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Washington, Friday, June 10, 1949

TITLE 3—THE PRESIDENT

PROCLAMATION 2844

PATRICK HENRY WEEK, 1949

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Patrick Henry, with surpassing eloquence, kindled in many of his countrymen that love of political freedom which burns today in the hearts of the American people; and

WHEREAS his ringing insistence, in the Virginia convention of 1788, on constitutional protection for the rights of individuals was one of the chief factors which induced the First Congress of the United States to prepare the Bill of Rights and submit it to the States for their approval; and

WHEREAS June 6, 1949, marks the sesquicentennial of the death of this gifted pioneer in our early struggle for independence; and

WHEREAS the Congress by a joint resolution approved June 8, 1949, authorizes and requests the President to issue a proclamation calling for the celebration of the week in which June 6, 1949, occurs as Patrick Henry Week, in observance of the one hundred and fiftieth anniversary of the death of Patrick Henry:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby invite the people of the United States to observe the week beginning Sunday, June 5, 1949, as Patrick Henry Week, with religious and civic ceremonies commemorative of the achievements of this great American in the cause of liberty. I also direct the appropriate officials of the Federal Government to arrange for the display of the flag on all Government buildings during Patrick Henry Week, in order that our citizens may be reminded of this anniversary and may reflect on its significance in the annals of our freedom-loving country.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 8th day of June in the year of our Lord nineteen hundred and forty-nine, and of the Independence of the United States of America the one hundred and seventy-third.

[SEAL]

HARRY S. TRUMAN

By the President:

JAMES E. WEBB,
Acting Secretary of State.

[F. R. Doc. 49-4741; Filed, June 9, 1949; 11:30 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 2—APPOINTMENT THROUGH THE COMPETITIVE SYSTEM

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

MISCELLANEOUS AMENDMENTS

1. Effective upon publication in the FEDERAL REGISTER, § 2.110 (a) (2) (vi) is amended to read as follows:

§ 2.110 *Apportionment.* (a) * * *

(2) Certification for appointment to the following positions in all agencies: * * *

(vi) Positions of operating engineman, fireman, oiler, general helper, laborer, foreman of laborers, gardener, grounds keeper, animal keeper, chauffeur, truck driver, motor vehicle dispatcher, elevator operator, and telephone operator.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR, 1947 Supp.)

2. Under authority of § 6.1 (d) of Executive Order 9830, and with the concurrence of the Department of the Interior, § 6.110 (c) (3), § 6.110 (e) (1), and § 6.110 (f) (1) are revoked, effective upon publication in the FEDERAL REGISTER.

3. Under authority of § 6.1 (a) of Executive Order 9830, and at the request of the Department of the Interior, a new subparagraph (10) is added to § 6.110 (a), as set out below. This

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

amendment is effective upon publication in the FEDERAL REGISTER.

§ 6.110 *Department of the Interior*—(a) *General.* * * *

(10) NC/PD: Persons employed in field positions the work of which is financed jointly by the Interior Department and cooperating persons or organizations outside the Federal service.

4. Under authority of § 6.1 (d) of Executive Order 9830, and with the concurrence of the Federal Trade Commission, § 6.130 (d) is revoked. In addition, the titles of the positions currently listed in this section are revised and redesignated to reflect the current organization of the Federal Trade Commission. Ef-

fective upon publication in the FEDERAL REGISTER, § 6.130 is therefore amended to read as follows:

§ 6.130 *Federal Trade Commission.* (a) Assistant to the Chairman and Director of Information.

(b) General Counsel.

(c) Director, Bureau of Litigation.

(d) Director, Bureau of Legal Investigation.

(e) Director, Bureau of Trade Practice Conferences and Wool Act Adminstration.

(f) Director, Bureau of Stipulations.

(g) Director, Bureau of Industrial Economics.

(h) Director, Bureau of Medical Opinions.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633, E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR, 1947 Supp., E. O. 9973, June 28, 1948, 13 F. R. 3600, 3 CFR, 1948 Supp.)

5a. Section 24.52 *Forest Products Technologist, P–1390–2–6 (positions involving highly technical or fundamental scientific research or similar difficult scientific duties)* and § 24.73 *Cereal technologist (positions involving highly technical research, design, or development, or similar complex scientific functions), P–1390–2–7,* are hereby revoked.

b. Section 24.100 is hereby added as set out below.

§ 24.100 *Technologist, P–1390–0 (all grades), (positions involving highly technical research, design, or development, or similar complex scientific functions)*—(a) *Educational requirement.* Applicants must have successfully completed a full four-year course, in an accredited college or university, leading to a bachelor's degree in technology or in a pertinent field of engineering or physical science.

(b) *Duties.* The duties of these positions are to plan, direct, conduct, or assist in conducting critical investigative and research work of an applied scientific or technological nature involving design, developement, or similar complex scientific functions for the improvement and utilization of industrial processes or techniques; or to coordinate a broad research program requiring the combined efforts of several specialists in different scientific fields. In all positions, appointees are required to present the results of their work in a clear concise manner, both orally and in writing.

(c) *Knowledge and training requisite for performance of duties.* For the successful performance of the duties described in paragraph (b) of this section the technologist needs a basic general knowledge of the principles and concepts of those physical sciences or that field of engineering pertinent to the branch of technology in which he works and, in addition, a knowledge of mathematics, those arts and sciences peculiar to the branch of technology in which he works, and ability for logical thinking and expression. The only method of obtaining this broad knowledge and training, of the level and extent required, is by attending a college or university where competent instruction and guidance are available, where courses are arranged in a systematic schedule, where adequate laboratory and library facilities are provided and suitable standards for completeness of the program and thoroughness of the methods of instruction are maintained, and where objective evaluations are made of a person's progress in acquiring professional and scientific information. (Sec. 11, 58 Stat. 390; 5 U. S. C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Dock. 49–4663; Filed, June 9, 1949; 8:49 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[Fourth General Revision of Export Regs., Amdt. 8]

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

COMMODITY QUOTAS AND TIME FOR SUBMISSION OF LICENSE APPLICATIONS

Section 372.9 *Commodity quotas and time for submission of license applications* is amended in the following particulars:

1. All the commodities and related submission dates appearing under the heading "Steel Mill Products (Except Surplus and Reject)" in the table Time Schedules for Submission of Applications for the Exportation of Certain Commodities, for the second and third quarters, 1949, are deleted except the following:

Dept. of Comm. Sched. B No.	*Commodity*
603350	Galvanized iron culvert sheets.
603390	Other galvanized iron sheets.
603450	Galvanized steel culvert sheets.
603490	Other galvanized steel sheets.
603595	Electrical (steel) sheets, transformer grade.

2. The following commodities and related submission dates are added to the table Time Schedules for Submission of Applications for the Exportation of Certain Commodities, for the third quarter, 1949:

Department of Commerce Schedule B No.	Commodity	Third quarter, 1949
641200	Refined copper in cathodes, billets, ingots, wire bars, or other forms.	June 1 to June 20.
641300	Scrap copper.	
650750	Lead pigs, bars, and anodes (include blocks and ingots).	
651200	Solder.	
656507	Tin metal in ingots, pigs, bars, blocks, slabs, and other forms.	
657101–657198	Zinc cast in slabs, pigs, or blocks.	
662000	Babbitt metal.	
664915	Cadmium metal (include metallic shapes).	

3. The submission dates for the following commodity in the table Time Schedules for Submission of Applications for the Exportation of Certain Commodities, for the third quarter, 1949, are amended as follows:

Department of Commerce Schedule B No.	Commodity	Third quarter, 1949
630301	Aluminum and aluminum base alloys: Sheets, plates, and strips (0.006 inch in thickness and over), except venetian blind stock, baked enameled, not exceeding 23½ inches in width nor 0.015 inch in thickness, in coils or cut to length.	May 23 to June 20.

This amendment shall become effective June 3, 1949.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: May 31, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49–4680; Filed, June 9, 1949; 8:55 a. m.]

[Fourth General Revision of Export Regs., Amdt. 9]

PART 371—GENERAL LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

MISCELLANEOUS AMENDMENTS

1. Section 373.9 *Special provisions for diamonds* is amended in the following particulars:

Subparagraph (3) *Tools incorporating industrial diamonds* of paragraph (c) *Application requirements* is amended to read as follows:

(3) *Tools incorporating industrial diamonds.* (i) Tools, tool parts or devices (including metal slugs) must be listed separately on license applications, or by groups of identical tools, giving the name and type of tool and the approximate carat weight of diamonds and/or diamond powder or dust contained therein.

(ii) License applications to export rock drill bits, detachable, when containing diamonds, Schedule B No. 731150, and diamond bits for oil and gas well drilling, Schedule B No. 734240, which have been shipped to the United States for reprocessing or resetting must include the following information:

The approximate carat weight of the diamonds inserted in the reprocessing of each type or size of drill bit listed, exclusive of the diamonds shipped to the United States with the tool.

(iii) License applications to export diamond grinding wheels, sticks, hones and laps, classified under Schedule B No. 540905, must include a statement as to quantity (number) and size of each commodity and carat weight of diamond content.

(iv) Diamond dies must be listed on the license applications as unmounted or

encased, and the size of hole, carat weight, and the unit value per die must be given.

2. Section 371.20 *Return of certain commodities imported into the United States GLR* is amended in the following particulars:

Paragraph (a) *Machinery, or parts of machinery* is amended to read as follows:

(a) *Machinery, or parts of machinery.* Machinery, or parts of machinery, shipped to the United States for repair purposes may be returned to the country of origin, as well as replacement parts which are added and rebuilt parts which are substituted when the identical parts imported are not returned.

The provisions of this paragraph shall not apply to tools or devices incorporating diamonds, including such tools or devices when shipped as an integral part of a machine.

This amendment shall become effective June 3, 1949.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: May 28, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-4681; Filed, June 9, 1949; 8:55 a. m.]

[Fourth General Revision of Export Regs., Amdt. 10]

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

MISCELLANEOUS AMENDMENTS

Part 373, *Licensing Policies and Related Special Provisions* is amended in the following particulars:

1. Section 373.21 *Special provisions for woven-wire fencing, wire, and wire rods* is hereby deleted.

2. Section 373.24 *Special provisions for deformed and twisted concrete reinforcement bars and barbed wire* is hereby deleted.

This amendment shall become effective June 10, 1949.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: May 3, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-4682; Filed, June 9, 1949; 8:56 a. m.]

[Fourth General Revision of Export Reg., Amdt. P. L. 3]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

IRON AND STEEL SCRAP

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

The following entries on the Positive List are amended by adding after their respective processing codes the related commodity group numbers as set forth below:

Department of Commerce Schedule B No.	Commodity	Processing code and related commodity group
	Iron and steel scrap:	
601020	No. 1 heavy melting steel scrap	STEE 19
601030	No. 2 melting steel scrap	STEE 19
601040	Hydraulically compressed and baled sheet melting scrap	STEE 19
601070	Cast and burnt iron scrap	STEE 19
601090	Other (include heavy shoveling steel, selected rail scrap, machine-shop turnings, wire shorts (scrap only), etc.).	STEE 19
	Railway-track material, iron and steel:	
	Rails:	
605200	Under 60 pounds per yard	STEE 18

This amendment shall become effective June 3, 1949.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: May 28, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-4683; Filed, June 9, 1949; 8:56 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Bureau of Old-Age and Survivors Insurance, Social Security Administration, Federal Security Agency

[Regs. No. 3, Further Amended]

PART 403—FEDERAL OLD AGE AND SURVIVORS INSURANCE

PARENT'S INSURANCE BENEFITS

Section 403.407 (e) (3) of Regulations No. 3, as amended (20 CFR, 1947 Supp., 403.407 (e) (3)), is amended to read as follows:

§ 403.407 *Parent's insurance benefits.*

* * *

(e) *Wholly or chiefly dependent upon and supported by.* * * *

(3) *Chiefly dependent.* (i) Except as indicated in subdivision (ii) of this subparagraph, a parent is "chiefly dependent upon and supported by" the wage earner if, at the time of the wage earner's death, his contribution to the parent's support exceeded the parent's income from all other sources, including the income from property (other than customary household goods and personal effects) owned by the parent.

(ii) Where a parent owns property, he shall not be considered "chiefly dependent upon and supported by" the wage earner if the net value of such property exceeds the amount of principal which would produce an income at the rate of 3% per annum sufficient, when added to the parent's income from sources other than the wage earner (excluding income from property), to equal or exceed the wage earner's contributions. For the purpose of this subdivision, the net value of all property owned by the parent means the forced sale value of the parent's interest in the property (including any home but excluding customary household goods and personal effects).

(Sec. 205 (a), 53 Stat. 1368, sec. 1102, 49 Stat. 647; 42 U. S. C. 405 (a), 1302; sec. 4 of Reorg. Plan No. 2 of 1946, 60 Stat. 1095; 45 CFR 1946 Supp. 1.21. Interprets sec. 202 (f), 60 Stat. 97, 42 U. S. C. 402 (f))

Dated: June 3, 1949.

A. J. ALTMEYER,
Commissioner for Social Security.

Approved: June 3, 1949.

J. DONALD KINGSLEY,
Acting Federal Security Administrator.

[F. R. Doc. 49-4668; Filed, June 9, 1949; 8:51 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg.,[1] Amdt. 105]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, Item 115d, is amended to read as follows:

(115d) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 (1) the City of Chanute, Kansas, a portion of the Chanute, Kansas, Defense-Rental Area, based upon a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

2. Schedule A, Item 250, is amended by deleting all of said Item 250 which relates to Caddo and Grady Counties.

This decontrols from §§ 825.1 to 825.12 the following portions of the Oklahoma City, Oklahoma, Defense-Rental Area: (1) The City of Chickasha in Grady County, Oklahoma, based upon a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Grady County and all of Caddo County, Oklahoma, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 632, 695, 856, 918, 979, 1005, 1083, 1345, 1394, 1519, 1570, 1571, 1587, 1666, 1667, 1733, 1760, 1823, 1868, 1932, 2059, 2060, 2084, 2176, 2233, 2412, 2441, 2545, 2607, 2608, 2695, 2746, 2761, 2796, 2897.

3. Schedule A, Item 333, is amended to describe the counties in the Defense-Rental Area as follows:

Wichita, except the City of Electra.

This decontrols from §§ 825.1 to 825.12 the City of Electra, Texas, a portion of the Wichita Falls, Texas, Defense-Rental Area, based upon a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective June 7, 1949.

Issued this 7th day of June 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-4669; Filed, June 9, 1949; 8:53 a. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg.,[1] Amdt. 100]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATIONS FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, Item 115d, is amended to read as follows:

(115d) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 (1) the City of Chanute, Kansas, a portion of the Chanute, Kansas, Defense-Rental Area based upon a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

2. Schedule A, Item 250, is amended by deleting all of said Item 250 which relates to Caddo and Grady Counties.

This decontrols from §§ 825.81 to 825.92 the following portions of the Oklahoma City, Oklahoma, Defense-Rental Area: (1) The City of Chickasha in Grady County, Oklahoma, based upon a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended and (2) the remainder of said Grady County and all of Caddo County, Oklahoma, on the Housing Expediter's own initative in accordance with section 204 (c) of said act.

3. Schedule A, Item 333, is amended to describe the counties in the Defense-Rental Area as follows:

Wichita, except the City of Electra.

This decontrols from §§ 825.81 to 825.92 the City of Electra, Texas, a portion of the Wichita Falls, Texas, Defense-Rental Area, based upon a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective June 7, 1949.

Issued this 7th day of June 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-4670; Filed, June 9, 1949; 8:53 a. m.]

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8328; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083, 1345, 1520, 1570, 1582, 1587, 1669, 1670, 1734, 1869, 1932, 2061, 2062, 2085, 2177, 2237, 2413, 2440, 2441, 2545, 2607, 2608, 2695, 2898.

TITLE 34—NATIONAL MILITARY ESTABLISHMENT

Chapter IV—Joint Regulations of the Armed Forces

Subchapter D—Military Renegotiation Regulations

PART 428—STATUTES, ORDERS, AND DIRECTIVES

SUBPART A—STATUTES

SUBPART B—DIRECTIVES

SUBPART C—EXCERPTS FROM INTERNAL REVENUE CODE AND BUREAU OF INTERNAL REVENUE INTERPRETATIONS WITH RESPECT TO RENEGOTIATION

SUBPART D—EXEMPTIONS

SUBPART E—[RESERVED]

AUTHORITY: §§ 428.800 to 428.842 issued under 62 Stat. 259, sec. 3 (f), Pub. Law 547, 80th Cong.

SUBPART A—STATUTES

§ 528.800 *Scope of subpart.* This subpart contains the texts of the Renegotiation Act of 1948; sec. 401, Second Deficiency Appropriation Act, 1948; and the Renegotiation Act of February 25, 1944, as amended.

§ 428.801 *Section 3, Supplemental National Defense Appropriation Act, 1948, cited as the "Renegotiation Act of 1948." (62 Stat. 259; Public Law 547, 80th Congress.)*

SEC. 3. (a) All contracts in excess of $1,000 entered into under the authority of this act, obligating funds appropriated hereby, obligating funds consolidated by this act with funds appropriated hereby, or entered into through contract authorizations herein granted, and all subcontracts thereunder in excess of $1,000 shall contain the following article:

"*Renegotiation Article.* This contract is subject to the Renegotiation Act of 1948 and the contractor hereby agrees to insert a like article in all contracts or purchase orders to make or furnish any article or to perform all or any part of the work required for the performance of this contract."

(b) Whenever in the opinion of the Secretary of Defense excessive profits are reflected under any contract or contracts or subcontract or subcontracts required to contain the Renegotiation Article prescribed in subsection (a), the Secretary is authorized and directed to renegotiate such contracts and subcontracts for the purpose of eliminating excessive profits. He shall endeavor to make an agreement with the contractor or subcontractor with respect to the amount, if any, of such excessive profits and to their elimination. If no such agreement is reached, the Secretary shall issue an order determining the amount, if any, of such excessive profits and shall eliminate them by any of the methods set forth in subsection (c) (2) of the Renegotiation Act of February 25, 1944, as amended. In eliminating excessive profits the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in Section 3806 of the Internal Revenue Code. The powers hereby conferred upon the Secretary shall be exercised with respect to the aggregate of the amounts received or accrued under all such contracts and subcontracts by the contractor or subcontractor during his fiscal year or upon such other basis as may be mutually agreed upon; except that this section shall not be applicable in the event that the aggregate of the amounts so received or accrued is less than $100,000 during any fiscal year.

(c) For the purpose of administering this section the Secretary of Defense shall have the right to audit the books and records of any contractor or subcontractor subject to this section. In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the Secretary of Defense and with the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this section.

(d) The provisions of this section shall not apply to any of the contracts or subcontracts specified in subsection (i) (1) of the Renegotiation Act of February 25, 1944, as amended, and the Secretary of Defense in his discretion may exempt from the provisions

of this section any other contract or subcontract both individually and by general classes or types.

(e) Agreements or orders determining excessive profits shall be final and conclusive in accordance with their terms and except upon a showing of fraud or malfeasance or willful misrepresentation of a material fact shall not be annulled, modified, reopened, or disregarded, except that in the case of orders determining excessive profits the amount of the excessive profits, if any, may be redetermined by the Tax Court of the United States in the manner prescribed in subsection (e) (1) of the Renegotiation Act of February 25, 1944, as amended, except that such redetermination shall be subject to review to the extent and in the manner provided by subchapter B of chapter 5 of the Internal Revenue Code.

(f) The Secretary of Defense shall promulgate and publish in the FEDERAL REGISTER regulations interpreting and applying this section and prescribing standards and procedures for determining and eliminating excessive profits hereunder using so far as he deems practicable the principles and procedures of the Renegotiation Act of February 25, 1944, as amended, having regard for the different economic conditions existing on or after the effective date of this Act from those prevailing during the period 1942 to 1945. In any case in which the contract price of any such contract or subcontract was based upon estimated costs, then the Secretary of Defense shall determine the difference between such estimated costs and actual costs and shall, in eliminating excessive profits, take into consideration as an element the extent to which such difference is the result of the efficiency of the contractor or subcontractor.

(g) The powers and duties hereby conferred upon the Secretary of Defense may be delegated by him to any officer (military or civilian) or agency of the National Military Establishment.

(h) Any person who willfully fails or refuses to furnish any information, records, or data required of him under this section, or who knowingly furnishes any such information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or imprisonment for not more than two years, or both.

(i) This section may be cited as the "Renegotiation Act of 1948."

§ 428.802 *Section 401, Second Deficiency Appropriation Act, 1948 (62 Stat. 1049; Public Law 785, 80th Congress).*

SEC. 401. The Secretary of Defense is authorized and directed, whenever in his judgment the best interests of the United States so require, to direct the insertion of a clause incorporating the Renegotiation Act of 1948 in any contracts for the procurement of ships, aircraft, aircraft parts, and the construction of facilities or installations outside continental United States entered into by or in behalf of the Department of the Army, the Department of the Navy or the Department of the Air Force which obligates any funds made available for obligation in the fiscal year 1949.

§ 428.803 *The Renegotiation Act of 1943 (enacted February 25, 1944), as amended.* Section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (Public 528, 77th Congress), approved April 28, 1942, as amended by section 801 of the Revenue Act of 1942 (Public 753, 77th Congress), approved October 21, 1942; by the Military Appropriation Act, 1944 (Public 108, 78th Congress), approved July 1, 1943; by Public 149, 78th Congress, approved July 14, 1943; as amended in full by section 701 (b) of the Revenue Act of 1943 (Public 235, 78th Congress), enacted February 25, 1944; and as further amended by Public 104, 79th Congress, approved June 30, 1945.

SEC. 403 (a). For the purposes of this section—

(1) The term "Department" means the War Department, the Navy Department, the Treasury Department, the Maritime Commission, the War Shipping Administration, Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation, and Rubber Reserve Company, respectively.

(2) In the case of the Maritime Commission, the term "Secretary" means the Chairman of such Commission, in the case of the War Shipping Administration, the term "Secretary" means the Administrator of such Administration, and in the case of Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation, and Rubber Reserve Company, the term "Secretary" means the board of directors of the appropriate corporation.

(3) The terms "renegotiate" and "renegotiation" include a determination by agreement or order under this section of the amount of any excessive profits.

(4) (A) The term "excessive profits" means the portion of the profits derived from contracts with the Departments and subcontracts which is determined in accordance with this section to be excessive. In determining excessive profits there shall be taken into consideration the following factors:

(i) efficiency of contractor, with particular regard to attainment of quantity and quality production, reduction of costs and economy in the use of materials, facilities, and manpower;

(ii) reasonableness of costs and profits, with particular regard to volume of production, normal pre-war earnings, and comparison of war and peacetime products;

(iii) amount and source of public and private capital employed and net worth;

(iv) extent of risk assumed, including the risk incident to reasonable pricing policies;

(v) nature and extent of contribution to the war effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

(vi) character of business, including complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over;

(vii) such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

(B) The term "profits derived from contracts with the Departments and subcontracts" means the excess of the amount received or accrued under such contracts and subcontracts over the costs paid or incurred with respect thereto. Such costs shall be determined in accordance with the method of cost accounting regularly employed by the contractor in keeping his books, but if no such method of cost accounting has been employed, or if the method so employed does not, in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States properly reflect such costs, such costs shall be determined in accordance with such method as in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States does properly reflect such costs. Irrespective of the method employed or prescribed for determining such costs, no item of cost shall be charged to any contract with a Department or subcontract or used in any manner for the purpose of determining such cost, to the extent that in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States, such item is unreasonable or not properly chargeable to such contract or subcontract. Notwithstanding any other provisions of this section, all items estimated to be allowable as deductions and exclusions under Chapters 1 and 2 E of the Internal Revenue Code (excluding taxes measured by income) shall, to the extent allocable to such contracts and subcontracts (or, in the case of the recomputation of the amortization deduction, allocable to contracts with the Departments and subcontracts), be allowed as items of cost, but in determining the amount of excessive profits to be eliminated proper adjustment shall be made on account of the taxes so excluded, other than Federal taxes, which are attributable to the portion of the profits which are not excessive.

(C) Notwithstanding any of the provisions of this section to the contrary, no amount shall be allowed as an item of cost (i) by reason of a recomputation of the amortization deduction pursuant to section 124 (d) of the Internal Revenue Code until after such recomputation has been made in connection with a determination of the taxes imposed by Chapters 1, 2A, 2B, 2D and 2E of the Internal Revenue Code for the fiscal year to which the excessive profits determined by the renegotiation are attributable or (ii) by reason of the application of a carry-over or carry-back under any circumstances. The absence of such a recomputation of the amortization deductions referred to in clause (i) above shall not constitute a cause for postponing the making of an agreement, or the entry of an order, determining the amount of excessive profits, or for staying the elimination thereof.

(D) Notwithstanding any of the provisions of subsection (c) (4) of this section to the contrary, in the case of a renegotiation which is made prior to such recomputation, there shall be repaid by the United States (without interest) to the contractor or subcontractor after such recomputation the amount of a net renegotiation rebate computed in the following described manner. There shall first be ascertained the portion of the excessive profits determined by the renegotiation which is attributable to the fiscal year with respect to which a net renegotiation rebate is claimed by the contractor or subcontractor (hereinafter referred to as "renegotiated year"). There shall then be ascertained the amount of the gross renegotiation rebate for the renegotiated year, which amount shall be an allocable part of the additional amortization deduction which is allowed for the renegotiated year upon the recomputation made pursuant to section 124 (d) of the Internal Revenue Code in connection with the determination of the taxes for such year and which is attributable to contracts with the Departments and subcontracts, except that the amount of the gross renegotiation rebate shall not exceed the amount of excessive profits eliminated for the renegotiated year pursuant to the renegotiation. The allocation of the additional amortization deduction attributable to contracts with the Departments and subcontracts, and the allocation of the additional amortization deduction to the renegotiated year shall be determined in accordance with regulations prescribed by the Board. There shall then be ascertained the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for the renegotiated year. Such Federal tax benefit shall be the amount by which the taxes for the renegotiated year under Chapters 1, 2A, 2B, 2D and 2E of the Internal Revenue Code were decreased by reason of omitting from gross income (or by reason of the application of the provisions of section 3806 (a) of the Internal Revenue Code with respect to) that

portion of the excessive profits for the renegotiated year which is equal to the amount of the gross renegotiation rebate. The amount by which the gross renegotiation rebate for the renegotiated year exceeds the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for such year shall be the amount of the net renegotiation rebate for such year.

(5) The term "subcontract" means—

(A) Any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of any other contract or subcontract, but such term does not include any purchase order or agreement to furnish office supplies; or

(B) Any contract or arrangement other than a contract or arrangement between two contracting parties, one of which parties is found by the Board to be a bona fide executive officer, partner, or full-time employee of the other contracting party, (i) any amount payable under which is contingent upon the procurement of a contract or contracts with a Department or of a subcontract or subcontracts, or determined with reference to the amount of such a contract or subcontract or such contracts or subcontracts, or (ii) under which any part of the services performed or to be performed consists of the soliciting, attempting to procure, or procuring a contract or contracts with a Department or a subcontract or subcontracts: Provided, That nothing in this sentence shall be construed (1) to affect in any way the validity or construction of provisions in any contract with a Department or any subcontract, heretofore at any time or hereafter made, prohibiting the payment of contingent fees or commissions; or (2) to restrict in any way the authority of the Secretary or the Board to determine the nature or amount of selling expenses under subcontracts as defined in this subparagraph, as a proper element of the contract price or as a reimbursable item of cost, under a contract with a Department or a subcontract.

(6) The term "article" includes any material, part, assembly, machinery, equipment, or other personal property.

(7) The term "standard commercial article" means an article—

(A) which is identical in every material respect with an article which was manufactured and sold, and in general civilian, industrial, or commercial use prior to January 1, 1940,

(B) which is identical in every material respect with an article which is manufactured and sold, as a competitive product, by more than one manufacturer, or which is an article of the same kind and having the same use or uses as an article manufactured and sold, as a competitive product, by more than one manufacturer, and

(C) for which a maximum price has been established and is in effect under the Emergency Price Control Act of 1942, as amended, or under the Act of October 2, 1942, entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes," or which is sold at a price not in excess of the January 1, 1941, selling price.

An article made in whole or in part of substitute materials but otherwise identical in every material respect with the article with which it is compared under subparagraph (A) and (B) shall be considered as identical in every material respect with such article with which it is so compared.

(8) The term "fiscal year" means the taxable year of the contractor or subcontractor under Chapter 1 of the Internal Revenue Code.

(9) The terms "received or accrued" and "paid or incurred" shall be construed according to the method of accounting employed by the contractor or subcontractor in keeping his books.

SEC. 403 (b). Subject to subsection (i), the Secretary of each Department is authorized and directed to insert in each contract made by such Department thirty days or more after the date of the enactment of the Revenue Act of 1943 and involving an estimated amount of more than $100,000, a provision under which the contractor agrees—

(1) to the elimination of excessive profits through renegotiation;

(2) that there may be retained by the United States from amounts otherwise due the contractor, or that he will repay to the United States, if paid to him, any excessive profits;

(3) that he will insert in each subcontract described in subsection (a) (5) (A) involving an estimated amount of more than $100,000, and in each subcontract described in subsection (a) (5) (B) involving an estimated amount of more than $25,000, a provision under which the subcontractor agrees—

(A) to the elimination of excessive profits through renegotiation;

(B) that there may be retained by the contractor for the United States from amounts otherwise due the subcontractor, or that the subcontractor will repay to the United States, if paid to him, any excessive profits;

(C) that the contractor shall be relieved of all liability to the subcontractor on account of any amount so retained, or so repaid by the subcontractor to the United States;

(D) that he will insert in each subcontract described in subsection (a) (5) (A) involving an estimated amount of more than $100,000, and in each subcontract described in subsection (a) (5) (B) involving an estimated amount of more than $25,000, provisions corresponding to those of subparagraphs (A), (B), and (C) and to those of this subparagraph;

(4) that there may be retained by the United States from amounts otherwise due the contractor, or that he will repay to the United States, as the Secretary may direct, any amounts which under paragraph (3) (B) the contractor is directed to withhold from a subcontractor and which are actually unpaid at the time the contractor receives such direction. The obligations assumed by the contractor or subcontractor under paragraph (1) or (3) (A), as the case may be, agreeing to the elimination of excessive profits through renegotiation shall be binding on him only if the contract or subcontract, as the case may be, is subject to subsection (c). A provision inserted in a contract or subcontract, which recites in substance that the contract or subcontract shall be deemed to contain all the provisions required by this subsection shall be sufficient compliance with this subsection. Whether or not there is inserted in a contract with a Department or subcontract, to which subsection (c) is applicable, the provisions specified in this subsection, such contract or subcontract, as the case may be, shall be considered as having been made subject to such subsection in the same manner and to the same extent as if such provisions had been inserted.

SEC. 403 (c). (1) Whenever, in the opinion of the Board, the amounts received or accrued under contracts with the Departments and subcontracts may reflect excessive profits, the Board shall give to the contractor or subcontractor, as the case may be, reasonable notice of the time and place of a conference to be held with respect thereto. The mailing of such notice by registered mail to the contractor or subcontractor shall constitute the commencement of the renegotiation proceeding. At the conference, which may be adjourned from time to time, the Board shall endeavor to make a final or other agreement with the contractor or subcontractor with respect to the elimination of excessive profits received or accrued, and with respect to such other matters relating thereto as the Board deems advisable. Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued. If the Board does not make an agreement with respect to the elimination of excessive profits received or accrued, it shall issue and enter an order determining the amount, if any, of such excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. In the absence of the filing of a petition with the Tax Court of the United States under the provisions of and within the time limit prescribed in subsection (e) (1), such order shall be final and conclusive and shall not be subject to review or redetermination by any court or other agency. The Board shall exercise its powers with respect to the aggregate of the amounts received or accrued during the fiscal year (or such other period as may be fixed by mutual agreement) by a contractor or subcontractor under contracts with the Departments and subcontracts, and not separately with respect to amounts received or accrued under separate contracts with the Departments or subcontracts, except that the Board may exercise such powers separately with respect to amounts received or accrued by the contractor or subcontractor under any one or more separate contracts with the Departments or subcontracts at the request of the contractor or subcontractor. Whenever the Board makes a determination with respect to the amount of excessive profits, whether such determination is made by order or is embodied in an agreement with the contractor or subcontractor, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in the Tax Court of the United States as proof of the facts or conclusions stated therein.

(2) Upon the making of an agreement, or the entry of an order, under paragraph (1) by the Board, or the entry of an order under subsection (e) by The Tax Court of the United States, determining excessive profits, the Board shall forthwith authorize and direct the Secretaries or any of them to eliminate such excessive profits (A) by reductions in the amounts otherwise payable to the contractor under contracts with the Departments, or by other revision of their terms; or (B) by withholding from amounts otherwise due to the contractor any amount of such excessive profits; or (C) by directing a contractor to withhold for the account of the United States, from amounts otherwise due to a subcontractor, any amount of such excessive profits of such subcontractor; or (D) by recovery from the contractor, through repayment, credit, or suit any amount of such excessive profits actually paid to him; or (E) by any combination of these methods, as is deemed desirable. Actions on behalf of the United States may be brought in the appropriate courts of the United States to recover from the contractor any amount of such excessive profits actually paid to him and not withheld or eliminated by some other method under this subsection. The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon. Each contractor and subcontractor is hereby indemnified by the United States against all claims by any subcontractor on account of amounts withheld from such subcontractor pursuant to this paragraph. All money recovered in respect of amounts paid to the contractor from appropriations from the Treasury by way of repayment or suit under this subsection

shall be covered into the Treasury as miscellaneous receipts. Upon the withholding of any amount of excessive profits or the crediting of any amount of excessive profits against amounts otherwise due a contractor, the Secretary shall certify the amount thereof to the Treasury and the appropriations of his Department shall be reduced by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury. In eliminating excessive profits the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code. For the purposes of this paragraph the term "contractor" includes a subcontractor.

(3) No proceeding to determine the amount of excessive profits shall be commenced more than one year after the close of the fiscal year in which such excessive profits were received or accrued, or more than one year after the statement required under paragraph (5) is filed with the Board, whichever is the later, and if such proceeding is not so commenced, then upon the expiration of one year following the close of such fiscal year, or one year following the date upon which such statement is so filed, whichever is the later, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits is not made within one year following the commencement of the renegotiation proceeding, then upon the expiration of such one year all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (A) if an order is made within such one year by the Secretary (or an officer or agency designated by the Secretary) pursuant to a delegation of authority under subsection (d) (4), such one-year limitation shall not apply to review of such order by the Board, and (B) such one-year period may be extended by mutual agreement.

(4) For the purposes of this section the Board may make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under this section. Such agreements may contain such terms and conditions as the Board deems advisable. Any such agreement shall be conclusive according to its terms; and except upon a showing of fraud or malfeasance or a willful misrepresentation of a material fact, (A) such agreement shall not for the purposes of this section be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States, and (B) such agreement and any determination made in accordance therewith shall not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding.

(5) (A) Every contractor and subcontractor who holds contracts or subcontracts, to which the provisions of this subsection are applicable, shall, in such form and detail as the Board may by regulations, prescribe, file with the Board on or before the first day of the fourth month following the close of the fiscal year (or if such fiscal year has closed on the date of the enactment of the Revenue Act of 1943, on or before the first day of the fourth month following the month in which such date of enactment falls), a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this section. In addition to the statement required under the preceding sentence, every such contractor or subcontractor shall, at such time or times and in such form and detail as the Board may by regulations prescribe, furnish the Board any information, records, or data which is determined by the Board to be necessary to carry out this section. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of them under this subsection, or who knowingly furnishes any such statement, information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or imprisonment for not more than two years, or both.

(B) For the purposes of this section the Board shall have the same powers with respect to any such contractor or subcontractor that any agency designated by the President to exercise the powers conferred by Title XIII of the Second War Powers Act, 1942, has with respect to any contractor to whom such title is applicable. In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this section.

(6) This subsection shall be applicable to all contracts and subcontracts, to the extent of amounts received or accrued thereunder in any fiscal year ending after June 30, 1943, whether such contracts or subcontracts were made on, prior to, or after the date of the enactment of the Revenue Act of 1943, and whether or not such contracts or subcontracts contain the provisions required under subsection (b), unless (A) the contract or subcontract provides otherwise pursuant to subsection (i), or is exempted under subsection (i), or (B) the aggregate of the amounts received or accrued in such fiscal year by the contractor or subcontractor and all persons under the control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts (including those described in clause (A), but excluding subcontracts described in subsection (a) (5) (B)) do not exceed $500,000 and under subcontracts described in subsection (a) (5) (B) do not exceed $25,000 for such fiscal year. If such fiscal year is a fractional part of twelve months, the $500,000 amount and the $25,000 amount shall be reduced to the same fractional part thereof for the purposes of this paragraph.

SEC. 403 (d). (1) There is hereby created a War Contracts Price Adjustment Board (in this section called the "Board"), which shall consist of six members. One of the members shall be an officer or employee of the Department of War and shall be appointed by the Secretary of War, one shall be an officer or employee of the Department of the Navy and shall be appointed by the Secretary of the Navy, one shall be an officer or employee of the Department of the Treasury and shall be appointed by the Secretary of the Treasury, one shall be an officer or employee of the United States Maritime Commission or the War Shipping Administration and shall be appointed jointly by the Chairman of the United States Maritime Commission and the Administrator of the War Shipping Administration, one shall be an officer or employee of the Reconstruction Finance Corporation and shall be appointed by the Chairman of the board of directors of the Reconstruction Finance Corporation, and one shall be an officer or employee of the War Production Board and shall be appointed by the Chairman of the War Production Board. The members of the Board shall not receive additional compensation for service on the Board but shall be allowed and paid necessary travel and subsistence expenses (or a per diem in lieu thereof) while away from their official station on duties of the Board. They shall elect a chairman from among their members. The Board shall have a seal which shall be judicially noticed.

(2) The principal office of the Board shall be in the District of Columbia, but it or any division thereof may meet and exercise its powers at any other place within the United States. The Board may establish such number of field offices throughout the United States as it deems necessary to expedite the work of the Board. Four members of the Board shall constitute a quorum, and any power, function or duty of the Board may be exercised or performed by a majority of the members present if the members present constitute at least a quorum.

(3) The Board is authorized, subject to the civil service laws and the Classification Act of 1923, as amended, to employ and fix the compensation of such officers and employees as it deems necessary to assist it in carrying out its duties under this section. The Board may, with the consent of the head of the Department, agency, or instrumentality of the United States concerned, utilize the services of any officers or employees of the United States, and reimburse such Department, agency, or instrumentality for the services so utilized.

(4) The board may delegate in whole or in part any power, function, or duty to the Secretary of a Department, and any power, function, or duty so delegated may be delegated in whole or in part by the Secretary to such officers or agencies of the United States as he may designate, and he may authorize successive redelegations of such powers, functions, and duties.

(5) The chairman of the Board may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. The Board may also, by regulations or otherwise, determine the character of cases to be conducted initially by the Board through an officer or officers of, or utilized by, the Board, the character of cases to be conducted initially by the various officers and agencies authorized to exercise powers of the Board pursuant to paragraph (4), the character of cases to be conducted initially by the various divisions of the Board, and the character of cases to be conducted initially by the Board itself. The Board may review any determination by any such officer, agency, or division on its own motion, or in its discretion at the request of any contractor or subcontractor aggrieved thereby. Unless the Board upon its own motion initiates a review of such determination within 60 days from the date of such determination, or at the request of the contractor or subcontractor made within 60 days from the date of such determination initiates a review of such determination within 60 days from the date of such request, such determination shall be deemed the determination of the Board. Upon any review by the Board, the Board may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the officer, agency, or division whose action is so reviewed.

SEC. 403 (e). (1) Any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by such contractor or subcontractor may, within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing of the notice of such order under subsection (c) (1), file a petition with the Tax Court of the United States for a redetermination thereof. Upon such filing such court shall have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency. The court may determine

as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. A proceeding before the Tax Court to finally determine the amount, if any, of excessive profits shall not be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo. For the purposes of this subsection the court shall have the same powers and duties, insofar as applicable, in respect of the contractor, the subcontractor, the Board and the Secretary, and in respect of the attendance of witnesses and the production of papers, notice of hearings, hearings before divisions, review by the Tax Court of decisions of divisions, stenographic reporting, and reports of proceedings, as such court has under sections 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118, 1120, and 1121 of the Internal Revenue Code in the case of a proceeding to redetermine a deficiency. In the case of any witness for the Board or Secretary, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board or Department available for that purpose, and in the case of any other witnesses, shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken. The filing of a petition under this subsection shall not operate to stay the execution of the order of the Board under subsection (c) (2).

(2) Any contractor or subcontractor (excluding a subcontractor described in subsection (a) (5) (B)) aggrieved by a determination of the Secretary made prior to the date of the enactment of the Revenue Act of 1943, with respect to a fiscal year ending before July 1, 1943, as to the existence of excessive profits, which is not embodied in an agreement with the contractor or subcontractor, may, within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the date of the enactment of the Revenue Act of 1943, file a petition with The Tax Court of the United States for a redetermination thereof, and any such contractor or subcontractor aggrieved by a determination of the Secretary made on or after the date of the enactment of the Revenue Act of 1943, with respect to any such fiscal year, as to the existence of excessive profits, which is not embodied in an agreement with the contractor or subcontractor, may, within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the date of such determination, file a petition with The Tax Court of the United States for redetermination thereof. Upon such filing such court shall have the same jurisdiction, powers, and duties, and the proceeding shall be subject to the same provisions, as in the case of a petition filed with the court under paragraph (1), except that the amendments made to this section by the Revenue Act of 1943 which are not made applicable as of April 28, 1942, or to fiscal years ending before July 1, 1943, shall not apply.

SEC. 403 (f). For repricing of war contracts, see Title VIII of the Revenue Act of 1943.

SEC. 403 (g). If any provision of this section or the application thereof to any person or circumstance is held invalid, the remainder of the section and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 403 (h). This section shall apply only with respect to profits derived from contracts with the Departments and subcontracts which are determined under regulations prescribed by the Board to be reasonably allocable to performance prior to the close of the termination date. Notwithstanding the method of accounting employed by the contractor in keeping his books, profits determined to be so allocable shall be considered as having been received or accrued not later than the termination date. For the purposes of this subsection, the term "termination date" means whichever of the following dates first occurs—

(1) December 31, 1945; or

(2) the date proclaimed by the President as the date of the termination of hostilities in the present war; or

(3) the date specified in a concurrent resolution of the two Houses of Congress as the date of the termination of hostilities in the present war.

SEC. 403 (i). (1) The provisions of this section shall not apply to—

(A) any contract by a Department with any other department, bureau, agency, or governmental corporation of the United States or with any Territory, possession, or State or any agency thereof or with any foreign government or any agency thereof; or

(B) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use; or

(C) any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or has not an established market in its raw or natural state, in the first form or state, beyond the raw or natural state, in which it is customarily sold or in which it has an established market. The term "agricultural commodity" as used herein shall include but shall not be limited to—

(i) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugar cane, and sugar beets;

(ii) natural resins, saps and gums of trees;

(iii) animals such as cattle, hogs, poultry, and sheep, fish and other marine life, and the produce of live animals, such as wool, eggs, milk and cream; or

(D) any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code; or

(E) any contract with a Department, awarded as a result of competitive bidding, for the construction of any building, structure, improvement, or facility; or

(F) any subcontract, directly or indirectly under a contract or subcontract to which this section does not apply by reason of this paragraph.

(2) The Board is authorized by regulation to interpret and apply the exemptions provided for in paragraph (1) (A), (B), (C), (E), and (F) and interpret and apply the definition contained in subsection (a) (7).

(3) In the case of a contractor or subcontractor who produces or acquires the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product to and beyond the first form or state suitable for industrial use, or who produces or acquires an agricultural product and processes, refines, or treats such a product to and beyond the first form or state in which it is customarily sold or in which it has an established market, the Board shall prescribe such regulations as may be necessary to give such contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold such product at such first form or state. Notwithstanding any other provisions of this section there shall be excluded from consideration in determining whether or not a contractor or subcontractor has received or accrued excessive profits that portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory. For the purposes of this paragraph the term "excess inventory" means inventory of products, hereinbefore described in this paragraph, acquired by the contractor or subcontractor in the form or at the state in which contracts for such products on hand or on contract would be exempted from this section by subsection (i) (1) (B) or (C), which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders. That portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory, and the method of excluding such portion of profits from consideration in determining whether or not the contractor or subcontractor has received or accrued excessive profits, shall be determined in accordance with regulations prescribed by the Board. In the case of a renegotiation with respect to a fiscal year ending prior to July 1, 1943, the portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory shall (to the extent such portion does not exceed the excessive profits determined) be credited or refunded to the contractor or subcontractor, and in case the determination of excessive profits was made prior to the date of the enactment of the Revenue Act of 1943, such credit or refund shall be made notwithstanding such determination is embodied in an agreement with the contractor or subcontractor, but in either case such credit or refund shall be made only if the contractor or subcontractor, within ninety days after the date of the enactment of the Revenue Act of 1943, files a claim therefor with the Secretary concerned.

(4) The Board is authorized, in its discretion, to exempt from some or all of the provisions of this section—

(A) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska;

(B) any contracts or subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established, such as certain classes of agreements for personal services, for the purchase of real property, perishable goods, or commodities the minimum price for the sale of which has been fixed by a public regulatory body, of leases and license agreements, and of agreements where the period of performance under such contract or subcontract will not be in excess of thirty days;

(C) any contract or subcontract or performance thereunder during a specified period or periods, if in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits;

(D) any contract or subcontract for the making or furnishing of a standard commercial article, if, in the opinion of the Board, competitive conditions affecting the sale of such article are such as will reasonably protect the Government against excessive prices;

(E) any contract or subcontract, if, in the opinion of the Board, competitive conditions affecting the making of such contract or subcontract are such as are likely to result in effective competition with respect to the contract or subcontract price; and

(F) any subcontract or group of subcontracts not otherwise exempt from the provisions of this section, if, in the opinion of the Board, it is not administratively feasible in the case of such subcontract or in the case of such group of subcontracts to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation. The Board may so exempt contracts and subcontracts both individually and by general classes or types.

SEC. 403 (j). Nothing in sections 109 and 113 of the Criminal Code (U. S. C., title 18, secs. 198 and 203) or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service in a Department or the Board during the period (or a part thereof) beginning May 27, 1940, and ending six months after the termination of hostilities in the present war, as proclaimed by the President, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claims against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a Department.

SEC. 403 (k). Nothing in this section shall be construed to limit or restrict any authority or discretion of the Secretary of a Department under the provisions of any other law.

SEC. (403 (l). This section may be cited as the "Renegotiation Act."

Effective date of section 403. Section 701 (d) of the Revenue Act of 1943 provides:

"The amendments made by subsection (b) shall be effective, only with respect to the fiscal years ending after June 30, 1943, except that (1) the amendments inserting subsections (a) (4) (C), (a) (4) (D), (l) (1) (C), (l) (1) (D), (l) (1) (F), (l) (3), and (l) in section 403 of the Sixth Supplemental National Defense Approciation Act, 1942, shall be effective as if such amendments and subsections had been a part of section 403 of such Act on the date of its enactment, and (2) the amendments adding subsections (d) and (e) (2) to section 403 of such Act shall be effective from the date of the enactment of this Act."

SUBPART B—DIRECTIVES

§ 428.820 *Scope of subpart.* This subpart contains the directives issued June 30, 1948, and July 19, 1948, by the Secretary of Defense; and the renegotiation clause adopted by the Military Renegotiation Policy and Review Board on October 13, 1948.

§ 428.821 *Directive of the Secretary of Defense dated June 30, 1948.*

Pursuant to the authority vested in me by Section 401 of Public Law 785 (80th Congress), I hereby adjudge that it is in the best interests of the United States, and accordingly, I direct the inclusion of a clause incorporating the Renegotiation Act of 1948 in all contracts for the procurement of aircraft and aircraft parts entered into by or on behalf of the Department of the Navy or the Department of the Air Force, which obligate any funds made available for obligation in the fiscal year 1949.

This order is effective 1 July 1948.

§ 428.822 *Directive of the Secretary of Defense, July 19, 1948.*

1. For the purpose of carrying out the provisions of the Renegotiation Act of 1948 (Section 3 of the Supplemental National Defense Appropriation Act, 1948, Public Law 547, approved May 21, 1948), hereinafter called the Act, and for the purpose of carrying out any extension of said Act under section 401 of Public Law 785, 80th Congress;

(a) There is hereby created in the Office of the Secretary of Defense, and reporting to the Secretary through the Munitions Board, the Military Renegotiation Policy and Review Board, which shall consist of three members who shall be the three chairmen of the divisions of the hereinafter described Armed Services Renegotiation Board. The chairman of the Military Renegotiation Policy and Review Board shall be selected by the three members thereof from among themselves; and

(b) There is also hereby created as a joint board of the Army, Navy, and Air Force, the Armed Services Renegotiation Board, which shall consist of three divisions. One of the divisions shall be known as the Army Renegotiation Division, and its members, not to exceed five in number, shall be appointed by the Secretary of the Army, who shall also designate the chairman of said division; one of the divisions shall be known as the Navy Renegotiation Division, and its members, not to exceed five in number, shall be appointed by the Secretary of the Navy, who shall also designate the Chairman of said division; and one of the divisions shall be known as the Air Force Renegotiation Division, and its members not to exceed five in number, shall be appointed by the Secretary of the Air Force, who shall also designate the chairman of said division. The chairman of the Armed Services Renegotiation Board shall be selected by the three chairmen of the respective renegotiation divisions from among themselves.

2. Pursuant to subsection (g) of the Act, I hereby delegate to the Military Renegotiation Policy and Review Board all of the powers, functions and duties conferred upon me by the Act, except as otherwise delegated in this memorandum. The powers, functions and duties hereby delegated to the Military Renegotiation Policy and Review Board include, but are not limited to, the following:

(a) To promulgate and publish in the FEDERAL REGISTER, pursuant to subsection (f) of the Act and after approval by the Secretary of Defense, regulations, (1) interpreting and applying the Act, (2) prescribing standards and procedures for determining and eliminating excessive profits under the Act, using, so far as the Military Renegotiation Policy and Review Board deems practicable, the principles and procedures of the Renegotiation Act of February 25, 1944, as amended, having regard for the different economic conditions existing on or after the effective date of the Act from those prevailing during the period from 1942 to 1945, and (3) providing for the review by the Military Renegotiation Policy and Review Board of determinations made by the chairman of a division of the Armed Services Renegotiation Board;

(b) To assign for renegotiation contractors or subcontractors to divisions of the Armed Services Renegotiation Board;

(c) To review any determination made by the chairman of a division of the Armed Services Renegotiation Board. Upon any review by the Military Renegotiation Policy and Review Board, it may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the chairman of the division of the Armed Services Renegotiation Board whose action is so reviewed and such determination may be made by agreement or order;

(d) To exempt under subsection (d) of the Act from some or all of the provisions of the Act contracts and subcontracts by general classes or types, excepting from such delegation any power or authority to exempt from any of the provisions of the Act an individual contract or subcontract;

(e) To audit the books and records of any contractor or subcontractor subject to the Act.

3. Pursuant to subsection (g) of the Act, I hereby delegate to the chairman of each division of the Armed Services Renegotiation Board the following powers, functions and duties:

(a) To conduct renegotiation under the Act with any contractor or subcontractor assigned to any such division;

(b) To make determinations of excessive profits by agreement or order subject to the review of the Military Renegotiation Policy and Review Board pursuant to subparagraph (c) of paragraph 2 of this memorandum;

(c) To audit the books and records of any contractor or subcontractor subject to the Act.

4. The Military Renegotiation Policy and Review Board shall submit reports summarizing its activities to the Secretary of Defense at simiannual intervals, beginning January 1, 1949.

5. There is hereby delegated to each of the Secretaries of the Army, the Navy, and the Air Force, respectively, the following powers, functions, and duties:

(a) To exempt under subsection (d) of the Act from some or all of the provisions of the Act an individual contract entered into pursuant to his authority or the authority of his Department, or any subcontracts under any such individual contract, excepting from such delegation, however, any power or authority to exempt from any of the provisions of the Act, any contracts or subcontracts by general classes or types. In the exercise of this delegation an application for exemption of an individual contract or subcontract shall be first referred to the Military Renegotiation Policy and Review Board for recommendation;

(b) To eliminate under subsection (b) of the Act excessive profits by any of the methods set forth in subsection (c) (2) of the Renegotation Act of February 25, 1944, as amended.

6. Without intending to limit the powers, functions, and duties hereby delegated, all agencies and persons exercising renegotiation authority under these delegations shall be governed by the applicable regulations issued from time to time under paragraph 2 (a) hereof by the Military Renegotiation Policy and Review Board, after approval by the Secretary of Defense.

7. This memorandum is subject to revocation or modification, in whole or in part, at any time.

§ 428.823 *Renegotiation clause adopted by the Military Renegotiation Policy and Review Board on October 13, 1948.*

(a) This contract is subject to the Renegotiation Act of 1948.

(b) The contractor (which term as used in this clause means the party contracting to furnish the articles or perform the work required by this contract) agrees, within thirty days after receipt of its signed copy of this contract, to notify the Military Renegotiation Policy and Review Board, Office of the Secretary of Defense, Washington 25, D. C., of such contract, indicating its own name and address; provided that, if the contractor has previously reported to the Military Renegotiation Policy and Review Board any contract or purchase order subject to the Renegotiation Act of 1948, such notification shall not be necessary.

(c) The contractor agrees to insert the provisions of this clause, including this paragraph (c), in all contracts or purchase orders in excess of $1,000 to make or furnish any article or to perform all or any part of the work required for the performance of this contract.

NOTE: In any procurement where only certain items or lots are subject to renegotiation it is desirable from the standpoint of renegotiation to purchase that part subject to renegotiation by a separate contract or purchase order. However, in circumstances where it is not practicable to effect such separate purchase the application of the foregoing clause should be limited by an appropriate contract provision to those lots or items subject to renegotiation.

SUBPART C—EXCERPTS FROM INTERNAL REVENUE CODE; AND BUREAU OF INTERNAL REVENUE INTERPRETATIONS WITH RESPECT TO RENEGOTIATION

§ 428.831 *Section 3806 of the Internal Revenue Code (as amended by section 701 (c) of the Revenue Act of 1943); sec. 3806, mitigation of effect of renegotiation of war contracts or disallowance of reimbursement.*

SEC. 3806 (a) *Reduction for prior taxable year*—(1) *Excessive profits eliminated for prior taxable year.* In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer, if a renegotiation is made in respect of such contract or subcontract and an amount of excessive profits received or accrued under such contract or subcontract for a taxable year (hereinafter referred to as "prior taxable year") is eliminated and, in a taxable year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of excessive profits eliminated or the amount of excessive profits eliminated is applied as an offset against other amounts due the taxpayer, the part of the contract or subcontract price which was received or was accrued for the prior taxable year shall be reduced by the amount of excessive profits eliminated. For the purposes of this section—

(A) The term "renegotiation" includes any transaction which is a renegotiation within the meaning of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

(B) The term "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts.

(C) The term "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended.

(2) *Reduction of reimbursement for prior taxable year.* In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed is disallowed as an item of cost chargeable to such contract and, in a taxable year beginning after December 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed or the amount disallowed is applied as an offset against other amounts due the taxpayer, the amount of the reimbursement of the taxpayer under the contract for the taxable year in which the reimbursement for such item was received or was accrued (hereinafter referred to as "prior taxable year") shall be reduced by the amount disallowed.

(3) *Deduction disallowed.* The amount of the payment, repayment, or offset described in paragraph (1) or paragraph (2) shall not constitute a deduction for the year in which paid or incurred.

(4) *Exception.* The foregoing provisions of this subsection shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the Commissioner that a different method of accounting for the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under such method, which for the purposes of subsections (b) and (c) shall be considered a prior taxable year.

SEC. 3806 (b). *Credit against repayment on account of renegotiation or allowance*—(1) *General rule.* There shall be credited against the amount of excessive profits eliminated the amount by which the tax for the prior taxable year under Chapter 1, Chapter 2A, Chapter 2B, Chapter 2D, and Chapter 2E, is decreased by reason of the application of paragraph (1) of subsection (a); and there shall be credited against the amount disallowed the amount by which the tax for the prior taxable year under Chapter 1, Chapter 2A, Chapter 2B, Chapter 2D, and Chapter 2E, is decreased by reason of the application of paragraph (2) of subsection (a).

(2) *Special rules as to individuals for 1942 and 1943.* In the case of an individual subject to the provisions of sections 58, 59, and 60 of Chapter 1 and to the provisions of section 6 of the Current Tax Payment Act of 1943—

(A) No credit shall be allowed under paragraph (1) of this subsection for any amount by which the tax for the taxable year 1942 under Chapter 1 is decreased by the application of paragraph (1) or paragraph (2) of subsection (a). If, contrary to the foregoing provisions of this subparagraph, any part of the amount shown on the return as such tax for the taxable year 1942 or any part of an amount assessed as such tax for such year or as an addition to such tax is credited against excessive profits eliminated for such year or against an amount disallowed for such year, the individual shall pay into the Treasury an amount equal to the amount of such credit, and if such amount is not voluntarily paid, the Commissioner shall, despite the provisions of the Current Tax Payment Act of 1943, collect the same under the usual methods employed to collect the tax imposed by Chapter 1. For the purposes of this section the amount required by this subparagraph to be paid into the Treasury shall be considered as an amount of excessive profits eliminated for the taxable year 1942, or an amount disallowed for such year, as the case may be; and despite the provisions of the Current Tax Payment Act of 1943, the payment of such amount shall not be considered as payment on account of the tax or estimated tax for the taxable year 1943.

(B) In the case of a renegotiation with respect to the taxable year 1942 which is made after the enactment of the Current Tax Payment Act of 1943 and prior to the date on which the individual files his return for the taxable year 1943 and with respect to which payment or repayment of the excessive profits eliminated or any part thereof is deferred by agreement, if the amount shown as the tax on the return for the taxable year 1943 reflects the application of paragraph (1) of subsection (a) with respect to the taxable year 1942 and is computed in accordance with the provisions of section 6 of the Current Tax Payment Act of 1943, there shall be credited against the excessive profits eliminated for the taxable year 1942 the amount by which the sum of the estimated tax previously paid for the taxable year 1943 and the payments on account of the taxable year 1942 which are treated as payments on account of the estimated tax for the taxable year 1943, exceeds the amount shown as the tax on the return for the taxable year 1943: *Provided*, That the amount allowable as a credit under the foregoing provisions of this subparagraph shall not exceed (i) the amount of credit of overpayment of tax provided for in the agreement deferring payment or repayment of excessive profits eliminated or (ii) the amount of excessive profits eliminated for the taxable year 1942 which, at the time the credit is allowed, have not been paid or repaid to the United States or an agency thereof or applied as an offset against other amounts due the individual. If any credit is allowed under this subparagraph, no other credit or refund under the internal revenue laws shall be made on account of the amount so allowed with respect to the taxable year 1943. Any credit of overpayment of tax allowed pursuant to the agreement deferring payment or repayment of excessive profits eliminated shall be considered as a credit allowed under this subparagraph.

(C) Except as prevented by the provisions of the foregoing subparagraph (B), there shall be credited against the amount of excessive profits eliminated for the taxable year 1942 the amount by which the tax for the taxable year 1943 as computed under section 6 of the Current Tax Payment Act of 1943 is decreased by reason of the application of paragraph (1) of subsection (a) with respect to the taxable year 1942; and there shall be credited against the amount disallowed for the taxable year 1942 the amount by which the tax for the taxable year 1943 as computed under section 6 of the Current Tax Payment Act of 1943 is decreased by reason of the application of paragraph (2) of subsection (a) with respect to the taxable year 1942. For the purposes of the foregoing provisions of this paragraph, the terms "taxable year 1942" and "taxable year 1943" shall have the meanings assigned to them by section 6 (g) of the Current Tax Payment Act of 1943.

(3) *Credit for barred year.* If at the time of the payment, repayment, or offset described in paragraph (1) or paragraph (2) of subsection (a), refund or credit of tax under Chapter 1, Chapter 2A, Chapter 2B, Chapter 2D, or Chapter 2E, for the prior taxable year, is prevented (except for the provisions of Section 3801) by any provision of the internal-revenue laws other than Section 3761, or by rule of law, the amount by which the tax for such year under such chapters is decreased by the application of paragraph (1) or paragraph (2) of subsection (a) shall be computed under this paragraph. There shall first be ascertained the tax previously determined for the prior taxable year. The amount of the tax previously determined shall be the excess of—(1) the sum of (A) the amount shown as the tax by the taxpayer upon his return (determined as provided in section 271 (b) (1) and (3)), if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus (B) the amounts previously assessed (or collected without assessment) as a deficiency, over—(2) the amount of rebates, as defined in section 271 (b) (2), made. There shall then be ascertained the decrease in tax previously determined which results solely from the application of paragraph (1) or paragraph (2) of subsection (a) to the prior taxable year. The amount so ascertained, together with any amounts collected as additions to the tax or interest, as a result of paragraph (1) or paragraph (2) of subsection (a) not having been applied to the prior taxable year shall be the amount by which such tax is decreased.

(4) *Interest.* In determining the amount of the credit under this subsection no interest shall be allowed with respect to the amount ascertained under paragraph (1) or paragraph (2); except that if interest is charged by the United States or the agency thereof on account of the disallowance for any period before the date of the payment, repayment, or offset, the credit shall be increased by an amount equal to interest on the amount ascertained under either such paragraph at the same rate and for the

period (prior to the date of the payment, repayment, or offset) as interest is so charged.

SEC. 3806 (c). *Credit in lieu of other credit or refund.* If a credit is allowed under subsection (b) with respect to a prior taxable year no other credit or refund under the internal-revenue laws founded on the application of subsection (a) shall be made on account of the amount allowed with respect to such taxable year. If the amount allowable as a credit under subsection (b) exceeds the amount allowed under such subsection, the excess shall, for the purposes of the internal-revenue laws relating to credit or refund of tax, be treated as an overpayment for the prior taxable year which was made at the time the payment, repayment, or offset was made.

§ 428.832 *Bureau of Internal Revenue: I. T. 3577.*

1942—37—11193

I. T. 3577

Statement of policy of the Bureau of Internal Revenue as to the tax effect in cases in which Government war contracts are renegotiated, or in cases where, pursuant to action by the Comptroller General, an item for which a taxpayer his been reimbursed is disallowed as an item of cost chargeable to a cost-plus-a-fixed-fee contract.

Advice is requested as to the policy of the Bureau of Internal Revenue with respect to the adjustment of income and excess profits taxes in cases in which Government war contracts are renegotiated and it is determined by the renegotiating department or agency that excessive profits have been, or are likely to be, paid to the contractor or subcontractor, and in cases where, pursuant to action by the Comptroller General, an item for which a taxpayer has been reimbursed is disallowed as an item of cost chargeable to a cost-plus-a-fixed-fee contract, the taxpayer being required to repay to the Government the amount of such disallowance.

Under Title IV of the Sixth Supplemental National Defense Appropriation Act, 1942 (Public Law 528, Seventy-seventh Congress, second session), certain Government departments or agencies are authorized and directed to require contractors or subcontractors to renegotiate the contract price with respect to designated contracts and subcontracts in case any amounts of excessive profits have been or are likely to be realized therefrom and to recover such excessive profits paid, or to withhold payment if the profits have not been paid.

The determination of the amount of the excessive profits and the making of an agreement with the contractor or subcontractor in regard to the method by which repayment to the Government of the excessive profits is to be effected are matters within the jurisdiction of the particular renegotiating department or agency. The Bureau of Internal Revenue has no authority to function in the determination or collection of these excessive profits. The Bureau, however, upon request of the parties to the renegotiation will advise them of the manner in which the renegotiation will affect the contractor's Federal income and excess profits taxes.

The determination of tax liabilities and the collection thereof are under the administration of the Bureau, together with the making of rulings and closing agreements, under Section 3760 of the Internal Revenue Code, with the taxpayer with respect to either actual tax liability for any taxable year or prospectively with respect to proposed transactions.

In case the renegotiating agreement provides for reduced contract prices to be retroactively applied to prior taxable years for which returns have been filed and the income and excess profits taxes paid or assessed, repayment to the Government of the excessive profits on which such taxes have been paid or assessed will be involved in the settlement. This raises the question, "If the contractor or subcontractor repays the entire amount of such excessive profits to the Government, should the Bureau be required to refund the income and excess profits taxes paid on such excessive profits?" The position of the Bureau is that only the amount of such profits in excess of the Federal income and excess profits taxes paid or assessed thereon should be repaid by the contractor or subcontractor, and no refund or abatement of such taxes should be made, since the taxes should be considered as a recapture of a portion of the excessive profits and as such a proper offset against the total excessive profits. The remainder of the excessive profits would be recaptured through repayment thereof to the Government by the contractor or subcontractor. The repayment should not be allowed as a deduction in the income and excess profits tax returns of the taxpayer for any taxable year. To do so would result in a double tax benefit where the income and excess profits taxes have been offset against the excessive profits. Even though the right to such offset is foregone by the taxpayer and the offset is not made, the repayment should not be allowed as a deduction in the taxpayer's returns, since the taxpayer should not be permitted to forego the right to the offset for the sake of obtaining a deduction for a year for which the deduction will result in a greater tax benefit. This may be illustrated by the following example:

Example. The M Corporation filed a return for the calendar year 1941 on March 15, 1942, reporting therein an amount of $1,000,000, which was subsequently in the year 1942 held by one of the designated renegotiating agencies to be excessive profits realized in performance of a contract, on which excessive profits income and excess profits taxes aggregating $400,000 were paid. The $400,000 taxes should not be refunded and the remainder of the excessive profits, or $600,000, should be repaid by the corporation to the Government. The amount of $600,000 repaid to the Government will not constitute an allowable deduction from gross income for any taxable year. This produces the correct result. Excessive profits, before Federal taxes, of $1,000,000 would have been recaptured by the Government, $400,000 through the medium of taxes and $600,000 by direct repayment to the Government, with no aftermath affecting Federal taxes. To hold otherwise, for instance, to hold that the $1,000,000 should be repaid to the Government and allow such repayment as a deduction for income tax purposes for the year 1942, when the effective rate of tax, for example, is 75 percent, would produce the following incorrect result: The tax benefit in 1942 would be $750,000. The taxpayer would have paid $1,400,000 to the Government and derived a tax benefit of $750,000. The taxpayer, therefore, would have paid only $650,000 net to the Government, whereas the excessive profits admittedly were $1,000,000. Different results would be obtained in other cases depending upon the factors of income and effective rates of taxes being different from those in this example.

In case the renegotiating agreement determines reduced contract prices to be charged during the year of the agreement or subsequent thereto, or a repayment is to be made in lieu thereof which is not applicable to profits for a year for which an income tax return has been filed, and on which profits income and excess profits taxes have not been assessed or paid, gross income to be reported in the returns for such years should be reduced to conform with the reduced prices, or in case of repayment, a deduction may be taken in computing net income, provided, excessive profits determined to have been realized and received by the taxpayer are repaid to the Government. Likewise, in case the reduced contract prices are determined for the immediately preceding taxable year or a repayment is to be made in lieu thereof, and the income and excess profits tax returns for such year have not been filed at the time of such determination, the gross income for such preceding year may be reported to conform with the reduced prices agreed upon, or a deduction may be taken in computing net income, as the case may be, provided the taxpayer repays to the Government the excessive profits determined to have been realized. No deduction from gross income will be allowed for any other taxable year for the amount of such excessive profits so repaid. This may be illustrated by the following example:

Example. The X Corporation filed a return for the calendar year 1942 on March 15, 1943. In February, 1943, it was determined that the taxpayer had realized during 1942 excessive profits in the amount of $1,000,000 and the parties agree that during 1943 repayment of such excessive profits will be made to the Government in designated amounts per month until the entire amount of $1,000,000 excessive profits is repaid. The gross income to be reported by the corporation in its return for 1942 should not include the $1,000,000, and no tax attributable to excessive profits will thus be assessed or paid. No deduction from gross income will be allowed for any year for the amount of the excessive profits excluded from gross income and repaid to the Government.

In cases of renegotiation agreements with respect to years for which income and excess profits returns have not been filed and income and excess profits taxes not assessed and paid, the reduction in gross income may be made, or the deduction may be taken in computing net income, as the case may be, although the renegotiating agreement has not been completed, provided at the time of filing the return the negotiations have progressed to such a stage that the amount of the reduction in gross income, or the amount of the repayment in lieu thereof, is certain, and in filing the income and excess profits tax return such reduction is made or such deduction is taken.

The Bureau, upon request of the parties to the renegotiation, in any case will advise them relative to the amount of excessive profits previously recaptured through the medium of income and excess profits taxes paid thereon.

In addition to the above stated considerations for the basis of the position of the Bureau that refunds of income and excess profits taxes should not be allowed in such cases, it may be stated that if the Bureau should be required to make refunds of the taxes paid on excessive profits repaid to the Government because such excessive profits have been determined before the taxes, instead of after the taxes, entirely ignoring the previous recapture of a portion of the excessive profits through the medium of such taxes, an appropriation from Congress to provide funds for such refunds would be necessary. The estimate of the sum necessary for such purpose logically would be based upon information from the negotiating agencies relative to the income and excess profits taxes paid on the excessive profits recaptured by such taxes previously paid thereon.

What has been said above applies with equal force to cases involving a cost-plus-a-fixed-fee contract where an item for which the taxpayer has been reimbursed is disallowed as an item of cost chargeable to such contract and the taxpayer is required to repay to the United States the amount disallowed.

§ 428.833 *Bureau of Internal Revenue: I. T. 3611.*

SECTION 3806—MITIGATION OF EFFECT OF RENEGOTIATION OF WAR CONTRACTS OR DISALLOWANCE OF REIMBURSEMENT

1943—12—11468
I. T. 3611

INTERNAL REVENUE CODE

Effect for Federal income and excess profits tax purposes of the renegotiation of Government contracts or subcontracts thereunder to eliminate excessive profits for a particular year, and the allowance, in mitigation of the effect of such renegotiation, of a credit against the excessive profits, under section 3806 of the Internal Revenue Code, as added by section 508 of the Revenue Act of 1942, for Federal income and excess profits taxes attributable to such excessive profits. Practice of Bureau (I. T. 3577, C. B. 1942-2, 163) restated.

Advice is requested as to the effect for Federal income and excess profits tax purposes of the renegotiation of Government contracts or subcontracts thereunder to eliminate excessive profits for a particular year, and the allowance, in mitigation of the effect of such renegotiation, of a credit against the excessive profits, under section 3806 of the Internal Revenue Code, as added by section 508 of the Revenue Act of 1942, for Federal income and excess profits taxes attributable to such excessive profits.

Under Title IV of the Sixth Supplemental National Defense Appropriation Act of 1942 (Public Law 528, Seventy-seventh Congress, second session), as amended by section 801 of the Revenue Act of 1942 (Public Law 753, Seventy-seventh Congress, second session), certain Government departments or agencies are authorized and directed to require contractors or subcontractors to renegotiate the contract price with respect to designated contracts and subcontracts in case any amounts of excessive profits have been or are likely to be realized therefrom and recover such excessive profits paid, or to withhold payment if the profits have not been paid.

In case the renegotiating agreement provides that excessive profits have been realized under contracts in effect during prior taxable years for which returns have been filed and the income and excess profits taxes paid or assessed, elimination of the excessive profits on which such taxes have been paid or assessed is involved in the settlement. The question was raised whether the contractor or subcontractor should repay the entire amount of such excessive profits to the Government and the Bureau of Internal Revenue be required to refund the income and excess profits taxes paid on such excessive profits, or whether only the amount of such profits in excess of the Federal income and excess profits taxes paid or assessed thereon should be repaid by the contractor or subcontractor and no refund or abatement of such taxes be made, the taxes being considered as a recapture of a portion of the excessive profits, and as such a proper offset against the total excessive profits, and the remainder of the excessive profits being recaptured through payment thereof to the Government by the contractor or subcontractor. The question was also raised whether the excessive profits eliminated give rise to a deduction in the income and excess profits tax returns of the taxpayer for any other taxable year, since to do so would result in a double tax benefit where the income and excess profits taxes have been offset against the excessive profits. These questions have now been resolved by section 3806 of the Code, as indicated below.

Section 3806 (a) 1 of the Code requires that a payment or repayment within a taxable year ending after December 31, 1941, of excessive profits pursuant to a renegotiation, shall be treated as a reduction of the price of the contracts or subcontracts for the taxable year for which such price was received or accrued. Section 3806 (b) of the Code requires that the decrease in Federal income and excess profits taxes resulting from such contract price reductions be credited against the amount of the excessive profits eliminated through renegotiation. Consequently the taxpayer will, on account of the renegotiation, pay or repay to the United States only the net amount of excessive profits of a prior taxable year which remain after there has been credited against the excessive profits the amount of Federal income and excess profits taxes attributable to such excessive profits. If the amount allowed as such credit against the excessive profits is less than the amount allowable, the difference is to be treated as an overpayment of the tax to be refunded or credited to the taxpayer as provided in section 3806 (c) of the Code. Also, the credit allowed against the amount of excessive profits, for Federal income tax purposes, including computation of post-war refund of excess profits taxes under section 780 of the Code, is treated the same as if such credit were a refund of the taxes forming the basis of the credit.

In view of the provisions of section 3806, it is the opinion of this office that the taxpayer's net income for Federal income and excess profits tax purposes is required to be, in effect, determined upon the basis of, and by giving effect to, the renegotiation. No refund of tax for any taxable year shall include any amount of tax which, pursuant to section 3806 (b), is credited against excessive profits eliminated for such year. However, for the purpose of determining the correct amount of the tax after a renegotiation has been made for a taxable year, the amount credited against the excessive profits eliminated is to be treated as an amount previously credited to the taxpayer in respect of the tax for such year. Also, the amount of the post-war refund, under sections 780 and 781 of the Code, of excess profits tax shall be reduced to reflect the amount of such tax which is credited against the excessive profits eliminated. Furthermore, where excessive profits eliminated and repaid to the Government are treated as a reduction of gross income, the amount of such excessive profits is not an allowable deduction from the gross income of the taxpayer for any taxable year. (See section 3806 (a) 3 of the Code.) This may be illustrated by the following example:

Example. The A Corporation, which makes its income and excess profits tax returns on the calendar year basis, filed its returns for 1942 on March 15, 1943. As a result of a renegotiation consummated on May 1, 1943, it was determined that in 1942 the A Corporation realized excessive profits of $1,000,000 in the performance of its Government contracts. On such amount of $1,000,000, the A Corporation was assessed Federal income and excess profits taxes aggregating $700,000, of which $10,000 represented declared value excess-profits taxes and $270,000 represented excess profits taxes imposed by Subchapter E of Chapter 2 of the Code. Such taxes were credited against the $1,000,000 of excessive profits eliminated for 1942, and on May 1, 1943, the A Corporation paid to the United States the net amount of $300,000 ($1,000,000 less $700,000). The gross income of the A Corporation for 1942 is to be reduced by the $1,000,000 in excessive profits eliminated. The A Corporation is not entitled in computing its net income for 1942 or any subsequent taxable year to deduct any portion of such $1,000,000 excessive profits. No part of the $700,000 Federal income and excess profits taxes shall be refunded or credited to the taxpayer under sections 321 and 322 of the Code. However, for the purpose of determining the correct tax for 1942, the amount of tax shown by the A Corporation on its return for such year shall be decreased by the $700,000 credit allowed against excessive profits. The post-war refund of excess profits tax is reduced by $27,000 (10 percent of $270,000).

In giving effect to the principles applied by section 3806 of the Code in case the renegotiating agreement determines reduced contract prices to be charged during the year of the agreement or subsequent thereto, or a repayment is to be made in lieu thereof which is not applicable to profits for a year for which an income tax return has been filed, and on which profits income and excess profits taxes have not been assessed or paid, the practice of the Bureau has been to permit the taxpayer to reduce the gross income to be reported in the returns for such years to conform with the reduced price or, in case of repayment, to permit a deduction to be taken in computing net income, provided, excessive profits determined to have been realized and received by the taxpayer are repaid to the Government. Likewise, in case the reduced contract prices are determined for the immediately preceding taxable year or a repayment is to be made in lieu thereof, and the completed income and excess profits tax returns for such year have not been filed at the time of such determination, the taxpayer has been permitted to report the gross income for such preceding year to conform with the reduced prices agreed upon or to take a deduction in computing net income, as the case may be, provided the taxpayer repays to the Government the excessive profits determined to have been realized. No deduction from gross income is allowed for any other taxable year for the amount of such excessive profits so repaid. This method of treatment will continue to be followed, subject to the condition that the excessive profits be paid or repaid to the United States or credited against amounts due and payable from the United States, and no deduction from gross income will be allowed for any other taxable year for the amount of such excessive profits so repaid. (See I. T. 3577, C. B. 1942-2, 163).

The above statements apply with equal force to (1) disallowance of items of cost for which a contractor has been previously reimbursed under a cost-plus-a-fixed-fee contract (see section 3806 (a) 2 of the Code), and (2) contracts involving any renegotiation within the meaning of that term as it is defined in section 3806 (a) 1 (A) of the Code, including, but not limited to, (a) any modification of one or more contracts with the United States or any agency thereof when such modification effects a voluntary elimination of excessive profits (as defined in section 3806 (a) 1 (B) of the Code) for a prior year, or a price reduction made retroactive for a prior year pursuant to express provision for price adjustment contained in the contract, and (b) any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

§ 428.834 *Bureau of Internal Revenue: I. T. 3671.*

SECTION 3806—MITIGATION OF EFFECT OF RENEGOTIATION OF WAR CONTRACTS OR DISALLOWANCE OF REIMBURSEMENT

1944—12—11764
I. T. 3671

INTERNAL REVENUE CODE

The term "renegotiation," for the purposes of section 3806 of the Internal Revenue Code, as amended, is not limited to a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (56 Stat. 226), as amended.

Advice is requested whether the term "renegotiation," for the purposes of section 3806 of the Internal Revenue Code, as amended, is limited to a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (56

Stat. 226), as amended, or whether any Government contractor, acting upon his own initiative and desirous of refunding direct to the United States profits he has realized under a Government contract, or a subcontract thereunder, may effect a repayment of such profits in a manner coming within the provisions of section 3806 of the Code, as amended.

Section 3806 (a) (1) (A) of the Code provides as follows:

The term "renegotiation" includes any transaction which is a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

It will be noted that the above-quoted provision of the Code includes within the term "renegotiation"—"any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder."

It is held that the term "renegotiation," for the purposes of section 3806 of the Internal Revenue Code, as amended, is not limited to a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, as amended, *supra* (which section is cited as the Renegotiation Act). It includes an agreement in writing made in respect of one or more Government contracts or subcontracts thereunder, and may be effected by an exchange of correspondence which embodies a binding agreement by both parties as to the amount repaid or to be repaid and the year to which the repayment relates. A Government contractor, acting upon his own initiative and desirous of refunding direct to the United States profits he has realized under a Government contract, or a subcontract thereunder, should, however, get in touch with the renegotiating agency as to the form of agreement in writing which may be employed.

§ 428.835 *Letter from Commissioner of Internal Revenue dated March 14, 1949, with respect to I. T. 3577, I. T. 3611 and I. T. 3671.*

TREASURY DEPARTMENT

Washington 25

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE

Office of the Secretary of Defense,
Military Renegotiation Policy and
Review Board,
Washington 25, D. C.
Attention: Mr. Frank L. Roberts,
Chairman.

Gentlemen:

Reference is made to your letter dated February 28, 1949, in which you request advice as to whether the principles set forth in I. T. 3577 (C. B. 1942-2, 163), I. T. 3611 (C. B. 1943, 978) and I. T. 3671 (C. B. 1944, 465) are applicable to renegotation pursuant to the Renegotiation Act of 1948 (62 Stat. 259, C. B. 1948-1, 238).

The Renegotiation Act of 1948 provides in part: "In eliminating excessive profits the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code." Section 3806 (a) (1) (A) of the Internal Revenue Code provides as follows:

"(A) The term 'renegotiation' includes any transaction which is a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder."

Accordingly, the principles stated in I. T. 3577, I. T. 3611 and I. T. 3671 are applicable to renegotiations under the Renegotiation Act of 1948.

Very truly yours,

GEORGE SHOENEMAN,
Commissioner.

SUBPART D—EXEMPTIONS

§ 428.840 *Scope of subpart.* Certain raw materials and agricultural commodities exempted by subsection (i) (1) (B) and subsection (i) (1) (C) of the Renegotiation Act of February 25, 1944, as amended, and adopted by reference in subsection (d) of the 1948 Act are listed in this subpart. Reference is made to §§ 423.343–1 and 423.343–2 of this subchapter for interpretation and application of these exemptions.

§ 428.841 [Reserved.]

§ 428.842 [Reserved.]

SUBPART E—[RESERVED]

Adopted: May 20, 1949.

FRANK L. ROBERTS,
Chairman,
Military Renegotiation
Policy and Review Board.

Approved: June 7, 1949.

LOUIS JOHNSON,
Secretary of Defense.

[F. R. Doc. 49-4666; Filed, June 9, 1949; 8:50 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 8414]

PART 9—AERONAUTICAL SERVICES

FREQUENCY STABILITY

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 1st day of June 1949;

The Commission having under consideration an amendment to § 9.172 of the Commission's rules and regulations governing aeronautical services to permit the continued use under certain conditions of currently licensed ground station equipment operating on frequencies above 500 kc although that equipment cannot meet a frequency stability of 0.01%;

It appearing, that in accordance with the requirements of section 4 (a) of the Administrative Procedures Act, general notice of proposed rule making in the above-entitled matter was duly published in the FEDERAL REGISTER; and

It further appearing, that the only comment received favored the adoption of the amendment;

It further appearing, that public interest, convenience and necessity will be served by the adoption of the proposed amendment and authority therefor is contained in section 303 (e), (f) and (r) of the Communications Act of 1934, as amended;

It is ordered, That effective July 11, 1949, § 9.172 of the Commission's rules is amended to read as follows:

§ 9.172 *Frequency stability.*[1] The carrier frequency of stations in the aeronautical service shall be maintained within the following percentage of the assigned frequency:

	Before Jan. 1, 1950	After Jan. 1, 1950
All aircraft stations on frequencies above 500 kc	*Percent* 0.02	*Percent* [1] 0.01
All ground stations on frequencies above 500 kc	.01	.01
All stations on frequencies of 500 kc or below	.02	.02

[1] All new equipment shall meet this requirement. All existing equipment operating on frequencies below 30,000 kilocycles shall meet this requirement if this tolerance can be met by crystal change alone; otherwise the tolerance shall be 0.02%.

(Sec. 303 (r) 50 Stat. 191; 47 U. S. C. Applies sec. 303 (e), (f) 48 Stat. 1082; 47 U. S. C. sec. 303 (e), (f))

Released: June 2, 1949.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-4671; Filed, June 9, 1949; 8:53 a. m.]

[Docket No. 9297]

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

CHARGES FOR UNITED STATES GOVERNMENT TELEGRAPH COMMUNICATIONS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 1st day of June 1949;

The Commission, having under consideration the matter of the amendment of §§ 64.305 *Priority* and 64.310 *Term* of Subpart C, United States Government Foreign and Overseas Telegraph Communications, of Part 64 of the Commission's rules and regulations; and also having under consideration its notice of proposed rule making adopted herein on April 20, 1949, and published in the FEDERAL REGISTER on April 26, 1949 (14 F. R. 2047), in accordance with section 4 (a) of the Administrative Procedure Act;

It appearing, that the period in which interested persons were afforded an opportunity to submit comments expired on May 16, 1949, and that comments upon the proposed amendment were received

[1] These tolerance requirements are obviously not applicable to certain devices such as altimeters and various radar equipments which are now operating on an experimental basis to determine their value, design and frequency requirements. Pending decision on the final status of such equipment and the modification of the Commission's rules to meet their needs, tolerance requirements will be specified on the licenses under which such devices operate.

by the Commission from RCA Communications, Inc., which comments have been carefully considered by the Commission, and certain of them have been adopted in the formulation of the amendment herein ordered;

It further appearing, that § 64.309 *Priority subject to statute and convention* of Subpart C of Part 64 of the Commission's rules and regulations should be amended to make it clear that the priority of United States Government messages is subject to the provisions of Conventions or annexed regulations providing for equal or higher priority in respect of any type of communication;

It further appearing, that it is appropriate and in the public interest to amend the said subpart in order to extend the term thereof and to make its provisions conform with those of the International Telecommunication Convention (Atlantic City 1947);

It further appearing, that the amendment herein ordered is issued under the authority of sections 4 (i) and 601 (b) of the Communications Act of 1934, as amended, and pursuant to the provisions of the permits or licenses granted by the President of the United States, giving the Postmaster General authority to fix rates and charges for United States Government telegraph communications transmitted by any carrier or carriers subject to the terms of such permits or licenses, which authority was transferred to the Commission by section 601 (b) of the Communications Act;

It further appearing, that the amendment herein ordered should be effective on less than thirty days notice by publication in order to avoid any hiatus in the applicability of said Subpart C;

It is ordered, That effective July 1, 1949, §§ 64.305, 64.309 and 64.310 of Subpart C of Part 64 of the Commission's rules and regulations are amended to read as follows:

§ 64.305 *Priority.* Every Government ordinary and code message to which these rules apply and for which priority has been specifically requested by the sender, shall have priority over all other messages regardless of the classification; and every Government message shall, unless otherwise provided herein, be subject to the classifications, practices and regulations applicable to the corresponding commercial communications.

§ 64.309 *Priority subject to statute and conventions.* Nothing herein contained shall be construed to give Government messages priority over radio communications or signals which are given a higher priority under section 321 (b) of the Communications Act of 1934, as amended; or over any communications given equal or higher priority under the provisions of any Convention or any regulations annexed thereto to which the United States may be bound.

§ 64.310 *Term.* The provisions of Subpart C shall continue in effect through June 30, 1950, unless changed by order of the Commission.

(Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. Applies sec. 601 (b) 48 Stat. 1102; 47 U. S. C. sec. 601 (b))

Released: June 2, 1949.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-4672; Filed, June 9, 1949; 8:54 a. m.]

PROPOSED RULE MAKING

FEDERAL SECURITY AGENCY

Bureau of Federal Credit Unions

[45 CFR, Parts 301, 302]

ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS; RESERVES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 238, 5 U. S. C. 1003), that the regulations set forth in tentative form below are proposed to be prescribed by the Director of the Bureau of Federal Credit Unions with approval of the Commissioner for Social Security and the Federal Security Administrator. The proposed regulations are designed to specify the authority of Federal credit unions to provide retirement benefits for employees of Federal credit unions and to establish regulations concerning reserves for Federal credit unions.

Prior to the official adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Director of the Bureau of Federal Credit Unions, Federal Security Agency, Federal Security Building, Washington 25, D. C., within a period of thirty days from the date of the publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under authority contained in section 16 (a) of the Federal Credit Union Act, as amended. (48 Stat. 1221, 12 U. S. C. 1766 and section 2 of the Act of June 29, 1948 (62 Stat. 1091))

Dated: May 31, 1949.

[SEAL] CLAUDE R. ORCHARD,
Director,
Bureau of Federal Credit Unions.

Approved: June 2, 1949.

Dated: June 2, 1949.

A. J. ALTMEYER,
Commissioner for Social Security.

Dated: June 6, 1949.

J. DONALD KINGSLEY,
Acting Federal Security Administrator.

PART 301—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

§ 301.19 *Retirement benefits for employees of Federal credit unions.* Federal credit unions may make provision for reasonable retirement benefits for employees and for officers who are compensated in conformance with the Federal Credit Union Act and the Federal credit union's bylaws, but no Federal credit union shall undertake to administer a retirement plan. (Sec. 16 (a), 48 Stat. 1221; 12 U. S. C. 1766 (a); sec. 2, 62 Stat. 1091; 12 U. S. C. 1751 (a) and note)

PART 302—RESERVES

Sec.
302.1 Reserves in general.
302.2 Reserves for bad loans.
302.3 Special reserve for delinquent loans.

AUTHORITY: §§ 302.1 to 302.3 issued under sec. 16 (a), 48 Stat. 1221; 12 U. S. C. 1766; and sec. 2, 62 Stat. 1091; 12 U. S. C. 1751 (a) and note.

§ 302.1 *Reserves in general.* (a) Federal credit unions shall establish and maintain such reserves as may be required by the Federal Credit Union Act, as amended, or by the regulations in this part, or in special cases by the Director of the Bureau of Federal Credit Unions on his finding, after a hearing, that the reserves of the Federal credit union concerned are insufficient.

§ 302.2 *Reserves for bad loans.* (a) The treasurer shall transfer to a reserve to be known as the reserve for bad loans: (1) As of the close of business of each month, all entrance fees, transfer fees and fines collected during the month; (2) as of December 31 of each year, 20% of the net earnings before the declaration of dividends; and (3) as of the close of business of each month, recoveries of the principal, including collection costs, of bad loans previously charged to the reserve.

(b) The reserve for bad loans shall be charged with the unpaid principal, including collection costs, of bad loans which the board of directors authorizes to be charged off as uncollectible.

§ 302.3 *Special reserve for delinquent loans.* (a) The Reserve for bad loans of each Federal credit union shall be supplemented by a special reserve to be known as the special reserve for delinquent loans, which shall be equal to the excess of the sum of 10% of the unpaid balances of loans delinquent more than two months and less than six months, plus 25% of the unpaid balances of loans delinquent from six months to less than

12 months, plus 50% of the unpaid balances of loans delinquent from 12 months to less than 18 months, and plus 100% of the unpaid balances of loans delinquent 18 months or more over the balance in the reserve for bad loans. In the event it is necessary to supplement the reserve for bad loans by a special reserve for delinquent loans, the transfer to the special reserve for delinquent loans shall be made as of December 31 of each year from undivided profits before any distribution of dividends. The maintenance of a special reserve for delinquent loans shall not eliminate the necessity for transferring 20% of the net earnings as of December 31 each year to the reserve for bad loans. In the event the required transfer exceeds the balance of undivided profits, only the balance of undivided profits shall be transferred to the special reserve for delinquent loans.

(b) When, as of December 31 of any year, the amount in the special reserve for delinquent loans exceeds the amount required by the regulations in this part, the board of directors of the Federal credit union may authorize the transfer of the excess to undivided profits.

(c) Upon written application by the Board of Directors of a Federal credit union, the Director of the Bureau of Federal Credit Unions may waive, in whole or in part, the requirement for the maintenance of the special reserve for delinquent loans contained in paragraph (a) of this section. Such applications shall be addressed to the Regional Representative of the Bureau of Federal Credit Unions in the area in which the Federal credit union concerned maintains its principal office.

[F. R. Doc. 49-4667; Filed, June 9, 1949; 8:50 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Office of International Trade

[Case 44]

HENRY ROBINSON

DECISION OF APPEALS BOARD

Upon reading the transcript of the hearings held in New York, N. Y., on October 25, November 19 and November 20, 1948, by Clarence J. Blau, Compliance Commissioner; the report and recommendation dated February 17, 1949, of said Compliance Commissioner to John Evans, Director, Commodities Division, Office of International Trade, the Order Suspending License Privileges, dated March 7, 1949, issued by John W. Evans, Director, Commodities Division, thereon and upon the evidence submitted at the hearing held in Washington, D. C., on May 18, 1949, before the Appeals Board upon appeal from said Order Suspending License Privileges.

The Appeals Board finds as follows:

(1) That the findings contained in said report of the Compliance Commissioner, dated January 28, 1949, are justified by the evidence;

(2) That the provisions of the Order Suspending License Privileges, dated March 7, 1949, are appropriate in view of the nature of the violations disclosed.

Now, therefore, it is ordered, That the appeal of the respondent, Henry Robinson, be, and it hereby is, denied; and the said Order Suspending License Privileges is in all respects sustained.

HARRISON LILLIBRIDGE,
Chairman, Appeals Board.

Attest: June 1, 1949.

VICTOR ALLEX,
Executive Secretary.

[F. R. Doc. 49-4679; Filed, June 9, 1949; 8:55 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. SA-191]

ACCIDENT OCCURRING AT CLARKSBURG, W. VA.

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry NC-18488, which occurred at Clarksburg, West Virginia, May 11, 1949.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that hearing is hereby assigned to be held on Thursday, June 16, 1949, at 9:00 a. m., e. s. t., in the Civil Service Room of the U. S. Post Office, Clarksburg, West Virginia.

Dated at Washington, D. C., June 1, 1949.

[SEAL] RUSSELL A. POTTER,
Presiding Officer.

[F. R. Doc. 49-4677; Filed, June 9, 1949; 8:55 a. m.]

[Docket No. 3713]

PURDUE AERONAUTICS CORP.; LAFAYETTE-CHICAGO OPERATION

NOTICE OF HEARING

In the matter of the application of Purdue Aeronautics Corporation under section 401 of the Civil Aeronautics Act of 1938, as amended, for a temporary certificate of public convenience and necessity authorizing the air transportation of persons and property between the terminal points Lafayette, Ind., and Chicago, Ill.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 401 and 1001 of said act that a hearing in the above-entitled proceeding is assigned to be held on June 20, 1949 at 10 a. m. (e. d. s. t.), in Room 1011, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Richard A. Walsh.

Without limiting the scope of the issues presented by said application, particular attention will be directed to the following matters and questions:

1. Whether the proposed service is required by the public convenience and necessity.

2. Whether the applicant is a citizen of the United States and is fit, willing, and able to perform the proposed air transportation and to conform to the provisions of the act and the rules, regulations, and requirements of the Board thereunder.

Notice is further given that any person desiring to be heard in this proceeding must file with the Board, on or before June 20, 1949, a statement setting forth the issues of fact or law raised by said application which he desires to controvert.

For further details of the service proposed and authorization requested, interested parties are referred to the application on file with the Civil Aeronautics Board.

Dated at Washington, D. C., June 6, 1949.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-4678; Filed, June 9, 1949; 8:55 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9331]

ELECTRONICS CORP. OF PUERTO RICO

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Electronics Corporation of Puerto Rico, File No. BR-1393, Docket No. 9331; for renewal of license of station WECW.

At a session of the Federal Communications Commission held in Washington, D. C., on the 25th day of May 1949;

The Commission having under consideration the above entitled application of Electronics Corporation of Puerto Rico, for renewal of license of AM Broadcast Station WECW, at Mayaguez, Puerto Rico; and

It appearing that the license for the operation of Station WECW has been extended on a temporary basis to June 1, 1949; and

It further appearing, that the Commission is unable to determine from the consideration of the application that a grant of renewal of license for the station would be in the public interest;

It is ordered, That pursuant to section 309 (a) of the Communications Act of 1934, as amended, the above entitled application is hereby designated for hear-

ing at a time and place to be specified by a subsequent order of the Commission upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the applicant to continue the operation of Station WECW.

2. To obtain full information regarding the issuance of stock by the applicant corporation and all sales or transfers of such stock since November 13, 1945.

3. To determine whether the control of the applicant corporation has been transferred or acquired, directly or indirectly, without the consent of the Commission and in contravention of sections 309 (b) (2) and 310 (b) of the Communications Act of 1934, as amended, or of the Commission's rules and regulations, with particular reference to § 1.321 thereof.

4. To determine whether all contracts, obligations, agreements and understandings relating to the issuance, ownership, sale, transfer or control of stock in applicant corporation have been reported to the Commission as required by its rules and regulations, and particularly by §§ 1.342 and 1.343 thereof.

5. To determine whether the applicant started equipment tests on November 6, 1946, before notifying the Engineer-in-Charge, San Juan, Puerto Rico, field office, two days in advance of the beginning of such tests, as required by § 2.42 (a) (presently designated § 3.167 (a)) of the rules.

6. To determine whether the applicant started program tests on November 21, 1946, before notifying the Engineer-in-Charge, San Juan, Puerto Rico, field office, two days in advance of the beginning of such tests, as required by § 2.43 (1) (presently designated § 3.168 (1)) of the rules.

7. To determine whether entries were made in the program log during the period November 21, 1946, to January 7, 1947, showing that each sponsored program broadcast had been announced as sponsored, paid for, or furnished, by the sponsor, as required by § 3.404 (a) (3) (presently designated § 3.189 (a)) of the rules.

8. To determine whether on January 8, 1947:

(a) The transmitter wiring was in accordance with § 3.46 of the rules and the Standards of Good Engineering Practice, paragraph 12 (C) (1).

(b) The transmission line was constructed and installed as required by § 3.46 of the rules and the Standards of Good Engineering Practice, paragraph 12 (B) (3) (e).

(c) The R. F. Chokes used in the tower lighting circuit at the base of the tower were installed as required by § 3.46 of the rules and regulations of the Commission.

9. To determine whether entries were made in the program log during the period November 21, 1946, to January 7, 1947, showing the time identifying announcements were made when mechanical records were used, as required by § 3.404 (a) (2) (presently designated § 3.181 (a) (2) of the rules.

10. To determine whether entries were made in the station log during the period November 6, 1946 to January 7, 1948, showing the time of the daily visual observation of the tower lights, as required by § 3.404 (c) (2) (presently designated § 3.181 (c) (2)) of the rules.

11. To determine whether on January 28, 1948, the applicant had in operation a modulation monitor approved by the Commission, as required by § 3.55 (b) of the rules.

12. To determine whether on January 28, 1948:

(a) The installation of the transmission line was in accordance with § 3.46 of the rules and the Standards of Good Engineering Practice, paragraph 12 (B) (3) (e).

(b) The installation and wiring of the components in the antenna tuning box were in accordance with § 3.46 of the rules and regulations of the Commission.

13. To determine whether entries were made in the program log during the period October 14, 1947 to January 27, 1948, when mechanical records were used, showing the exact nature thereof, such as "record", "transcription", etc., and the time when they were announced as mechanical records, as required by § 3.404 (a) (2) (presently designated § 3.181 (a) (2)) of the rules.

14. To determine whether during the period January 1, 1947 to January 27, 1948, the station's tower lights and associated equipment were inspected quarterly, as required by § 3.181 (c) (4) of the rules.

15. To determine whether entries were made in the program log during the period October 14, 1947 to January 27, 1948, showing that each sponsored program had been announced as sponsored, paid for, or furnished by the sponsor as required by § 3.404 (a) (3) (presently designated § 3.189 (a)) of the rules.

16. To determine whether the applicant replied to an Official Notice of the Commission, mailed on March 10, 1948, which cited irregularities noted during the inspection on January 28, 1948, as required by § 1.401 of the rules.

17. To determine whether applicant replied to Item 2 of the Official Notice mailed September 27, 1948, which cited failure to maintain operating log during the period from August 22, 1948, to 10:30 a. m., September 10, 1948, as required by § 1.401 of the Commission's rules and regulations.

18. To determine whether the applicant replied to Item 2 of the Official Notice mailed September 27, 1948, citing failure to maintain operating log during the period from August 22, 1948, to 10:30 a. m., September 10, 1948 (Second Notice); and to the Official Notice mailed October 29, 1948, citing failure to answer Item 2 of the Official Notice mailed September 27, 1948.

19. To determine whether entries were made in the operating log covering operation from August 22, 1948, to 10:30 a. m., September 10, 1948, as required by § 3.181 (b) of the rules.

20. To determine whether the station was in operation at the following times without a licensed operator on duty at the transmitter, as required by § 3.165 (a) of the rules and section 318 of the Communications Act of 1934, as amended:

7:10–7:45 p. m., AST September 9, 1948.
9:40–10:42 p. m., AST September 9, 1948.
7:05–7:50 a. m., AST, September 10, 1948.

21. To determine whether prior to October 11, 1948, weekly frequency measurements were made and submitted to the Commission as required by the terms of the station license.

22. To determine whether on October 11, 1948, the installation of the transmission line was in accordance with § 3.46 (a) of the rules and regulations of the Commission.

23. To determine whether on October 11, 1948, the installation and wiring of the components in the antenna tuning box were in accordance with § 3.46 (a) and (b) of the rules and regulations of the Commission.

24. To determine whether on October 11, 1948, the station had an approved modulation monitor in operation as required by § 3.55 (b) of the rules and regulations of the Commission.

25. To determine whether the required minimum operating schedule was being maintained during the period September 20–25, 27, October 2, and April 9, 1948, as required by § 3.71 of the rules and regulations of the Commission.

26. To determine whether in view of the facts adduced under the foregoing issues, public interest, convenience or necessity would be served by granting the subject renewal application.

It is further ordered, That the license of Station WECW be extended on a temporary basis to September 1, 1949.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-4673; Filed, June 9, 1949; 8:54 a. m.]

WVOS

PUBLIC NOTICE CONCERNING PROPOSED TRANSFER OF CONTROL [1]

The Commission hereby gives notice that on May 18, 1949 there was filed with it an application (BTC–768) for its consent under section 310 (b) of the Communications Act to the proposed transfer of control of Sullivan County Broadcasting Corp., licensee of station WVOS, Liberty, New York from all of the present voting stockholders thereof to Seymour D. Lubin and Harry G. Borwick. The proposal to transfer control arises out of a contract of March 31, 1949 pursuant to which David A. Kyle, Donald A. Corgill, Donald V. Murray, Harriet M. Kyle, Max H. Rhulen and Arthur L. Cooper, transferors, will sell 250 shares of common stock, being a hundred percent of the outstanding stock of Sullivan County Broadcasting Corporation, licensee of Radio Station WVOS, Liberty, New York to Harry G. Borwick and Seymour D. Lubin, transferees. Said agreement provides that the said transferees

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

will pay to the said transferors for the stock $80,000, payable as follows: $13,500 to be deposited in escrow upon the execution of the agreement. The balance of the purchase price shall be due upon the date that the proposed sale is approved by the Federal Communications Commission (hereinafter referred to as FCC) and shall be payable as follows: In addition to the $13,500, an additional $6,000 is to be payable in cash at the time of the FCC approval. The remaining $60,500 is to be paid in the following installments: $3,000 three months after FCC approval; $2,000 five months after FCC approval; $2,000 seven months after FCC approval; $2,000 nine months after FCC approval; $1,583.33 twelve months after FCC approval; $1,583.33 thirteen months after FCC approval; $1,583.33 fourteen months after FCC approval; $1,699.73 seventeen months after FCC approval; $1,669.64 three months later (20 months after FCC approval) and $1,669.64 for each succeeding quarter year for 26 additional quarters. Plus interest at the rate of five percent per annum on the unpaid balance represented by thirty-five first mortgage notes executed by the transferees to the transferors, or any part thereof may be prepaid at any time at the discretion of the transferors in amounts not less than the amount of any one of the installments recited above. The aforesaid note shall be secured by a first mortgage, covering the real estate now owned by the Sullivan County Broadcasting Corporation in the town of Liberty, Sullivan County, New York and by a chattel mortgage covering the personal property, fixtures, equipment, leases, etc. owned by said corporation. Said mortgage shall be in the principal sum of $60,500 payable as hereinabove provided. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on May 18, 1949, that starting on May 23, 1949, notice of the filing of the application would be inserted in the Sullivan County Evening News, a newspaper of general circulation at Liberty, New York, in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from May 23, 1949, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-4674; Filed, June 9, 1949; 8:54 a. m.]

SENECA RADIO CORP.

PUBLIC NOTICE CONCERNING PROPOSED TRANSFER OF CONTROL [1]

The Commission hereby gives notice that on May 12, 1949, there was filed with it an application (BTC-765) for its consent under section 310 (b) of the Communications Act to the proposed transfer of control of Seneca Radio Corporation, licensee of FM station WFOB, Fostoria, Ohio, from Lawrence W. Harry to Andrew Emerine, Alfred Bersted and Arthur Kaubisch. The proposal to transfer control arises out of a contract of April 16, 1949, pursuant to which Lawrence W. Harry proposes to sell seventy-five and one-half (75½) shares of the one hundred forty-three(143) outstanding shares of common stock of Seneca Radio Corporation equally to Alfred Bersted, Arthur E. Kaubisch and Andrew Emerine for the sum of $5,000 which the purchasers have deposited with an escrow agent as evidence of good faith. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on May 31, 1949, that starting on May 16, 1949, notice of the filing of the application would be inserted in a newspaper of general circulation at Fostoria, Ohio, in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from May 16, 1949, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-4675; Filed, June 9, 1949; 8:54 a. m.]

NEW HAVEN BROADCASTING CORP.

PUBLIC NOTICE CONCERNING PROPOSED ASSIGNMENT OF LICENSE [1]

The Commission hereby gives notice that on June 2, 1949, there was filed with it an application (BAL-884) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license of New Haven Broadcasting Corporation, licensee of AM station WAVZ and permittee of FM station WAVZ-FM from New Haven Broadcasting Corporation to WAVZ Broadcasting Corporation. The proposal to assign the license arises out of a contract of May 10, 1949 pursuant to which the purchase price is $67,500 plus the amount of accounts receivable to be assigned to the purchaser not exceeding in aggregate $12,500, any of which not collected by purchaser within ninety (90) days after closing to be reimbursed to purchaser by seller. The purchase price is payable as follows: $15,000 in cash has been deposited in escrow upon the signing of the purchase agreement and is to be paid to the seller on closing which is to be within sixty (60) days following consent to the sale by the Federal Communications Commission. $10,000 by purchaser assuming any debts of seller in said amount chosen by purchaser at time of closing. $36,000 by purchaser delivering to seller at closing non-negotiable promissory notes in the principal amount of $36,000, bearing interest at 6% per annum, payable over a period of three (3) years from closing in equal quarter-annual installments, secured by a mortgage on the lands and buildings and a chattel mortgage on technical equipment and furniture and other physical properties subject to the sale. Purchaser is to have right of prepayment in whole or in part without premium. The said notes are to be endorsed by the individuals having the principal interest in the purchasing corporation. The balance of the purchase price in cash or by certified check at closing. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on June 2, 1949 that starting on June 8, 1949 notice of the filing of the application would be inserted in a newspaper of general circulation at New Haven, Connecticut, in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from June 8, 1949 within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-4676; Filed, June 9, 1949; 8:54 a. m.]

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

FEDERAL POWER COMMISSION

[Docket Nos. G-446, G-1184]

UNITED NATURAL GAS CO. AND LOUISIANA-NEVADA TRANSIT CO.

NOTICE OF FINDINGS AND ORDERS ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

JUNE 6, 1949.

Notice is hereby given that, on June 2, 1949, the Federal Power Commission is-

sued its findings and orders entered June 1, 1949, issuing certificates of public convenience and necessity in the above-designated matters.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4651; Filed, June 9, 1949; 8:45 a. m.]

[Docket No. IT-5026]

SERVICIOS ELECTRICOS DE PIEDRAS NEGRAS, S. A. AND CENTRAL POWER AND LIGHT CO.

NOTICE OF ORDER AUTHORIZING TRANSMISSION OF ELECTRIC ENERGY TO MEXICO AND SUPERSEDING PREVIOUS AUTHORIZATION

JUNE 6, 1949.

Notice is hereby given that, on June 2, 1949, the Federal Power Commission issued its order entered June 1, 1949, in the above-designated matter, authorizing transmission of electric energy to Mexico and releasing Presidential Permit to Servicios Electricos de Piedras Negras, S. A.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4652; Filed, June 9, 1949; 8:47 a. m.]

[Project No. 82]

ALABAMA POWER CO.

NOTICE OF ORDER EXTENDING TIME FOR COMPLETING CONSTRUCTION

JUNE 6, 1949.

Notice is hereby given that, on June 2, 1949, the Federal Power Commission issued its order entered June 1, 1949, extending until January 1, 1950, the time for completing construction in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4653; Filed, June 9, 1949; 8:47 a. m.]

[Project No. 372]

SOUTHERN CALIFORNIA EDISON CO.

NOTICE OF ORDER AUTHORIZING AMENDMENT OF LICENSE (MAJOR)

JUNE 6, 1949.

Notice is hereby given that, on June 3, 1949, the Federal Power Commission issued its order entered June 1, 1949, authorizing amendment of license (major) in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4654; Filed, June 9, 1949; 8:47 a. m.]

[Project No. 487]

PENNSYLVANIA POWER & LIGHT CO.

NOTICE OF ORDER APPROVING REVISED EXHIBIT

JUNE 6, 1949.

Notice is hereby given that, on June 3, 1949, the Federal Power Commission issued its order entered June 1, 1949, approving revised Exhibit M as part of the license in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4655; Filed, June 9, 1949; 8:47 a. m.]

[Project No. 1744]

UTAH POWER & LIGHT CO.

NOTICE OF ORDER APPROVING SUPPLEMENTAL EXHIBIT

JUNE 6, 1949.

Notice is hereby given that, on June 3, 1949, the Federal Power Commission issued its order entered June 1, 1949, approving Supplemental Exhibit K and L as part of the license in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4656; Filed, June 9, 1949; 8:47 a. m.]

[Project No. 1882]

ELIZA McM. GALLOIS AND ELEANOR BECHEN

NOTICE OF ORDER APPROVING TRANSFER OF LICENSE (MINOR)

JUNE 6, 1949.

Notice is hereby given that, on June 3, 1949, the Federal Power Commission issued its order entered June 1, 1949, approving transfer of license (minor) in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4657; Filed, June 9, 1949; 8:48 a. m.]

[Docket No. G-1212]

CHICAGO DISTRICT PIPELINE CO.

ORDER FIXING DATE OF HEARING

JUNE 3, 1949.

On May 26, 1949, Chicago District Pipeline Company (Applicant), filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of facilities, subject to the jurisdiction of the Commission, for the liquefaction, storage and regasification of natural gas, as more fully described in the application on file with the Commission and open to public inspection. Due notice of the filing of such application has been given, including publication in the FEDERAL REGISTER.

The facilities for which a certificate is sought include (1) liquefaction equipment with gas engine-driven compressors having approximately 5,500 horsepower, six insulated storage holders each of approximately 87,000 Mcf capacity for natural gas in liquid form, and regasification equipment, to be located on a site of from 320 to 640 acres in an isolated location along the route and as near as practicable to Applicant's existing pipe lines, and (2) a 24-inch pipe line extending from a connection with Applicant's present pipe lines to the proposed storage plant.

The Commission orders:

(A) Pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a public hearing be held commencing on the 21st day of June 1949, at 10:00 a. m. (e. d. s. t.), in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters presented and the issues involved in said application.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the said rules of practice and procedure.

Date of issuance: June 6, 1949.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4664; Filed, June 9, 1949; 8:49 a. m.]

[Docket No. G-1174]

COUNTY GAS CO.

ORDER ADVANCING DATE OF HEARING

JUNE 3, 1949.

On March 3, 1949, County Gas Company (Applicant), a New Jersey corporation with its principal place of business at Atlantic Highlands, New Jersey, filed an application, supplemented on May 9, 1949, for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural gas facilities, subject to the jurisdiction of the Commission, as fully described in such application on file with the Commission and open to public inspection.

By its order issued May 31, 1949, the Commission found that this proceeding is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure, and ordered that a hearing be held herein on June 16, 1949.

On June 2, 1949, the Commission received a telegram from counsel for Applicant requesting that the date of hearing be advanced for the reasons that the closing for financing of the proposed facilities has been set for June 10, 1949, and deliveries of pipe are expected on June 15, 1949.

No request to be heard, protest or petition has been received by or filed with the Commission with respect to the application filed herein.

The Commission finds: It is reasonable and proper that the date of hearing heretofore fixed should be advanced to June 7, 1949.

The Commission orders: A hearing be held on June 7, 1949, at 9:45 a. m. (e. d. s. t.), in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., con-

cerning the matters involved and the issues presented by the application filed herein: *Provided, however,* That the Commission may, after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

Date of issuance: June 6, 1949.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 49-4665; Filed, June 9, 1949; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2059]

LONG ISLAND LIGHTING CO.

ORDER RELEASING JURISDICTION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 3d day of June 1949.

Long Island Lighting Company, a registered holding company, having filed a declaration, as amended, pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 ("act"), and Rule U-50 promulgated thereunder, wherein it proposes to issue and sell $16,000,000 principal amount of sinking fund debentures maturing May 1, 1969; and

The Commission having on March 9, 1949, permitted the declaration, as amended, to become effective, subject to the condition that declarant obtain the approval of the Public Service Commission of the State of New York to issue and sell the said debentures, and subject to the reservation of jurisdiction with respect to the price to be received by the declarant for the said debentures, the interest rate thereon, the redemption prices thereof, and all other terms and provisions of the indenture pursuant to which the debentures will be issued, and with respect to the fees and expenses to be incurred in connection with the proposed issue and sale; and

The Commission having also excepted the proposed issue and sale of the said debentures from the competitive bidding requirements of Rule U-50; and

It appearing that the approval of the Public Service Commission of the State of New York of the issue and sale of said debentures was obtained on June 2, 1949; and

A hearing having been held with respect to the matters as to which jurisdiction has been reserved, and the Commission having considered the record and having entered its findings and opinion herein, and not deeming it necessary to enter any adverse findings with respect to the matters as to which jurisdiction had been reserved:

It is hereby ordered, That the jurisdiction heretofore reserved with respect to the price to be received for the debentures, the interest rate thereon, the redemption prices thereof, and all other terms and provisions of the indenture pursuant to which the debentures will be issued, and with respect to the fees and expenses to be incurred in connection with the issue and sale, be, and hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4661; Filed, June 9, 1949; 8:49 a. m.]

[File No. 70-2129]

WORCESTER GAS LIGHT CO. ET AL.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 3d day of June 1949.

In the matter of Worcester Gas Light Company, Marlborough-Hudson Gas Company, New England Gas and Electric Association, File No. 70-2129.

New England Gas and Electric Association ("New England"), a registered holding company, and two of its subsidiaries, Worcester Gas Light Company ("Worcester") and Marlborough-Hudson Gas Company ("Marlborough"), having filed a joint application-declaration pursuant to sections 6 (b), 9, 10 and 12 of the Public Utility Holding Company Act of 1935 with respect to the following transactions:

Worcester proposes to purchase the properties and assets of Marlborough for the purpose of effecting the merger of the two companies. Worcester will pay to Marlborough the sum of $415,000 for its properties and assets, subject to its liabilities. This amount is equivalent to the par value of Marlborough's outstanding common stock represented by 4,150 shares held by New England.

To provide the necessary funds to effect the purchase of Marlborough's properties and assets, Worcester proposes to issue and sell, and New England proposes to purchase, 16,600 additional shares of common capital stock of Worcester, of the par value of $25 per share, at a price of $25 per share, or an aggregate of $415,000. New England will deliver to Marlborough for cancellation its entire holdings of common stock of that company and will receive from Marlborough a liquidating dividend in the amount of $415,000.

The Department of Public Utilities of Massachusetts, by Order dated March 28, 1949 approved the issue and sale by Worcester of the additional shares of common stock, and the acquisition by Worcester, and the sale by Marlborough, of the properties and assets of Marlborough.

Said application-declaration having been duly filed and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said application-declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that the requirements of the applicable provisions of the act and rules thereunder are satisfied, and deeming it appropriate in the public interest and in the interests of investors and consumers that said application-declaration be granted and permitted to become effective:

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of the act and subject to the terms and conditions prescribed in Rule U-24, that the application-declaration be, and the same hereby is, granted and permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4660; Filed, June 9, 1949; 8:49 a. m.]

[File No. 70-2136]

SOUTHWESTERN GAS AND ELECTRIC CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 3d day of June A. D. 1949.

Southwestern Gas and Electric Company ("Southwestern"), a public utility subsidiary of Central and South West Corporation ("Central"), a registered holding company, having filed a declaration, and amendments thereto, pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 ("act") and Rule U-50 promulgated under the act, regarding the following transactions:

Southwestern proposes to issue and sell, pursuant to the competitive bidding requirements of Rule-50, $4,500,000 principal amount of First Mortgage Bonds, Series C, --% due 1979, to be issued under and secured by the company's Indenture of Mortgage dated February 1, 1940, a Supplemental Indenture dated January 1, 1948, and a proposed Supplemental Indenture to be dated June 1, 1949. The interest rate per annum on the bonds (to be a multiple of ⅛ of 1%) and the price, exclusive of accrued interest, to be received by the company (to be not less than 100% nor more than 102.75% of the principal amount of said bonds) are to be determined by competitive bidding.

Southwestern further proposes to issue and sell, at competitive bidding pursuant to the requirements of Rule U-50, 25,000 shares of --% Preferred Stock, cumulative, $100 par value per share. The annual dividend rate per share on the preferred stock (to be a multiple of 1/20 of 1%) and the price to be received by the company (to be not less than $100 per share nor more than $102.75 per share) are to be determined by competitive bidding. Southwestern also proposes to amend its Certificate of Incorporation to include provisions for the protection of the preferred stockholders which the Commission has heretofore deemed appropriate in con-

nection with the issuance of preferred stocks.

The net proceeds to be derived from the sale of the proposed securities will be used in connection with the company's construction program which is estimated to require the expenditure of $22,600,000 through the year 1951. The present proposal is a part of an over-all program for financing the construction requirements of the Central system, which are estimated at $87,123,000 through 1951. In this connection, the record contains a representation by Central that, during the year 1949, it will raise approximately $6,600,000 through the issue and sale of common stock and will invest the proceeds thereof in the common stock equity of Southwestern and in Central Power and Light Company.

Total fees and expenses to be paid by Southwestern in connection with the proposed transactions are estimated at $58,000, including service company charges of $18,000. The fee of independent counsel for underwriters, to be paid by the successful bidders, is stated to be $4,500 for the bonds and $2,500 for the preferred stock.

Said declaration having been filed on May 9, 1949, and the last amendment thereto having been filed on June 3, 1949, and notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

It appearing to the Commission that the Corporation Commission of the State of Oklahoma has expressly authorized the proposed issuance and sale of the bonds and that the Arkansas Public Service Commission has expressly authorized the proposed issuance and sale of the bonds and the preferred stock; and

The Commission finding with respect to said declaration, as amended, that the applicable requirements of the act and rules promulgated thereunder are satisfied, and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers to permit said declaration, as amended, to become effective, subject to the conditions specified below, and the Commission also deeming it appropriate to grant declarant's request that the ten day period for inviting bids provided by Rule U-50 be shortened to a period of not less than six days, and that the order herein become effective upon the issuance thereof:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said declaration, as amended, of Southwestern be, and the same hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24 and to the additional condition that the proposed issuance and sale of bonds and preferred stock by Southwestern shall not be consummated until the results of competitive bidding pursuant to Rule U-50, have been made a matter of record in this proceeding and a further order shall have been entered by the Commission in the light of the record so completed, which order may contain such further terms and conditions as may then be deemed appropriate, jurisdiction being reserved for such purpose.

It is further ordered, Pursuant to the request of Southwestern, that the ten day period for inviting bids as provided by Rule U-50, be, and the same hereby is shortened to a period of not less than six days.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4662; Filed, June 9, 1949; 8:49 a. m.]

[File No. 70-2144]

NORTHERN NATURAL GAS CO. AND PEOPLES NATURAL GAS CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 3d day of June 1949.

Northern Natural Gas Company ("Northern Natural"), a registered holding company, and its subsidiary, Peoples Natural Gas Company ("Peoples"), having filed a joint application-declaration pursuant to the provisions of sections 9 (a) (1) and 10 of the Public Utility Holding Company Act of 1935 ("act") and Rule U-43 promulgated thereunder with respect to the following proposed transactions:

Peoples proposes to sell and Northern Natural proposes to purchase approximately 1,500 feet of 4½" branch gas transmission line used in the delivery of gas from Northern Natural's 18" Omaha branch line to a part of the village of Fort Crook, Nebraska. The consideration proposed to be paid is $1,510.95, representing original cost of $1,978.32 less depreciation of $467.37. The applicants-declarants state that no State Commission has jurisdiction over the proposed transactions and that the Federal Power Commission has granted Northern Natural a Certificate of Public Convenience and Necessity covering the facilities in question.

Said joint application-declaration having been duly filed on May 11, 1949, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said joint application-declaration within the period specified in said notice or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said joint application-declaration that the requirements of the applicable provisions of the act and rules thereunder are satisfied, and deeming it appropriate that said joint application-declaration be granted and permitted to become effective and further deeming it appropriate to grant the request of the applicants-declarants that the order herein become effective upon issuance thereof:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act, that said joint application-declaration be, and the same hereby is, granted and permitted to become effective forthwith subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4659; Filed, June 9, 1949; 8:48 a. m.]

[File Nos. 70-2150, 70-2152]

LOUISVILLE GAS AND ELECTRIC CO. ET AL.

NOTICE OF FILING, ORDER FOR CONSOLIDATION, AND NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 3d day of June 1949.

In the matter of Louisville Gas and Electric Company, File No. 70-2150; Philadelphia Company, Equitable Gas Company, File No. 70-2152.

Notice is hereby given that Louisville Gas and Electric Company ("Louisville"), a Kentucky corporation and a subsidiary of Standard Gas and Electric Company and Standard Power and Light Corporation, both registered holding companies, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") and the general rules and regulations promulgated thereunder. The declarant has designated section 12 (f) of the act and Rule U-43 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that Philadelphia Company, a registered holding company, and its subsidiary, Equitable Gas Company ("Equitable"), both being subsidiaries of Standard Gas and Electric Company and Standard Power and Light Corporation, and affiliates of Louisville, have filed a joint application-declaration with this Commission pursuant to the act and the rules and regulations promulgated thereunder. The joint applicants-declarants have designated sections 9 (a), 10 and 12 (f) of the act and Rule U-43 promulgateed thereunder as applicable to the proposed transactions.

All interested persons are referred to said declaration and to said joint application-declaration which are on file in the office of this Commission for statements of the transactions therein proposed which are summarized as follows:

Kentucky West Virginia Gas Company ("Kentucky West Virginia") has outstanding 100,000 shares of common stock, of which 40,000 shares are owned by Louisville and 60,000 shares by Philadelphia Company. Kentucky West Virginia also has outstanding Preferred Stock, all of which is owned by Philadelphia Company and its subsidiary, Pittsburgh and West Virginia Gas Company.

Louisville proposes to sell to Philadelphia Company or, at the option of Philadelphia Company, to Equitable, its holdings of common stock of Kentucky West Virginia for a cash consideration of $2,500,000, and Philadelphia Company (or Equitable) propose to make such a purchase. The proposed sale is subject to the condition precedent that the Commission in any order of approval which it may enter make appropriate findings pursuant to the requirements of Supplement R and section 1808 (f) of the Internal Revenue Code, and reserve jurisdiction for the purpose of making appropriate findings with respect to the use of the proceeds of sale by Louisville pursuant to the requirement of Supplement R, and more particularly section 371 (b), of the Internal Revenue Code.

In the event that Philadelphia Company is the purchaser, it states that a substantial part of the purchase price will be obtained from cash in its treasury and the balance through a short-term note or notes to banks to be issued within the exemption contained in the first sentence of section 6 (b) of the act. In the event that Equitable is the purchaser, it represents that the purchase price will be obtained through the issuance to banks of a short-term note or notes, the terms of which, in such event, will be supplied by amendment herein.

Philadelphia Company states that, from its standpoint, the proposed transaction is a step in a program for the reorganization of the gas and oil properties in the Philadelphia Company system, and that while precise details of the program have not as yet been fully determined, Philadelphia Company considers the preferable program to be the consolidation of all of the gas and oil properties in the Philadelphia Company system under the ownership of Equitable. If this can be done, the common stock of Kentucky West Virginia owned by Louisville will be purchased by Philadelphia Company. Otherwise, it is planned to vest in Equitable the ownership of all outstanding stock of Kentucky West Virginia, Pittsburgh and West Virginia Gas Company, and Philadelphia Oil Company, and, in such event, the common stock of Kentucky West Virginia owned by Louisville will be purchased by Equitable.

Louisville represents that, on its part, the proposed transactions are not subject to the jurisdiction of any regulatory authority other than this Commission. Philadelphia Company and Equitable represent that in the event that Philadelphia Company is the purchaser, the proposed transactions will not be subject to the jurisdiction of any regulatory authority other than this Commission, but that in the event that Equitable is the purchaser, the Pennsylvania Public Utility Commission would have jurisdiction over Equitable's acquisition of Kentucky West Virginia common stock.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a public hearing be held with respect to the proposed transactions for the purpose of affording an opportunity to all interested persons to present evidence and to be heard with respect to the proposed transactions contained in said declaration and joint application-declaration; and

It further appearing to the Commission that the foregoing matters in Files No. 70–2150 and 70–2152 involve common questions of law and fact and that substantial savings of time, effort and expense will be achieved if said matters are consolidated:

It is ordered, That the proceedings in the matter of Philadelphia Company, et al., File No. 70–2152 and the proceedings in the matter of Louisville Gas and Electric Company, File No. 70–2150, be, and they hereby are, consolidated.

It is further ordered, That a hearing be held in the consolidated proceedings on June 21, 1949, at 10:00 a. m., e. d. s. t., at the office of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. On such date the hearing room clerk in Room 101 will advise as to the room in which such hearing will be held. Any person desiring to be heard in connection with these proceedings or proposing to intervene, shall file with the Secretary of the Commission on or before 5:30 p. m., e. d. s. t., June 20, 1949, a written request relative thereto, as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matters. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the declaration and the joint application-declaration and that, on the basis thereof, the following matters and questions are presented for consideration without prejudice, however, to the presentation of additional matters and questions upon further examination:

1. Whether the proposed transactions satisfy the requirements of section 10 of the act, and particularly the requirements of sections 10 (b) and 10 (c) (1);

2. Whether the promissory note or notes proposed to be issued by Equitable in the event that Equitable is to be the purchaser, satisfy the requirements of section 7 of the act;

3. Whether the promissory note or notes proposed to be issued by Philadelphia Company, in the event that Philadelphia Company is to be the purchaser, are exempt from the provisions of sections 6 (a) and 7 of the act pursuant to the provisions of the first sentence of section 6 (b), and, if not, whether the requirements of section 7 are satisfied;

4. Whether the proposed transactions satisfy the requirements of section 12 (f) of the act and Rule U-43 promulgated thereunder.

5. Whether the accounting entries to be made in connection with the proposed transactions are appropriate and are in accordance with sound accounting practices, and whether any additional or different accounting entries should be required in connection therewith;

6. Whether, generally, the proposed transactions satisfy the applicable requirements of the act and the rules and regulations promulgated thereunder, and whether any terms and conditions should be required or imposed in the public interest or for the protection of investors and consumers and, if so, the nature of such terms and conditions.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That jurisdiction be, and hereby is, reserved to separate either for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues, questions, or matters hereinbefore set forth or which may hereafter arise, or to consolidate with these proceedings other filings, or to take such other action as may appear to be necessary for the orderly, prompt, and economical disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall serve a copy of this notice by registered mail on Louisville Gas and Electric Company, Philadelphia Company, Equitable Gas Company, the Pennsylvania Public Utility Commission and the Federal Power Commission, and that notice be given to all other persons by publication of this notice in the FEDERAL REGISTER and by general release of the Commission, distributed to the press and mailed to the mailing list for releases under the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49–4658; Filed, June 9, 1949; 8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 13355]

ZERELDA KEHRHAHN

In re: Stock owned by Zerelda Kehrhahn. F–28–28990–D–1, D–2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Zerelda Kehrhahn, whose last known address is Garmisch-Partenkirchen/Oberbayern, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Ten (10) shares of no par value common capital stock of Southern Pacific Company, 165 Broadway, New York 6, New York, a corporation organized under the laws of the State of Kentucky, evi-

denced by one certificate numbered G 179738, registered in the name of Societe de Banque Suisse, together with all declared and unpaid dividends thereon, and

b. Fifty (50) shares of $100 par value capital stock of Northern Pacific Railway Company, 176 East Fifth Street, St. Paul 1, Minnesota, a corporation organized under the laws of the State of Wisconsin, evidenced by a certificate numbered C 309549, registered in the name of Societe de Banque Suisse, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Zerelda Kehrhahn, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4684; Filed, June 9, 1949; 8:56 a. m.]

[Return Order 348]

RICHARD AND KATHARINA OSWALD

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Richard Oswald and Katharina Oswald, 6831 Odin Street, Hollywood, Calif., Claim No. 3317; April 20, 1949 (14 F. R. 1908); $3,000 in the Treasury of the United States. All physical prints, both negative and positive, in the possession of the Attorney General and stored in Washington, D. C. and New York, New York, together with all other rights and interests owned by the Attorney General in six German films identified as follows: "Alraune," "Schubert's Fruhlingstraum," "Unheimliche Geschichten," "Viktoria und ihr Husar," "Der Hauptmann von Kopenick," "Ein Lied geht um die Welt." All rights and interests, presently owned by the Attorney General, in and to the following German films, the physical location of which is unknown: "Ganovenehre," "Blume von Hawaii," "Arm wie eine Kirchenmaus," "Countess Maritza."

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on June 6, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4686; Filed, June 9, 1949; 8:56 a. m.]

[Vesting Order 13364]

ANNA DECKERS SCHUELLER

In re: Bank account and securities owned by the personal representatives, heirs, next of kin, legatees and distributees of Anna Deckers Schueller, also known as Anna Johanna Christina Schueller, deceased. F-28-2158-A-1. F-28-22562-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees and distributees of Anna Deckers Schueller, also known as Anna Johanna Christina Schueller, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation of J. Henry Schroder Banking Corporation, 46 William Street, New York 5, New York, arising out of a current account, entitled Estate of Anna Deckers Schueller, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

b. One German External Loan 1924 7% Gold Bond of $1,000.00 face value, bearing the number 50652, issued in bearer form, and presently in the custody of J. Henry Schroder Banking Corporation, 46 William Street, New York 5, New York, in an account entitled, Delbrueck von der Heydt & Co., "Customers Securities received for Safe Custody", together with any and all rights thereunder and thereto, and

c. Those certain coupons, detached from the German External Loan 1924 7% Gold Bond, bearing the number 50-652, described in subparagraph 2b hereof, said coupons presently in the custody of J. Henry Schroder Banking Corporation, 46 William Street, New York, New York, in an account entitled, Delbrueck von der Heydt & Co., "Customers Securities received for Safe Custody", together with any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the personal representatives, heirs, next of kin, legatees and distributees of Anna Deckers Schueller, also known as Anna Johanna Christina Schueller, deceased, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the personal representatives, heirs, next of kin, legatees and distributees of Anna Deckers Schueller, also known as Anna Johanna Christina Schueller, deceased, are not within a desingated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4685; Filed, June 9, 1949; 8:56 a. m.]

ERNA HART AND FRITZ ROSENBERG

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Erna Hart, London, England, and Fritz Rosenberg, Tel-Aviv, Israel, 36063 and 36392, (Consolidated); $14,818.99 in the Treasury of the United States, $9,879.33 returnable to Erna Hart, $4,939.66 to Fritz Rosenberg. Three-sixths of all right, title and interest in and to the Estate of Sigmund H. Speyer, deceased, formerly owned by Hermann Speyer, two-sixths returnable to Erna Hart, one-sixth to Fritz Rosenberg.

Executed at Washington, D. C., on June 6, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4687; Filed, June 9, 1949; 8:56 a. m.]