

# FEDERAL REGISTER



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## Regulations

[WFO 79-78, Amdt. 4]

### PART 1401—DAIRY PRODUCTS

#### FLUID MILK AND CREAM IN EVANSTVILLE, IND., SALES AREA

Pursuant to War Food Order No. 79 (8 F.R. 12426, 9 F.R. 4321, 4319), dated September 7, 1943, as amended, and to effectuate the purposes thereof, War Food Order No. 79-78 (8 F.R. 14599, 9 F.R. 4321, 4319), as amended, relative to the conservation and distribution of fluid milk, milk byproducts, and cream in the Evansville, Indiana, milk sales area, is hereby further amended by deleting therefrom the provisions in § 1401.117 (e) (3) and inserting, in lieu thereof, the following:

(3) Multiply the aforesaid resulting amount by the following applicable percentage: (i) Milk: 104.5 percent; (ii) cream: 78.5 percent; (iii) butterfat in cream: 78.5 percent; (iv) milk byproducts other than cottage, pot, or baker's cheese: 78.5 percent; and (v) cottage, pot, or baker's cheese, 78.5 percent of skim milk equivalent. (For the purpose of this order, one pound of cottage, pot, or baker's cheese shall be considered as the equivalent of 7 pounds of skim milk.)

The provisions of this amendment shall become effective at 12:01 a. m., e. w. t., August 1, 1944. With respect to violations of said War Food Order No. 79-78, as amended, rights accrued, or liabilities incurred thereunder, prior to the effective time of this amendment, said War Food Order No. 79-78, as amended, shall continue in full force and effect for the purpose of sustaining any suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783; WFO 79, 8 F.R. 12426, 13283, 9 F.R. 4321, 4319)

Issued this 2d day of August 1944.

LEE MARSHALL,  
Director of Distribution.

[F. R. Doc. 44-11596; Filed, August 2, 1944;  
12:29 p. m.]

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#### NOTICE

The Cumulative Supplement to the Code of Federal Regulations, covering the period from June 2, 1938, through June 1, 1943, may be obtained from the Superintendent of Documents, Government Printing Office, at \$3.00 per unit. The following are now available:

- Book 1: Titles 1-3 (Presidential documents) with tables and index.
- Book 2: Titles 4-9, with index.
- Book 3: Titles 10-17, with index.
- Book 4: Titles 18-25, with index.
- Book 5, Part 1: Title 26, Parts 2-178.
- Book 5, Part 2: Title 26, completed; Title 27; with index.
- Book 6: Titles 28-32, with index.

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#### TITLE 10—ARMY: WAR DEPARTMENT

##### Chapter VIII—Procurement and Disposal of Equipment and Supplies

[Procurement Regs. 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15]

##### MISCELLANEOUS AMENDMENTS

The following amendments and additions to the regulations contained in Parts 802, 803, 804, 805, 806, 807, 809, 811, 812, 813, 814 and 815 are hereby prescribed. These regulations are also contained in War Department Procurement Regulations dated 5 September 1942 (9 F.R. 8363) as amended by change 38, 21 July 1944, the particular regulations amended being Nos. 2, 3, 4, 5, 6, 7, 9, 11, 12, 13, 14 and 15.

In section numbers the figures to the right of the decimal point correspond with the respective paragraph numbers in the procurement regulations.

AUTHORITY: Section 5a, National Defense Act, as amended, 41 Stat. 764; 54 Stat. 1225; 10 U.S.C. 1193-1195, and the First War Powers Act 1941, 55 Stat. 838; 50 U.S.C. Sup. 601-622.

[SEAL] ROBERT H. DUNLOP,  
Brigadier General,  
Acting The Adjutant General.

[Procurement Reg. 2]

#### PART 802—GENERAL PURCHASE POLICIES

##### SUBPART B—CONTRACT PLACEMENT

1. Section 802.221 (d) is amended to read as follows:

§ 802.221 Purchase of used or second-hand materials. \* \* \*

(d) Purchases through Procurement Division, Treasury Department. In connection with the use of used or second hand materials, it is of the utmost importance that all procurement offices and agencies avail themselves of the facilities of the Procurement Division, Treasury Department as more fully set forth in §§ 806.613-806.613 (j). That division makes available to the War Department property which is surplus to the need of other Government agencies. Chiefs of technical services should see that all procurement offices and agencies under their direction obtain the catalog of available property referred to in § 806.613 (f) and that they keep in touch with the Regional Property Officers of the Procurement Division referred to in § 806.613 (e). In this way much used and second hand material can be obtained.

2. Section 802.222 (a) is amended to read as follows:

§ 802.222 Time for placing contracts and scheduling deliveries—(a) General policies. (1) At an earlier stage in the war program, procuring agencies were encouraged to place contracts at the earliest possible time and to require contractors to commence production or to place subcontracts immediately. That policy was desirable as long as Army procurement was directed primarily to the task of providing the initial equipment for the rapidly expanding requirements of the Army and of the United Nations. However, that phase of procurement is now approaching completion. Except for comparatively few items, procurement for the future is designed to meet estimated replacements and operational requirements. The paramount and governing policy is still to place contracts sufficiently in advance of the actual need for the supplies to assure that deliveries will be made on time and in the proper quantities. Subject to this guiding principle, conditions now make it advisable that in the placement of contracts consideration also be given (i) to restricting contract commitments to the practicable minimum both as to time and quantity, and (ii) to the use of contract forms which will provide for the maximum flexibility in production rates while at the same time assuring the availability of the production facilities needed to produce all known requirements. This change of emphasis is essential if useless surpluses and costly cancellation and termination charges are to be avoided.

(2) The scheduling of deliveries to correspond more closely with actual requirements is likewise essential in the present stage of the war program. Close scheduling tends to prevent the building up of surpluses and to diminish termination claims. It is also vital to the most efficient use of available industrial capacity. If manufacturers are

required to produce and deliver items long before they will actually be needed, they may be forced to increase the number of their employees abnormally or be unable to produce other items which will be needed sooner, and scarce materials may be tied up in inventory not currently needed. Thus the failure to schedule deliveries properly tends to disrupt the Army supply program and prevents industrial capacity from being used in the production of items as they are needed. Accordingly future contracts will be scheduled so that supplies will be delivered to synchronize with actual requirements, unless in a particular case efficient production requires otherwise. Existing contracts will also be reviewed with a view to rescheduling deliveries on the same basis.

**SUBPART C—CONTRACT PRICE POLICIES**

1. In § 802.232 (e) subparagraph (8) is added, as set forth below:

**§ 802.232 Cost-plus-a-fixed-fee contracts.**

(e) *Existing contracts.* \* \* \*

(8) The foregoing policies and considerations concerning conversion of cost-plus-a-fixed-fee contracts to a fixed-price basis are applicable to the conversion of cost-plus-a-fixed-fee subcontracts under cost-plus-a-fixed-fee prime contracts.

2. Section 802.239 is added as set forth below:

**§ 802.239 Subsidy prohibited.** None of the funds appropriated in the Military Appropriation Act, 1945 (Pub. Law 374, 78th Congress) shall be used for the payment of any subsidy on agricultural or other products. (See Section 1 of Pub. Law 374, 78th Congress, under subtitle "Subsistence of the Army".)

**SUBPART D—NEGOTIATION OF CONTRACTS**

Paragraphs (a) and (b) of § 802.246 are amended to read as follows:

**§ 802.246 Compulsory purchases.**

(a) *Mandatory orders.* Under Section 9 of the Selective Training and Service Act of 1940 as amended, mandatory orders may be placed with producers requiring them to supply items of the nature and kind usually produced or readily capable of being produced by them. Payment for such items will be at prices determined by the Secretary of War to be reasonable. While the general use of such orders is not favored they will be resorted to when necessary under the circumstances described and outlined in § 814.1450 et seq. Thus, where a qualified producer whose products are required in the war effort refuses to produce and deliver upon terms which in the opinion of the contracting officer are fair and reasonable, the issuance of a mandatory order will normally follow. Specific reference should be made to § 814.1450 et seq. for detailed procedures covering this method of procurement.

(b) *Requisitioning.* When articles needed in the war effort are already in existence but for one reason or another cannot be purchased after reasonable

negotiation, the procedure under the requisitioning acts, as outlined in § 814.1401 et seq., should be resorted to in order to obtain the required items.

[Procurement Reg. 8]

**PART 803—CONTRACTS**

**SUBPART B—AUTHORITY TO MAKE AWARDS, CONTRACTS, AND MODIFICATIONS THEREOF; REQUIRED APPROVALS**

1. Paragraph (e) (5) of § 803.306 is added, as set forth below:

*§ 803.306 Making and approval of contracts, supplemental agreements and change orders. \* \* \**

(e) *Supplemental agreements converting cost-plus-a-fixed-fee contracts to a fixed price basis. \* \* \**

(5) Any supplemental agreement, converting a cost-plus-a-fixed-fee subcontract to a fixed-price basis, if required to be approved by the contracting officer, shall, prior to such approval, be forwarded for approval of the Director, Purchases Division, Headquarters, Army Service Forces, accompanied by the information required by subparagraph (1) above.

2. Section 803.308h is added, as set forth below:

**§ 803.308h Defective, informal and quasi contracts—(a) Statutory provisions.** Section 17 of the Contract Settlement Act of 1944 reads as follows:

Sec. 17. (a) Where any person has arranged to furnish or furnished to a contracting agency or to a war contractor any materials, services, or facilities related to the prosecution of the war, without a formal contract, relying in good faith upon the apparent authority of an officer or agent of a contracting agency, written or oral instructions, or any other request to proceed from a contracting agency, the contracting agency shall pay such person fair compensation therefor.

(b) Whenever any formal or technical defect or omission in any prime contract, or in any grant of authority to an officer or agent of a contracting agency who ordered any materials, services, and facilities might invalidate the contract or commitment, the contracting agency (1) shall not take advantage of such defect or omission; (2) shall amend, confirm, or ratify such contract or commitment without consideration in order to cure such defect or omission; and (3) shall make a fair settlement of any obligation thereby created or incurred by such agency, whether expressed or implied, in fact or in law, or in the nature of an implied or quasi contract.

(c) Where a contracting agency fails to settle by agreement any claim asserted under this section, the dispute shall be subject to the provisions of section 13 of this Act.

(d) The Director shall require each contracting agency to formalize all such obligations and commitments within such period as the Director deems appropriate.

(b) *Investigation of claims under statute.* The chiefs of the several technical services will arrange for the prompt investigation of all claims which may come within the purview of section 17 of the Contract Settlement Act of 1944. Any claimant under section 17 shall reduce his claim to writing and may be required to make any such claim under oath, verified by the claimant or by a

principal officer of the claimant. Each such claim should be accompanied by affidavits of the representatives of the claimant having knowledge of relevant circumstances. If the chief of the technical service concerned is of the opinion that any such claim is without merit, such claim will be denied by the chief of the technical service by written notice to the claimant which will be sent by registered mail, return receipt requested. A copy of each such notice together with a copy of the claim and supporting papers and a brief statement of the circumstances of the investigation made by the technical service will be transmitted to the Judge Advocate General (attention Litigation Division). Such brief statement should include the names and permanent addresses of any witnesses relied upon by the technical service in denying such claim.

(c) *Formalization of claims under existing procedures.* Insofar as specifically authorized by other provisions of these Procurement Regulations in effect prior to the effective date of the Contract Settlement Act of 1944, the chiefs of the technical services will continue to approve and formalize instructions given or requests made in the behalf of the technical service to furnish or arrange to furnish materials, services, or facilities. Approval or formalization of instructions or requests not authorized by these Procurement Regulations prior to the effective date of the Contract Settlement Act of 1944 pursuant to section 17 of that act will be dealt with in accordance with this section.

(d) *Action under section 17 by the technical service.* (1) The chief of any technical service may take or approve any action authorized by subsections (a) and (b) of section 17 of the Contract Settlement Act of 1944, if there was in existence at the time of the furnishing or arranging to furnish any materials, services and facilities in question, a valid, formal contract between the Government (acting through the technical service in question) and the person claiming the benefit of section 17, and also,

(i) Such person acted upon instructions from an officer or employee of such technical service;

(ii) Such instructions were of a type which, when given could properly be embodied in a change order or supplemental agreement under such existing contract;

(iii) Such person actually furnished or arranged to furnish materials, services or facilities which the Government in fact desired such person to furnish or to arrange to furnish in connection with such contract at the time such instructions were given; and

(iv) Such person (a) has not been paid for such materials, services or facilities or for arranging to furnish the same, (b) has no pending contractual arrangement for such payment by the Government, and (c) is willing to accept in complete discharge of all liability of the Government for furnishing or arranging to furnish such materials, services or facilities an amount which the chief of the technical service considers to be not in excess of fair compensation for what

such person has in fact done or furnished and which is not in excess of \$50,000.

(2) Any action taken by the chief of the technical service pursuant to this paragraph will be embodied in a supplemental agreement to such existing contract. In each case involving the payment to the contractor of more than \$50,000 by reason of such supplemental agreement, the agreement shall be subject to the prior written approval of the chief of the technical service in person or of any one or more employees or officers designated by him within the headquarters office of the technical service or in the case of the Air Forces, within the headquarters offices of the Air Forces or of one of its major component commands.

(3) The chief of the technical service will make a written report to the Director, Purchases Division, Headquarters, Army Service Forces, of each action taken pursuant to the authority granted by this paragraph. Such report will contain the following:

(i) A copy of the supplemental agreement constituting the action;

(ii) A brief statement of facts and evidence upon which such action is based and the reasons for such action;

(iii) A statement of the reasons why such instructions were not, at the time they were given, promptly embodied in a supplemental agreement or change order.

(4) The chief of the technical service concerned will require full records to be preserved containing the facts relevant to any action taken pursuant to this paragraph. Such records will include, so far as practicable, sworn statements by the representatives of the Government and of the contractor or claimant having knowledge of the relevant circumstances.

(5) The chief of each technical service will take adequate steps to make certain that the grant of authority contained in this paragraph does not lead to any relaxation of the efforts of the procurement offices within such technical service to formalize promptly all instructions and agreements with contractors as required by applicable regulations.

(e) *Action by Director, Purchases Division.* In any case not covered by paragraph (d), either because (1) no valid, formal contract existed between the Government and the contractor or (2) for any other reason, the chief of each technical service will not grant any claim or request for relief or action under section 17 of the Contract Settlement Act of 1944 without obtaining the prior written approval of the Director, Purchases Division, Headquarters, Army Service Forces. Each recommendation for such relief or action will be accompanied by an adequate statement of the circumstances which, in the opinion of the chief of the technical service, justify such relief or action and in addition the following:

(i) A copy of the proposed supplemental agreement granting such relief or taking such action;

(ii) A statement of the reasons why the proposed action was not, at the time of the circumstances upon which such

action is based, promptly embodied in an appropriate supplemental agreement or change order;

(iii) A statement showing whether or not any claim relating to the matter is pending before or has been passed upon by the General Accounting Office;

(iv) A statement of the scope and nature of the investigation of the circumstances made by the technical service;

(v) A brief description of the contract or contracts, if any, to which such proposed relief or action is related;

(vi) The name, address and telephone number of the person in the War Department with detailed knowledge of the facts of the case.

(f) *Action by War Department Board of Contract Appeals.* The War Department Board of Contract Appeals in connection with any appeal pending before it under the "Disputes" article of a contract (see e. g. § 803.326) may authorize or direct the taking of any action pursuant to section 17 of the Contract Settlement Act of 1944 which in its opinion is required or authorized by that section.

#### SUBPART E—CONTRACT PROCEDURE WITHIN THE SERVICE COMMANDS

1. In § 803.318b, paragraphs (b), (d) and (e) (5) are amended as follows:

§ 803.318b *Contract procedure.* \* \* \*

(b) *Service command contracts.* As indicated in § 803.318a (b), as a result of the service command reorganization much of the contracting done at posts, camps and stations located within service commands is done under the complete jurisdiction of the commanding generals of the service commands. Except as provided in § 803.318c (b) and except as staff officers of the Commanding General, Army Service Forces, the chiefs of technical services have no function to perform in connection with this contracting. Some of the contracting done at posts, camps and stations is still, however, under the jurisdiction of the chiefs of the technical services. In order clearly to differentiate contracts which are executed under the jurisdiction of the commanding generals of the service commands from those executed under the jurisdiction of the chiefs of the technical services, it is important that contracts of the former type be numbered and distributed in a manner different from technical service contracts. Accordingly, in the succeeding paragraphs a separate system of numbering and distribution is provided for contracts of the former type which, for convenience will be referred to as service command contracts.

(d) *Distribution of service command contracts.* The provisions of Subpart D of this part are applicable to service command contracts. In connection with service command contracts the term "chief of the technical service" is to be read as "commanding general of the service command." Except as required by § 803.318c (b), service command contracts (as that term is defined in paragraph (c)) should not be forwarded to the headquarters of the various technical services for legal review. If the chief of

a technical service requests that copies of a particular type of service command contract be forwarded to his office in order to complete his technical records, such copies may be forwarded pursuant to subparagraph (5) of § 803.316 (a).

(e) *Numbering of service command contracts.* \* \* \*

(5) *Contract of sale.* Reference is made to § 807.113. As indicated therein when a contract of sale, as distinguished from a contract of purchase, is executed, the letter "s" will be added after the parenthesis of the symbol specified in subparagraph (1) (iii) of this paragraph. The letter "s" will be so added not only in the case of contracts for the sale of property but also in the case of contracts for the sale of services.

2. Section 803.318c is added, as set forth below:

§ 803.318c *Service command utility contracts.* (a) For the purpose hereof, utility contracts are defined as those for the procurement of electricity, gas, water, sewage disposal and steam.

(b) All utility contracts and changes or supplemental agreements thereto entered into by service commands which require approval of higher authority pursuant to § 803.306 (a)–(d) because of material deviation from an approved form, failure to comply with the requirements of subpart H of this part, or because a matter or matters of policy beyond the jurisdiction of the chiefs of technical services are involved, will be referred by the commanding general of the service command direct to the Office of the Chief of Engineers, Attention: Repairs and Utilities Branch, New War Department Building, Washington 25, D. C. Such contracts will be reviewed by the Office of the Chief of Engineers for engineering and rate features, matters of policy and legal sufficiency and approved or returned for revision. Prior to reference to the Chief of Engineers such contracts will be referred to the Repairs and Utilities Divisions of the service command for review of engineering and rate features. The action taken and comments made by Repairs and Utilities Divisions will be made a part of the file forwarded to the Chief of Engineers for review.

Any such utility contract or modification thereof requiring approval pursuant to § 803.306 (a)–(d) will contain a provision that it is subject to the approval of the Chief of Engineers and will not be binding until so approved. Prior to such approval any required approval by the Purchases Division, Headquarters, Army Service Forces, will be obtained by the Chief of Engineers. Provisions of this paragraph shall not be construed to interfere with or supersede the provisions of § 803.394–803.394 (e), inclusive, and in accordance with § 803.394 (e) any utility contract which is of the character described in § 803.394 (b) will also contain a provision that it is subject to approval by the War Department Power Procurement Officer or the Deputy War Department Power Procurement Officer and will not be binding until so approved.

(c) *Service command utility contract procedure.* The procedure set forth in

paragraph (b) does not affect the execution, numbering and distribution of service command utility contracts as provided for in § 803.318b-803.318b (f).

#### SUBPART F—CONTRACT APPEALS

In § 803.318d, paragraph (g) is amended to read as follows:

#### § 803.318d War Department Board. \*

(g) *Powers of Board.* The Board has all powers necessary and incident to the proper performance of its duties and has the power with the approval of the Under Secretary of War to adopt its own methods of procedure and rules and regulations for its conduct and for the preparation and presentation of appeals. These rules and regulations are set forth in §§ 803.318e (a)-(e).

Memorandum of the Secretary of War, dated 4 July 1944, provided that in the consideration and disposition of appeals to the Secretary of War, the Board and the President of the Board, as representatives of the Secretary of War for the disposition of appeals, shall

(1) Exercise such delegable authority and discretion as the Secretary of War himself might exercise either through contractual power or otherwise in the consideration and disposition of appeals, to ratify or approve the acts of subordinates and to waive any contract requirement which the Secretary of War himself legally might waive, whenever in the discretion of the Board or the President of the Board, as the case may be, such action is deemed necessary or desirable to arrive at a just and equitable adjustment or disposition of the dispute involved in the appeal.

(2) Consider and administratively pass on appeals not specifically or impliedly authorized by the contract where the ruling appealed from is not thereby made final and conclusive, and the appeal is taken within the time fixed in the contract for appeals.

(3) Find and administratively determine the facts out of which a claim by a contractor arises for damages against the Government for breach of contract, without expressing opinion on the question of the Government's liability for damages.

#### SUBPART H—MANDATORY AND OPTIONAL CONTRACT PROVISIONS

1. In § 803.323, subparagraph (2) is amended to read as follows:

#### § 803.323 Covenant against contingent fees. \*

(2) As to contracts of sale, see General Provision 8 of W. D. Contract Form No. 26 (§ 813.1326).

2. In § 803.324 subparagraphs (1) to (6) are amended to read as follows:

§ 803.324 Uniform termination article. (1) There is set forth below the uniform termination article prescribed by the Office of War Mobilization for use in fixed price (lump sum) supply contracts (§§ 815.1001 and 815.1002). This article will be referred to hereafter in this section as the uniform article.

(2) The uniform article may be inserted in any lump sum supply contract.

(3) Every lump sum supply contract

for the manufacture of supplies and equipment executed on and after 20 February 1944, except:

(i) Contracts to be completed in six months or less for an amount of less than \$500,000.

(ii) Contracts for an amount of less than \$50,000, regardless of the date of completion and

(iii) Requirement or open end contracts, will contain the uniform article without deviation.

(4) As provided in § 815.107 (a), the chief of any technical service, without approval of higher authority, may amend any existing lump sum supply contract to insert therein the uniform article. Such amendments will take place whenever possible prior to giving formal notice of termination. Inasmuch as it is in the interest of both the contractors and the Government that termination be effected under a uniform article, a vigorous policy will be pursued of promptly inserting by amendment the uniform article in existing contracts (other than those within the exceptions of subdivisions (i), (ii), and (iii) of subparagraph (3) above) not now containing it. This policy will be applied with special emphasis in the case of contracts for large amounts and contracts calling for deliveries over long periods of time.

(5) Prior to the adoption of the uniform article by the Office of War Mobilization there was in use by the War Department a standard termination article (see § 815.901a) for lump sum supply contracts which was contained in this paragraph. Certain of the instructions contained in Part 815 are based upon the former article. To the extent that such instructions are inconsistent with the uniform article they are to be deemed inapplicable to contracts containing it.

(6) Simultaneously with the issuance of the uniform article, the Office of War Mobilization published a "Statement of Principles for Determination of Costs Upon Termination of Government Fixed Price Supply Contracts". It will be noted that this statement is incorporated by reference by subparagraph (h) of the uniform article. The statement is set forth in full in §§ 815.480. For convenience the uniform article has been printed in § 815.901, as well as below in this section.

\* \* \* \* \*

3. Section 803.369 is added, as set forth below:

§ 803.369 Release upon final payment under cost-plus-a-fixed-fee contracts. To facilitate the prosecution of the war and the final settlement of war procurement contracts, authority is granted to the chiefs of technical services and their representatives, pursuant to the First War Powers Act, 1941, Executive Order No. 9001 and the Contract Settlement Act of 1944, to amend existing cost-plus-a-fixed-fee contracts, whether or not terminated or completed, but in no event after final payment thereunder has been made, to include substantially the following article, and concurrently to delete any existing provisions of such contracts which are inconsistent with the following article:

Article \_\_\_\_ Release provisions. 1. Prior to final payment and as a condition thereof the Contractor shall furnish the Government with a release of all claims against the Government arising under and by virtue of this contract, other than (a) such claims, if any, as may be specifically excepted by the Contractor from the operation of the release in stated amounts to be set forth therein, or in estimated amounts where the amounts are not susceptible of exact statement, and (b) any claim based upon responsibility of the Contractor to third parties arising out of the performance of this contract not known to the Contractor at the time of furnishing the release.

2. Even though the existence or amount thereof shall not be determined until after the furnishing of such release as is described next above, reimbursement to be made for payments made by the Contractor shall include, along with wages and salaries otherwise reimbursable, all additional amounts determined (either by approval of the Contracting Officer or by litigation as herein-after provided) to be due and payable for overtime compensation and allowances under local, state or Federal laws in connection with such wages and salaries.

3. The Contractor shall promptly notify the Contracting Officer of any claims of the type described in paragraph 1 (b) above which are asserted subsequent to the execution of the release.

4. In the event the Contracting Officer shall determine that the best interests of the Government require that the Contractor initiate or defend litigation in connection with claims of third parties arising out of the performance of this contract, the Contractor will proceed with such litigation in good faith and the costs and expenses of such litigation, including judgments and court costs, allowances rendered or awarded in connection with suits for wages, overtime or salaries, and reasonable attorneys' fees for private counsel when the Government does not furnish Government counsel, shall be reimbursable under this contract. The term "litigation" shall include suits at law or in equity and proceedings before any Government agency having jurisdiction over the claim.

#### SUBPART I—MISCELLANEOUS

1. In § 803.394 that portion of paragraph (b) preceding subparagraph (1), and paragraph (e) are amended as follows:

#### § 803.394 Contracts for electric power. \*

(b) *War Department Power Procurement Officer.* Pursuant to the directives from the President, set forth in paragraph (a), the Secretary of War has designated Col. S. M. Weaver as War Department Power Procurement Officer and Lt. Col. C. McCabe as Deputy War Department Power Procurement Officer, with the following responsibilities for contracts of 1000 kilowatts or over for electric service to all installations where the War Department has an interest in the cost of electric service:

\* \* \* \* \*

(e) *Required provision in contracts and supplements.* All contracts and supplements of the character referred to in paragraph (b) will contain a statement that the contract or supplement is subject to the approval of the War Department Power Procurement Officer or the Deputy War Department Power Procurement Officer and will not be binding until so approved. Such contracts and supplements will then be forwarded through the Repairs and Utilities

Division of the Service Command Engineer Office to the War Department Power Procurement Officer, Office of the Chief of Engineers, for such approval.

2. Section 803.395 (a) is amended to include provisions of the Military Appropriation Act, 1945.

*§ 803.395 Contracts within section 9, Military Appropriation Act, 1944 and 1945.* (a) \* \* \*

Section 9, Military Appropriation Act, 1945 (Pub. Law 374, 78th Congress) provides:

Whenever, during the fiscal year ending June 30, 1945, the Secretary of War should deem it to be advantageous to the national defense, and if in his opinion the existing facilities of the War Department are inadequate, he is hereby authorized to employ, by contract or otherwise, without reference to section 3709, Revised Statutes, civil service or classification laws, or section 5 of the Act of April 6, 1914, (38 Stat. 335), and at such rates of compensation (not to exceed \$25 per day and travel expenses, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty station and return as may be authorized in travel orders or letters of appointment for individuals) as he may determine, the services of architects, engineers, or firms or corporations thereof, and other technical and professional personnel as may be necessary.

[Procurement Reg. 4]

**PART 804—BONDS AND INSURANCE**

**SUBPART D—INSURANCE**

*Insurance in Connection With Lump Sum Contracts*

1. That portion of § 804.451 preceding paragraph (a) is amended to read as follows:

*§ 804.451 Insurance on Government-owned property.* (1) The same general policy exists with respect to Government-owned property in the possession, care, custody or control of lump sum or unit price contractors as exists with respect to such property in the possession, care, custody or control of cost-plus-a-fixed-fee contractors (see § 804.434.) To implement this policy—under which the Government is in effect a self-insurer on its own property—there shall be inserted in lump sum or unit price contracts for the performance of which Government-owned property is furnished to contractors, the article set forth in § 803.365 (a-1), or, in case where Government-owned production machinery or other facilities are so furnished, the liability provisions of § 803.332.

(2) The contract articles referred to are intended to put the contractor in the same position he would occupy if he obtained commercial insurance policies providing broad coverage against the "expected perils" set forth in the contract article. In view of the protection thus afforded to the contractor by the Government in lieu of commercial insurance, the contractor has no liability for loss or destruction of or damage to Government-owned property caused by any "excepted peril" against which he may obtain commercial insurance, and the contractor is in fact required by

the contract article to make the express representation (among others) that he is not maintaining and will not maintain insurance (including self-insurance funds or reserves) covering such liability.

(3) The policy described above rests to a large degree upon the savings to the Government obtained by the elimination of charges for commercial insurance, which savings are, of course, intended to be reflected in the contract price. When, by reason of special circumstances, it is not practicable to obtain such savings (for example, when Government interests are so far commingled with other interests as to be practically incapable of segregation) or the savings are trivial in amount, the chief of the technical service concerned may, in his discretion, determine that the general policy will not be applied. Typical cases where this determination has been made in the past are: service contracts such as laundry contracts; shoe, tent or tire repair contracts; machinery maintenance or repair contracts; fixed rate storage contracts. In such cases neither the contract article set forth in § 803.365 (a-1) nor the liability provision of § 803.332 will be used. In lieu thereof the following will be used:

(i) Instead of the article set forth in § 803.365 (a-1), a clause may be used stating in substance that except for reasonable wear and tear or depreciation or the utilization of the Government-owned property in connection with the contract, the contractor shall be liable for any loss or destruction of or damage to such property.

(ii) Instead of the liability provision appearing in § 803.332, a clause may be used stating in substance that except for reasonable wear and tear or depreciation, the Government-owned facilities shall be returned to the Government or delivered to the Government's designee, at the time elsewhere in the article provided, in as good condition as when received.

[Procurement Reg. 5]

**PART 805—FOREIGN PURCHASES**

1. In § 805.502, paragraph (a) (1) is amended to read as follows:

*§ 805.502 Buy American Act. \* \* \**

(a) *Restriction created by Appropriation Act.* (1) The Military Appropriation Act, 1945, approved 28 June 1944 (Public Law 374—78th Congress) contains a proviso that no part of any appropriation contained in that Act "shall be available for the procurement of any article of food or clothing not grown or produced in the United States or its possessions, except to the extent that the Secretary of War shall determine that articles of food or clothing grown or produced in the United States or its possessions cannot be procured of satisfactory quality and in sufficient quantities and at reasonable prices as and when needed, and except procurements by vessels in foreign waters and by establishments located outside the continental United States, except the Territories of Hawaii and Alaska, for the personnel attached thereto."

2. In § 805.503, paragraphs (c) and (d) are amended to read as follows:

*§ 805.503 Applicable only to food and clothing. \* \* \**

(c) *Items of food and clothing exempt without regard to country of origin.* The following items of food and clothing have been exempted without regard to country of origin.

Bananas.	Fish oils.
Brazil Nuts.	Flour.
Canned corned beef.	Green olives.
Canned roast beef.	Molasses.
Chewing gum.	Orange and lemon peel.
Chocolate.	Spices.
Cigars.	Sugar.
Citron.	Tapioca.
Cocoa.	Tea.
Coffee.	Vanilla.
Dried beans.	Wheat.

(d) *Items of food exempt when purchased from specified countries.* The following items of food have been exempted when purchased from the countries specified.

Canned fish—Mexico.
Fish fillet—Bahama Islands.
Fresh fish—Mexico and Iceland.
Frozen fish—Iceland.
Fresh fruits—Cuba, Mexico and Puerto Rico.
Fresh vegetables—Cuba, Mexico and Puerto Rico.
Guava puree—Cuba.
Guava concentrate—Cuba.

[Procurement Reg. 6]

**PART 806—INTERBRANCH AND INTERDEPARTMENTAL PURCHASES**

**SUBPART C—INTERDEPARTMENTAL PURCHASES**

In § 806.608, paragraph (c) is amended to read as follows:

*§ 806.608 Purchases from Federal Prison Industries, Inc., Department of Justice. \* \* \**

(c) *General clearance.* The following general clearance, dated 18 May 1944, which covers purchases for the period 1 July to 31 December 1944, indicates not only the items as to which such clearance has been granted but also those items which are available, and, which, accordingly, must be purchased from Federal Prison Industries, Inc.:

The Under Secretary of War  
Washington, D. C.

Dear Sir:

Subject to applicable conservation and limitation orders, the following articles and services are available and can be furnished by Federal Prison Industries, Inc., from industries established under the Act of Congress approved May 27, 1930 (46 Stat. 391):

Brushes: Tooth brushes for delivery after

October 1, 1944.<sup>1</sup>

Canvas goods: Shell covers, tarpaulins, truck covers, truck curtains, barracks bags, shower curtains, bags, bandoleers.

Cargo nets.

Castings: Bomb noses; also manhole frames and covers, grates and grate bars, and gutter

<sup>1</sup> This item is in the form appearing after amendment by letter, dated 7 July 1944, from Federal Prison Industries, Inc.

drains for delivery in Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, New York, New Jersey, Maryland, West Virginia, Virginia, Kentucky, and the District of Columbia.

Fibre furniture.

Laundry services required by posts and stations within 25 miles of the Federal Correctional Institution, Tallahassee, Fla.; and by posts and stations within 100 miles of the United States Penitentiary, Alcatraz, Calif., the Federal Detention Headquarters, New York City, and the Federal Reformatory for Women, Alderson, W. Va.

Mattresses: Cotton felt.

Milk: 1,000 lbs. per day for delivery to Ft. Bliss, Texas, only.

Sheet metal products: Storage shelving, transfer cases, food trays, tool boxes, tool cabinets, tool racks, fan assemblies, end stops for bomb storage.

Other metal products: Bomb dunnage racks; welded metal specialties.

Printing: See Section 610.9, Army Procurement Regulation No. 6.

Wood furniture and specialties: Douglas, 4C, wide arm and side chairs; all stools except rotary type; desk trays; costumers; pallets.<sup>2</sup>

Boats, wooden, not in excess of 100' long, to be procured in the Ninth Service Command.

Clearance

C-24706

1. Clearance is granted to purchase from other sources articles manufactured or services rendered by Federal Prison Industries, Inc., not listed above.

2. Clearance is granted to purchase from other sources articles manufactured or services rendered by Federal Prison Industries, Inc., including the items listed above, in the following cases:

(a) By contractors or contracting officers under cost-plus-a-fixed-fee construction or supply contracts;

(b) By contracting officers under fixed-price (lump sum) construction or supply contracts, wherein the Government is required to furnish certain Government materials;

(c) When immediate delivery or performance is required by the public exigency;

(d) When suitable second hand or used articles can be procured;

(e) When required in small quantities and for delivery within ten days.

3. This clearance is to cover purchases made by the War Department only, and is effective for the period July 1 to December 31, 1944, inclusive.

4. Copy of this clearance should be attached to your contract or voucher when transmitted to the General Accounting Office, or reference made thereon to this clearance number.

Very truly yours,

FEDERAL PRISON INDUSTRIES,  
INC.

By (Signed) A. H. CONNER,  
Associate Commissioner.

[Procurement Reg. 7]

## PART 807—DISPOSITION OF PROPERTY

### SUBPART B—DISPOSITION OF TERMINATION INVENTORIES

In § 807.206, a new subparagraph (4) is added to paragraph (c), as set forth below:

§ 807.206 Specific price regulations \* \* \*

(c) Other sales of termination inventories. \* \* \*

(4) If efforts to find a user-buyer on a negotiated basis within a reasonable pe-

<sup>2</sup> This item is in the form appearing after amendment by letter, dated 11 July 1944, from Federal Prison Industries, Inc.

riod of time under the provisions of subparagraph (3) above are unsuccessful, then, if the items are such as are not customarily sold for civilian use in their existing form, they may be offered on competitive bid, and sales made or approved to the highest bidder, unless all bids are rejected.

### SUBPART C—DISPOSITION OF PROPERTY FOR PURPOSES DIRECTLY RELATED TO THE PROSECUTION OF THE WAR

1. In § 807.310 the head note is amended to read as set forth below, the first paragraph is designated (a), and a new paragraph (b) is added, as follows:

§ 807.310 Transfers to other agencies—(a) Transfers to Civil Aeronautics Administration. \* \* \*

(b) Transfers to the Veterans' Administration. Any property may, by direction of the chief of the technical service having control thereof, be transferred to the Veterans' Administration upon written request, stating that the property is needed for authorized hospital care for veterans. (See Title I, Public Law 346, 78th Congress.) Such transfers will be made only with the approval or pursuant to regulations of the Commanding General, Army Service Forces, as to military property of Army Service Forces, and the Commanding General, Army Air Forces, or his delegate or delegates, as to military property of the Army Air Forces.

2. Section 807.315 is amended to read as follows:

§ 807.315 Exchange of property. The chiefs of technical services are authorized to make any exchanges of property which are authorized by the following statutes: 39 Stat. 635, 10 U.S.C. 1271; 40 Stat. 43, 849, 10 U.S.C. 1272; 38 Stat. 1064, 10 U.S.C. 1273; 38 Stat. 1161, 41 U.S.C. 26; 50 Stat. 64, 5 U.S.C. 118d; 53 Stat. 739, 10 U.S.C. 1271 (a); 44 Stat. 680, 10 U.S.C. 1209, 1210; Act of July 2, 1940, Public 703, 76th Congress, as extended by the Act of June 5, 1942, Public 580, 77th Congress; Section 203 of the Act approved June 26, 1943, Public Law No. 90, 78th Congress; Section 203 of the Act approved June 27, 1944, Public Law 358, 78th Congress. Any other exchanges will be submitted for the approval of the Director, Readjustment Division, Headquarters, Army Service Forces.

### SUBPART D—DISPOSITION OF NON-REPAIRABLE PROPERTY

1. A new § 807.411 is added as follows:

§ 807.411 Destruction of worthless property included in termination inventories. Property included in termination inventories which is entirely worthless and unsalable may be destroyed, discarded or abandoned by the contractor in possession of the property with the approval of the contracting officer subject to the following conditions:

(a) Property which is deemed to be worthless will be offered for sale to at least three scrap dealers. If no bids are received, the contracting officer will submit his recommendation to a local Disposal Board with a certificate that an effort has been made to dispose of the property by sale without success, and that in his opinion it is unsalable and worthless.

(b) Upon the written approval of the Disposal Board, the contracting officer may authorize the contractor to destroy, discard or abandon the property.

(c) Where the total cost or the estimated cost of the property proposed to be destroyed is \$5000 or more, Disposal Boards will not authorize its destruction, discard or abandonment without the written concurrence of a representative of Reconstruction Finance Corporation.

[Procurement Reg. 9]

## PART 809—LABOR

### SUBPART E—WALSH-HEALEY PUBLIC CONTRACTS LAW

1. Section 809.926 is amended to read as follows:

§ 809.926 Dimension granite industry. Including monumental stone, building stone, paving blocks, curbing, riprap, and rubble, but not crushed stone.

Date effective: January 15, 1938.

Wage: In Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York—57.5 cents per hour or \$23.00 per week based on a 40-hour week, arrived at either on a time or piece work basis.

In North Carolina, Virginia, South Carolina, Georgia, Florida, Alabama, Tennessee, Kentucky, Mississippi, Louisiana, Arkansas, and Texas—40 cents per hour or \$16.00 per week based on a 40-hour week, arrived at either on a time or piece work basis. Effective July 8, 1944.

In Pennsylvania, New Jersey, Delaware, Maryland, District of Columbia, West Virginia, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, California, Oregon and Washington—42.5 cents per hour or \$17.00 per week based on a 40-hour week, arrived at either on a time or piece work basis.

Monumental stone, building stone, paving blocks, curbing, riprap, and rubble, specifically made subject to the minimum wage determination for the dimension granite industry, are exclusively products of granite quarries, and such stones when the products of other quarries are not subject to the minimum wage determination for the dimension granite industry.

2. Section 809.946 is amended to read as follows:

§ 809.946 Fertilizer industry. Superphosphates, concentrated superphosphates, and concentrated fertilizer from superphosphates, potash, and ammoniates.

Date effective: July 8, 1944.

Wage: 40 cents per hour or \$16.00 per week of 40 hours, arrived at either upon a time or piece-work basis in all States and the District of Columbia other than New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington, in which eleven States the prevailing minimum wage shall continue to be 50 cents an hour or \$20.00 per week of 40 hours arrived at either upon a time or piece-

work basis, in accordance with the determination of August 15, 1939.

3. That portion of § 809.949 preceding the explanation by the Public Contracts Division is amended to read as follows:

**§ 809.949 Paper and pulp industry.** Pulp and other fiber and the primary conversion of pulp and other fiber into paper and paperboard, and in addition, the manufacture and conversion of primary paper into toilet paper and paper towels, coated book paper, and paper shipping sacks.

Date effective: Determined to be October 15, 1939.

Wage: For the States of Washington, Oregon, and California, 50 cents an hour or \$20.00 per week of 40 hours, arrived at either upon a time or piece-work basis.

For all other States and the District of Columbia, 40 cents per hour or \$16.00 per week of 40 hours, arrived at either upon a time or piece-work basis. Effective July 8, 1944.

The following explanation of this determination has been received from the Public Contracts Division, Department of Labor:

4. Section 809.951 is amended to read as follows:

**§ 809.951 Structural clay products industry.** Common brick, face brick (including glazed and enameled brick), salt glazed brick, manhole brick, structural clay tile (including glazed tile), unglazed face tile, paving brick, and clay or shale granules.

Date effective: July 8, 1944.

Wage: 40 cents per hour or \$16.00 per week of 40 hours arrived at either upon a time or piece-work basis.

5. Section 809.954 is amended to read as follows:

**§ 809.954 Dental goods and equipment manufacturing industry—(a) Durable goods.**

Hand instruments, including forceps and pliers, broaches and cutting instruments, for dental use.

Dental chairs.  
Dental cabinets.  
Equipment units.  
Dental sterilizers.  
Dental gas apparatus.  
Dental X-ray equipment.  
Dental compressors, engines, and lathes.  
Dental lights.  
Dental laboratory equipment, other than laboratory furniture.

Date effective: September 23, 1941.

Wage: 40 cents an hour or \$16.00 per week of 40 hours, arrived at either upon a time or piece-work basis.

Apprentices may be employed at lower rates of pay if their employment conforms to the standards of the Federal Committee on Apprenticeship. Learners may be employed at lower rates in accordance with the present applicable regulations issued by the Administrator of the Wage and Hour Division under the Fair Labor Standards Act of 1938.

(b) *Consumable goods.*

Dental gold.  
Dental alloy for amalgams.  
Dental cement for filling materials.  
Teeth, porcelain and gold.

Orthodontic appliances.  
Waxes, compounds, and investments.  
Rubber dental materials.  
Denture materials other than rubber.  
Burs, drills, and similar tools for use with handpieces.  
Abrasive points, wheels, and disks.

Date effective: July 17, 1944.

Wage: 40 cents an hour of \$16.00 per week of 40 hours, arrived at either upon a time or piece-work basis.

Learners may be employed as provided in paragraph (a).

6. Section 809.957 is amended to read as follows:

**§ 809.957 Evaporated milk industry.** Evaporated milk.

Date effective: November 3, 1941.

Wage: Arrived at either upon a time or piece work basis:

In the States of Washington, Oregon, and California, 50 cents per hour or \$20.00 per week of 40 hours.

In all other States and the District of Columbia, 40 cents per hour or \$16.00 per week of 40 hours. Effective July 8, 1944.

#### SUBPART C—WAGE AND SALARY STABILIZATION

1. Section 809.980f is amended to read as follows:

**§ 809.980f General Order No. 6.**

(a) The hiring of an individual at a wage or salary rate in excess of the rate properly established in the plant for employees of similar skill and productive ability within the classification in which the individual is employed is an increase in wages or salary within the meaning of Executive Order 9250, and the regulations of the Director of Economic Stabilization, and requires the approval of the National War Labor Board.

(b) The hiring of an individual at a wage or salary rate lower than the rate or the minimum of the range of rates properly established in the plant for the job classification in which the individual is employed is a decrease in wages or salary within the meaning of Executive Order No. 9250, and the regulations of the Director of Economic Stabilization, and requires the approval of the National War Labor Board.

(c) If a wage or salary rate or range of rates for a job classification has not theretofore been established by the employer for the plant involved, the rate or range of rates, may be established without the approval of the National War Labor Board if it bears the same relation to the rates or ranges of rates for similar classifications in the area as the existing rates or ranges of rates in the plant bear to comparable rates or ranges of rates in the area: *Provided, however, That rates or rate ranges covering new plants or new departments within existing plants must be submitted to the National War Labor Board for approval.*

2. Section 809.980h is amended to read as follows:

**§ 809.980h General Order No. 8.**

Exercising the authority vested in the National War Labor Board by Section 4001.19 of Part 4001, Regulations Relating to Wages and Salaries issued on October 27, 1942, as amended, by the Economic Stabilization Director and approved by the President, and deeming it necessary for the effective administration of the Act of Congress of October 2, 1942, the Board hereby determines that adjustments in any wages or salaries over which this Board has jurisdiction and which are paid in any territory or possession of the United States, except Alaska and the Territory of Hawaii, are exempted from the oper-

ation of the said Regulations and therefore made be made without the approval of the Board.

3. Section 809.980cc is amended, as follows:

**§ 809.980cc General Order No. 310.**

#### II. EMPLOYERS OF 31 OR MORE EMPLOYEES

F. Restrictions on hiring employees at rates in excess of the minimum rate of the properly established rate range for a given job classification.

1. *Existing establishments.* An employer shall hire employees at the minimum of the properly established rate range for a given job classification: *Provided, however, That an employee who has special ability and experience may be hired at a rate within the range corresponding to such ability and experience. But an employer may not, within a given year (which shall be the same year as the one used by the employer in calculating the average amount of merit or length of service increases given under section II-C-1 of this General Order), hire more than 25 percent of all the employees hired for any job classification, at rates in excess of the minimum of the properly established rate range for that job classification. In any job classification in which fewer than four employees are hired within the year, one employee who has special ability and experience may be hired at a rate in excess of the minimum rate of the properly established rate range. If, before the effective date of this amendment, an employer has had a plan properly in existence (as defined in this General Order) which provides that some percentage of employees in excess of 25 percent may be hired at rates above the appropriate minimum rate, such provision may be continued in effect. All other employers are subject to the restrictions of this or the following subsection II-F-1 or II-F-2).*

2. *New establishments or new departments in existing establishments.* An employer shall hire employees at the minimum of the properly established rate range for a given job classification: *Provided, however, That an employee who has special ability and experience may be hired at a rate within the range corresponding to such ability and experience. But an employer may not, within the first year of operation hire more than 50 percent of all the employees hired for any job classification, at rates in excess of the minimum of the properly established rate range for that job classification. During all subsequent years of operation, no more than 25 percent of all the employees hired in any job classification may be hired at rates in excess of the minimum of the properly established rate range for that job classification. In any job classification in which fewer than four employees are hired within the year, one employee who has special ability and experience may be hired at a rate in excess of the minimum rate of the properly established rate range.*

4. Section 809.980dd is amended to read as follows:

**§ 809.980dd General Order No. 36.**

(a) *Organization and jurisdiction.* (1) There is hereby created within the Territory of Hawaii the Territorial War Labor Board for Hawaii, to consist of the following members to be appointed by the National War Labor Board: Representatives of Labor, two of whom are to be available for service with the Territorial Board at any given time; Representatives of Industry, two of whom are to be available for service with the Territorial Board at any given time; and Representatives of the Public, two of whom are to be available for service with the Territorial Board at any given time. There shall be two Co-chairman and one or more Vice

Chairmen, to be designated by the National War Labor Board from among the public representatives.

(2) The Territorial War Labor Board for Hawaii shall have jurisdiction over all labor disputes and voluntary wage and salary adjustments in Hawaii within the jurisdiction of the National War Labor Board. It shall have power, subject to the same review by the National War Labor Board as other Regional War Labor Boards, to issue final orders and rulings in such cases.

(3) The Territorial War Labor Board for Hawaii shall comply with all pertinent provisions of the rules of organization and procedure of the National War Labor Board, especially Part VI, entitled Jurisdiction and Procedure of Regional Boards. (§ 809.979); *Provided, however,* That the Territorial War Labor Board for Hawaii may by unanimous vote of its members, make such modifications in its procedures as are deemed by it to be necessary for its efficient administration. Such action shall be promptly reported to the National War Labor Board and shall be subject to the National War Labor Board's ultimate power of review.

(4) In acting hereunder on wage or salary adjustments, the Territorial War Labor Board for Hawaii shall comply with the terms of Executive Order 9250, dated October 3, 1942, Executive Order 9328, dated April 8, 1943, the Supplementary Directive of May 12, 1943 and all other Executive orders and regulations issued thereunder. The Territorial War Labor Board may make such recommendations as to appropriate policies to govern wage and salary adjustments as are adapted to the special circumstances obtaining in the Territory. Such recommendations shall be consistent with the Act of October 2, 1942. They shall be submitted for consideration of the National War Labor Board which will transmit to the Director of Economic Stabilization those recommendations deemed by it advisable and necessary.

(b) *Wage and salary adjustments which may be made effective without approval of Territorial War Labor Board for Hawaii.* (1) Adjustments in the wage and salary rates of individual employees as a result of (i) individual merit increases, (ii) individual increases based upon length-of-service, (iii) operation of an apprentice or trainee system, (iv) individual promotions or reclassifications, (v) increased productivity under piece work or incentive plans; *Provided, however,* That with respect to increases made under subdivisions (i), (ii) and (iii) of this section the total of such increases to any individual employee (subject to National War Labor Board jurisdiction) shall not exceed 10¢ per straight time hour during any year, and such increases during any such year shall not exceed an average of 5¢ per straight time hour for all the employees (subject to National War Labor Board jurisdiction) in the establishment.

(2) Increases in wage and salary rates made in compliance with any minimum wage statute or with any minimum wage order of the duly constituted authorities of the Territory of Hawaii.

(3) Adjustments in the wage and salary rates of governmental employees of the Territory of Hawaii. It is expected, however, that the authorities of the Territory of Hawaii will observe and abide by the same stabilization policies as are made applicable generally in the Territory.

(4) Establishment of a wage or salary rate or range of rates for a job classification not theretofore established for the plant involved, the rate or rate range so established to bear the same relation to rates or rate ranges for similar classifications in the area as the existing rates in the plant bear to comparable rates or rate ranges in the area; *Provided, however,* That rates for new establishments or new departments

within existing establishments must be submitted for approval.

(5) The payment to employees, whose wage or salary increases are subject to the jurisdiction of the National War Labor Board, of a bonus, fee, gift, commission or other form of compensation customarily paid to such employees in the past: *Provided, That:*

(i) If in a fixed amount, the total amount so paid to an employee during the current bonus year does not exceed the total so paid to an employee for like work during the preceding bonus year, or

(ii) If computed on a percentage, incentive or other similar basis, the rate and the method of computation are not changed in the current bonus year so as to yield a greater amount than that in the preceding bonus year, but a greater amount when resulting from the same rate and method of computation may be paid.

(6) The Territorial War Labor Board for Hawaii may, in the case of small total wage or salary increases, provide for the making of such other adjustments without its approval as it deems necessary for the efficient administration of its duties hereunder. Such action shall be promptly reported to the National War Labor Board and shall be subject to the National War Labor Board's ultimate power of review but any modification or reversal thereof shall not be retroactive.

(7) No general order heretofore or hereafter issued by the National War Labor Board shall be applicable to the Territory of Hawaii unless expressly extended thereto by action of the National War Labor Board.

#### SUBPART K—FAIR EMPLOYMENT PRACTICE

Section 809.994a is amended by the addition of subparagraphs (10) and (11) to paragraph (a).

#### § 809.994a Interpretations of Executive Order No. 9346—(a) Contracts.

(10) The non-discrimination clause is not required in contracts renewed pursuant to an option to renew in accordance with the terms, conditions and provisions contained in the original contract.

(11) The requirement that parties to contracts with the Government of the United States (or agencies of said Government) include a non-discrimination clause "in all subcontracts" is not applicable to lessors of space in buildings except in cases where the Government of the United States (or any agency thereof) is the only tenant involved, or unless a sub-contract is entered into solely for the purpose of performing an obligation (or obligations) imposed by the Government lease.

[Procurement Reg. 11]

#### PART 811—MISCELLANEOUS PURCHASE INSTRUCTIONS

##### SUBPART D—PRICE REGULATIONS

Section 811.1133 (d) is amended to read as follows:

§ 811.1133 Procedure for obtaining exemption under developmental and secret contracts and emergency purchases or for relief from a price regulation.

(d) *Procedure for obtaining relief.* (1) OPA Procedural Regulation No. 6, effective July 3, 1942, as amended, sets forth the procedure to be followed (except where OPA regulations specifically

otherwise provide) to obtain prompt adjustments of maximum prices for commodities or services under Government contracts or subcontracts. The regulation provides that any seller who has entered into or proposes to enter into a Government contract, or a subcontract thereunder, who believes that his maximum price or prices impedes or threatens to impede the production, manufacture or distribution of a commodity or the supply of a service which is essential to the war program and which is or will be the subject of such contract or subcontract may apply for adjustment of his maximum price or prices. Any Government agency may appear as an interested party in the case of any such application. Upon the filing of an application for adjustment, or within five days prior thereto, and until final disposition of the application, contracts may be entered into or proposals and bids submitted at the price or prices requested in the application, and deliveries may be made under such contracts, except that the seller may not receive and the buyer may not pay the amount by which the price exceeds the maximum price unless and until an order granting a higher price has been issued.

The seller shall include in any sale, contract to sell, or offer to sell at the price requested in the application the following: (i) the maximum price for the commodity or service in question; (ii) a statement that the quoted price is subject to approval of the Office of Price Administration; and (iii) a statement that an appropriate application has been filed, or will be filed within five days, with the Office of Price Administration. Applications involving contracts exceeding \$5,000,000 in value must be filed with the OPA in Washington, D. C. Other applications (with a few exceptions) may be filed either with the appropriate regional office of the OPA or with the OPA in Washington, D. C.

(2) By amendments effective April 12, 1943, and June 25, 1943, respectively, special adjustment procedure is provided in MPR 136 (Machines and Parts, and Machinery Services), to which reference is made for complete details. This procedure is available to any person who has entered into a "war contract", defined as a contract for the sale of a machine or part purchased for the ultimate use of the armed forces of the United States or for lend-lease purposes, or for use in the production or manufacture of any such commodity. Provision is also made for adjustments of the maximum prices of machinery services.

#### SUBPART F—CONTRACTS INVOLVING RUBBER OR SYNTHETIC RUBBER

1. Subparagraph (4) of § 811.1150 is amended to read as follows:

§ 811.1150 Agreement with Rubber Reserve Company.

(4) The War Department will pay Rubber Reserve Company the difference between these amounts and the prices fixed by Rubber Reserve Company specified in subparagraph (1) above, or such

lower prices as the Rubber Reserve Company may fix from time to time. This contract will remain in force until 30 June 1945 unless extended by the War Department or terminated on ninety days' notice before that date.

2. Section 811.1151 (c) is amended to read as follows:

**§ 811.1151 Administration of agreement.**

(c) The chief of each technical service has been directed to make available to the Ordnance Department by special allotment or otherwise sufficient funds to cover the estimated amounts payable to Rubber Reserve Company under this agreement with respect to its contracts and subcontracts up to 30 June 1945. The Chief of Ordnance is authorized to issue such directives or instructions to the chiefs of the other technical services as he deems necessary for the administration of the agreement and the furnishing of such allotments.

**SUBPART H—MISCELLANEOUS MATTERS**

1. Section 811.1180 (d) is amended to read as follows:

**§ 811.1180 Discounts in purchasing.**

(d) *Fiscal aspects of discounts.* Although as provided in paragraph (a) of this section, offers of discounts for cash or prompt payment are to be disregarded in deciding between two possible contractors, in many cases contracts awarded or invoices pursuant to such contracts will provide for such discounts. In such cases advantage should be taken of such discounts and procedures should be established to aid in reaching this result; provided interference does not result in the payment of accounts or transactions which do not provide for discounts. The preferred form of procedure for the taking of discounts is one in which originals and copies of purchase instruments involving discounts and used internally by the procurement office are suitably stamped "Discount—Expedite" by the initiating office and the discount terms shown on such instruments are underscored or circled in red to invite the attention of all concerned to the possible priority status of the instrument and allied documents. For fiscal aspects of cash discounts, see AR 35-6200.

2. Section 811.1183 is amended to read as follows:

**§ 811.1183 Procurement of spare parts.** Certain restrictions and procedures have been prescribed with respect to the procurement of spare parts, particularly initial concurrent spare parts. Such restrictions and procedures are set forth in W. D. Circular 227, 7 June 1944.

[Procurement Reg. 12]

**PART 812—RENEGOTIATION AND PRICE ADJUSTMENT**

**SUBPART A—STATUTORY RENEGOTIATION**

*Renegotiation Statute and Exemptions*

In § 812.1205 (g) subparagraph (2) (v) and subparagraph (6) are amended as follows:

§ 812.1205 *Discretionary power to exempt certain contracts and subcontracts.* \* \* \*

(g) *Exemption of individual contracts and subcontracts for less than \$5,000.* \* \* \*

(2) \* \* \*

(v) If the contract contains any of the articles set forth in §§ 803.341 (a), (b), 803.360a (a) and 803.360 (b), the initial period of production has been completed; and

(6) Where a contract contains a periodic pricing article (§§ 803.360 (a) and (b)) or an article like those set forth in § 803.360a and 803.360a (a), exemption from renegotiation should not be granted with respect to the entire contract but only until the next succeeding price adjustment. At the conclusion of the first pricing period under the articles set forth in §§ 803.360 (b) and 803.360a (a), exemption from renegotiation for the initial pricing period may be granted retroactively at the time of the amendment of the contract to fix the price for the next succeeding period, if such exemption from renegotiation is warranted in accordance with these regulations.

[Procurement Reg. 13]

**PART 813—FORMS OF CONTRACT**

Section 813.1302 is amended by the addition of an alternate Article 10, as follows:

**§ 813.1302 W. D. Contract Form No. 2.**

Article 10.<sup>1</sup> *Permits and responsibility for work.*—The Contractor shall obtain all required licenses and permits. He shall be responsible for all damages to persons that occur as a result of his fault or negligence in connection with the prosecution of the work. Except for "Government property", as defined in Article—(Liability for Government-owned Property), the responsibility for which is as stated in said article, the Contractor shall be responsible for all loss or destruction of or damage to property that occurs as a result of his fault or negligence in connection with the prosecution of the work, and shall be responsible for all materials delivered and work performed until completion and final acceptance. Upon completion of the contract the work shall be delivered complete and undamaged.

[Procurement Reg. 14]

**PART 814—REQUISITIONING OF PERSONAL PROPERTY**

**SUBPART A—GENERAL**

Section 814.1401 is amended to read as follows:

**§ 814.1401 Authority to requisition. Authority to requisition personal prop-**

<sup>1</sup> This Alternate Article 10 will be inserted instead of the standard Article 10 when the contract contains § 803.365 (a-1). In such event, § 803.365 (a-1) will be modified to commence as follows:

"Except as otherwise specifically provided, the Contractor shall not be liable for loss or destruction of or damage to "Government property," (i. e., property of the Government in the possession or control of the Contractor in connection with this contract, other than property furnished by the Contractor title to which is vested in the Government by reason of the provisions of Article 16 (c) hereof entitled "Payments to Contractor") (1) caused by any peril \* \* \*".

erty is conferred under (1) the Act of October 10, 1940 (54 Stat. 1090), as amended by the Act of July 2, 1942 (56 Stat. 467) and by the Act of June 28, 1944 (Public Law 879, 78th Congress); (2) the Act of October 16, 1941 (55 Stat. 742), as amended by the Act of March 27, 1942 (56 Stat. 181), by the Act of June 30, 1943 (Pub. Law 104, 78th Congress) and by the Act of June 28, 1944 (Public Law 878, 78th Congress) and (3) Executive Orders Nos. 8942 (6 F. R. 5909), 9024 (7 F. R. 329), 9040 (7 F. R. 527), 9138 (7 F. R. 2919), 9280 (7 F. R. 10179), 9294 (8 F. R. 221), 9322 (8 F. R. 3807) and 9334 (8 F. R. 5423). By such Executive Orders the President delegated to various persons, including the Secretary of War, the power to initiate requisitions under the Act. The Secretary of War, by Order dated December 11, 1941, assigned to the Under Secretary of War the functions, powers and duties so delegated to him. As a result of such delegation and assignment, the Under Secretary of War makes final determination as to the existence of statutory authority to requisition property desired to be requisitioned by the War Department and, if the Proposal to requisition and the proposed disposal of the property is approved by the Army and Navy Munitions Board and in proper cases, by the Chairman of the War Production Board, the War Food Administrator or the Office of Defense Transportation, issues the Requisition. He also makes final administrative determination as to the amount of compensation to be paid for property requisitioned by the War Department.

**SUBPART B—ACQUISITION OF PROPERTY BY REQUISITION**

Section 814.1405 is amended to read as follows:

**§ 814.1405 Statutory authority to requisition property.** (a) The Act of October 10, 1940, as amended, authorizes the taking of property by requisition when it is determined that:

(1) The property is military or naval equipment or munitions, or component parts thereof, or machinery, tools, or materials, or supplies necessary for the manufacture, servicing, or operation thereof;

(2) The property was ordered, manufactured, procured, or possessed for export purposes, and that the exportation thereof has been prohibited or curtailed in accordance with the provisions of Section 6 of the Act of July 2, 1940 (54 Stat. 714) as amended by the Act of June 30, 1942 (56 Stat. 463, 50 U.S.C. App. 701), by the Act of July 1, 1944 (Public Law 397, 78th Congress) or by any other law; and

(3) It is necessary in the interest of national defense or prosecution of the war to requisition and take over the property for use or operation by the United States or in its interest.

(b) The Act of October 16, 1941, as amended, authorizes the taking of property, other than fire arms possessed by an individual for his personal protection or sport, possession of which is not prohibited by existing law, by requisition, if the taking will not impair or infringe in any manner the right of any individual to keep and bear arms, when it is determined that:

(1) The property is military or naval equipment, supplies, or munitions, or component parts thereof, or machinery, tools, or materials necessary for the manufacture, servicing, or operation of such equipment, supplies, or munitions;

(2) The use of the property is needed for the defense of the United States;

(3) Such need is immediate and impending and such as will not admit of delay or resort to any other source of supply; and

(4) All other means of obtaining the use of the property for the defense of the United States upon fair and reasonable terms have been exhausted.

**SUBPART D—RETURN OF REQUISITIONED PROPERTY AND DISPOSITION OF PROCEEDS OF REQUISITIONED PROPERTY**

1. Section 814.1415 is amended to read as follows:

*§ 814.1415 Return of requisitioned property to former owner under certain conditions.* The Act of October 16, 1941, as amended, provides that whenever it is determined that property requisitioned under that Act and retained is no longer needed for the defense of the United States it shall, if the original owner desires the property and pays the fair value thereof, be returned to such owner and that, in any event, property so acquired and retained shall, if such owner desires the property and pays the fair value thereof, be returned to him not later than December 31, 1945. Should a technical service determine that property requisitioned by it and retained is no longer needed for the defense of the United States it shall advise the Legal Branch, Director of Matériel, which will prescribe the procedure to be followed in effecting its return.

2. The caption "Subpart E—Requisitioning Forms" is inserted immediately preceding § 814.1417.

[Procurement Reg. 15]

**PART 815—TERMINATION OF CONTRACTS FOR THE CONVENIENCE OF THE GOVERNMENT**

**SUBPART A—POLICY AS TO TERMINATION OF CONTRACTS AND SUPERVISION OF TERMINATION SETTLEMENTS**

*Introduction*

1. Paragraph (b) of § 815.100 is amended to read as follows:

*§ 815.100 Scope of part. \* \* \**

(b) Adjustments under the so-called "Changes" article in War Department contracts, consisting of changes in specifications, accelerations or extensions of delivery schedules, increases in quantities and similar matters. (See for example §§ 803.329a; 803.351 (c); 813.1301, Art. 2; 813.1302, Art. 3; 813.1303, Art. 1, sub-par. 5.) The relationship between quantity reductions made under "Changes" articles and terminations for convenience is explained in § 815.300 (c).

2. The first paragraph of § 815.104 is designated (a), and paragraphs (b) and (c) are added as follows:

*§ 815.104 Legal authority for terminations and settlements.* (a) \* \* \*

(b) The Contract Settlement Act of 1944 confers on contracting agencies express authority to settle termination claims by agreement, by arbitration, and by determination without agreement, in accordance with the provisions of the Act, and authorizes the making and amending of contracts to carry out the provisions of the Act. Before the passage of the Act, the authority to make negotiated settlements has been held to exist under various court decisions and also rested on Public Law 703, as extended, and the First War Powers Act, 1941.

(c) The chief of each technical service may exercise the authority to terminate contracts and the authority and discretion under the Contract Settlement Act of 1944 to the extent authorized by these regulations.

3. That portion of § 815.107 preceding paragraph (a) is amended to read as follows:

*§ 815.107 Amendments of contracts to insert termination provisions.* (1) Section 6 (g) of the Contract Settlement Act of 1944 provides as follows:

Where any war contract does not provide for or provides against such fair compensation for its termination, the contracting agency, either before or after its termination, shall amend such war contract by agreement with the war contractor, or shall authorize, approve, or ratify an amendment of such war contract by the parties thereto, to provide for such fair compensation.

By the definition of "war contract" contained in the act this provision applies both to prime contracts and subcontracts.

(2) The approved termination articles currently authorized provide fair compensation for termination of contracts. Amendments of contracts to include such approved articles, whether or not they contain earlier forms of termination articles, will facilitate prompt settlements, promote uniform procedures, avoid delay and administrative difficulties, and carry out the objectives of the act.

(3) The chief of each technical service may make such amendments of contracts in accordance with paragraphs (a) and (b) and may authorize, approve or ratify such amendments of subcontracts in conformity with § 815.436. Each such amendment will recite that it is made pursuant to the Contract Settlement Act of 1944. A form of supplemental agreement appropriate for prime contracts is set out in § 815.926. Before making any such amendment the assent of each surety, guarantor, or assignee should be obtained.

4. Section 815.112 is amended to read as follows:

*§ 815.112 Requirement to expedite "hardship cases."* It is War Department policy to expedite settlement of all terminated contracts and subcontracts. Where the termination imposes unusual financial hardship on a contractor, the policy is to give his case special administrative priority.

5. Sections 815.113 to 815.115 are added, as follows:

*§ 815.113 Relief of Government officers and employees from personal liability.* (a) Section 15 of the Contract Settlement Act of 1944 provides as follows:

Sec. 15. (a) Whenever any payment is made from Government funds to any war contractor or other person as an advance, partial or final payment on any termination claim, or pursuant to any loan, guaranty, or agreement for the purchase of any loan, or any commitment in connection therewith, entered into by the Government, no officer or other Government agent authorizing or approving such payment or settlement, or certifying the voucher for such payment, or making the payment in accordance with a duly certified voucher, shall be personally liable for such payment, in the absence of fraud on his part. In settling the accounts of any disbursing officer the General Accounting Office shall allow any such disbursements made by him notwithstanding any other provisions of law.

(b) This provision relieves any Government officer or agent authorizing, approving, certifying, or making payment on any termination claim or on any interim financing, or authorizing or approving any settlement, from personal financial liability for such payment except for his own fraud. Thus, an officer or employee will not be personally liable for mistakes of judgment or errors made in good faith in connection with termination payments or settlements or interim financing.

*§ 815.114 Assistance in preparation of termination claims.* (a) Section 20 (f) of the Act provides as follows:

(f) Any contracting agency may authorize or direct its officers and employees, as a part of their official duties, to advise, aid, and assist war contractors in preparing and presenting termination claims, in obtaining interim financing, and in related matters, to such extent as it deems desirable. Such advice, aid, or assistance shall not constitute a violation of Section 109 of the Criminal Code (18 U.S.C. 198) or of any other law, provided the officer or employee does not receive therefor benefit or compensation of any kind, directly or indirectly, from any war contractor.

(b) As a part of their official duties War Department officers and employees will advise, aid and assist contractors and subcontractors as authorized or required by this regulation or by the chief of their technical service.

*§ 815.115 Prosecution of fraud.* In addition to the criminal provisions relating to preservation of records set out in § 815.408, the act provides (a) that fraud in connection with negotiation, termination and performance of a contract with the United States be punishable by fines and forfeitures, and (b) that 18 U.S.C. Section 80 shall apply broadly to all statements and representations under the act. The exact language of the act is as follows:

(1) Sec. 19 (c) (1):

Every person who makes or causes to be made, or presents or causes to be presented to any officer, agent, or employee of any Government agency any claim, bill, receipt, voucher, statement, account, certificate, affidavit, or deposition knowing the same to be

false, fraudulent, or fictitious or knowing the same to contain or to be based on any false, fraudulent, or fictitious statement or entry, or who shall cover up or conceal any material fact, or who shall use or engage in any other fraudulent trick, scheme, or device, for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit, payment, compensation, allowance, loan, advance, or emolument from the United States or any Government agency in connection with the termination, cancellation, settlement, payment, negotiation, renegotiation, performance, procurement, or award of a contract with the United States or with any other person, and every person who enters into an agreement, combination, or conspiracy so to do, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any such benefit, payment, compensation, allowance, loan, advance, and emolument received as a result thereof, and (3) shall in addition pay to the United States the sum of \$2,000 for each such act, and double the amount of any damage which the United States may have sustained by reason thereof, together with the costs of suit.

(2) Sec. 19 (d):

The provisions of section 35-A of the Criminal Code (18 U.S.C., sec. 80) shall apply to any statement, representation, bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition made or used or caused to be made or used for any purpose under this Act or under any regulations pursuant to this Act.

Section 80 of 18 U.S.C. reads as follows:

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and wilfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements, or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

*Definitions*

6. In § 815.150, paragraphs (a) to (j) are amended, and paragraphs (k) to (r) are added, as follows:

§ 815.150 *Definitions*. The following terms as used in this part shall have the following meanings.

(a) *The act*. The term "the act" means the Contract Settlement Act of 1944 (Public 395, 78th Cong., approved 1 July 1944).

(b) *Chief of technical service*. The term "chief of a technical service" includes the chief of any one of the technical services of the Army Service Forces,

the Commanding General, Army Air Forces, and the Commanding General of any Service Command, and except as otherwise expressly provided, includes any duly authorized representative of any of them (§§801.108 (d) and (e), and 815.206).

(c) *Common item*. The term "common item" means any materials which are normally usable both in connection with the terminated contract and in connection with other work of the war contractor.

(d) *Continued portion of contract*. The term "continued portion of contract" means that portion of a terminated contract not already completed which, in accordance with a notice of termination, the contractor must continue to perform.

(e) *Contracting officer*. The term "contracting officer" means the officer or employee who signs a contract on behalf of the Government and includes a duly appointed successor or authorized representative of such a contracting officer, all as set out in § 803.302 (c). The term shall have the same breadth of meaning as in § 803.302 (c).

(f) *Contractor*. The term "contractor" means the holder of a prime contract with the United States.

(g) *Interim financing*. The term "interim financing" includes advance payments, partial payments, loans, discounts, advances, and commitments in connection therewith, and guarantees of loans, discounts, advances, and commitments in connection therewith and any other type of financing made in contemplation of or related to termination of war contracts.

(h) *Material*. The term "material" includes any article, commodity, machinery, equipment, accessory, part, component, assembly, work in process, maintenance, repair and operating supplies, and any product of any kind.

(i) *Other work*. The term "other work" means any work, whether Government or commercial, being done by a contractor or subcontractor, other than that related to the terminated contract or subcontract under discussion.

(j) *Prime contract*. The term "prime contract" means any contract, agreement, purchase order, letter order, or letter of intent, heretofore or hereafter entered into by the War Department and connected with or related to the prosecution of the war.

(k) *Subcontract*. The term "subcontract" means any contract, agreement, or purchase order heretofore or hereafter entered into to perform any work, or to make or furnish any material to the extent that such work or material is required for the performance of any one or more prime contracts or of any one or more other subcontracts.

(l) *Subcontractor*. The term "subcontractor" means any holder of one or more subcontracts.

(m) *Termination*. The terms "termination" and "terminate" and "terminated" refer to the termination or cancellation, in whole or in part, of work under a prime contract for the convenience or at the option of the Govern-

ment (except for default of the prime contractor) or of work under a subcontract for any reason except the default of the subcontractor.

(n) *Termination claim*. The term "termination claim" means any claim or demand by a war contractor for fair compensation for the termination of any war contract and any other claim under a terminated war contract, which this regulation authorizes to be asserted and settled in connection with any termination settlement.

(o) *Termination inventory*. The term "termination inventory" means any materials (including a proper part of any common items), properly allocable to the terminated portion of a war contract, except any machinery or equipment subject to a separate contract specifically governing the use or disposition thereof.

(p) *Uncompleted portion of the contract*. The term "uncompleted portion of the contract", when used with respect to a terminated lump-sum supply contract, means that portion of the contract which does not relate either (1) to completed supplies called for by the contract or (2) to any continued portion (see § 815.150 (d)) of the contract.

(q) *War contract*. The term "war contract" includes a prime contract and a subcontract.

(r) *War contractor*. The term "war contractor" means a holder of a war contract.

*Organization and Responsibility for Terminations*

7. Section 815.200 is added, as follows:

§ 815.200 *Office of Contract Settlement*. (a) The act establishes an Office of Contract Settlement headed by the Director of Contract Settlement, and a Contract Settlement Advisory Board composed of the Director and representatives of the principal contracting agencies and of the Department of Justice.

(b) The Director is responsible for insuring uniform and efficient administration of the provisions of the act. For this purpose he will issue general orders or general regulations prescribing policies, principles, methods, procedures and standards to govern the exercise of the authority and discretion and the performance of the duties and functions of the various Government agencies under the act.

(c) To the extent applicable to War Department activities, the regulations of the Director will be embodied or effectuated in this part. Consequently, the chiefs of technical services and contracting officers will not find it necessary to refer directly to the regulations of the Director but will confine themselves to these regulations for all instructions regarding terminations, termination settlements, and interim financing.

(d) The Readjustment Division, Headquarters, Army Service Forces, will maintain liaison between the War Department and the Office of the Director of Contract Settlement, and will clear all matters of policy arising in connection with that office.

8. Section 815.203 is amended to read as follows:

**§ 815.203 Decentralization and supervision of administration**—(a) *Decentralization*. The policy of the War Department is to delegate to the chiefs of the several technical services the administration of contract terminations as fully as possible. Subject to the provisions of this part in effect from time to time, the chief of each technical service may delegate such administration to such extent as he deems appropriate.

(b) *Supervision of administration*. (1) The act places directly on the War Department and other contracting agencies responsibility for protecting the Government's interest in making termination settlements and interim financing. The Comptroller General is authorized to investigate completed settlements for the purpose of reporting to Congress on whether the settlement methods and procedures used by the contracting agencies are designed to achieve expeditious and fair settlements and are followed with care and efficiency and adequately protect the interest of the Government.

(2) The chief of each technical service will establish procedures for regular checks of the administration of terminations by each procurement office, including review of samples of settlements and financing, to insure that its termination settlements are being made expeditiously and are fair to the Government and to contractors and conform to existing regulations.

(3) The chief of each technical service will be prepared to report periodically on the procedures established by him to discharge his responsibilities under this paragraph and on the results of the checks on individual procurement offices.

9. In § 815.220, paragraphs (a), (c) and (d) are amended as follows:

**§ 815.220 Provisions for review of termination settlement agreements**. (a) The chief of each technical service will establish for the assistance of contracting officers engaged in the settlement of termination cases, one or more settlement review boards composed of at least three responsible officers or civilian employees of the War Department. So far as is practicable in view of the volume of cases being handled and the availability of qualified personnel, such boards will be established at regional offices where responsibility for negotiation of settlements is placed. The duties of such boards may be assigned to the members of any boards or sections already in existence or already charged with other duties. No person will serve as a member of the settlement review board in reviewing a settlement in which he has participated.

(c) The review board will submit to the contracting officer a written recommendation with respect to each proposed settlement or other matter considered by the board. Any proposed settlement disapproved by the review board shall not be executed unless approved by the chief

of the office in which the board is established. If the amount of the proposed settlement exceeds \$500,000, it shall, after the approval by the review board, be submitted to such higher authority as the chief of the technical service concerned shall deem appropriate, and shall not be executed until approved by such authority acting personally or through such person or persons as he shall specifically designate to act for him. Review boards must act promptly with respect to all matters submitted for their consideration or approval. Failure of the review board to act upon any settlement within 30 days after its submission to the board shall operate as approval by the board.

(d) In determining, for purposes of this paragraph, whether review of any proposed settlement is required because of the amounts involved, no deduction shall be made on account of credits for property chargeable to the Government or for advance or partial payments, but amounts payable under such settlement agreement for completed articles or work at the contract price and for the discharge of the termination claims of subcontractors shall be deducted.

10. The introductory paragraph of § 815.222 is amended to read as follows:

**§ 815.222 Records to support final settlement**. It is the responsibility of the chiefs of the technical services to assure that adequate records will be kept in accordance with the standards of prudent business judgment to substantiate settlements made by contracting officers. Such records will be kept for at least (1) five years subsequent to final settlement of the terminated contract, or (2) five years subsequent to disposition of termination inventory relating to such contract, or (3) five years after termination of hostilities in the present war, as proclaimed by the President or by a concurrent resolution of the two Houses of Congress, whichever applicable period is longer.

\* \* \* \* \*

**SUBPART B—PROCEDURES RELATING TO TERMINATION OF LUMP SUM SUPPLY CONTRACTS**

1. In § 815.300 the introductory paragraph is amended by deleting the last three sentences thereof and new paragraphs (b) and (c) are added; as follows:

**§ 815.300 Introductory**. The discussion in this subpart relates primarily to the termination of lump sum supply contracts. However, the procedures herein discussed are in many instances equally applicable to lump sum construction contracts and to cost-plus-a-fixed-fee contracts (to the extent indicated in the discussion of those types of contract) (see §§ 815.600 et seq., and 815.650 et seq.).

(b) *Alternative methods*. (1) The act authorizes each contracting agency to "establish methods and standards, suitable to the conditions of various war contractors, for determining fair compensation for the termination of war contracts on the basis of actual, stand-

ard, average, or estimated costs or of a percentage of the contract price based on the estimated percentage of completion of work under the terminated contract, or on any other equitable basis, as it deems appropriate."

(2) The procedures prescribed by this subpart contemplate the filing of a termination inventory for the termination claim, and of a statement of the costs of the work done on the terminated portion of the contract based on actual, standard, average, or estimated costs. In some instances these procedures may be unduly complicated or burdensome. For example, in the termination of contracts for standard supplies and ordinary commercial articles, other procedures may be more expeditious and equitable.

(3) Wherever the chief of any technical service considers that fair settlement in any case or class of cases will be expedited by basing it on a percentage of the contract price based on the estimated percentage of completion of work under the terminated contract, he is authorized, by general regulations or specific orders, to modify, or permit deviation from, the procedures prescribed by this subpart to the extent necessary to permit such methods to be used. The chief of the technical service will promptly report each such general regulation in writing to the Readjustment Division, Headquarters, Army Service Forces, with a brief statement of the reasons for its issuance.

(4) Whenever the chief of any technical service considers that fair settlement of any case or class of cases will be expedited by methods and standards for settlement, other than those prescribed by this subpart or authorized by subparagraph (3) above, he will submit to the Readjustment Division, Headquarters, Army Service Forces, a report (i) recommending an alternative method or standard for such settlements, and (ii) requesting authority for its use in the particular case or class of cases. Any such alternative method and standard shall be designed to compensate the contractor fairly for the preparations made and work done for the terminated portion of the contract, including a reasonable profit on such preparations and work.

(c) *Reduction under "Changes" article or by agreement*. (1) The special "Changes" article set forth in § 803.329a authorizes the Government, under certain conditions, to reduce by a change order the quantity of supplies to be delivered under the contract. Such a reduction is a method of partial termination.

(2) Where a reduction in the quantity of supplies to be delivered under a contract appears likely to involve substantial or complicated problems regarding termination inventories or claims by subcontractors, such reduction will usually be effected as a partial termination pursuant to the termination article contained in the contract (see e. g. §§ 803.324, 815.901, 815.901a). Where no such substantial or complicated problems relating to termination inventories or subcontractors' claims appear to be involved, such a reduction in the quantity of supplies should be effected under the

special "Changes" article (§ 803.329a) or any similar article. Where a contract does not contain such a "Changes" article reductions may be made under the same conditions by supplemental agreement with the consent of the contractor.

(3) When any such reduction is made under the "Changes" article or by supplemental agreement, the contractor may be compensated therefor by equitable adjustment in the contract price without conforming to the procedures in this part; but the provisions of this part may be used as a guide in making the adjustment. By such an equitable adjustment the contractor should receive fair compensation for the reduction. It is not intended that, in making such an equitable adjustment for a reduction, any of the types of costs, allocable to the reduction and payable in accordance with the Statement of Principles for Determination of Costs on Termination (see § 815.480 et seq.) shall be denied, although the Statement of Principles is not strictly applicable to adjustments under such change orders. In the event of any failure to agree on the adjustment, in any such case, the contracting officer will make formal findings substantially in accordance with § 815.560 and the following sections insofar as applicable. Since such reductions constitute a termination under the Act, the contractor will be entitled to appeal from such findings or sue in accordance with section 13 of the act.

*Action To Be Taken Prior to Service of Termination Notice*

2. In § 815.306 a new paragraph (a) is added, and former paragraphs (a) to (c) are redesignated (b) to (d).

**§ 815.306 Determination of scope of proposed termination.** (a) The Act provides as follows regarding proper cut-off points:

Sec. 11 (a) In order to facilitate the efficient use of materials, manpower, and facilities for war and civilian purposes, each contracting agency— \* \* \*

(3) shall permit the continuation of some or all of the work under a terminated prime contract whenever the agency deems that such continuation will benefit the Government or is necessary to avoid substantial injury to the plant or property.

\* \* \* \* \*  
3. Section 815.310 is revoked, as follows:

**§ 815.310 Amendments to insert provisions for negotiated settlements.** [Revised.]

4. Section 815.311 is amended to read as follows:

**§ 815.311 Settlements of contracts containing no termination articles.** (a) When the Government desires to terminate a contract containing no termination article and the contractor will not agree to insert an approved termination article by amendment, the chief of the technical service without the approval of higher authority may make an agreement for the discontinuance of performance and for settlement of the contract or provide for its settlement by reason of

such termination in such form as he deems for the best interest of the Government.

(b) If no satisfactory agreement can be made for the termination of such a contract, the chief of the technical service concerned acting personally or through a duly authorized representative within his own headquarters office (or in the Army Air Forces within the headquarters office of any of the major component commands of the Army Air Forces), may authorize the contracting officer to order the contractor to discontinue further performance. Where speed is essential such authority may be granted by teletype or telegraph. In view of the War Department policy against breaches of contract, such action will be taken only in unusual cases where all other reasonable efforts to prevent unnecessary expense have been exhausted. In any such case special care will be taken to record and preserve a statement of the circumstances and reasons leading to the action and of the grounds on which such action was determined to be in the interest of the Government.

(c) Where the contractor has been ordered to discontinue performance under paragraph (b) above, the chief of the technical service may make a settlement agreement with the contractor in accordance with paragraph (a) above. Where the contractor refuses to agree to a settlement, the chief of the technical service will prepare and deliver to the contractor findings of the amount due on his termination claim in accordance with the formula prescribed in the uniform termination article (see § 815.560 et seq.).

5. Section 815.315 is amended to read as follows:

**§ 815.315 Suspensions of performance undesirable.** (a) Section 11 (b) of the act provides as follows:

Whenever a contracting agency hereafter directs a prime contractor to cease or suspend all or a substantial part of the work under a prime contract, without terminating the contract, then, unless the contract provides otherwise, (1) the contracting agency shall compensate the contractor for reasonable costs and expenses resulting from such cessation or suspension, and (2) if the cessation or suspension extends for thirty days or more, the contractor may elect to treat it as a termination by delivering written notice of his election so to do to the contracting agency, at any time before the contracting agency directs the prime contractor to resume work under the contract.

(b) The act does not alter established War Department policy against suspension of contracts. Contracting officers will continue to avoid directing a prime contractor to suspend performance while attempting to decide whether to terminate a particular contract. Generally, this course results in confusion to the contractor, increased costs to the Government, and disorganization of the contractor's working forces and operations.

(c) Occasionally, however, the possibility of termination may justify an order to a contractor to suspend performance. The contracting officer should not do so,

however, unless he is sure that the resulting cost to the Government will be substantially less than either (1) allowing the performance of the contract to continue, or (2) effecting its immediate termination. Where a suspension is ordered it is suggested that the contracting officer:

(i) Should discuss with the contractor the nature and terms of the suspension and reduce such terms to writing and, if possible, obtain the contractor's consent to them; and

(ii) Should limit the duration of the suspension and not delay a decision as to termination.

(d) Whether the contract is reinstated or terminated, the reasonable costs of the contractor caused by the suspension should be paid either pursuant to an appropriate supplemental agreement or as a part of the termination settlement.

(e) In some instances, while working out with the contractor appropriate preliminary arrangements for a termination which has definitely been decided upon, a short suspension may be arranged by letter, conference or telegram (see form set out in § 815.911). The method should not be pursued except where it is certain that the contract will be terminated in whole or in part in the manner stated in the notice of suspension and is designed merely to afford an opportunity to make appropriate arrangements with the contractor prior to giving formal notice of termination (see e. g. § 815.312).

*Service of Termination Notice and Action Connected Therewith*

6. In § 815.322, paragraphs (a) and (c) are amended to read as follows:

**§ 815.322 Commencement of negotiations; initial conference with the contractor at the time of the service of the termination notice.** (a) In the case of each termination of a substantial contract, at the time of service of the termination notice, or as promptly as possible thereafter, a conference should be held with the contractor to negotiate the general outlines to be followed in making settlement and to develop a definite program to be followed by all parties participating in the work of settlement. Negotiations should be carried out at this conference sufficiently completely so that the basic terms on which settlement is to be effected are at least tentatively determined and so that there is a clear understanding as to what information is to be furnished by the contractor, what methods are to be pursued in disposing of property, what the general principles of settlements are to be and what accounting or other investigation is to be undertaken. The various methods of interim financing available to the contractor, and his need for such financing, should be carefully reviewed. If the contractor desires financing, a definite program should be developed at this conference. In addition, arrangements should be made with the contractor by which the needs of subcontractors for interim financing may be immediately ascertained and acted upon.

\* \* \* \* \*

(c) It is important that all interested groups in the office of the contracting officer should be represented at the initial conference. This will normally include the principal representative of the contracting officer, hereinafter mentioned, and also appropriate negotiating, technical, engineering, legal and accounting personnel. At or before the initial conference some one person will be designated by the contracting officer as his principal representative in connection with the particular termination, but it should be made wholly clear to the contractor that such representative is not authorized to agree finally upon a supplemental agreement making settlement of the amount, if any, due by reason of the termination. The contracting officer's representative should be given authority, either general or limited,

- (1) To approve partial payments for the contractor and for subcontractors,
- (2) To approve dispositions of property,
- (3) To approve settlements with subcontractors up to some stated amount,
- (4) To pass upon the miscellaneous minor questions which inevitably arise in connection with a termination settlement,
- (5) To negotiate a settlement subject to any required approval.

7. Section 815.324 (a) is amended to read as follows:

**§ 815.324 Release of information concerning cutbacks. \* \* \***

(a) *Approval of large cutbacks; notification of cutbacks to other Government agencies.* Pursuant to order of the Director, Office of War Mobilization, dated 5 June 1944, certain authority with respect to the making of cutbacks and terminations has been conferred upon the War Production Board. Proposed cutbacks or terminations which involve a reduction of \$1,000,000 or more of the total value of the items to be delivered in the current month or any one of the succeeding six months under all prime contracts for the same procurement item are required to be submitted to the War Production Board for approval prior to the sending of a formal notice of termination to the contractor. Any change in schedule under any one outstanding prime contract which reduces the value of items to be delivered during the current and succeeding three months by \$200,000 or more is required to be reported to the War Production Board and certain other Government agencies as soon as possible, ordinarily not later than two days before the contractor is formally notified of such change. Detailed instructions<sup>1</sup> have been issued by Headquarters, Army Service Forces and Headquarters, Army Air Forces, with respect to the procedure to be followed, and War Production Board forms have been distributed for this purpose. Since this procedure is in

a developmental stage, all circulars and instructions on this subject should be carefully checked for changes.

*Preparation and Review of Contractors' and Subcontractors' Accounting Statements and Proposals for Settlement; Accounting Guides to a Negotiated Settlement*

8. Section 815.408 is added, as follows:

**§ 815.408 Criminal law relating to contractors' records.** (a) Section 19 (a) of the act reads in part as follows:

It shall be unlawful for any person willfully to secrete, mutilate, obliterate, or destroy, or cause to be secreted, mutilated, obliterated, or destroyed:

(i) any records of a war contractor relating to the negotiation, award, performance, payment, interim financing cancellation or other termination, or settlement of a war contract of \$25,000 or more; or

(ii) any records of a war contractor and any purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any Government agency is \$5,000 or more,

until (1) five years after such disposition of termination inventory by such war contractor or Government agency, or (2) five years after the final settlement of such war contract, or (3) five years after the termination of hostilities in the present war as proclaimed by the President or by a concurrent resolution of the two Houses of Congress, whichever applicable period is longer.

As used in this subsection, the term "records" includes, but is not limited to, books, ledgers, checks and check stubs, pay-roll data, vouchers, memoranda, correspondence, inspection reports and certificates. Any corporation violating any provision of this subsection shall be fined not more than \$50,000 and any natural person violating any provision of this subsection shall be fined not more than \$10,000, or imprisoned for not more than five years, or both; *Provided, however,* That the Director, by regulation, may authorize the destruction of such records upon such terms and conditions as he deems appropriate, which may include the making and retaining of photographs or microphotographs.

(b) No regulations have as yet been issued by the Director authorizing destruction of such records, and consequently, contracting and disbursing officers and any other War Department officers having custody of such records (1) will observe the requirement of section 19 (a) of the act concerning such records and (2) will, to the extent feasible, bring this section to the attention of war contractors.

(c) Paragraph (h) of the uniform termination article (§§ 803.324, 815.901) requires the preservation of pertinent records for three years after final settlement, and in the case of any such records not covered by the act (see paragraph (a) above) this requirement will continue unchanged. In the case of all records which are covered by the act, the longer period of preservation prescribed by the act will be observed.

9. In § 815.436, paragraph (b) is amended, and paragraphs (c), (d), (e) and (f) are added, as follows:

**§ 815.436 Settlement of subcontractors' and suppliers' claims. \* \* \***

(b) At the time of making any fixed-price subcontract for the manufacture

of supplies, any contractor or subcontractor may insert in it the approved subcontract termination article, if it is appropriate. Where any subcontract is a requirement or open end contract, the article will be made to apply only to termination before the purchase of any minimum quantity contracted for, or to a termination of a firm order issued under the subcontract.

(c) The approved subcontract termination article may be inserted by amendment at any time in any fixed-price subcontract for the manufacture of supplies for which it is appropriate. The profit percentages set forth in the approved article will generally be considered fair and reasonable, but when a subcontract is so amended after termination of the prime contract, the rate of profit, if any, fixed in subparagraph (2) (ii) of paragraph (b) of the article shall not exceed the rate of profit which the parties then estimate would have been realized had the subcontract been completed.

(d) Where, at the time of settlement, a subcontract does not contain the approved article, a settlement based upon a reasonable estimate by the parties of the aggregate amounts which would be due under subparagraphs (1), (2) and (3) of paragraph (b) of the approved subcontract article, will be considered fair and reasonable, unless the profit allowed, if any, exceeds the rate of profit which the parties then estimate would have been realized had the subcontract been completed.

(e) As far as possible, terminated subcontracts should be settled by negotiated agreement.

(f) In some instances, because of the terms of the particular subcontract being settled, the Government will be under an obligation either to make reimbursement for, or to assure the defense against, a demand by a subcontractor which is greater in amount than would be recognized by the principles of the approved subcontract article. On the submission to the contracting officer for his approval of a settlement which provides for the payment of such an amount, the contracting officer will decide whether the settlement should be approved or ratified and whether the Government should protect the prime contractor or intermediate subcontractor from the asserted liability. (See § 815.535.)

10. In § 815.437, paragraph (a) is redesignated (a-1), and a new paragraph (a) is added, as follows:

**§ 815.437 Subcontractors' and suppliers' claims; investigation and approval by Government personnel—(a) Statutory provisions.** Section 7 (a) of the Contract Settlement Act of 1944 provides as follows:

Where, in connection with the settlement of any termination claim by a contracting agency, any war contractor makes settlements of the termination claims of his subcontractors, the contracting agency shall limit or omit its review of such settlements with subcontractors to the maximum extent compatible with the public interest. Any contracting agency (1) may approve, ratify, or authorize such settlements with subcontractors upon such evidence, terms, and conditions as it deems proper; (2) shall vary the

<sup>1</sup> See ASF Circular 209 dated 6 July 1944, and, for attachments only, ASF Circular No. 182, dated 16 June 1944; and letter from Headquarters, Army Air Forces, to Commanding General, Materiel Command, subject, "Procedures for Contract Cutbacks", dated 12 June 1944.

scope and intensity of its review of such settlements according to the reliability of the war contractor, the size, number, and complexity of such claims, and other relevant factors; and (3) shall authorize war contractors to make such settlements with subcontractors without review by the contracting agency, whenever the reliability of the war contractor, the amount or nature of the claims, or other reasons appear to the contracting agency to justify such action. Any such settlement of a subcontract approved, ratified, or authorized by a contracting agency shall be final and conclusive as to the amount due to the same extent as a settlement under subsection (c) of section 6 of this Act, and no war contractor shall be liable to the United States on account of any amounts paid thereon except for his own fraud.

(a-1) \* \* \*

11. In § 815.437a paragraphs (a) (3) is amended, the undesignated paragraph following (a) (3) is amended, a new undesignated paragraph is added, and paragraph (d) is amended, as follows:

*§ 815.437a Authorizations to prime contractors and subcontractors to make subcontract settlements involving payments of not more than \$10,000—(a) Authorizations of settlements by prime contractors.* \* \* \*

(3) All the property allocable to the terminated portion of the subcontract or purchase order, the cost of which is included in the statement of charges, will be retained by the prime contractor or subcontractor at fair and reasonable values or sold by them at the best obtainable prices and the value or proceeds credited on the settlement.

Subparagraph (3) above is subject to the exception, however, that if the prime contractor or subcontractor can not sell part or all of the property at any price or considers the best obtainable price too low to be acceptable, taking into full consideration the difficulties to be encountered in the shipment and handling of small amounts of property if delivered to the Government, then the prime contractor may make special arrangements with the contracting officer for transfer of title and delivery to the Government of such unsold property.

The chief of each technical service will coordinate the granting of authority under this paragraph by the procurement officers of his service in order to avoid inconsistent action and to expedite settlements.

(d) *Paragraph applicable to cost-plus-a-fixed-fee prime contractors.* An authorization in accordance with this paragraph may be given in connection with the settlement of terminated subcontracts or purchase orders under cost-plus-a-fixed-fee prime contracts.

12. Sections 815.490 and 815.491 are added, as follows:

*§ 815.490 Interest on prime contractor's claim.* (a) Each settlement with a prime contractor will provide for interest at the rate of  $2\frac{1}{2}$  per centum per annum on the amount due and unpaid on the termination claim from time to time,

computed in accordance with this paragraph.

(b) For the purpose of computing interest, the term "the date fixed for termination" means the date upon which the notice of termination requires the contractor (1) to reduce or stop deliveries under his contract or, (2) if no deliveries are being made or are called for under the contract, to reduce or stop performance under the contract.

(c) The amount due and unpaid on the claim from time to time shall be determined as follows:

(1) The contractor's own claim for termination expenses before deducting any disposal credits shall be treated as due 30 days after the date fixed for termination.

(2) Costs of settling termination claims of subcontractors, and allowable post-termination expenses shall be included as of the date on which the contractor pays them.

(3) Credits for disposal of termination inventory and partial payments shall be applied to reduce the amount due as of the date payment or disposal is made.

(d) Such interest shall be computed for a period beginning thirty days after the date fixed for termination or 21 July 1944, whichever date is later, and ending with the date of final payment to the contractor, with the following exceptions:

(1) If, in the opinion of the contracting officer, the prime contractor unreasonably delays settlement of his claim, interest shall not accrue for the period of such delay as determined by the contracting officer.

(2) If the contractor appeals or sues after a formula settlement, interest does not accrue after thirty days from the delivery of the findings, unless the amount allowed by the findings is increased upon the appeal or suit.

(e) Where interest for the period after termination on any advance payment or loan, made or guaranteed by the Government, has been waived for the benefit of the contractor, the amount of interest so waived which is allocable to the terminated contract shall be deducted from the interest otherwise payable under this paragraph.

(f) The settlement agreement will include an amount to cover the interest payable under this paragraph, based upon the estimate of the contracting officer as to the date of final payment, and will release all claims of the contractor for interest on the termination claim.

*§ 815.491 Interest on subcontractor's claims.* (a) Each prime contractor, in settling with his subcontractors, and each subcontractor, in settling with his own subcontractors, will allow interest substantially in accordance with the principles stated in § 815.490.

(b) In approving, ratifying, authorizing or making termination settlements with subcontractors, the contracting officer will allow interest on the termination claim of the subcontractor on substantially the same basis and conditions as are applicable to a prime contractor.

#### Interim Financing of Terminations

13. The following statutory provisions are inserted immediately preceding § 815.500.

(1) **SECTION 1.** The Congress hereby declares that the objectives of this Act are— \* \* \*

(b) To assure to prime contractors and subcontractors, small and large, speedy and equitable final settlement of claims under terminated war contracts, and adequate interim financing until such final settlement;

(2) **SEC. 3.** As used in this Act— \* \* \*

(i) The term "interim financing" includes advance payments, partial payments, loans, discounts, advances, and commitments in connection therewith, and guaranties of loans, discounts, advances, and commitments in connection therewith and any other type of financing made in contemplation of or related to termination of war contracts.

(3) **SEC. 7.** (b) Whenever any contracting agency is satisfied of the inability of a war contractor to meet his obligations it shall exercise supervision or control over payments to the war contractor on account of termination claims of subcontractors of such war contractor to such extent and in such manner as it deems necessary or desirable for the purpose of assuring the receipt of the benefit of such payments by the subcontractors.

(4) **SEC. 8.** (a) It is the policy of the Government, and it shall be the responsibility of the contracting agencies and the Director, in accordance with and subject to the provisions of this Act, to provide war contractors having any termination claim or claims, pending their settlement, with adequate interim financing, within thirty days after proper application therefor.

(b) Each contracting agency shall, to the greatest extent it deems practicable, make available interim financing through loans and discounts, and commitments and guaranties in connection therewith, in contemplation of or related to termination of war contracts. Where interim financing is made by advance payments or partial payments, it shall, insofar as practicable, consist of the following:

(1) An amount equal to 100 per centum of the amount payable, at the contract price, on account of acceptable items completed prior to the termination date under the terms of the contract, or completed thereafter with the approval of the contracting agency; plus

(2) An amount equal to 90 per centum of the cost of raw materials, purchased parts, supplies, direct labor, and manufacturing overhead allocable to the terminated portion of the war contract; plus

(3) A reasonable percentage of other allowable costs, including administrative overhead, allocable to the terminated portion of the war contract not included in the foregoing; plus

(4) Such additional amounts, if any, as the contracting agency deems necessary to provide the war contractor with adequate interim financing.

(5) In lieu of the costs referred to in clauses (2) and (3) of this subsection, where a detailed ascertainment of such costs is not suitable to the conditions of any war contractor and is apt to cause delay in the obtaining of interim financing by him, that portion of such interim financing shall be equal to an amount not greater than 90 per centum of the estimated costs which are allocable to the terminated part or parts of the war contract or group of war contracts, and are ascertained in accordance with such methods and standards as the Director shall prescribe.

(6) There shall be deducted from the amount of such interim financing any unliquidated balances of advance and partial payments theretofore made to such war contractor, which are allocable to the terminated war contract or the terminated part of the war contract.

(c) The Director shall prescribe (1) the types of estimates, certificates, or other evidence to be required to support such interim financing; (2) the terms and conditions upon which such interim financing shall be made including the use of standard forms for agreements with respect to such interim financing to the extent practicable; (3) the classes of cases in which such interim financing shall be refused; and (4) such methods of supervision and control over such interim financing as he deems necessary or desirable to assure adequate and speedy interim financing to subcontractors of the war contractor. (See § 815.200 (c)).

(d) In case of an overstatement by any war contractor of the amount due on his termination claim or claims in connection with any interim financing under this Act, such contractor shall pay to the United States, as a penalty, an amount equal to 6 per centum of the amount of the overstatement, but the Director may suspend or modify any such penalty if in his opinion the imposition thereof would be inequitable. Any penalty may be deducted from any amounts due the war contractor upon such termination claim or claims, or otherwise, or may be collected from the war contractor by suit. The obligation to pay any penalty imposed and to repay any interim financing made or assumed by the United States under this Act shall constitute a debt due to the United States within the meaning of Revised Statutes, section 3466 (31 U.S.C., sec. 191).

(e) Any contracting agency may allow any advance payments, previously made or authorized by it in connection with the performance of a war contract, to be used for payments and expenses related to the termination settlement of such contract, upon such terms and conditions as it deems necessary or appropriate to protect the interest of the Government.

(f) No interim financing shall be made by any contracting agency under this Act unless the terms of such financing provide for the liquidation by the war contractor of all loans, discounts, advance payments, or partial payments thereunder not later than the time of final payment of the amount due on the settlement of the termination claim or claims of the war contractor involved or such time thereafter as the contracting agency deems necessary for the liquidation of such interim financing in an orderly manner.

(g) Any contracting agency may settle, upon such terms and conditions as it deems proper, any claim or obligation due by or to the Government arising from or related to any interim financing made, acquired, or authorized by it. Any interim financing made, acquired, or authorized by any contracting agency before the effective date of this Act shall be valid to the extent it would be authorized under the provisions of this Act if made after its effective date.

(5) Sec. 9. (a) Any contracting agency may make advance or partial payments to any war contractor on account of any termination claim or claims, and may authorize, approve, or ratify any such advance or partial payments by any war contractor to his subcontractors, upon such conditions as it deems necessary to insure compliance with the provisions of subsection (b) of this section. Each contracting agency shall make final payments from time to time on partial settlements or on settlements fixing a minimum amount due before complete settlement, or as tentative payments before any settlement of the claim or claims.

(b) Where any such advance or partial payment is made to any war contractor by any contracting agency or by another war contractor under this section, except a final payment on a partial settlement, any amount in excess of the amount finally determined to be due on the termination claim shall be treated as a loan from the Government to the war contractor receiving it, and shall be payable upon demand together with a penalty computed at the rate of 6 per centum per annum, for the period from the date such excess advance or partial payment is received to the date on which such excess is repaid or extinguished. Where the advance or partial payment was made by a war contractor and authorized, approved, or ratified by any contracting agency, the war contractor making it shall not be liable for any such excess payment in the absence of fraud on his part and shall receive payment or credit from the Government for the amount of such excess payment.

(6) Sec. 10. (a) Any contracting agency is authorized— \* \* \*

(1) To enter into contracts with any Federal Reserve bank, or other public or private financing institution, guaranteeing such financing institution against loss of principal or interest on loans, discounts, or advances or on commitments in connection therewith, which such financing institution may make to any war contractor or to any person who is or has been engaged in performing any operation deemed by such contracting agency to be connected with or related to war production, for the purpose of financing such war contractor or other person in connection with or in contemplation of the termination of one or more such war contracts or operations; and

(2) To make, enter into contracts to make, or to participate with any Government agency, any Federal Reserve bank or public or private financing institution in making loans, discounts, or advances, or commitments in connection therewith, for the purpose of financing any such war contractor or other person in connection with or in contemplation of the termination of such war contracts or operations.

(b) Any such loan, discount, advance, guaranty, or commitment in connection therewith may be secured by assignment of, or covenants to assign, some or all of the rights of such war contractor or other person in connection with the termination of such war contracts or operations, or in such other manner as the contracting agency may prescribe.

(c) Subject to such regulations as the Board of Governors of the Federal Reserve System may prescribe with the approval of the Director, any Federal Reserve bank is authorized to act, on behalf of the contracting agencies, as fiscal agent of the United States in carrying out the purposes of this Act.

(d) This section shall not limit or affect any authority of any contracting agency, under any other statute, to make loans, discounts, or advances, or commitments in connection therewith or guarantees thereof.

(7) Sec. 15. (b) For the purpose of making termination settlements or interim financing any Government agency is authorized to rely upon such certificates of war contractors as it deems proper and to permit war contractors and other persons to rely upon such certificates without financial liability in the absence of fraud on their part.

14. Section 815.505 (a) is amended to read as follows:

§ 815.505 *Partial payments*—(a) *Distinguished from final payment on partial settlement*. A partial payment within the meaning of section 9 (b) of the act

and these regulations should be distinguished from a final payment on a partial settlement. A partial payment to the extent that it is in excess of the amount finally determined to be due on the termination claim, is treated as a loan from the Government to the contractor, payable upon demand together with a penalty computed at the rate of 6% per annum from the date such excess payment was made to the date on which the excess is repaid or extinguished. On the other hand, payments made pursuant to partial or final settlements cannot be recovered by the Government in the absence of fraud. Payments of this latter type will most frequently be made when it is desired to reimburse the prime contractor for final settlements with subcontractors which have been approved by the contracting officer, or made pursuant to authority delegated by him, prior to final settlement of the prime contract (see § 815.559).

15. In § 815.506, paragraphs (a), (b), and (c) are amended, and paragraphs (d), (e) and (f) added, as follows:

§ 815.506 *Partial payments for the benefit of prime contractors*—(a) *Types of payment authorized*. A partial payment of one of the following types shall be provided for prime contractors within thirty days from date of receipt of a proper application therefor provided the conditions set forth in these regulations are satisfied:

(1) Immediate partial payment based on preliminary estimates (paragraph (b));

(2) Cost-supported partial payment based on an adequate statement of costs (paragraph (c)); or

(3) Controlled partial payment to be deposited in a special controlled account and to be released as particular items of cost become established and are presented for payment (paragraph (f)).

(b) *Immediate partial payments*.

(1) It is recognized that many contractors may desire or need partial payments within a short time after receipt of a notice of termination and before an adequate inventory or statement of costs can be prepared. For this purpose immediate partial payments are authorized whenever the contracting officer believes that the contractor has not had a reasonable opportunity to prepare a detailed statement of his costs. A contractor who desires an immediate partial payment for his own benefit should include with his request for such a payment a certificate that the amount of his own costs allocable to the contract and due as of the date of the certificate is not less than a specified figure, after excluding charges with respect to inventory which he intends to retain at no cost to the Government.<sup>1</sup> In accordance with the policy expressed in the Act that partial payments be promptly made, and in view of the provisions of the act that excess partial payments shall be treated as loans,

<sup>1</sup> Under section 8 (d) of the act a war contractor is subject to a penalty of 6% of the amount of an overstatement made in connection with interim financing.

the contracting officer should promptly grant the request for partial payment in the largest amount he believes reasonable under all the circumstances then known to him, but such amount together with all previous unliquidated advance or partial payments allocable to the contractor's own costs, shall not exceed 90% of the amount stated in the contractor's certificate. In deciding the amount to be paid, the contracting officer should consider the contractor's certificate in the light of:

(i) All relevant information affecting the amount due then readily available to the contracting officer.

(ii) The relation between the amount of the requested partial payment and the amount certified by the contractor as due, and

(iii) The general reputation of the contractor for honesty and fair dealing.

It is recognized that the contracting officer may have little or no opportunity, in view of the policy expressed in the act, to do more than consider the general reasonableness of the certificate, and, in such cases, the contracting officer may make his determination of the amount to be paid solely upon the basis of such consideration of the contractor's certificate.

(2) The contractor should also anticipate the needs of his subcontractors for prompt partial or final payments and submit to the contracting officer a request for the necessary funds with which to make such payments promptly, as provided in § 815.507 (b) (1).

(c) *Cost supported partial payments.* Partial payments upon proper application shall also be made after the contractor has submitted a partial or complete settlement proposal, supported by the data prescribed for the submission of termination claims. On the basis of only such preliminary review as the contracting officer deems essential, the contracting officer will authorize payment of all or such part of the following amounts as he believes are within the amount due the contractor on his claim:

(1) An amount equal to 100 per centum of the amount payable, at the contract price, on account of undelivered<sup>1</sup> acceptable items completed prior to the termination date under the terms of the contract, or completed thereafter with the approval of the contracting officer; plus

(2) An amount equal to 90 per centum of the cost of raw materials, purchased parts, supplies, direct labor, and manufacturing overhead allocable to the terminated part of the war contract; and plus

(3) A reasonable percentage of other allowable costs, including administrative overhead, allocable to the terminated portion of the war contract not included in the foregoing.

In determining whether the proposed payment is within the amount believed to be due, the contracting officer will take into account the amount of any unliquidated advance or partial pay-

ments previously made on the terminated portion of the contract.

(d) *Voucher for partial payments.* Partial payments of the types described in paragraphs (b) and (c) may be authorized on the basis of a voucher signed by the contractor and approved by the contracting officer. The voucher shall include substantially the following provision:

The payment covered by this voucher is a partial payment of the amount due on the contractor's termination claim under Contract W\_\_\_\_\_, made pursuant to Section 9 of the Contract Settlement Act of 1944 and expressly subject to subsection (b) of such Section. This payment shall be applied against the amount finally payable by the Government to the contractor on such claim.

The voucher shall also include a certificate by the contracting officer substantially as follows:

This payment is authorized under the Contract Settlement Act of 1944.

(e) *Successive partial payments.* Successive immediate and cost-supported partial payments should be made as soon after the first partial payment as possible, whenever the contractor requests additional payment and the conditions set forth in paragraphs (b) or (c) are satisfied. There is no limit to the number of immediate or cost-supported partial payments that may be made on any one contract before execution of the final settlement agreement.

(f) *Controlled partial payments.* (1) In certain cases where the contractor is of doubtful financial responsibility or where the contractor's records are known to be inadequate, prompt and adequate partial payments may not be feasible under the procedures prescribed in paragraphs (b) and (c). In such cases the contracting officer may authorize partial payments to be made through a special controlled account for the purpose of insuring speedy and adequate interim financing consistent with adequate protection of the Government's interest.

(2) Such controlled partial payments shall be originally authorized by the execution of a supplemental agreement to the terminated contract substantially in the form set forth in § 815.922. Moneys deposited in a controlled account shall be made subject to a Government lien and subject to the direction of the contracting officer or his duly authorized representative. Under the general direction of the contracting officer, personnel of the Contract Financing Section will establish the controlled account and exercise prior approval of withdrawals therefrom for the purpose of assuring payment of costs allocable to the terminated portion of the war contracts against which the partial payments are made.

(3) The total amount of partial payments deposited in a controlled account with respect to any contract will not exceed the amount estimated to be due by reason of the termination less all unliquidated advance or partial payments previously made on the terminated portion of the contract. Subject to the above limitations, successive partial payments may be made into the controlled

account on the basis of vouchers submitted in accordance with the terms of the supplemental agreement.

16. In § 815.507, paragraphs (a) to (d) are amended and paragraphs (e) and (f) added, as follows:

§ 815.507 *Partial payments for the benefit of subcontractors—(a) Direct payments not authorized.* Except as provided in § 815.569, contracting officers are not authorized to make partial payments directly to subcontractors, vendors or suppliers whose subcontracts or purchase orders have been terminated or cancelled as a result of the termination of a prime contract with the War Department. This policy is based on the following reasons (see § 815.325 (b)):

(1) There is no direct contractual relationship between the Government and the subcontractor.

(2) There is no assurance that counterclaims and set-offs by the prime contractor (or by intermediate subcontractors) against the subcontractor in question will have been taken into account by the contracting officer in making partial payment.

(3) There is no assurance that the amounts of such partial payments will be taken into account in determining the amount due the prime contractor.

(4) The administrative difficulties involved in attempting to deal directly with subcontractors will tend to delay the settlement of terminated contracts.

(b) *Types of payment authorized.* Partial payments for the benefit of subcontractors shall be provided for within thirty days from date of receipt by the contractors shall be provided for within fifteen days. Partial payments to prime contractors may be made as follows:

(1) Partial payments may be made, in advance of actual requests by subcontractors, to place a prime contractor in funds with which to make prompt partial or final payments to subcontractors as the occasion arises. The prime contractor should constantly endeavor to anticipate the needs of his subcontractors and to have on hand at all time sufficient funds to meet their immediate requirements. To obtain a partial payment from the Government for this purpose, the prime contractor should include with his application a certificate that the amount of all subcontractors' charges allocable to the contract is not less than a specified figure. After giving consideration to the factors set forth in § 815.506 (b), the contracting officer should promptly grant the request for partial payment in the largest amount he believes reasonable under all the circumstances then known to him, but not exceeding 90 percent of the amount certified by the contractor as the minimum amount of all subcontractors' charges. The payment will be made to the prime contractor only upon his agreement to keep all funds received for this purpose in an account separate from his other funds. If the contracting officer is in doubt as to the financial responsibility of the prime contractor, he should utilize the controlled account procedure prescribed in § 815.506 (f).

<sup>1</sup> Delivered articles should be billed and paid for in the regular manner.

(2) Partial payments may be made to provide a subcontractor in any tier with an immediate partial payment before he has had an opportunity to prepare an adequate inventory or statement of costs. The subcontractor who desires an immediate partial payment should include with his request for such a payment a certificate that the amount of his own costs allocable to the contract and due as of the date of the certificate is not less than a specified figure, after excluding charges with respect to inventory which he intends to retain at no cost to the Government. The application should be made by the subcontractor to the war contractor immediately above him, who will forward the application through contractual channels to the contracting officer. In forwarding the application, the prime contractor and any intermediate subcontractors should state (i) whether a partial payment is recommended and in what amount, (ii) the general reputation of the applicant for fair business practice, if known, (iii) such information as is readily available with respect to the amount of the applicant's termination claim, and (iv) the amount of any partial payments obtained in anticipation of the needs of subcontractors, as provided in subparagraph (1) above, the use which has been made of this fund, and whether the proposed partial payment can be made out of this fund. The contracting officer in authorizing the partial payment, and war contractors in passing upon the application, will be guided by the principles stated in § 815.506 (b).

(3) Partial payments may be made to provide a subcontractor in any tier with a cost-supported partial payment as promptly as possible after he has submitted a partial or complete settlement proposal, supported by the data prescribed for the submission of a termination claim. The application should be made and forwarded together with a copy of the settlement proposal and supporting papers, in accordance with the procedure set forth in subparagraph (2) above. In determining the amount of the partial payment to be authorized or recommended, the contracting officer authorizing the partial payment, as well as war contractors who pass upon the application, will be guided by the principles stated in § 815.506 (c).

(c) *Delegation of authority to make partial payments.* Authorizations to prime contractors and subcontractors to make settlements with subcontractors involving payment of not more than \$10,000 in accordance with § 815.437a should generally include an express authorization to make partial payments up to 90 percent of the amount for which settlement is authorized. Where the authorization to make partial payments is granted in such cases, partial payments may be made in accordance with the terms of the authorization and without obtaining the contracting officer's approval of the particular payment. A partial payment made pursuant to a general delegation of authority from the contracting officer has the same effect as a payment made with his specific approval (paragraph (d)).

(d) *Effect of payment to subcontractors.* The war contractor making a partial payment to a subcontractor should see that the payment is made expressly subject to section 9 (b) of the act which provides that any excess payment over the final amount determined to be due shall be treated as a loan from the Government to the war contractor receiving it. Where this is done, and where the partial payment is authorized, approved, or ratified by the contracting officer, section 9 (b) of the act entitles the war contractor authorizing or making the payment, in the absence of fraud on his part, to receive payment or credit from the Government to the extent of any excess payment.

(e) *Voucher for partial payments.* Partial payments to prime contractors for the purpose of making payments to subcontractors may be authorized on the basis of a voucher signed by the prime contractor and approved by the contracting officer.

(1) Where the partial payment is made in accordance with subparagraph (1) of paragraph (b), the voucher shall include substantially the following provision:

The payment covered by this voucher is a partial payment of the amount due on the contractor's termination claim under Contract W -----, made pursuant to Section 9 of the Contract Settlement Act of 1944 and expressly subject to subsection (b) of such Section. This payment shall be applied against the amount finally payable by the Government to the contractor on such claim. The contractor agrees to keep this payment and all other payments received for the same purpose in an account separate from his other funds and to use this payment only for the purpose of making payments to subcontractors. Any amount not so used shall be repaid to the Government upon demand, with interest at 6% per annum from the date of demand to the date of repayment.

(2) Where the payment is made in accordance with subparagraphs (2) or (3) of paragraph (b), the voucher shall include substantially the following provision:

The payment covered by this voucher is a partial payment of the amount due on the contractor's termination claim under Contract W -----, made pursuant to Section 9 of the Contract Settlement Act of 1944 and expressly subject to subsection (b) of such Section. This payment shall be applied against the amount finally payable by the Government to the contractor on such claim. The contractor agrees to keep this payment and all other payments received for the same purpose in an account or accounts separate from his other funds and to pay over to the subcontractors listed below the amounts set opposite their names. Any amount not so paid over by the contractor shall be repaid to the Government upon demand with interest at 6% per annum from the date of demand to the date of repayment.

(3) In all cases the voucher shall also include a certificate by the contracting officer substantially as follows:

This payment is authorized under the Contract Settlement Act of 1944.

(f) *Control over partial payments.* When the contracting officer is in doubt as to the financial responsibility of the prime contractor, he should, in order to assure the receipt of partial payments by

subcontractors, follow the procedure prescribed in § 815.569.

#### *Negotiation of Settlements*

17. Section 815.559 is added as follows:

§ 815.559 *Partial settlement.* (a) The chief of each technical service, by general rule or delegation of authority or in specific cases, may authorize the use of partial settlement agreements, consistently with this paragraph.

(b) During the course of negotiations, the contracting officer from time to time will approve subcontract settlements and dispositions of property and credits arising therefrom in order to expedite or facilitate the settlement, and such approvals shall be final according to their terms, for the purpose of settling the terminated contract involved. With these exceptions, partial settlements covering particular items of the contractor's proposal may impede the negotiation of a complete final settlement, and should therefore not be made during the course of negotiations.

(c) When the contracting officer, after diligent effort, has been unable to negotiate a complete settlement of all matters related to the termination, it may be desirable to negotiate a partial settlement agreement covering all clearly separable issues as to which fair agreement can be reached without unreasonable concessions to the contractor. (See § 815.535.) Even in such cases the partial settlement should be used cautiously and should not be made if it will prejudice the interest of the Government in disposing of the issues left unsettled.

18. Section 815.560 is amended to read as follows:

§ 815.560 *Formula settlements*—(a) *When formula settlement is used.* (1) When, after diligent efforts to negotiate a settlement, any termination claim has not been settled by agreement or has been so settled only in part, the settlement will be made by formula. Whenever a contractor is unreasonably delaying a negotiated settlement by inaction or otherwise, the contracting officer will take action promptly to settle the claim by formula, especially where the interests of subcontractors may be adversely affected by the delay of the prime contractor.

(2) Where a contractor has submitted his termination claim in substantially the form prescribed by this regulation, he may make a written demand for findings of the amount due on his claim or the unsettled part thereof, under section 13 (a) of the act. Upon such demand, he is then entitled to such findings within ninety days after his demand. Section 13 (c) (3) of the act makes it clear, however, that the contractor is expected to negotiate in good faith for the settlement of his claim before demanding such findings.

(b) *Procedure.* (1) Where all or any part of any claim is to be settled by formula, the chief of the technical service will promptly so report in writing to the Readjustment Division, Headquarters, Army Service Forces, stating the issues involved. Action on the settle-

ment will not await any action on the report.

(2) Where a settlement is made by formula, the contractor has the burden of establishing, by proof satisfactory to the contracting officer, the amount due him on his termination claim. For this purpose the contractor will not be required to furnish detailed evidence, vouchers, and other data, to the extent ordinarily required under cost-plus-a-fixed-fee contracts. The contracting officer should generally accept photostatic or other copies of documents and records, and should not request original documents unless their authenticity is in dispute. In making formula settlements, the cost principles stated in § 815.480 et seq. will be applied.

(3) The contracting officer will give the contractor not less than fifteen days' notice by registered mail to produce, on or before a stated date, his written evidence bearing on the amount due. The contractor may submit such vouchers, verified transcripts of books of account, affidavits and audit reports, and other documents as he may wish. The contracting officer may require the contractor to submit such additional documents and data as he considers necessary in the particular case, and may cause such accounting and other investigations and audits to be made as he deems appropriate. If the contractor wishes to present oral testimony, or if the contracting officer wishes testimony presented on behalf of the Government or by independent experts, or wishes to examine persons whose affidavits or reports have been submitted, the contracting officer in his discretion, may hold a hearing, after due notice in writing to the contractor. In all cases, the contractor should be given full opportunity to submit, within a reasonable time, such additional documents, records and other evidence as he deems appropriate to support his claim.

(4) The contracting officer shall retain in the files of the procurement office to which he is attached or in the office of the chief of the technical service, as the chief of the technical service may direct, a file containing copies of all written evidence and other data relied upon by him in making his findings and determination, except that original books of account and other original papers and documents may be returned to the contractor upon the contractor's agreement to preserve them in accordance with section 19 (a) of the act.

(c) *Basis of formula determination.* (1) The determination of the amount due shall be based upon the applicable formula in the termination article of the contract involved. Without duplicating amounts included in negotiated partial settlements, the findings and determination shall include the following items:

(i) A summary of the costs to be paid under the formula settlement. Such costs should ordinarily be summarized in substantially the same manner as the summary shown on Standard Form A-1 (§ 815.937 (a)) with the detailed supporting data shown in the summary on

Standard Form B-1 (§ 815.938 (a)) or on Standard Form B-2 (§ 815.938 (b)) whichever is applicable. Such summary of costs, however, may be in such form as the contracting officer deems appropriate in the particular case.

(a) When the costs are presented on the "inventory basis", the figures on the cost summary should be supported by an inventory list. Where the inventory is comprised of more than three pages, a reasonable analysis only will be presented. This analysis (which should not require more than one or two pages) should show the description, quantity, prices (if appropriate) and extensions of the important classifications of inventory. For example, raw material may be listed by major groupings, and principal purchased components may be briefly described. Work-in-process will be listed to show the dollar amounts by departments or other appropriate classifications.

(b) When the cost summary is presented on the "total cost basis", each major element of cost on the summary should be supported by an appropriate short analysis or schedule of one or two pages. This analysis in respect to direct material will show to the extent practicable the several major classes as indicated by the contractor's records, such as steel, copper, lumber, etc., sub-divided as to grade for the major elements. Such a breakdown should seldom include more than 15 or 20 items. Direct labor may be summarized by plant operations, production centers or other appropriate classifications, if the contractor's accounting system so provides or if such an analysis can be readily obtained. Other direct charges if important, may be succinctly analyzed. Usually indirect factory expenses will be reflected in not more than 25 or 30 major accounts. The basis of allocation should be clearly described. A similar schedule should be submitted for administrative expenses and any other major groups shown on the cost summary if and to the extent deemed appropriate by the contracting officer.

(ii) A statement of the amount allowed by the contracting officer by way of profit. If the contract contains the new uniform termination article (§§ 803.324, 815.901), this item of profit should show separately (a) the amount allowed with respect to the cost of articles or materials not processed by the contractor, and (b) the amount allowed with respect to other costs of the contractor. If the contract contains the old standard form of termination article (see § 815.901a), the contracting officer will include a statement of his estimate of the profit which would have been realized on the uncompleted portion of the contract if the contract had been completed and his determination of the percentage of completion of the uncompleted portion of the contract, as well as the amount of profit allowed with respect to the work done on the uncompleted portion of the contract.

(iii) A supporting analysis of disposal credits, if substantial or if they cannot be appropriately explained in the summary, segregated as to those arising from prop-

erty retained by the contractor and those arising from sales to outsiders. In no event is it expected that such analysis will require more than two or three pages.

(iv) A list of all settlements with immediate (first tier) subcontractors with the name and address of each subcontractor and the amount of each settlement as approved or authorized by the contracting officer.

(v) A schedule of settlement expenses (post-termination expenses) including the cost of preserving and protecting the property. This schedule will show the major items by classification followed by a description where necessary to clarify the figures and should seldom exceed one page.

(vi) The total amount found to be due to the contractor. (Any amounts payable to the contractor in connection with a partial negotiated settlement should be listed separately for purposes of information.)

(vii) In addition to the accounting statements and schedules enumerated above, the following supplemental or collateral data should be furnished:

(a) The administrative accounting reports to the contracting officer by Government accounting personnel.

(b) Copies of correspondence directly bearing on the findings of the contracting officer.

(c) An appropriate certificate by the contracting officer supporting his findings of fact and stating that the amount of the termination settlement agreement is in his judgment just and reasonable.

(2) In making a formula settlement the contracting officer will not re-examine settlements with subcontractors made with his approval before or after the breakdown of negotiations, and will allow the costs of such settlements to the contractor under the applicable termination article as part of the formula settlement. Similarly the contracting officer will treat as final for the formula settlement any other action (such as dispositions of property) taken by the contractor before or after the breakdown of negotiations in reliance upon the written approval of the contracting officer.

(3) After reviewing accounting information prepared by his own office and any additional data or evidence furnished by the contractor, the contracting officer will make his findings and determination on the issues still in dispute and will transmit a copy of such findings and determination to the contractor by registered mail. The findings and determination will refer the contractor to his right of appeal or suit in accordance with section 13 of the act.

(d) *Appeal from findings within the War Department.* (1) Under section 13 (c) of the act, the contractor in his discretion may resort to any procedure for appeal from such formula findings provided by the War Department, within the time specified in his contract or if no time is specified, within 30 days after the delivery of the findings to him. Furthermore, he must take such an appeal if so required by regulations of the Director, but no such regulations have as yet been issued. Any revision of the findings upon

appeal within the Department is treated as the findings of the Department for the purpose of any subsequent appeal or suit under the act.

(2) If the contractor does not take an appeal from the findings and determination of the contracting officer within the time specified in the Disputes article of the contract, or within the thirty days, they become the findings and determination of the War Department with respect to the amount due to the contractor on his termination claim or the unsettled part thereof.

(3) If the contractor appeals within the War Department from the decision of the contracting officer, the contracting officer will transmit to the appeals agency (through channels) a narrative statement of the action taken before the appeal and relevant to the issues raised therein. In his discretion, he may include such schedules, office reviews, audit reports and records as he deems appropriate. He will also transmit to the appeals agency a copy of his findings and determination together with any other documents and papers required by the rules of the appeals agency. Most such appeals will be to the War Department Board of Contract Appeals (see §§ 803-381d-803.318f (e)) but some contracts made before the formation of that board provide for appeal to the chief of the technical service concerned. The determination by the appeals agency becomes the determination of the War Department with respect to the termination claim or unsettled part thereof.

(4) If the contractor does not accept the decision of the appeals agency within the War Department, the Act allows him to appeal to the Appeal Board established by section 13 of the act or to bring suit against the United States in the Court of Claims or in the United States District Court in accordance with subsection (20) of section 24 of the Judicial Code. This must be done within ninety days after delivery to him of the findings by the War Department, or within ninety days after the decision on his appeal within the Department or within one year after his demand for findings, if they are not delivered. In such suit or appeal, the findings of the War Department are *prima facie* correct, and the burden is on the contractor to establish that the amount due on his claim exceeds the amount allowed by the findings of the War Department.

(5) The pendency of any appeal within the War Department or before the statutory Appeal Board does not affect the authority of the chief of the technical service to make a settlement of the termination claim or any part thereof by a negotiated agreement with the war contractor at any time before the appeal is decided.

(6) The chief of the technical service will notify the Director, Readjustment Division, Headquarters, Army Service Forces, of each such appeal which is taken either to the chief of the technical service, the War Department Board of Contract Appeals, or to the statutory Appeal Board, and each suit under section 13 (b) of the act.

(e) *Payment on account.* (1) Within thirty days after delivering to the contractor the findings and determination in a formula settlement, the contracting officer will authorize a partial payment to the contractor of 90% of the amount determined to be due, after deducting from the 90% the amount of any outstanding advance payments and interim financing applicable to the contract involved. Before approving such a partial payment, the contracting officer may require the contractor to certify that the payment has not been assigned, or if it has been assigned, will require the written consent of the assignee to the making of the payment in accordance with § 815.510.

(2) Any such partial payment shall be made only upon a voucher containing substantially the following statement:

The payment covered by this voucher is made pursuant to section 13 (a) of the Contract Settlement Act of 1944 and is a partial payment of the amount due on the contractor's termination claim under Contract W\_\_\_\_\_, as determined by the War Department in findings dated\_\_\_\_\_. This payment shall be applied against the amount finally payable by the Government to the contractor on such claim. If this payment, together with all other payments made on such claim, exceeds the amount finally payable to the contractor on such claim, the contractor agrees to repay the excess to the Government on demand.

The voucher should also include a certificate by the contracting officer substantially as follows:

This payment is authorized under the Contract Settlement Act of 1944.

(f) *Final payment.* When the amount due the contractor has been finally determined, a voucher will be prepared in the usual manner covering the portion of the amount so determined which remains unpaid and will be presented to the finance officer for payment. The finance officer will forward to the Office of the Fiscal Director, Headquarters, Army Service Forces, the voucher together with the findings, the determination and supporting papers and also any findings or opinion on appeal or suit. The Office of the Fiscal Director will review the file and take such steps as are necessary to establish the sufficiency of the supporting papers and will then return the file to the finance officer with appropriate instructions. The amount due will be paid to the contractor after execution of a supplemental agreement which will constitute a release by the contractor of all further charges under the contract.

19. Section 815.561 is amended to read as follows:

§ 815.561 *Disputes article.* (a) Section 13 (c) of the act expressly modifies the usual disputes article (§ 803.326) as applied to termination settlements. As stated in § 815.560 (d) the contractor may appeal within the War Department from any findings on termination but shall not be required to do so unless regulations of the Director so provide. Since no such regulations have been issued, the contractor may now appeal from the findings of the contracting officer di-

rectly to the Appeal Board established by the act or may sue. In either case the findings of the War Department are *prima facie* correct but are not conclusive even as to questions of fact.

(b) If the contracting officer refuses to make a negotiated settlement of all or any part of a termination claim, his action is not subject to appeal either under the Disputes article or otherwise. However, if the contractor demands findings on his claim in accordance with section 13 (a) of the act, and they are not delivered to him within 90 days after his demand, he is entitled to appeal or sue without such findings.

20. Section 815.569 is added as follows.

§ 815.569 *Supervision of payments for subcontractors.* (a) Section 7 (b) of the act provides:

Whenever any contracting agency is satisfied of the inability of a war contractor to meet his obligations, it shall exercise supervision or control over payments to the war contractor on account of termination claims of subcontractors of such war contractor to such extent and in such manner as it deems necessary or desirable for the purpose of assuring the receipt of the benefit of such payments by the subcontractors.

(b) In the absence of any complaint or protest by a subcontractor, the contracting officer shall be under no duty to make an independent investigation of the financial condition of a war contractor; but if such complaint or protest is made, the contracting officer shall take reasonable steps to determine whether it is true.

(c) In determining whether a war contractor is unable to meet his obligations, the contracting officer is required to act only on the basis of substantial evidence indicating that the contractor is insolvent or bankrupt or is involved in pending proceedings in insolvency, bankruptcy, receivership or corporate reorganization, or is in imminent danger of such proceedings.

(d) Whenever the contracting officer is satisfied that a prime contractor, or a subcontractor with whom a direct settlement is made, is unable to meet his obligations, he shall either (1) follow substantially the procedure outlined in § 815.506 (f) in making payments to the contractor on account of termination claims of subcontractors, or (2) request authority to make such payments directly to the subcontractors entitled thereto, or to settle directly with them in accordance with § 815.570; or (3) take other appropriate action to assure that the subcontractors receive the benefit of payments on account of their claims. In his discretion, the contracting officer may take such action in other cases where he deems it necessary or desirable for the protection of the subcontractors.

21. Section 815.570 is added, as follows:

§ 815.570 *Direct settlement with subcontractors.* (a) Section 7 (d) of the act authorizes the War Department to settle directly termination claims of subcontractors to the extent that it deems such action necessary or desirable for the expeditious and equitable settlement

of such claims; and prescribes certain action to be taken for this purpose.

(b) With the written approval of the officer or employee in charge of the procurement office which is administering the settlement of the related prime contract, acting personally or through a representative designated for the purpose, the contracting officer may settle directly the termination claim of any subcontractor in accordance with section 7 (d) of the act, if (1) the war contractor liable to the subcontractor is not in financial difficulties, and is not threatened with financial difficulties, so far as the contracting officer is aware, and (2) a maximum is stated for the amount of such direct settlement, so that the total payments under the terminated prime contract will not exceed any maximum limit set for payments under the termination article (see §§ 803.324-815.44a).

(c) The officer or employee approving the making of any such direct settlement, and the contracting officer making it, should satisfy themselves that the subcontractor's termination claim is allocable to the terminated portion of the prime contract, and should also consider the following matters: (1) possible rights of offset or counterclaim against the subcontractor which may be possessed by the war contractor liable to him; and (2) any assignments that may have been made by the subcontractor of amounts payable under the subcontract.

(d) Whenever the chief of any technical service desires to settle directly the termination claim of any subcontractor where the above conditions are not met, he will forward to the Director, Readjustment Division, Headquarters, Army Service Forces, a request for authority to make such settlement, stating the essential facts of the case. No such settlement will be made without such special authority.

(e) The authority under this section is not intended for widespread use of direct settlements with subcontractors as a general program. By the terms of their contracts with the Government, prime contractors are still obligated to settle the termination claims of their subcontractors and suppliers. The provisions of this paragraph are primarily to facilitate expeditious and equitable settlement of subcontractors' claims where that cannot be accomplished by settlement by the prime contractor.

22. Section 815.571 is added, as follows:

§ 815.571 *Supplemental payments to subcontractors.* (a) Section 7 (f) of the act provides:

If any contracting agency determines that in the circumstances of a particular case equity and good conscience require fair compensation for the termination of a war contract to be paid to a subcontractor who has been deprived of and cannot otherwise reasonably secure such fair compensation, the contracting agency concerned may pay such compensation to him although such compensation already has been included and paid as part of a settlement with another war contractor.

(b) Whenever the chief of a technical service considers that a subcontractor is

entitled to receive a payment of fair compensation under the provisions of this section of the act, he shall forward to the Director, Readjustment Division, Headquarters, Army Service Forces, a report stating the essential facts of the case and the reasons for requesting the approval of such a payment. No such payment shall be made without such approval.

#### SUBPART D—COST-PLUS-A-FIXED-FEE CONTRACTS

##### General

1. In § 815.651, paragraphs (b), (c), and (g) are amended, and paragraph (d-1) is added as follows:

##### § 815.651 *Steps in the termination of cost-plus-a-fixed-fee contracts.* \*

(b) *Termination and settlement of subcontracts.* The prime contractor will take steps forthwith upon receipt of the termination notice to terminate subcontracts and purchase orders in compliance with such notice, to obtain inventories, accounting data and cost statements and proposals for a negotiated settlement of any lump sum subcontracts and purchase orders. (See § 815.325 (c).) In the case of cost-plus-a-fixed-fee subcontracts, the prime contractor will obtain the accounting data and vouchers necessary (1) to permit final determination and payment of the reimbursable costs under such subcontract, and any necessary adjustment of the fixed fee thereunder, or (2) the negotiation of a settlement of such subcontract if that is appropriate.

##### (c) *Settlement of fixed price (lump sum) subcontracts, purchase orders and obligations.* \*

(2) \*

(iii) if the settlement in question is approved by the contracting officer as reasonable and proper and in the best interest of the Government, or if the settlement will call for the payment of not more than \$10,000 (without deducting disposal credits) and has been made by the prime contractor (or a subcontractor) pursuant to an authorization to settle given in accordance with § 815.437a.

(d-1) *Subcontractors' and suppliers' claims; investigation, approval and authorizations to make settlements.* In connection with the settlement of terminated cost-plus-a-fixed-fee contracts, the provisions of §§ 815.437 and 815.437a apply to the investigation and approval of subcontractors' claims and to authorizations to prime contractors and subcontractors to make subcontract settlements involving payments of not more than \$10,000.

(g) *Negotiation of settlement with prime contractor.* (1) The contracting officer may negotiate a settlement with the prime contractor covering the whole or any part of the following:

(i) Costs incurred prior to the effective date of notice of termination for which the contractor has not been reimbursed, including, among others, any unreimbursed overhead or administrative costs,

but not including any cost which is the subject of a General Accounting Office suspension cleared by deduction or remaining uncleared;

(ii) Settlements with subcontractors and suppliers;

(iii) Allowable post termination expenses;

(iv) Adjustment of the fixed fee.

Such negotiations shall be conducted substantially in the manner outlined in Subpart B of this part for settlement negotiations under lump sum supply contracts. For the purpose of this paragraph, advance, progress or partial payments shall not be considered to constitute reimbursement of any costs.

(2) If the contracting officer is unable to negotiate a settlement of the whole amount due to the prime contractor for the several items specified in subparagraph (1) above, he will determine the amount due to the contractor therefor under the contract substantially in accordance with the procedures set out in § 815.560 et seq.

(3) If the chief of the technical service concerned is of the opinion that it will expedite the settlement of the contract to include in the negotiations (i) any item or items of cost for which the contractor has been reimbursed, including those which may be in dispute, (ii) any item which is the subject of a General Accounting Office suspension cleared by deduction or remaining uncleared, and (iii) any item claimed by the contractor other than those specified in subparagraph (1), he may request authority from the Director, Readjustment Division, Headquarters, Army Service Forces, to effect such a negotiated settlement. Any such request by the chief of the technical service will be accompanied by his recommendations and a sufficiently complete statement of the facts to permit full consideration of the request.

2. Section 815.654 (a), is amended by the deletion of subparagraph (3).

3. Section 815.655 is amended to read as follows:

§ 815.655 *Final and partial settlement agreements.* Upon the settlement of the total amount due to the contractor in connection with the termination of the contract, including any amount due the contractor as payment of the fixed fee, the contracting officer and the contractor may execute a final settlement agreement,<sup>1</sup> in the form of a supplemental agreement to the contract (see § 815.934). Such supplemental agreement will set forth the amount of such final payment, will state the terms of any adjustment of the fixed fee, will state that all Government property under the contract and theretofore undisposed of has been delivered to the Government, will list such property or will incorporate a list thereof by reference, will normally embody a general release by the contractor

<sup>1</sup> No such final settlement agreement need be entered into where, as in the case of a cost-plus-a-fixed-fee construction contract, the problems incident to the termination are relatively simple and the terms of the termination article are self-operating.

and the Government of all claims against each other, and will state in detail all the exceptions to said release (see, for list of such possible deductions, exceptions and reservations, § 815.537 (b)). The chief of a technical service may authorize the execution of partial settlement agreements in appropriate cases in a manner consistent with § 815.559.

#### Cost-Plus-A-Fixed-Fee Construction Contracts

4. Section 815.664 is amended by designating the existing text paragraph (a) and by adding paragraph (b), as follows.

##### § 815.664 Stop orders. (a) \* \* \*

(b) In the issuance of stop orders, care should be exercised that the contractor is not unintentionally released from his contract through the provision of the act which gives the contractor the election to treat the contract as terminated for the convenience of the Government if a Government-ordered cessation or suspension of work extends for thirty days or more. (See § 815.315 quoting the act on this point.)

#### SUBPART F—REPORTS

1. Section 815.802 is amended to read as follows:

§ 815.802 *Matters to be covered.* The report will cover all terminations of contracts for the convenience of the Government, regardless of the type or amount of the contract, but will exclude reductions in quantity made in accordance with § 815.300 (c). It will cover all such terminations completed during the month and those still in process. If no such terminations have been completed and none are in process, a negative report will be made. When a final settlement has been made with a contractor and reflected in a monthly report, it will not be reflected in subsequent reports. Cost-plus-a-fixed-fee contract terminations will be reported separately. "Cost-plus-a-fixed-fee" will be typed immediately below the report title of such reports. Any portion of a supply contract pertaining to facilities to be acquired for Government account will be excluded from each column of the report. (If no definite segregation is made in the contract, this instruction may be waived as to Column 7).

2. In § 815.806 paragraphs (h) and (i) are added, as follows:

##### § 815.806 *Instructions with respect to the report form.* \* \* \*

(h) *Suspended termination settlements.* In preparing the Monthly Contract Termination Status Report, the procurement office will segregate, under the heading "Suspended Termination Settlements," any case which has not been settled if:

(1) The terminated contract is in litigation; or

(2) The terminated contract is before the War Department Board of Contract Appeals, or another appeal agency; or

(3) The procurement office lacks authority to settle or is awaiting decision or action by authority higher than the technical service involved; or

(4) Other causes beyond the control of the technical service prevent settlement.

The decision of the procurement office to segregate any case on the report is subject to approval by the chief of the technical service at the time the report is forwarded. Status of each segregated case will continue to be reported on the status report until finally settled.

(i) *Subcontract claims assumed by Government.* Where the prime contractor's claim has been completely settled except for the obligations to one or more subcontractors which have been assumed by the Government for direct settlement, the prime contract and all settled subcontract claims will be reported as settled under the heading "Terminations Completed." Each of the obligations assumed by the Government will be reported as a separate termination made upon the effective date of the notice of termination from the higher tier contractor.

#### SUBPART F-1—REMOVAL OF PROPERTY FROM CONTRACTORS' PLANTS

1. Section 815.850 is amended to read as follows:

§ 815.850 *Introductory.* (a) This subpart contains instructions to be followed by the technical services in carrying out the provisions of section 12 of the Contract Settlement Act of 1944 for the expeditious removal from the plants of war contractors of property not to be retained or sold by them. General policies and procedures for the removal and storage of "termination inventory" are set forth in §§ 15.851-15.858; special instructions for fixed-price prime contracts are provided in §§ 15.859-15.863, for fixed-price subcontracts in § 15.864, and for cost-plus-a-fixed-fee supply contracts in § 15.867. § 15.868 is reserved for instructions to be issued with respect to Government-owned machinery, tools or equipment which are held under provisions of terminated contracts specifically governing their retention, storage, maintenance or disposition, or which become excess to the needs of the contractor other than by termination of war contracts.

(b) The instructions are designed primarily to implement the prescribed policies for prompt clearance of a contractor's plant prior to final settlement. Special instructions, however, have also been prescribed with reference (1) to the removal or storage of property which is to be taken over at the time of execution of the final settlement agreement, and (2) to the certification of final payment vouchers in so far as property which has been removed or stored is concerned.

#### General Policies and Procedures

2. Section 815.851 is amended to read as follows:

§ 815.851 *Provisions of the Contract Settlement Act of 1944 on removal and storage.* Section 12 of the act reads as follows:

(a) It is the policy of the Government, upon the termination of any war contract, to assure the expeditious removal from the plant of the war contractor of the termina-

tion inventory not to be retained or sold by the war contractor.

(b) Any war contractor may submit to the contracting agency concerned or to any other Government agency designated by the Director, one or more statements showing the materials which such war contractor claims to be termination inventory under one or more war contracts and desires to have removed by the Government. Such statements shall be prepared in such form and detail, shall be submitted in such manner, through the prime contractor or otherwise, and shall be supported by such certificates or other data, as may be prescribed under this act.

(c) Within sixty days after the submission of any such statement by a war contractor, or such shorter period as may be prescribed under this act, or within such longer period as the war contractor may agree, the Government agency concerned (1) shall arrange, upon such terms and conditions as may be agreed, for the storage by the war contractor on his own premises or elsewhere of all such claimed termination inventory which the war contractor does not retain or dispose of, except any part which may be determined not to be allocable to the terminated war contract or contracts, or (2) shall remove from the plant or plants of the war contractor all of such claimed termination inventory not retained, disposed of, or stored by the war contractor or determined not to be allocable to the terminated war contract or contracts.

(d) Upon the failure of the Government so to arrange for storage by the war contractor or to remove any termination inventory within the period specified under subsection (c) of this section, the war contractor, subject to regulations prescribed under this Act, may remove some or all of such termination inventory from his plant or plants and may store it on his own premises or elsewhere for the account and at the risk and expense of the Government, using reasonable care for its transportation and preservation. If any war contractor intends so to remove any claimed termination inventory, he shall deliver to the Government agency concerned written notice of the date fixed for removal and a statement showing the quantities and condition of the materials so to be removed, certified on behalf of the war contractor to have been prepared in accordance with a concurrent physical inventory of such materials. Such notice and statement shall be delivered at least twenty days in advance of the date fixed for removal and may be delivered before or after the expiration of the period specified under subsection (c) of this section. If the Government agency fails to check such materials, at or before the time of their removal by the war contractor, a certificate of the war contractor specifying the materials shown on such statement which were so removed, and filed with the Government agency concerned within thirty days after the date fixed for removal, shall constitute *prima facie* evidence against the United States as to the quantities and condition of the materials so removed, and the fact of their removal.

(e) Notwithstanding any other provisions of law, but subject to subsection (h) of this section, the contracting agency concerned or the Director, or any Government agency designated by him, on behalf of the United States, may, by the exercise of any contract rights or otherwise, acquire and take possession of any termination inventory of any war contractor, and any materials removed by the Government or stored for its account under subsections (c) and (d) of this section, whether or not such materials are finally determined not to constitute termination inventory. With respect to any such materials, the Government shall be liable to any war contractor concerned only for their return to such war contractor or for their disposal value at the time of their removal or

for the proceeds realized by the Government from their disposal, at the election of the Government agency concerned, unless the Government agency and the war contractor agree or have agreed on a different basis. Any amount so paid or payable to a war contractor for materials allocable to a terminated war contract shall be credited against the termination claim under such contract but shall not otherwise affect the amount due on the claim, unless the Government agency concerned and the war contractor agree or have agreed otherwise. Any materials to which the Director takes title under this section shall be delivered for disposal to any appropriate Government agency authorized to make such disposal.

(f) No contracting agency shall postpone or delay any termination settlement beyond the period specified in subsection (c) of this section for the purpose of awaiting disposal by the war contractor or the Government of any termination inventory reported in accordance with subsection (b) of this section.

(g) Whenever any war contractor no longer requires, for the performance of any war contract, any Government-owned machinery, tools, or equipment installed in his plant for the performance of one or more war contracts, the Government agency concerned, upon written demand by the war contractor, and within sixty days after such demand or such other period may be prescribed under this Act, and upon such conditions as may be so prescribed, shall remove or provide for the removal of such machinery, tools, or equipment from such plant, unless the Government agency concerned and the war contractor, by facilities contract or otherwise, have made or make other provisions for the retention, storage, maintenance, or disposition of such machinery, tools, or equipment. The Government agency concerned may waive or release on behalf of the United States any obligation of the war contractor with respect to such machinery, tools, or equipment upon such terms and conditions as the agency deems appropriate. Upon the failure of the Government so to remove or provide for removal of any such machinery, tools, or equipment, the war contractor, subject to regulations prescribed under this Act, may remove all or part of such machinery, tools, or equipment from his plant and may store it on his own premises or elsewhere, for the account and at the risk and expense of the Government, using reasonable care for its transportation and preservation.

(h) Nothing in this Act shall limit or affect the authority of the War Department, Navy Department, or Maritime Commission, respectively, to take over any termination inventories and to retain them for their use for any purpose or to dispose of such termination inventories for the purpose of war production, or to authorize any war contractor to retain or dispose of such termination inventories for the purpose of war production.

(i) Nothing in this section shall be construed to prevent the removal and storage of any termination inventory by any war contractor, at his own risk, at any time after termination of any war contract to which it is allocable.

It is provided in section 20 (e) of the act that any war contract, or term or provision thereof otherwise valid is not impaired or modified by the act.

3. Sections 815.853 and 815.854 are amended to read as follows:

**§ 815.853 Removal of property upon demand of the contractor.** (a) Termination inventory located in a plant of a war contractor not disposed of as provided in the preceding paragraph will, within sixty days or such longer period

as the war contractor may agree, after demand of the war contractor accompanied by tender of title (see § 815.863) and by satisfactory inventory lists (see § 815.856) and unless the contract otherwise provides, be removed by the technical service concerned from the plant of the war contractor or a storage agreement entered into with him. (Certain special provisions with respect to subcontractors and cost-plus-a-fixed-fee contractors are contained in §§ 15.864 and 15.867.)

(b) Such removal or storage of property does not entitle the war contractor to direct payment for the property by the government. In the case of fixed-price prime contracts, the transfer of property allocable to the terminated portion of the contract is made by the contractor pursuant to his obligation under the Termination Article and payment is effected through the settlement of his termination claim. In the case of fixed-price subcontractors, the subcontractor is paid through settlement of his termination charge for the allocable property removed or stored. In turn, the settlement of the termination charge of the subcontractor is included in the termination charges of intervening subcontractors, if any, and of the applicable prime contractor—payment is thus accomplished through settlement of termination charges in the usual manner. Where the property is determined not to be allocable to the terminated prime contract, then the government will be liable to the war contractor concerned only for the return of the property to such war contractor or for its disposal value at the time of its removal or for the proceeds realized by the Government from its disposal, all at the election of the technical service concerned, unless the technical service and the contractor agree or have agreed on a different basis.

(c) A fixed-price prime or subcontractor may, unless the contract otherwise provides, at any time after receipt of notice of termination, remove the property and store it at his own risk and expense.

**§ 815.854. Arrangements for storage of property.** Property taken over from contractors and not otherwise disposed of may be stored (a) with the contractors concerned under a storage agreement entered into by the technical service terminating the contract; (b) in government-owned or leased installations available, or which are made available, to the technical services for storage purposes; (c) in commercial warehouses or other storage space on other contractors' premises under contracts to be negotiated by the technical service terminating the contract; or (d) in premises leased for storage purposes under current regulations. Any contract involving the acquisition of an interest in real estate will be executed by the Division Engineer in accordance with existing regulations. It is recognized that available warehouse space is wholly insufficient to store the large volume of property which may be involved in contract termination, and that appropriate contractual arrangements in most cases

will have to be made for the storage of such property by the contractors whose contracts are terminated.

The technical services are authorized to enter into contracts for the storage of property with such contractors. Where this cannot be accomplished, the technical services will make arrangements for storage space and its operation in accordance with the applicable provisions of ASF Circular No. 214, 11 July 1944, concerning surplus and industrial storage space requirements. The use of commercial warehouse services for storage of surplus property will be kept to a minimum and technical services are authorized to enter into such contracts only where other necessary storage space is not available. In this connection, the technical services may obtain information on such available storage space, prevailing storage rates and commercial warehousing practices from commercial warehouse officers in regional Quartermaster and Army Service Forces depots. The technical services will consult with these officers before entering into contracts with commercial warehouses solely for the purposes of storage provided that such action will not unduly delay clearance of the contractor's plant. The Storage Branch, Storage & Distribution Division, Office of the Quartermaster General, Washington, D. C., will furnish the name and address of any or all of the commercial warehouse officers upon request. Both the contracts executed with contractors and those for warehouse services will be financed from funds available to the technical services concerned. To the extent, if any, that the provisions hereof are in conflict with ASF Circulars No. 65 (Section VIII) and No. 71 (Section III), 1944, the provisions hereof shall govern. Open storage will be utilized wherever consistent with the proper care and preservation of the property. Transportation and drayage costs will be kept to a minimum.

4. Section 815.856 is amended to read as follows:

**§ 815.856 Inventory lists to be submitted by contractors.** (a) The war contractor will be required to submit with his demand for removal inventory lists of the property requested to be removed. The inventory lists will be prepared on Inventory Schedules Numbers C-1, C-2 and C-3 (Forms, W. D. A. G. O. 247, 248 and 249) and will be certified as prescribed thereon adding to the certificate a statement that the property listed is on hand on the date thereof. In order to avoid unnecessary duplication of work, contractors should be encouraged to prepare these forms in as many copies as is anticipated will be needed by both the government and themselves in the termination proceedings.

(b) The contracting officer will require the contractor to submit with his demand for removal as many copies of the inventory lists as is anticipated will be needed to meet reasonable government requirements. As a minimum, five copies of the lists will normally be required for property disposition and property accounting purposes. The contracting

officer will retain one copy for filing in the War Department's permanent file relating to the contract termination settlement and will furnish the other four copies to the designated accountable property officer for use as follows: One copy for use by government personnel in checking the accuracy of the lists and for filing in the accountable property officer's jacket file (see § 815.858 (a)); where required, one copy to be received in accordance with the provisions of § 815.860 (b) and returned to the contractor for retention by him; and two copies for forwarding to the appropriate government agencies charged with disposal of property.

(c) Where several contracts with the same contractor are grouped for termination settlement purposes, the inventory lists need not segregate contractor-owned property by contracts, but only by locations.

*Special Instructions With Respect to Fixed-Price Prime Contracts*

5. In § 815.862 a new paragraph (b) is added, and former paragraph (b) is redesignated (c).

§ 815.862 *Procedures with respect to property neither removed from the contractor's premises nor stored with him pursuant to agreement.* \* \* \*

(b) In the event a contractor who is entitled to have property removed by the Government (see § 815.853 (a)) gives notice of his election to exercise the privilege accorded him under the act to remove any such property and store it for the account and at the risk and expense of the Government (see § 815.851 (d)), the technical services will, in the exceptional event it is impossible to remove the property or arrange to store it with the contractor pursuant to agreement, check the quantities and condition of the property at the time of its removal by the contractor in accordance with the policies expressed in § 815.860 (a).

(c) \* \* \*

*Policies and Procedures With Respect to Fixed-Price Subcontracts*

6. Section 815.864 is amended to read as follows:

§ 815.864 *Property in the hands of fixed-price subcontractors.* (a) The foregoing policies and procedures will apply to property in the hands of fixed-price subcontractors of any level under War Department fixed-price or cost-plus-a-fixed-fee prime supply contracts (when the property is not to be retained or disposed of by the prime contractor or a subcontractor) whenever the subcontractor's required inventory lists (accompanied by a certificate of the prime contractor as hereinafter provided or other satisfactory evidence of allocability) are submitted to the contracting officer of the applicable prime contract, together with the subcontractor's demand for removal. The form of storage agreement set forth in § 815.951, appropriately modified, will be used if the property is stored with the subcontractor. Such certificate of the prime contractor

involved shall be to the effect that the subcontract had been terminated by reason of the termination of the prime contract and that the property involved is believed to be properly allocable to the prime contract, i. e., includable in the settlement of the prime contractor's claim. The lists must be forwarded to the prime contractor by the interested subcontractor through intermediate subcontractors, if any, unless the contracting officer otherwise directs. Contracting officers are authorized in their discretion to permit the lists to be forwarded directly to the contracting officer accompanied by such evidence of allocability other than the certificate of the prime contractor as the contracting officer deems satisfactory.

(b) The contracting officer under the terminated prime contract will require such physical check of the accuracy of the lists to be made by representatives of the Government as he deems necessary in accordance with policies expressed in § 815.860 (a) hereof. In determining what physical check of the accuracy of a subcontractor's lists shall be made by representatives of the government, the contracting officer shall give due consideration to the checks made by the superior subcontractor or by the prime contractor.

*Policies and Procedures With Respect to Cost-Plus-a-Fixed-Fee Supply Contracts*

7. In § 815.867 paragraphs (a) and (d) are amended to read as follows:

§ 815.867 *Removal of property under terminated cost-plus-a-fixed-fee supply contracts.* \* \* \*

(a) Government-owned property located in the plant of a war contractor that is not otherwise disposed of within sixty days (or such longer period as the contractor may agree) after its removal has been requested in the prescribed manner by the contractor will be removed or a storage agreement entered into with the contractor for its storage unless the terminated contract otherwise provides. Contracting officers will arrange for the taking of the joint inventory by the Government and the contractor as prescribed in section X of the War Department Industrial Property Accounting Manual before the property is removed or a storage agreement entered into. Where the property is to be removed or a storage agreement entered into with the contractor within a reasonable period after termination, then for purposes of convenience to both the government and the contractor the joint inventory prescribed in the Manual may be delayed until the date that the property is removed or the storage agreement is executed.

(d) If property which the contractor is entitled to have removed by the Government under the provisions of paragraph (a) above, is not removed or stored with him pursuant to agreement, then the contractor may remove and store such property under the provisions and upon the conditions set forth in para-

graph 12 (d) of the act, provided the contractor, regardless of any terms of the terminated contract providing for a lesser degree of responsibility for the care and preservation of property during performance of the contract, takes reasonable precautions for the protection of the property.

**SUBPART C—FORMS**

1. Paragraph (a) of § 815.912 is amended to read as follows:

*Notice of Termination*

§ 815.912 *Lump sum supply or construction contracts—(a) Form of termination notice to prime contractor.* In all cases where a lump-sum contract is to be terminated for the convenience of the Government, and even though a previous notice of termination has been given by telegram or otherwise, a termination notice in substantially the following form will be sent to the contractor by registered mail:

XYZ CORPORATION  
New York, New York.

**TERMINATION NOTICE**

1. You are hereby notified that your Contract No. \_\_\_\_\_ is hereby terminated for the convenience of the Government. Such termination will be effective.

[Here insert either "immediately upon your receipt of this notice" or "on \_\_\_\_\_ 194\_\_\_\_" (inserting the date), or "as soon as you have delivered under the Contract the following number of each of the items listed below, including those heretofore completed, to wit: \_\_\_\_\_," or "on \_\_\_\_\_ 194\_\_\_\_, on which date you are hereby directed to reduce the rate of delivery under the Contract as follows:" (here insert instructions as to reduced rate of delivery).]

2. The date on which such termination becomes effective shall be the "date fixed for termination" of the Contract for the purposes of Section 6 (f) of the Contract Settlement Act of 1944 relating to the payment of interest on termination claims.

3. A copy of "Instructions to Contractors", which summarizes your principal rights and obligations arising out of the termination of the Contract, is inclosed herewith.

4. You are hereby instructed, immediately upon receipt of this notice

(a) To stop all work and the placing of any orders in connection with the Contract, except (i) to the extent necessary to perform any portion thereof not terminated by this notice, or (ii) to the extent that you may wish to retain and continue any work in process for the cost of which you will make no claim against the Government, or (iii) as provided in subparagraph 6a of the enclosed Instructions, relating to work in process which you think it inadvisable to stop immediately; and

(b) To give notice of such termination to each of your immediate subcontractors (including suppliers) who will be affected thereby, (i) giving him the number of the Contract, (ii) stating that it has been terminated for the convenience of the Government, (iii) giving him the name and address of the office in charge of the settlement of your claim, as set forth below, (iv) instructing him to stop all work, to place no more orders, and to terminate all subcontracts, in connection with his subcontract with you, except to the extent necessary to enable him to perform any portion of such subcontract not terminated by the notice so given to him, and (v) requesting him to give similar notice and instructions to his immediate subcontractors.

5. You are authorized to retain or dispose of all property applicable to the terminated portion of the Contract in accordance with subparagraphs 10 (a) and 10 (b) of the inclosed Instructions, except for the following property:

(Here list all property which the Government wishes to take over.)

Similar authority should be extended to all subcontractors, except as to property of the class or classes listed above.

6. You are also required to settle with all your immediate subcontractors as promptly as possible. Each such settlement will be subject to the approval or ratification of the Contracting Officer, except as set forth in the inclosed Instructions.

7. The Government desires to settle your claim arising out of the termination of the Contract by negotiation, and on such terms as will speedily and fairly compensate you therefor. You are accordingly urged to prepare and submit as promptly as possible your Settlement Proposal and supporting papers, including inventory statements, to the following office, which will be in charge of the settlement of your claim:

Name of office

Address

8. The directions in this notice and in the inclosed Instructions may be modified from time to time, except as to any in reliance on which you have theretofore materially changed your position in a manner for which compensation cannot reasonably be given in your termination settlement.

9. Please acknowledge receipt of this notice by signing the original and one copy and returning them to this office at once. The other copy is for your files.

MAJOR JOHN DOE,  
Contracting Officer.

The undersigned hereby acknowledges receipt of a copy of the foregoing notice on \_\_\_\_\_, 194\_\_\_\_.

XYZ CORPORATION,  
By \_\_\_\_\_, President.  
Partial Payments

2. In § 815.921 footnote 4 is amended to read as follows:

\* Insert at this point in place of the first sentence of paragraph 2 the following sentence "In consideration of such payment said Subcontractor and the parties hereto, other than the United States, agree that, to the extent of such payment, they severally do release the United States and each of the other parties hereto against whom they severally have claim based upon said Subcontract or the termination thereof, retaining any such claim based upon said Subcontract only to the extent that such claim may be found by the Contracting Officer under Contract W\_\_\_\_\_, or \_\_\_\_\_ to exceed such payment. If such payment exceeds the amount finally determined to be payable to said Subcontractor in connection with said termination, said Subcontractor agrees to repay the excess to the Government on demand together with penalty thereon at the rate of 6 per cent per annum from the date of receipt of such excess payment by said Subcontractor to the date of the repayment of such excess.

3. Section 815.922 is amended to read as follows:

§ 815.922 Form of supplemental agreement for partial payments when effected through controlled account.

Supplemental agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 194\_\_\_\_, by the

United States of America, hereinafter called "the Government," represented by the contracting officer executing this agreement, and \_\_\_\_\_, hereinafter called "the Contractor."

Witnesseth that: Whereas, on \_\_\_\_\_ day of \_\_\_\_\_, 194\_\_\_\_, the parties hereto entered into Contract No. \_\_\_\_\_, and

Whereas, notice of termination of said contract has been given pursuant to Article \_\_\_\_\_ thereof, and

Whereas, under the First War Powers Act, 1941, Executive Orders Numbers 9001 and 9112, and the Contract Settlement Act of 1944, payments may be made to the contractor in advance of final determination of the amount to which the contractor will be entitled by reason of such termination and

Whereas, the contractor hereby represents to the Government that at least the sum of \$\_\_\_\_\_ is due the contractor by reason of the termination of said contract and the Government desires to make a payment to the contractor pending the final determination of the amount payable by reason of such terminations:

ARTICLE I. Upon the execution of this supplemental agreement by the parties hereto, and upon the contractor's submission of a proper voucher therefor, the Government will pay to the contractor, subject to the provisions of Article IV, hereof, the sum of \$\_\_\_\_\_.

ARTICLE II. The payment provided for herein, together with any prior payments received by the contractor in connection with such termination shall be without prejudice to the right to receive any additional amounts to which the contractor may be entitled as a result of such termination.

ARTICLE III. Said payments shall be applied against the amount finally determined to be payable by the Government to the contractor in connection with such termination. If such payments exceed the amount finally determined to be payable to the contractor in connection with such termination, the contractor agrees to repay the excess to the Government on demand together with penalty thereon at the rate of 6% per annum from the date of receipt of such excess payment by the contractor to the date of the repayment of such excess. In the event that an excess payment results from credits arising in favor of the Government by reason of the retention or disposition of property by the contractor, the amount of penalty shall be computed from the date when such credits resulted in an excess payment.

ARTICLE IV. All funds advanced to the contractor as payments hereunder, together with the proceeds of the sale of any property related to the uncompleted portion of the contract, shall be deposited by the Government and the contractor in a special bank account or accounts at a member bank or banks of the Federal Reserve System, or any "insured bank" within the meaning of the Act creating the Federal Deposit Insurance Corporation (Act of July 23, 1935; 49 Stat. 684) as amended (12 U.S.C. 264) separate from the contractor's general or other funds. Such special bank account or accounts shall be so designated as to indicate clearly to the bank their special character and purpose, and the balances in such account or accounts shall be used by the contractor exclusively as a fund for meeting costs incurred in performance of the contract prior to receipt of termination notice, or thereafter as directed by the contracting officer. Withdrawals from such special account or accounts shall be subject to the prior written approval of the contracting officer and to countersignature of the contracting officer or his duly authorized representative to the extent that he shall notify the bank that it is required by him. Such countersignature may be of blanket checks to cover a number of approved expenditures. Any balances from time to time in such account or accounts shall secure the repayment of the advances in connection

with which the account or accounts are opened, and the Government shall have a lien on such balances to secure the repayment of such advances, which lien shall be superior to the lien of the bank, or any other person, upon such account or accounts, by virtue of assignment to it of the principal contract or otherwise. The contractor hereby authorizes and instructs the bank to transfer, without notice of the contractor and without liability of any kind or nature for such action, the balance of funds on deposit in such special account at any time to the Government upon the written request of the contracting officer to the bank for such transfer. Upon receipt by the bank of any written directions from the contracting officer or his duly authorized representative, the bank shall act thereon and be under no liability to any party thereto for any action taken in accordance with said written directions. Any instructions or written directions received by the bank through the contracting officer upon War Department stationery and purporting to be signed by or by the direction of the contracting officer, or his duly authorized representative, shall, in so far as the rights, duties and liabilities of the bank are concerned be conclusively deemed to have been properly issued and filed with the bank by the contracting officer or his duly authorized representative.

In witness whereof, The parties hereto have executed this agreement as of the day and year first above written.

THE UNITED STATES OF AMERICA,

Contractor

By \_\_\_\_\_, Title

By \_\_\_\_\_, Title

Supplemental Agreements to Insert Current Termination Article in Contracts

4. In §§ 815.926, 815.931, 815.932 and 815.933 the "whereas" clauses, or the preambles to, forms of supplemental agreements set forth therein are amended by references to the Contract Settlement Act of 1944 or to the Renegotiation Act, as follows:

§ 815.926 Lump sum contracts; supplemental agreement for use where contract contains no provision for the termination for the convenience of the Government or contains a termination article which does not provide for a negotiated settlement of the amount due in respect of the uncompleted portion of the contract.

\* \* \* \* \*  
Whereas, this Supplemental Agreement is entered into pursuant to authority contained in the Contract Settlement Act of 1944.

\* \* \* \* \*  
Final Settlement Agreements

§ 815.931 Settlement agreement for use where a lump sum supply contract contains a provision for termination for the convenience of the Government substantially in the form contained in §§ 803.324, 815.901 and permits settlement by negotiation of amount due with respect to uncompleted portion of the contract.

This supplemental agreement, entered into pursuant to authority contained in the Contract Settlement Act of 1944, this \_\_\_\_\_ day of \_\_\_\_\_, 194\_\_\_\_, by the United States of America, hereinafter called "the Government" represented by \_\_\_\_\_ (authorized officer)

executing this contract and \_\_\_\_\_ hereinafter called "the Contractor."

ART. 4. \* \* \*

(1) All rights of the Government to the recovery of excessive profits pursuant to the Renegotiation Act.

\* \* \* \* \*  
§ 815.932 Settlement agreement for use where a lump sum construction contract contains a provision for termination for the convenience of the Government substantially in the form contained in § 803.324 (a).

This supplemental agreement, entered into pursuant to the Contract Settlement Act of 1944, this \_\_\_\_\_ day of \_\_\_\_\_ 194\_\_\_\_\_, by the United States of America, hereinafter called "The Government" represented by \_\_\_\_\_ executing (authorized officer) this contract and \_\_\_\_\_ herein-after called "the Contractor".

\* \* \* \* \*  
§ 815.933 Supplemental agreement for use where a lump sum supply or construction contract contains no article for termination for convenience of the Government and the contractor will not agree to amend the same by inserting the article contained in § 803.324, or § 803.324 a, Procurement Regulations, or where any such contracts do not contain termination for the convenience of the Government articles and a negotiated settlement can be effected:

#### SUPPLEMENTAL AGREEMENT

\* \* \* \* \*  
Whereas, This contract is entered into pursuant to the Contract Settlement Act of 1944:

ART. 4. \* \* \*

(4) All rights of the Government to the recovery of excessive profits pursuant to the Renegotiation Act.

\* \* \* \* \*  
5. In § 815.934 Article 4 of the form is amended by the revision of clause (1) and the addition of clauses (5), (6), and (7), as follows:

§ 815.934 Cost-plus-a-fixed-fee supply Contracts. \* \* \*

ART. 4. \* \* \*

(1) All rights of the Government to the recovery of excessive profits pursuant to the Renegotiation Act, as amended.

\* \* \* \* \*  
(5) Claims, if any, in stated amounts (or estimated amounts if amounts are not susceptible of exact statement) set forth below.

(6) Any claim based upon responsibility of the Contractor to third parties arising out of the performance of said contract not known to the Contractor at the date of this supplemental agreement.

(7) (Here add additional excepted matters, if any).

#### Instructions to Contractors

6. Section 815.936 is amended to read as follows:

§ 815.936 Fixed-price contractors. Instructions to Contractors in substantially the following form will accompany each notice of termination of a fixed-price

supply contract for the convenience of the Government (see § 815.912 (a)):

#### INSTRUCTIONS TO CONTRACTORS IN REGARD TO TERMINATION OF FIXED PRICE (LUMP SUM) SUPPLY CONTRACTS

##### SECTION 1—INTRODUCTION

1. *Necessity for termination.* The constant changes in the requirements of our armed forces make it necessary to terminate certain contracts from time to time. Your contract is among these, and its termination is accordingly not to be taken as an indication that the War Department is in any way dissatisfied with your performance.

2. *Termination procedure policy.* It is the intention of the War Department to make a proper adjustment with you in accordance with customary commercial practice and the termination article in your contract. However, since public funds are involved, you must submit adequate accounting data to support your request for an adjustment based on the termination. This must be done before payment can be made. When this accounting data is received, the War Department will cooperate with you in endeavoring to reach a speedy and equitable negotiated settlement.

3. *Necessity for prompt action.* To expedite payment of your claim, you should submit to the Contracting Officer, as speedily as possible, your Settlement Proposal on the applicable Standard Forms and in accordance with the General Instructions for use of Standard Contractor's Proposal Forms in Presenting Settlement Proposals Arising From Total or Partial Termination of Fixed-Price Supply Contracts. A copy of these General Instructions is inclosed herewith, and copies of the Standard Forms, for your own use or for the use of your subcontractors, may be obtained by application to the Contracting Officer.

You should also, without awaiting the preparation of your Settlement Proposal, see to it that the taking of inventories is begun at once, and that schedules of charges and complete or partial inventory schedules are prepared as promptly as possible by your company and submitted to the Contracting Officer. You should also promptly submit to him for approval any partial settlement proposals relating to claims of subcontractors or to disposal of property. Submission of these papers in advance will enable you to pay your subcontractors more rapidly and will also hasten your own final settlement.

4. *Confirmation of oral approval.* Whenever in these instructions, or in the termination article which forms a part of your contract, the approval of the Contracting Officer is required as to any action to be taken by you, you should, for your records, require written confirmation of any such approval which has been given orally.

5. *Purpose and application of these instructions.* These instructions summarize your principal rights and duties arising from the termination of your contract. In general, they apply to subcontractors as well as prime contractors, except that the subcontractor stands in the same relationship to the contractor to or for whom he is delivering materials or performing services as that in which the prime contractor stands to the Government. To assist in effecting termination settlements, the War Department has prepared Procurement Regulation No. 15 and the Termination Accounting Manual (TM-14-1005) for Fixed-Price Supply Contracts, copies of both of which may be obtained from the Superintendent of Documents, Washington 25, D. C.

##### SECTION 2—ACTION TO BE TAKEN UPON RECEIPT OF NOTICE OF TERMINATION

6. *Cessation of work and notification to suppliers.* Immediately upon receipt of the Notice of Termination (with which these

Instructions are sent) you should take the following steps:

a. On the effective date of the Notice, stop all the work and the placing of any orders in connection with the contract except to the extent necessary to perform any portion thereof not terminated by the Notice or to the extent that you may wish to retain and continue any work in process which the Government does not wish to take over and for the cost of which you will make no claim. If you believe it inadvisable for any reason to stop any portion of the work as required by the Notice, you should so advise the Contracting Officer immediately by telephone or personal conference, and obtain his instructions. Any delay in complying with the above directions will be at your own risk.

b. Notify all of your immediate subcontractors (including suppliers) who will be affected by the termination that your contract has been terminated for the convenience of the Government, give them the number of the contract and the name and address of the office charged with the settlement of your termination claim, order them (to the extent necessitated by the termination) to make no further commitments in connection with their subcontracts and request them to give similar notice to their immediate subcontractors. You should also request them to submit their inventory schedules and settlement proposals as promptly as possible in order to speed up settlement of their termination charges; and you should use your best efforts to arrive at negotiated settlements of their claims as quickly as possible.

c. Notify the Contracting Officer of the number of articles completed under the contract and still on hand, and arrange with him for their delivery or disposal.

d. Notify the Contracting Officer of any pending legal proceedings with respect to any subcontracts or purchase orders related to the terminated contract. (The Contracting Officer should also be promptly notified of any such proceedings brought after receipt of the Notice.)

7. *Initial conference with representatives of contracting officer.* As soon as possible after receipt of the Notice, you should arrange for a conference with the representatives of the Contracting Officer, at which you should be prepared to present a rough estimate of your inventory and of the principal items of your claim, and to indicate, as fully as possible, what property you desire to retain, what can be sold to others and what, in your opinion, should be scrapped. At this conference the basis of settlement should be at least tentatively determined, and a clear understanding should be reached as to what information is to be furnished by you, what methods are to be followed in disposing of property, what accounting or other investigation is to be undertaken, and what interim financing, if any, you will require.

8. *Notice to workers and cooperation with War Manpower Commission.* Contractors are urged by the Government, and requested to urge their subcontractors, in all cases where the termination is likely to result in the release of any substantial number of workers, to include a statement of the reasons for the cutback in a notification to the workers and their union representatives, if any, and to cooperate with the War Manpower Commission by making known their new net labor requirements and allowing the United States Employment Service representative to conduct job interviews at the plant if a considerable number of workers are to be displaced.

##### SECTION 3—DISPOSAL OF INVENTORIES

9. *Preparation of inventory schedules.* It is expected that in most cases inventory schedules on the applicable Form (See subparagraph 14a of these Instructions) can be

prepared and submitted before submission of the Settlement Proposal. The inventory schedules prepared by your company should include *all* materials owned by it even if located in the plants of subcontractors, unless there is some special reason for following a different procedure. For the purpose of this Section 3, the term "materials" includes work in process and completed articles on hand. A separate schedule, or separate schedules, should be made of the materials located in each plant; and separate schedules should also be made of all *Government-owned* materials. No item, however, in respect of which no charge is to be made to the Government need be included in these schedules.

10. *Methods of disposing of inventories.* It is the policy of the War Department, so far as possible, to dispose of inventories through normal commercial channels. Disposal will ordinarily be handled in one of the following ways:

a. *Materials to be retained by you or sold to others and as to which you will seek no reimbursement from the Government.* Except as otherwise explicitly directed by the Contracting Officer in the Notice or in some other written communication, you are authorized, subject to the existing regulations of the War Production Board and other Government agencies, to retain or sell all materials applicable to the terminated portion of the contract, title to which has not passed to the Government, if you are willing to seek no reimbursement from the Government with respect to the cost of such materials.

b. *Materials to be returned to suppliers for full credit.* You are also authorized, subject to the same limitations set forth in paragraph 10, to return any such materials to your suppliers if you are willing to seek no reimbursement from the Government with respect to their cost except for the freight charges for shipping such materials to you and their return to the suppliers, plus reasonable packing and handling charges.

c. *Materials to be retained by you, or sold to others, at less than cost.* None of the materials applicable to the uncompleted portion of the contract should, except as set forth in paragraph 10a and 10b, be retained for your own use or otherwise disposed of without the written approval of the Contracting Officer. Accordingly, if you propose to sell or retain any such materials, or to permit their retention by subcontractors, and to seek reimbursement from the Government for any part of their cost or for any part of such cost in excess of the price at which you propose to sell them, or in excess of the freight, packing and handling charges in the case of materials returned to your suppliers, you should first (unless the proposed sale or other disposition of such materials is covered by a general authorization previously given by the Contracting Officer) submit to him the following information:

(1) A complete description of the materials proposed to be retained or sold;

(2) The cost, or estimated cost, of such materials as shown by your books;

(3) The price at which you propose to retain or sell them; and

(4) A brief statement as to your reasons for believing that their disposition at the price stated would be for the best interest of the Government.

11. *Diversion of property or orders to other contracts.* It is desirable that all materials, equipment and supplies acquired for the performance of the contract, and which have become surplus because of its termination, be diverted so far as possible to other war production. If you have diverted any such property to the performance of another war contract, you will, to the extent that it is properly allocable to such other contract, be entitled to reimbursement from the Government if that contract is later terminated for its convenience. In order to effect a

saving to the Government, where a diversion of property from a terminated contract to a continuing contract necessitates the cancellation of orders already given for the performance of the continuing contract, you may cancel such orders and either take the reasonable cost to you of such cancellations into consideration when calculating the amount at which such property is to be retained for the continuing contract, or, with the approval of the contracting officer, include such cost in the settlement of the terminated contract. You should also, whenever you can effect a saving to the Government by so doing, allow orders originally given in respect of a terminated contract to remain in effect and apply the property delivered thereunder to the performance of a continuing contract; and if this necessitates the cancellation of orders under the continuing contract, the reasonable cost to you of such cancellation may also be included in the settlement of the terminated contract.

12. *Obligations of contractors with respect to disposal of inventory.* By the terms of clause (b) (7) of the Uniform Termination Article, the contractor is obligated, after receipt of the notice, to "use his best efforts to sell, in the manner, to the extent, at the time, and at the price or prices directed or authorized by the contracting officer," the fabricated or unfabricated parts, work in process, completed work, supplies and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the contract," except that the contractor is not required to extend credit to any purchaser, and may retain any such property at a price or prices approved by the contracting officer. The Government accordingly expects you to do everything within reason to aid in disposing of inventory as quickly as it may be feasible to do so.

13. *Plant clearance.* You may from time to time submit to the Contracting Officer one or more inventory lists in the prescribed form describing materials applicable to the terminated portion of the contract, together with your written statement that you wish to have such materials removed by the Government; and the Government is obligated, unless the contract otherwise provides, within 60 days thereafter either to arrange upon such terms as may be agreed on, for the storage of such materials by you on your premises or elsewhere, or for their removal from your plants. If the Government fails to arrange for the storage or removal of such materials within the 60 day period, you may at any time thereafter remove them from your plants and store them on your premises or elsewhere for the account and at the risk of the Government, using reasonable care for their transportation and preservation, but only if you have first given to the Contracting Officer at least 20 days' notice of your intention to do so on a specified date, accompanied by a statement showing the quantities and condition of the materials so to be removed, certified on your behalf to have been prepared in accordance with a concurrent physical inventory. You are also authorized, at any time after receipt of the Notice of Termination, to remove and store at your own expense and risk any materials applicable to the terminated portion of the contract.

#### SECTION 4—PREPARATION OF SETTLEMENT PROPOSAL

14. *Submission of proposal and supporting papers.* Work on your Settlement Proposal should be begun as promptly as possible after receipt of the Notice. The various papers which will make up your Proposal may be submitted to the Contracting Officer as prepared, and it is desirable to follow this procedure in most cases as a means of expediting settlement.

a. *Particular forms to be used.* If your Settlement Proposal is for less than \$500,

you may submit it on Form A-4. If it is for more than \$500, but less than \$10,000 before deducting disposal or other credits, you may use either Form A-2 or Form A-3. No additional inventory schedules on the Standard Forms will be required in the case of Settlement Proposals submitted on Form A-2, Form A-3, or Form A-4. If your Settlement Proposal is for more than \$10,000, Form A-1 must be used; and this Form may also be used in the case of Settlement Proposals for less than \$10,000 if you find it more convenient. If Form A-1 is used, it must be supported by a schedule of your own charges with respect to the terminated portion of the contract to date of termination, on Form B-1 or Form B-2, which in turn must be supported by inventory statements on Forms C-1, C-2 and C-3.

b. *Contractor's own charges.* A statement of the amount which you expect to claim for your own charges should be prepared as soon as possible after your receipt of the Notice, and be delivered to the Contracting Officer for checking purposes as soon as it is prepared. This statement will include the entries to appear, upon submission of your Settlement Proposal, on Schedule B-1 or B-2 if the Proposal is to be on Form A-1, on items 1 through 7 if it is to be on Form A-2, and on items 1 through 8 if it is to be on Form A-3. You will be required to certify to the correctness of this statement when it becomes a part of your Settlement Proposal.

c. *Other charges.* Other charges to be used in computing the amount of your Settlement Proposal should be determined as promptly as possible. These will normally include approved settlements with your subcontractors, costs incurred by you after termination, and the contract unit price of any articles completed by you in accordance with the terms of the contract, without unreasonable anticipation of production schedules, and for which you have not previously been paid.

#### SECTION 5—SUBCONTRACTORS AND SUPPLIERS

15. *Notification of subcontractors and suppliers.* No costs will be allowed to you in connection with the settlement which arises from failure on your part effectively to notify your immediate subcontractors (including your suppliers) of the complete or partial termination of their subcontracts or sales commitments, within a time which is found by the Contracting Officer to be reasonable under the circumstances.

16. *Statements and other papers to be obtained from subcontractors.* You should require from your immediate subcontractors the same type of statements covering inventories and expenses applicable to the termination, and the same type of settlement proposals, which the Government requires from you. Subcontractors, although not required to use the Standard Forms in submitting their proposals, should be urged to do so.

17. *Review of settlement proposals of subcontractors.* It is your primary responsibility to review or examine all statements of changes and settlement proposals delivered to you by your immediate subcontractors. Your duty in this regard is similar to that of the Government in passing upon the statements and settlement proposals submitted by you. You will be required at least to cause an office review to be made, by qualified accounting personnel in your employ, of each such statement and proposal; and you will also be required to cause a written report of each such office review to be made, and to be furnished to the Government upon its request. You should in every case make such examination as is reasonable under all the circumstances, and you will be held to the standard of scrutiny that a prudent business man would ordinarily employ in the conduct of his own affairs. You will not be required to warrant the accuracy of the facts presented by the subcontractors; but

you will be required to certify that, on the basis of a review or examination which you believe to be adequate, you are of the opinion that settlements with your immediate subcontractors are fair and reasonable, and would be made by you if reimbursement by the Government were not involved.

18. *Settlement of subcontractors' claims.* You are required to settle all claims arising out of the termination of orders and subcontracts, subject to the ratification or approval of the Contracting Officer when required. The Contracting Officer may authorize you, or one or more subcontractors, to make final settlements of termination claims by your or their immediate subcontractors in cases where the settlement will not involve more than \$10,000. Except in cases covered by such authority, you are required to submit to the Contracting Officer for his approval or ratification all settlements with your immediate subcontractors, and any settlement made by any subcontractor involving more than \$25,000; and the Contracting Officer may require the submission to him of any settlement made by any subcontractor.

19. *Disposal of inventories by subcontractors.* Subcontractors are authorized to retain, return, sell, or otherwise dispose of inventory, subject to the same restrictions placed upon your company by the provisions in Paragraph 10.

#### SECTION 6—INTERIM FINANCING

20. It is the policy of the Government, pending the settlement of your claim, to provide you with adequate interim financing, within 30 days after proper application. Such financing may be effected by one or more of the following methods.

a. For contractors still in war production guaranteed V and VT Loans are now available which may be utilized to provide financing in the event of termination;

b. It is expected that a new simplified type of guaranteed T Loan, solely for use on termination, will shortly be made available;

c. Contractors will be given liberal partial payments while their terminated contracts are in process of settlement, which may be either (1) immediate payments based on an estimate of the amount due, or (2) cost-supported payments based on a statement of costs;

d. Advance payments authorized prior to termination may, with the approval of the Contracting Officer, be used to pay for items reimbursable under the termination article in your contract.

NOTE: For further information as to interim financing, reference is made to §§ 815.500 to 815.512.

#### SECTION 7—EXPENSES SUBSEQUENT TO TERMINATION

21. *Approval of expenditures.* You should submit to the Contracting Officer for his approval all costs incurred by you after the effective date of the Notice.

a. For the protection of Government property, or

b. For other expenditures in connection with the terminated contract. (See the termination article in your contract.)

You must take adequate precaution to protect property in your possession in which the Government has or may have an interest.

#### SECTION 8—PRESERVATION OF RECORDS

22. *Penal provisions.* Section 19 (a) of the Contract of Settlement Act of 1944 makes it a crime, punishable by fine and imprisonment, to secrete, mutilate, obliterate or destroy

"(i) any records of a war contractor relating to the negotiation, award, performance, payment, interim financing, cancellation or

other termination, or settlement of a war contract of \$25,000 or more; or

"(ii) any records of a war contractor and any purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any Government agency is \$5,000 or more, "until (1) five years after such disposition of termination inventory by such war contractors or Government Agency, or (2) five years after the final settlement of such war contract, or (3) five years after the termination of hostilities in the present war as proclaimed by the President or by a concurrent resolution of the two Houses of Congress, whichever applicable period is longer."

#### SECTION 9—NEGOTIATION OF SETTLEMENT

23. *Contracting officer.* The term "Contracting Officer," as used in the foregoing instructions, refers to the Contracting Officer as the office charged with the settlement of your termination claim, as designated in the Notice. In most cases, he will act through the members of his staff, and will probably appoint one of them as the negotiator in charge of your settlement, who will not be authorized to agree finally on the terms of settlement, but will endeavor to obtain answers to any questions you may have and will advise you as to procedure. He will have such authority as may be delegated to him by the Contracting Officer to approve dispositions of property, settlements with subcontractors, and other terms of final settlement.

[F. R. Doc. 44-11497; Filed, August 1, 1944; 10:06 a.m.]

## TITLE 25—INDIANS

#### Chapter I—Office of Indian Affairs, Department of the Interior

##### Subchapter E—Credit to Indians

#### PART 28—KLAMATH TRIBAL LOAN FUND

##### COMPENSATION OF LOAN BOARD MEMBERS AND EMPLOYEES

Section 28.51 is amended to read as follows:

§ 28.51 Compensation of members of the loan board and loan board employees. Each duly elected and qualified member of the loan board shall be compensated for the time during which actually engaged upon the business of the Loan Board at the rate of \$8 per day: Provided, That effective December 1, 1942, and up to and including June 30, 1945, an additional sum equal to 21.66 percent of such rate shall be paid such members, and an additional sum equal to 21.66 percent of the respective daily rates of pay of employees of the loan board, such as clerks, typists, etc., shall be paid such employees during the same period, unless otherwise rescinded or amended by the Klamath General Council or the Klamath Tribal Business Committee subject to the approval of the Secretary of the Interior. A day shall be deemed to consist of 8 hours.

(Sec. 3, 50 Stat. 872; 25 U.S.C. 532)

Dated: July 28, 1944.

OSCAR L. CHAPMAN,  
Assistant Secretary of the Interior.

[F. R. Doc. 44-11604; Filed, August 2, 1944; 4:13 p.m.]

## TITLE 32—NATIONAL DEFENSE

#### Chapter VIII—Foreign Economic Administration

##### Subchapter B—Export Control

[Amdt. 203]

#### PART 801—GENERAL REGULATIONS

##### PROHIBITED EXPORTATIONS

Section 801.2 *Prohibited exports* is hereby amended in the following particulars:

In the column headed "General License Group" the group and country designations assigned to the commodities listed below, at every place where said commodities appear in said section, are hereby amended to read as follows:

Commodity	Department of Commerce No.	General license group
Office supplies, miscellaneous:		
Ink, printing and lithographic	9322.00	
Newspaper channel type carbon black	9322.00	K
Other printing and lithographic ink	9322.00	K

(Sec. 6. 54, Stat. 714; Pub. Law 75, 77th Cong.; Pub. Law 238, 77th Cong.; Pub. Law 397, 78th Cong.; E.O. 9361, 8 F.R. 9861; Order No. 1, 8 F.R. 9938; E.O. 9380, 8 F.R. 13081; Delegation of Authority No. 20, 8 F.R. 16325; Delegation of Authority No. 21, 8 F.R. 16320)

Dated: July 28, 1944.

S. H. LEBENSBURGER,  
Director,  
Requirements and Supply Branch,  
Bureau of Supplies.

[F. R. Doc. 44-11607; Filed, August 3, 1944; 10:18 a.m.]

[Amdt. 204]

#### PART 801—GENERAL REGULATIONS

##### PROHIBITED EXPORTATIONS

Section 801.2 *Prohibited exports* is hereby amended in the following particulars:

In the column headed "General License Group" the group and country designations assigned to the commodities listed below, at every place where said commodities appear in said section, are hereby amended to read as follows:

Commodity	Department of Commerce No.	General license group
Meat products:		
Poultry and game, fresh, not canned	0040.00	
Turkeys	0040.00	None
All other fresh poultry and game, not canned	0040.00	K

Shipments of the above commodities which are on dock, on lighter, laden aboard the exporting carrier, or in transit to a port of exit pursuant to an actual order for export prior to the effective date of this amendment may be exported

under the previous general license provisions. Shipments moving to a vessel subsequent to the effective date of this amendment pursuant to Office of Defense Transportation permits issued prior to such date may also be exported under the previous general license provisions. This amendment shall become effective August 10, 1944.

(Sec. 6, 54, Stat. 714; Pub. Law 75, 77th Cong.; Pub. Law 238, 77th Cong.; Pub. Law 397, 78th Cong.; E.O. 9361, 8 F.R. 9861; Order No. 1, 8 F.R. 9938; E.O. 9380, 8 F.R. 13081; Delegation of Authority No. 20, 8 F.R. 16235; Delegation of Authority No. 21, 8 F.R. 16320)

Dated: July 29, 1944.

S. H. LEBENSBURGER,  
Director,  
Requirements and Supply Branch,  
Bureau of Supplies.

[F. R. Doc. 44-11608; Filed, August 3, 1944;  
10:18 a. m.]

[Amdt. 205]

**PART 811—BLANKET LICENSE "BLT"**

**ADDITION OF CARTRIDGES AND SHOTGUN SHELLS TO LIST**

Paragraph (f) of § 811.2 *General provisions* is hereby amended by adding to the commodities listed therein the following commodities:

Commodity	Schedule B Number
Cartridges, 22 caliber and smaller	9481.01
Shotgun shells	9481.62

(Sec. 6, 54 Stat. 714; Pub. Law 75, 77th Cong.; Pub. Law 238, 77th Cong.; Pub. Law 397, 78th Cong.; E.O. 9361, 8 F.R. 9861; Order No. 1, 8 F.R. 9938; E.O. 9380, 8 F.R. 13081; Delegation of Authority No. 20, 8 F.R. 16235; Delegation of Authority No. 21, 8 F.R. 16320; Delegation of Authority No. 55, 9 F.R. 7512)

Dated: July 31, 1944.

WALTER FREEDMAN,  
Deputy Director,  
Requirements and Supply Branch,  
Bureau of Supplies.

[F. R. Doc. 44-11609; Filed, August 3, 1944;  
10:18 a. m.]

**Chapter IX—War Production Board**

**Subchapter B—Executive Vice-Chairman**

**AUTHORITY:** Regulations in this subchapter issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176; E.O. 9024, 7 F.R. 329; E.O. 9125, 7 F.R. 2719; W.P.B. Reg. 1 as amended March 24, 1943, 8 F.R. 3666, 3696; Pri. Reg. 1 as amended May 15, 1943, 8 F.R. 6727.

**PART 1010—SUSPENSION ORDERS**

[Suspension Order S-596]

**RELIANCE MANUFACTURING CO.**

Joseph A. Smith and Harry Shatkin are co-partners doing business as Reliance Manufacturing Company at 158 Pine Street, Providence, Rhode Island. Between February 22 and April 25, 1944, they purchased and accepted delivery of approximately 15,000 ounces fine of

Treasury silver and put all but a small portion of this silver into process in the manufacture of expansion watch bracelets in violation of Conservation Order M-199. During the first quarter of 1944, they purchased and accepted delivery of 6,100 ounces fine of domestic silver, and during the second quarter of 1944 they purchased and accepted delivery of 415 ounces fine of domestic silver; they subsequently returned 1,343 ounces to their supplier but put most of the remainder of this domestic silver into process for the manufacture of expansion watch bracelets in violation of Conservation Order M-199. They had no quota as defined in Conservation Order M-199 for the receipt or use of silver for this purpose, and their appeal for a quota was denied by the War Production Board on January 15, 1944. Notwithstanding the denial of this appeal and their knowledge of Conservation Order M-199 they engaged in the actions above described in wilful violation of Conservation Order M-199.

These violations of Conservation Order M-199 have diverted critical materials to uses not authorized by the War Production Board. In view of the foregoing, *It is hereby ordered, That:*

**§ 1010.596 Suspension Order No. 596.**

(a) For a period of four months from the effective date of this suspension order, neither Joseph A. Smith nor Harry Shatkin, doing business as Reliance Manufacturing Company or otherwise, their and its successors or assigns, shall purchase, accept delivery of, or put into process any silver as defined in or governed by Conservation Order M-199.

(b) Neither Joseph A. Smith nor Harry Shatkin, doing business as Reliance Manufacturing Company or otherwise, their and its successors or assigns, shall put into process or process any silver as defined in or governed by Conservation Order M-199 for the manufacture of expansion bracelets for watches, unless hereafter specifically authorized in writing by the War Production Board.

(c) Nothing contained in this order shall be deemed to relieve Joseph A. Smith and Harry Shatkin, doing business as Reliance Manufacturing Company, their and its successors or assigns, from any restriction, prohibition or provision contained in 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 August 2, 1944.

Issued this 2d day of August 1944.

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

[F. R. Doc. 44-11608; Filed, August 2, 1944;  
4:53 p. m.]

**PART 3133—PRINTING AND PUBLISHING**

[Limitation Order L-240, Supp. 1, as Amended Aug. 3, 1944]

**NEWSPAPERS**

Section 3133.6a *General Limitation Order L-240, Supplement No. 1* is hereby amended to read as follows:

**§ 3133.6a General Limitation Order L-240, Supplement No. 1—(a) Purpose of appeal clause.** The serious shortage in the supply of print paper available for newspapers makes it necessary for publishers to reduce their consumption substantially, as provided in Order L-240. Such reductions may create serious hardships which, however, are unavoidable in time of war. Appeals are not granted to ameliorate, in individual cases, hardships applicable to an entire industry. They are granted only to provide relief, subject to the provisions of paragraphs (b) to (g), from certain undue and excessive hardships which would be created if the order were applied without modification to an exceptional set of circumstances. Appeals which do not establish such hardships shall be denied.

(b) *No automatic adjustments.* Paragraph (f) of this supplement describes the types of hardships for which quota adjustments shall be made by the War Production Board on appeal. These adjustments, however, are not automatic. A publisher who believes that his case is covered by one of the subparagraphs of paragraph (f) may not make his own adjustment of his consumption quota. No publisher may use any paper in excess of his consumption quota, computed in accordance with paragraphs (j) to (m) of Order L-240, unless he files an appeal for such relief and a grant is made in writing signed by the Recording Secretary of the War Production Board.

(c) *Adjustments of base tonnages.* Wherever appropriate, grants on appeal shall be made in the form of adjustments of a publisher's base tonnage which shall continue to be effective in future quarters, subject to re-examination and modification at any time by the War Production Board.

(d) *Effective date of base tonnage adjustments.* Adjustments of base tonnages are not retroactive. A publisher whose base tonnage is adjusted, on appeal, does not receive, by virtue of such adjustment, a "carry-over of unused tonnage" from any quarter before the issuance of the appeal grant.

(e) *Application of curtailments.* Constructive base tonnages granted on appeal are subject to the curtailments required by paragraph (k) of Order L-240 as amended from time to time.

(f) *Types of hardship for which relief shall be granted.* In passing upon appeals under Order L-240 the following standards shall govern:

(1) *Extraordinary population increase accompanied by circulation increase.* Where there has been extraordinary growth of population in a newspaper's trading area since December 31, 1942, its consumption quota shall be adjusted in order to permit the maintenance of adequate newspaper service in that trading area. The amount of tonnage to be granted shall be determined as follows: (I) the percentage of population growth in the newspaper's trading area since December 31, 1942 and the percentage of the newspaper's circulation growth in that area measured by the average for the first two quarters of 1944 over the average for the year of 1942, shall be

ascertained. (ii) The newspaper's consumption quota shall be increased to the extent that the lower of these two figures exceeds 7½%. In other words, a newspaper must absorb the first 7½% of both population and circulation increase, and it will be granted ex-quota paper only to the extent that population or circulation increase exceeds 7½%, whichever percentage increase is smaller.

Population increase shall be determined on the basis of the best available evidence. In making such determination consideration may be given not only to census figures but also to ration book records, estimates of military authorities, local government officials, postal authorities, telephone, gas and electric companies, housing authorities, employment and labor agencies, transportation agencies, Chambers of Commerce and others. In trading areas where evidence of population increase is inconclusive, weight may be given to circulation increase as evidence of population increase. Increased circulation resulting from promotional sales efforts shall not be included.

Additional adjustment shall be made for newspapers in trading areas whose population has increased more than 50% since the last decennial census, in order to maintain adequate newspaper service in the trading area.

(2) *Extraordinary circulation increase.* Where a newspaper's average circulation for the second quarter of 1943 exceeds its average circulation for the year 1942 by more than 10%, the newspaper's consumption quota shall be increased to the extent of such circulation increase in excess of 10%, without the necessity of establishing any population increase. Increased circulation resulting from promotional sales efforts shall not be included.

(3) *Discontinuance or merger of newspapers.* Adjustments in consumption quota shall be made in order to maintain adequate newspaper service in a community where there has been a discontinuance or merger of newspapers.

(4) *Supplements added in 1941 or 1942.* Adjustments in consumption quota shall be made for newspapers which added supplements in 1941 or 1942. Such adjustments shall be made only to the extent that the newspaper's total content was increased by the addition of the supplements and such increase was not reflected in its base tonnage.

(5) *Increased news content.* Adjustments in consumption quota shall be made for newspapers which substantially increased their news content in 1941 or 1942 and maintained such increased news content continuously until December 31, 1942.

(6) *Temporary suspension.* Newspapers which were forced to suspend publication temporarily during 1941 because of strikes, fires, or similar conditions shall be granted compensatory increases in their base tonnages, to the extent that it was impracticable to continue operations at another plant.

(7) *Change in roll size.* Publishers who reduced the width of their newsprint rolls in 1941 shall be granted com-

pensatory increases in their base tonnages.

(8) *Increased frequency of issuance.* Publishers who increased the frequency of issuance of their newspapers in 1941 and 1942 shall be granted adjustments of their base tonnages to permit continued publication at the frequency of issuance established before Order L-240 was issued, on December 31, 1942.

(9) *Extraordinary hardships.* Appeal tonnage shall not be recommended by either the administrator or the Division Appeals Committee or granted by the Appeals Board for causes other than those enumerated in subparagraphs (1) to (8) of this paragraph (f) except where unforeseen, unusual, extraordinary or emergency conditions constituting undue and excessive hardship are proved. Certain factors which shall not be recognized as grounds for the granting of appeal tonnage are described in paragraph (g).

(g) *Factors which shall not be considered as grounds for granting appeals.* The following is a list of some of the factors which shall not be considered as grounds for the granting of tonnage on appeal. This list is not exclusive.

(1) The nature of a newspaper's contents.

(2) Diminished base period consumption because of financial conditions.

(3) Suspension of publication in 1941 or 1942 except as provided in paragraph (f) (6).

(4) Population or circulation increase, except as provided in paragraph (k) (2) of Order L-240 or paragraphs (f) (1) or (f) (2) of this supplement.

(5) Retarded circulation growth caused by a price increase in 1941 or 1942.

(6) Conservation of paper at any time except as provided in paragraph (f) (7).

(7) Change in amount of news content at any time, except as provided in paragraphs (f) (3), (f) (4), and (f) (5).

(8) Change in number of advertising lines at any time, except as provided in paragraphs (f) (3) and (f) (4).

(9) Unsold copies or circulation returns.

(10) Special events such as war bond drives, recruiting drives, war news, political news, etc.

(11) Inability to maintain or increase advertising lines under existing quotas.

(12) The fact that additional tonnage was granted on appeal to a competitor.

(13) Request to use in a newspaper started since December 31, 1942, more tonnage than that permitted in paragraph (m) of Order L-240.

(14) Consumption of print paper in violation of Order L-240, whether or not such violation was wilful.

#### Procedure

(h) *How appeals are submitted.* Appeals from Order L-240 may be filed by addressing a letter in duplicate to the War Production Board, Printing and Publishing Division, Washington 25, D. C. Ref: L-240.

(i) *Form of appeals.* The letter of appeal need not follow any particular form. It should state informally, but completely, the particular provision appealed from, the precise relief desired, the subdivision of paragraph (f) upon which the appellant relies, and the reasons why denial of the appeal would result in undue and excessive hardship.

(j) *Denials by administrator.* Appeals may be denied in the first instance by the administrator of the order.

(k) *Re-appeal from denial by administrator.* When an appeal has been denied by the administrator of the order, the appellant may re-appeal, within 15 days after the letter of denial is mailed, by addressing a letter to the War Production Board, Printing and Publishing Division, Washington 25, D. C. Ref: L-240. This letter may contain simply a request that the case be forwarded to the Appeals Board of the War Production Board. Any additional information which the appellant cares to submit at this time will also be forwarded to the Appeals Board.

(l) *Grant of appeals.* Although the administrator of the order may deny an appeal in the first instance, only the Appeals Board has the power to grant relief in individual cases from the provisions of the order.

(m) *Recommendation of grant by the administrator.* The administrator of the order may recommend that an appeal be granted in whole or in part. In that event the case shall be forwarded to the Appeals Board with the written recommendation of the administrator and the written concurrence or non-concurrence of each member of the Division Appeals Committee, consisting of himself, the administrators of Orders L-241, L-244, and L-245, the Assistant Director of the Printing and Publishing Division for Labor, and representatives of the Office of Civilian Requirements and the Conservation Division.

(n) *Optional reference to Appeals Board by administrator.* The administrator of the order may, if he desires, refer a case to the Appeals Board with a recommendation of denial or with no recommendation at all.

(o) *Hearings by Appeals Board.* If the Appeals Board desires to obtain additional facts not contained in the file it may, in its discretion, hold a public hearing on any appeal. To the extent consistent with the necessity for emergency relief, a schedule of hearings shall be made up in advance. Information concerning the time and place of any scheduled hearing shall be available at the office of the Appeals Board at any time during business hours.

(p) *Conduct of hearing.* Hearings by the Appeals Board are open to the public. All interested parties may attend and, in the discretion of the Board, may be heard. The hearings are informal and the Board is not bound by legal rules of evidence. It is not necessary for an appellant to be represented by counsel although he may do so if he wishes.

(q) *Decision by Appeals Board.* The Appeals Board may grant or deny an appeal in whole or in part. It may also attach conditions to a grant.

(r) *Finality of decisions.* The decisions of the Appeals Board shall be final, unless that Board elects to reopen the case.

(s) *Publication of grants.* Grants on appeals shall be announced publicly at least every two weeks.

(t) *Announcement of grounds of decision.* Whenever a grant is made for

"unforeseen, unusual, extraordinary or emergency conditions" under paragraph (f) (9), a brief memorandum of the basis of the decision shall be made public by the Appeals Board within two weeks, and the decision shall be treated as a precedent in future situations of an identical character.

(u) *Amendment of supplement.* Whenever a new standard is developed, the supplement shall be amended to set forth that standard.

(v) *Public files.* Public files shall be set up in all cases, including those filed before as well as after October 7, 1943, whether or not they resulted in a grant. They shall be available for public inspection at any time during the business hours of the War Production Board. The public files shall include:

1. All papers filed by the appellant in support of the appeal except those portions which contain confidential data.

2. All memoranda by War Production Board officials containing recommendations for or against the allowance of the appeal.

3. Copy of all letters of grant or denial.

4. A transcript of the record of any public hearing (or if the stenographic notes of the hearing have not been transcribed, a memorandum referring to the notes and stating how a transcript may be obtained).

(w) *False representations.* All grants on appeal are conditional upon the validity of the statements submitted in support thereof. Any person who wilfully conceals a material fact or furnishes false information in connection with an appeal, whether orally or in writing, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both, as provided in section (35) (A) of the United States Criminal Code.

Issued this 3d day of August 1944.

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

[F. R. Doc. 44-11612; Filed, August 3, 1944;  
10:58 a. m.]

PART 3133—PRINTING AND PUBLISHING  
[Limitation Order L-244, Supp. 1, as Amended  
Aug. 3, 1944]

#### MAGAZINES

Section 3133.15a *General Limitation Order L-244, Supplement No. 1* is hereby amended to read as follows:

§ 3133.15a *General Limitation Order L-244, Supplement No. 1*—(a) *Purpose of appeal clause.* The serious shortage in the supply of print paper available for magazines makes it necessary for publishers to reduce their consumption substantially, as provided in Order L-244. Such reductions may create serious hardships—which, however, are unavoidable in time of war. Appeals are not granted to ameliorate, in individual cases, hardships applicable to an entire industry. They are granted only to provide relief, subject to the provisions of paragraphs (b) to (g), from certain undue and excessive hardships which would be created if the order were applied without modification to an exceptional set of circumstances. Appeals which do

not establish such hardships shall be denied.

(b) *No automatic adjustments.* Paragraph (f) of this supplement describes the types of hardship for which quota adjustments shall be made by the War Production Board on appeal. These adjustments, however, are not automatic. A publisher who believes that his case is covered by one of the subparagraphs of paragraph (f) may not make his own adjustment of his consumption quota. No publisher may use any paper in excess of his consumption quota, computed in accordance with paragraphs (j) and (k) of Order L-244, unless he files an appeal for such relief and a grant is made in writing, signed by the Recording Secretary of the War Production Board.

(c) *Adjustment of base tonnages.* Wherever appropriate, grants on appeal shall be made in the form of adjustments of a publisher's base tonnage which shall continue to be effective in future quarters, subject to re-examination and modification at any time by the War Production Board.

(d) *Effective date of base tonnage adjustments.* Adjustments of base tonnages are not retroactive. A publisher whose base tonnage is adjusted on appeal does not receive, by virtue of such adjustment, a "carry-over of unused tonnage" from any quarter before the issuance of the appeal grant.

(e) *Application of curtailments.* Constructive base tonnages granted on appeal are subject to the curtailments required by paragraph (j) of Order L-244 as amended from time to time.

(f) *Types of hardship for which relief shall be granted.* In passing upon appeals under Order L-244 the following standards shall govern:

(1) *New magazines issued by new publishers in 1942.* If a publisher first caused paper to be used in printing a magazine in 1942 (and did not publish any other magazine throughout that entire year) he shall be granted a constructive base tonnage. This shall be determined by averaging the tonnage of paper consumed in each issue printed in 1942 and multiplying this average tonnage by a factor representing the magazine's established frequency of issuance.

(2) *Publishers who used 25 tons or less in the first quarter of 1943.* If a publisher used 25 tons of paper or less in the first quarter of 1943 under that provision of Order L-244 (eliminated as of April 1, 1943) which exempted users of 25 tons per quarter or less, he shall be granted a constructive base tonnage, not to exceed 25 tons per quarter. This shall be determined by averaging the tonnage of paper used in the issues of each magazine printed during the first quarter of 1943 and multiplying this average tonnage by a factor representing the magazine's established frequency of issuance.

(3) *Reduction in basis weight and trim size.* Publishers who reduced the basis weight or trim size of their magazines in 1942 shall be granted compensatory increases in their base tonnages.

(4) *Increased frequency of issuance.* Publishers who increased the frequency of issuance of their magazines in 1942

shall be granted adjustments of their base tonnages to permit continued publication at the frequency of issuance established before Order L-244 was issued, on December 31, 1942.

(5) *Unusual seasonal variations.* Publishers whose schedules have unusual seasonal variations shall be granted permission to redistribute their quarterly consumption quotas within a calendar year.

(6) *Inter-company transfers.* Transfers of quotas under Order L-244 shall be permitted between corporations which have occupied the relationship of parent and wholly-owned subsidiary, or affiliates wholly owned by the same person prior to December 31, 1942, and continuously thereafter.

(7) *Temporary suspension.* Magazines which were forced to suspend publication temporarily during 1942 because of strikes, fires or similar conditions shall be granted compensatory increases in their base tonnage to the extent that it was impracticable to continue operations at another plant.

(8) *Extraordinary hardships.* Appeal tonnage shall not be recommended by either the administrator or the Division Appeals Committee or granted by the Appeals Board for causes other than those enumerated in subparagraphs (1) to (7) of this paragraph (f) except where unforeseen, unusual, extraordinary or emergency conditions constituting undue and excessive hardship are proved. Certain factors which shall not be recognized as grounds for the granting of appeal tonnage are described in paragraph (g).

(g) *Factors which shall not be considered as grounds for granting of tonnage on appeals.* The following is a list of some of the factors which shall not be considered as grounds for the granting of appeals. This list is not exclusive.

(1) The nature of a magazine's contents.

(2) Diminished base period consumption because of financial conditions.

(3) Suspension of publication in 1942, except as provided in paragraph (f) (7).

(4) Consumption of more paper in any quarter of 1942 than in other quarters.

(5) Consumption of less paper in 1942 than in other years.

(6) Decrease in circulation, number of advertising pages, or number of editorial pages in 1942.

(7) Increase in trim size, basis weights, circulation, cover or subscription price, number of advertising pages, number of editorial pages, or other expansion measures in 1942 or thereafter.

(8) Publication of a new magazine in 1942 by a publisher who was in the magazine publishing business throughout that year.

(9) Special events such as war bond drives, recruiting drives, war news, political news, etc.

(10) Inability to maintain or increase advertising pages, editorial pages, or circulation under existing quotas.

(11) Increased demand for a magazine, even though it is published by a membership organization whose constitution requires that a copy be sent to every member.

(12) Request to use in a magazine publishing business commenced after May 24, 1944 more than  $1\frac{1}{4}$  tons of paper per calendar quarter, as provided in paragraph (j) (2) of Order L-244.

(13) The fact that additional tonnage was granted on appeal to a competitor.

(14) Consumption of paper in violation of Order L-244, whether or not such violation was wilful.

#### Procedure

(h) *How appeals are submitted.* Appeals from Order L-244 may be filed by addressing a letter to the War Production Board, Printing and Publishing Division, Washington 25, D. C. Ref: L-244.

(i) *Form of appeals.* The letter of appeal need not follow any particular form. It should state informally, but completely, the particular provision appealed from, the precise relief desired, the subparagraph of paragraph (f) upon which the appellant relies, and the reasons why denial of the appeal would result in undue and excessive hardship.

(j) *Denial by administrator.* Appeals may be denied in the first instance by the administrator of the order.

(k) *Re-appeal from denial by administrator.* When an appeal has been denied by the administrator of the order, the appellant may re-appeal, within 15 days after the letter of denial is mailed, by addressing a letter to the War Production Board, Printing and Publishing Division, Washington 25, D. C. Ref: L-244. This letter may contain simply a request that the case be forwarded to the Appeals Board of the War Production Board. Any additional information which the appellant cares to submit at this time will also be forwarded to the Appeals Board.

(l) *Grant of appeals.* Although the administrator of the order may deny an appeal in the first instance, only the Appeals Board has the power to grant relief in individual cases from the provisions of the order.

(m) *Recommendation of grant by the administrator.* The administrator of the order may recommend that an appeal be granted in whole or in part. In that event the case shall be forwarded to the Appeals Board with the written recommendation of the administrator and the written concurrence or non-concurrence of each member of the Division Appeals Committee, consisting of himself, the administrators of Orders L-240, L-241 and L-245, the Assistant Director of the Printing and Publishing Division for Labor, and representatives of the Office of Civilian Requirements and the Conservation Division.

(n) *Optional reference to Appeals Board by administrator.* The administrator of the order may, if he desires, refer a case to the Appeals Board with a recommendation of denial or with no recommendation at all.

(o) *Hearings by Appeals Board.* If the Appeals Board desires to obtain additional facts not contained in the file, it may, in its discretion, hold a public hearing on any appeal. To the extent consistent with the necessity for emergency relief, a schedule of hearings shall be made up in advance. Information concerning the time and place of any scheduled hearing shall be available at the office of the Appeals Board at any time during business hours.

(p) *Conduct of hearing.* Hearings by the Appeals Board are open to the public.

All interested parties may attend and, in the discretion of the Board, may be heard. The hearings are informal and the Board is not bound by legal rules of evidence. It is not necessary for an appellant to be represented by counsel, although he may do so if he wishes.

(q) *Decision by Appeals Board.* The Appeals Board may grant or deny an appeal in whole or in part. It may also attach conditions to a grant.

(r) *Finality of decision.* The decisions of the Appeals Board shall be final, unless that Board elects to reopen the case.

(s) *Publication of grants.* Grants on appeal shall be announced publicly at least every two weeks.

(t) *Announcement of grounds of decision.* Whenever a grant is made for "unforeseen, unusual, extraordinary or emergency conditions" under paragraph (f) (8), a brief memorandum of the basis of the decision shall be made public by the Appeals Board within two weeks, and the decision shall be treated as a precedent in future situations of an identical character.

(u) *Amendment of supplement.* Whenever a new standard is developed, the supplement shall be amended to set forth that standard.

(v) *Public files.* Public files shall be set up in all cases, including those filed before as well as after October 7, 1943 whether or not they resulted in a grant. They shall be available for public inspection at any time during the business hours of the War Production Board. The public files shall include:

(1) All papers filed by the appellant in support of the appeal except those portions which contain confidential data.

(2) All memoranda by War Production Board officials containing recommendations for or against the allowance of the appeal.

(3) Copies of all letters of grant or denial.

(4) A transcript of the record of any public hearing (or if the stenographic notes of the hearing have not been transcribed, a memorandum referring to the notes and stating how a transcript may be obtained).

(w) *False representations.* All grants on appeal are conditional upon the validity of the statements submitted in support thereof. Any person who wilfully conceals a material fact or furnishes false information in connection with an appeal, whether orally or in writing, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both, as provided in section 35A of the United States Criminal Code.

Issued this 3d day of August 1944.

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

[F. R. Doc. 44-11613; Filed, August 3, 1944;  
10:58 a. m.]

#### § 3133.17a General Limitation Order L-245, Supplement No. 1—(a) Purpose of appeal clause.

The serious shortage in the supply of print paper available for books makes it necessary for publishers to reduce their consumption substantially, as provided in Order L-245. Such reductions may create serious hardships—which, however, are unavoidable in time of war. Appeals are not granted to ameliorate, in individual cases, hardships applicable to an entire industry. They are granted only to provide relief, subject to the provisions of paragraph (b) to (g), from certain undue and excessive hardships which would be created if the order were applied without modification to an exceptional set of circumstances. Appeals which do not establish such hardships shall be denied.

(b) *No automatic adjustments.* Paragraph (f) of this supplement describes the types of hardship for which quota adjustments shall be made by the War Production Board on appeal. These adjustments, however, are not automatic. A publisher who believes that his case is covered by one of the subparagraphs of paragraph (f) may not make his own adjustment of his consumption quota. No publisher may use any paper in excess of his consumption quota, computed in accordance with paragraphs (j) and (k) of Order L-245, unless he files an appeal for such relief and a grant is made in writing signed by the Recording Secretary of the War Production Board.

(c) *Adjustment of base tonnages.* Wherever appropriate, grants on appeal shall be made in the form of adjustments of a publisher's base tonnage which shall continue to be effective in future quarters, subject to re-examination and modification at any time by the War Production Board.

(d) *Effective date of base tonnage adjustments.* Adjustments of base tonnages are not retroactive. A publisher whose base tonnage is adjusted on appeal does not receive, by virtue of such adjustment, a "carry-over of unused tonnage" from any year before the issuance of the appeal grant.

(e) *Application of curtailments.* Constructive base tonnages granted on appeal are subject to the curtailments required by paragraph (j) of Order L-245 as amended from time to time.

(f) *Types of hardship for which relief shall be granted.* In passing upon appeals under Order L-245 the following standards shall govern:

(1) *Incomplete base period.* If a person entered the book publishing business in 1942 by causing paper to be put into process in the production of books for the first time in that year, he shall be granted a constructive base tonnage. This shall be determined by averaging his consumption of paper in each of the calendar quarters of 1942 in which he caused paper to be put into process. This average shall be multiplied by the number of calendar quarters of 1942 in which he did not cause paper to be put into process. The total shall be added to his actual consumption in 1942, to determine his constructive base tonnage.

#### PART 3133—PRINTING AND PUBLISHING [Limitation Order L-245, Supp. 1, as Amended Aug. 3, 1944]

##### BOOKS AND BOOKLETS

Section 3133.17a General Limitation Order L-245, Supplement No. 1 is hereby amended to read as follows:

However, ex-quota tonnage shall not be granted under this subparagraph to a publisher whose business is of such a nature that he would normally cause paper to be put into process in only a portion of a calendar year.

(2) *The "intermittent" publisher.* An "intermittent" publisher is one who issues a particular type of publication, such as an encyclopedia, a multi-volume set, etc., which, as a matter of established business practice, is produced at regular intervals less frequent than annual. Ex-quota tonnage shall be granted to permit the continued issuance of such a publication, to the extent that the publisher's consumption quota is inadequate.

(3) *Abnormal base period.* A publisher who demonstrates that in 1942 he consumed an abnormally low tonnage of paper because of conditions beyond his control shall be granted a constructive base tonnage. This shall be determined by averaging his consumption in the years 1940, 1941, and 1942. If he consumed no paper in one of these three years, the adjustment shall be based on his average consumption in the remaining two years.

(4) *Temporary suspension.* A publisher whose consumption of paper in 1942 was reduced by temporary suspension of publication as the result of strikes, fires or similar conditions shall receive a compensatory increase in his base tonnage, to the extent that it was impracticable to continue operations at another plant.

(5) *Disproportionate commitments made prior to the issuance of Order L-245.* Appeal tonnage shall be granted to a publisher who demonstrates that his base tonnage is inequitable because of the following circumstances existing prior to the issuance of L-245 on January 8, 1943:

- (i) Capital expenditures;
- (ii) Advances on author royalties and publishing rights;
- (iii) Expenditures in the manufacture of books;
- (iv) Administrative and advertising expenses.

Adjustments under this paragraph (f) (5) shall not be made unless the publisher demonstrates that his quota, upon the issuance of Order L-245, was inadequate to produce conservative first printings sufficient to liquidate such prior commitments.

(6) *Inter-company transfers.* Transfers of quotas under Order L-245 shall be permitted between corporations which have occupied the relationship of parent and wholly-owned subsidiary, or affiliates wholly owned by the same person, prior to January 8, 1943, and continuously thereafter.

(7) *Extraordinary hardships.* Appeal tonnage shall not be recommended either by the administrator or the Division Appeals Committee or granted by the Appeals Board for causes other than those enumerated in subparagraphs (1) to (6) of this paragraph (f) except where unforeseen, unusual, extraordinary or emergency conditions constituting undue and excessive hardship are proved. Certain factors which shall not be recognized

as grounds for the granting of appeal tonnage are described in paragraph (g).

(g) *Factors which shall not be considered as grounds for granting appeals.* The following is a list of some of the factors which shall not be considered as grounds for the granting of appeals. This list is not exclusive.

- (1) The nature of a book's contents.
- (2) Diminished base period consumption because of financial conditions.
- (3) Suspension of publishing activities, except as set forth in paragraph (f) (4).
- (4) Increased demand for books, even though published by a membership organization whose constitution requires that a copy be sent to every member.
- (5) Request to use in a book publishing business commenced after May 24, 1944 more than 5 tons of paper per calendar year as provided in paragraph (j) (2) of Order L-245.
- (6) The fact that additional tonnage was granted on appeal to a competitor.
- (7) Consumption of paper in violation of L-245, whether or not such violation was wilful.

#### Procedure

(h) *How appeals are submitted.* Appeals from Order L-245 may be filed by addressing a letter to the War Production Board, Printing and Publishing Division, Washington 25, D. C.: Ref: L-245.

(i) *Form of appeal.* The letter of appeal need not follow any particular form. It should state informally, but completely, the particular provision appealed from, the precise relief desired, the subdivision of paragraph (f) upon which the appellant relies, and the reasons why denial of the appeal would result in undue and excessive hardship.

(j) *Denial by administrator.* Appeals may be denied in the first instance by the administrator of the order.

(k) *Re-appeal from denial by administrator.* When an appeal has been denied by the administrator of the order, the appellant may re-appeal, within 15 days after the letter of denial is mailed, by addressing a letter to the War Production Board, Printing and Publishing Division, Washington 25, D. C. Ref: L-245. This letter may contain simply a request that the case be forwarded to the Appeals Board of the War Production Board. Any additional information which the appellant cares to submit at this time will also be forwarded to the Appeals Board.

(l) *Grant of appeals.* Although the administrator of the order may deny an appeal in the first instance, only the Appeals Board has the power to grant relief in individual cases from the provisions of the order.

(m) *Recommendation of grant by the administrator.* The administrator of the order may recommend that an appeal be granted in whole or in part. In that event the case shall be forwarded to the Appeals Board with the written recommendation of the administrator and the written concurrence or non-concurrence of each member of the Division Appeals Committee, consisting of himself, the administrators of orders L-240, L-241, and L-244, the Assistant Director of the Printing and Publishing Division for Labor, and representatives of the Office of Ci-

vilian Requirements and the Conservation Division.

(n) *Optional reference to Appeals Board by Administrator.* The administrator of the order may, if he desires, refer a case to the Appeals Board with a recommendation of denial or with no recommendation at all.

(o) *Hearings by Appeals Board.* If the Appeals Board desires to obtain additional facts not contained in the file it may, in its discretion, hold a public hearing on any appeal. To the extent consistent with the necessity for emergency relief, a schedule of hearings shall be made up in advance. Information concerning the time and place of any scheduled hearing shall be available at the office of the Appeals Board at any time during business hours.

(p) *Conduct of hearing.* Hearings by the Appeals Board are open to the public. All interested parties may attend and, in the discretion of the Board, may be heard. The hearings are informal and the Board is not bound by legal rules of evidence. It is not necessary for an appellant to be represented by counsel, although he may do so if he wishes.

(q) *Decision by Appeals Board.* The Appeals Board may grant or deny an appeal in whole or in part. It may also attach conditions to a grant.

(r) *Finality of decision.* The decisions of the Appeals Board shall be final, unless that Board elects to reopen the case.

(s) *Publication of grants.* Grants on appeals shall be announced publicly at least every two weeks.

(t) *Announcement of grounds of decision.* Whenever a grant is made on the basis of "unforeseen, unusual, extraordinary or emergency conditions" under paragraph (f) (7), a brief memorandum of the basis of the decision shall be made public by the Appeals Board within two weeks, and the decision shall be treated as a precedent in future situations of an identical character.

(u) *Amendment of supplement.* Whenever a new standard is developed, the supplement shall be amended to set forth that standard.

(v) *Public files.* Public files shall be set up in all cases, including those filed before as well as after October 7, 1943 whether or not they resulted in a grant. They shall be available for public inspection at any time during the business hours of the War Production Board. The public files shall include:

1. All papers filed by the appellant in support of the appeal except those portions which contain confidential data.

2. All memoranda by War Production Board officials containing recommendations for or against the allowance of the appeal.

3. Copies of all letters of grant or denial.

4. A transcript of the record of any public hearing (or if the stenographic notes of the hearing have not been transcribed, a memorandum referring to the notes and stating how a transcript may be obtained).

(w) *False representations.* All grants on appeal are conditional upon the validity of the statements submitted in support thereof. Any person who wilfully conceals a material fact or furnishes false information in connection with an

appeal, whether orally or in writing, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both, as provided in section 35A of the United States Criminal Code.

Issued this 3d day of August 1944.

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

[F. R. Doc. 44-11614; Filed, August 3, 1944;  
10:58 a. m.]

## Chapter XI—Office of Price Administration

### PART 1351—FOOD AND FOOD PRODUCTS

[FPR 1, Supp. 7]

#### PACKED FRUITS, BERRIES AND VEGETABLES OF THE 1944 AND LATER PACKS

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

#### SUPPLEMENT 7 TO FOOD PRODUCTS REGULATION—PACKED FRUITS, BERRIES AND VEGETABLES OF THE 1944 AND LATER PACKS

##### ARTICLE I—EXPLANATION OF THE SUPPLEMENT

Sec.

1. Explanation of the supplement.
2. Applicability of Food Products Regulation No. 1.
3. Definitions.

##### ARTICLE II—PRICING PROVISIONS

4. Explanation of pricing methods for processors.
5. Maximum prices for sales by processors—Pricing Method No. 1.
6. Maximum prices for sales by processors—Pricing Method No. 2.
7. Maximum prices for secondary processors and repackers.
8. Maximum prices for sales by processors of prior years' pack of listed products which have been sold to them by government agencies.
9. Label and labor allowances.
10. Provisions of Article II of Food Products Regulation No. 1 applicable to this supplement.

##### ARTICLE III—MISCELLANEOUS PROVISIONS

11. Grades and invoices.
12. Container sizes.
13. Reports which processors must file.
14. Provisions of Article III of Food Products Regulation No. 1 applicable to this supplement.

##### ARTICLE IV—PRICING APPENDICES

15. Appendices for packed vegetables priced under Pricing Method No. 1.
16. Appendices for packed fruits priced under Pricing Method No. 1.

AUTHORITY: Secs. 1 to 16, inclusive, (§ 1351.394) issued under 56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681.

##### ARTICLE I—EXPLANATION OF THE SUPPLEMENT

##### SECTION 1. *Explanation of the supplement—(a) What products are covered by*

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

19 F.R. 6711.

*this supplement.* In general, this supplement establishes maximum prices for the 1944 and later packs of the canned fruits, berries and vegetables listed below, and others which may be added from time to time. It also covers other closely related packed food products. However, this supplement does not apply to any listed product which is packed and sold as "baby food", as "junior food", or as "soup". It covers most of the products which were covered by Maximum Price Regulation 306<sup>2</sup>, Certain Packed Food Products plus certain additional products.

The general pricing provisions relating to all of the products covered by this supplement will be found in the section listed in Column 3 of the following table. Special pricing provisions which are applicable to particular products or groups of products are set forth in the sections and appendices listed in Column 4.

Column 1 Item No.	Column 2 Product	Column 3 Section	Column 4	
			Section	Appendix
1.	Spinach.....	5	15	A
2.	Asparagus.....	5	15	B
3.	Cherries (red sour pitted).	5	16	A

The provisions of this supplement apply to products packed during the year 1944 (and after), except that as to products on which a subsidy is payable the supplement applies to products packed during the period March 1, 1944 to April 30, 1945 (see section 5 (a) (1) (iii)). If the major portion of the pack of any product, other than a product on which a subsidy is payable, was packed during 1944, the product shall be deemed to be of the 1944 pack.

In addition, the supplement provides maximum prices for resale of earlier years' packs which have been purchased from the government (see section 8).

(b) *What sellers are covered by this supplement.* This supplement applies to sales by all persons except wholesalers and retailers.

However, sales and deliveries of products covered by this supplement by a processor in any calendar year in which his total volume of sales of the products does not exceed 1,500 quarts (or an equivalent amount in other container sizes) are not subject to the maximum prices or other requirements imposed by this supplement.

(c) *Where this supplement applies.* This supplement applies in the 48 states of the United States and the District of Columbia.

(d) *What this supplement supersedes.* This supplement supersedes the provisions of all other maximum price regulations and orders as to the commodities and sellers covered.

<sup>2</sup>8 F.R. 16896, 17224, 17295, 17482; 9 F.R. 287, 96, 1710, 2237, 4349, 5075, 6109, 7503.

(e) *When this supplement is effective.* This supplement becomes effective July 31, 1944.

The "effective date" of this supplement as to any product covered by it shall be the date when the pricing provisions of the supplement first became applicable to it.

SEC. 2. *Applicability of Food Products Regulation No. 1.* Important: Not all of the provisions affecting the maximum prices of the listed packed food products are stated in this supplement. Those which are not specifically set forth here are stated in Food Products Regulation No. 1, and they are just as much a part of this supplement as if they were printed here. The "explanation of the regulation" is also a part of this supplement.

The particular sections of Food Products Regulation No. 1 which are applicable to this supplement are listed in appropriate places in the following sections (in each case, the section number set forth in parentheses is the appropriate section number of Food Products Regulation No. 1). When any applicable section of the regulation is amended, the amendment also is applicable to this supplement.

SEC. 3. *Definitions.* (a) When used in this supplement the term:

"Packed" means processed and enclosed in any container, whether or not hermetically sealed. However, the term does not include any product when processed by freezing, drying or dehydrating, or brining, nor does it include any of the packed products known as preserves, relishes or pickles.

"Packed fruits" means any specified packed fruit, mixture of fruits, juice and nectar or any mixture of juices, or products made from specified fruits.

"Packed berries" means any specified packed berry, mixture of berries, juice and nectar or any mixture of juices, or products made from specified berries.

"Packed vegetables" means any specified packed vegetable, mixture of vegetables, juice or any mixture of juices, or products made from specified vegetables.

"Secondary processor" means a processor who purchases the kind of processed product being priced in bulk, barrels or other large containers and further processes and repacks it in containers other than the original container in which the commodity was shipped to him.

"Price range" means the range of prices named in the applicable appendix for a particular grade, variety and container type and size of product within which all maximum prices for processors of items of that description must fall.

"F. O. B. shipping point" means f. o. b. factory in cases where the processor sold the item being priced on an f. o. b. factory basis during the applicable base period. It means f. o. b. branch warehouse in cases where he sold it from branch warehouses during that period.

(b) The definitions of the following terms, set forth in the designated sections

of Food Products Regulation No. 1, are applicable to this supplement:

"Person" (sec. 1.1 of FPR 1).  
 "Processor" (sec. 1.2 of FPR 1).  
 "Distributor" (sec. 1.3 of FPR 1).  
 "Repacker" (sec. 1.4 of FPR 1).  
 "Primary distributor" (sec. 1.5 of FPR 1).  
 "Wholesaler" and "retailer" (sec. 1.6 of FPR 1).  
 "Ultimate consumer" (sec. 1.7 of FPR 1).  
 "Item" (sec. 1.8 of FPR 1). Different subgrades of the same grade shall not constitute separate items.  
 "Container type" (sec. 1.9 of FPR 1).  
 "Sale" (sec. 1.10 of FPR 1).  
 "Price" (sec. 1.11 of FPR 1).  
 "Net delivered cost" (sec. 1.12 of FPR 1).  
 "Delivered to the customary receiving point" (sec. 1.13 of FPR 1).  
 "Records" (sec. 1.14 of FPR 1).

#### ARTICLE II—PRICING PROVISIONS

**SEC. 4. Explanation of pricing methods for processors.** Processors' maximum prices for the products covered by this supplement are figured under two general methods.

(a) **Pricing Method No. 1.** Under Pricing Method No. 1, as set forth in section 5, the processor in most cases figures his maximum price by taking his weighted average selling price for the item being priced during the first 60 days after the beginning of the 1941 pack (or other base period named in the applicable appendix) and adding a specified permitted increase. The resulting figure is the processor's "gross maximum price" (that is, the maximum price before subtraction of any direct subsidy payable per unit of the finished product), provided that it falls within the price range fixed for the item in the appendix. If it is higher than the highest price named in the price range, the processor's gross maximum price is the highest price named in the price range. Likewise, if it is lower than the lowest price named in the price range, the processor's gross maximum price is the lowest price named in the price range.

For sales to government procurement agencies, the processor figures his maximum price by taking 96% of his gross maximum price. (Gross maximum prices, it should be remembered, must fall within the applicable price range).

If the processor sold the particular product during the base period, but only in a grade, style, or container type or size which is different from the one being priced, or for which no price range is provided, he figures his maximum price by the same general pricing method, supplemented by the use of conversion factors (for different container types and sizes, different styles, and different grades). In each case the conversion factors to be used are set forth in the appendix applicable to the product.

If the processor was not in business during 1941 or if he made no sales of the product during the base period, he figures his gross maximum price for the item being priced by using as his gross maximum price the specific dollars-and-cents price named in the applicable appendix. In cases where a specific dollars-and-cents price is not provided for the item, he figures his gross maximum price by applying the appropriate conversion

factors to the specific dollars-and-cents price named for the nearest container size, style and grade of the product.

For any item of a product on which a direct subsidy is payable, the processor figures his maximum price for sales to purchasers other than government procurement agencies by subtracting from his gross maximum price the amount of the subsidy payable per unit of the finished product. The amount of the subsidy to be subtracted is specifically set forth in the applicable appendix for each container size for which a price range is established, and the amount of the subsidy for any other container size being priced must be figured by applying the appropriate conversion factors named in the appendix.

(b) **Pricing Method No. 1.** Products which are not priced under Pricing Method No. 1 will be priced under Pricing Method No. 2, to be set forth in section 6. The details of this pricing method will be announced later.

**SEC. 5. Maximum prices for sales by processors—Pricing Method No. 1; products covered by Pricing Method No. 1.** The products covered by Pricing Method No. 1 are listed below:

Packed fruits:

Apples.  
 Applesauce.  
 Apricots.  
 Cherries (red sour pitted).  
 Cherries (sweet).  
 Fruit cocktail.  
 Peaches.  
 Pears.  
 Prunes (packed from fresh prunes).

Packed vegetables:

Asparagus.  
 Beans (snap).  
 Beets.  
 Corn (sweet).  
 Peas.  
 Spinach.  
 Tomatoes.  
 Tomato juice.

**NOTE:** Not all of the packed fruits and vegetables above are covered by this supplement as originally issued. Others will be added later. A listed product may be priced under this supplement only on and after the effective date of the supplement or amendment (as the case may be) which provides an appendix covering that product (see section 1 for the list of products which this supplement covers).

(a) **Maximum prices for sales by processors to purchasers other than government procurement agencies of products sold during the base period.** For products sold in any form during the base period, the processor figures his maximum price for sales to purchasers other than government procurement agencies under this paragraph (a), under the particular subparagraph listed below which is applicable to the item being priced:

To price items sold during the base period and for which price ranges are provided. (See subparagraph (1) below).

To price items sold during the base period but for which price ranges are not provided. (See subparagraph (2) below).

To price items not sold during the base period but for which price ranges are provided. (See subparagraph (3) below).

To price items not sold during the base period and for which price ranges are not provided. (See subparagraph (4) below).

The processor who performs the wholesale or retail function with respect to the item being priced (that is by warehousing and selling it in less-than-carload quantities, from a branch warehouse owned or controlled by him, to retailers, or to commercial, industrial or institutional users) shall, in each case, figure his maximum price for sales in this manner under the general pricing methods of this paragraph (a) except that he shall not apply the limitations of the price range in any situation covered by this paragraph.

(1) **To price items sold during the base period and for which price ranges are provided.** For sales to purchasers other than government procurement agencies, the processor shall figure his maximum price per dozen containers or other unit, f. o. b. shipping point, of an item which he sold during the base period, and for which a price range is provided, as follows. He shall:

(i) **Determine the base price.** First, the processor shall figure his weighted average price per dozen containers or other unit, f. o. b. shipping point, for the item being priced during the first 60 days after the beginning of the 1941 pack or other base period named in the appendix covering the particular product. (This average price will be called the "base price"). "Weighted average price" means the total gross sales dollars charged for the item during the base period divided by the number of dozens of containers or other units of that item sold. All sales made in the regular course of business during the base period shall be included, regardless of the date of delivery, except sales made to the armed forces of the United States. Sales contracts made at times other than during the base period shall not be included, even though delivery was made during the base period. The processor shall figure a separate weighted average price for each item, except that a single weighted average price shall be figured for items which differ only in brand name. (Subgrades shall also be ignored.)

(ii) **Add the permitted increase.** Next, the processor shall add to the base price the permitted increase named for the item in the applicable appendix. The resulting figure is the processor's "gross maximum price" per dozen containers or other unit, f. o. b. shipping point, for sales to purchasers other than government procurement agencies: *Provided*, That it falls within the applicable price range. However, if it is higher than the highest price named in the price range, the processor's gross maximum price is the highest price named in the price range. Likewise, if it is lower than the lowest price named in the price range, the processor's gross maximum price is the lowest price named in the price range.

(iii) **Subtract any direct subsidy payable per unit of the finished product.** Finally, as to any product for which a subsidy is payable, the processor shall subtract from his gross maximum price the amount of the direct subsidy payable per unit of the finished product.

The resulting figure is the processor's maximum price per dozen containers or other unit, f. o. b. shipping point, for sales

to purchasers other than government procurement agencies.

**NOTE:** The Commodity Credit Corporation's subsidy program covers certain canned foods as defined in the Definitions and Standards of Identity issued under the Federal Food, Drug and Cosmetic Act, packed from tomatoes, green peas, sweet corn and snap beans grown during the calendar year 1944 and sold and delivered to canners for canning during the period March 1, 1944 to April 30, 1945, inclusive.

*Illustrations of how maximum prices are figured under subparagraph (1). Pricing items sold during the base period and for which price ranges are provided.* The permitted increase provided in Table 3 of Appendix A (section 15) for processors whose factories are located in Area 3 for No. 2½ size cans of spinach is \$.32. The range of prices in Table 3 for fancy spinach packed in No. 2½ size cans in this area is: lower limit of range \$.147 and upper limit of range \$.154.

**Example 1.** The X Canning Company whose factory is located in Arkansas has figured a weighted average price during the first 60 days after the beginning of the 1941 spring and fall packs of \$.127 per dozen for fancy spinach packed in No. 2½ size cans. To this figure the company adds \$.32, the permitted increase named in Appendix A (\$.127 plus \$.32 equals \$.159). Since this resulting figure of \$.159 is higher than the upper limit of the price range (\$.154), the X Canning Company's maximum price for sales to purchasers other than government procurement agencies is \$.154 per dozen. (No subsidy is payable as to this product).

**Example 2.** The Y Canning Company whose factory is also located in Arkansas has figured a weighted average price during the first 60 days after the beginning of the 1941 spring and fall packs of \$.105 per dozen for fancy spinach, packed in No. 2½ cans. To this figure the company adds the permitted increase of \$.32 (\$.105 plus \$.32 equals \$.137). Since the resulting figure of \$.137 is lower than the lowest price named in the price range, the Y Canning Company's maximum price for sales to purchasers other than government procurement agencies is \$.147 per dozen. (No subsidy is payable as to this product).

**Example 3.** The Z Canning Company whose factory is located in Arkansas has figured a weighted average price during the first 60 days after the beginning of the 1941 spring and fall packs of \$.118 per dozen for No. 2½ size cans of fancy spinach. To this figure the company adds \$.32 (\$.118 plus \$.32 equals \$.150). Since the resulting figure of \$.150 falls within the range of prices named for fancy spinach packed in No. 2½ cans in this area, the Z Canning Company's maximum price for sales to purchasers other than government procurement agencies for No. 2½ size cans of fancy spinach is \$.150 per dozen. (No subsidy is payable as to this product.)

**(2) To price items sold during the base period but for which price ranges are not provided.**

**NOTE:** In making conversions for grade, for style of pack, and for container type and size under subparagraph (2), (3) or (4), as a general rule steps in figuring the maximum price are to be taken in the following order (any variation from this order will be explained in the applicable appendix):

1. Convert for container type and size
2. Convert for style
3. Convert for grade
4. Add the permitted increase
5. Apply the limitations of the price range
6. Convert for grade
7. Convert for style
8. Convert for container type and size
9. Subtract any direct subsidy payable per unit of the finished product.

For sales to purchasers other than government procurement agencies the processor shall figure his maximum price per dozen containers or other unit, f. o. b. shipping point, of an item which he sold during the base period, and for which a price range is not provided, as follows. He shall:

(i) *Construct a base price.* First, the processor shall figure his weighted average price for the item being priced in the manner provided in paragraph (a) (1) (i), above. He shall then convert this weighted average price (by container type and size, by style and by grade, in the order named) to a base price for an item with an established price range which is nearest in container size to the item being priced, by applying the conversion factors named in the applicable appendix.

(ii) *Add the permitted increase.* Next, the processor shall add to the constructed base price the appropriate permitted increase named in the applicable appendix and apply to this figure the limitations of the applicable price range.

(iii) *Convert to a gross maximum price for the item being priced.* Next, the processor shall convert the price so figured (by grade, by style and by container type and size, in the order named) to a gross maximum price for the item being priced, by applying the conversion factors named in the applicable appendix.

(iv) *Subtract any direct subsidy payable per unit of the finished product.* Finally, the processor shall subtract any direct subsidy payable per unit of the finished product.

The resulting figure is the processor's maximum price for sales to purchasers other than government procurement agencies.

*Illustrations of how maximum prices are figured under subparagraph (2)—Pricing items sold during the base period but for which price ranges are not provided:*

**Example 4.** The B Canning Company whose factory is located in New York sold RSP cherries packed in water in No. 303 cans during the base period. It is now pricing RSP cherries in water in No. 303 cans. Since Table 3 in Section 16, Appendix A, does not provide a permitted increase and price range for No. 303 cans, the company must convert its weighted average price for the No. 303 size cans of the product to a base price for the nearest container size for which a price range is provided, which in this case is the No. 2 size cans. The company has figured a weighted average price during the base period for RSP cherries packed in No. 303 cans of \$.125. To convert this figure to a No. 2 size can, it multiplies it by 1.15 the conversion factor named in Table 5 of Appendix A (\$.125 times 1.15 = \$.14375). To this figure the company adds \$.53 the permitted increase named in Table 3. (\$.14375 plus \$.53 = \$.19675). Since this figure is lower than the lowest price named in the price range for No. 2 size cans of the product, it uses \$.197 the lowest price in the range, to continue its computations. It now converts the figure \$.197 to a maximum price for the No. 303 size can by multiplying it by .87 the conversion factor named in Table 5 for converting to a No. 303 size can (\$.197 times .87 = \$.17139). The B Canning Company's maximum price for sales to purchasers other than government procurement agencies for No. 303 cans of RSP cherries in water is \$.171. (Subparagraph (iv) is not used in figuring

the maximum price as to this product as no subsidy is payable on it).

(3) *To price items not sold during the base period but for which price ranges are provided.* (See note at beginning of subparagraph (2)). For sales to purchasers other than government procurement agencies, the processor shall figure his maximum price per dozen containers or other unit, f. o. b. shipping point, of an item which he did not sell during the base period, but for which a price range is provided, as follows. He shall:

(i) *Construct a base price.* First, the processor shall select from the items of the product which he sold in the base period that item which is nearest in container size to the item being priced and figure its weighted average price in the manner provided in subdivision (a) (1) (i), above. He shall then convert this weighted average price (by container type and size, by style and by grade, in the order named) to a base price for the item being priced, by applying the conversion factors named in the applicable appendix.

(ii) *Add the permitted increase.* Next, the processor shall add to the constructed base price the appropriate permitted increase named in the applicable appendix and apply to this figure the limitations of the applicable price range.

(iii) *Subtract any direct subsidy payable per unit of the finished product.* Finally, the processor shall subtract any direct subsidy payable per unit of the finished product.

The resulting figure is the processor's maximum price for sales to purchasers other than government procurement agencies.

*Illustrations of how maximum prices are figured under subparagraph (3)—Pricing items not sold during the base period but for which price ranges are provided:*

**Example 5.** The C Canning Company whose factory is located in Michigan is now pricing standard, water pack RSP cherries packed in No. 2 cans. During the base period 1941 this company sold RSP cherries of the following grades, styles of pack, and container types and sizes:

Fancy RSP cherries 30° syrup in 303 cans.

Standard RSP cherries in water in #10 cans.

The C Company selects the No. 303 size cans of RSP cherries because it is the nearest in container size to the No. 2 size can which it is now pricing and figures its weighted average price to be \$.152. The company then converts this weighted average price for the No. 303 can to a base price for the No. 2 can by multiplying it by 1.15 the conversion factor named in Table 5 of Appendix A for converting from a No. 303 can to a No. 2 can. (\$.152 times 1.15 = \$.17480). The resulting figure \$.17480 is a base price for No. 2 size cans of Fancy RSP cherries, 30° syrup. However, since the company is pricing #2 size cans of Standard, Water pack RSP cherries, it must subtract from \$.17480 the differentials for syrup and grade specified in Tables 6 and 7 of Appendix A. (These are \$.020 for grade differences between fancy and standard; and \$.015 for syrup.) (\$.17480 minus \$.035 = \$.13980.) To this base price the C Company adds \$.072 the permitted increase named in Table 3 of Appendix A for Area 2 (\$.13980 + \$.072 = \$.21180).. Since the resulting figure is within the price range for Area 2, the company's maximum price is \$.212 for sales to purchasers other than government procurement agencies. (Subtraction of a subsidy is not involved as to this product.)

**(4) To price items not sold during the base period and for which price ranges are not provided.** (See note at beginning of subparagraph (2)).

Two different situations are involved when pricing under this subparagraph.

For sales to purchasers other than government procurement agencies, the processor shall figure his maximum price per dozen containers or other unit, f. o. b. shipping point, of an item not sold during the base period, and for which a price range is not provided, as follows.

*First situation:* If during the base period the processor sold any of the items (of the same product) for which price ranges are provided, he shall figure his maximum price per dozen containers or other unit f. o. b. shipping point, for sales to purchasers other than government procurement agencies, as follows. He shall:

(i) *Construct a base price.* First, the processor shall select from the items sold during the base period that item for which a price range is provided which is nearest in container size to the item being priced and figure its weighted average price in the manner provided in subdivision (a) (1) (i), above.

(ii) *Add the permitted increase.* Next, the processor shall add to the constructed base price the appropriate permitted increase and apply to this figure the limitations of the applicable price range.

(iii) *Convert to a gross maximum price for the item being priced.* Next, the processor shall convert the price so figured for the selected item (by grade, by style, and by container type and size, in the order named) to a gross maximum price for the item being priced, by applying the conversion factors named in the applicable appendix.

(iv) *Subtract any direct subsidy payable per unit of the finished product.* Finally, the processor shall subtract any direct subsidy payable per unit of the finished product.

The resulting figure is the processor's maximum price for sales to purchasers other than government procurement agencies.

*Second situation.* If during the base period the processor did not sell any of the items (of the same product) for which price ranges are provided, he shall figure his maximum price per dozen containers or other unit f. o. b. shipping point, for sales to purchasers other than government procurement agencies, as follows. He shall:

(i) *Construct a base price.* First, the processor shall select from the items of the product which he sold in the base period that item which is nearest in container size to the item being priced and figure its weighted average price in the manner provided in subdivision (a) (1) (i) above. He shall then convert this weighted average price (by container type and size, by style and by grade, in the order named) to a weighted average price for the item nearest in container size for which a price range is provided by applying the conversion factors named in the applicable appendix.

(ii) *Add the permitted increase.* Next, the processor shall add to the constructed base price the appropriate permitted increase named in the applicable appendix and apply to this figure the limitations of the applicable price range.

(iii) *Convert to a gross maximum price for the item being priced.* Next, the processor shall convert the price so figured for the selected item (by grade, by style, and by container type and size, in the order named) to a gross maximum price for the item being priced, by applying the conversion factors named in the applicable appendix.

(iv) *Subtract any direct subsidy payable per unit of the finished product.* Finally, the processor shall subtract any direct subsidy payable per unit of the finished product.

The resulting figure is the processor's maximum price for sales to purchasers other than government procurement agencies.

*Illustrations of how maximum prices are figured under subparagraph (4). Pricing items not sold during the base period and for which price ranges are not provided:*

*First situation*

*Example 6.* The E Canning Company whose factory is located in Oregon is now pricing No. 1 (picnic) cans of standard spinach. During the base period 1941, this company sold spinach of the following grades, and container types and sizes:

Fancy spinach packed in No. 2 cans.

Fancy spinach packed in No. 10 cans.

The E Company selects the No. 2 can because it is the nearest container size for which a price range is provided to the No. 1 (picnic) can which is being priced. It then figures the weighted average price for the No. 2 can to be \$.95 per dozen. To this figure the company adds \$.38 the permitted increase named in Table 3, Appendix A, of section 15, (\$.95 plus \$.38 = \$1.33). Since this figure is lower than the lowest price named for fancy spinach in Area 2, the company uses \$1.36, the lowest price in the price range, to continue its computation. The company subtracts \$.10, the difference between Fancy and Standard grades of spinach named in Table 7 of Appendix A, from \$1.36, (\$1.36 minus \$.10 = \$1.26). This figure is then converted to a maximum price for the No. 1 (picnic) can being priced by multiplying it by .65 the conversion factor named in Table 5, Appendix A for converting from a No. 2 to a 1 (picnic) can. (\$1.26 times .65 = \$.8190). The E Company's maximum price for No. 1 (picnic) cans of Standard spinach is \$.82 per dozen for sales to purchasers other than government procurement agencies. (Subtraction of a subsidy is not involved as to this product).

*Second situation*

*Example 7.* The D Canning Company whose factory is located in Oregon is now pricing 8 ounce size cans of Fancy spinach. During the base period, 1941, this company sold spinach of the following grades, and container types and sizes.

Fancy spinach packed in No. 2½ cans.

Standard spinach packed in No. 1 (picnic) cans.

The D Company selects the No. 1 (picnic) can because it is nearest in container size to the 8 ounce size can which it is now pricing and figures its weighted average price to be \$.70 per dozen. The company then converts this weighted average price for the No. 1 (picnic) can to a constructed base price for the No. 2 can by multiplying it by 1.54 the conversion factor named in Table 5, Appendix A, of section 15 for converting from a No. 1 (picnic) can to a No. 2 can (\$.70 times 1.54 = \$1.0780). The resulting figure is a base price for No. 2 size cans of Standard spinach. To this figure the company adds \$.10 (\$.10780 plus \$.10 = \$1.1780) the differential between grades named in Table 7 of Appendix A. Next the company adds \$.38 the permitted increase named in Table 3 for Area 2. (\$1.1780 plus \$.38 = \$1.5580.) Since this figure falls within the price range for fancy spinach packed in No. 2 cans, the company uses it to continue its computation. The company then converts this figure for the No. 2 size can to a maximum price for the 8 ounce size can which is being priced by multiplying it by .60 the conversion factor named in Table 5 of Appendix A for converting from a No. 2 can to an 8 ounce size can. (\$1.5580 times .60 = \$.9348). The resulting figure is the D Company's maximum price for sales to purchasers other than government procurement agencies. (Subtraction of a subsidy is not involved as to this product.)

(b) *Products not sold during the base period.* For any product which was not sold in the base period, the processor shall figure his maximum price per dozen containers or other unit of the item, f. o. b. factory, for sales to purchasers other than government procurement agencies, in the following manner:

(1) *Grades, styles and container types and sizes for which specific dollars-and-cents prices are provided.* If the grade, style and container type and size of the item being priced is one for which a specific dollars-and-cents price is provided, the processor shall in each case:

(i) Take the specific dollars-and-cents price named for the item in the applicable appendix (this figure is the processor's gross maximum, f. o. b. factory), and

(ii) Subtract from it any direct subsidy payable per unit of the finished product.

The resulting figure is the processor's maximum price for sales to purchasers other than government procurement agencies. For a processor who performs the wholesale or retail function, this price shall be considered a "dollars-and-cents" maximum price for the purpose of section 10 (b).

(2) *Grades, styles and container types and sizes for which specific dollars-and-cents prices are not provided.* If the grade, style and container type and size of the item being priced is one for which a specific dollars-and-cents price is not provided, the processor shall in each case,

(i) Take the specific dollars-and-cents price named in the applicable appendix for that container size (of the same product) which is nearest in size to the item being priced.

(ii) Convert the resulting figure (by grade, by style and by container type and size, in the order named) to a gross maximum price for the item being priced, by applying the conversion factors named in the applicable appendix.

(iii) Subtract from it any direct subsidy payable per unit of the finished product.

The resulting figure is the processor's maximum price for sales to purchasers other than government procurement agencies. For a processor who performs the wholesale or retail function, this price shall be considered a "dollars-and-cents" maximum price for the purpose of section 10 (b).

(c) *Maximum prices figured on the basis of subgrades.* A processor who meets the conditions of section 11 (a) as to any item may, if he elects, figure maximum prices for the item on the basis of subgrades. Any such election applies only to that part of the pack which he has not sold and delivered prior to the filing of his election. When he makes this election as to any item, the processor may sell it at whatever prices he pleases, subject to the following limitations:

(1) The maximum price for his entire pack of the item shall not be higher than his maximum price for the item figured without regard to subgrades multiplied by the number of units sold.

(2) No selling price for any subgrade of the item shall be higher than the top of the price range applicable to the item.

(3) The processor shall not sell on the basis of subgrades, at prices higher than his maximum price for the item figured without regard to subgrades, until he has filed with the Office of Price Administra-

tion, Washington, D. C., a statement of his election naming (i) each subgrade and the proportion of his pack of the item which he elects to sell under it, (ii) the highest price at which he elects to sell each subgrade, (iii) the actual or anticipated amount of his pack of the item, and (iv) his maximum price for the item figured without regard to subgrades. If he names an anticipated amount of pack, he shall file a supplementary statement showing his actual pack of the item, within 10 days after its completion.

(4) The number of units sold in the highest-priced subgrade shall not exceed the total number of units included in that subgrade in the seller's statement of election, and the maximum price for the entire subgrade shall be the price stated therein for that subgrade multiplied by the number of units sold. The number of units sold in the next highest-priced subgrade shall not exceed the total number of units included in that subgrade in the seller's statement of election, plus the number of units, if any, included for the highest-priced subgrade which are sold at or below the price stated for the next highest-priced subgrade, and the maximum price for the entire subgrade, plus such additional units, if any, shall be the price stated for that subgrade multiplied by the number of units sold, plus such additional units, if any. The above rule shall apply to determine the total number of units which may be sold in any lower-priced subgrade and to determine the maximum price for any such subgrade.

**SEC. 6. Maximum price for sales by processors—Pricing Method No. 2.** The details of Pricing Method No. 2 and the products covered by it will be announced later.

**SEC. 7. Maximum prices for secondary processor's and repackers.** The secondary processor or repacker shall figure his maximum prices per dozen containers or other unit, f. o. b. shipping point, for those products which are purchased by him in bulk, barrels or other large containers and further processed or repacked in other containers, in each case by adding to his maximum price for the item being priced, as established under the General Maximum Price Regulation, the difference between his customary supplier's maximum price under § 1499.2 of that regulation and his maximum price for the item, f. o. b. shipping point, as figured under this supplement, converted to the same units and adjusted where necessary to include incoming freight.

**SEC. 8. Maximum prices for sales by processors of prior years' packs of listed products which have been sold to them by government agencies.** The maximum price for sales by a processor, to purchasers other than government procurement agencies, of that portion of an item of any product listed in section 5 or 6 of this supplement, which was packed prior to 1944 and which has been sold to the processor by a government agency, shall be that processor's maximum price, f. o. b. shipping point, as established under this supplement for the same item when

packed in 1944. However, differences in brand shall be ignored.

**SEC. 9. Label and labor allowances.** (a) Label and labor allowances shall be made by processors in the following circumstances and in the following amounts:

(1) When the processor sells any item covered by this supplement, unlabeled or labeled with labels supplied by the purchasers, in containers no greater in content than a No. 10 can, the maximum price established under this supplement shall be reduced by \$1.50 per thousand labels used (label allowance).

(2) When any item covered by this supplement is sold unlabeled in containers no greater in content than a No. 10 can, the maximum price established under this supplement shall be reduced by one cent per case (labor allowance) in addition to the allowance provided in subparagraph (1), above.

(b) In each sale to a purchaser other than a government procurement agency, where a processor makes an allowance for labels or labor under this section, he shall separately state the selling price and the amount and nature of the allowance on the invoice accompanying the sale.

**SEC. 10. Provisions of Article II of Food Products Regulation No. 1 applicable to this supplement.** The following provision of Food Products Regulation No. 1 are applicable to this supplement:

(a) Maximum prices for products in new container types or sizes (sec. 2.2 of FPR 1). This section shall also apply to secondary processors.

(b) Adjustment of dollars-and-cents maximum prices for processors who perform the wholesale or retail function (sec. 2.3 of FPR 1). This section applies to maximum prices figured under Section 5 (b).

(c) Elective pricing method for processor (sec. 2.4 of FPR 1). The maximum "mark-up percentage" figure is 175%.

(d) Individual authorization of maximum prices (sec. 2.5 of FPR 1). This section shall also apply to secondary processors.

(e) When the seller must figure a delivered price (sec. 2.6 of FPR 1). However, when figuring a delivered price, any processor whose transportation charges during the period January 1, 1941 to March 17, 1942 was based on the use of his own trucks, or on the use of ocean freight, and who is now compelled to use a common or contract carrier, or a different type of common or contract carrier, may add transportation charges by the new means of transportation to the same destination but under the freight tariff classification, and at the rate in effect during that period.

(f) Uniform prices where the processor or repacker has more than one factory (sec. 2.7 of FPR 1).

(g) Uniform delivered prices where the seller has customarily been selling on an f. o. b. shipping point basis (sec. 2.8 of FPR 1).

(h) Maximum prices for sales by primary distributors (sec. 2.9 of FPR 1). The maximum markup is 8%.

(i) Maximum prices for sales by distributors who are not primary distributors, wholesalers or retailers (sec. 2.10 of FPR 1).

(j) Payment of brokers (sec. 2.11 of FPR 1).

(k) Maximum prices for sales to government procurement agencies in certain cases (sec. 2.12 of FPR 1). The amount of the subsidy payable per unit of the finished

product is set forth in the appendix covering the product.

(l) Special packing expenses which may be reflected in maximum prices for sales to government procurement agencies (sec. 2.13 of FPR 1).

(m) Treatment of federal and state taxes (sec. 2.14 of FPR 1).

(n) Units of sale and fractions of a cent (sec. 2.15 of FPR 1).

(o) Maintenance of customary discounts and allowances (sec. 2.16 of FPR 1).

#### ARTICLE III—MISCELLANEOUS PROVISIONS

**SEC. 11. Grades and invoices.** This section applies to all sellers covered by this supplement whether the goods are packed by them or purchased by them for resale.

(a) "Grade" means the established grade as commercially understood—for example, in the case of canned peas, standard, extra-standard and fancy. The Price Administrator finds that the most accurate and complete description of each of these grades is contained in the United States Standards for Grades of processed fruits and vegetables published by the United States Department of Agriculture. The sale of any processed fruit, vegetable, or berry at a price no higher than the seller's maximum price for the claimed grade thereof shall constitute compliance with this regulation, therefore, if the goods conform to the United States Standards for that grade. Failure of such goods to conform to the United States Standards for such grade shall constitute a violation of this regulation: *Provided, however,* That despite such failure the sale shall not constitute a violation of this regulation if it appears that the standards as generally understood in the trade differ in any material respect from the United States Standards and that the goods meet the requirement of the claimed grade as so understood in the trade.

"Subgrade" means a subdivision of a grade, determined in each case according to the regularly established way, during the base period, in which the particular processor reflected differences in quality (within that grade) in different selling prices for the item. Whether the processor had such a practice during the base period shall be determined from his invoices, and no processor who does not meet these conditions shall figure maximum prices for the item on the basis of subgrades.

If the particular processor's individual subgrade falls into more than one grade, as defined above, the individual subgrade shall be divided according to the commercial grades into which it falls.

(b) In the case of canned fruits packed in California, Oregon or Washington, paragraph (a) shall apply, except that the count range of the Canners League of California Specifications for California Canned Fruits shall be an element in grade determination for pricing purposes.

(c) A person who purchases from a processor shall not be subject to any criminal penalty or civil enforcement action under the Emergency Price Control Act of 1942, as amended, in connection with the resale of any item for failure of the item to conform to the grade

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(and subgrade, if any) designated on the invoices, provided he can establish that he relied in good faith upon the grade designation on the invoice furnished him by the processor.

(d) On and after July 31, 1944, each processor shall furnish the purchaser, other than a government procurement agency, at or before the time of delivery, with an invoice describing the item and separately stating its grade and subgrade, if any. In addition, he shall also show the syrup or packing medium of any fruits or berries sold.

(e) Nothing in this supplement shall be construed to change any of the requirements of the Federal Food, Drug and Cosmetic Act, or any regulation issued under it.

SEC. 12. *Container sizes.* When used in this supplement the containers named below refer to containers of the dimensions or overflow capacity indicated.

## METAL CONTAINERS

Name of container:	Dimensions
6 oz.=6 Z.	202 x 308
8 oz.=8 Z Short	211 x 300
No. 55	211 x 300
8 Z Tall	211 x 304
No. 1 Picnic	211 x 400
No. 211 Cyl.	211 x 414
No. 300	300 x 407
No. 300 Cyl.	300 x 509
No. 1 Tall	301 x 411
No. 303	303 x 406
No. 303 Cyl.	303 x 509
No. 95	307 x 400
No. 2 Vacuum	307 x 306
No. 2	307 x 409
No. 2 Cyl.	307 x 512
No. 2½	401 x 411
No. 3 Vacuum	404 x 307

Name of container:	Dimensions
No. 3 Cyl.	404 x 700
No. 10	603 x 700
No. 1 Square	300 x 308 x 308
No. 2½ Square	300 x 308 x 604

## GLASS CONTAINERS

Size:	Overflow capacity	oz.
No. 303	17.03	
No. 2½	28.375	
No. 10	105.6	

SEC. 13. *Reports which processors must file.* (To be announced.)

SEC. 14. *Provisions of Article III of Food Products Regulation No. 1 applicable to this supplement.* The following provisions of Food Products Regulation No. 1 are applicable to this supplement:

- (a) Restrictions on sales to primary distributors (Section 3.1 of FPR 1).
- (b) Storage (sec. 3.3 of FPR 1).
- (c) Export sales (sec. 3.4 of FPR 1).
- (d) Notification of new maximum price (sec. 3.5 of FPR 1). However, for the purpose of this section only, different subgrades of the same grade shall constitute separate items.
- (e) Records which must be kept (sec. 3.6 of FPR 1).
- (f) Sales slips and receipts (sec. 3.8 of FPR 1).
- (g) Transfer of business or stock in trade (sec. 3.9 of FPR 1).
- (h) How a figured maximum price is established and how an established maximum price may be changed (sec. 3.10 of FPR 1).
- (i) Adjustable pricing (sec. 3.11 of FPR 1).
- (j) Compliance with the applicable supplement (sec. 3.12 of FPR 1).
- (k) Application for adjustment by sellers who have been found to have violated the Robinson-Patman Act (sec. 3.14 of FPR 1).

(l) Applications for adjustment and petitions for amendment based on wage or salary increases requiring approval of the National War Labor Board (sec. 3.15 of FPR 1).

(m) Petitions for amendment (sec. 3.16 of FPR 1).

## ARTICLE IV—PRICING APPENDICES

SEC. 15. *Appendices for packed vegetables priced under Pricing Method No. 1.*

## APPENDIX A—SPINACH

## TABLE 1—AREAS

1. California.
2. Washington and Oregon.
3. Arkansas, Texas, Oklahoma, Missouri.
4. Mississippi, Louisiana.
5. Maryland, Virginia, Delaware, New Jersey, Southern Pennsylvania.\*
6. All other states or areas.

## TABLE 2—BASE PERIOD PRICES

Areas 1 and 2: Weighted average selling price for first 60 days after beginning of 1941 spring pack.

All other areas: Weighted average selling price for first 60 days after beginning of 1941 spring and fall packs.

\*NOTE: The following counties are included in Southern Pennsylvania: Elk, Cameron, Clinton, Lycoming, Sullivan, Wyoming, Lackawanna, Pike, Monroe, Luzerne, Columbia, Montour, Union, Centre, Clearfield, Jefferson, Clarion, Butler, Lawrence, Beaver, Armstrong, Indiana, Allegheny, Washington, Greene, Fayette, Westmoreland, Somerset, Cambria, Blair, Bedford, Huntingdon, Fulton, Franklin, Mifflin, Snyder, Juniata, Perry, Cumberland, Adams, Dauphin, York, Northumberland, Lebanon, Schuylkill, Carbon, Northampton, Lehigh, Berks, Lancaster, Bucks, Montgomery, Chester, Delaware, Philadelphia.

TABLE 3—PERMITTED INCREASES AND PRICE RANGES PER DOZEN CONTAINERS FOR PROCESSORS OF PACKED SPINACH WHO MADE SALES DURING THE BASE PERIOD

Area	No. 2 cans			No. 2½ cans			No. 10 cans					
	Permitted increase	Price ranges		Permitted increase	Price ranges		Permitted increase	Price ranges				
		Fancy	Ex. Standard		Fancy	Ex. Standard		Fancy	Ex. Standard			
1.	\$0.30	\$1.20-\$1.44	\$1.15-\$1.39	\$1.10-\$1.34	\$0.36	\$1.45-\$1.73	\$1.39-\$1.67	\$1.33-\$1.61	\$1.15	\$4.76-\$5.76	\$4.56-\$5.56	\$4.36-\$5.36
2.	.38	1.36-1.59	1.31-1.54	1.26-1.49	.46	1.64-1.92	1.58-1.86	1.52-1.80	1.50	5.38-6.30	5.18-6.10	4.98-5.90
3.	.24	1.12-1.17	1.07-1.12	1.02-1.07	.32	1.47-1.54	1.40-1.47	1.34-1.41	1.07	4.81-5.60	4.61-5.40	4.41-5.20
4.	.40	1.27-1.32	1.22-1.27	1.17-1.22	.52	1.67-1.74	1.60-1.67	1.54-1.61	1.75	5.49-6.18	5.29-5.98	5.09-5.78
5.	.52	1.43-1.66	1.38-1.61	1.33-1.56	.68	1.88-2.18	1.82-2.12	1.76-2.06	2.20	6.65-7.17	6.45-6.97	6.25-6.77
6.	.30	1.20-1.81	1.15-1.76	1.10-1.71	.36	1.45-2.18	1.39-2.12	1.33-2.06	1.18	4.76-7.17	4.56-5.97	4.36-6.77

TABLE 4—SPECIFIC DOLLARS-AND-CENTS MAXIMUM PRICES FOR PROCESSORS WHO WERE NOT IN BUSINESS DURING 1941 OR WHO MADE NO SALES OF PACKED SPINACH DURING THE BASE PERIOD

[Dollars per dozen]

Area	No. 2 can			No. 2½ can			No. 10 can			Area	No. 2 can			No. 2½ can			No. 10 can		
	Fancy	Extra standard	Standard	Fancy	Extra standard	Standard	Fancy	Extra standard	Standard		Fancy	Extra standard	Standard	Fancy	Extra standard	Standard	Fancy	Extra standard	Standard
1.	\$1.32	\$1.27	\$1.22	\$1.59	\$1.53	\$1.47	\$5.26	\$5.06	\$4.86	4-----	\$1.30	\$1.25	\$1.20	\$1.71	\$1.64	\$1.58	\$5.84	\$5.64	\$5.44
2.	1.48	1.43	1.38	1.78	1.72	1.66	5.84	5.64	5.44	5-----	1.54	1.49	1.44	2.03	1.97	1.91	6.91	6.71	6.51
3.	1.15	1.10	1.05	1.51	1.44	1.38	5.21	5.01	4.81	6-----	1.51	1.46	1.41	1.82	1.76	1.70	5.07	5.77	5.57

TABLE 5—CONVERSION FACTORS METAL CONTAINERS  
(Part 1) Areas 1, 2, and 6

To convert from a can size in this column	To a can size listed at the head of a column below, multiply by the appropriate conversion factor				
	8 oz.	No. 1 picnic	No. 1 tall	No. 2	No. 2½
8 oz.				1.66	2.00
No. 1 picnic				1.54	1.85
No. 1 tall				1.17	1.41
No. 2	.60	.65	.86		1.20
No. 2½	.50	.54	.71	.83	
No. 10	.15	.16	.22	.25	.30

(Part 2) Areas 3 and 4

To convert from a can size in this column	To a can size listed at the head of a column below, multiply by the appropriate conversion factor				
	8 oz.	No. 1 picnic	No. 1 tall	No. 2	No. 2½
8 oz.		1.09	1.43	1.75	2.33
No. 1 picnic	.92		1.32	1.61	2.13
No. 1 tall	.70	.76		1.22	1.61
No. 2	.57	.62	.82		1.32
No. 2½	.43	.47	.62	.76	
No. 10	.13	.14	.18	.22	.29

(Part 3) Area 5

To convert from a can size in this column	To a can size listed at the head of a column below, multiply by the appropriate conversion factor				
	8 oz.	No. 1 picnic	No. 1 tall	No. 2	No. 2½
8 oz.		1.09	1.45	1.54	2.00
No. 1 picnic	.92		1.32	1.41	1.85
No. 1 tall	.69	.76		1.06	1.39
No. 2	.65	.71	.94		1.31
No. 2½	.50	.54	.72	.76	
No. 10	.14	.15	.20	.21	.28

TABLE 6—CONVERSION FROM TIN TO GLASS

If you can figure a price for a can size in this column	To get a price for a glass container size in this column				
	2½ glass—add \$0.15 per dozen. 303 glass—subtract \$0.13 per dozen.				
No. 2½ can					
No. 2½ can					

TABLE 3—PERMITTED INCREASES AND PRICE RANGES PER DOZEN CONTAINERS FOR PROCESSORS OF PACKED ASPARAGUS WHO MADE SALES DURING THE BASE PERIOD  
PART 1: AREA 1

Item No. and variety	Style and size	No. 2 can		No. 2½ can		No. 10 can				
		Permitted increase	Price ranges		Permitted increase	Price ranges		Permitted increase	Price ranges	
			Fancy	Standard		Fancy	Standard		Fancy	Standard
<i>All green</i>										
1.	Whole Spears: Colossal	\$0.85	\$3.78-\$3.84	\$3.58-\$3.64						
2.	Mammoth	.80	3.69-3.79	3.49-3.59						
3.	Large	.75	3.59-3.69	3.39-3.49						
4.	Medium	.65	3.37-3.45	3.17-3.25						
5.	Small	.55	3.18-3.26	2.98-3.06						
6.	Blended Spears: Mammoth/Large	.78	3.64-3.74	3.44-3.54						
7.	Mam./Large/Med.	.73	3.55-3.64	3.35-3.44						
8.	Large/Medium	.70	3.48-3.57	3.28-3.37						
9.	Medium/Small	.60	3.28-3.35	3.08-3.15						
10.	Cut Spears	.54	3.06-3.08	2.80-2.88						
11.	Center Cuts	.19		1.25-1.33				\$2.62	\$15.24-\$15.64	\$14.24-\$14.64
12.	Soup Cuts	.48		2.74-2.82				.94		6.20-6.60
13.	Salad points	.88	4.16-4.24	3.96-4.04				2.22		12.97-13.33
<i>Other than all green</i>										
14.	Whole Spears: Colossal	.86	2.94-3.02	2.74-2.82						
15.	Mammoth	.86	2.94-3.02	2.74-2.82						
16.	Large	.86	2.94-3.02	2.74-2.82						
17.	Medium	.86	2.91-2.99	2.71-2.79						
18.	Small	.86	2.74-2.82	2.54-2.62				4.06	19.20-19.60	18.20-18.60

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TABLE 3—PERMITTED INCREASES AND PRICE RANGES PER DOZEN CONTAINERS FOR PROCESSORS OF PACKED ASPARAGUS WHO MADE SALES DURING THE BASE PERIOD—Continued

## (PART 1) AREA 1

Item No. and variety	Style and size	No. 2 can			No. 2½ can			No. 10 can		
		Permitted increase	Price ranges		Permitted increase	Price ranges		Permitted increase	Price ranges	
			Fancy	Standard		Fancy	Standard		Fancy	Standard
19	Blended Spears: Mammoth/Large	.56	2.94- 3.02	2.74- 2.82						
20	Mam./Lrgo/Med.	.56	2.02- 3.01	2.73- 2.81						
21	Large/Medium	.56	2.93- 3.01	2.73- 2.81						
22	Medium/Small	.56	2.82- 2.91	2.63- 2.71						
23	Cut Spears	.50	2.52- 2.59	2.32- 2.39				2.43	12.50- 12.84	11.50- 11.84
24	Center Cuts	.15		.95- .99				.74		4.65- 4.79
25	Soup Cuts	.45		2.10- 2.16	\$0.61		\$2.83- 2.91	2.10		9.71- 9.97
26	Salad Points	.78	3.95- 4.07	3.75- 3.87				3.60	18.35- 18.85	17.35- 17.85

## (PART 2) AREA 2

Item No. and variety	Style and size	No. 2 can			No. 10 can		
		Permitted increase	Price ranges		Permitted increase	Price ranges	
			Fancy	Standard		Fancy	Standard
All green	Whole Spears: Colossal	\$0.90	\$3.41-\$3.51	\$3.21-\$3.31			
1	Mammoth	.88	3.38- 3.48	3.18- 3.28			
2	Large	.86	3.33- 3.43	3.13- 3.23			
3	Medium	.84	3.20- 3.28	3.00- 3.08			
4	Small	.82	2.89- 2.97	2.69- 2.77			
All green	Blended Spears: Mammoth/Large	.87	3.26- 3.46	3.16- 3.26			
6	Mammoth/Large/Med.	.86	3.30- 3.40	3.10- 3.20			
7	Large/Medium	.85	3.27- 3.36	3.07- 3.16			
8	Medium/Small	.83	3.05- 3.13	2.85- 2.93			
9	Cut Spears	.78	2.93- 2.99	2.73- 2.79	\$3.70	\$13.89-\$14.19	\$12.89-\$13.19
10	Center Cuts	.42		1.39- 1.43	1.90		6.30- 6.49
11	Soup Cuts	.55		2.04- 2.10	2.60		9.90- 10.18

## (PART 3) AREA 3

Item No. and variety	Style and size	No. 2 can			No. 10 can		
		Permitted increase	Price ranges		Permitted increase	Price ranges	
			Fancy	Standard		Fancy	Standard
All green	Whole Spears: Colossal	\$0.80	\$3.85-\$3.99	\$3.65-\$3.79			
1	Mammoth	.85	3.63- 3.77	3.43- 3.57			
2	Large	.81	3.45- 3.55	3.25- 3.35			
3	Medium	.77	3.25- 3.35	3.05- 3.15			
4	Small	.73	3.09- 3.17	2.89- 2.97			
All green	Blended Spears: Mammoth/Large	.83	3.54- 3.66	3.34- 3.46			
6	Mammoth/Large/Med.	.81	3.44- 3.56	3.24- 3.36			
7	Large/Medium	.79	3.35- 3.45	3.15- 3.25			
8	Medium/Small	.75	3.17- 3.26	2.97- 3.06			
9	Cut Spears	.78	2.71- 2.77	2.51- 2.57	\$3.70	\$13.83-\$13.81	\$12.53-\$12.81
10	Center Cuts	.60		2.07- 2.13	2.26		9.53- 9.81

## (PART 4) AREA 4

Item No. and variety	Style and size	No. 2 can			No. 10 can		
		Permitted increase	Price ranges		Permitted increase	Price ranges	
			Fancy	Standard		Fancy	Standard
All green	Whole Spears: Colossal	\$1.14	\$3.67-\$3.81	\$3.47-\$3.61			
1	Mammoth	1.10	3.62- 3.76	3.42- 3.56			
2	Large	1.06	3.50- 3.60	3.30- 3.40			
3	Medium	1.02	3.38- 3.48	3.18- 3.28			
4	Small	.98	3.27- 3.35	3.07- 3.15			
All green	Blended Spears: Mammoth/Large	1.08	3.56- 3.68	3.36- 3.48			
6	Mammoth/Large/Med.	1.06	3.50- 3.62	3.30- 3.42			
7	Large/Medium	1.04	3.44- 3.54	3.24- 3.34			
8	Medium/Small	1.00	3.32- 3.42	3.12- 3.22			
9	Cut Spears	1.03	2.91- 2.97	2.71- 2.77	\$4.89	\$13.30-\$13.57	\$12.30-\$12.57
10	Center Cuts	.62		1.72- 1.78	2.81		7.74- 8.02

## (PART 5) AREA 5

Item No. and variety	Style and size	No. 2 can			No. 10 can		
		Permitted increase	Price ranges		Permitted increase	Price ranges	
			Fancy	Standard		Fancy	Standard
All green	Whole Spears: Colossal	\$0.89	\$3.85-\$3.99	\$3.65-\$3.79			
1	Mammoth	.85	3.63- 3.77	3.43- 3.57			
2	Large	.81	3.45- 3.55	3.25- 3.35			
3	Medium	.77	3.25- 3.35	3.05- 3.15			
4	Small	.73	3.09- 3.17	2.89- 2.97			
All green	Blended Spears: Mammoth/Large	.83	3.54- 3.66	3.34- 3.46			
6	Mammoth/Large/Med.	.81	3.44- 3.56	3.24- 3.36			
7	Large/Medium	.79	3.35- 3.45	3.15- 3.25			
8	Medium/Small	.75	3.17- 3.26	2.97- 3.06			
9	Cut Spears	.78	2.71- 2.77	2.51- 2.57	\$3.70	\$13.53-\$13.81	\$12.53-\$12.81
10	Center Cuts	.60		2.07- 2.13	2.26		9.53- 9.81

TABLE 4—SPECIFIC DOLLARS-AND-CENTS MAXIMUM PRICES FOR PROCESSORS WHO WERE NOT IN BUSINESS DURING 1941 OR WHO MADE NO SALES OF PACKED ASPARAGUS DURING THE BASE PERIOD

## (PART 1) AREA 1

(Dollars per dozen)

Item No. and variety	Style and size	No. 2 can		No. 10 can		Item No. and variety	Style and size	No. 2 can		No. 10 can		
		Fancy	Stand-ard	Stand-ard	Fancy	Stand-ard	Fancy	Stand-ard	Stand-ard	Fancy	Stand-ard	
<i>All green</i>	Whole Spears:											
1.	Colossal	\$3.81	\$3.61			14.	Other than all green	Whole Spears:				
2.	Mammoth	3.74	3.54			15.	Colossal	\$2.98	\$2.78			
3.	Large	3.64	3.44			16.	Mammoth	2.98	2.78			
4.	Medium	3.41	3.21			17.	Large	2.98	2.78			
5.	Small	3.22	3.02			18.	Medium	2.95	2.75			
	Blended Spears:						Small	2.78	2.58			
6.	Mammoth/Large	3.69	3.49			19.	Blended Spears:					
7.	Mam./Large/Medium	3.60	3.40			20.	Colossal	2.98	2.78			
8.	Large/Medium	3.53	3.33			21.	Mammoth/Large	2.97	2.77			
9.	Medium/Small	3.32	3.12			22.	Mam./Large/Medium	2.97	2.77			
10.	Cut Spears	3.04	2.84		\$15.44	23.	Large/Medium	2.87	2.67			
11.	Center Cuts	1.29				24.	Medium/Small	2.87	2.67			
12.	Soup Cuts	2.78				25.	Cut Spears	2.56	2.36	\$12.67	\$11.67	
13.	Salad Points	4.20	4.00			26.	Center Cuts	.97			4.72	
							Soup Cuts	2.13	\$2.87		9.84	
							Salad Points	4.01	3.81	18.60	17.60	

## (PART 2) AREA 2

Item number and variety	Style and size	No. 2 can		No. 10 can		Item number and variety	Style and size	No. 2 can		No. 10 can		
		Fancy	Stand-ard	Fancy	Stand-ard			Fancy	Stand-ard	Fancy	Stand-ard	
<i>All green</i>	Whole Spears:					6.	<i>All green</i>	Blended Spears:				
1.	Colossal	\$3.46	\$3.26			7.	Colossal	Mammoth/Large	\$3.41	\$3.21		
2.	Mammoth	3.43	3.23			8.	Mam./Large/Medium	3.35	3.15			
3.	Large	3.38	3.18			9.	Large/Medium	3.32	3.12			
4.	Medium	3.24	3.04			10.	Medium/Small	3.09	2.89			
5.	Small	2.98	2.73			11.	Cut Spears	2.96	2.76	\$14.04	\$13.04	
						12.	Center Cuts	1.41	6.40			
							Soup Cuts	2.07	10.04			

## (PART 3) AREA 3

<i>All green</i>	Whole Spears:					6.	<i>All green</i>	Blended Spears:				
1.	Colossal	\$3.92	\$3.72			7.	Colossal	Mammoth/Large	\$3.60	\$3.40		
2.	Mammoth	3.70	3.50			8.	Mam./Large/Medium	3.50	3.30			
3.	Large	3.50	3.30			9.	Large/Medium	3.40	3.20			
4.	Medium	3.30	3.10			10.	Medium/Small	3.22	3.02			
5.	Small	3.13	2.93			11.	Cut Spears	2.74	2.54	\$13.67	\$12.67	
							Center Cuts	2.10	9.67			

## (PART 4) AREA 4

Item number and variety	Style and size	No. 2 can		No. 10 can		Item number and variety	Style and size	No. 2 can		No. 10 can		
		Fancy	Stand-ard	Fancy	Stand-ard			Fancy	Stand-ard	Fancy	Stand-ard	
<i>All green</i>	Whole Spears:					6.	<i>All green</i>	Blended Spears:				
1.	Colossal	\$3.74	\$3.54			7.	Colossal	Mammoth/Large	\$3.62	\$3.42		
2.	Mammoth	3.69	3.49			8.	Mam./Large/Medium	3.56	3.36			
3.	Large	3.55	3.35			9.	Large/Medium	3.49	3.29			
4.	Medium	3.43	3.23			10.	Medium/Small	3.37	3.17			
5.	Small	3.31	3.11			11.	Cut Spears	2.94	2.74	\$13.42	\$12.42	
							Center Cuts	1.75	7.88			

## (PART 5) AREA 5

<i>All green</i>	Whole Spears:					6.	<i>All green</i>	Blended Spears:				
1.	Colossal	\$3.92	\$3.72			7.	Colossal	Mammoth/Large	\$3.60	\$3.40		
2.	Mammoth	3.70	3.50			8.	Mam./Large/Medium	3.50	3.30			
3.	Large	3.50	3.30			9.	Large/Medium	3.40	3.20			
4.	Medium	3.30	3.10			10.	Medium/Small	3.22	3.02			
5.	Small	3.13	2.93			11.	Cut Spears	2.74	2.54	\$13.67	\$12.67	
							Center Cuts	2.10	9.67			

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TABLE 5—CONVERSION FACTORS METAL CONTAINERS

## (PART 1) AREA 1

*All green variety*

To convert from a can size in this column—	To a can size listed at the head of a column below, multiply by the appropriate conversion factor—						To convert from a can size in this column—	To a can size listed at the head of a column below, multiply by the appropriate conversion factor—					
	8-oz.	No. 1 picnic	No. 1 tall	No. 2	No. 1 square	No. 10		8-oz.	No. 1 picnic	No. 1 tall	No. 2	No. 1 square	No. 10
Whole Spears:							Cut Spears and Soup Cuts—Con.						
No. 1 picnic				1.55	2.02		No. 1 picnic						
No. 1 tall				1.32	1.71		No. 2	.45	.63				1.59
No. 2		.64	.76				No. 10	.10	.14				.21
No. 1 square		.49	.58	.77			Center Cuts:						
Cut Spears and Soup Cuts:					2.23		No. 2						
8-ounce						10.31	No. 10						.20

## (PART 1) AREA 1

*Other than all green variety*

To convert from a can size in this column—	To a can size listed at the head of a column below, multiply by the appropriate conversion factor—							To convert from a can size in this column—	To a can size listed at the head of a column below, multiply by the appropriate conversion factor—						
	8-oz.	No. 1 picnic	No. 1 tall	No. 2	No. 2½ square	No. 1 square	No. 2½ regular		8-oz.	No. 1 picnic	No. 1 tall	No. 2	No. 2½ square	No. 1 square	No. 2½ regular
Whole Spears:				2.84				Cut Spears and Soup Cuts:							
8-ounce				1.49				No. 2							
No. 1 Picnic				1.36				No. 10							
No. 1 Tall		.35	.67	.73		1.21	1.25	1.38	No. 2	.45	.63				
No. 2					.83			No. 10	.10	.14					
No. 2½ Square					.80			Center Cuts:							
No. 1 Square					.73			No. 2							
No. 2½ Regular								No. 10							

## (PART 2) AREAS 2, 3, 4, AND 5

*All green variety*

To convert from a can size in this column—	To a can size listed at the head of a column below, multiply by the appropriate conversion factor—						To convert from a can size in this column—	To a can size listed at the head of a column below, multiply by the appropriate conversion factor—					
	8-oz.	No. 1 picnic	No. 300	No. 1 tall	No. 2	No. 10		8-oz.	No. 1 picnic	No. 300	No. 1 tall	No. 2	No. 10
Whole Spears:					1.60		Cut Spears and Soup Cuts—Con.						
No. 1 picnic					1.27		No. 2	.46	.62				
No. 300					1.18		No. 10	.10	.13				.21
No. 1 tall		.62	.78	.84			Center Cuts:						
No. 2							No. 300						
Cut Spears and Soup Cuts:					2.15	10.20	No. 2						
8 ounce					1.61	7.63	No. 10						
No. 1 picnic							Center Cuts:						

TABLE 6—DIFFERENCES BETWEEN STYLES (DOLLARS PER DOZEN CONTAINERS)

## PART 1: AREA

*All green variety*

No. 2 cans

To convert from a style in this column—	To a style listed at the head of a column below add (or subtract as indicated) the stated difference—													
	Salad points	Whole spears										Cut spears	Soup cuts	Center cuts
		Colossal	Mammoth	Mammoth/large	Large	Mam/large/medium	Large/medium	Medium	Med/sm. blended	Small				
Salad Points.....	0	-\$0.39	-\$0.46	-\$0.51	-\$0.56	-\$0.60	-\$0.67	-\$0.79	-\$0.88	-\$0.98	-\$1.16	-\$1.22	-\$2.71	
Whole Spears:														
Colossal.....	+\$0.39	0	-.07	-.12	-.17	-.21	-.28	-.40	-.49	-.59	-.77	-.83	-.232	
Mammoth.....	+.46	+.07	0	-.05	-.10	-.14	-.21	-.33	-.42	-.52	-.70	-.76	-.25	
Mammoth/Large.....	+.51	+.12	+.05	0	-.05	-.09	-.16	-.28	-.37	-.47	-.65	-.71	-.20	
Large.....	+.56	+.17	+.10	+.05	0	-.04	-.11	-.23	-.32	-.42	-.60	-.66	-.215	
Mammoth/Large/Medium.....	+.60	+.21	+.14	+.09	+.04	0	-.07	-.19	-.28	-.38	-.56	-.62	-.211	
Large/Medium.....	+.67	+.28	+.21	+.16	+.11	+.07	0	-.12	-.21	-.31	-.49	-.55	-.204	
Medium.....	+.79	+.40	+.33	+.28	+.23	+.19	+.12	0	-.09	-.19	-.37	-.43	-.132	
Medium/Small.....	+.88	+.49	+.42	+.37	+.32	+.28	+.21	+.09	0	-.10	-.28	-.34	-.183	
Small.....	+.98	+.59	+.52	+.47	+.42	+.38	+.31	+.19	+.10	0	-.18	-.24	-.173	
Cut Spears.....	+\$1.16	+\$77	+\$70	+\$65	+\$60	+\$56	+\$49	+\$37	+\$28	+\$18	0	-\$06	-\$1.55	
Soup Cuts.....	+\$1.22	+\$83	+\$76	+\$71	+\$66	+\$62	+\$55	+\$43	+\$34	+\$24	+\$06	0	-\$1.49	
Center Cuts.....	+\$2.71	+\$2.32	+\$2.25	+\$2.20	+\$2.15	+\$2.11	+\$2.04	+\$1.92	+\$1.83	+\$1.73	+\$1.55	+\$1.49	0	

TABLE 6—DIFFERENCES BETWEEN STYLES (DOLLARS PER DOZEN CONTAINERS)—Continued

## PART 1: AREA I—continued

## All green variety—Continued

## No. 10 cans

Style	Salad points	Cut spears	Soup cuts	Center cuts	Style	Salad points	Cut spears	Soup cuts	Center cuts
Salad Points.....	\$0	-\$3.96	-\$5.25	-\$12.00	Soup Cuts.....	+\$5.25	+\$1.29	0	-\$6.75
Cut Spears.....	+\$3.96	0	-\$1.29	-\$8.04	Center Cuts.....	+\$12.00	+\$8.04	+\$6.75	0

## Other than all green variety

## No. 2 cans

To convert from a style in this column—	To a style listed at the head of a column below, add (or subtract as indicated) the stated difference—												
	Salad points	Whole spears								Cut spears	Soup cuts	Center cuts	
		Colossal	Mammoth	Mammoth/large	Large	Mam/Large/medium	Large/medium	Medium	Medium/small				
Salad Points.....	0	-\$1.03	-\$1.03	-\$1.03	-\$1.03	-\$1.04	-\$1.04	-\$1.06	-\$1.14	-\$1.23	-\$1.45	-\$1.68	-\$2.84
Whole Spears:													
Colossal.....	+\$1.03	0	0	0	0	-\$01	-\$01	-\$03	-\$11	-\$20	-\$42	-\$65	-\$1.81
Mammoth.....	+\$1.03	0	0	0	0	-\$01	-\$01	-\$03	-\$11	-\$20	-\$42	-\$65	-\$1.81
Large.....	+\$1.03	0	0	0	0	-\$01	-\$01	-\$03	-\$11	-\$20	-\$42	-\$65	-\$1.81
Mammoth/Large.....	+\$1.03	0	0	0	0	-\$01	-\$01	-\$03	-\$11	-\$20	-\$42	-\$65	-\$1.81
Mammoth/Large/Medium.....	+\$1.04	+\$01	+\$01	+\$01	+\$01	0	0	-\$02	-\$10	-\$19	-\$41	-\$64	-\$1.80
Large/Medium.....	+\$1.04	+\$01	+\$01	+\$01	+\$01	0	0	-\$02	-\$10	-\$19	-\$41	-\$64	-\$1.80
Medium.....	+\$1.06	+\$03	+\$03	+\$03	+\$03	+\$02	+\$02	0	-\$08	-\$17	-\$39	-\$62	-\$1.78
Medium/Small.....	+\$1.14	+\$11	+\$11	+\$11	+\$11	+\$10	+\$10	+\$08	0	-\$09	-\$31	-\$54	-\$1.70
Small.....	+\$1.23	+\$20	+\$20	+\$20	+\$20	+\$19	+\$19	+\$17	+\$09	0	-\$22	-\$45	-\$1.61
Cut Spears.....	+\$1.45	+\$42	+\$42	+\$42	+\$42	+\$41	+\$41	+\$39	+\$31	+\$22	0	-\$23	-\$1.39
Soup Cuts.....	+\$1.68	+\$65	+\$65	+\$65	+\$65	+\$64	+\$64	+\$62	+\$54	+\$45	+\$23	0	-\$1.16
Center Cuts.....	+\$2.84	+\$1.81	+\$1.81	+\$1.81	+\$1.81	+\$1.80	+\$1.80	+\$1.78	+\$1.70	+\$1.61	+\$1.39	+\$1.16	0

## No. 10 cans

Style	Salad points	Cut spears	Soup cuts	Center cuts	Style	Salad points	Cut spears	Soup cuts	Center cuts
Salad Points.....	0	-\$5.93	-\$7.76	-\$12.88	Soup Cuts.....	+\$7.76	+\$1.83	0	-\$5.12
Cut Spears.....	+\$5.93	0	-\$1.83	-\$6.95	Center Cuts.....	+\$12.88	+\$6.95	+\$5.12	0

## PART 2: AREA II

## All green variety

## No. 2 cans

To convert from a style in this column—	To a style listed at the head of a column below, add (or subtract as indicated) the stated difference—								Cut spears	Small spears	Soup cuts	Center cuts
	Whole spears											
	Colossal	Mammoth	Mammoth/large	Large	Mam/Large/medium	Large/medium	Medium	Medium/small				
Whole Spears:												
Colossal.....	0	-\$0.03	-\$0.05	-\$0.08	-\$0.11	-\$0.14	-\$0.22	-\$0.37	-\$0.50	-\$0.53	-\$1.19	-\$1.85
Mammoth.....	+\$0.03	0	-\$02	-\$05	-\$08	-\$11	-\$19	-\$34	-\$47	-\$50	-\$1.16	-\$1.82
Mammoth/Large.....	+\$0.05	+\$02	0	-\$03	-\$06	-\$09	-\$17	-\$32	-\$45	-\$48	-\$1.14	-\$1.80
Large.....	+\$0.08	+\$05	+\$03	0	-\$03	-\$06	-\$14	-\$29	-\$42	-\$45	-\$1.11	-\$1.77
Mammoth/Large/Medium.....	+\$0.11	+\$08	+\$06	+\$03	0	-\$03	-\$11	-\$26	-\$39	-\$42	-\$1.08	-\$1.74
Large/Medium.....	+\$0.14	+\$11	+\$09	+\$06	+\$03	0	-\$08	-\$23	-\$36	-\$39	-\$1.05	-\$1.71
Medium.....	+\$0.22	+\$19	+\$17	+\$14	+\$11	+\$08	0	-\$15	-\$28	-\$31	-\$97	-\$1.63
Medium/Small.....	+\$0.37	+\$34	+\$32	+\$29	+\$26	+\$23	+\$15	0	-\$13	-\$16	-\$82	-\$1.48
Cut Spears.....	+\$0.50	+\$47	+\$45	+\$42	+\$39	+\$36	+\$28	+\$13	0	-\$03	-\$59	-\$1.35
Small Spears.....	+\$0.53	+\$50	+\$48	+\$45	+\$42	+\$39	+\$31	+\$16	+\$03	0	-\$66	-\$1.32
Soup Cuts.....	+\$1.19	+\$1.16	+\$1.14	+\$1.11	+\$1.08	+\$1.05	+\$0.97	+\$82	+\$69	+\$66	0	-\$66
Center Cuts.....	+\$1.85	+\$1.82	+\$1.80	+\$1.77	+\$1.74	+\$1.71	+\$1.63	+\$1.48	+\$1.35	+\$1.32	+\$0.66	0

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TABLE 6—DIFFERENCES BETWEEN STYLES (DOLLARS PER DOZEN CONTAINERS)—Continued

## PART 2: AREA II—continued

## All green variety—Continued

No. 10 cans

Style	Cut spears	Soup cuts	Center cuts
Cut Spears.....	0	-\$3.00	-\$6.64
Soup Cuts.....	+\$3.00	0	-\$3.64
Center Cuts.....	+\$6.64	+\$3.64	0

## PART 3: AREA III

## All green variety

No. 2 cans

To convert from a style in this column—	To a style listed at the head of a column below, add (or subtract as indicated) the stated difference—								Cut spears	Center cuts		
	Whole spears											
	Colossal	Mammoth	Mammoth/ large	Large	Large/ medium	Medium	Medium/ small	Small				
Whole Spears:												
Colossal.....	0	\$-0.22	\$-0.32	\$-0.42	\$-0.52	\$-0.62	\$-0.70	\$-0.79	\$-1.18	\$-1.62		
Mammoth.....	+\$.22	0	-.10	-.20	-.30	-.40	-.48	-.57	-.96	-.140		
Mammoth/Large.....	+.32	+.10	0	-.10	-.20	-.30	-.38	-.47	-.86	-.130		
Large.....	+.42	+.20	+.10	0	-.10	-.20	-.28	-.37	-.76	-.120		
Large/Medium.....	+.52	+.30	+.20	+.10	0	-.10	-.18	-.27	-.66	-.110		
Medium.....	+.62	+.40	+.30	+.20	+.10	0	-.08	-.17	-.56	-.100		
Medium/Small.....	+.70	+.48	+.38	+.28	+.18	+.08	0	-.09	-.48	-.92		
Small.....	+.79	+.57	+.47	+.37	+.27	+.17	+.09	0	-.39	-.83		
Cut Spears.....	+.18	+.96	+.86	+.76	+.66	+.56	+.48	+.39	0	-.44		
Center Cuts.....	+.62	+.40	+.30	+.20	+.10	+.00	+.92	+.83	+.44	0		

No. 10 cans. Difference between Cut spears and Center cuts, \$3.00.

## PART 4: AREA IV

## All green variety

No. 2 cans

To convert from a style in this column—	To a style listed at the head of a column below, add (or subtract as indicated) the stated difference—								Cut Spears	Center Cuts	
	Whole spears										
	Colossal	Mammoth	Mammoth/ large	Mam. large/ medium	Large	Large/ medium	Medium	Medium/ small	Small		
Whole Spears:											
Colossal.....	0	\$-0.05	\$-0.12	\$-0.18	\$-0.19	\$-0.25	\$-0.31	\$-0.31	\$-0.43	\$-0.80	\$-1.79
Mammoth.....	+\$0.05	0	-.07	-.13	-.14	-.20	-.26	-.32	-.38	-.75	-.174
Mammoth/Large.....	+.12	+.07	0	-.06	-.07	-.13	-.19	-.25	-.31	-.68	-.167
Mammoth/Large/Med.....	+.18	+.13	+.06	0	-.01	-.07	-.13	-.19	-.25	-.62	-.161
Large.....	+.19	+.14	+.07	+.01	0	-.06	-.12	-.18	-.24	-.61	-.160
Large/Medium.....	+.25	+.20	+.13	+.07	+.06	0	-.06	-.12	-.18	-.55	-.154
Medium.....	+.31	+.26	+.19	+.13	+.12	+.06	0	-.06	-.12	-.49	-.148
Medium/Small.....	+.37	+.32	+.25	+.19	+.18	+.12	+.06	0	-.06	-.43	-.142
Small.....	+.43	+.38	+.31	+.25	+.24	+.18	+.12	+.06	0	-.37	-.136
Cut Spears.....	+.80	+.75	+.68	+.62	+.61	+.55	+.49	+.43	+.37	0	-.99
Center Cuts.....	+.79	+.74	+.67	+.61	+.60	+.54	+.48	+.42	+.36	+.99	0

No. 10 cans. Difference between Cut Spears and Center Cuts, \$4.54.

TABLE 6—DIFFERENCES BETWEEN STYLES (DOLLARS PER DOZEN CONTAINERS)—Continued

## PART 5: AREA V

All green variety

No. 2 cans

To convert from a style in this column—	To a style listed at the head of a column below, add (or subtract as indicated) the stated difference—								Cut spears	Center cuts		
	Whole spears											
	Colossal	Mammoth	Mammoth/large	Large	Large/medium	Medium	Medium/small	Small				
Whole Spears:												
Colossal.....	0	\$-0.22	\$-0.32	\$-0.42	\$-0.52	\$-0.62	\$-0.70	\$-0.79	\$-1.18	\$-1.62		
Mammoth.....	\$+0.22	0	-.10	-.20	-.30	-.40	-.48	-.57	-.96	-1.40		
Mammoth/Large.....	+.32	+.10	0	-.10	-.20	-.30	-.38	-.47	-.86	-1.30		
Large.....	+.42	+.20	+.10	0	-.10	-.20	-.28	-.37	-.76	-1.20		
Large/Medium.....	+.52	+.30	+.20	+.10	0	-.10	-.18	-.27	-.66	-1.10		
Medium.....	+.62	+.40	+.30	+.20	+.10	0	-.08	-.17	-.56	-1.00		
Medium/Small.....	+.70	+.48	+.38	+.28	+.18	+.08	0	-.09	-.48	-.92		
Small.....	+.79	+.57	+.47	+.37	+.27	+.17	+.09	0	-.39	-.83		
Cut Spears.....	+1.18	+.96	+.86	+.76	+.66	+.56	+.48	+.39	0	-.44		
Center Cuts.....	+1.62	+1.40	+1.30	+1.20	+1.10	+1.00	+.92	+.83	+.44	0		

No. 10 cans. Difference between Cut spears and Center cuts, \$3.00.

TABLE 7—GRADE DIFFERENTIALS  
All areas, all green and natural varieties, all styles

	Differential between standard and fancy grades
Can size:	
No. 2.....	\$0.20
No. 10.....	1.00

SEC. 16. Appendices for packed fruits  
priced under Pricing Method No. 1.

## APPENDIX A—Red Sour Pitted Cherries

## TABLE I—AREAS

1. New York and Pennsylvania.
2. Michigan, Ohio and Wisconsin.
3. Washington.
4. Montana.
5. Oregon, Idaho and California.
6. Utah and Colorado.
7. All other states.

## TABLE 2—BASE PERIOD PRICES (ALL AREAS)

Weighted average selling price for the first 60 days after the beginning of the 1941 pack.

TABLE 3—PERMITTED INCREASES AND PRICE RANGES  
PER DOZEN CONTAINERS FOR PROCESSORS WHO  
MADE SALES OF PACKED RED SOUR PITTED CHERRIES  
DURING THE BASE PERIOD.

## STANDARD GRADE WATER PACK

Area	No. 2 cans		No. 10 cans	
	Permitted increase	Price range	Permitted increase	Price range
1.....	\$0.53	\$1.97-\$2.18	\$2.70	\$10.07-\$11.13
2.....	.72	1.97-2.18	3.65	10.07-11.13
3.....	.48	1.91-2.15	2.45	9.77-10.97
4.....	1.08	2.50-2.55	5.40	12.78-13.00
5.....	.83	2.18-2.40	4.22	11.11-12.25
6.....	.80	2.09-2.19	4.06	10.67-11.17
7.....	.72	1.97-2.18	3.65	10.07-11.13

TABLE 4—SPECIFIC DOLLARS-AND-CENTS MAXIMUM PRICES PER DOZEN CONTAINERS FOR PROCESSORS WHO WERE NOT IN BUSINESS DURING 1941 OR WHO MADE NO SALES OF PACKED RSP CHERRIES DURING THE BASE PERIOD.

Area	No. 2 cans	No. 10 cans
1.....	\$2.08	\$10.60
2.....	2.08	10.60
3.....	2.03	10.37
4.....	2.53	12.89
5.....	2.29	11.68
6.....	2.14	10.92
7.....	2.08	10.60

TABLE 5—CONVERSION FACTORS—METAL CONTAINERS

To convert from a can size in this column	To a can size listed at the head of a column below, multiply by the appropriate conversion factor:		
	303	2	10
303.....		1.15	5.90
2.....	.87		5.10
10.....	.17	.20	

TABLE 6—GRADE DIFFERENTIALS

Differences between successive grades (per dozen containers)

	No. 303	No. 2	No. 10 can
Fancy and Choice.....	\$0.085	\$0.10	\$0.50
Choice and Standard.....	.085	.10	.50
Standard and Substandard.....	.085	.10	.50

TABLE 7—SYRUP DIFFERENTIALS

For each 10<sup>9</sup> of syrup (figured on the basis of put-in density) the processor shall add 25 cents to the price per dozen of Standard, Water pack for No. 10 Cans, 5 cents for No. 2 cans and 4 cents for No. 303 cans.

*Effective date.* This supplement shall become effective July 31, 1944.

*Note:* All record-keeping and reporting requirements of this supplement have been

approved by the Bureau of the Budget, in accordance with the Federal Reports Act of 1942.

Issued this 31st day of July 1944.

CHESTER BOWLES,  
Administrator.

[F. R. Doc. 44-11482; Filed, July 31, 1944;  
4:28 p. m.]

## PART 1420—BREWERY, WINERY AND DISTILLERY PRODUCTS

[MPR 445,<sup>1</sup> Amdt. 17]

## DISTILLED SPIRITS AND WINES

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. 445 is amended in the following respects:

1. Section 1.11 is amended to read as follows:

SEC. 1.11 *Dates on which this article shall apply.* This article shall apply to all sales or offers to sell of bulk or packaged imported distilled spirits and wine made by an importer on and after August 30, 1943: *Provided*, That this article shall not apply to any sale which an importer is required by statute, ordinance or regulation to make at a price posted or listed prior to August 14, 1943, with a state or other public authority (if the price so posted or listed is greater or less than that established by this article for such sale) until on and after the first effective date for prices so posted or listed at the

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

<sup>1</sup>9 F.R. 4687, 7708.

first opportunity after August 19, 1943: And provided further, That an amendment to this article shall not apply to any deliveries made prior to the effective date of such amendment.

2. The headnote and section 2.3 is amended to read as follows: "SEC. 2.3 Maximum prices for bulk domestic whiskey, bulk domestic brandy, bulk domestic gin and bulk domestic vodka."

3. Section 2.3 (c) (1) and (2) are amended to read as follows:

(c) Maximum price tables—(1) For bulk domestic whiskey sold on an original proof gallon basis.

Age (months)	Column 1	Column 2
More than—	Not more than—	Maximum prices per original proof gallon; distilled at any time except during August 1944 and stored in either new or used cooperage; distilled during August 1944 and stored in used cooperage
0	2	\$0.60
2	4	.73
4	6	.77
6	8	.81
8	10	.85
10	12	.89
12	14	.93
14	16	.97
16	18	1.01
18	21	1.05
		1.07

NOTE: Maximum prices set forth above include all excise and processing taxes of any state or subdivision thereof at rates in effect on November 2, 1942 and storage and all other charges applicable to the quantity being priced and accrued to date of sale together with brokerage commissions, if any, paid by the seller incident to the particular sale.

(2) For bulk domestic whiskey sold on a regauged proof gallon basis.

Age (months)	Column 1	Column 2	Column 3	Column 4
More than—	Not more than—	Maximum prices for regauged proof gallon in bond; distilled at any time except during August 1944 and stored in either new or used cooperage; distilled during August 1944 and stored in used cooperage	Maximum prices for regauged proof gallon tax paid; distilled at any time except during August 1944 and stored in either new or used cooperage; distilled during August 1944 and stored in used cooperage	Maximum prices for regauged proof gallon in bond; distilled during August 1944 and stored in new cooperage only
0	2	\$0.712	\$0.712	\$0.877
2	4	.770	6.770	.928
4	6	.821	6.821	.970
6	8	.874	6.874	1.003
8	10	.927	6.927	1.036
10	12	.982	6.982	1.070
12	14	1.038	7.038	1.105
14	16	1.096	7.096	1.141
16	18	1.154	7.154	1.177
18	21	1.238	7.238	1.238
21	24	1.323	7.323	1.323
24	27	1.410	7.410	1.410
27	30	1.500	7.500	1.500
30	33	1.592	7.592	1.592
33	36	1.674	7.674	1.674
36	39	1.758	7.758	1.758
39	42	1.844	7.844	1.844
42	45	1.933	7.933	1.933
45	48	2.024	8.024	2.024
48	51	2.117	8.117	2.117
51	54	2.200	8.200	2.200
54	57	2.285	8.285	2.285
57	60	2.359	8.359	2.359
60	63	2.435	8.435	2.435
63	66	2.513	8.513	2.513
66	69	2.593	8.593	2.593
69	72	2.676	8.676	2.676
72	75	2.762	8.762	2.762
75	78	2.850	8.850	2.850
78	81	2.941	8.941	2.941
81	84	3.035	9.035	3.035
84	90	3.116	9.116	3.116
90		3.200	9.200	9.200

NOTE: Maximum prices in columns 1, 2, 3 and 4 include all excise and processing taxes of any state or subdivision thereof at rates in effect on November 2, 1942; and storage and all other charges applicable to the quantity being priced and accrued to date of sale, together with brokerage commissions, if any, paid by the seller incident to the particular sale. Maximum prices set forth in columns 2 and 4 also include the amount of United States excise taxes at rates in effect on November 2, 1942.

4. Section 2.3 (i) is added to read as follows:

(i) Maximum prices for bulk domestic gin and bulk domestic vodka. Any seller's maximum price per proof gallon of bulk domestic gin and bulk domestic vodka for sales in any quantity to a customer of any class shall be the total of the following amounts applicable to the quantity being priced.

(1) Seller's price. 69 1/2¢ per proof gallon, naked, f. o. b. seller's premises. This amount for bulk domestic gin includes Federal rectification taxes.

(2) Container cost. If the seller furnishes the containers in which the bulk domestic gin or bulk domestic vodka is packed and such containers become the property of the customer upon delivery of such gin or vodka, the seller may make a separate charge for the containers not in excess of his maximum price therefor.

(3) Freight. For sales on a delivered basis, the seller may add transportation charges per proof gallon from his point of shipment to the place of delivery at the rate actually paid (exclusive of expense of hauling, drayage or handling within the metropolitan area of such point of place).

(4) Tax paid sales. (i) With respect to bulk domestic vodka, the amount of United States excise taxes and Federal rectification taxes paid by the seller to the taxing authority or to a prior vendor.

(ii) With respect to bulk domestic gin, the amount of United States excise taxes paid by the seller to the taxing authority or the prior vendor.

NOTE: The maximum price set forth above includes all excise and processing taxes of any state or subdivision thereof at rates in effect on November 2, 1942 and storage and all other charges applicable to the quantity being priced and accrued to date of sale together with brokerage commissions, if any, paid by the seller incident to the particular sale.

5. Section 2.4a is amended to read as follows:

SEC. 2.4a Maximum prices for bulk domestic neutral spirits produced from any material and bulk domestic high wines manufactured from cane or grain. (a) Any seller's maximum price to any class of customers for sales of bulk domestic neutral spirits produced from any material except grain or for sales of bulk domestic high wines manufactured from cane or grain (as defined in section 7.12 (a) (44) and (48) shall be his maximum price therefor established under § 1499.2 (a) (1) of the General Maximum Price Regulation. Sellers who are unable to establish maximum prices for these items pursuant to § 1499.2 (a) (1) of the General Maximum Price Regulation shall determine their maximum prices by application pursuant to section 2.2 (c).

(b) Any seller's maximum price per proof gallon for sales of bulk domestic neutral spirits produced from grain in any quantity to any class of customers shall be the total of the following

amounts applicable to the quantity being priced:

(1) *Seller's price*, 59½¢ per proof gallon, naked, f. o. b. seller's premises.

(2) *Container cost*. If the seller furnishes the containers in which the bulk domestic neutral spirits are packed and such containers become the property of the customer upon delivery of such spirits, the seller may make a separate charge for the containers not in excess of the following amounts:

(i) 2½¢ per proof gallon, where barrels are used; or

(ii) 3½¢ per proof gallon where steel drums are used.

(3) *Freight*. For sales on a delivered basis the seller may add transportation charges per proof gallon from his point of shipment to the place of delivery at the rate actually paid (exclusive of expense of hauling, draying or handling within the metropolitan area of such point or place).

**NOTE:** Maximum prices set forth above include all excise and processing taxes of any state or subdivision thereof at rates in effect on November 2, 1942 and storage and all other charges applicable to the quantity being priced and accrued to date of sale together with brokerage commissions, if any, paid by the seller incident to the particular sale.

6. Section 2.6a is added to read as follows:

**SEC. 2.6a Grain neutral spirits acquired by custom processing.** If a person acquires grain neutral spirits for which maximum prices are established by this regulation by separately purchasing the raw material and the service by which the raw material is converted into grain neutral spirits, the total amount paid by him for the raw material and the service may not exceed the maximum price that would apply if the grain neutral spirits were sold to him by the person furnishing the service.

7. Section 2.7 is amended to read as follows:

**SEC. 2.7 Dates on which this article shall apply.** This article shall apply to all sales, and offers to sell and deliveries of the commodities specified therein made on and after October 7, 1943: *Provided*, That this article shall not apply to deliveries made on and before October 21, 1943 pursuant to sales or contracts to sell made prior to October 1, 1943: *And provided further*, That an amendment to this article shall not apply to any deliveries made prior to the effective date of such amendment.

8. Section 3.2 (a) (3) of Article III is revoked and a new section 3.2 (a) (3) is substituted therefor to read as follows:

(3) For domestic gin and domestic vodka only, the processor may elect to establish a prescribed uniform maximum price determined as provided in Appendix H; or

9. Section 3.2 (a) (4) of Article III is added to read as follows:

(4) For all classifications of domestic distilled spirits (except where a maximum price can be established under Appendix A or where the processor elects

or is required to establish a prescribed uniform maximum price under either Appendix E or Appendix H), the special maximum price by authorization determined as provided in Appendix F.

9a. Section 3.2 (b) (2) is amended by adding the words "domestic vodka" following the words "domestic gin".

10. Section 3.2 (b) (5), to but not including the note, is revoked and the note is transferred following section 3.2 (b) (6), and a new section 3.2 (b) (5) is substituted to read as follows:

(5) For domestic gin and domestic vodka only, the processor may elect to establish a prescribed uniform maximum price determined as provided in Appendix H.

11. Section 3.2 (b) (6) is added to read as follows:

(6) For all classifications of domestic distilled spirits (except where a maximum price can be established under appendices B through D, inclusive, or where the processor elects or is required to establish a prescribed uniform maximum price under Appendix E or Appendix H), the special maximum price by authorization determined as provided in Appendix F.

12. Section 3.2 (c) (2) is revoked and a new section 3.2 (c) (2) is added to read as follows:

(2) For domestic gin and domestic vodka only, the prescribed uniform maximum prices determined as provided in Appendix H.

13. Section 3.2 (c) (3) is added to read as follows:

(3) For all classifications of domestic distilled spirits (except for sales of domestic whiskey, for which maximum prices can be established under Appendix E, and domestic gin and domestic vodka, for which maximum prices can be established under Appendix H), the special maximum price by authorization determined as provided in Appendix F.

14. Section 3.3 (a) (1) is amended to read as follows:

(1) Article III provides several pricing methods for processors sales of items of packaged domestic distilled spirits. Those pricing methods are set forth in detail in appendices A through H and specific rules are provided therein for each pricing method. One of those methods requires processors of items of domestic whiskey of a brand name not sold or offered for sale by the processor during March 1942 to establish a prescribed uniform maximum price for the item. That method, set forth in Appendix E, applies only to items of domestic whiskey. Another method, which applies only to items of domestic gin and domestic vodka, requires processors of these commodities of a brand name, not sold or offered for sale by the processor during March 1942, to establish a prescribed uniform maximum price for the items under Appendix H. From time to time appendices will be added in which prescribed uniform maximum prices will

likewise be provided for items of other classifications of domestic distilled spirits such as brandy, rum, cordials and liqueurs. Until such time as prescribed uniform maximum prices for these classifications are added to this article, processors of items of those classifications, of a brand name not sold or offered for sale during March 1942 must establish special maximum prices by authorization in accordance with the provisions of Appendix F.

15. Section 3.3 (a) (2) is amended to read as follows:

(2) Processors of items of a brand name, container size and formula (including proof) which they sold or offered for sale during March 1942, regardless of the classification thereof, are required to establish March 1942 maximum prices under Appendix A for sales to customers of a particular class to which the item was sold or offered for sale by the processor during March 1942. Where the sale is to a customer of a different class, the processor must establish a special maximum price by authorization under Appendix F. However, for items of domestic whiskey, the processor may elect to establish prescribed uniform maximum prices under Appendix E and for items of domestic gin and domestic vodka the processor may elect to establish prescribed uniform maximum prices under Appendix H. Where the processor elects to establish a prescribed uniform maximum price for any item of domestic whiskey, domestic gin or domestic vodka he must, after making a sale at such price, establish prescribed uniform maximum prices for all sales thereafter to any purchaser of any item of the same classification bearing the same brand name.

16. Section 3.3 (c) (1) (iii) is amended by adding the phrase "or appendix H" following the words "Appendix E" in the third line.

17. Section 3.7 is amended by adding the clause *"And provided further*, That an amendment to this article shall not apply to any deliveries made prior to the effective date of such amendment."

17a. Paragraphs (a) (1), (a) (2) and (a) (3) of Appendix G are amended by inserting the words "or Appendix H," following the word "inclusive" which appears in each such paragraph.

18. "Appendix H" is added to read as follows:

#### APPENDIX H—PRESCRIBED UNIFORM MAXIMUM PRICES

(a) *Rules for establishing maximum prices under Appendix H.* (1) The prescribed uniform maximum prices provided in this appendix are applicable only to items of domestic gin and domestic vodka. All other classifications of domestic distilled spirits must be priced under other applicable provisions of Article III.

(2) All items of domestic gin and domestic vodka of a brand name not sold or offered for sale by the processor during March 1942 must be priced under this appendix. Any item of domestic gin or domestic vodka whether or not sold or offered for sale by the processor during March 1942 may be priced under this appendix. However, after once making a sale of an item of domestic gin or domestic vodka at a prescribed uni-

form maximum price provided in this appendix, maximum prices for all sales thereafter of any item of the same classification bearing the same brand name, of any proof or in any container size must be established under this appendix.

(3) Any change whatsoever in the brand name of an item of domestic gin or domestic vodka sold or offered for sale by the processor during March 1942 shall be deemed to be a new brand name, and the item so changed must be priced under this appendix.

(4) Prescribed uniform maximum prices are applicable only to the particular classes of customers specified in this appendix. For all other classes of customers a special maximum price by authorization must be established under Appendix F.

(b) *Procedures for establishing prescribed uniform maximum prices.* The processor's maximum price per case, for sales of an item of packaged domestic gin or packaged domestic vodka to customers of the classes specified below, shall be the prescribed uniform maximum prices determined as follows:

(1) *Processors' sales to wholesalers and monopoly states* (i) Ascertain from Table I (for gin) or Table II (for vodka) the applicable maximum price per case of quarts or fifths, respectively at 80° proof.

NOTE: The prices shown in Table I and II are at 80° proof in quarts and fifths. They are completed prices for items at 80° proof in quarts and fifths, except for applicable state and local taxes for which see (iv) below.

(ii) Where the proof of the item to be priced is greater than 80°, ascertain from Table I (for gin) or Table II (for vodka) the applicable proof adjustment in accordance with the container size, and multiply such proof adjustment figure by a figure equal to the difference between 80 and the number of degrees of proof of the item to be priced. Add the resulting figure to the amount determined in (i).

(iii) Where the container sizes to be priced are either pints or half-pints, add to the resulting figure in (ii) per case of quarts \$0.60 if pints are to be priced and \$1.35 if half-pints.

(iv) Where state or local excise taxes apply, add to the figure obtained in (i), (ii) or (iii), the applicable amount of any state or local excise tax in effect on November 2, 1942: *Provided*, That the amount of such tax imposed is actually paid or has accrued and become payable by the processor to the proper taxing authority or to any prior vendor: *And provided further*, That the amount of such tax once so added shall not again be added to the maximum prices established under subparagraphs (2), (3) and (4) of this paragraph (b).

The resulting figure in (i), (ii), (iii) or (iv), as the case may be, is the processor's prescribed uniform maximum price, f. o. b. bottling plant, for sales to wholesalers and monopoly states of an item of packaged domestic gin or packaged domestic vodka.

NOTE: The maximum prices so figured include applicable Federal, state or local excise taxes through November 2, 1942. The increase effective April 1, 1944 in Federal excise taxes, or new or increased state or local excise taxes not otherwise included in the prescribed uniform maximum price, may be added to that price in accordance with section 7.3.

(2) *Processors' sales to primary distributing agents.* The processor's prescribed uniform maximum price per case,

f. o. b. bottling plant, of packaged domestic gin or packaged domestic vodka for sales to primary distributing agents shall be the processor's prescribed uniform maximum price per case, f. o. b. bottling plant, for sales of the item to wholesalers and monopoly states (determined as provided in subparagraph (1) above), subject to any discount, allowance or price differential agreed upon by the particular processor and primary distributing agent.

NOTE: The maximum prices so figured include applicable Federal, state or local excise taxes through November 2, 1942. The increase effective April 1, 1944 in Federal excise taxes, or new or increased state or local excise taxes not otherwise included in the prescribed uniform maximum price may be added to that price in accordance with section 7.3.

(3) *Processors' sales to retailers*—(i) *Sales of items shipped directly to the retailer's premises from the bottling plant.* The processor's prescribed uniform maximum price per case of packaged domestic gin or packaged domestic vodka for sales of an item shipped directly to the retailer's premises from the bottling plant shall be figured by the processor as follows:

(a) Determine the prescribed uniform maximum price per case, f. o. b. bottling plant, in accordance with subparagraph (1) above, for his sales of the item to wholesalers and monopoly states (excluding, however, the increase effective April 1, 1944, in Federal excise taxes or new or increased state or local excise taxes effective after November 2, 1942).

(b) Add to the figure so obtained the applicable amount of any state or local excise tax at rates in effect on November 2, 1942: *Provided*, That the amount of such tax is actually paid by the processor.

(c) Multiply the resulting figure in (b) by the percentage markup provided in section 5.4 (b) (1) (i) of Article V for sales of packaged gin and vodka by wholesalers to retailers.

(d) Add to the resulting figure in (c) the actual amount of transportation charges paid by the processor if such charges are prepaid by him.

The resulting figure in (c) or (d), as the case may be, is the processor's prescribed uniform maximum price per case for sales of an item shipped directly to the retailer's premises from the bottling plant.

NOTE: The maximum prices so figured include applicable Federal, state or local excise taxes through November 2, 1942. The increase effective April 1, 1944, in Federal excise taxes, or new or increased state or local excise taxes not otherwise included in the prescribed uniform maximum price, may be added to that price in accordance with section 7.3.

(ii) *Sales of items shipped to the retailer's premises from the processor's zone warehouse.* The processor's prescribed uniform maximum price for sales of an item of packaged domestic gin or vodka shipped to the retailer's premises from the processor's zone warehouse shall be figured by the processor as follows:

(a) Determine the prescribed uniform maximum price per case, f. o. b. bottling plant, in accordance with subparagraph (1) above, for his sales of the item to wholesalers and monopoly states (ex-

cluding, however, the increase effective April 1, 1944, in Federal excise taxes or new or increased state or local excise taxes effective after November 2, 1942).

(b) Add to the figure so obtained the actual amount of transportation charges paid by the processor for shipment from the bottling plant to his zone warehouse. No amount shall be included for local hauling, loading, unloading, drayage or other handling.

(c) Add to the resulting figure in (b), the applicable amount of any state or local excise tax at rates in effect on November 2, 1942: *Provided*, That the amount of such tax is actually paid by the processor.

(d) Multiply the resulting figure in (c) by the percentage markup provided in section 5.4 (b) (1) (i) of Article V for sales of packaged gin and vodka by wholesalers to retailers.

The resulting figure in (d) is the processor's prescribed uniform maximum price per case, delivered to the retailer's premises, for his sales of an item to a retailer located within the area of the processor's zone warehouse, and it is also the processor's prescribed uniform maximum price per case, f. o. b. zone warehouse, for sales of an item to a retailer located outside of the metropolitan area of such warehouse.

NOTE: The maximum prices so figured include applicable Federal, state or local excise taxes through November 2, 1942. The increase effective April 1, 1944, in Federal excise taxes, or new or increased state or local excise taxes not otherwise included in the prescribed uniform maximum price, may be added to that price in accordance with section 7.3.

(4) *Processors' sales to consumers.* The processor's prescribed uniform maximum price provided in subparagraph (1) for sales of the item to wholesalers and monopoly states (excluding, however, the increase effective April 1, 1944, in Federal excise taxes or new or increased state or local excise taxes effective after November 2, 1942) plus the additions provided in section 5.3 (b) (2) and (3) (i) of Article V and the total thereof multiplied by the percentage markup provided in section 5.5 (b) (1) (i) of Article V for sales of packaged gin and vodka by retailers to consumers, shall be the processor's prescribed uniform maximum price for sales of the item to consumers.

NOTE: The maximum prices so figured include applicable Federal, state or local excise taxes through November 2, 1942. The increase effective April 1, 1944 in Federal excise taxes, or new or increased state or local excise taxes not otherwise included in the prescribed uniform maximum price, may be added to that price in accordance with section 7.3.

(c) *Reports required to be filed.* On or before the date of making the first sale of an item at a prescribed uniform maximum price established under this appendix, the processor shall, by letter to the Office of Price Administration, Beverage Section, Washington, D. C., report the maximum price so established. The letter-report shall contain the following:

(1) The name and address of the processor filing the report.

(2) A statement that the report is filed under Appendix H to Article III of MPR 445.

(3) The brand name, container size and proof of the item which is the subject of the report. (Attach front and back labels to letter-report.)

(4) The prescribed uniform maximum price for the item which is the subject of the report, and a statement showing the steps taken by the processor to figure such price, in accordance with the procedures provided in this appendix.

(5) A list of all items of the same brand name sold or offered for sale by the processor during March 1942, if any.

Neither acceptance nor failure to act upon a letter-report filed under this paragraph shall constitute approval by the Office of Price Administration of the maximum prices so reported.

TABLE I—PROCESSORS' PRESCRIBED UNIFORM MAXIMUM PRICES FOR PACKAGED DOMESTIC GIN

	3 gallon case of quarts	2.4 gallon case of fifths
Price at 80° proof.....	\$19.28	\$15.72
Adjustment per degree of proof.....	.2222	.1778

NOTE: The prices in Table I include applicable Federal excise taxes in effect on November 2, 1942 and Federal Rectification Tax. These prices do not include any local or state taxes or the increase in Federal excise taxes effective April 1, 1944.

TABLE II—PROCESSORS' PRESCRIBED UNIFORM MAXIMUM PRICES FOR PACKAGED DOMESTIC VODKA

	3 gallon case of quarts	2.4 gallon case of fifths
Price at 80° proof.....	\$20.09	\$16.37
Adjustment per degree of proof.....	.2324	.1859

NOTE: The prices in Table II include applicable Federal excise taxes in effect on November 2, 1942 and Federal Rectification Tax. These prices do not include any local or state taxes or the increase in Federal excise taxes effective April 1, 1944.

(d) *Determining amount of increase effective April 1, 1944 in Federal excise taxes.* The amount of the increase effective April 1, 1944, in Federal excise taxes which a processor may add to prescribed uniform maximum prices determined under this appendix shall, in each instance, be figured by multiplying \$3.00 by the number of proof gallons in the case being priced.

19. Section 4.12 (c) is amended by adding a sentence thereto to read as follows: "An amendment to this article shall not apply to any deliveries made prior to the effective date of such amendment."

20. Section 5.3 (b) (3) (i) (a) is added to read as follows:

(a) With respect to purchases by a wholesaler from another wholesaler, state and local excise taxes at rates in effect on November 2, 1942 of the state in which either the purchasing wholesaler or the selling wholesaler has his principal place of business, whichever is lower.

21. Section 5.4 (b) (1) is amended by adding the phrase "except from another wholesaler" following the word "supplier."

22. Section 5.11 is amended by adding the following clause: "And provided further, That an amendment to this article shall not apply to any deliveries

made prior to the effective date of such amendment."

23. Section 7.12 (a) is amended by adding subparagraphs (51) and (52) to read as follows:

(51) "Domestic gin" means gin (either distilled or compound) as defined in Article II, Class 3 of Regulations No. 5 produced within the continental United States.

(52) "Domestic vodka" means vodka as defined under the terms of Article III, section 34, of Regulations No. 5, so labeled, and produced within the continental United States.

This amendment shall become effective August 1, 1944.

Issued this 1st day of August 1944.

CHESTER BOWLES,  
Administrator.

For the reasons set forth in the accompanying statement of considerations, and by virtue of the authority vested in me by the Emergency Price Control Act of 1942, as amended, and Executive Orders 9250 and 9328, I find that the level of maximum prices for packaged gin established by the accompanying amendment is necessary to correct a gross inequality, and hereby authorize its issuance.

FRED M. VINSON,  
Economic Stabilization Director.

[F. R. Doc. 44-11540; Filed, August 1, 1944;  
4:54 p. m.]

Class A	<ol style="list-style-type: none"> <li>(1) Bushel basket of 2150.42 cu. in. capacity</li> <li>(2) One-half bushel basket of 1075.71 cu. in. capacity</li> </ol>	Closed and packed "fairly tight" or tighter.
Class B	<ol style="list-style-type: none"> <li>(1) Fruit box (WPB L232 No. 35)</li> <li>(2) Fruit box (WPB L232 No. 36)</li> <li>(3) Sanger Lug Box (WPB L232 No. 46)</li> </ol>	Closed with a net weight within applicable weight ranges in Column 2 of the applicable table in paragraph (f).

(2) *As to grapes.* For the purposes of this appendix, standard containers shall be classified as follows:

Class C	<ol style="list-style-type: none"> <li>(1) A closed lug box (WPB L232 No. 46), packed with table grapes produced in Riverside or Imperial County, California, or in Arizona, with a net weight of 24 pounds or more.</li> <li>(2) A closed lug box (WPB L232 No. 46), packed with table grapes produced in any other area, with a net weight of 28 pounds or more.</li> </ol>
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(d) *Marking requirements.* The grower-packer shall plainly mark each container sold by him in accordance with the requirements of State and Federal Grades and Standards Laws and of the Federal Food, Drug and Cosmetic Act, and

(1) *As to standard containers in Class A.* The grower-packer shall plainly mark each standard container in Class A sold by him to show the following:

(1) The name and address of the grower-packer.

(2) The volume of the contents.

(2) *As to standard containers in Class B.* The grower-packer shall plainly

\*7 F.R. 10770.

PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[MPR 426;<sup>1</sup> Amdt. 46]

FRESH FRUITS AND VEGETABLES FOR TABLE USE, SALES EXCEPT AT RETAIL

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

Section 15 of Maximum Price Regulation 426 is amended in the following respects

1. Appendix D is revoked.

2. Appendix K is amended in the following respects:

a. In paragraph (a) the word "Grapes" is added under the word "Peaches".

b. Paragraph (b) (3) is amended by adding an undesignated paragraph to read as follows:

"Standard container" in the case of grapes means (i) a closed lug box (WPB L232 No. 46), packed with table grapes produced in Riverside or Imperial County, California, or in Arizona, with a net weight of 24 pounds or more, or (ii) a closed lug box (WPB L232 No. 46), packed with table grapes produced in any other area, with a net weight of 28 pounds or more.

c. Paragraphs (c), (d) and (e) are amended to read as follows:

(c) *Classification of standard containers—(1) As to peaches.* For the purpose of this appendix, standard containers shall be classified as follows:

ly mark each standard container in Class B sold by him to show the following:

(1) The name and address of the grower-packer.

(2) A minimum net weight. This may be lower, but in no case higher, than the actual weight at the time of shipment from the shipping point.

The grower-packer may determine the actual net weight of contents of standard containers noted in Class B and mark the actual net weight in pounds on each container. Some grower-packers may not wish to weigh each container before marking and selling it. In order to make possible the use of reasonable estimated net weights, weight ranges have been provided for the standard containers listed above in Class B within which maximum prices do not vary. However, a grower-packer who sells without weighing all containers takes the risk that the estimated minimum net weight may exceed the actual net weight, which would be a violation of the regu-

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

<sup>1</sup> 8 F.R. 16409, 16294, 16519, 16423, 17372; 9 F.R. 790, 902, 1581, 2008, 2023, 2091, 2493, 4030, 4086, 4088, 4434, 4786, 4787, 4877, 5926, 5929, 6104, 6108, 6420, 6711, 7259, 7425, 7580, 7583, 7759, 7774, 7834, 8148, 9066, 9090.

lation. Subsequent sellers, however, may rely on the minimum net weight marked on the container and figure their maximum prices on the basis of it.

(3) *As to standard containers in Class C.* The grower-packer shall plainly mark each standard container in Class C sold by him to show the following:

(1) The name and address of the grower-packer.

(2) A minimum net weight. This may be lower, but in no case higher than the actual weight at the time of shipment from the shipping point. Subsequent sellers, however, may rely on the minimum net weight marked on the container and figure their maximum prices on the basis of it.

(4) *As to non-standard containers.* If a container would be a standard container in Class A except for the fact that it is not packed "fairly tight" or tighter, or if a container would be a standard container in Class B except for the fact that it has a net weight not within the weight ranges for the particular container, or if a container would be a standard container in Class C except for the fact that it has a net weight less than that specified for that particular container, or if the fruit is in any other closed container, the grower-packer shall mark the container to show the following:

(1) The name and address of the grower-packer.

(2) A minimum net weight. This may be lower, but in no case higher than the actual weight at the time of shipment from the shipping point. Subsequent sellers, however, may rely on the minimum net weight marked on the container and figure their maximum prices on the basis of it.

The weight marking requirement does not apply to open containers. (Section 14a (a) does not apply to this appendix.)

(e) *How maximum prices are figured—*

(1) *Standard containers in Class A.* For standard containers in Class A, the maximum price in each case is named in columns 5 or 6 of the applicable table in paragraph (f). However, the maximum price for any container which would be a standard container except for the fact that it is not packed "fairly tight," or tighter, shall in no event be greater than the maximum price for the standard container.

(2) *Standard containers in Class B.* A grower-packer obtains his maximum price for any of the types of containers listed in Class B by first determining whether the net weight of the container being priced falls within any of the weight ranges established by the appendix for that type of container. If the net weight falls within an applicable weight range, the maximum price named in the price table for that container is on a container-basis and it applies to all weights within that range. On the other hand, if the net weight falls outside the

applicable weight ranges, the maximum price is figured by the seller on the basis of actual net weight.

(3) *Standard containers in Class C.* A grower-packer obtains his maximum prices for any of the types of containers listed in Class C by first determining whether the minimum net weight of the container being priced complies with the minimum net weight established by the appendix for that type of container. If it does, the maximum prices named in the price table for that container apply. On the other hand, if the net weight falls below the minimum net weight requirement, the maximum price is figured by the seller on the basis of actual net weight.

(4) *Non-standard container.* (i) All fruit offered for sale in closed containers which do not meet the requirements of standard containers in Class A, Class B or Class C shall be sold on the basis of actual net weight.

(ii) All fruit offered for sale in bulk or open containers shall be sold on a basis of actual net weight.

(5) The weight requirements provided in this Appendix are based on weights existing at the time of shipment from the shipping point, in the case of closed containers, and at the time of sale, in the case of open containers, unless otherwise specifically provided.

d. In paragraph (1) Table 2 is added to read as follows:

TABLE 2.—MAXIMUM PRICES FOR TABLE GRAPES

Col. number 1	Col. number 2	Col. number 3	Col. number 4	Col. number 5	Col. number 6	Col. number 7
Item number	Type, variety, style of pack, area of production, etc.	Unit	Season	Maximum prices for fruit loaded on car or truck at shipping point.	Maximum prices for sales delivered to any wholesale receiving point in any quantity.	Maximum prices for sales by certain persons in less-than-carlots or less-than-trucklots delivered to the premises of any retail store, Government procurement agency or institutional buyer. <sup>5</sup>
1	Table grapes produced in Riverside and Imperial Counties of California and in Arizona and packed in lug boxes (WPB L232 No. 46) with a net weight of 24 pounds or more.	Per lug	All season	\$3.45	Col. 5 price plus actual cost of transportation (including 3% transportation tax) from shipping point plus actual cost of protective services. <sup>6</sup>	Col. 6 price plus 85 cents.
2	Table grapes produced in Riverside and Imperial Counties of California and in Arizona and packed in lug boxes (WPB L232 No. 46) with a net weight of less than 24 pounds and in all other containers. <sup>7</sup>	Per pound	All season	14.4 cents	Maximum price for item 1 above divided by 24.	Col. 6 price plus 3½ cents.
3	Table grapes produced in all other areas and packed in lug boxes (WPB L232 No. 46) with a net weight of 28 pounds or more.	Per lug	Beginning of season—Aug. 15— Aug. 16—Oct. 31 Nov. 1—Dec. 10 Dec. 11—end of season	\$2.60 \$1.85 \$2.10 \$2.40	Col. 5 price plus freight (including 3% transportation tax) from Bakersfield, California plus protective services. <sup>8</sup>	Col. 6 price plus 62 cents.
4	Table grapes produced in all other areas and packed in lug boxes (WPB L232 No. 46) with a net weight of less than 28 pounds and in all other containers. <sup>7</sup>	Per pound	Beginning of season—Aug. 15— Aug. 16—Oct. 31 Nov. 1—Dec. 10 Dec. 11—end of season	0.3 cents 0.6 cents 0.75 cents 0.85 cents	Maximum price for the applicable season above (Items 3-6) divided by 28.	Col. 6 price plus 2½ cents.

<sup>5</sup> Includes all varieties of the vinifera type except the following: Alicante, Barberone, Aramon, Burger, Burgundy, Carignane, Chianti, Cinsaut, Gregano, Grenache, Juice Malaga, Malvoisie, Mataro, Mission, Muscat, Petite Bouschet, Petite Sirah, Valdepena, Zinfandel. This regulation includes all varieties of imported grapes.

<sup>6</sup> The maximum price for table grapes sold in bulk (loose without containers, or in containers furnished by the buyer) shall be 2.7 cents per pound less than the maximum prices per pound listed for items 2, 7, 8, 9, and 10 in columns 5, 6 and 7.

<sup>7</sup> Protective service allowances shall be the actual cost of protective services furnished not to exceed the lowest common carrier charge for the same service (including 3% transportation tax).

<sup>8</sup> Protective service allowances shall be added in accordance with the following groups of wholesale receiving points.

<sup>5</sup> For sellers covered by column 7, see general provisions of this Appendix.

Wholesale receiving points	Allowance for protective services (includes 3% tax)
1. In all States wholly east of the Mississippi River, except in Wisconsin and Illinois.	Per lug \$0.12
2. In all other States, except in California, Oregon, and Washington.	.09
3. In Oregon and Washington.	.04
4. In California.	.00

e. In Table A in paragraph (g), item 2 is added to read as follows:

TABLE A—MAXIMUM MARKUPS FOR DISTRIBUTIVE SERVICES PERFORMED BY GROWER-PACKERS, SHIPPING POINT DISTRIBUTORS, AND THEIR AGENTS TO BE ADDED TO THE APPLICABLE MAXIMUM PRICE F. O. B. SHIPPING POINT OR THE MAXIMUM DELIVERED PRICE, AS THE CASE MAY BE

(See Column 5 or 6 of Tables in Paragraph (F))<sup>1</sup>

Col. 1	2	3	4	5	6	7	8	9	10	11	12
Item No.	Commodity	Unit	Sales by grower-packers				Sales by any person (including grower-packers) through a grower's sales agent and sales by shipping point distributors				Through a commission merchant in less-than-carlots or less-than-trucklots
			Through a broker in any quantity or through a commission merchant in carlots or trucklots	Through a commission merchant in less-than-carlots or less-than-trucklots	Through an auction in less-than-carlots or less-than-trucklots	Direct sales (without the use of broker or any other agent)	Through a broker or salaried representative in any quantity, or through a commission merchant in carlots or trucklots	Through an auction in less-than-carlots or less-than-trucklots	Ex-dock, car, truck or terminal sales platform	Ex-store or warehouse	
			Ex-dock, car or truck or terminal sales platform	Ex-store or warehouse							
2....	Table grapes...	Riverside, Imperial Counties of California and Arizona. (Items 1-2 Table 2): Lug box with a net weight of 24 pounds or more. Lug box with a net weight of less than 24 pounds, and grapes packed in all other containers or in bulk, per pound.	\$0.03..... 3/8 cent....	\$0.18..... 3/4 cent....	\$0.40..... 1 1/4 cents...	\$0.11..... 1/4 cent....	\$0.10..... 1/8 cent....	\$0.13..... 1/4 cent....	\$0.21..... 1/8 cent....	\$0.28..... 1 1/10 cents...	\$0.50. 2 cents.
		All other areas (Items 3-10, Table 2): Lug box with a net weight of 28 pounds or more. Lug box with a net weight of less than 28 pounds and grapes packed in all other containers or in bulk, per pound.	\$0.03..... 3/8 cent....	\$0.12..... 1/10 cent....	\$0.27..... 1 cent....	\$0.08..... 1/4 cent....	\$0.10..... 1/4 cent....	\$0.13..... 1/4 cent....	\$0.18..... 1/4 cent....	\$0.22..... 1/10 cent....	\$0.37. 1 1/8 cents.

<sup>1</sup> The agents' actual charges (not to exceed the maximum allowable charges under MPR 165) shall be used instead of the mark-ups listed if the total of such actual charges is lower than the mark-up shown.

f. In Table B in paragraph (g) item 2 is added to read as follows:

TABLE B—MAXIMUM MARKUPS FOR DISTRIBUTIVE SERVICES PERFORMED BY CERTAIN SELLERS OTHER THAN GROWER-PACKERS, SHIPPING POINT DISTRIBUTORS AND THEIR AGENTS TO BE ADDED TO THE APPLICABLE MAXIMUM DELIVERED PRICES

(See column 6 of tables in paragraph (F))<sup>1</sup>

Col. 1	2	3	4	5	6	7	8	9	
Item No.	Commodity	Unit	Sales by carlot distributor <sup>2</sup>	Sales by primary receivers in less-than-carlots or less-than-trucklots			Sales by secondary jobbers in any quantity delivered to premises of the purchaser	Original container and quantities in excess of 1/2 of original container	Half original container or less
				Through an auction or ex-car, dock, truck or terminal sales platform	Ex-store or ex-warehouse				
2....	Table grapes...	Riverside, Imperial Counties of California and Arizona (Items 1-2, Table 2): Lug box with a net weight of 24 pounds or more. Lug box with a net weight of less than 24 pounds and grapes packed in all other containers or in bulk, per pound.	\$0.24..... 1 cent....	\$0.31..... 1 1/10 cents...	\$0.53..... 2 1/2 cents....	\$0.85..... 3 1/2 cents....	\$0.85..... 3 1/2 cents....	\$0.85..... 3 1/2 cents....	3 1/2 cents.
		All other areas (Items 3-10 Table 2): Lug box with a net weight of 28 pounds or more. Lug box with a net weight of less than 28 pounds and grapes packed in all other containers or in bulk, per pound.	\$0.20..... 1/10 cent....	\$0.25..... 1/10 cent....	\$0.40..... 1 1/10 cents....	\$0.62..... 2 1/4 cents....	\$0.62..... 2 1/4 cents....	\$0.62..... 2 1/4 cents....	2 1/4 cents.

<sup>1</sup> A carlot distributor who resells on an f. o. b. basis may add the markup named in column 4 to the maximum f. o. b. price (see column 5 of the applicable table in paragraph (F)).

<sup>2</sup> The column 4 markup may be used only by a person who has purchased the grapes being priced from any person other than a grower or grower-packer selling direct or through a broker and sells in unbroken carlots or unbroken trucklots. A person who has purchased the grapes being priced from a grower or grower-packer selling direct or through a broker, and sells in unbroken carlots or unbroken trucklots shall use the markups named in the applicable columns in Table A for sales by a "shipping point distributor."

This amendment shall become effective as to maximum prices f. o. b. shipping point on 12:01 a. m., August 4, 1944, and as to all other maximum prices as follows:

(1) On August 18, 1944 for all states wholly east of the Mississippi River except Illinois and Wisconsin;

(2) On August 13, 1944 for all other states except California, Oregon and Washington;

(3) On August 7, 1944 for California, Oregon and Washington.

Issued this 2d day of August 1944.

JAMES G. ROGERS, Jr.,  
Acting Administrator.

Approved July 31, 1944.

MARVIN JONES,  
War Food Administrator.

Pursuant to the authority vested in me by the Emergency Price Control Act of

1942, as amended, and the Stabilization Act of 1942, as amended, I hereby approve the prices established by the foregoing amendment and find that they are necessary as an aid to the effective prosecution of the war.

FRED M. VINSON,  
Director,  
Office of Economic Stabilization.

[F. R. Doc. 44-11572; Filed, August 2, 1944;  
11:38 a. m.]

PART 1439—UNPROCESSED AGRICULTURAL  
COMMODITIES

[MPR 426; Amdt. 47]

FRESH FRUITS AND VEGETABLES FOR TABLE  
USE, SALES EXCEPT AT RETAIL

A statement of the considerations involved in the issuance of this amendment

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7
Item No.	Types, variety, style of pack, etc.	Unit	Season	Maximum price f.o.b. shipping points in California and Arizona	Maximum prices for sales delivered to any wholesale receiving point in any quantity	Maximum prices for sales by certain persons in less than carlots or less than any retail store, government procurement agency or institutional buyer.
7	Cantaloup or honeydew melons in pony crates with a net weight of 57 lbs. or more.	Pony crate.	May 1-June 25-June 26-July 25.	\$2.70	(Col. 5 price plus freight from El Centro, California, plus protective services stated in Table A below.)	•
8			July 26-Nov. 26.	2.25	(Col. 5 price plus 70¢ from "Menalota, Calif. plus protective services stated in Table A below.)	•
8a				1.90	Col. 5 price plus freight from "Menalota, Calif. plus protective services stated in Table A below.)	•
						•

2. In Table A of paragraph (e) of Appendix J item 1 in Column 3 is amended in the following respect:

a. The parenthetical statement following the word "California" and reading "(items 1-6, Tables 1, 1a)" is amended to read: (items 1-9, Tables 1, 1a).

b. The parenthetical statement following the words "All other states" and reading "(items 11-14, Tables 1, 1a)" is amended to read: (items 16-21, Tables 1, 1a).

c. The parenthetical statement following the words "All states" and reading: "(items 7-10, 15-18, Tables 1, 1a)" is amended to read: (items 10-15, 22-27, Tables 1, 1a).

3. In Appendix K subparagraph (r) (6) is redesignated paragraph (s). This amendment shall become effective at 10:01 a. m. August 3, 1944.

has been issued and filed with the Division of the Federal Register.\*

Section 15 of Maximum Price Regulation 426 is amended in the following respects:

1. In Appendix H, Table 10 in paragraph (b) is amended by adding item 8a to read as follows:

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7
Item No.	Types, variety, style of pack, etc.	Unit	Season	Maximum price f.o.b. shipping points in California and Arizona	Maximum prices for sales delivered to any wholesale receiving point in any quantity	Maximum prices for sales by certain persons in less than carlots or less than any retail store, government procurement agency or institutional buyer.
7	Cantaloup or honeydew melons in pony crates with a net weight of 57 lbs. or more.	Pony crate.	May 1-June 25-June 26-July 25.	\$2.70	(Col. 5 price plus freight from El Centro, California, plus protective services stated in Table A below.)	•
8			July 26-Nov. 26.	2.25	(Col. 5 price plus 70¢ from "Menalota, Calif. plus protective services stated in Table A below.)	•
8a				1.90	Col. 5 price plus freight from "Menalota, Calif. plus protective services stated in Table A below.)	•
						•

2. In Table A of paragraph (e) of Appendix J item 1 in Column 3 is amended in the following respect:

a. The parenthetical statement following the word "California" and reading "(items 1-6, Tables 1, 1a)" is amended to read: (items 1-9, Tables 1, 1a).

b. The parenthetical statement following the words "All other states" and reading "(items 11-14, Tables 1, 1a)" is amended to read: (items 16-21, Tables 1, 1a).

c. The parenthetical statement following the words "All states" and reading: "(items 7-10, 15-18, Tables 1, 1a)" is amended to read: (items 10-15, 22-27, Tables 1, 1a).

3. In Appendix K subparagraph (r) (6) is redesignated paragraph (s). This amendment shall become effective at 10:01 a. m. August 3, 1944.

\*Copies may be obtained from the Office of Price Administration, 16294, 16519, 16423, 17372; 9 F.R. 790, 902, 1581, 2008, 2023, 2091, 2493, 4030, 4086, 4088, 4434, 4786, 4877, 58926, 5929, 6108, 6420, 6711, 7259, 7268, 7580, 7425, 7583, 7759, 7774, 7884, 8148, 9066, 9090.

18 F.R. 16409, 16294, 16519, 16423, 17372; 9 F.R. 790, 902, 1581, 2008, 2023, 2091, 2493, 4030, 4086, 4088, 4434, 4786, 4877, 58926, 5929, 6108, 6420, 6711, 7259, 7268, 7580, 7425, 7583, 7759, 7774, 7884, 8148, 9066, 9090.

FEDERAL REGISTER, Friday, August 4, 1944

JAMES G. ROGERS, JR.,  
Acting Administrator.

[F. R. Doc. 44-11615; Filed, August 3, 1944; 11:30 a. m.]

PART 1340—FUEL

[MPR 120, Amdt. 114<sup>1</sup>]  
BITUMINOUS COAL DELIVERED FROM MINE OR  
PREPARATION PLANT

A statement of the considerations involved in the issuance of this amendment to his application a receipt signed by an authorized officer or agent of the vessel, activity or agency which acquired the products, showing the nature and quantity of the products and the date of their acquisition.

This amendment shall become effective August 7, 1944.

Notes: All reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; WPB Supp. Dir. 1-E, 7 F.R. 2965; WPB Sup. Dir. 1-M, 7 F.R. 8234; WPB Sup. Dir. 1-R, 7 F.R. 9684; War Food Order No. 56, 8 F.R. 2005, 9 F.R. 4319; War Food Order No. 58, 8 F.R. 2251, 9 F.R. 4319; War Food Order No. 59, 8 F.R.

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	500	500	500	440	440	440	440	440	440	440	440	440	440	440	440

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
14.....	510	510	510	460	460	460	460	460	460	460	460	460	460	460	460

Prices and Size Group Nos.

Production Group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

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Production group number	Prices and size group numbers												Name of Defense-Rental Area	State	County or counties in Defense-Rental Area under rent regulation for hotels and rooming houses	Maximum rent date	Effective date of regulation	Date by which registration statement to be filed (inclusive)			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15						
14-----	350	590	590	510	460	460	335	420	225	225	180	180	180	180	180	(27b) Imperial County..... (134a) Shreveport.....	California..... Louisiana.....	Imperial Parishes of Bossier and Caddo.	Mar. 1, 1943 July 1, 1943	Sept. 1, 1944 Sept. 1, 1944	Oct. 15, 1944 Oct. 15, 1944

5. In § 1340.226 (b) (4) (ii), the table of prices and production group numbers for railroad locomotive fuel is amended by adding a new production group, No. 14, and a price as follows:

Price and production group numbers

14 Railroad locomotive fuel (applicable to any size coal) ----- 320

In section 7 (a) (4), section "10" should read section "4".

Footnote 6 to Table 1 should read "S2S & Match, S4S" instead of "S2S Match".

Issued this 3d day of August 1944.

JAMES G. ROGERS, Jr.,  
Acting Administrator.

[F. R. Doc. 44-11617; Filed, August 3, 1944;  
11:30 a. m.]

PART 1381—SOFTWOOD LUMBER

[3d Rev. MPR 219, Corr.]

NORTHEASTERN SOFTWOOD LUMBER

In section 7 (a) (4), section "10" should read section "4".

Footnote 6 to Table 1 should read "S2S & Match, S4S" instead of "S2S Match".

Issued this 3d day of August 1944.

JAMES G. ROGERS, Jr.,  
Acting Administrator.

[F. R. Doc. 44-11617; Filed, August 3, 1944;  
11:30 a. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Housing, 1 Amdt. 31]

IMPERIAL COUNTY, CALIF., AND SHREVEPORT, LA.

Items 27b and 134a are added to Schedule A of the Rent Regulation for Housing to read as follows:

This amendment shall become effective August 8, 1944.

Issued this 3d day of August 1944.

JAMES G. ROGERS, Jr.,  
Acting Administrator.

[F. R. Doc. 44-11616; Filed, August 3, 1944;  
11:31 a. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Hotels and Rooming Houses, 2 Amdt. 28]

IMPERIAL COUNTY, CALIF., AND SHREVEPORT, LA.

Items 27b and 134a are added to Schedule A of the Rent Regulation for Hotels and Rooming Houses to read as follows:

This amendment shall become effective September 1, 1944.

Issued this 3d day of August 1944.

JAMES G. ROGERS, Jr.,  
Acting Administrator.

[F. R. Doc. 44-11618; Filed, August 3, 1944;  
11:29 a. m.]

Name of Defense-Rental Area	State	County or counties in Defense-Rental Area under rent regulation for housing	Maximum rent date	Effective date of regulation	Date by which registration statement to be filed (inclusive)
(27b) Imperial County..... (134a) Shreveport.....	California..... Louisiana.....	Imperial Parishes of Bossier and Caddo.	Mar. 1, 1943 July 1, 1943	Sept. 1, 1944 Sept. 1, 1944	Oct. 15, 1944 Oct. 15, 1944

5. In § 1340.226 (b) (4) (ii), the table of prices and production group numbers for railroad locomotive fuel is amended by adding a new production group, No. 14, and a price as follows:

Price and production group numbers

14 Railroad locomotive fuel (applicable to any size coal) ----- 320

In section 7 (a) (4), section "10" should read section "4".

Footnote 6 to Table 1 should read "S2S & Match, S4S" instead of "S2S Match".

Issued this 3d day of August 1944.

JAMES G. ROGERS, Jr.,  
Acting Administrator.

[F. R. Doc. 44-11620; Filed, August 3, 1944;  
11:30 a. m.]

PART 1418—TERRITORIES AND POSSESSIONS

[MPR 395; Amdt. 30]

OLEOMARGARINE AND VEGETABLE OIL IN VIRGIN ISLANDS

IMPERIAL COUNTY, CALIF.

In § 1388.1341 of Designation and Rent Declaration 31, item 4 is amended and item 104 is added to read as follows:

(4) California, California. That portion of the State of California not designated prior to October 5, 1942 by the Price Administra-

tion to read as follows:

Commodity

Quantity

Island of St. Croix

Island of St. Thomas

Island of St. John

Oleomargarine, colored, domestic, type B.....  
Vegetable oil, hydrogenated (shortening):  
In 50# cans and tins.....  
Type II, in 48# can.....  
Type I, in 36# can.....  
Type I, in 16# can.....  
Type I, in 1# can.....

1 lb.....  
1 lb.....  
1 lb.....  
1 lb.....  
1 lb.....  
1 lb.....

\$0.25

\$0.25

\$0.25

\$0.25

\$0.25

\$0.25

\$0.25

\$0.25

\$0.25

\$0.25

\$0.25

\$0.25

19 F. R. 5823, 5915, 7329.

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

<sup>1</sup>9 F. R. 5807, 5915, 6359, 6589, 6819, 7329.

<sup>2</sup>9 F. R. 2165, 3231, 3421, 4194, 4541, 5002,  
5806, 5828, 5915, 6569, 7329.

<sup>3</sup>8 F. R. 6621, 873, 8996, 11438, 12661, 13345, 14144, 15865, 17032, 16298, 16793, 9 F. R. 1398.

PART 1418—TERRITORIES AND POSSESSIONS  
[MPR 288; Amdt. 29]

## EDIBLE FATS AND OILS IN ALASKA

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 288 is amended in the following respects:

1. Subparagraph (2) of § 1418.363 (f) is amended to read as follows:

(2) The maximum prices for edible fats and oils sold at retail shall be:

	Ketchikan	Wrangell-Petersburg	Juneau-Douglas	Skagway-Haines	Sitka	Cordova-Valdez-Seward	Kodiak	Anchorage	Palmer and points on the Alaska R. north of Anchorage and south of Curry	Curry and points on Alaska R. north of Curry, including Fairbanks	Nome
Lard:											
Armour's 1-lb. carton	\$0.27	\$0.27	\$0.27	\$0.27	\$0.27	\$0.27	\$0.29	\$0.29	\$0.31	\$0.28	
Armour's 2-lb. carton	.53	.53	.53	.53	.53	.54	.54	.57	.58	.61	.56
Armour's 4-lb. carton	1.04	1.04	1.04	1.05	1.05	1.07	1.07	1.12	1.13	1.19	1.11
Armour's 8-lb. pail	2.04	2.06	2.07	2.09	2.10	2.14	2.14	2.18	2.20	2.32	2.22
Carsten's 1-lb. carton	.25	.25	.25	.25	.25	.26	.26	.27	.27	.29	.27
Carsten's 2-lb. bag	.49	.49	.49	.50	.50	.50	.51	.53	.54	.57	.52
Carsten's 4-lb. carton	.97	.98	.98	.98	.98	1.00	1.01	1.05	1.07	1.13	1.04
Carsten's 8-lb. pail	1.05	1.05	1.06	1.06	1.07	1.09	1.10	1.12	1.13	1.20	1.15
Gibson's 1-lb. carton	2.00	2.00	2.00	2.00	2.00	2.08	2.08	2.12	2.16	2.28	2.16
Gibson's 4-lb. bag	.28	.28	.29	.29	.29	.29	.29	.31	.31	.33	.30
Gibson's 4-lb. pail	1.09	1.10	1.10	1.10	1.11	1.12	1.13	1.17	1.19	1.25	1.17
Swift's 1-lb. carton	.12	.12	.12	.12	.12	.12	.12	.12	.12	.12	.12
Swift's 2-lb. carton	.50	.50	.51	.51	.51	.52	.52	.55	.56	.59	.54
Swift's 4-lb. carton	.99	1.00	1.00	1.01	1.01	1.03	1.03	1.08	1.09	1.15	1.07
Hydrogenated shortening:											
Crisco, Spry and Snowdrift 1-lb. glass	.35	.35	.35	.35	.35	.36	.36	.36	.37	.40	.38
Crisco and Spry 1-lb. carton	.34	.34	.34	.34	.34	.35	.35	.35	.35	.37	.36
Crisco, Spry and Snowdrift 3-lb. glass	.95	.95	.95	.95	.95	.98	.98	1.00	1.00	1.05	1.05
Standard shortening:											
Fluffo, 1-lb. carton	.26	.26	.26	.27	.27	.27	.27	.28	.28	.30	.29
Fluffo, 3-lb. carton	.77	.77	.78	.78	.79	.80	.80	.82	.83	.88	.84

2. In § 1418.363 (f), subparagraph (3) following the table of prices, incorrectly designated as "(2)", is deleted.

This amendment shall become effective August 8, 1944.

Issued this 3d day of August 1944.

JAMES G. ROGERS, Jr.,  
Acting Administrator.

[F. R. Doc. 44-11622; Filed, August 3, 1944; 11:32 a. m.]

points and the formula prices at such points the following:

Warsaw, Ill. \$1.14 1/4

This amendment shall become effective August 8, 1944.

Issued this 3d day of August 1944.

JAMES G. ROGERS, Jr.,  
Acting Administrator.

Approved: July 25, 1944.

MARVIN JONES,  
War Food Administrator.

[F. R. Doc. 44-11623; Filed, August 3, 1944; 11:30 a. m.]

## PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[2d Rev. MPR 346; Amdt. 4]

## CORN

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 20 (d) (3) is amended by adding to the list of interior barge loading

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

<sup>1</sup> 7 F.R. 10581, 11012; 8 F.R. 23, 567, 2158, 2445, 6964, 3844, 8184, 12549, 13166, 13305, 16514, 16626, 16627, 16865, 16986, 16793; 9 F.R. 301, 849, 1715, 2085, 2409, 4029, 4199, 4245, 4985.

<sup>2</sup> 8 F.R. 16606, 17512; 9 F.R. 2021, 3426, 4610.

particularly sections 401 and 1001 of said act, that a hearing in the above-entitled proceeding is assigned to be held on September 5, 1944, at 10 a. m. (eastern war time) in Room 3237 Post Office Building, Pennsylvania Avenue between 12th and 13th Streets NW, Washington, D. C., before Examiner William F. Cusick.

Dated Washington, D. C., July 31, 1944, By the Civil Aeronautics Board.

[SEAL]

FRED A. TOOMBS,  
Secretary.

[F. R. Doc. 44-11610; Filed, August 3, 1944; 10:25 a. m.]

## FEDERAL POWER COMMISSION.

[Docket No. G-563]

## UNITED NATURAL GAS COMPANY

## NOTICE OF APPLICATION

AUGUST 3, 1944.

Notice is hereby given that on July 31, 1942, United Natural Gas Company, a Pennsylvania corporation having its principal place of business in Oil City, Pennsylvania, filed with the Federal Power Commission its application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, for authority to construct and operate approximately 37 1/2 miles of 12 3/4-inch O. D. pipe line beginning at the point of delivery of gas to it near the Ellwood City compressing station of The Manufacturers Light and Heat Company in Beaver County, Pennsylvania, and extending in a northerly direction to Applicant's Mineral compressing station in Venango County, Pennsylvania.

Applicant asserts that The Manufacturers Light and Heat Company heretofore filed an application with the Federal Power Commission, Docket No. G-510, for authority to construct and operate certain facilities, which would, among other things, permit the sale and delivery of ten million cubic feet of natural gas daily to Applicant, and that on July 22, 1944, an order was entered authorizing such sale. Applicant claims that the facilities described above will be required in order that it may receive and transport such gas.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 19th day of August 1944, file with the Federal Power Commission a petition or protest in accordance with the Commission's provisional rules of practice and regulations under the Natural Gas Act.

[SEAL]

LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 44-11640; Filed, August 3, 1944; 11:52 a. m.]

## Notices

## CIVIL AERONAUTICS BOARD.

[Dockets Nos. 1360 and 1373]

## BRANIFF AIRWAYS, INC. AND T. E. BRANIFF

## NOTICE OF HEARING

In the matter of the applications of Braniff Airways, Inc., and T. E. Braniff for approval, under section 408 of the Civil Aeronautics Act of 1938, as amended, of the acquisition of control of Aerovias Braniff, S. A.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended,

## INTERSTATE COMMERCE COMMISSION.

[S. O. 70-A, Special Permit 428]

## RECONSIGNMENT OF ONIONS AT CINCINNATI, OHIO

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Cincinnati, Ohio, July 31, 1944, by S. A. Gerrard Company, of car SFRD 31297, onions, now on the Pennsylvania Railroad, to Thomas Dougherty, New York, New York, via Erie.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 31st day of July 1944.

V. C. CLINGER,  
Director,  
Bureau of Service.

[F. R. Doc. 44-11636; Filed, August 3, 1944;  
11:49 a. m.]

[S. O. 70-A, Special Permit 429]

## RECONSIGNMENT OF CANTALOUPES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Chicago, Illinois, August 1, 1944, by Fienerman & Son of car PFE 76010, cantaloupes, now on the Chicago Produce Terminal, to Joe Weiss, Detroit, Michigan, via Wabash.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it

with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 1st day of August 1944.

V. C. CLINGER,  
Director,  
Bureau of Service.

[F. R. Doc. 44-11637; Filed, August 3, 1944;  
11:49 a. m.]

[2d Rev. S. O. 210, General Permit 1]

## REFRIGERATION OF PEACHES FROM DESIGNATED STATES

Pursuant to the authority vested in me by paragraph (f) of Second Revised Service Order No. 210 of July 22, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To provide standard refrigeration on refrigerator cars loaded with peaches originating in North Carolina, South Carolina, Virginia and West Virginia, and to fill the bunkers to capacity when initial icing or reicing such cars of peaches.

This general permit shall become effective at 6:00 p. m., August 1, 1944, and shall apply on cars loaded or rolling at that time.

The waybills shall show reference to this general permit.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 1st day of August 1944.

V. C. CLINGER,  
Director,  
Bureau of Service.

[F. R. Doc. 44-11639; Filed, August 3, 1944;  
11:49 a. m.][2d Rev. S. O. 210, General Permit 1,  
Amended]

## REFRIGERATION OF PEACHES FROM DESIGNATED STATES

Pursuant to the authority vested in me by paragraph (f) of Second Revised Service Order No. 210 of July 22, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To provide standard refrigeration on refrigerator cars loaded with peaches originating in Alabama, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia and West Virginia, and to fill the bunkers to capacity when initial icing or reicing such cars of peaches.

This general permit shall become effective at 6:00 p. m., August 1, 1944, and shall apply on cars loaded or rolling at that time.

The waybills shall show reference to this general permit.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 1st day of August 1944.

V. C. CLINGER,  
Director,  
Bureau of Service.

[F. R. Doc. 44-11638; Filed, August 3, 1944;  
11:49 a. m.]

## OFFICE OF ALIEN PROPERTY CUSTODIAN.

[Vesting Order 3918]

## COPYRIGHTS OF CERTAIN FOREIGN NATIONALS

In re: Copyright interests held by certain foreign-nationals.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that each person whose name, nationality, and last known address where established, is listed at the top of each page of Exhibit A attached hereto and by reference made a part hereof, if an individual is a resident or citizen of, or if a business organization is organized under the laws of, and holds the nationality designated after the name of such person;

2. Finding that the persons listed in said Exhibit A jointly or severally own or control the property hereinafter described in subparagraph 3;

3. Determining that the property described as follows:

a. All right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of each person whose name, nationality, and last known address, where established, is designated at the top of each page of said Exhibit A, in, to and under the following:

1. Every copyright, claim of copyright and right to copyright, or rights related thereto, in each and all of the works described in each page of said Exhibit A under the name of such person;

2. Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to any, or all of the foregoing; excepting the rights of any person to renew any or all of the copyrights arising in, from or under any or all of the foregoing;

3. All monies and amounts, and all right to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to any or all of the foregoing;

4. All rights of reversion or reverting, if any, in any or all of the foregoing;  
 5. All causes of action accrued or to accrue at law or in equity with respect to any or all of the foregoing, including but not limited to the right to sue for and recover all damages and profits and to ask and receive any and all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting any or all of the foregoing:  
 is property of, or is property payable or held with respect to copyrights or rights related thereto, in which interests are held by and such property itself constitutes interests held therein by, nationals of one or more foreign countries.

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 3, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property and any or all of the proceeds thereof shall be held in an appropriate account or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof in whole or in part, nor shall it be deemed to indicate that compensation will not be paid in lieu thereof, if and when it should be determined to take any one or all of such actions.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may, within one year from the date hereof, or within such further time as may be allowed, file with the Alien Property Custodian on Form APC-1 a notice of claim, together with a request for a hearing thereon. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order No. 9095, as amended.

Executed at Washington, D. C., on July 11, 1944.

[SEAL] JAMES E. MARKHAM,  
Alien Property Custodian.

[F. R. Doc. 44-11635; Filed, August 3, 1944;  
11:44 a. m.]

#### OFFICE OF PRICE ADMINISTRATION.

[Rev. Gen. Order 46, Amdt. 1]

HEARING ADMINISTRATOR AND HEARING  
COMMISSIONERS

#### DELEGATION OF AUTHORITY

Revised General Order 46<sup>1</sup> is amended in the following respects:

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

<sup>1</sup> Issued 5-5-44, 9 F.R. 4911 (effective 5-6-44).

1. To determine whether any person has violated any regulation or order heretofore or hereafter issued by the Office of Price Administration or the Administrator pursuant to War Production Board Directive No. 1, as heretofore or hereafter supplemented, or pursuant to any Food Directive heretofore or hereafter issued to the Office of Price Administration or the Administrator, by the Secretary of Agriculture or the War Food Administrator; and upon such determination to issue such suspension orders and take such other action as may be appropriate in the premises.

This amendment shall become effective on the 7th day of August 1944.

(Pub. Law 421, 77th Cong.; Sec. 2 (a) of Pub. Law 671, 76th Cong.; as amended by Pub. Law 89, 77th Cong.; and by Pub. Law 507, 77th Cong.; E.O. 9125, 7 F.R. 2719; WPB Dir. No. 1, 7 F.R. 562, as supplemented; Food Dir. No. 3, 8 F.R. 2005; Food Dir. No. 5, 8 F.R. 2251; Food Dir. No. 6, 8 F.R. 3471, and Food Dir. No. 7, 8 F.R. 3471)

Issued this 2d day of August 1944.

CHESTER BOWLES,  
Administrator.

[F. R. Doc. 44-11605; Filed, August 2, 1944;  
4:31 p. m.]

[MPR 64, Order 153]

#### KING STOVE AND RANGE CO.

#### ADJUSTMENT OF MAXIMUM PRICES

Order No. 153 under Maximum Price Regulation No. 64. Domestic cooking and heating stoves. Approval of maximum prices for sales of a magazine type coal heater manufactured by King Stove and Range Company.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, the Stabilization Act of 1942, as amended, and Executive Orders Nos. 9250 and 9328, and in accordance with sections 7 and 11 of Maximum Price Regulation No. 64, *It is ordered:*

(a) King Stove and Range Company, Sheffield, Alabama, may sell and deliver the model No. 160 King-O-Heat magazine coal heater which it manufactures at prices no higher than the following:

To wholesale distributors, \$19.10 each in carload lots.

To wholesale distributors, \$21.57 each in less than carload lots.

To retailers, \$21.06 each in carload lots.

To retailers, \$24.89 each in less than carload lots.

These prices are for sales and deliveries made within the area described in paragraph (e) below and include delivery to the distributor or retailer. These prices are also subject to terms, discounts, and allowances no less favorable than those granted with respect to the comparable model No. 19 King Oak heater.

(b) Any wholesale distributor may sell and deliver to retailers the model No. 160 King-O-Heat magazine coal heater

manufactured by the King Stove and Range Company at a price no higher than \$25.39 each. This price is for sales and deliveries made within the area described below in paragraph (e) and includes delivery to the retailer.

(c) Any person may sell and deliver at retail the model No. 160 King-O-Heat magazine coal heater manufactured by King Stove and Range Company at a price no higher than \$39.50 each. This price is for sales made within the area described below in paragraph (e).

(d) At the time of or prior to the first invoice for a sale of the stove listed in this order to each purchaser for resale, on and after the effective date of this order, King Stove and Range Company, and every wholesale distributor, shall notify the purchaser, in writing, of the maximum prices and conditions set by this order for resale by the purchaser. This notice may be given in any convenient form. In addition King Stove and Range Company shall, before delivering any stove for which maximum prices are established by this order, attach securely to each stove a tag or label which plainly states the retail ceiling price established by this order for the particular model. This tag or label shall be attached to the front of each stove.

(e) The maximum prices established by this order are for sales and deliveries of the model No. 160 King-O-Heat magazine coal heater only within the District of Columbia and all States except Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, California, Arizona, Washington, Idaho, Utah, Nevada, Oregon, New Mexico, Colorado, Wyoming, and Montana.

(f) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective August 4, 1944.

Issued this 3d day of August 1944.

CHESTER BOWLES,  
Administrator.

[F. R. Doc. 44-11627; Filed, August 3, 1944;  
11:32 a. m.]

[MPR 188, Order 1994]

#### BOYPower, INC.

#### ADJUSTMENT OF MAXIMUM PRICES

Order No. 1994 under § 1499.158 of Maximum Price Regulation No. 188. Manufacturers' maximum prices for specified building materials and consumers' goods other than apparel. Approval of maximum prices for sales of a nest of tables manufactured by Boypower, Inc.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act, as amended, the Stabilization Act of 1942, as amended and Executive Order Nos. 9250 and 9328, *It is ordered:*

(a) This order establishes maximum prices for sales and deliveries, of a nest of tables manufactured by Boypower, Inc., 1940 South Main, Los Angeles, California.

(1) (i) For all sales and deliveries since the effective date of Maximum Price Regulation No. 188, by the manufacturer to retailers, and by the manufacturer to persons, other than retailers, who resell the article from the manufacturer's stock, the maximum prices are those set forth below:

Article	Model No.	Maximum price to persons, other than retailers, who resell from manufacturer's stock	Maximum price to retailers
Nest of tables.....	Each \$17.04	Each \$20.05	

These prices are f. o. b. factory, and subject to a cash discount of one percent for payment within ten days, net thirty days.

(ii) For all sales and deliveries by the manufacturer to any other class of purchaser or on other terms and conditions of sale, the maximum prices shall be those determined by applying to the prices specified in subparagraph (1) (i) of this paragraph (a), the discounts, allowances, and other price differentials made by the manufacturer, during March 1942, on sales of the same type of article to the same class of purchaser and on the same terms and conditions. If the manufacturer did not make such sales during March 1942 he must apply to the Office of Price Administration, Washington, D. C., under the fourth pricing method, § 1499.158, of Maximum Price Regulation No. 188, for the establishment of maximum prices for those sales, and no sales or deliveries may be made until authorized by the Office of Price Administration.

(2) (i) For all sales and deliveries on and after the effective date of this order to retailers by persons, other than the manufacturer, who sell from the manufacturer's stock, the maximum price is that set forth below, f. o. b. factory:

Article	Model No.	Maximum price to retailers
Nest of tables.....	Each \$20.05	

This price is subject to a cash discount of one percent for payment within ten days, net thirty days.

(ii) For all sales and deliveries by persons who sell from the manufacturer's stock, to any other class of purchaser or on other terms and conditions of sale, the maximum prices shall be those determined under the applicable provisions of the General Maximum Price Regulation.

(b) At the time of or prior to the first invoice to each purchaser, other than a retailer, who resells from the manufacturer's stock, the manufacturer shall notify the purchaser for resale of the maximum prices and conditions established

by subparagraph (a) (2) of this order for such resales. This notice may be given in any convenient form.

(c) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective on the 4th day of August 1944.

Issued this 3d day of August 1944.

CHESTER BOWLES,  
Administrator.

[F. R. Doc. 44-11626; Filed, August 3, 1944; 11:31 a. m.]

[MPR 188, Order 1995]

HOME BUILDING CORP.

#### ADJUSTMENT OF MAXIMUM PRICES

Order No. 1995 under § 1499.158 of Maximum Price Regulation No. 188, Manufacturers' maximum prices for specified building materials and consumers' goods other than apparel. Approval of maximum prices for sales of utility cabinets manufactured by Home Building Corporation.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, the Stabilization Act of 1942, as amended, and Executive Orders Nos. 9250 and 9328, *It is ordered:*

(a) This order establishes maximum prices for sales and deliveries of two utility cabinets manufactured by Home Building Corporation, 4534 Main, Kansas City, Missouri.

(1) (i) For all sales and deliveries since the effective date of Maximum Price Regulation No. 188, by the manufacturer to retailers, and by the manufacturer to persons, other than retailers, who resell the article from the manufacturer's stock, the maximum prices are those set forth below:

Article	Model No.	Maximum price to persons, other than retailers, who resell from manufacturer's stock	Maximum price to retailers
Utility Cabinet.....	{ 202 204	Each \$4.85 7.58	Each \$5.71 8.92

These prices are f. o. b. factory.

(ii) For all sales and deliveries by the manufacturer to any other class of purchaser or on other terms and conditions of sale, the maximum prices shall be those determined by applying to the prices specified in subparagraph (1) (i) of this paragraph (a), the discounts, allowances, and other price differentials made by the manufacturer, during March 1942, on sales of the same type of article to the same class of purchaser and on the same terms and conditions. If the manufacturer did not make such sales during

March 1942 he must apply to the Office of Price Administration, Washington, D. C., under the fourth pricing method, § 1499.158, of Maximum Price Regulation No. 188, for the establishment of maximum prices for these sales, and no sales or deliveries may be made until authorized by the Office of Price Administration.

(2) (i) For all sales and deliveries on and after the effective date of this order to retailers by persons, other than the manufacturer, who sell from the manufacturer's stock, the maximum price is that set forth below, f. o. b. factory:

Article	Model No.	Maximum price to retailers
Utility Cabinet.....	{ 202 204	Each \$5.71 8.92

(ii) For all sales and deliveries by persons who sell from the manufacturer's stock, to any other class of purchaser or on other terms and conditions of sale, the maximum prices shall be those determined under the applicable provisions of the General Maximum Price Regulation.

(b) At the time of or prior to the first invoice to each purchaser, other than a retailer, who resells from the manufacturer's stock, the manufacturer shall notify the purchaser for resale of the maximum prices and conditions established by paragraph (a) (2) of this order for such resales. This notice may be given in any convenient form.

(c) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective on the 4th day of August 1944.

Issued this 3d day of August 1944.

CHESTER BOWLES,  
Administrator.

[F. R. Doc. 44-11625; Filed, August 3, 1944; 11:31 a. m.]

[2d Rev. MPR 346, Revocation of Order 2]

CORN

#### ADJUSTMENT OF MAXIMUM PRICES

Order revoking Order No. 2 under section 13 of Second Revised Maximum Price Regulation 346.

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the provisions of section 13 of Second Revised Maximum Price Regulation 346; *It is hereby ordered:*

That Order No. 2 under section 13 of Second Revised Maximum Price Regulation 346 is herewith revoked.

This order shall become effective August 8, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 3d day of August 1944.

JAMES G. ROGERS, Jr.  
Acting Administrator.

[F. R. Doc. 44-11624; Filed, August 3, 1944; 11:29 a. m.]

## Regional and District Office Orders.

[Region VI Order G-16 Under RMPR 122, Appendix I]

## SOLID FUELS IN SIOUX FALLS, S. DAK.

Appendix No. I to Order No. G-16 under Revised Maximum Price Regulation No. 122. Solid fuels sold and delivered by dealers. Maximum prices for solid fuels sold in Sioux Falls, South Dakota.

(a) This Appendix No. I applies to domestic delivered sales and to yard sales, when the delivery is received or the yard is located within the corporate limits of the City of Sioux Falls, Minnehaha County, South Dakota.

(b) Immediately below and as part of this paragraph (b) is a price schedule which sets forth maximum prices for domestic delivered sales of specified sizes, kinds and quantities of solid fuels. When yard sales of the sizes, kinds and quantities of solid fuels specified in the price schedule below are made, the maximum prices for such sales shall be the prices established by the price schedule below for sales by direct delivery, minus 50¢ per ton.

## PRICE SCHEDULE

PRICE SCHEDULE		
Domestic delivered		
	1 ton	½ ton
I. Low Volatile Bituminous Coal from District No. 7 (W. Va.):		
1. Lump and Egg, Size Groups Nos. 1 & 2.	\$15.85	\$8.20
2. Stove, Size Group No. 3 (top size larger than $1\frac{1}{4}$ " but not exceeding 3"; bottom size smaller than 3")	14.35	7.45
3. Nut, Size Group No. 4 (top size larger than $3\frac{1}{4}$ " but not exceeding $1\frac{1}{4}$ "; bottom size smaller than $1\frac{1}{4}$ ")	13.60	7.05
4. Pea, Size Group No. 5 (top size not exceeding $3\frac{1}{4}$ "; bottom size smaller than $3\frac{1}{4}$ ")	13.10	6.80
5. Screenings, Size Group No. 9 (larger than $3\frac{1}{8}$ " x 0" but not exceeding $3\frac{1}{4}$ " x 0")	12.00	6.25
II. High Volatile Bituminous Coal from District No. 8 (E. Ky.):		
1. Lump and Egg, Price Classification A and coal from Millers Creek, and Jellico seams, in Size Group Nos. 1 and 2.	15.00	7.75
2. Stoker, Price Classification A, Size Group No. 10 (top size $1\frac{1}{4}$ " and smaller; bottom size smaller than $1\frac{1}{2}$ ")	12.60	6.55
III. High Volatile Bituminous Coal from District No. 9 (W. Ky.):		
A. Sixth Seam Mines:		
1. Stoker Screenings, 1", Size Group No. 26-29 Inclusive (dry dedusted screenings, top size not exceeding 2")	10.05	5.30
IV. High Volatile Bituminous Coal from District No. 10 (Illinois):		
A. Southern subdistrict, Price Group Nos. 1 and 2:		
1. Lump or Egg, Size Group Nos. 1-3 (including 6" x 3" egg)	11.45	6.05
2. Stove, Size Group No. 8 (top size 2" to larger than $1\frac{1}{4}$ "; bottom size smaller than 2" to larger than $\frac{1}{4}$ ")	10.30	5.40
V. High Volatile Bituminous Coal from District No. 14:		
A. Production Group Nos. 3 and 5 (all mines in the "Paris field" of Logan County, mines in Franklin County located in Paris Basin, and all mines in Sebastian County, Arkansas):		
1. Furnace ("lump" or "egg") Size Group 6 and 7 in Price Classification A; Size Group No. 7 in Price Classification B-E. (All double screened coals with (a) bottom size larger than 4"; or (b) top size larger than 4" and bottom size larger than $2\frac{1}{2}$ " but not larger than 4")	14.50	7.50
2. Lump, 10", size group No. 1, Price Classification A (solid shot; lump screened over bar screens spaced more than $\frac{1}{4}$ " apart)	14.50	7.50

## PRICE SCHEDULE—Continued

PRICE SCHEDULE—Continued		
Domestic delivered		
	1 ton	½ ton
V. High Volatile Bituminous Coal from District No. 14—Con.		
3. Lump, 8" size group No. 4, Price Classification C (machine-cut; lump screened over perforated plates with round holes $2\frac{1}{2}$ " and larger)	\$14.10	\$7.30
4. Egg, 8" x $2\frac{1}{2}$ ", size group No. 8, Price Classification A (All double-screened coals with (a) top size larger than 4", bottom size $2\frac{1}{2}$ " and smaller; or (b) top size larger than 3" but not larger than 4", bottom size larger than 2" but not larger than 4")	14.60	7.55
5. Egg, 4" x 2", Size group No. 9, Price Classification A (All double-screened coals with (a) top size larger than 3" but not larger than 4", bottom size 2" and smaller; or (b) top size larger than $2\frac{1}{2}$ " but not larger than 3" and bottom size larger than $1\frac{1}{2}$ " but not larger than 3")	14.35	7.45

B. Production Group No. 1 (All mines in Pope County, all mines in the "Spadra field" of Johnson County, Arkansas):		
1. Furnace (or "Egg") size group No. 7, Price Classification A (All double-screened coals with top size larger than 4", bottom size larger than $2\frac{1}{2}$ " but not larger than 4")	14.40	7.45
2. Egg, Size group No. 8, Price Classification A (for screen sizes, see description for item A-4 above)	14.85	7.70
C. Production Group No. 7 (Mines in the "Bokosha and Milton field" of Leflore County, Oklahoma, mines in the McCurtain field of Haskell County, and all mines in Sequoyah County, Oklahoma):		
1. Furnace ("grate", "lump") in size group Nos. 6 and 7, Price Classification F (for screen sizes, see description for item V-A-1 above)	14.00	7.25
VI. Pennsylvania Anthracite: 1. Egg Stove, Nut	19.05	9.70
VII. By Product Coke	17.00	8.75
VIII. Briquettes:		
1. Standard	14.35	7.45
2. Low Volatile (made from Classification A District No. 7 low volatile coal)	15.25	7.90

(c) *Service charges.* Immediately below and as a part of this paragraph (c) is a schedule of service charges which sets forth maximum prices which a dealer may charge for the special services described, when rendered in connection with sales of solid fuel covered by this appendix. These charges may be made only if the buyer requests such service of the dealer and only when the dealer renders the service pursuant to such request. These service charges shall be separately stated in the dealer's invoice.

## SCHEDULE OF SERVICE CHARGES

	Per ton
a. Trimming	\$0.75
b. Carry from curb	.75
c. Carry up or downstairs	1.00
d. Wheel-in	.50

(d) *Treatment charges.* When a dealer purchases bituminous coal directly from a producer who has added a charge for the chemical or oil treatment thereof in accordance with the applicable provisions of Maximum Price Regulation 120, that dealer, in selling that coal, may add to the applicable maximum prices set by this appendix a treatment charge in an amount not in excess of 10¢ per ton. The treatment charge so made shall be stated separately from all other items on the dealer's invoice.

(e) *Discounts for cash.* The maximum prices provided for in this appen-

dix shall be reduced by 50¢ a ton if payment is made upon delivery or within 5 days from the date of delivery.

(f) *Definitions.* When in this appendix, reference is made to "domestic delivered sales," that term shall refer to sales by direct delivery made to private residences or to apartment buildings of 3 units or less.

This Appendix No. I to Order No. G-16 shall be effective July 29, 1944.

(56 Stat. 23, 765; 57 Stat. 566, Pub. Laws 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of July 1944.

RAE E. WALTERS,  
Regional Administrator.

[F. R. Doc. 44-11550; Filed August 1, 1944; 4:52 p. m.]

[Region VI Order G-16 Under RMPR 122, Appendix II]

## SOLID FUELS IN SIOUX CITY, IOWA, AREA

Appendix No. II to Order No. G-16 under Revised Maximum Price Regulation No. 122. Solid fuels sold and delivered by dealers. Maximum prices for solid fuels sold in the Sioux City, Iowa, area.

(a) This Appendix No. II applies to sales of solid fuels made by dealers in the Sioux City, Iowa, area, that area being the territory located within the corporate limits of Sioux City, Iowa, and the suburban areas of Riverside, Leeds and Morningside, Iowa, and South Sioux City, Nebraska.

(b) *Maximum prices.* Immediately below and as part of this paragraph (b) is a price schedule which sets forth maximum prices for domestic delivered sales of specified sizes, kinds and quantities of solid fuels.

## (1) Price schedule.

Domestic delivered to consumer		
	1 ton or more	½ ton
I. High Volatile Bituminous Coal from District No. 10 (Illinois):		
A. Southern subdistrict—Price Group Nos. 1 and 2:		
1. Lump—Size Group 1, 5" and larger	\$11.50	\$6.25
2. Egg—Size Group 3, including 6" x 3" 7" x 3", 8" x 3"	11.45	6.25
3. Stove—Size Group 8, including 2" x 1½"	10.95	6.00
4. Stoker Nut—Size Group 22, including $\frac{3}{4}$ " to 1" x 10 mesh (treated)	10.20	5.60
II. High Volatile Bituminous Coal from District No. 12 (Iowa):		
A. Centerville subdistrict:		
1. Chunk or Lump, Size Group Nos. 1 and 2	10.10	5.55
III. High Volatile Bituminous Coal from District No. 14 (Arkansas-Oklahoma):		
A. Production Group No. 3 (Includes all mines in the "Paris field" of Logan County, Arkansas, and mines in Franklin County located in Paris Basin):		
1. Grate—Size Group 6 (All double screened coals with a bottom size larger than 4")	15.70	8.85
2. Furnace—Size Group 7 (All double screened coals with a top size larger than 4" and a bottom size larger than $2\frac{1}{2}$ " but not larger than 4")	14.85	7.95

	Domestic delivered to consumer	
	1 ton or more	½ ton
III. High Volatile Bituminous Coal from District No. 14—Con.		
A. Production Group No. 3—Con.		
3. Egg—Size Group 8 (All double screened coal with a top size larger than 4" and a bottom size 2½" and smaller; also all double screened coal with a top size larger than 3" but not larger than 4" and a bottom size larger than 2" but not larger than 4")	\$14.85	\$7.95
B. Production Group No. 5 (Includes all mines in Sebastian County, Arkansas):		
1. Lump (Machine Out)—Size Group 4 (All lump coal 2½" and larger)	15.05	8.05
2. Egg—Size Group 8 (For dimensions see III-A-3 above)	14.95	8.00
3. Nut—Size Group 11 (All double screened coals with a top size larger than 1½" but not larger than 2½" and a bottom size larger than ¾" but not larger than 1½")	13.95	7.50
C. Production Group No. 6 (Includes all mines in the "Panama field" of Leflore County, Oklahoma):		
1. Lump (Machine Out)—Size Group 4 and Grate, Size Group 6 (All lump coal 2½" and larger; and all double screened coals with a bottom size larger than 4")	14.70	7.85
2. Egg—Size Group 8 (For dimensions see III-A-3 above)	14.45	7.75
IV. High Volatile Bituminous Coal from District No. 15 (Kansas, Missouri, and part of Oklahoma):		
A. Production Group No. 1 (All mines located in Cherokee, Crawford, Bourbon, Neosho, Labette and Wilson Counties, Kansas; and Barton, Jasper, Dade, Cedar, and that portion of Vernon County lying south of an east and west line drawn through the town of Nevada, Missouri):		
1. Furnace or Egg—Size Group 3 (Double screened coals with a top size not larger than 10" but larger than 3" and a bottom size larger than 1¼")	10.15	5.60
2. Special Stoker—Size Group 11 (Double screened coals with a top size 1½" and smaller and a bottom size larger than ½" but not larger than ¾")	8.75	4.90
B. Production Group No. 3 (All mines located in Boone, Callaway, Audrain, Randolph, Clark, Macon, Moniteau, Linn, Grundy, Harrison, Adair, Charlton, Schuyler, Putnam, Cole, Howard, Monroe, Warren, Lincoln, Sullivan and Rails Counties in Missouri):		
1. Fancy Nut—Size Group 5 (Double screened coals with a top size not larger than 3" but larger than 2" and a bottom size larger than 1¼")	8.85	4.95
2. Standard Nut—Size Group 6 (Double screened coals with a top size not larger than 3" but larger than 2" and a bottom size 1¼" and smaller)	8.65	4.85
3. Special Stoker—Size Group 11 (For dimensions see IV-A-2 above)	8.30	4.65
4. Washed Screenings—Size Group 13 (Including 1½" x 0 and smaller)	7.50	4.25
C. Production Group No. 10 (All mines located in McIntosh and in Okmulgee Counties, Oklahoma):		
1. Special Stoker—Size Group 11 (For dimensions see IV-A-2 above)	9.70	5.35
V. High Volatile Bituminous Coal from District No. 19 (Wyoming):		
A. Subdistrict No. 2—Rock Springs (Sweetwater and Sublette Counties):		
1. Slack and Stoker Screenings, treated, Size Group Nos. 15 and 16, including sizes 1½" x 0 and 1" x 0	10.80	5.90
VI. Briquettes:		
1. Berwind and Stott	16.10	8.55
2. Standard	14.60	7.80

(2) When yard sales of the sizes, kinds and quantities of solid fuels specified in the price schedule appearing in paragraph (b) (1) above are made to consumers, the maximum prices for such sales shall be the prices established by that price schedule, minus \$1.00 per ton.

(3) When yard sales of the sizes, kinds and quantities of solid fuels specified in the price schedule appearing in paragraph (b) (1) above are made to resellers, the maximum prices for such sales shall be the prices established by that price schedule, minus \$2.00 per ton.

(4) When commercial sales of the sizes, kinds and quantities of solid fuels specified in the price schedule appearing in paragraph (b) (1) above are made, the maximum prices for such sales shall be the prices established by that price schedule, minus 50 cents per ton.

(5) When industrial sales of the sizes, kinds and quantities of solid fuels specified in the price schedule appearing in paragraph (b) (1) above are made, the maximum prices for such sales shall be the prices established by that price schedule, minus \$1.00 per ton.

(c) *Service charges.* Immediately below and as a part of this paragraph (c) is a schedule of service charges which sets forth maximum prices which a dealer may charge for the special services described, when rendered in connection with sales of solid fuel covered by this appendix. These charges may be made only if the buyer requests such service of the dealer and only when the dealer renders the service pursuant to such request. These service charges shall be separately stated in the dealer's invoice.

#### SCHEDULE OF SERVICE CHARGES

	Per ton
Carry from curb	\$0.55
Carry up or down stairs	.55
Double carry or wheel-in	1.10

(d) *Discounts for payment upon delivery.* The maximum prices provided for in this appendix shall be reduced by 50 cents per ton if payment is made upon delivery.

(e) *Definitions.* When used in this appendix, the following terms shall have the meanings set forth below.

(1) "Commercial sales" include the following:

(a) Sales for apartment buildings having from 3 to (and including) 6 units and having a single heating plant.

(b) Sales to business establishments using twenty-five tons or less annually.

(2) "Industrial sales" refers to sales to users of more than twenty-five tons annually.

(3) "Double carry or wheel-in" refers to the movement of fuel in those situations where the buyer's bin or storage space is so located within the building or structure, that the fuel cannot be moved from the vehicle to the bin or storage space in one operation, but must be carried or wheeled to the building, dropped within it, and must then be picked up and wheeled or carried to the bin or storage space.

This Appendix No. II to Order No. G-16 shall become effective July 29, 1944.

(56 Stat. 23, 765; 57 Stat. 566, Pub. Laws 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 25th day of July 1944.

RAE E. WALTERS,  
Regional Administrator.

[F. R. Doc. 44-11551; Filed, August 1, 1944;  
4:52 p. m.]

[Region I Order G-72 Under RMPR 122]

#### BEEHIVE OVEN COKE IN BOSTON REGION

Order No. G-72 under Revised Maximum Price Regulation No. 122. Solid fuels sold and delivered by dealers. Beehive oven coke sold by dealers in Region I.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of Region I of the Office of Price Administration by § 1340.259 (a) (1) of Revised Maximum Price Regulation No. 122 and the Emergency Price Control Act of 1942, as amended, Region I Order No. G-72 under Revised Maximum Price Regulation No. 122 is hereby issued.

(a) *What this order does.* This order establishes maximum prices for all sales of beehive oven coke, both fresh and reclaimed, by dealers in Region I (the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut) when such coke is sold for use as fuel, or for resale as fuel. It provides a pricing method which is to be used in place of the pricing rules which are set forth in § 1340.254 (b) of Revised Maximum Price Regulation No. 122, but all other provisions of Revised Maximum Price Regulation No. 122 remain applicable to sales by dealers of these solid fuels. The maximum prices for all sales pursuant to which the purchaser takes delivery of the beehive coke in Region I must be determined hereunder.

(b) *Maximum price.* The maximum prices for the sales and deliveries of beehive oven coke (fresh or reclaimed) described in paragraph (a) hereof shall be the sum of:

(1) The net cost, f. o. b. supplier's shipping point (exclusive of the \$.04 per net ton referred to in section 11 (b) of Maximum Price Regulation No. 77, when the supplier adds that \$.04);

(2) The actual transportation cost from supplier's shipping point to the dealer's yard, dock or other terminal facility, when such transportation is by common or contract carrier; or the actual cost of such transportation, not to exceed the truck common carrier rate for an identical shipment, when the dealer transports the coke in his own trucks; and

(3) The margin over delivered cost on the dealer's similar sale of Pennsylvania Anthracite most nearly like the sale of the coke for which a maximum price is being calculated hereunder, taking into account the size, use and quantity of fuel, class of purchaser, method of purchase and delivery and terms of delivery.

*Provided,* That when the coke is purchased f. o. b. truck and delivered directly to the purchaser, item (2) shall be eliminated and the maximum price shall be the sum of item (1) and item (3), using as item (3) the margin on a sale of Pennsylvania Anthracite which is so purchased and delivered.

(c) *Determination of margin in certain cases.* If the dealer does not himself handle Pennsylvania anthracite and so has no actual margin from his own experience for use under paragraph (b) hereof, he may nevertheless price hereunder. In such case, the margin to be used shall be determined as follows:

(1) If there is an area price order under § 1340.260 of Revised Maximum Price Regulation No. 122 which establishes specific maximum prices for the type of sale of Pennsylvania anthracite which is similar to the proposed sale of coke the margin shall be that which the dealer would obtain were he to deal in Pennsylvania anthracite.

(2) If there is no such area price order in effect, and if the dealer handles other kinds of coke from the prices of which an appropriate margin could be determined, the dealer may at his option either:

(i) Use such coke margin; or

(ii) May apply by letter to his District Office of the Office of Price Administration, stating that he does not handle Pennsylvania anthracite and giving the name and address of his most closely competitive dealer of the same class who does handle it. The District Office will then notify the dealer by letter of the margin he may use.

(3) If no margin is available from an area price order, the dealer cannot or does not wish to use the margin on another coke, and the dealer cannot find a closely competitive dealer who handles Pennsylvania anthracite, the dealer shall apply to his District Office of the Office of Price Administration stating why he is unable to price under the other provisions of this order, and a margin for his use hereunder will be supplied by letter.

(d) *Records and reports.* (1) Every dealer who prices beehive coke under paragraph (b) of this order shall preserve all invoices and other records of his purchases of said coke, and shall keep a record of all sales showing the date, the name and address of the buyer (if known), the price charged and the coke sold. The record shall also separately state each service rendered and the charge made for it.

(2) Every dealer who prices beehive coke under this order, shall within ten days after he determines or redetermines any maximum price hereunder file a report with his District Office of the Office of Price Administration containing a description of the coke, the maximum price thereof to each class of purchaser to whom it is sold and a detailed showing of the method of computation of said maximum prices, including each item entering into such computation. Separate reports must be filed for each purchase which varies in cost from any beehive coke previously reported by the dealer.

(e) *Terms of sale and charges for services.* Terms of sale and charges for services shall be those applicable to the sale of the anthracite (or, if a coke margin is used under paragraph (c) (2) (i), the coke) which is used to determine the margin to be used in calculating the maximum price under this order.

(f) *Transportation tax.* Under section 11 (b) of Maximum Price Regulation No. 77, a producer of beehive oven coke is permitted to add to his maximum price an amount not in excess of \$0.04 per net ton of coke, to the extent that he incurred a tax on the transportation of coal under section 620 of the Revenue Act of 1942, and if he separately states the amount thereof in sales to purchasers other than

governmental agencies. Distributors and other resellers are permitted to pass that charge on to their purchasers, either under said section of Maximum Price Regulation No. 77 or under Revised Maximum Price Regulation No. 122. Any dealer subject to this order may collect said \$0.04 per net ton, in addition to the maximum prices established by this order, to the extent and in the manner provided by § 1340.265 (b) of Revised Maximum Price Regulation No. 122.

(g) *Definitions.* When used in this Order G-72, the term:

(1) "Beehive oven coke" means all coke made in beehive ovens, including beehive oven coke reclaimed from dumps.

(2) A dealer's "District Office of the Office of Price Administration" shall mean the respective District Offices in the case of dealers located in Maine, New Hampshire, Vermont, Rhode Island and Connecticut, and the Regional Office for Region I, Boston, Massachusetts, in the case of dealers located in Massachusetts.

(3) "Margin over delivered cost on the dealer's similar sale of Pennsylvania anthracite coal" shall mean the difference between (a) the dealer's maximum price of Pennsylvania anthracite of the most nearly similar size to the same class of purchaser, and (b) the total of (i) the dealer's supplier's maximum price for that anthracite (gross, before any cash or other discounts), and (ii) the actual transportation cost to the dealer's yard, dock or other terminal facility (net after compensatory adjustment if the dealer is eligible for compensatory adjustment on anthracite coal under Revised Compensatory Adjustment Regulation No. 1). In the case of beehive coke purchased f. o. b. truck at the yard of another dealer and delivered direct to the purchaser, the margin used shall be the margin available on anthracite which is so purchased and delivered. "Taking into account class of purchaser, method of delivery and terms of delivery" means, by way of illustration, that there shall be taken into consideration differences in maximum prices for sales of anthracite delivered to consumers, sold at the yard to consumers, and sold at the yard to other dealers, both equipped and unequipped; and differences in margins available on sales of anthracite purchased f. o. b. mine and received by rail or barge at the dealer's yard or dock, and on sales of anthracite purchased at the yard of another dealer and delivered to the consumer. In no case, however, shall the dealer use a margin available on a Pennsylvania anthracite coal which has a mine price higher than those set forth in § 1340.200 (a) (1) of Maximum Price Regulation No. 112, if that margin differs from his margin on anthracite which is priced under that section at the mines; nor shall he use any higher margin which is available on any separately named and priced anthracite which is priced under that section at the mines.

(4) Except as is otherwise specifically provided herein, and unless the context otherwise requires, the definitions set forth in §§ 1340.225 and 1340.266 of Revised Maximum Price Regulation No. 122 shall apply to the terms used herein.

(h) *Lower prices permitted.* Lower prices than those provided for herein may be charged, paid or offered.

(i) This order may be revoked, amended, or corrected at any time.

This Order No. G-72 shall become effective August 7, 1944: *Provided, however,* That it shall become effective immediately as to any dealer who elects to price hereunder prior to said date.

NOTE: The reporting and record keeping provisions of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(56 Stat. 23, 765, 57 Stat. 566, Pub. Law 333, 78th Cong.; E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 29th day of July 1944.

ELDON C. SHOUP,  
Regional Administrator.

[F. R. Doc. 44-11598; Filed, August 2, 1944; 1:26 p. m.]

[District of Columbia Order G-1 Under  
MPR 165]

LAUNDRY SERVICES IN DISTRICT OF COLUMBIA AREA

Order No. G-1 under § 1499.114 (d) of Maximum Price Regulation No. 165, as amended. Services. Adjustment of laundry service prices in Washington, D. C. area.

An application for permission to increase its present maximum prices for all its laundry linen supply, dry cleaning and storage services, as established under Maximum Price Regulation No. 165, as amended. Services, has been filed with the District of Columbia District Office of the Office of Price Administration by National Laundry Company, Inc., of 21 Pierce Street, N.W., Washington, D. C., which supplies such services in the Washington, D. C. area. After due consideration of this application and other available information, it has been decided that the application should be granted in part and denied in part for the reasons set forth in the accompanying Opinion.

Accordingly, pursuant to the Emergency Price Control Act of 1942, as amended, and § 1499.114 (d) of Maximum Price Regulation No. 165, as amended, Services, *It is hereby ordered:*

(a) The application of the National Laundry Company, Inc. is granted to the extent that it is permitted to increase its present legal maximum prices for all its laundry, linen supply, dry cleaning, and related services, including commercial services, by the amount of six (6%) per cent.

(b) The applicant is permitted to add to its present legal maximum price to agent drivers and retail hand laundry establishments supplied by it the percentage price increase granted to it in paragraph (a). Agent drivers and retail hand laundry establishments, any of whose laundry services are supplied by the applicant, are permitted to add to their retail prices for such services one-half only of the percentage increase herein granted to their supplier, in the manner provided by paragraph (c) of

this order. They shall be subject to all the other provisions of this order which are applicable to their circumstances.

(c) The percentage increases permitted to any laundry establishment by this order shall be applied only to the total amount of the bill rendered to each customer for any service afforded (as it would be computed under existing lawful maximum prices). Such increases may not be applied to individual items of service. Existing price lists shall not be altered. If the increased prices so arrived at include a fraction of a cent less than one-half, the price that may be charged shall be reduced to the next lower cent. If, however, the increased price includes a fraction equal to or more than one-half cent, the seller shall be permitted to charge the next higher cent.

(d) The applicant and any retail hand laundry establishment and any driver agent of the applicant which has been granted a price increase by this order shall give notification of such price increase as follows: (1) furnish each customer within 15 days after the effective date of this order with a statement describing its services, and specifying its lawful ceiling prices, and the percentage increase permitted it by the order; (2) file a copy of the same statement with the District of Columbia District Office of the Office of Price Administration within 15 days after the effective date of this order, together with a statement signed by a responsible official of the laundry establishment certifying that the applicant has complied with section (1) above; (3) indicate on each bill rendered the amount of the permitted increase either in terms of the percentage plus the dollar amount or in dollar amount without stating the percentage; and (4) give all new customers as acquired the same notification as hereinabove provided for existing customers.

(e) In addition, the applicant shall immediately advise its agent driver and retail hand laundry customers of the amount of permitted price increase which the latter may add to their total bills under the provisions of paragraph (c) of the order, and of the manner in which such permitted increase shall be computed.

(f) Customary allowances, discounts, or other price differentials may not be changed by any of the laundry service suppliers named or otherwise referred to in this order, unless such change results in prices lower than the prices permitted by this order, after applying the supplier's customary allowances, discounts, or other price differentials; and all laundry service suppliers named or otherwise referred to herein shall maintain all of their legal current pricing and other business practices.

(g) The applicant shall keep this order and the accompanying opinion in its establishment, together with the statement required by § 1499.108 of Maximum Price Regulation No. 165, as amended, and make them available for

inspection by any person during business hours.

(h) Except as expressly provided by this order, the applicant shall remain in all respects subject to all of the provisions of Maximum Price Regulation No. 165, as amended.

(i) This order may be revoked or amended by the District Director, the Regional Administrator of Region II, or the Price Administrator through the issuance at any time hereafter of any order or price regulation, or amendment or supplement thereto.

(j) Any relief requested by the applicant not expressly granted herein is denied. To the extent that the application has been denied, the applicant may, within sixty (60) days after the date on which this order was issued, request the Regional Administrator of Region II to review such order of denial in the manner provided by Revised Procedural Regulation No. 1.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871, and E.O. 9328, 8 F.R. 4681)

This order shall become effective June 29th, 1944.

Issued June 19th, 1944.

ROBERT K. THOMPSON,  
District Director.

[F. R. Doc. 44-11597; Filed, August 2, 1944;  
1:25 p. m.]

[Region III Order G-4 Under MPR 188]

**SHALE AND CLAY BUILDING BRICK IN CUYAHOGA COUNTY, OHIO**

Order No. G-4 under Maximum Price Regulation No. 188. Manufacturers' maximum prices for specified building materials and consumers' goods other than apparel. Order adjusting maximum prices for shale and clay building brick produced in Cuyahoga County, Ohio.

An opinion accompanying this order, issued simultaneously herewith, has been filed with the Division of the Federal Register.

Under the authority vested in the Regional Administrator of Region III of the Office of Price Administration, by § 1499.161 of Maximum Price Regulation No. 188 and § 1499.18 (c) of the General Maximum Price Regulation, *It is hereby ordered:*

(a) (1) On and after July 26, 1944, any manufacturer located in Cuyahoga County, Ohio, producing standard size shale and clay building brick (smooth, sanded or wire cut) may increase his maximum prices established by Maximum Price Regulation No. 188 and in effect on June 14, 1943, by an amount not in excess of \$3.00 per thousand on sales f. o. b. plant or delivered to destination except, however, if the manufacturer had an established differential in price during the month of March 1942 for non-standard sizes of building brick he may convert the adjustment granted herein for standard size brick, to non-standard size brick on the basis of

the conversion factors or formula in use by him during March 1942 in establishing a price differential between the standard size brick and the non-standard size brick.

(a) On and after July 26, 1944, any person who purchases shale and clay building brick for the purpose of resale from any manufacturer located in Cuyahoga County, Ohio, whose maximum price has been adjusted pursuant to subdivision (1) may increase his maximum prices f. o. b. yard or delivered, established by the General Maximum Price Regulation in effect on June 14, 1943, by an amount not in excess of the dollar-and-cent increase in cost to him resulting from the adjustment permitted herein to producers.

(b) Every producer of shale and clay building brick, taking advantage of the adjustment permitted in this order, shall invoice his customers at prices in effect on June 14, 1943 and shall show on such invoices, separately stated, any amount charged in addition thereto under the provisions of this order.

(c) Every producer of shale and clay building brick, taking advantage of the adjustment permitted in this order, shall, with or prior to the first delivery of shale and clay building brick to any person who purchases the same for resale, advise the purchaser of the contents of paragraphs (a) (2) and (f) of this order.

(d) The maximum prices fixed herein shall be subject to at least the same extension of cash, quantity, and other discounts, transportation allowances, and the same rendition of transportation and other services as the seller extended or rendered on comparable sales to purchasers of the same class during the month of March 1942.

(e) Any adjustments granted by the Office of Price Administration subsequent to June 14, 1943, and prior to July 26, 1944, adjusting maximum prices for any manufacturers located in Cuyahoga County, Ohio, producing shale and clay building brick and building tile, are hereby revoked insofar as all such orders are applicable to shale and clay building brick and building tile.

(f) Any adjustments granted by the Office of Price Administration subsequent to June 14, 1943 and prior to July 26, 1944, adjusting maximum prices for resale of shale and clay building brick and building tile purchased from manufacturers located in Cuyahoga County, Ohio, are revoked insofar as such orders are applicable to shale and clay building brick and building tile.

This order may be modified, amended or revoked by the Office of Price Administration at any time.

This order shall become effective July 26, 1944.

(56 Stat. 23, 765, 57 Stat. 566, Pub. Laws 383, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 26th day of July 1944.

BIRKETT L. WILLIAMS,  
Regional Administrator.

[F. R. Doc. 44-11800; Filed, August 2, 1944;  
1:25 p. m.]

## SECURITIES AND EXCHANGE COMMISSION.

[File No. 4-54]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM  
ORDER TEMPORARILY PROHIBITING SOLICITATION, PENDING HEARING, AND DESIGNATING DATE FOR HEARING TO DETERMINE WHETHER SOLICITATION SHALL BE PROHIBITED

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 1st day of August 1944.

The Commission having applied, pursuant to section 11 (d) of the Public Utility Holding Company Act of 1935, to the United States District Court for the District of Massachusetts, and said Court after hearing on said application having entered its decree on October 11, 1943, to enforce compliance with an order of this Commission dated July 21, 1942, directing that International Hydro-Electric System, a registered holding company, liquidate and dissolve in accordance with the requirements of section 11 (b) of the act; and said Court by said decree for the purpose of enforcement of the Commission's order of July 21, 1942 having taken and retained exclusive jurisdiction of International Hydro-Electric System and the assets thereof wherever located and having permitted International Hydro-Electric System to retain possession of its assets and to continue the operation of its business through its directors, officers and employees in accordance with its Declaration of Trust, except as otherwise provided by the decree or any subsequent decree or order thereafter entered by said Court; and

International Hydro-Electric System having filed with the Commission and with the United States District Court for the District of Massachusetts, under date of July 13, 1944, a certified copy of a resolution adopted by its board of directors as follows:

Whereas the legal custody and administration of the affairs of this Trust are now subject to the jurisdiction and control of the United States District Court, and whereas it is the consensus of opinion of this Board that in view of the present situation it is for the best interest of the administration of the Trust that no meeting of shareholders be now held, now therefore be it

Resolved: That no date now be fixed or call issued for a meeting of shareholders until further action by this Board or direction in respect thereto by the Court; and that the proper officers be authorized to file a copy of this resolution with the Court having juris-

diction and with the Securities and Exchange Commission and to incorporate notice of this action in the Annual Report to the shareholders.

and

It now appearing to the Commission that International Hydro-Electric System has not set a date or issued a call for a meeting of shareholders for the election of directors or other action of such shareholders; that the United States District Court for the District of Massachusetts has not determined or directed that any such meeting of shareholders be held; and that a certain shareholder of International Hydro-Electric System is proposing to solicit proxies and authorizations for the election of a new board of directors and has submitted pursuant to Rule U-61 of the rules and regulations promulgated under the Public Utility Holding Company Act of 1935 and particularly section 12 (e) of the act, solicitation material with a view to imminent transmission thereof to shareholders of International Hydro-Electric System; and

It further appearing to the Commission that it may be appropriate in the public interest and in the interest of investors and consumers that no person solicit or permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding the voting of any security of International Hydro-Electric System unless and until such time as the United States District Court for the District of Massachusetts may determine or direct that a meeting of shareholders be held for the purpose of election of directors or other action of such shareholders; and

The Commission deeming it appropriate that a hearing be held to determine whether or not it should issue an order under the applicable provisions of the Public Utility Holding Company Act of 1935 and the Rules thereunder, particularly section 12 (e) of the act and Rule U-100, prohibiting any person to solicit, or permit the use of his or its name to solicit, any proxy, power of attorney, consent, or authorization regarding the voting of any security of International Hydro-Electric System except by order of this Commission unless and until the United States District Court for the District of Massachusetts may determine or direct that a meeting of shareholders be held for the election of directors or for some other purpose, and to determine whether Rule U-61 should not be with-

drawn or modified in its application to any such solicitation.

Notice is hereby given of a hearing to be held for the purpose of making this determination indicated in the preceding paragraph of this order. Said hearing will be held on August 22, 1944 at 10:00 a. m., e. w. t. in the office of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pa., in such room as may be designated by the hearing room clerk in Room 318. All persons desiring to be heard in the proceeding shall notify the Commission on or before August 17, 1944;

Notice is also given and, *It is ordered*, That pending said hearing and pending further order of the Commission after said hearing all persons are prohibited from soliciting, or permitting the use of their names to solicit, by use of the mails or any means of instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding the voting of any security of International Hydro-Electric System unless and until the United States District Court for the District of Massachusetts may determine or direct that a meeting of shareholders be held for the election of directors or for some other purpose, and Rule U-61 shall be and hereby is withdrawn in its application to any such solicitation; and

*It is further ordered*, That Henry C. Lank, or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act and to a trial examiner under the Commission's rules of practice; and

*It is further ordered*, That the Secretary of this Commission shall serve a copy of this order by registered mail on all parties and participants in the proceeding entitled "In the Matter of the Application of the Securities and Exchange Commission to Enforce Compliance with an Order under section 11 (b) of the Public Utility Holding Company Act of 1935 with Respect to International Hydro-Electric System" being Civil Action No. 2430 in the United States District Court for the District of Massachusetts.

By the Commission.

[SEAL]

ORVAL L. DUBoIS,

Secretary.

[F. R. Doc. 44-11611; Filed, August 3, 1944;  
10:56 a. m.]