit fulfillment of the objectives of the agreement, or, if such agreement has not been approved, to require reasonable modifications in form to meet objections of such owner. The holder of a mere overriding royalty interest, without voice in the development and operation of a property, is not a necessary signatory party.

§ 226.6 *Unit operator.* Every agreement shall provide for a unit operator, shall either designate such unit operator, or specify how and when such unit operator shall be selected, shall contain a provision for selection or designation of a successor unit operator, shall specify the rights, duties, and obligations of the unit operator, and detail the terms and conditions on which he will conduct and manage the unitized land for and on behalf of the parties to the agreement. The unit operator shall execute an acceptance of the duties and responsibilities imposed upon him by his designation. No designation of a unit operator will become effective unless and until approved by the Secretary.

§ 226.7 *Qualifications of unit operator.* A unit operator must be experienced in oil and gas drilling and producing operations, must show evidence of financial, administrative, and technical capacity to perform successfully the duties of unit operator, and must have the qualifications as to citizenship required to hold rights in public land under the mineral-leasing laws.

§ 226.8 *Bonds.* The unit operator may be required to furnish and maintain a corporate surety bond or an individual bond conditioned upon faithful performance of the duties and obligations of unit operator. Individual bonds shall be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the obligation assumed. The bond may be substituted as a collective bond for all leases for which separate bonds otherwise might be required. In each case, the amount of the bond shall be determined by the Director, and the bond will be filed with the supervisor, and by him transmitted through the Director to the Commissioner of the General Land Office or Commissioner of Indian Affairs, or, if the lands in the unit area are under the jurisdiction of any other Government agency, then the bonds will be transmitted to the head of that agency.

§ 226.9 *Plan of development and operation.* To attain the purpose of more properly conserving the oil and gas resources of a unitized area will require drilling test wells unless all of the possible productive sands have been adequately tested, the drilling of sufficient wells to produce properly any known oil or gas deposits, and producing such wells in accordance with sound engineering practices. In a wholly unproved area the initial test well shall be drilled at a location approved by the supervisor, and, if such well is unsuccessful, one well at a time shall be drilled at other locations approved by the supervisor until a commercial discovery occurs or until it is established that the unit area is barren of commercial deposits of oil or gas, provided that the unit operator may resign at any time after completion or abandonment of any unsuccessful well without obligation to continue drilling test wells.

If a commercial deposit of oil or gas is found, the discovery well shall be shut down until a plan of future operations in the unit area shall be submitted to the supervisor and approved by said official. The future plan shall contemplate determination of the productive

area within such time as may be reasonably required by the supervisor to protect all of the unitized land from loss by drainage. It shall set forth a well-casing and spacing program acceptable to the supervisor. It shall contain such provisions as the supervisor may require concerning gas-oil ratios as well as conservation and supplementation of reservoir energy. These requirements will be impracticable of complete fulfillment on the basis of information obtained from the discovery well or even when all necessary wells have been drilled. Therefore, any approved plan of development shall be subject to reconsideration at any time when the supervisor or the unit operator may deem such action necessary or advisable. Any departure from an approved plan of development without approval of the supervisor will constitute a default by the unit operator of his agreement.

After discovery of a commercial deposit of oil or gas in a unit area, the Secretary may require a unit operator to conduct further exploratory operations to search for oil or gas deposits in formations not theretofore adequately tested, whenever such further testing is deemed necessary and advisable in the public interest. If a unit operator shall fail or refuse to conduct such further exploratory operations, his rights as unit operator shall be terminated as to such unexplored formations, but not as to producing formations, and a new operator for said unexpired formations shall be selected in the manner provided for the selection of a new unit operator. The new unit operator shall accept the duties and responsibilities of unit operator as defined in the agreement subject to the condition that they shall be restricted to formations tested by said unit operator, and in which a new discovery of oil or gas shall be made within a reasonable time as determined by the Secretary.

§ 226.10 *Rate of prospecting, development, and production.* The rate of prospecting and development and the quantity and rate of production under any agreement approved under these regulations may be altered or modified from time to time by the Secretary, in his discretion, subject to such limitations as may be prescribed in the agreement.

§ 226.11 *Leases modified and extended.* Leases that have been granted for a term of 20 years and which are subject to an agreement approved under the regulations in this part, will continue beyond the period for which issued until termination of the agreement. Leases that have been granted for terms of 5 or 10 years and so long thereafter as oil or gas is produced in paying quantities, and which are subject to an agreement shall be deemed to be producing leases for all purposes when a discovery of oil or gas has been made anywhere in the unit area and so long thereafter as oil or gas is or can be produced in paying quantities anywhere from such unit area. Upon termination of a unit agreement any lease which is in an extended term by virtue of the unit agreement shall terminate or be continued in force and effect, extended or renewed, according to the lease terms, as though said lease had never been unitized. Suspension of operations and production on the unit area pursuant to direction or assent of the Secretary shall be deemed to constitute suspension pursuant to such direction or assent as to all leases committed to the agreement: *Provided,* That hereafter as to any lease involving land located in part inside and in part outside a unit area, such lease shall be segregated into separate leases, one for land inside a unit area and one for any other land.

§ 226.12 *Vacant public land.* Any unleased land owned by the United States in a unit area embracing a producing oil or gas field may be offered for lease at competitive bidding. Pending the leasing of such land, the unit operator may enter into an agreement with the Secretary under which the United States shall be compensated for any loss by drainage as a result of operations under the agreement. Such compensation shall be the amount or value of production less a reasonable allowance for development and production costs, but shall never be less than 12½ percent of the amount or value of production allocable to such land.

§ 226.13 *Nonunitized land.* A proposed agreement will be rejected if the amount or location of nonunitized land in the unit area is such that the agreement could not be made effective for conservation purposes or if competitive operation of the nonunitized land would preclude attainment of the conservation objectives of unitization, unless acceptable cooperative arrangements are made under which nonunitized land shall be developed and operated in harmony with the development and operation of unitized land.

§ 226.14 *Term.* Each agreement shall be for a term of approximately 5 years and for so long thereafter as unitized deposits can be produced in paying quantities. Each unit agreement shall terminate automatically at the expiration of its fixed term, unless prior thereto such term shall be extended by the Secretary of the Interior, or unless before expiration a valuable discovery of unitized substances shall have been made, in which case the agreement shall remain in effect as long as unitized substances can be produced in paying quantities. An agreement may be terminated whenever it is determined that the unitized land is incapable of commercial production of unitized substances and notice of termination is given by unit operator to all parties in interest at their last known address, provided such termination shall not become effective unless and until approved by the Secretary of the Interior. An agreement may be terminated by the Secretary of the Interior at his election whenever there is no unit operator capable of complying with the terms and conditions of the unit agreement and the parties entitled to select a new unit operator have failed to select such unit operator within 90 days after notice so to do. An agreement may be terminated at any time by consent of the owners of 75 per centum of the operating rights subject to said agreement, with the approval of the Secretary of the Interior.

§ 226.15 *State laws.* State laws must be observed by the unit operator insofar as such laws are not in conflict with Federal law or regulation. State-owned land located within the unit area may be made subject to the agreement in accordance with applicable State laws.

§ 226.16 *Filing.* All instruments and documents required under these regulations or under the terms of the agreement should be filed in the office of the supervisor, unless otherwise instructed by the supervisor or the Director.

Applications for designation of unit areas under § 226.4, *supra,* must be filed in triplicate and must be accompanied by a map, outlining the desired unit area and participating area or areas, if any, and showing by distinctive symbols or colors State land, privately-owned land, public land identified by Land Office serial numbers or other appropriate designation, and ownership of all land. Such application should also include all geologic and other information available to the applicant and pertinent to determination of the necessity and propriety of designating a unit area.

When an agreement is filed for final approval at least six signed originals are required. If State land or land under the jurisdiction of other departments is involved, additional signed originals may be required. Each signature must be attested before a notary public, in States where such attestation is required by local laws for deeds which are to be recorded; otherwise, two witnesses to each signature will be deemed sufficient. Corporate or other signatures made in a representative capacity must be accompanied by evidence of the authority of the signatories to act. A map showing the unit area and separate unitized ownerships with appropriate identification should accompany each copy of the agreement.

Instruments or documents supplementing, modifying, or amending unit agreements, including changes of operator, designations of new operators, notices of termination, and requests for extensions should have the same number of copies as the original agreement.

Applications for establishment of initial participating areas or for revision of existing participating areas, with ownership maps and schedules attached, shall be filled in quintuplicate. Each such application shall be accompanied by a separate substantiating geologic report, including contour maps, cross-sections, and such other pertinent data as may be required, all in triplicate. This material will be considered confidential, if so requested.

The supervisor will forward to the Director, with an appropriate report, all originals of documents or instruments filed pursuant to the regulations in this part.

Plans of development as required under the terms of the unit agreement shall be filed in quadruplicate with the supervisor for his approval.

One copy of each approved instrument or document will be returned to the unit operator by the approving official or his representative. Extra signed copies may be included for approval, if desired.

§ 226.17 *Approval of agreement.* The Director will forward, through the General Land Office, for final approval by the Secretary each agreement considered subject to approval, and will reject all others. The Commissioner of the General Land Office will determine that rights involving public land of the United States purported to be committed to any agreements are, in fact, so committed by the proper parties of record. The regulations of the General Land Office governing cooperative or unit development (43 C.F.R. 192.31 to 192.40, inclusive) shall remain in full force and effect except as modified by or inconsistent with the regulations in this part.

No agreement shall be effective unless and until approved by the Secretary.

§ 226.18 *Recording.* Duplicate originals of the agreements approved under these regulations will be filed in the office of the Geological Survey at Washington, D. C., the office of the supervisor for the district in which the unit area is located, the office of the Comptroller General of the United States, and the General Land Office. A duplicate original also will be furnished the unit operator and, at his election, may be recorded in the local county records.

§ 226.19 *Appeals.* All orders issued pursuant to any section of these regulations or any official action taken pursuant to any provision of any agreement approved hereunder shall be subject to reconsideration and review, in the same manner as appeals authorized under the oil and gas operating regulations. (30 CFR 221.1 to 221.67, 7 F.R. 4132-4141)

§ 226.20 *Form of agreement and related documents.* An acceptable form of agreement and related documents are appended to these regulations and said form shall be utilized for all agreements of the type defined in § 226.3 (a), *supra*, unless for good cause the Secretary shall determine that a modified form shall be accepted.

Agreements of the type defined in § 226.3 (b) shall be used only when the owners of operating rights are unable to agree on a single operator. Such agreements shall conform with the conservation principles outlined in the form in the appendix, departing from that form only so far as may be determined by the Secretary to be necessary in any case. The developed reserves under control of each separate operator will be estimated from time to time by the supervisor and such reserves shall be so produced that each operator shall receive a fair proportionate share thereof during any one calendar year with a reasonable allowance for overage and underage which shall be adjusted as promptly as practicable during the following year. Provision also shall be made for a committee representing each operating unit with the supervisor as ex-officio chairman to determine plans for coordinating the development and operation of the entire area subject to the agreement in an efficient, equitable, orderly, and reasonable manner.

Recommended for approval:

JULIAN D. SEARS,
Director of the Geological Survey.

PROPOSED FORM OF UNIT AGREEMENT

Appendix to Regulations for development and operation as a unit of oil or gas areas, fields or pools involving public land. (30 CFR, Part 226)

UNIT AGREEMENT FOR THE DEVELOPMENT AND AND OPERATION OF THE _____ AREA

This agreement, entered into, as of the ____ day of _____, 19____, by and between the parties subscribing or consenting hereto, *witnesseth:*

Whereas the parties subscribing hereto are the owners of operating, royalty, or other oil or gas interests in the unit area subject to this agreement;

Whereas it is the purpose of the parties hereto to conserve natural resources, prevent avoidable waste, and secure other benefits obtainable through development and operation of the unit area subject to this agreement under the terms, conditions, and limitations hereinafter set forth, under and pursuant to the provisions of sections 17, 27, and 32 of the Act of Congress approved February 25, 1920, entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," 41 Stat. 443, 448, 450, as amended or supplemented by the acts of March 4, 1931, 46 Stat. 1525, and August 21, 1935, 49 Stat. 677, 678; 30 U.S.C. 226, 184, and 189;

Now, therefore, in consideration of the premises and the promises hereinafter contained, the parties hereto and the parties consenting hereto agree severally among themselves, and with the Secretary of the Interior, as follows:

Enabling Act and Regulations

1. The act of February 25, 1920, *supra*, as amended, and all pertinent regulations heretofore and all pertinent and reasonable regulations hereafter issued thereunder, including operating and unit plan regulations, are accepted and made a part of this agreement.

Unit Area

2. The following described lands are hereby designated and recognized as constituting the unit area: _____

_____

(Insert land description by legal subdivision of public survey)

The above-described unit area shall be enlarged or contracted whenever such action is necessary or desirable to conform with the purposes of this agreement. Notice of any proposed enlargement or contraction shall be given by the Unit Operator to all parties affected thereby, at least 30 days prior to submission to the Secretary with proof of service of such notice. Such enlargement or contraction shall be effective upon approval by the Secretary of the Interior.

Exhibit "A" attached hereto is a map on which is outlined the herein-established unit area, together with the ownership of the land and leases in said area. Exibit "B" attached hereto is a schedule showing the nature and extent of ownership of oil and gas rights in all land in the unit area to which this unit agreement will become applicable by signature hereto, or to a counterpart hereof, by the owners of such rights. Said schedule shall be revised by the Unit Operator whenever any change in the unit area or ownership of rights renders such change necessary, and the revised schedule shall be filed with the record of this agreement.

Unitized Substances

3. All oil, gas, natural gasoline, and associated fluid hydrocarbons producible from land subject to this agreement, in any and all sands or horizons, are unitized under the terms of this agreement and hereinafter are called "unitized substances."

Unit Operator

4. _____ is hereby designated as Unit Operator and by signature hereto commits to this agreement all interests in unitized substances vested in him/it as set forth in the schedule attached hereto marked Exhibit B, and agrees and consents to accept the duties and obligations of Unit Operator to conduct and manage the operation of said unit area for the discovery and development of unitized substances as hereinafter provided and is hereinafter called Unit Operator.

NOTE: In case no Unit Operator has been selected delete the foregoing part of section 4 and substitute in lieu thereof the following as a first paragraph of said section:

Unit Operator

4. At their election or within 90 days after notice so to do by the Secretary of the Interior, the parties hereto shall select a Unit Operator in the same manner as hereinafter provided for the selection of a successor Unit Operator. The Unit Operator so selected shall commit to the unit agreement all interests in unitized substances vested in such Unit Operator in the land subject to the unit agreement and shall agree and consent in writing to accept the duties and obligations of the Unit Operator to conduct and manage the operation of said unit area for the discovery and development of unitized substances as herein provided and is hereinafter called Unit Operator.

The right to relinquish all rights as Unit Operator may be exercised whenever said Unit Operator is not in default under this agreement, but no Unit Operator shall be relieved from the duties and obligations of Unit Operator for a period of 6 months after notice of intention to relinquish such duties and obligations has been served by him on all other parties hereto and the Secretary of the Interior, unless a new Unit Operator shall have been selected and approved and shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period. At any time prior to the date on which relinquishment by or removal of Unit Operator becomes effective, the parties hereto or a duly qualified new Unit Operator may elect to purchase on reasonable terms all or any part of the retiring Unit Operator's equipment, material, and appurtenances in or upon the land subject to this agreement, provided that no such equipment, material, or appurtenances so selected for purchase shall be removed pending determination of reasonable terms of purchase. Any equipment, material, and appurtenances not so purchased and not necessary for the preservation of wells may be removed by the retiring Unit Operator at any time within 6 months after the relinquishment or removal becomes effective, but if not so removed shall become the joint property of the owners of operating rights in land then subject to this agreement.

Assignment of any right or rights as Unit Operator shall be subject to approval by the Secretary of the Interior.

Successor Unit Operator

5. Whenever the Unit Operator shall discontinue or relinquish his rights as Unit Operator or shall fail to fulfill his duties and obligations as Unit Operator under this agreement, the owners of the majority of the participating acreage operating interests in the unit area, or the owners of operating

rights according to their total acreage interest in the unit area until a participating area shall have been established, shall select a new Unit Operator. Such selection shall not become effective until (a) a Unit Operator so selected shall agree and consent in writing to accept the duties and responsibilities of Unit Operator, and (b) the selection shall have been approved by the Secretary of the Interior. In the absence of the selection of an acceptable Unit Operator by owners of operating rights within 90 days of notice so to do by the Secretary of the Interior, said Secretary may designate the Unit Operator or declare this unit agreement terminated. The Unit Operator shall be subject to removal by the owners of operating rights in the same manner as herein provided for the selection of a new Unit Operator.

Rights and Obligations of Unit Operator

6. Except as hereinafter specified, the exclusive right, privilege, and duty of exercising any and all rights of the parties signatory hereto which are necessary or convenient for prospecting for, producing, storing, and disposing of the unitized substances are hereby vested in the Unit Operator and shall be exercised by said Unit Operator as provided in this agreement. Acceptable evidence of title to said rights shall be deposited with said Unit Operator and, together with this agreement, shall constitute and define said Unit Operator's rights, privileges, and obligations in the premises; provided, that nothing herein shall be construed to transfer title to any land or leases, it being understood that the Unit Operator shall have rights of possession and use only and exclusively for the purposes herein specified. The Unit Operator shall pay all costs and expenses of operations with respect to the unitized land, and shall charge such costs to the account of the operating rights in the tracts comprising said land until a participating area shall have been established, and thereafter such costs shall be charged to the account of the operating rights in the participating area. On or before the 25th day of each calendar month, the Unit Operator shall render to the owners of unitized interests entitled thereto an accounting of the operations on unitized lands during the previous calendar month, the Unit Operator shall render to each party entitled thereto a proportionate and allocated share of the products produced hereunder.

The development and operation of land subject to this agreement under the terms hereof shall be deemed full performance by Unit Operator of all obligations for such development and operation with respect to each and every part or separately owned tract subject to this agreement, regardless of whether there is any development of any particular part or tract of the unit area.

Drilling to Discovery

7. Within 6 months after approval hereof by the Secretary of the Interior, Unit Operator shall begin to drill an adequate test well at a location to be approved by the Federal oil and gas supervisor, and thereafter continuously drill such well to a depth of not less than ____ feet, unless at a lesser depth either a commercially productive deposit of unitized substances shall be discovered, or the Geological Survey shall determine that further drilling in said well would not be warranted. Unit Operator thereafter shall continue drilling one well at a time until a commercially productive well is completed to the satisfaction of said supervisor, or until it is proved that the unitized land is incapable of commercial production of unitized substances. The Secretary of the Interior may modify the drilling requirements of this section when, in his opinion, such action is warranted.

Plan of Development

8. Upon completion of a commercially productive well as aforesaid and when requested by the Federal oil and gas supervisor, Unit Operator shall submit for the approval of said supervisor an acceptable plan of development for the unit area, which plan when so approved shall constitute the further drilling and operating obligations of Unit Operator. Said plan shall be as nearly complete and adequate as the supervisor may determine to be necessary and advisable to conserve properly the oil and gas resources of the unitized area. The plan of development may be modified from time to time upon approval of said supervisor or at the direction of said supervisor to meet changed conditions, and the further obligations of the Unit Operator shall be conformed thereto. All parties hereto and any and all interested parties approving or consenting to this agreement agree that after completion of one commercially productive well no further wells, except such as may be necessary to afford protection against operations not under this agreement, shall be drilled and no existing wells shall be produced except in accordance with a plan of development approved in writing by said supervisor or any modification thereof subsequently required by the supervisor.

Participation After Discovery

9. Upon completion of a commercially productive well as aforesaid, Unit Operator shall submit for approval by the Secretary of the Interior a schedule based on subdivisions of the public-land survey of all unitized land then regarded as reasonably proved to be commercially productive of unitized substances; all land in said schedule on approval by said Secretary to constitute a participating area, effective as of the date of first production. Said schedule shall set forth the percentage acreage interest of each owner of rights in the total participating area thereby established. Such percentage acreage interest shall govern the allocation of production from and after the date the participating area becomes effective. With the approval of the Secretary of the Interior a separate participating area may be established for any separate deposit of unitized substances or for any group of such deposits. The participating area or areas so established shall be revised from time to time, in like manner and subject to like approval, whenever such action appears proper as a result of further drilling operations or otherwise, to include additional land then regarded as reasonably proved to be commercially productive or to exclude land then regarded as reasonably proved not to be commercially productive, and a new schedule of percentage acreage interests conformable thereto shall thereupon be fixed; the effective date of any revision to be the first of the month in which the first authentic knowledge or information is obtained on which such revision is predicated. No land shall be excluded from the participating area on account of depletion of the unitized substances. It is the intent of this section that the participating area shall at all times represent the area known or reasonably estimated to be commercially productive; but, regardless of any increase or decrease of the participating area, nothing herein contained shall be construed as requiring any retroactive apportionment of any sums accrued or paid for production obtained prior to the effective date of revision of the participating area.

Until a participating area or areas has or have been established as herein provided, or in the absence of agreement at any time between the Unit Operator and the Secretary of the Interior as to the proper definition of the participating area, the portion of all payments affected by such absence of agreement, except royalties due the United States, may be impounded in a mutually acceptable bank.

NOTE: The following section should be substituted for the preceding section 9 when the entire unit area is participating.

Participation after discovery

9. Upon completion of a commercially productive well as aforesaid, all unitized land shall constitute a participating area, effective as of the date of first production. The percentage interest of each owner of rights in the total participating area shall govern the allocation of benefits from production under this agreement.

It is the intent of this section that all land within the unit area subject to this agreement shall be included in a single participating area for all unitized substances.

Allocation of Production

10. All unitized substances produced under this agreement, except any part thereof used for production and development purposes thereunder, or unavoidably lost, shall be deemed to be produced equally on an acreage basis from the several tracts of land of the participating area and, for the purpose of determining any benefits that accrue on an acreage basis as a result of operations under this agreement, each such tract shall have allocated to it such percentage of said production as its area bears to the said participating area. It is hereby agreed that production from any part of the participating area shall be allocated as provided herein regardless of whether any wells are drilled on any particular part or tract of said area.

Development or Operation on Non-participating Land

11. Any party hereto other than Unit Operator owning or controlling a majority interest of the operating rights in any unitized tract included in the non-participating area having thereon a regular well location in accordance with the approved well-spacing pattern may drill a well at such location at his own expense, unless Unit Operator elects and commences to drill such well within 90 days of receipt of notice from said party of his intention to drill the well.

If such well is not drilled by Unit Operator and results in production such that the land upon which it is situated may properly be included in a participating area, the party paying the cost of drilling such well shall be reimbursed one hundred and fifty percent (150%) of the average cost of drilling similar producing wells in the unitized area, and the well shall be operated pursuant to the terms of this agreement all as though the well had been drilled by the Unit Operator.

If any well drilled by Unit Operator or by an owner of operating rights as provided in this section obtains production insufficient to justify inclusion in a participating area of the land on which said well is situated, said owner of operating rights at his election, within 30 days of determination of such insufficiency, shall be wholly responsible for and may operate and produce the well at his sole expense and for his sole benefit. If such well was drilled by Unit Operator, said party shall pay the Unit Operator a fair salvage-value price for the casing and other equipment left in the well.

Wells drilled at the sole expense of any party other than Unit Operator or produced at his sole expense and for his sole benefit shall be subject to the drilling and producing requirements of this agreement the same as though drilled or produced by Unit Operator; and royalties in amount or value of production from any such well shall be paid as specified in the lease affected, unless otherwise authorized in writing by the lessor.

NOTE: Omit all of section 11 where entire unitized area is participating.

Rental and Royalty Payments

12. The Unit Operator, on behalf of the respective lessees, shall pay, or at the election of the Secretary of the Interior shall deliver in kind, all royalties and shall pay all rentals due the United States on account of unitized land and shall distribute the cost thereof to the appropriate parties conformably with their respective rental and royalty obligations: *Provided*, That nothing herein contained shall operate to relieve the lessees, or any of them, of their obligation to pay rentals and royalties under the terms of their respective leases.

On request of any party, Unit Operator shall pay other royalties on his behalf in accordance with a schedule furnished by him and charge the cost thereof to his account: *Provided*, That Unit Operator shall incur thereby no responsibility to any royalty owner, but such responsibility shall be and remain an obligation of the parties requesting payment thereof.

Government Royalties and Rentals

13. Royalty due the United States on account of unitized Federal land shall be computed as provided in the operating regulations and paid as to all unitized substances on the basis of the amounts thereof allocated to such land as provided herein at the rates specified in the respective Federal leases: *Provided*, That, for leases on which the royalty rate depends on the daily average production per well, said average production shall be determined in accordance with the operating regulations as though all the unitized land were a single consolidated lease.

(NOTE: Revision of this paragraph may be made to provide for an equivalent flat-royalty rate in an amount to be determined in advance by the Secretary by substituting for all after the first 41 words the following, "at a flat royalty rate of ------ per centum of the amount or value of the production of unitized substances so allocated.")

Rental for land of the United States subject to this agreement at the rates specified in the respective Federal leases shall be paid, suspended, or reduced as determined by the Secretary of the Interior, pursuant to applicable law and regulations. All such rentals shall be adjusted to the effective date of this agreement, and shall be due and payable in advance for the first year on said effective date, and annually thereafter on the anniversary date of this agreement.

Conservation

14. Operations shall be conducted so as to provide for the most economical and efficient recovery of unitized substances to the end that maximum ultimate yield may be obtained without waste. For the purpose of more properly conserving the natural resources of the land subject to this agreement, the production of unitized substances shall at all times be without waste as defined by or pursuant to State or Federal law; shall be limited to such production as can be put to beneficial use with adequate realization of fuel and other values; and, in the discretion of the Secretary of the Interior, shall be limited by the beneficial demand as determined by said Secretary for gas or for oil, whichever would tend to avoid excessive production of either oil or gas.

Drainage

15. Unit Operator shall take appropriate and adequate measures to prevent drainage of unitized substances from unitized land by wells on land not subject to this agreement or, with approval of the Secretary of the Interior, pay a fair and reasonable compensatory royalty as determined by the Federal Oil and Gas Supervisor.

Non-Unitized Land

16. Any land within the unit area not subject to the terms of this agreement which is now or hereafter may be under control of any or all the signatories to this agreement shall be developed and operated in accordance with the terms of this agreement to the extent that such development and operation will not conflict with the contract under which control of said land is held; *Provided*, That said land shall not be developed and operated in any manner that will be more advantageous to the owners of said land than to the owners of land covered by this agreement.

Leases and Contracts Conformed to Agreement

17. The parties hereto or consenting hereto holding interests in leases embracing unitized land of the United States consent that the Secretary of the Interior shall, and said Secretary by his approval of this agreement does, establish, alter, change, or revoke the drilling, producing, and royalty requirements of such leases and the regulations in respect thereto, to conform said requirements to the provisions of this agreement, but otherwise the terms and conditions of said leases shall remain in full force and effect.

The Secretary of the Interior and said parties further determine, agree, and consent that during the effective life of this agreement, drilling and producing operations performed by the Unit Operator upon any unitized land will be accepted and deemed to be operations under and for the benefit of all unitized leases embracing land of the United States; that no such lease shall be deemed to expire by reason of failure to produce wells situated on land therein embraced; that if a discovery of a valuable deposit of unitized substances is made anywhere on the unitized land, each such lease in effect on or after the date of such discovery shall be deemed to continue in force and effect as long as unitized substances are produced anywhere on unitized land in paying quantities; and, that suspension of all operations and production on the unitized land pursuant to direction or consent of said Secretary shall be deemed to constitute such suspension pursuant to such direction or consent with respect to each such lease.

The parties hereto or consenting hereto, holding interests in leases subject to this agreement embracing lands other than those of the United States or holding interests in any other agreements that involve oil and gas rights in lands in the unit area, consent and agree, to the extent of their respective interests, that all such leases and agreements shall conform to the provisions of this agreement and shall be continued in force and effect during the life of this agreement.

Covenants Run With Land

18. The covenants herein run with the land until this agreement terminates, and any grant, transfer or lease of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, lessee, or other successor in interest and as to Federal land shall be subject to approval by the Secretary of the Interior.

Effective Date and Term

19. This agreement shall become effective on the first of the calendar month next following approval by the Secretary of the Interior and shall terminate on ----------, unless (1) such date of expiration is extended by the Secretary of the Interior; or (2) a valuable discovery of unitized substances has been made on unitized land, in which case the agreement shall remain in effect as long as unitized substances can be produced from the unitized land in paying quantities; or (3) it is proved at an earlier date that the unitized land is incapable of commercial production of unitized substances and, with approval of the Secretary of the Interior, notice of termination is given by Unit Operator to all parties in interest at their last known address; or (4) it is terminated as provided in section 5 hereof: *Provided*, That this agreement may be terminated at any time by consent of the owners of 75 per centum, on an acreage basis, of the operating rights signatory hereto with the approval of the Secretary of the Interior.

Rate of Prospecting, Development, and Production

20. All production and the disposal thereof shall be in conformity with allocations, allotments, and quotas made or fixed by any duly authorized person or regulatory body under any Federal or State statute: *Provided*, That the Secretary of the Interior is vested with authority pursuant to the amendatory acts of March 4, 1931, and of August 21, 1935, *supra*, to alter or modify from time to time, in his discretion, the rate of prospecting and development and the quantity and rate of production under this agreement, such authority being hereby limited to alteration or modification in the public interest, the purpose thereof and the public interest to be served thereby to be stated in the order of alteration or modification.

Determinations by operator and review thereof

21. Unit Operator shall determine the date of first authentic knowledge of information on which revision of any participating area shall be predicated; shall determine whether any well, deposit, or unitized land is proved or regarded as reasonably proved to be or to have been commercially productive, it being understood and agreed that commercial productivity shall be the productive capacity estimated to be sufficient to return normal drilling and production costs under wise and skillful management. Unit Operator shall determine all other matters involved in this agreement for which a different method of determination is not herein established: *Provided*, That Unit Operator shall give timely notice of all determinations not herein specifically authorized to all interested parties at their last known address. Notice of all determinations by the Unit Operator under this section shall be furnished to the Secretary of the Interior through the Supervisor and may be reviewed by said Secretary on his own initiative or on written request of any interested party, notice of any such review to be given to all interested parties, including Unit Operator, within 60 days after receipt of notice of Unit Operator's determination; and *Provided further*, That any matters so reviewed, on request of Unit Operator or at the option of the Secretary, may be submitted to a committee of three competent persons appointed by said Secretary, one on nomination of Unit Operator, one on nomination of the other interested parties, and the third on nomination of the first two, the cost of such committee to be a cost of operation and its report (which shall be binding on the committee when concurred in by any two of its members) to be submitted to said Secretary for his consideration and copies thereof by him to Unit Operator and other interested parties; and *Provided, further*, That after consideration of all credible evidence said Secretary shall render a reasonable decision based thereon and in conformity therewith, which decision, so made and rendered, shall be final and binding on all parties hereto or consenting hereto.

Counterparts

22. This agreement may be executed in any number of counterparts with the same force and effect as if all parties had signed the same document.

In witness whereof, the parties hereto have caused this agreement to be executed and have set opposite their respective names the date of execution and a list of the land made subject to this agreement.

GENERAL FORM OF CERTIFICATE OF APPROVAL FOR UNIT AGREEMENT

APPROVAL—CERTIFICATION—DETERMINATION

Pursuant to the statutory authority in the Secretary of the Interior, under the act approved March 4, 1931, 46 Stat. 1523, and the act approved August 21, 193., 49 Stat. 674, amending the act approved February 25, 1920, 41 Stat. 437; 30 U. S. C. 226, 184, and 189, in order to secure the proper protection of the public interest, I, _____, Secretary of the Interior, this _____ day of _____, 19____, hereby take the following action:

A. Approve the attached agreement for the development and operation of the _____ unit area.

B. Determine and certify that the plan of development and operation contemplated in said agreement is for the purpose of more properly conserving the oil or gas resources of said unit area and is necessary or advisable in the public interest.

_____ _____,
Secretary of the Interior.

APPENDIX—FORM OF BOND

UNIT OPERATOR BOND

Know all men by these presents, That we, _____
(name of Unit Operator)
signing as Principal, for and on behalf of the record owners of unitized substances now or hereafter covered by the unit agreement for the _____, approved _____, and _____,
(date) (name and address of Surety)
as Surety, are held and firmly bound unto the United States of America in the sum of _____ dollars,
(amount of bond)
lawful money of the United States, for the use and benefit of and to be paid to the United States and any entryman or patentee of any portion of the land covered by the unitized lands, heretofore entered or patented with the reservation of the oil or gas deposits to the United States, for which payment, well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Signed with our hands and sealed with our seals this _____ day of _____, 194__.

The Condition of the Foregoing Obligation is Such, That,

Whereas, the Secretary of the Interior on _____ approved, under the provi-
(date)
sions of the acts of March 4, 1931 (46 Stat. 1523), and August 21, 1935 (49 Stat. 674), a unit agreement for the development and operation of the _____; and
(name of Field and State)

Whereas, said Principal and record owners of unitized substances, here or hereafter may, pursuant to said unit agreement, enter into certain covenants and agreements set forth therein, under which operations are to be conducted; and

Whereas, said Principal as Unit Operator has assumed the duties and obligations of the respective owners of unitized substances as defined in said unit agreement; and

Whereas, said Principal and the Surety agree to remain bound in the full amount of the bond for failure to comply with the terms of the unit agreement, including payment of rentals and royalties, for the _____, approved by the Secre-
(name of Field)
tary of the Interior, _____
(date)
_____; and

Whereas the Surety hereby waives any right of notice of and agrees that this bond may remain in force and effect notwithstanding:

(a) Any additions to or change in the ownership of the unitized substances herein described;

(b) Any suspension of the drilling or producing requirements or waiver suspension or reduction of rental payments pursuant to applicable laws or regulations thereunder; and

Whereas said Principal and Surety agree to the payment of compensatory royalty under the regulations of the Interior Department in lieu of drilling necessary offset wells in the event of drainage; and

Whereas nothing herein contained shall preclude the United States from requiring an additional bond at any time when deemed necessary:

Now, therefore, if the said Principal shall faithfully comply with all of the provisions of the above-described unit agreement, approved _____, and with the terms
(date)
of the leases committed thereto, then the above obligation is to be of no effect; otherwise to remain in full force and virtue.

Signed, sealed, and delivered in the presence of (names and addresses of witnesses):

_____
(Name of principal)
_____
(Name of surety)
_____
_____
_____
_____

APPENDIX—FORM FOR DESIGNATION OF SUCCESSOR UNIT OPERATOR OR CHANGE IN UNIT OPERATOR BY ASSIGNMENT.

DESIGNATION OF UNIT OPERATOR

THE _____ UNIT AREA _____

This indenture, dated as of the ____ day of _____ 19__, between _____, hereinafter designated as "First Party", and _____, hereinafter designated as "Second Parties":

Witnesseth

Whereas, under the provisions of the act of February 25, 1920, (41 Stat. 437), as amended, the Secretary of the Interior, on the _____ day of _____, 19____, approved a unit plan agreement for the _____ Area, wherein _____ is designated as Unit Operator; and

Whereas, said _____, heretofore designated as Unit Operator under the terms and conditions of said agreement, has resigned as such Unit Operator,[1] and the designation of a new Unit Operator is now required, pursuant to the terms thereof; and

Whereas, the First Party, with the consent of the Second Parties, desires to assume all the rights, duties, and obligations of Unit Operator under the said unit agreement:

Now, therefore, in consideration of the premises hereinbefore set forth and the promises hereinafter stated, the First Party hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and in pursuance of all the terms of the _____ agreement and the Second Parties covenant and agree that effective upon approval of this indenture by the Secretary of the Interior First Party shall be granted the exclusive right and privilege of exercising any and all the rights and privileges of the Second Parties necessary or convenient for prospecting for, producing, and disposing of unitized substances pursuant to the terms and conditions of said unit agreement, said unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____
First Party
_____
_____
Witnesses
_____
Second Party
_____
_____
Witnesses
_____
Second Party
_____
Second Party
_____
Second Party
_____
Second Party

I, _____, Secretary of the Interior, this _____ day of _____ hereby approve the foregoing indenture designating _____ as the Unit Operator under the unit plan agreement for the _____ Area.

_____ _____,
Secretary of the Interior.

CHANGE IN UNIT OPERATOR

THE _____ UNIT AREA _____

This Indenture, dated as of the _____ day of _____, 19__, between _____, hereinafter designated as "First Party", and _____, hereinafter designated as "Second Party":

Witnesseth

Whereas, under the provisions of the act of February 25, 1920 (41 Stat. 437), as amended, the Secretary of the Interior, on the _____ day of _____, 19____, approved a unit plan agreement for the _____ area, wherein the First Party is designated as Unit Operator; and

Whereas, the First Party desires to transfer, assign, release and quitclaim, and the Second Party desires to assume all[1] the rights, duties, and obligations of Unit Operator under the said unit agreement; and

Whereas, for sufficient and valuable consideration, the receipt of which is hereby acknowledged, the First Party has transferred, conveyed, and assigned all[1] his rights under certain operating agreements involving lands within the area set forth in said unit agreement unto the Second Party:

Now, therefore, in consideration of the premises hereinbefore set forth, the First Party does hereby transfer, assign, release and quitclaim unto Second Party all[1] of First Party's rights, duties and obligations as Unit Operator under said unit agreement; and the Second Party hereby accepts this assignment and hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and in pursuance of

[1] Where the designation of a new Unit Operator is required for any reason other than resignation as stated in the second Whereas clause, such reason shall be substituted for the one stated.

[1] For partial assignment: Substitute: "____undivided share in".

all the terms of said unit agreement to the full extent set forth in this assignment, effective upon approval of this indenture by the Secretary of the Interior.[1]

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

First Party

Witnesses

Second Party

Witnesses

I, ---, Secretary of the Interior, hereby approve the foregoing indenture affecting the unit plan agreement for the --- area, and direct that until further notice --- --- will be recognized by the Interior Department as the Unit Operator under said agreement.

Secretary of the Interior.

[F. R. Doc. 43-5535; Filed, April 8, 1943; 10:31 a. m.]

OFFICE OF PRICE ADMINISTRATION

[Order 1 Under MPR 207]

C. H. Musselman Company

AUTHORIZATION OF MAXIMUM PRICES

Order No. 1 Under § 1341.202 (d) of Maximum Price Regulation No. 207—Frozen Fruits, Berries and Vegetables.

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

(a) On and after April 9, 1943, the maximum prices, f. o. b. factory, for sales by The C. H. Musselman Company, Biglerville, Pennsylvania, of frozen apples shall be:

$.0938 per pound of 5 x 1 pack, in 30-lb. cans.

$.0945 per pound of straight pack, in 27-lb. cans.

(b) The C. H. Musselman Company shall apply to its maximum selling price of frozen apples the same discounts, allowances and price differentials which it customarily applies to sales of comparable items, unless a change in these customary discounts, allowances and price differentials results in a lower selling price.

(c) This Order No. 1 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 1 shall become effective as of April 9, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5556; Filed, April 8, 1943; 12:59 p. m.]

[Order 81 Under RPS 64]

Andes Range and Furnace Corporation

APPROVAL OF MAXIMUM PRICES

Order No. 81 under Revised Price Schedule No. 64—Domestic Cooking and Heating Stoves.

On February 20, 1943, the Andes Range and Furnace Corp., Geneva, New York, filed an application pursuant to § 1356.1 (d) of Revised Price Schedule No. 64 for approval of maximum prices for a new model coal heater designated in the application as 20–CE.

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) Andes Range and Furnace Corporation may sell, offer for sale, transfer or deliver its model 20–CE to dealers at a price not to exceed $38.97 f. o. b' factory, subject to discounts, allowances, and terms no less favorable than those in effect with respect to the comparable model 55.

(b) Dealers may sell and deliver to consumers the model 20-CE manufactured by the Andes Range and Furnace Corporation at a price no higher than $59.95. This maximum price does not include any amount for installation or delivery by the dealer to consumer.

(c) Before making delivery of the model 20-CE, the Andes Range and Furnace Corporation shall attach securely to the stove so that it is clearly visible, a durable tag or label containing in easily readable lettering the following statement:

Retail ceiling price for this Model 20–CE Conservator Heater—$59.95.

This tag may not be removed until after delivery to the purchaser.

(d) This Order No. 81 may be revoked or amended by the Price Administrator at any time.

(e) 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. 81 shall become effective on the 9th day of April 1943.

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5557; Filed, April 8, 1943; 12:58 p. m.]

[Order 11 Under Rev. MPR 125]

Derby Castings Company

ORDER ADJUSTING MAXIMUM PRICES

Order No. 11 under Revised Maximum Price Regulation No. 125—Nonferrous Castings; Docket No. 3125-23.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, Executive Order No. 9250 and § 1395.12 of Revised Maximum Price Regulation No. 125, *It is hereby ordered:*

(a) The provisions of §§ 1395.3 and 1395.4 of Revised Maximum Price Regulation No. 125 shall have no application to The Derby Castings Company of Seymour, Connecticut, hereinafter referred to as "the applicant".

(b) The applicant may make final settlement for any nonferrous castings produced by it and sold or delivered between February 19, 1943 and April 8, 1943, at prices not in excess of the maximum prices hereinafter prescribed for sales made on or after April 8, 1943.

(c) The applicant may sell and deliver to any person and any person may buy and receive from the applicant nonferrous castings produced by the applicant at prices not higher than the following:

(1) On the first sale of a nonferrous casting of a given pattern on or after April 8, 1943, the maximum price shall be the price determined by the application of the applicant's pricing formula to the applicant's best estimates of the variable elements in the applicant's pricing formula applied to the casting whose maximum price is being determined: *Provided,* That if the applicant produced a casting of an identical pattern before April 8, 1943, it shall apply its formula to the results obtained during such previous production.

(2) On subsequent sales of a nonferrous casting of the same class as one whose maximum price has previously been determined under subparagraph (1) of this paragraph the maximum price shall be the price at which the first sale was made: *Provided,* That the price at which the first sale was made was not in excess of the maximum price which governed the first sale: *Provided, further,* That if the first sale was made at a price in excess of the maximum price which governed the first sale, the maximum price for subsequent sales shall be the maximum price which governed the first sale.

(d) When used in this order, the term:

(1) "The applicant's pricing formula" means the revised pricing formula of The Derby Castings Company of Seymour, Connecticut, set forth on sheet C entitled "Specimen Cost Sheet Supporting form OPA–677–115f-page 1" and made part of its application for adjustment under Revised Maximum Price Regulation No. 125 which was filed with the Office of Price Administration,

[1] For partial assignment: Insert: "Provided, That hereafter --- shall act as Unit Operator under said unit agreement, and shall exercise and perform all rights and duties as Unit Operator, subject to the terms and conditions of the agreement between said parties, copy of which is attached hereto and made a part hereof."

Washington, D. C., on March 5, 1943, and assigned Docket No. 3125-23.

(2) "First sale" means the first sale of a nonferrous casting of any given pattern made on or after April 8, 1943.

(e) All prayers in the applicant's application for adjustment under Revised Maximum Price Regulation No. 125, Docket No. 3125-23, not granted herein, are hereby denied.

(f) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective April 8, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 7th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5596; Filed, April 8, 1943; 5:03 p. m.]

[Order 82 Under RPS 64]

BARNES HEATER COMPANY

APPROVAL OF MAXIMUM PRICES

Order No. 82 under Revised Price Schedule No. 64[1]—Domestic Cooking and Heating Stoves.

On March 4, 1943, Barnes Heater Company, Elkhart, Indiana, filed an application pursuant to § 1356.1(d) of Revised Price Schedule No. 64 for approval of maximum prices for a model oil trailer heater designated in the application as Model B.

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) Barnes Heater Company may sell, offer to sell, transfer or deliver the Model B, oil trailer heater at a price no higher than the following:

$25.52 to trailer manufacturers, in lots of 1 to 24, f. o. b. factory;

$24.97 to trailer manufacturers, in lots of 25 or more, f. o. b. factory;

$30.70 to trailer dealers and trailer accessory dealers, in lots of 1 to 5, f. o. b. factory;

$27.38 to trailer dealers and trailer accessory dealers, in lots of 6 or more, f. o. b. factory;

subject to allowances and terms no less favorable than those in effect with respect to the comparable Model A.

(b) Trailer manufacturers, trailer dealers or dealers in trailer accessories may sell and deliver the Model B oil trailer heater, manufactured by Barnes Heater Company to consumers at a price no higher than $46.50.

(c) Before delivery of the heating stove specified in this order, the Barnes Heater Company shall attach securely to the stove so that it is clearly visible, a durable tag or label containing in easily readable lettering the following statement with the blanks appropriately filled in.

Retail ceiling price for this Model B heater $_____.

This tag may not be removed until after delivery to the purchaser.

(d) This Order No. 82 may be revoked or amended by the Price Administrator at any time.

(e) Unless the context otherwise requires, the definitions set forth in § 1356.11 of Revised Price Schedule No. 64 shall apply to terms herein.

This Order No. 82 shall become effective on the 9th day of April, 1943.

Issued this 8th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5595; Filed, April 8, 1943; 5:05 p. m.]

[1] 7 F.R. 1329, 1836, 2000, 2132, 4404, 5872, 6221, 8948; 8 F.R. 1974.

[Order 180 Under MPR 120]

DENKERT COAL COMPANY

ORDER GRANTING ADJUSTMENT

Order No. 180 under Maximum Price Regulation No. 120—Bituminous Coal Delivered From Mine or Preparation Plant; Docket No. 3120-344.

For 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 § 1340.207 (d) of Maximum Price Regulation No. 120, *It is ordered:*

(a) Coals in Size Group 10 produced by Denkert Coal Company, Riverton, Illinois, at its Denkert Mine, Mine Index No. 939, in District No. 10, may be sold and purchased for shipment by truck or wagon at prices not to exceed $2.60 per net ton f. o. b. the mine.

(b) Within thirty (30) days from the effective date of this order, the said Denkert Coal Company shall notify all persons purchasing its 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. 180 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. 180 shall become effective April 10, 1943.

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5611; Filed, April 9, 1943; 11:49 a. m.]

[Order 12 Under MPR 204]

METALS RESERVE CO.

APPROVAL OF MAXIMUM PRICES

Order No. 12 under Maximum Price Regulation No. 204—Idle or Frozen Materials Sold under Priorities Regulation No. 13.

An opinion in support of this Order No. 12 has been issued simultaneously herewith and has been filed with the Division of the Federal Register.

Pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, Executive Order No. 9250 and § 1499.506 of Maximum Price Regulation No. 204 and in accordance with Revised Procedural Regulation No. 1, *It is hereby ordered,* That:

(a) *Maximum prices for Manila rope sold or delivered by consumer-holders to the Metals Reserve Company, Murray Cook acting as agent for the Metals Reserve Company or their agents.* (1) The maximum price f. o. b. point of shipment for any Manila rope sold or delivered by any consumer-holder to the Metals Reserve Company, Murray Cook acting as agent for the Metals Reserve Company, or any of their agents pursuant to the program for the acquisition thereof announced by the War Production Board on or about March 22, 1943 (Recovery Program RD-47) shall be the net price paid by the consumer-holder for such rope, plus 10% of the net price paid.

(b) As used in this order the term:

(1) "Consumer-holder" means any owner of the Manila rope who acquired such rope for his own use and not for resale.

(2) "Manila rope" means any undamaged and unused rope and cable in which Manila fibre is used, either alone or in combination with other fibres, and which is of a diameter of 3/16-inch or larger, and in lengths not less than 200 feet, and of grades designated by manufacturers as "better than grade 1," "grade 1," "grade 2," and "grade 3."

(3) "The net price paid" means the invoice price paid by the consumer-holder after deducting all freight and handling charges paid by the consumer-holder, and any discounts, allowances, rebates and other modifications of cost of which the consumer-holder may have been the beneficiary.

(c) This order may be revoked or amended by the Price Administrator at any time.

This order shall be effective as of March 22, 1943.

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-5612; Filed, April 9, 1943; 11:50 a. m.]

[Order 182 Under MPR 120]

SOUTH MINE COMPANY

ORDER GRANTING ADJUSTMENT

Order No. 182 under Maximum Price Regulation No. 120—Bituminous Coal De-

livered from Mine or Preparation Plant; Docket No. 3120–309.

For reasons set forth in an opinion issued simultaneously herewith, 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, and in accordance with § 1340.207 (d) of Maximum Price Regulation No. 120, *It is ordered:*

(a) Coals produced by South Mine Company, Carlinville, Illinois, at its South Mine, Mine Index No. 163, in District No. 10, may be sold and purchased for truck or wagon shipments at prices not to exceed the following respective prices per net ton f. o. b. the mine:

Size Group	1	3	7	11
Maximum Price	$3.00	$2.95	$2.75	$2.45

(b) Within thirty (30) days from the effective date of this order, the said South Mine Company shall notify all persons purchasing coal from the South Mine, Mine Index No. 163 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 prices except in accordance with and subject to the condition stated in Revised Maximum Price Regulation No. 122.

(c) This Order No. 182 may be revoked or amended by the Administrator at any time.

(d) Unless the context otherwise requires, the definition set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein.

(e) This Order No 182 shall become effective April 10, 1943.

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43–5613; Filed April 9, 1943; 11:50 a. m.]

[Order 181 Under MPR 120]

BRYAN EDDY

ORDER GRANTING ADJUSTMENT

Order No. 181 under Maximum Price Regulation No. 120—Bituminous Coal Delivered from Mine or Preparation Plant; Docket No. 3120–348.

For 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 § 1340.207 (d) of Maximum Price Regulation No. 120, as amended, *It is ordered:*

(a) Coals produced in Size Group 11 by Bryan Eddy, Athens, Illinois, at his Fisher Mine, Mine Index No. 940, in District No. 10, may be sold and purchased for shipment by truck or wagon at prices not to exceed $2.50 per net ton f. o. b. the mine.

(b) Within thirty (30) days from the effective date of this order, the said Bryan Eddy shall notify all persons purchasing his coals of the adjustment 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. 181 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. 181 shall become effective April 10, 1943.

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43–5614; Filed, April 9, 1943; 11:50 a. m.]

[Order 249 Under MPR 188]

MAYWOOD GLASS COMPANY

ORDER GRANTING ADJUSTMENT

Order No. 249 under § 1499.161 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 pursuant to § 1499.161 of Maximum Price Regulation No. 188, *It is hereby ordered:*

(a) The petition submitted by the Maywood Glass Company, Los Angeles, California, on September 28, 1942 for upward adjustment of its established maximum prices on sales of 32 ounce hypochlorite bottles, is hereby denied.

This order shall become effective April 9th, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250)

Issued this 9th day of April 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43–5615; Filed, April 9, 1943; 11:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File Nos. 54–67, 59–64]

PEOPLES LIGHT AND POWER COMPANY, ET AL.

ORDER REQUIRING DIVESTITURE, ETC.

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 6th day of April 1943.

In the matter of Peoples Light and Power Company and subsidiary companies, applicants, File No. 54–67. Peoples Light and Power Company, California Public Service Company, Texas Public Service Company, Texas Public Service Farm Company, West Coast Power Company, Western States Utilities Company, respondents, File No. 59–64.

Order requiring divestiture by holding company system of certain nonutility businesses.

The Commission having on March 9, 1943, instituted proceedings under sections 11 (b) (1) and 11 (b) (2) against Peoples Light and Power Company ("Peoples"), a registered holding company, and its subsidiaries; and the said proceedings having been consolidated for the purpose of hearing with an application filed by Peoples with respect to a Plan pursuant to section 11 (e) of the Act; and

Peoples and Texas Public Service Company ("Texas"), one of its subsidiaries, having filed an amendment to the above Plan involving the sale by Texas of its water and irrigation properties in Jefferson, Hardin, Liberty and Chambers Counties, Texas, to the Lower Neches Valley Authority, an agency of the State of Texas, for the sum of approximately $3,055,000 in cash; and

Peoples and Texas having requested that the Commission enter an order requiring the sale of the aforementioned water and irrigation properties and businesses as a transaction necessary to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, and having requested that such order conform to the definition of the term "order of the Securities and Exchange Commission" contained in section 373 (a) of the Internal Revenue Code, as amended, and that such order contain the recitals, specifications and itemizations described in sections 371 (b), 371 (f) and 1808 (f) of said Internal Revenue Code as amended; and

The Commission deeming the above to be a request for an interim determination with respect to the retainability of such properties and businesses under section 11 (b) (1) of the Act, and for the entry of such order as may be required in the light of such determination; and

A public hearing having been held after appropriate notice; and the Commission having considered the record in this matter and having made and filed its Findings and Opinion herein; and the Commission having found that the sale and conveyance of the water and irrigation properties and businesses owned by Texas in Jefferson, Hardin, Liberty and Chambers Counties, Texas, as more fully described in the contract dated March 31, 1943 and filed in this proceeding, to Lower Neches Valley Authority, an agency of the State of Texas, for cash, is necessary or appropriate to the integration or simplification of Peoples' holding company system, and is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935;

It is hereby ordered, That Peoples shall cease to own or operate, directly or indirectly, any property or facilities now owned or operated by it through Texas Public Service Company for the purpose of conducting, directly or indirectly, water and irrigation businesses in the

Counties of Jefferson, Hardin, Liberty and Chambers, Texas; and

It is hereby further ordered, That Texas Public Service Company shall cease to own or operate, directly or indirectly, such water and irrigation properties and businesses; and

It is hereby further ordered, That the sale and conveyance of such properties and businesses to Lower Neches Valley Authority for cash is hereby found to be necessary or appropriate to the integration or simplification of Peoples' holding company system, and necessary or appropriate to effectuate the provisions of Section 11 (b) of the Public Utility Holding Company Act of 1935; and

It is hereby further ordered, That jurisdiction be and hereby is reserved over the disposition of the proceeds of the sale of such properties and businesses; and

It is further provided, With respect to our findings, opinion and order herein, in their entirety, and with respect to the entry, publication, and service thereof, that they shall be without prejudice to the right of the Commission to enter such other and further appropriate orders from time to time as the Commission may deem necessary to secure compliance by the respondents with the provisions of the Act and the pertinent rules and regulations thereunder, the findings and opinion in this proceeding, and the provisions of this order.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 43-5584; Filed, April 8, 1943; 3:41 p. m.]

[File No. 70-632]

THE COMMONWEALTH & SOUTHERN CORPORATION

ORDER DENYING EFFECTIVENESS TO DECLARATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 7th day of April, A. D. 1943.

The Commonwealth & Southern Corporation, having filed a declaration pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935, proposing a reduction of the stated capital applicable to its preferred stock;

A hearing having been held after appropriate notice, the Commission being duly advised and having this day issued its findings and opinion herein;

On the basis of said findings and opinion, and pursuant to sections 6 (a) and 7 of said Act, *It is hereby ordered,* That said declaration be not permitted to become effective.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 43-5581; Filed, April 8, 1943; 3:41 p. m.]

[File No. 70-699]

THE UNITED GAS IMPROVEMENT COMPANY AND CHARLES ULRICK BAY

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, Pennsylvania, on the 7th day of April 1943.

Notice is hereby given that separate applications and declarations (or both) have been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by The United Gas Improvement Company (U. G. I.), a registered holding company, and by Charles Ulrick Bay (Bay), an affiliate of Oklahoma Natural Gas Company, a public utility company. All interested persons are referred to said documents, which are on file with the office of this Commission, for statements of the transactions therein proposed, which are summarized as follows:

U. G. I. owns and proposes to sell, and Bay proposes to buy for $1,815,000 cash, 71,805 shares of Preferred Stock, $100 par value, and 89,046 shares of Common Stock, $100 par value, of Connecticut Railway and Lighting Company, and in connection therewith, U. G. I. proposes to purchase from the public $5,303,000 First and Refunding 4½% 50-Year Bonds, due January 1, 1951, of Connecticut Railway and Lighting Company at $105 and concurrently to sell said bonds at $105 to Connecticut Light and Power Company, which presently leases the utility assets of Connecticut Railway and Lighting Company.

It appearing to the Commission that it is appropriate, in the public interest and in the interests of investors and consumers, that hearings be held with respect to said matters and that said declarations shall not become effective and said applications shall not be granted except pursuant to further order of this Commission; and

It further appearing to the Commission that the applications or declarations respectively filed by U. G. I. and Bay are related and involve common questions of law and fact; that evidence offered in respect of each of said matters will have a bearing on the other matter; and that the hearings on these matters should be consolidated so that they may be heard as one matter and the evidence adduced in each may stand as evidence in the other for all purposes;

It is hereby ordered, That said applications and declarations referred to herein be consolidated and that a hearing under the applicable provisions of the Public Utility Holding Company Act of 1935 and the Rules promulgated thereunder be held on April 20, 1943, at 10 a. m. at the office of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, in such room as may be designated on such date by the hearing-room clerk in Room 318. All persons desiring to be heard or otherwise wishing to participate in the proceedings shall notify the Commission in a manner designated by Rule XVII of the Commission's Rules of Practice, on or before April 17, 1943.

It is further ordered, That Charles S. Lobingier, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing and he is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a Trial Examiner under the Commission's Rules of Practice.

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

(1) Whether the consideration to be paid, including all fees, commissions, and other remunerations, to whomsoever paid in connection with the proposed transactions, are fair and reasonable;

(2) Whether the proposed acquisitions of securities comply with the requirements of the applicable provisions of section 10 of the Act and particularly with the provisions of subsection 10 (c) (2) thereof;

(3) Whether it is necessary or appropriate to impose terms or conditions in the public interest or for the protection of investors;

(4) Whether, in any respect, the proposed transactions are detrimental to the public interest or to the interests of investors or consumers or will tend to circumvent any provisions of the Act or the Rules, Regulations or Orders thereunder.

It is further ordered, That the Secretary of the Commission shall serve notice of the entry of this order by mailing a copy thereof by registered mail to The United Gas Improvement Company, Connecticut Railway and Lighting Company, Connecticut Light and Power Company and Charles Ulrick Bay, and that notice shall be given to all other persons by publication thereof in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 43-5582; Filed, April 8, 1943; 3:41 p. m.]

[File No. 70-690]

CENTRAL OHIO LIGHT & POWER COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 7th day of April, A. D. 1943.

Notice is hereby given that a declaration or application (or both) has been

filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Central Ohio Light & Power Company, a subsidiary company of Crescent Public Service Company, which is a registered holding company under said Act; and

Notice is further given that any interested person may, not later than April 19, 1943, at 5:30 p. m., E. W. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Philadelphia, Pennsylvania.

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

Central Ohio Light & Power Company proposes to declare and pay out of earned surplus a dividend of $1.00 per share to the holders of its Common Stock in April, 1943, such dividend aggregating $20,000. The application was filed by Central Ohio Light & Power Company pursuant to section 12 (c) of said Act and the Commission's Order, dated February 19, 1941 (Holding Company Act Release No. 2570) which provides, in part, that so long as any of the First Mortgage 3½% Bonds, Series D, due March 1, 1966, of Central Ohio Light & Power Company shall be unredeemed and outstanding or until further order of the Commission, no further dividends shall be declared or paid on said Common Stock except upon application to and approval by order of the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 43-5583; Filed, April 8, 1943; 3:41 p. m.]

[File No. 70-696]

INTERNATIONAL UTILITIES CORPORATION

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 6th day of April, A. D. 1943.

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

Notice is further given that any interested person may, not later than April 22, 1943, at 5:30 p. m., e. w. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request, that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Philadelphia, Pennsylvania.

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

International Utilities Corporation, a registered holding company, proposes to pay out of capital or unearned surplus a regular quarterly dividend on its $3.50 Prior Preferred Stock at the rate of 87½¢ per share on the 95,946 shares of such stock presently outstanding. The aggregate amount of this dividend will be $83,952.75.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 43-5581; Filed, April 8, 1943; 3:41 p. m.]

WAR PRODUCTION BOARD.

NOTICE TO BUILDERS AND SUPPLIERS OF ISSUANCE OF REVOCATION ORDERS REVOKING AND STOPPING CONSTRUCTION OF CERTAIN PROJECTS

The Director, Office of War Utilities of the War Production Board has issued certain revocation orders listed in Schedule A below, revoking preference rating orders issued in connection with, and stopping the construction of the projects affected. For the effect of each such order upon preference ratings, construction of the projects and delivery of materials therefor, the builder and suppliers affected shall refer to the specific order issued to the builder.

Issued April 7, 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

SCHEDULE A

Preference rating order	Serial No.	Name and address of builder	Project affected	Date of issuance of revocation order
P-19-a	3560-A	Village of Colp, Colp, Ill	Construction of a Water Supply Main.	4-2-43
P-19-h	30558	Federal Works Agency, North Interior Bldg., Washington, D. C.	Provide a New Water Supply, Redcliff, Colo.	4-2-43
P-19-h	13207	Federal Works Agency, North Interior Bldg., Washington, D. C.	Construct Water Main Hydrants, etc., Tuskegee, Ala.	4-2-43
P-19-h	13085	Federal Works Agency, North Interior Bldg., Washington, D. C.	Construct Well, Reservoir, Treatment Plant, etc., Medina, Tenn.	4-2-43
P-19-h	40428	Federal Works Agency, North Interior Bldg., Washington, D. C.	Construct Water Supply Main, Eastport, Md.	4-2-43
P-19-h	17167	Federal Works Agency, North Interior Bldg., Washington, D. C.	Construct Well, Water Mains, etc., to provide adequate water supply, Valdosta, Ga.	4-2-43
P-19-h	16055	Federal Works Agency, North Interior Bldg., Washington, D. C.	Construct Well, Water Mains, etc., Portsmouth, N. H.	4-2-43
P-19-a	85	Federal Works Agency, North Interior Bldg., Washington, D. C.	Provide New Water Supply, Anchorage, Alaska.	4-2-43

[F. R. Doc. 43-5580; Filed, April 8, 1943; 3:37 p. m.]