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Washington, Wednesday, June 10, 1942

The President

TRADE AGREEMENT WITH CUBA

DUTIES AND OTHER IMPORT RESTRICTIONS

THE WHITE HOUSE,
Washington, May 30, 1942.

MY DEAR MR. SECRETARY:

Pursuant to the authority conferred upon me by section 350 of the Tariff Act of 1930, as amended (48 Stat. 943; U.S.C., 1940 ed., title 19, sec. 1351), I hereby direct that the duties and other import restrictions now in effect and heretofore proclaimed, and the duties and other import restrictions hereafter proclaimed, in connection with trade agreements (other than the trade agreement with Cuba signed on August 24, 1934, as amended) which have been or shall be entered into under the authority of the said section, as originally enacted or as extended (48 Stat. 944, 50 Stat. 24, 54 Stat. 107; U.S.C., 1940 ed., title 19, sec. 1352), shall be applied on and from the date of this letter, or, as the case may be, shall be applied on and after the effective date of such duties and other import restrictions, to articles the growth, produce, or manufacture of all foreign countries except Cuba, so long as such duties and other import restrictions remain in effect and this direction is not modified.

Such proclaimed duties and other import restrictions shall be applied to articles the growth, produce, or manufacture of Cuba in accordance with the provisions of the trade agreement with Cuba signed on August 24, 1934, as amended.

Nothing in this letter shall be deemed to authorize the importation of articles or any other act in violation of the Trading with the Enemy Act, as amended, or any other statute, or any order or regulation issued pursuant thereto.

My letter addressed to you on October 31, 1941[1] with reference to duties and other import restrictions heretofore proclaimed in connection with trade agreements is hereby superseded.

[1] 6 F.R. 5687.

You will please cause this direction to be published in an early issue of the weekly *Treasury Decisions*.

Very sincerely yours,

FRANKLIN D ROOSEVELT

The Honorable
HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 42-5377; Filed, June 8, 1942; 4:32 p. m.]

Regulations

TITLE 7—AGRICULTURE

Chapter VII—Agricultural Adjustment Agency

[MQ-603-Cotton]

PART 722—COTTON[1]

MARKETING QUOTA REGULATIONS FOR THE 1942-1943 MARKETING YEAR

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938; 52 Stat. 31, 7 U.S.C. 1301 *et seq.*), as amended, public notice is hereby given of the following amendments of and additions to the regulations governing cotton marketing quotas for the 1942-1943 marketing year (MQ-603-Cotton, as issued by the Secretary of Agriculture on December 11, 1941), which regulations shall be in force and effect until rescinded or suspended, or amended or superseded by regulations hereafter made under said act.[2]

[1] Subpart E—1942.

[2] Unless otherwise indicated, all references in the text to sections relate to sections of these regulations. All section references at the end of sections relate to sections of the Agricultural Adjustment Act of 1938, as amended, and all paragraph references at the end of sections relate to Public Law No. 74, 77th Congress, approved May 26, 1941, 55 Stat. 203, as amended by Public Law No. 374, 77th Congress, approved December 26, 1941, 55 Stat. 860, and as amended by Public Law No. 384, 77th Congress, approved December 26, 1941, 55 Stat. 872.

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FEDERAL REGISTER

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1. Section 722.411 (a)[8] is hereby amended to read as follows:

(a) *Issuance of forms and instructions.* The Administrator of the Agricultural Conservation and Adjustment Administration shall cause to be prepared and issued with his approval such instructions and such forms as may be required to carry out the regulations in this part. Copies of such forms and necessary instructions shall be furnished free to persons needing them upon request made to the office of the appropriate county committee or the Administrator of the Agricultural Conservation and Adjustment Administration.

2. Section 722.411 (b) (1) is hereby amended to read as follows:

(1) *Act.* The Agricultural Adjustment Act of 1938, as amended, including Public Law No. 74, 77th Congress, approved May 26, 1941, Public Law No. 374, 77th Congress, approved December 26, 1941, Public Law No. 384, 77th Congress, approved December 26, 1941, and any amendments hereafter made.

3. Section 722.411 (b) (3) is hereby amended to read as follows:

(3) *Administrator.* The Administrator or Acting Administrator of the Agricultural Conservation and Adjustment Administration of the United States Department of Agriculture.

4. Section 722.411 (b) (4) is hereby amended to read as follows:

(4) *Regional director.* The Director or Acting Director of the Division of the Agricultural Adjustment Agency for the particular region.

5. Section 722.411 (b) (23) is hereby amended by inserting after the word "Agricultural" and before the word "Adjustment" the words "Conservation and."

6. Section 722.411 (b) (37) is hereby amended to read as follows:

(37) *Penalty.* With respect to cotton produced in any calendar year prior to 1941, the penalty provided in section 348 of the act. With respect to cotton produced in 1941 or any subsequent year, the penalty provided in paragraph numbered (9) of Public Law No. 74, 77th Congress, approved May 26, 1941 (55 Stat. 203).

7. Section 722.411 (b) is hereby amended by adding the following new paragraph:

(45) *Agricultural Adjustment Agency.* That part of the Agricultural Conservation and Adjustment Administration, which was formerly called the Agricultural Adjustment Administration and which is in charge of the administra-

[8] Section 722.411 appears at 6 F.R. 6387.

tion of programs under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended (hereinafter referred to as the Soil Conservation and Domestic Allotment Act) and of marketing quotas and certain other programs carried out under the Agricultural Adjustment Act of 1938 and related legislation.

8. Section 722.411 (b) is hereby amended by adding the following new paragraph:

(46) *Chief.* The Chief of the Agricultural Adjustment Agency.

9. Section 722.416[1] is hereby amended by deleting the word "Administration" from the first sentence and inserting in lieu thereof the word "Agency."

10. The above-mentioned regulations (MQ-603-Cotton, as issued by the Secretary of Agriculture on December 11, 1941) are hereby supplemented by the addition of the following provisions:

§ 722.426 *Apportionment of farm marketing quotas among producers*—(a) *Establishment of producer marketing quotas.* The county committee shall aportion to each producer on a farm for which a farm marketing quota is established a share of the farm marketing quota, which shall be known as a "producer marketing quota." The sum of all producer marketing quotas for any farm shall be the sum of the following: (1) the amount of the normal production or the actual production, whichever is the greater, of the farm acreage allotment, and (2) the amount of any carry-over penalty free cotton.

(b) *Initial apportionment of producer marketing quotas.* The producer marketing quota for each producer shall first be determined, as soon as practicable after measurements are made for the farm, to be that proportion of the normal production of the farm acreage allotment for the farm which his share of the acreage planted to cotton in 1942 on the farm bears to the total acreage planted to cotton in 1942 on the farm. If measurements for any farm cannot be made, the initial producer marketing quota for each producer shall be the amount determined by dividing the normal production of the farm acreage allotment for the farm equally among all producers on the farm.

(c) *Intermediate reapportionment of producer marketing quotas.* If an intermediate adjustment in the farm marketing quota based on actual production is made as set forth in § 722.419 (c), the amount by which the farm marketing quota is increased above the normal production of the acreage allotment shall be divided among the producers on the farm whose shares in the actual production thereon at that time exceed the amounts of the producer marketing quotas apportioned to them under paragraph (b) in the proportion that each producer's excess production bears to the total amount of the excess production for all producers: *Provided,* That any producer marketing quota as so increased shall not exceed the amount of the producer's share in the actual production at that time.

(d) *Final reapportionment of producer marketing quotas.* After all cotton produced in 1942 on the farm is harvested and the amount of the farm marketing quota is finally determined, the producer marketing quota apportioned under paragraph (b) to any producer whose share in the actual production on the farm plus his carry-over penalty cotton is less than such producer marketing quota shall be reduced to the amount of his share in the actual production plus his carry-over penalty cotton, and the reduced amount shall be his final producer marketing quota. The amount by which such producer marketing quotas were reduced, if any, plus the amount by which the farm marketing quota is increased above the normal production of the acreage allotment shall be distributed to the other producers on the farm as hereinafter provided and the amount so distributed to each such producer, if any, plus the amount apportioned to him under paragraph (b) of this section shall be his final poducer marketing quota.

(1) The amount available for distribution, or so much thereof as is necessary to provide a producer marketing quota for each producer equal to his share in the actual production on the farm, whichever is the smaller, shall be divided among those producers on the farm whose shares in the actual production thereon exceed the amounts of the producer marketing quotas apportioned to them under paragraph (b) of this section. Such division shall be made in the proportion that each such producer's excess production bears to the total amount of the excess production for all such producers.

(2) The remaining portion, if any, of the amount available for distribution, or so much thereof as is necessary to provide a producer marketing quota for each producer equal to his share in the actual production on the farm plus the amount of his carry-over penalty cotton, whichever is the smaller, shall be divided among those producers who have carry-over penalty cotton which, together with their shares in the actual production on the farm, exceeds the sum of the amounts apportioned to them under paragraph (b) of this section and subparagraph (1) of this paragraph. Such division shall be made in the proportion which each such producer's share in the actual production on the farm bears to the total production of all such producers.

(3) The remaining portion, if any, of the amount available for distribution shall be divided among the persons on the farm who are not engaged in the production of cotton in 1942, in the proportion that they have carry-over penalty cotton.

(e) *Adjustments in producer marketing quotas to provide for special conditions.* If any producer on a farm complains in writing to the county committee, or if the county committee upon its own motion finds, that the apportionment of the farm marketing quota to producers, as originally determined under paragraph (b) of this section, or as adjusted under paragraph (c) or (d) of this section, is not fair and reasonable, because of variations in productivity, the acreage planted to cotton by each producer, crop failure, or any other cause, and the county committee has good ground to believe that any complaint so made is well-founded, it shall review that apportionment made under paragraph (b), or (c), or (d) of this section, as the case may be, and if it finds that such apportionment is not fair and reasonable it shall reapportion the farm marketing quota among the various producers on the farm in a manner which, in view of all the facts adduced, is fair and reasonable for all producers on the farm.

(f) *Carry-over penalty free cotton.* There shall be added to and made a part of any producer marketing quota, as determined in accordance with this section, the amount of any carry-over penalty free cotton which the county committee determines, in accordance with applicable instructions, that the producer had on hand at the beginning of the marketing year.

(g) *Underplanted farms in connection with which no producer has carry-over penalty cotton.* Notwithstanding any other provisions of this section, if no producer on an underplanted farm has any carry-over penalty cotton, each producer shall be entitled to a share of the farm marketing quota equal to the amount of his share in the cotton produced thereon in 1942 plus the amount of any carry-over penalty free cotton which he had on hand at the beginning of the marketing year. The county committee shall not apportion the farm marketing quota for such farm among the producers thereon, as provided in the foregoing provisions of this section, unless and until a red marketing card is to be issued to a producer on the farm. (Sec. 375 (b), 52 Stat. 66)

Measurement of Farms

§ 722.427 *Provision for measuring farms.* The county committee shall provide for the measuring of each farm in the county for which a farm acreage allotment was established, or on which cotton is planted in 1942. The measuring of any farm shall be done in accordance with the established procedure used by the Agricultural Adjustment Agency. (Sec. 374, 52 Stat. 65)

§ 722.428 *Identification of farms and report of measurements.* The county committee shall assign to each farm, as operated in the calendar year 1942, a farm serial number for the 1942–1943 marketing year, which shall not be changed, and all records pertaining to marketing quotas for the marketing year for such farm shall be identified by the farm serial number. The county committee shall keep a record of the measurements made on all farms and shall file with the State committee a written report, setting forth for each overplanted farm (1) the farm serial number, (2) the name of the operator, (3) the total acreage in cultivation, (4) the farm acreage allotment, and

[1] 6 F.R. 6391.

(5) the acreage planted to cotton in 1942. (Sec. 374, 52 Stat. 65)

Marketing Cards and Marketing Certificates

§ 722.429 *Issuing white marketing cards*—(a) *Producers eligible to receive white marketing cards.* As soon as practicable after measurements have been made, as provided in § 722.427, the county committee shall, except as provided in paragraph (b) of this section and § 722.454 (b), cause a person designated by it to sign marketing cards and certificates on behalf of the county committee (hereinafter referred to as the "issuing officer") to issue a white marketing card (form Cotton 611) to the operator of each underplanted farm on which the county committee determines that there is no producer who has carry-over penalty cotton and, unless the county committee finds that it will not serve a useful purpose, to other producers on the farm. Each white marketing card shall show (1) the name and address of the operator, (2) the name and address of the producer, if other than the operator, to whom issued, (3) the names of the State and county and the code number thereof and the serial number of the farm, (4) the signature of the issuing officer, (5) the countersignature of the operator or other producer to whom the card is issued, or his duly authorized agent, and (6) any other information which the county committee considers to be necessary in identifying the farm on which the cotton was produced.

(b) *Producers not eligible to receive white marketing cards.* A white marketing card shall not be issued to any producer who is engaged in the production of cotton on any overplanted farm in the county or who has carry-over penalty cotton, except as provided for in § 722.453 of this chapter. If the county committee, or the State committee, determines that the issuance of an excess marketing card rather than the issuance of a white marketing card to any producer with respect to any farm is necessary to enforce the provisions of the act, a white marketing card shall not be issued to or for him and an excess marketing card shall, in the manner otherwise provided for in these regulations, be issued to him and, if the county committee finds it necessary, to any other producer on any farm in which he has an interest as a cotton producer.

(c) *Certificate that a white marketing card was issued.* The county committee shall, upon request, issue a certificate in triplicate on form Cotton 411-A to any producer to whom a white marketing card was issued and who desires to market cotton by telephone, telegraph, letter, or by any means or method other than directly to and in the presence of the buyer or transferee. Each certificate on form Cotton 411-A shall show (1) the name and address of the operator or producer to whom issued, (2) the names of the State and county and the code number thereof and the serial number of the farm, (3) the serial number of the white marketing card issued to the producer for the farm, and (4) the signature of the issuing officer. (Sec. 375 (a), 52 Stat. 66)

§ 722.430 *Issuing excess marketing cards*—(a) *Producers eligible to receive excess marketing cards.* As soon as practicable after it has been determined that (1) the farm is an overplanted farm, or (2) any producer thereon has any carry-over penalty cotton, or (3) the farm cannot be measured, the county committee shall issue an excess marketing card (form Cotton 612) to each producer on the farm. Any excess marketing card so issued shall show (1) the name and address of the operator, (2) the name and address of the producer, if other than the operator, to whom issued, (3) the names of the State and county and the code number thereof and the serial number of the farm, (4) the signature of the issuing officer, (5) the countersignature of the operator or other producer to whom issued, or his duly authorized agent, (6) the amount of the producer marketing quota for the producer as first determined under § 722.426 (b), exclusive of any amount of carry-over penalty free cotton pledged by him to secure a Commodity Credit Corporation loan, and (7) any other information which the county committee considers to be necessary in identifying the farm on which the cotton was produced. The total of all producer marketing quotas or the farm marketing quota, as evidenced by the excess marketing card or cards issued under this paragraph, shall not be greater than the normal production of the farm acreage allotment for the farm plus the amount of carry-over penalty free cotton designated to be marketed in connection with the farm, exclusive of any amount of carry-over penalty free cotton pledged as security for a Commodity Credit Corporation loan. An excess marketing card shall likewise be issued to any person who is not engaged in cotton production in 1942 but who was engaged in the production of cotton in any prior marketing year and who has carry-over penalty free cotton, or carry-over penalty cotton, and any such excess marketing card shall show the information specified above except that in lieu of the producer marketing quota the amount of such cotton which may be marketed without penalty shall be shown thereon. When the county committee determines that cotton is being produced during the crop year 1942 on a new farm for which no farm marketing quota can be established it shall issue an excess marketing card to each producer on the farm showing thereon the word "None," or the amount of carry-over penalty free cotton which the producer has on hand which is not pledged as security for a Commodity Credit Corporation loan. Any excess marketing card issued shall be accompanied by the certificates on forms Cotton 613 which are required to be executed as provided in these regulations by the producer and the buyer or transferee.

(b) *Appointment of operator to receive excess marketing card in trust for all producers.* In cases where more than one person shares in the acreage planted to cotton in 1942 or is entitled to share in the farm marketing quota, an excess marketing card may be issued to the operator in trust for all of such persons for the full amount of the farm marketing quota as determined under § 722.419 (b) and the amount by which the farm marketing quota is increased pursuant to § 722.419 (c): *Provided,* That all such persons on the farm, including the operator, agree on form Cotton 524 that an excess marketing card may be so issued to the operator. In case an excess marketing card is so issued to the operator, any penalties incurred by him and all other persons on the farm which are not in fact collected by the buyer or transferee of cotton marketed in connection with the farm shall be paid by the operator. The operator to whom an excess marketing card is issued under this paragraph shall nevertheless make available to each person on the farm the amount of the producer marketing quota to which such person is entitled under § 722.426 of this chapter and such operator shall report to the county committee, as provided in § 722.450 (d), the distribution of the farm marketing quota among the producers on the farm. No agreement pursuant to this paragraph shall be recognized by the county committee if it has reason to believe that the customary or actual marketing practices on the farm are inconsistent with the agreement or that the rights of any person would be prejudiced by the issuance of the excess marketing card to the operator. Nothing contained in this paragraph shall relieve or be construed to relieve any person of the liability for the payment of penalties incurred by him, or shall relieve or be construed to relieve the buyer of cotton of his liability to collect and remit any penalties as required by these regulations.

(c) *Issuing excess marketing cards on the basis of an increase in or additional reapportionment of the farm marketing quota.* (1) If the farm marketing quota for the farm is increased above the normal production of the farm acreage allotment on the basis of the actual production thereof and is apportioned or reapportioned among the producers thereon, or the farm marketing quota for the farm is not so increased but is reapportioned among the producers thereon on the basis of the actual production, the issuing officer may enter in the space provided on the excess marketing card previously issued to each producer the amount by which his producer marketing quota was increased pursuant to § 722.426 as a result of the additional apportionment or reapportionment of the farm marketing quota. If an excess marketing card was issued to the operator of the farm in trust for all producers on the farm, as provided in paragraph (b), and the farm marketing quota for the farm is increased as provided in § 722.419 (c), the issuing officer may enter in the space provided on the excess marketing card previously issued to the operator the amount by which the farm marketing quota is increased. The increase in the quota shall be evidenced further by entering the word "Additional" in the heading of the first unused cer-

tificate on form Cotton 613 and by entering thereon the amount by which the quota was increased, plus the unused portion of the quota for which the excess marketing card originally was issued. The excess marketing card and form Cotton 613 as altered in this manner shall be valid only if signed and dated by the issuing officer. Any other increases in the amount of the producer or farm marketing quota shall be evidenced by an additional excess marketing card issued to the producer or operator, as the case may be. An additional excess marketing card issued under this paragraph shall be accompanied by the certificates on form Cotton 613 and shall otherwise show information comparable to that provided to be shown on the marketing card originally issued to the producer under paragraph (a), or to the operator under paragraph (b), except that the word "Additional" shall be endorsed in bold characters across the face of the excess marketing card.

(2) In the event a portion or all of a producer marketing quota previously determined for a producer and evidenced by an excess marketing card or cards issued to him is reapportioned among other producers on the farm, as provided in § 722.426, the county committee shall deduct the portion so reapportioned from the amount shown on the excess marketing card or cards and the accompanying certificates on forms Cotton 613 previously issued to the producer by entering thereon the amount deducted and the amount of the reduced producer marketing quota which is in excess of the amount of cotton previously marketed by or for the producer. The reduction in the amount of the producer marketing quota shall be evidenced further by the signature or initials of the issuing officer opposite the entry on the excess marketing card. Any excess marketing card issued to any producer shall be returned by him to the county committee at the time a portion or all of this producer marketing quota is reapportioned. In the event any producer fails or refuses to deliver to the county committee, within 15 calendar days after the date of a request in writing to do so, any excess marketing card issued in evidence of a producer marketing quota, a portion or all of which was reapportioned, the county committee shall forthwith cancel such marketing card and notify the producer that the marketing card is void and of no effect by depositing written notice of the cancelation in the United States mails, registered and addressed to the producer at his last-known address. A copy of such notice, containing a notation thereon of the date of mailing, shall be kept among the records of the county committee. The county committee shall immediately notify the ginners and buyers in the county that the marketing card is canceled and shall also notify the county committee of each adjoining county, which shall in turn notify the ginners and buyers in their respective counties.

(3) The farm marketing quota or the total of all producer marketing quotas with respect to any farm, as evidenced by excess marketing cards issued under this paragraph and paragraph (a) or (b) of this section, shall not be greater than the amount of the farm marketing quota for the farm determined as provided for in § 722.419. (Sec. 375 (a), 52 Stat. 66)

§ 722.431 *Issuing marketing cards for cotton pledged as security for a Commodity Credit Corporation loan.* If any producer to whom an excess marketing card was issued desires to market any carry-over penalty free cotton which is pledged as security for a Commodity Credit Corporation loan, the issuing officer shall, upon the producer's request, issue to him an excess marketing card for the amount thereof which he desires to market. If the cotton so pledged is carry-over penalty cotton, the amount thereof shall be identified when marketed by the producer by the marketing card or cards issued to him as otherwise provided by the regulations in this part. (Sec. 375 (a), 52 Stat. 66)

§ 722.432 *Issuing marketing cards for multiple farms*—(a) *Issuing white marketing cards.* In case a producer is engaged in 1942 in the production of cotton on more than one farm in a county (herein referred to as the "multiple farm producer") and all such farms are underplanted farms and the producers thereon do not have any carry-over penalty cotton, separate white marketing cards shall be issued by the county committee for each of such farms in accordance with the provisions of § 722.429.

(b) *Issuing excess marketing cards.* A multiple farm producer who has carry-over penalty cotton shall designate in writing for the marketing year one or more of his farms in connection with which the carry-over penalty cotton is to be marketed and thereafter, for the purposes of this paragraph, each farm so designated shall be treated as an overplanted farm for the purpose of issuing excess marketing cards. In the event the producer fails or refuses to designate the farm or farms in connection with which the carry-over penalty cotton will be marketed, the county committee shall designate the farm or farms for this purpose and the designation so made shall be final and conclusive unless, within 15 days after the mailing of the notice of the designation to the producer, the producer designates in writing a different farm or farms in connection with which the carry-over penalty cotton will be marketed. In case all of the farms in the county on which the producer is engaged in 1942 in the production of cotton are overplanted farms, separate excess marketing cards shall be issued as provided in § 722.430 by the issuing officer to all producers on each of such farms. In case one or more but not all of the farms in the county on which the producer is engaged in 1942 in the production of cotton are overplanted farms, marketing cards shall be issued as follows:

(1) No marketing card shall be issued to or for the multiple farm producer with respect to any underplanted farm, except that, upon his request an excess marketing card for the amount of his producer marketing quota in connection therewith may be issued to him. White marketing cards may be issued to all other producers on such underplanted farms unless the county committee finds that, in order to enforce the provisions of the act, an excess marketing card shall be issued to all producers, including the multiple farm producer, for such underplanted farms.

(2) An excess marketing card shall be issued, as provided in § 722.430 to the multiple farm producer and to all other producers on each overplanted farm.

(c) *Farms in other counties.* Notwithstanding any other provisions of this section, if an excess marketing card is issued to a producer who is engaged in 1942 in the production of cotton on farms in more than one county, the procedure outlined in this section for issuing marketing cards for multiple farms in a county shall be followed with respect to all such farms in a State if the county committees of the respective counties so agree, or if the State committee has reason to believe that the procedure would be necessary in order to enforce the provisions of the act. If such a procedure is followed, the State committee may require any producer so affected to file with it a list of all farms on which he is engaged in 1942 in the production of cotton, together with any other pertinent data which are deemed to be necessary in enforcing the act. (Sec. 375 (a), 52 Stat. 66)

§ 722.433 *Lost, destroyed, or stolen marketing cards or certificates*—(a) *Report of loss, destruction, or theft.* In case any marketing card or certificate issued to a producer is lost, destroyed, or stolen, any person having knowledge thereof shall, insofar as he be able, immediately notify the county committee of the following: (1) the name of the operator of the farm for which such marketing card or certificate was issued; (2) the name of the producer to whom the marketing card or certificate was issued, if someone other than the operator; (3) the serial number of the marketing card or certificate; (4) the kind of marketing card or certificate; and (5) whether in his knowledge or judgment it was lost, destroyed, or stolen and by whom.

(b) *Investigation and findings of county committee.* The county committee shall make or cause to be made a thorough investigation of the circumstances of such loss, destruction, or theft. If the county committee finds, on the basis of its investigation, that such marketing card or certificate was in fact lost, destroyed, or stolen, it shall cancel such marketing card or certificate by giving notice to the producer to whom the card or certificate was issued that it is void and of no effect. The notice to that effect shall be in writing, addressed to the producer at his last-known address, and deposited in the United States mails. If the county committee also finds that there has been no collusion or connivance in connection therewith on the part of the producer to or for whom the marketing card or certificate was issued, it shall issue to or for him a marketing card or certificate of the same kind and bearing the same name, information, and identification as the lost, destroyed, or stolen marketing card or certificate. If the

marketing card found to have been lost, destroyed, or stolen was an excess marketing card, the issuing officer shall enter on the duplicate marketing card a deduction for the amount of the cotton which it determines was marketed by or for the producer to whom the marketing card was issued. Each marketing card or certificate issued under this section shall bear across its face in bold characters the word "Duplicate." In case a marketing card or certificate is canceled as provided for in this section, the county committee shall immediately notify the ginners and buyers in the county, or in the immediate vicinity, that the marketing card or certificate is canceled and of the issuance of any duplicate. A report of the findings and action of the county committee shall be kept among its records. Any ginner or buyer or any other person coming into possession or control of a canceled marketing card or certificate shall immediately return it to the county committee which issued it. (Sec. 375 (a), 52 Stat. 66)

§ 722.434 *Cancelation of marketing cards or certificates issued in error.* In the event any marketing card or certificate was erroneously issued, the producer to whom it was issued shall, upon request, forthwith return it to the county committee and it shall be forthwith canceled by the county committee by endorsing thereon in bold characters the notation "Canceled." The county committee shall notify the producer that it is void and of no effect by depositing written notice of the cancelation in the United States mails, registered and addressed to the producer at his last-known address. A copy of the notice, containing a notation thereon of the date of mailing, shall be kept among the records of the county committee. The county committee shall immediately notify the ginners and buyers in the county, or in the immediate vicinity, that the marketing card or certificate is canceled. (Sec. 375 (a), 52 Stat. 66)

Identification of Cotton

§ 722.435 *Time and manner of identification.* Each producer who markets cotton which is subject to these regulations shall, at the time of marketing the cotton, identify the cotton as subject to or not subject to the marketing restrictions and penalties provided in the act by presenting to the buyer or transferee the marketing card or certificate issued to or for the producer with respect to the cotton. Each buyer or transferee who buys or receives cotton from the producer thereof shall, at the time the cotton is marketed to him, require the producer to present the marketing card or certificate issued to or for the producer with respect to the cotton. All cotton marketed by a producer without the identification prescribed in these regulations shall be taken by the buyer or transferee thereof as cotton in excess of the marketing quota, and the buyer of such cotton shall, and the transferee of such cotton may, collect and remit the marketing penalty. (Sec. 375 (a), 52 Stat. 66)

§ 722.436 *Identification by white marketing cards*—(a) *Cotton marketed directly to and in the presence of the buyer or transferee.* A white marketing card shall, when presented to the buyer or transferee by the producer to whom it was issued, be accepted by the buyer or transferee as evidence to him that the cotton with respect to which the white marketing card was issued may be marketed without payment or collection of any penalty at the time of marketing.

(b) *Cotton not marketed directly to and in the presence of the buyer or transferee.* In cases where the marketing of cotton is effected by telephone, telegraph, or mail, or by any means or method other than directly to and in the presence of the buyer or transferee, a certificate on form Cotton 411-A, properly executed by the county committee and the producer to whom it was issued, shall, when presented by the producer to the buyer or transferee, be accepted by the buyer or transferee as evidence to him that the cotton may be marketed without the payment or collection of any penalty at the time of marketing. (Sec. 375 (a), 52 Stat. 66)

§ 722.437 *Identification by excess marketing cards*—(a) *Cotton marketed directly to and in the presence of the buyer or transferee.* An excess marketing card, together with the accompanying certificates on form Cotton 613, shall, when presented to the buyer or transferee by the producer to whom they were issued, be accepted by the buyer or transferee as evidence to him that the cotton with respect to which the excess marketing card was issued is cotton the marketing of which is not subject to the marketing penalty until the amount identified by such excess marketing card and marketed thereunder is equal to the farm or producer marketing quota shown on such card and thereafter as evidence to him of the fact that such cotton is cotton the marketing of which is subject to the marketing penalty.

(b) *Cotton not marketed directly to and in the presence of the buyer or transferee.* In cases where the marketing of cotton is effected by telephone, telegraph, or mail, or by any means or method other that directly to and in the presence of the buyer or transferee, a certificate on form Cotton 613, properly executed by the producer to whom it was issued, shall, when presented by the producer to the buyer or transferee, be accepted by the buyer or transferee as evidence to him that an excess marketing card was issued to the producer and that so much of the cotton identified by the certificate which is not in excess of the unused farm or producer marketing quota shown thereon is not subject to the marketing penalty and that so much of the cotton identified thereby which is in excess of the unused farm or producer marketing quota shown thereon is subject to the marketing penalty. (Sec. 375 (a), 52 Stat. 66)

§ 722.438 *Identification of long staple cotton.* A certificate on either Form 1, "Cotton Classification Memorandum," or Form A, "Sample Cotton Classification Memorandum," executed by the Board of Cotton Examiners of the United States Department of Agriculture, to the effect that the staple of cotton covered by such memorandum is 1½ inches or more in length shall, when presented by the producer to the buyer or transferee, be accepted by the buyer or transferee as evidence to him that cotton covered thereby is not subject to the penalty. A form Cotton 527, issued by the county committee to the producer, shall, when presented to the buyer or transferee in connection with the marketing of Sea Island or American-Egyptian cotton, be accepted by the buyer or transferee as evidence to him that cotton covered thereby is not subject to the penalty: *Provided,* That such cotton has been or will be ginned on a roller gin and that both the producer and the buyer or transferee certify that to the best of their knowledge and belief such cotton staples or will staple, when ginned on a roller gin, 1½ inches or more in length. (Secs. 350 and 375 (a), 52 Stat. 60 and 66)

Penalties

§ 722.439 *Amount of penalties.* The rate of penalty for the 1942-1943 marketing year is 50 percent of the basic rate of the loan on cotton for cooperators for the marketing year, as provided under section 302 of the act and paragraph (10) of Public Law No. 74, 77th Congress, approved May 26, 1941, as amended (55 Stat. 203 and 860). Any producer who markets cotton in excess of the farm marketing quota for the 1942-1943 marketing year, or in excess of his share of such quota, as the case may be, shall be subject to the aforementioned penalty with respect to each pound of the excess so marketed whether the excess is cotton produced during the said marketing year or in any prior marketing year. All cotton which is not identified, as provided in these regulations, at the time of marketing, as free of marketing penalties or which is marketed without the use of the means of identification prescribed by these regulations shall be taken to be in excess of the farm marketing quota, and the amount of the penalty to be collected thereon by the buyer or transferee shall be an amount equal to the 1942-1943 rate of penalty multiplied by the number of pounds marketed. The rate of the penalty applicable to any amount of unmarketed cotton at the end of the 1941-1942 marketing year which, if marketed during the 1938-1939 marketing year, would have been subject to the penalty of two cents per pound in that year and likewise would have been subject to the penalty of two cents per pound if marketed during the 1939-1940, 1940-1941, or 1941-1942 marketing year shall be two cents per pound and such unmarketed cotton shall be subject to the provisions of § 722.419 (d). The rate of the penalty applicable to any amount of unmarketed cotton at the end of the 1941-1942 marketing year which, if marketed during the 1939-1940, 1940-1941, or 1941-1942 marketing years, would have been subject to the penalty of three cents per pound in those years shall be three cents per pound and such unmarketed cotton shall be subject to the provisions of § 722.419 (d). The rate of the penalty applicable to any amount of unmarketed cotton at the

end of the 1941–1942 marketing year which, if marketed during the 1941–1942 marketing year, would have been subject to the penalty of seven cents per pound in that year shall be seven cents per pound and such unmarketed cotton shall be subject to the provisions of § 722.419 (d). (Secs. 348 and 372, 53 Stat. 59 and 65, and paragraph (9) of Public Law No. 74, 77th Congress, approved May 26, 1941)

§ 722.440 *Payment and collection of penalties*—(a) *Time when penalties become due.* The penalty shall be due at the time the cotton is marketed by sale, barter, exchange, or gift *inter vivos*. Cotton shall be deemed to be sold when either title to or actual or constructive possession of the cotton is delivered by or on behalf of the producer or any part of the purchase price is paid. Cotton shall be deemed to have been marketed by barter or exchange when it is delivered to the transferee of the cotton by actual or constructive delivery or the transferor has received any part of the property, goods, or services for which the cotton is being bartered or exchanged. Cotton shall be deemed to have been marketed by gift *inter vivos* when there is an actual or constructive delivery of the cotton to the transferee during the lifetime of the producer. Cotton shall be deemed to have been marketed in processed form when the producer, or some person on his behalf, converts cotton into an article of trade and thereby causes the cotton to lose its identity as seed cotton or lint cotton. An article of trade within the meaning of this provision is any article made in whole or in part from cotton for the purpose of marketing such article.

(b) *Persons liable for collection and payment of penalties.* The penalty in connection with the marketing of cotton by sale to any person within the United States shall be collected by the buyer at the time of sale. The penalty in connection with the marketing of cotton by sale to any person not within the United States or by barter or exchange or gift *inter vivos* shall be paid by the producer. In the case of a barter or exchange or gife *inter vivos*, the penalty may be collected by the person to whom such cotton is transferred, if the producer and the transferee of such cotton agree, as evidenced by the form Cotton 613 covering the transaction, that the penalty shall be collected by the transferee as in the case of the marketing of cotton by sale to any person within the United States. The penalty, if any, due in connection with the marketing of any cotton produced on any farm for which a white marketing card is issued shall not be collected by the buyer or transferee of such cotton but shall be paid by the producer. The penalty, if any, due upon cotton marketed in processed form within the meaning of paragraph (a) shall be paid by the producer or, if the producer and the buyer or transferee agree, the buyer or transferee of the article of trade into which the cotton was converted may collect and remit the penalty.

(c) *Payment of a penalty prior to the marketing of cotton.* Any penalty which would be incurred by any producer upon the marketing of cotton may be paid prior to the time such cotton is marketed, and the treasurer of the county committee for the county in which such cotton was produced shall receive the penalty as in the case of other penalties.

(d) *Manner of collection.* The penalty may be collected by the buyer by receiving the amount thereof from the producer or by deducting from the purchase price of the cotton the amount of the penalty due with respect to the marketing thereof. The penalty may be collected by the transferee by receiving the amount thereof from the producer.

(e) *Issuance of receipts for penalties collected.* Any buyer or transferee of cotton who, as provided for in paragraph (b), collects the penalty with respect to the marketing of cotton shall issue a receipt to the producer from whom the penalty is collected. (Secs. 372 and 375, 52 Stat. 65 and 66)

§ 722.441 *Remittance of penalties to the treasurer of the county committee*—(a) *Time of remittance.* The penalty shall be remitted not later than 15 calendar days next succeeding the day on which the cotton was marketed by the producer. For and on behalf of the Secretary of Agriculture, the treasurer of the county committee for the county in which the farm on which the cotton was produced is located, or the treasurer of the county committee to whom the report in connection with cotton marketed without the use of the means of identification prescribed by these regulations is made, shall receive the penalty and issue to the person remitting the penalty a receipt therefor on form Cotton 419 or form Cotton 419-A.

(b) *Form of remittance.* The penalty shall be remitted only in legal tender or by draft, check, or money order drawn payable to the order of the Treasurer of the United States. All checks, drafts, or money orders tendered in payment of the penalty shall be received by the treasurer of the county committee subject to collection and payment at par, and any receipt issued in connection therewith as provided for in paragraph (a) shall bear a notation to that effect and a description of the check, draft, or money order. (Sec. 372, 52 Stat. 65)

§ 722.442 *Refunds of money in excess of the penalty*—(a) *Conditions under which refunds may be made.* The county committee and the treasurer of the county committee, upon their own motion or upon the request of any person who has paid money in connection with marketing cotton for the farm, shall review the amount of money paid in connection with marketing cotton to determine whether the amount so paid is in excess of that due as the penalty for one or more of the following reasons:

(1) The money was received in connection with marketing cotton which was not marketed in excess of the farm or producer marketing quota as finally determined or apportioned;

(2) The money was received in connection with marketing cotton produced on a farm for which the farm marketing quota was increased by a determination of a review committee appointed by the Secretary of Agriculture or as a result of a court review of the determination of the review committee;

(3) The money was received in connection with marketing cotton produced in 1942 on a farm for which a farm acreage allotment was established for such year and on which the total amount of lint cotton produced in 1942 did not exceed 1,000 pounds;

(4) The money was received in connection with marketing cotton the staple of which is 1½ inches or more in length;

(5) The money was received in connection with marketing cotton grown for experimental purposes only by a publicly owned agricultural experiment station; or

(6) The money was received through error.

No refund of money shall be made under this section unless the money has been remitted to the treasurer of the county committee and transmitted by him to the secretary of the State committee but has not been covered into the general fund of the Treasury of the United States. No refund of money shall be made unless and until the interest of every person on the farm in the money received in connection with marketing cotton is determined. No refund of any money shall be made if it is determined that the amount thereof was collected or remitted by the buyer in connection with the marketing of cotton which was not identified when marketed by or for the producer thereof by a marketing card or certificate as provided in these regulations, unless and until all records and reports in connection therewith are made and the producer establishes the fact that the burden of the payment of the penalty was borne by him. No refund shall be made to any buyer of any funds received from him which he collected or was under a duty to collect in connection with cotton purchased by him.

(b) *Determination of amounts of refunds.* The county committee and the treasurer of the county committee shall determine the total amount of the penalty incurred with respect to the marketing of cotton in excess of the farm marketing quota for the farm, and, on the basis of the apportionment or reapportionment of the farm marketing quota among the producers on the farm, shall determine the total amount of money received from each producer and the total amount of the penalty incurred by each producer in connection with marketing cotton with respect to the farm. If money has been received in connection with marketing cotton by any person other than the producer by or for whom it was produced, and the person from whom the money was received has been reimbursed therefor, either by deducting the amount thereof from the purchase price of the cotton or otherwise, any refund under this section shall be made to the person who actually bore the burden of the payment. If the person from whom the money was received has not been reimbursed therefor, no refund under this section shall be made to him for so much of the money received as may be necessary to cover the amount of the penalty incurred with respect to

the marketing of the cotton. If the money received with respect to the farm is in excess of the total amount of the penalty incurred by the several producers in connection with the farm, the county committee and the treasurer of the county committee shall determine for each person the amount borne by him which is in excess of that due as the penalty and which, insofar as the sum in excess of the penalty incurred with respect to the farm and the amounts of such excess due other producers on the farm will permit, may be certified for refund to such person. If the county committee and the treasurer of the county committee find that the money received with respect to the farm is not in excess of the total amount of the penalty incurred, no refund under this section shall be made. The total amount of any refunds under this section shall not exceed the amount by which the total collections for the farm exceed the total penalties incurred by the producers on the farm. The county committee shall conduct any investigation or hold any hearing it deems necessary for a proper settlement of any case arising under this section.

(c) *Certification of refunds.* At least one member of the county committee, acting for the committee, and the treasurer of the county committee shall certify to the State committee the amount which the county committee and the treasurer of the county committee determined may be refunded to each person with respect to the farm and forward the vouchers covering the amounts to be refunded to the secretary of the State committee, who shall cause to be certified to the Chief Disbursing Officer of the Treasury Department for payment such amounts as are approved by the State committee. (Sec. 372 (b), 52 Stat. 65)

§ 722.443 *Deposit of funds.* All funds received by the treasurer of the county committee in connection with the marketing of cotton shall be scheduled and transmitted by him on the day received, or not later than the morning of the next succeeding day, to the secretary of the State committee, who shall cause such funds to be deposited to the credit of a special deposit account with the Treasurer of the United States in the name of the Chief Disbursing Officer of the Treasury Department (herein referred to as "special deposit account"). In the event the funds so received are in the form of cash, the treasurer of the county committee shall purchase a postal money order in the amount thereof, payable to the order of the Treasurer of the United States. The expense incurred by the treasurer of the county committee in purchasing postal money orders shall be paid by him in accordance with existing procedure from the funds provided for the administrative expenses of the county agricultural conservation association. The treasurer of the county committee shall make and keep a record of each amount received by him, showing the name of the person who remitted the funds, the identification of the farm or farms in connection with which the funds were received, and the names of the producer or producers who marketed the cotton in connection with which the funds were remitted. As soon as practicable after the farm marketing quota for any farm has been finally apportioned or reapportioned among the producers thereon as provided in § 722.426, the county committee and the treasurer of the county committee shall review the amount of the funds received for the farm and notify the secretary of the State committee of the amounts thereof which are penalties to be covered into the general fund of the Treasury of the United States and the amounts thereof tendered in excess of the amount due as the penalty. The secretary of the State committee shall cause to be scheduled for transfer from the special deposit account and covered into the general fund of the Treasury of the United States the amount of the penalties so determined. Whenever a treasurer of a county committee is succeeded in office, the secretary of the State committee shall cause the records and accounts of the former treasurer to be audited promptly. (Sec. 372 (b), 52 Stat. 65)

§ 722.444 *Refund of penalties.* Whenever, pursuant to a claim filed with the Secretary of Agriculture within the time prescribed by law after payment to him of the penalty collected from any person, the Secretary of Agriculture finds the penalty was erroneously, illegally, or wrongfully collected, he shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of all or a portion of the penalty. Any claim filed with the Secretary of Agriculture pursuant to this section shall be made in accordance with regulations prescribed by him. (Sec. 372 (c), 52 Stat. 204, 54 Stat. 728)

§ 722.445 *Report of violations and court proceedings to collect penalty.* It shall be the duty of the county committee to report in writing to the State committee forthwith each case of failure or refusal to pay the penalty or to remit the same to the Secretary of Agriculture when collected. It shall be the duty of the State committee to report each such case in writing in quintuplicate to the United States Department of Agriculture with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties, as provided for in section 376 of the act. (Sec. 376, 52 Stat. 66)

Records and Reports

§ 722.446 *Records to be kept and reports to be submitted by ginners*—(a) *Nature of record and report.* Each ginner shall, in conformity with section 373 (a) of the act, keep the records and make the reports hereinafter prescribed which the Secretary of Agriculture hereby finds to be necessary in order to carry out, with respect to cotton, the provisions of Title III of the act. The records shall be kept and the reports shall be made in accordance with forms prescribed by the Administrator and shall show the following information with respect to each bale or lot of cotton ginned by the ginner or marketed or delivered to him for any purpose: (1) The serial number of the farm on which the cotton was produced; (2) the date of ginning or, in the case of seed cotton marketed by the producer, the date of marketing; (3) the name of the operator of the farm on which the cotton was produced; (4) the name of the producer of the cotton; (5) the county and State in which the farm on which the cotton was produced is located; (6) the gin bale number or mark; (7) the serial number of the gin ticket or receipt prepared or issued by the ginner for the bale or any lot of cotton less than a bale; (8) the gross weight of each bale or lot of cotton less than a bale ginned by the ginner; or, in the case of seed cotton marketed by the producer, the number of pounds of such cotton and the estimated or known amount of lint cotton therein, together with the share, expressed in pounds, of each producer having an interest in such cotton; (9) the nature of the bagging and ties used on each bale; (10) the name of any person other than the producer, but including the ginner, known to have an interest in the cotton ginned; and (11), in the case of seed cotton marketed by the producer, the serial number of the marketing card or certificate by which such cotton was identified when marketed. In the case of seed cotton marketed by the producer to some person other than the ginner, the report of the ginner may consist of the original of the report referred to in § 722.447 (k), which was prepared by the person to whom such seed cotton was marketed, and the record of the ginner may consist of the copy of such report.

(b) *Time of making reports.* The ginning record provided for in paragraph (a) of this section shall be made for each period beginning with the first day of each month and ending with the fifteenth day of such month, and for each period beginning with the sixteenth day of each month and ending with the last day of such month, during which any cotton from the 1942 crop or prior crop is ginned by the ginner, or during which he acquires any seed cotton from the producer or any other person. The record shall be delivered as a report to the treasurer of the county committee for the county in which the gin is located not later than 5 calendar days next succeeding the last day of the period covered by the report. A copy of such record shall be retained by the ginner for a period of not less than 2 calendar years beyond the calendar year in which the marketing year ends.

(c) *Penalty for failure or refusal to keep records or make reports.* Any ginner failing to keep any record or make any report as required by this section or making any false record or report shall, as provided for in section 373 (a) of the act, be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 for each such offense. (Sec. 373 (a), 52 Stat. 65)

§ 722.447 *Records to be kept and reports to be submitted by buyers*—(a)

Necessity for records and reports. Each person who buys seed cotton or lint cotton from the producer thereof shall, in conformity with section 373 (a) of the act, keep the records and make the reports the Secretary of Agriculture hereby finds to be necessary to enable him to carry out with respect to cotton the provisions of Title III of the act.

(b) *Nature of and availability of records.* Each buyer shall keep, as a part of or in addition to the records maintained by him in the conduct of his business, a record which shall show with respect to each bale, or any lot of cotton less than a bale, which is purchased by him from the producer thereof the following information: (1) The name and address of the producer from whom the cotton was purchased; (2) the date on which the cotton was purchased; (3) the original gin bale number or, if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton and, in the case of cotton purchased in the seed, the number of pounds of seed cotton and the known or estimated amount of lint in such seed cotton; (4) the number of pounds of lint cotton in each bale, or lot of cotton less than a bale, purchased from the producer; (5) the amount of any penalty required to be collected under these regulations and the amount of any penalty collected in connection with the cotton purchased from the producer; and (6) the serial number of the marketing card or certificate by which the cotton was identified when marketed. It shall be presumed that the cotton was not identified in the manner provided in these regulations if the serial number of the marketing card or certificate does not appear on the records required by this paragraph. The record so made shall be kept available for examination and inspection by the Secretary of Agriculture, or by any authorized representative of the Secretary of Agriculture, for a period of not less than 2 calendar years beyond the calendar year in which the marketing year ends, for the purpose of ascertaining the correctness of any report made or record kept pursuant to these regulations, or of obtaining the information required to be furnished in any report pursuant to these regulations but not so furnished. The county committee shall, upon the request of any buyer, furnish to him without cost blank copies of form Cotton 520 which may be used by him for the purpose of keeping the record required pursuant to this paragraph.

(c) *Reports in connection with cotton not identified by marketing cards or certificates.* The buyer of cotton which is not identified in the manner provided by these regulations when marketed shall, with respect to each purchase, make a written report on form Cotton 530 of the following information: (1) The name and address of the producer from whom the cotton was purchased; (2) the date on which the cotton was purchased; (3) the original gin bale number or, if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton; (4) the net weight of each bale, or lot of cotton less than a bale; and (5) the amount of the penalty collected in connection with the cotton purchased. The report shall be executed in triplicate, one copy shall be given to the producer, one copy thereof shall be retained by the buyer, and the buyer shall mail or deliver the copy thereof on the postal card to the treasurer of the county committee whose address appears thereon.

(d) *Reports in connection with cotton identified by forms Cotton 411-A.* The buyer of cotton which is identified when marketed by a certificate on form Cotton 411-A, as provided in § 722.436 (b), shall make a report in connection with the transaction by executing the original and postal card copy of the certificate on form Cotton 411-A and by mailing or delivering the postal card copy thereof to the treasurer of the county committee for the county in which the cotton was produced. The original of form Cotton 411-A shall be retained by the buyer.

(e) *Reports in connection with cotton identified by excess marketing cards.* The buyer of cotton which is identified when marketed by an excess marketing card, as provided in § 722.437 (a), shall make a report in connection with the transaction by executing the accompanying certificate on form Cotton 613 in triplicate by entering thereon, in the spaces provided, the following information: (1) The amount, if any, of the unused portion of the farm or producer marketing quota; (2) the amount of lint cotton purchased from the producer in the particular transaction, which, in the case of baled cotton, shall be determined by deducting the weight of the bagging and ties from the gross weight and, in the case of seed cotton, shall be determined from the known or estimated amount of lint in the seed cotton; (3) that part of the farm or producer marketing quota shown on the excess marketing card and not marketed previously which remains after deducting therefrom the amount of lint cotton purchased from the producer in the particular transaction, or, if no such remainder exists after the deduction, the amount of lint cotton purchased from the producer in the particular transaction which is in excess of the farm or producer marketing quota shown on the excess marketing card which was not marketed previously; (4) the amount of the penalty, if any, which is due with respect to the lint cotton marketed in the particular transaction; (5) the gin bale numbers or marks of the cotton purchased in the particular transaction, or, in case cotton is purchased in the seed, the number of pounds of seed cotton followed by the words "pounds of seed cotton"; (6) the date on which the cotton was purchased; (7) the name of each producer having an interest in the cotton purchased and his share therein expressed in pounds; (8) the fact that the penalty due with respect to the lint cotton was or was not collected; (9) the State and county code number and the farm serial number; and (10) the name and address of the buyer and the name and address of the producer to whom the excess marketing card was issued. After the entries described above are made, the certificate on form Cotton 613 shall be signed by the buyer and producer, both of whom shall certify to the correctness of the entries. One copy of form Cotton 613 so executed shall be retained by the producer, the original thereof shall be retained by the buyer, and the buyer shall mail or deliver the copy thereof on the postal card to the treasurer of the county committee for the county in which the cotton was produced. The buyer of cotton which is identified when marketed by the certificate on form Cotton 613, as provided in § 722.437 (b), for cases where cotton is marketed by telephone, telegraph, or mail, or by any means or method other than directly to and in the presence of the buyer, shall make a report on form Cotton 613 in connection with the transaction in every respect as provided above with the exception that the information to be shown thereon shall be entered by the producer and examined by the buyer and the correctness thereof certified by both of them and that the copy thereof to be retained by the producer need not be signed by the buyer.

(f) *Long staple cotton.* The buyer of cotton the staple of which is 1½ inches or more in length and which is identified by a Form 1 or Form A executed by the Board of Cotton Examiners, as provided for in § 722.438, shall make a report in connection with the transaction by executing in triplicate the certificate on form Cotton 521 to the effect that the cotton was so identified and by retaining the original thereof, delivering a copy thereof to the producer, and mailing or delivering the postal card copy thereof to the treasurer of the county committee for the county in which the cotton was produced. In the case of cotton not identified by a Form 1 or a Form A executed by the Board of Cotton Examiners, the buyer shall make a report as provided in paragraph (c), (e), or (g) of the section, as the case may be, except that in lieu thereof, if Sea Island or American-Egyptian cotton is marketed by a producer to whom a form Cotton 527 is issued, a report on such form Cotton 527 in connection with the transaction shall be acceptable, provided that the cotton has been or will be ginned on a roller gin and the buyer and the producer certify on such form that to the best of their knowledge and belief such cotton staples or will staple, when ginned on a roller gin, 1½ inches or more in length. Such report on form Cotton 527 shall be made by executing the form in triplicate, retaining the original thereof, delivering a copy thereof to the producer, and mailing or delivering the postal card copy thereof to the treasurer of the county committee of the county in which the cotton was produced. A report pursuant to this paragraph (f) shall not be required if the cotton is identified when marketed by a white marketing card, which is not marked "Penalty Secured," issued to the producer.

(g) *Receipts to producers for penalties.* Where the cotton is marketed directly to and in the presence of the

buyer and is identified by an excess marketing card, the copy of the executed form Cotton 613 retained by the producer shall be the receipt from the buyer to the producer for the penalty collected. Where the producer presents to the buyer a receipt, or receipts, describing the cotton purchased in the particular transaction, executed by the treasurer of the county committee on form Cotton 419-A, as evidence of the fact that the penalty in connection therewith was paid in advance, as provided in § 722.440 (c), the buyer shall not collect the penalty and shall show in the records and reports otherwise required of him that the penalty was not collected and shall retain the original of the receipt on form Cotton 419-A. Where the cotton is not identified at the time of marketing, the producer's copy of the executed form Cotton 530 shall be the receipt from the buyer to the producer for the penalty collected. In all other cases where a penalty is required to be collected by the buyer, the buyer shall execute and deliver to the producer a receipt for the penalty. The buyer shall report the giving of each such receipt to the producer by forwarding a copy of the receipt to the treasurer of the county committee.

(h) *Time for making reports.* Each report required by the foregoing provisions of this section shall be made not later than 15 calendar days next succeeding the day on which the cotton covered thereby was marketed.

(i) *Buyer's special reports.* In the event the county committee, or the State committee, has reason to believe that any buyer failed or refused to collect or to remit the penalty required to be collected by him for any cotton which he purchased, or otherwise in any manner failed or refused to comply with these regulations, the buyer shall, within 15 days after a written request therefor by such committee is deposited in the United States mails, registered and addressed to him at his last-known address, make a report verified as true and correct by affidavit on form Cotton 520 to such committee with respect to cotton purchased or acquired by him from the person or persons specified in the request or purchased or acquired by him during the period of time specified in the request. Such report shall include the following information for each bale, or lot of cotton less than a bale, purchased by such buyer: (1) The name and address of the producer from whom the cotton was purchased; (2) the date on which the cotton was purchased; (3) the original gin bale number, or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton and, in the case of cotton purchased in the seed, the number of pounds of seed cotton and the known or estimated amount of lint in such seed cotton; (4) the number of pounds of lint cotton in each bale, or lot of cotton less than a bale, purchased from the producer; (5) the amount of penalty required to be collected under these regulations and the amount of any penalty collected in connection with the cotton purchased from the producer; and (6) the serial number of the marketing card or certificate by which the cotton was identified when marketed.

(j) *Manner of submitting reports.* The treasurer of the county committee for the county in which the cotton covered by the report was produced, or his successor in office, is hereby authorized and empowered to receive, for and on behalf of the Secretary of Agriculture, each report required pursuant to this section. Each report shall be delivered directly to the said treasurer or addressed to him and deposited in the United States mails. Notwithstanding any other provision of this paragraph, each report on form Cotton 530 in connection with the purchase of cotton marketed without the use of the means of identification provided by these regulations may be mailed or delivered directly to the treasurer of the county committee from whom the unexecuted copy of the form was obtained and whose name and address appear on the postal card copy thereof.

(k) *Reports of seed cotton.* Each person who buys any seed cotton shall report to the treasurer of the county committee in the following manner the following information and keep the following records on forms prescribed by the Administrator with respect to all seed cotton acquired by him: (1) The serial number of the farm on which the cotton was produced; (2) the serial number of the marketing card or certificate by which the cotton was identified when marketed; (3) the name of the operator of the farm on which the cotton was produced; (4) the name of each producer having an interest in the cotton; (5) the county in which the cotton was produced; (6) the number of pounds of seed cotton; (7) the estimated or known amount of lint cotton; and (8) the date on which the seed cotton was marketed. The report of seed cotton marketed shall be prepared in triplicate and one copy shall be retained by the person acquiring the cotton and the original and one copy shall be delivered to the ginner at the time the cotton is ginned. The report of seed cotton marketed shall be in addition to any other report which is required pursuant to the provisions of these regulations.

(l) *Penalty for failure or refusal to keep records or make reports.* Any person engaged in the business of purchasing cotton from producers who fails to keep any record or make any report as required by this section or who makes any false report or false record shall, as provided for in section 373 (a) of the act, be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 for each such offense. (Sec. 373 (a), 52 Stat. 65)

§ 722.448 *Records to be kept and reports to be submitted by transferees.* Each transferee who acquires seed cotton or lint cotton from the producer thereof shall keep the same records and make the same reports which are required to be kept and made by buyers pursuant to § 722.447, with the exception of the buyer's special report pursuant to paragraph (i) thereof, in every case in which the penalty is collected by the transferee, as provided for in § 722.440 (b), or in which any cotton in the seed is acquired, and in every other case shall execute the applicable certificates which are necessary to enable the producer to keep the records and make the reports required of him pursuant to § 722.450. (Sec. 375 (b), 52 Stat. 66)

§ 722.449 *Records to be kept by warehousemen and others.* Each warehouseman, processor, compressor, common carrier, and other person, as defined in section 373 (a) of the act, who buys, stores, compresses, transports as a common carrier, or otherwise deals with cotton from, for, or on behalf of the producer thereof shall make available, for examination and inspection by the Secretary of Agriculture, or by any authorized representative of the Secretary of Agriculture, the records kept in his business concerning such cotton, for the purpose of ascertaining the correctness of any report made or record kept pursuant to these regulations, or of obtaining the information required to be furnished in any report pursuant to these regulations but not so furnished. The Secretary of Agriculture, in conformity with section 373 (a) of the act, hereby finds such records to be necessary to enable him to carry out, with respect to cotton, the provisions of Title III of the act. (Sec. 373 (a), 52 Stat. 65)

§ 722.450 *Records to be kept and reports to be submitted by producers*—(a) *Necessity for records and reports.* Each person who produces in 1942, or who produced in any previous year, cotton which is subject to the provisions of these regulations shall, in conformity with section 373 (b) of the act, keep the records and make the reports prescribed by this section, which records and reports the Secretary of Agriculture hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of Title III of the act.

(b) *Farms for which white marketing cards are issued.* A record and report of the cotton marketed in connection with a farm for which one or more white marketing cards were issued shall not be required unless requested by the county committee, as provided in paragraph (d) of this section, or unless the cotton marketed is identified by a certificate on form Cotton 411-A, as provided in § 722.436 (b), in which latter event the producer marketing the cotton shall execute the certificate on form Cotton 411-A in the manner provided therein, retain a copy thereof as a record of the transaction, and forward the original and postal card copy thereof to the buyer or transferee to enable him to keep the record and make the report required pursuant to § 722.447 (d) or § 722.448, as the case may be.

(c) *Farms for which excess marketing cards are issued.* Each producer to whom an excess marketing card is issued shall keep the following records and make the following reports in connection with all cotton marketed by him:

(1) *Cotton marketed by sale.* The producer shall, as provided in § 722.437, in each case where cotton is marketed by sale to any person within the United States, identify the cotton to the buyer with the excess marketing card issued in connection therewith and the applicable

certificate on form Cotton 613 and shall execute such certificate in the manner provided therein to enable the buyer of the cotton to keep the record and make the report required of the buyer pursuant to paragraph (e) of § 722.447. A copy of each certificate so executed on form Cotton 613 shall be retained by the producer as a record of the transaction and shall be kept readily available for examination or inspection by the Secretary of Agriculture or an authorized representative.

(2) *Cotton marketed by barter or exchange or gift "inter vivos."* The producer shall, as provided in § 722.437, in each case where cotton is marketed by barter or exchange or gift *inter vivos*, identify the cotton to the transferee with the excess marketing card, issued in connection therewith, and the applicable certificate on form Cotton 613 and shall execute such certificate with the transferee in the manner provided therein. The original of such certificate shall be delivered to or retained by the transferee. A copy of such certificate shall be retained by the producer as a record of the transaction. The remaining copy which is addressed to the treasurer of the county committee shall be mailed or delivered by the producer to the treasurer of the county committee, except that, if the penalty is collected by the transferee, the remaining copy shall be delivered to or retained by the transferee to be transmitted to the treasurer of the county committee as provided in § 722.448. Each report required by this subparagraph shall be made by the producer to the treasurer of the county committee for the county in which the cotton was produced not later than 15 calendar days next succeeding the day on which the cotton covered thereby was marketed.

(3) *Cotton marketed to persons not within the United States.* The producer shall execute the certificate on form Cotton 613 in the manner outlined in § 722.447 (e) in each case where cotton is marketed to any person not within the United States and shall indicate in the space provided thereon for the signature of the buyer or transferee that the buyer or transferee is a person not within the United States. The producer shall retain one copy of each certificate so executed, and the original and the postal card copy thereof addressed to the treasurer of the county committee for the county in which the cotton was produced shall be forwarded by such producer to such treasurer not later than 15 calendar days next succeeding the day on which the cotton was marketed.

(4) *Long staple cotton.* The producer shall not use the white marketing card marked "Penalty Secured" or the excess marketing card issued to him in any case where cotton the staple of which is 1½ inches or more in length is marketed but shall, as provided in § 722.438, identify the cotton by a certificate from the Board of Cotton Examiners on Form 1 or Form A or a form Cotton 527 issued to him. He shall keep a record of each transaction by retaining one copy of the form Cotton 521, executed as provided in § 722.447 (f), or in case Sea Island or American-Egyptian cotton is identified when marketed by form Cotton 527, by retaining a copy thereof, executed in connection with the transaction, as provided in § 722.447 (f).

(5) *Processed cotton.* Each producer by or for whom cotton is marketed in processed form within the meaning of § 722.440 (a) shall keep a record and make a report, in accordance with forms prescribed by the Administrator, of the following information for each farm and for each bale or lot of cotton produced by or for him, which is converted into an article of trade: (i) The gin bale number or the bale mark or other information showing the origin or source of the cotton and, in the case of seed cotton which was not ginned, the number of pounds of seed cotton; (ii) the number of pounds of lint cotton in each bale, or lot of cotton less than a bale, or the known or estimated amount of lint in the seed cotton; (iii) the serial number of the farm on which the cotton was produced; (iv) the date on which the cotton entered into the process by which it was converted into an article of trade; and (v) the amount of the penalty, if any, incurred and the amount thereof remitted to the treasurer of the county committee, as provided in §§ 722.440 and 722.441. The report shall be made to the treasurer of the county committee not later than 15 calendar days after all cotton in which the producer has an interest in connection with the farm is marketed or not later than March 1, 1943, whichever is the earlier. If all cotton in which he has an interest as a producer in connection with the farm was not marketed prior to March 1, 1943, the report shall be known as a preliminary report, and the producer shall thereafter file with the treasurer of the county committee an additional report of the information specified in this subparagraph not later than 15 calendar days after all cotton in which he has an interest as a producer in connection with the farm is marketed or not later than August 1, 1943, whichever is the earlier.

(d) *Farm operator's report.* The operator of each overplanted farm, or of each farm in connection with which any producer has carry-over penalty cotton, or of each farm for which excess marketing cards are issued to or for the producers thereon, or of each farm on which the marketing cards or certificates prepared for issuance to or for the producers thereon were not accepted or used in identifying cotton as provided in these regulations, or, upon request of the county committee, the operator of any other farm, shall file with the treasurer of the county committee for the county in which the farm is located, not later than 15 calendar days after all cotton in connection with the farm was marketed or not later than 60 days after the marketing of cotton is normally substantially completed in the county, whichever is the earlier, a report on form Cotton 417 showing for the farm and for each producer thereon and for each person for whom carry-over cotton was designated to be marketed in connection therewith the following information: (1) The total number of pounds of cotton produced in 1942 and the total number of pounds ginned; (2) the total number of pounds of carry-over penalty free cotton and carry-over penalty cotton on hand at the beginning of the marketing year and the amount thereof, if any, pledged to secure a Commodity Credit Corporation loan; (3) the total amount of cotton marketed in the seed; (4) the amount of cotton marketed; (5) the amount of penalty paid by any producer or collected by the buyer or transferee; (6) the amount of unmarketed cotton on hand; (7) the name and address of each buyer and transferee of such cotton and the amount thereof marketed to him; and (8) the name and address of each ginner who ginned such cotton and the number of and net weight of the bales ginned by him. In the event the total amount of cotton in connection with the farm was not marketed prior to 60 days after the marketing of cotton is normally substantially completed in the county the report shall be known as a preliminary report, and the operator shall thereafter make an additional report to the county committee on form Cotton 417 of the information specified in this paragraph not later than 15 calendar days after all cotton in connection with the farm is marketed or not later than August 1, 1943, whichever is the earlier. The date on which the marketing of cotton is normally substantially completed in the county shall be determined by the State committee, taking into consideration recommendations which the county committee may make.

(e) *Manner of submitting reports.* The treasurer of the county committee for the county in which the cotton covered by the report was produced, or his successor in office, is hereby authorized and empowered to receive, for and on behalf of the Secretary of Agriculture, each report required pursuant to this section. Each report shall be delivered directly to such treasurer or addressed to him and deposited in the United States mails.

(f) *Inspection of unmarketed cotton.* If the county committee has reason to believe that any cotton reported by any producer to be unmarketed has in fact been marketed, or if the committee has reason to believe that the records cannot be properly completed otherwise, such committee shall provide for the inspection of such producer's cotton or of documents evidencing title thereto, by one or more of its members or one of its officers or employees or any person duly designated as a representative of the Secretary of Agriculture. If, upon the basis of such inspection, the county committee finds that all or part of the cotton reported by such producer as unmarketed is not in the actual or constructive possession of the producer, or if the producer fails or refuses to permit the inspection of his cotton or of documents evidencing title thereto, the amount of the producer's cotton which the county committee finds the producer has not reported as having been marketed, less the amount of such producer's cotton which such committee finds to be in the actual or constructive possession of such producer,

shall be presumed to have been marketed. (Sec. 375 (b), 52 Stat. 66)

§ 722.451 *Data to be kept confidential.* Except as otherwise provided herein, all data reported to or acquired by the Secretary of Agriculture pursuant to and in the manner provided in these regulations shall be kept confidential by all officers and employees of the United States Department of Agriculture, members of county committees, other local committees, and State committees, county agents, and the employees of such committees and county agents' offices, and shall not be disclosed to anyone not having an interest in or responsibility for any cotton, farm, or transaction covered by the particular data, record, information, report, or form, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them to anyone not having such an interest or not being employed in the administration of the act and then only in a suit or administrative hearing under Title III of the act. (Sec. 373 (c), 52 Stat. 65)

§ 722.452 *Enforcement.* It shall be the duty of the county committee to report in writing to the State committee forthwith each case of failure or refusal to make any report or keep any record as required by these regulations and each case of making any false report or record. It shall be the duty of the State committee to report each such case in writing, in quintuplicate, to the United States Department of Agriculture with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to enforce the provisions of Title III of the act. (Sec. 376, 52 Stat. 66)

Special Provisions and Exemptions

§ 722.453 *Securing payment of the penalties upon request*—(a) *Methods of securing the penalty.* The county committee may, upon request of the owner or operator of any overplanted farm or any farm on which a producer has carry-over penalty cotton, estimate the amount of the penalty which may become due with respect to the marketing of cotton in excess of the farm marketing quota for the farm, and the penalty with respect to the marketing of such cotton may be paid as provided for in paragraph (e) of this section, provided that either (1) a good and sufficient bond of indemnity on form Cotton 623 is executed and filed with the treasurer of the county committee in an amount not less than the amount of the estimated penalty for which the producers having an interest in the cotton in connection with the farm would otherwise be liable, or (2) an amount of money not less than the amount of such estimated penalty is deposited with the Treasurer of the United States to be held in escrow to secure the payment of any penalty which might accrue. A bond of indemnity or funds to be held in escrow shall not be accepted for any farm for which it is estimated that the penalty will not accrue nor for any farm where excess marketing cards are issued, as provided in § 722.429 (b), to enforce the provisions of the Act. In any case where the State committee finds that there is reasonable ground to believe that the furnishing of a bond of indemnity or funds to be held in escrow will be used as a device to evade the collection of penalties, no such bond or funds to be held in escrow shall be accepted.

(b) *Execution of bond.* Any bond filed pursuant to paragraph (a) shall be made on form Cotton 623, and executed as principal by the owner or operator of the farm for and on behalf of each producer on such farm and as sureties by two owners of real property (other than such owner or operator or producers) situated within the county and unencumbered to the extent of the principal sum of the bond of indemnity, and shall contain the condition that so much of the principal sum of such bond as is equal to the penalty incurred shall be forthwith paid to the Secretary of Agriculture if the penalty secured thereby or any part or amount thereof was not paid as provided for in paragraph (e). The county committee shall examine the bond and, if it finds such bond to be good and sufficient and in proper form and otherwise acceptable, the same shall be marked "Approved" and signed by a member of the committee acting for the committee and the bond shall be delivered to the treasurer of the county committee for safekeeping.

(c) *Placing funds in escrow.* Any funds delivered by the owner or operator of the farm to be held in escrow to secure the payment of the penalty shall be only in legal tender or in the form of a cashier's check or money order drawn payable to the order of the Treasurer of the United States and shall be deposited as provided for in § 722.443. The treasurer of the county committee shall issue a receipt therefor on form Cotton 419 to the person who tenders such funds to be held in escrow. Such funds shall be received subject to payment and collection at par.

(d) *Estimating the penalty secured and amount of bond or funds in escrow.* In estimating the production of cotton for any farm under this section, the county committee shall take into consideration the appraised yield of the cotton crop and the number of acres planted to cotton on the farm and the amount of carry-over cotton in connection with the farm, which shall be determined on the basis of an examination by a representative of the county committee of the cotton or warehouse receipts or loan agreements. Such estimate shall be made after bolls are formed on the cotton plants for which the estimate is made. The number of pounds of lint cotton estimated to be produced on the farm in excess of the farm marketing quota shall be the amount by which the total estimated production of lint cotton in 1942 on the farm, including all varieties of long staple cotton, is in excess of the normal production of the farm acreage allotment established for the farm. Any bond or funds to be held in escrow pursuant to the foregoing provisions of this section shall be in an amount not less than the amount determined by multiplying the number of pounds so estimated to be produced in excess of the farm marketing quota, plus the number of pounds of carry-over penalty cotton, by the 1942–1943 rate of penalty. If the farm is an underplanted farm, only the carry-over penalty cotton shall be considered in estimating the penalty.

(e) *Payment of penalty.* The penalty shall be due at the time cotton is marketed in excess of the farm or producer marketing quota and shall be remitted to the treasurer of the county committee, as otherwise provided in these regulations, at the time the farm operator's report on form Cotton 417 for the farm is required to be submitted, as provided in § 722.450 (d), and no extension or qualification of the time for paying the penalty shall be made or allowed by an officer or employee of the United States Department of Agriculture, member of a county committee, other local committee, or State committee, county agent, or officer or employee of such committee or of the county agent's office. If funds are held in escrow to secure payment of the penalty, the penalty shall be paid by the use of such funds. Any part of the funds held in escrow in excess of the penalty incurred during the marketing year shall be returned to the person depositing them, in accordance with § 722.442. In the event the principal sum of the bond or the amount of funds deposited in escrow is not sufficient to cover the amount of penalties incurred in respect to the farm, the owner or operator of the farm who gave the bond or deposited the funds in escrow shall be liable for and shall pay a sufficient additional amount to cover the amount of such penalties. Nothing contained in this paragraph shall discharge the other producers on the farm from liability to pay the penalties incurred by them.

(f) *Multiple farms.* If a producer is engaged in the production of cotton on more than one farm in the county in 1942, the county committee shall not accept funds to be placed in escrow or a bond to secure payment of the penalty under this section from or on behalf of such producer for any one of the farms unless a deposit of funds in escrow or a bond of indemnity is offered and accepted with respect to each such farm for which the penalty may become due.

(g) *Apportionment of farm marketing quota.* The provisions of this section shall have no effect on the apportionment of the farm marketing quota for a farm among producers as provided for in § 722.426.

(h) *Issuing white marketing cards.* A bond of indemnity or funds to be held in escrow shall not be accepted for any farm unless and until all producers on the farm, including the farm operator, agree, as evidenced by form Cotton 524, that the white marketing card for the farm shall be issued to the farm operator in trust for all producers on the farm. If form Cotton 524 is properly executed and the bond or funds to be held in escrow are accepted for the farm, the county committee shall issue to the farm operator for and on behalf of all producers on the farm a white marketing card in the manner provided in § 722.429 with the exception that the words "Penalty

Secured" shall be endorsed in bold characters across the face of the white marketing card so issued. The county committee shall not issue a white marketing card under this paragraph to the operator unless and until all marketing cards previously issued in respect to the farm have been returned to and canceled by the county committee by endorsing thereon in bold characters the notation "Canceled." Any marketing card issued pursuant to this paragraph shall be issued upon the condition that any producer on the farm to or for whom it is issued shall nevertheless be subject to the penalty with respect to the marketing of cotton in excess of the farm marketing quota for the farm. Any marketing card issued pursuant to this paragraph shall be used in the same manner and to the same extent that white marketing cards issued pursuant to other provisions of these regulations are used. (Secs. 372 and 375 (b), 52 Stat. 65 and 66)

§ 722.454 *Long staple cotton*—(a) *Penalties.* The penalty shall not apply to the marketing of cotton the staple of which is 1½ inches or more in length. Cotton produced from seed of a pure strain of Sea Island or American-Egyptian cotton on a farm for which white marketing cards not marked "Penalty Secured" are issued shall be presumed to be cotton the staple of which is 1½ inches or more in length if produced in an area designated by the Agricultural Adjustment Agency as a Sea Island or an American-Egyptian cotton area upon the basis of the past production of such cotton, the ginning facilities designed specifically for the ginning of long staple cotton, and other factors affecting the production of such cotton in such area. Any other cotton produced from a pure strain of Sea Island or American-Egyptian cotton seed shall be presumed to be cotton the staple of which is 1½ inches or more in length provided (1) there is presented to the county committee of the county in which such cotton is produced a certificate on form Cotton 527, executed by the buyer or transferee and the producer, to the effect that such cotton staples or will staple, when ginned on a roller gin, 1½ inches or more in length and (2) such cotton is reported by the ginner as having been ginned on a roller gin. All other cotton shall be presumed to be cotton the staple of which is less than 1½ inches in length unless and until there is presented to the treasurer of the county committee of the county in which the cotton is produced (1) a Form 1 or Form A, executed by the Board of Cotton Examiners, to the effect that the staple of such cotton is 1½ inches or more in length, or (2) a certificate on form Cotton 521, executed by the buyer or transferee and the producer, to the effect that such cotton was identified when marketed by such a Form 1 or Form A.

(b) *Issuing marketing cards and certificates.* The county committee shall, in areas designated by the Agricultural Adjustment Agency as provided in paragraph (a) of this section, issue to or for the producers on a farm on which Sea Island or American-Egyptian cotton is planted white marketing cards, in the manner provided in § 722.429, as evidence that the producers on the farm may market without penalty all cotton produced thereon in 1942 or in any prior year. A white marketing card shall not be issued to or for the producers on any farm in an area so designated if the acreage on the farm planted in 1942 to any other varieties of cotton is in excess of the farm acreage allotment therefor or any producer on the farm has carry-over penalty cotton. In areas not so designated, white marketing cards shall likewise be issued if the acreage on the farm planted in 1942 to all varieties of cotton, including Sea Island or American-Egyptian cotton, is not in excess of the farm acreage allotment therefor and no producer on the farm has carry-over penalty cotton. In areas not so designated, excess marketing cards shall be issued by the county committee to each producer as provided in these regulations if the acreage on the farm planted in 1942 to any varieties of cotton, including Sea Island or American-Egyptian cotton, is in excess of the farm acreage allotment therefor or if any producer thereon has carry-over penalty cotton. Notwithstanding the foregoing provisions of this paragraph, white marketing cards marked "Penalty Secured" may be issued as provided in § 722.453. Without regard to areas designated as provided in paragraph (a) of this section, form Cotton 527 shall be issued by the county committee to each producer to whom an excess marketing card or a white marketing card marked "Penalty Secured" is issued and who the county committee determines will market cotton produced on the farm from a pure strain of Sea Island or American-Egyptian cotton seed.

(c) *Identification of long staple cotton.* A white marketing card or an excess marketing card issued with respect to any farm on which long staple cotton is produced shall be used to identify the cotton produced on the farm at the time the cotton is marketed as otherwise provided in these regulations with the exception that, if a white marketing card marked "Penalty Secured" or an excess marketing card was issued with respect to the farm, any long staple cotton produced thereon shall, when marketed, be identified by the producer to the buyer or transferee as provided in § 722.438. Notwithstanding the fact that cotton produced from seed of a pure strain of Sea Island or American-Egyptian cotton is identified when marketed by a white marketing card or as provided in § 722.-438 by a form Cotton 527, such cotton shall nevertheless be subject to the penalty if it is determined that such cotton has in fact a staple of less than 1½ inches in length and is marketed in excess of the farm or producer marketing quota for the farm on which it was produced. (Secs. 350 and 375, 52 Stat. 60 and 66)

§ 722.455 *Farms producing 1,000 pounds or less of lint cotton*—(a) *Penalties.* The penalty shall not apply to cotton produced in 1942 on a farm for which a farm acreage allotment was established which is marketed in excess of the farm marketing quota for the farm if the total production of lint cotton thereon in 1942 does not exceed 1,000 pounds. (Sec. 346 (b), 52 Stat. 59)

(b) *Issuing marketing cards.* The county committee shall issue white marketing cards or excess marketing cards as otherwise provided in these regulations to or for the producers on a farm prior to the time it is determined that the total production in 1942 of the acreage planted to cotton thereon does not exceed 1,000 pounds of lint cotton, except that the county committee may, upon request, issue to any producer on an overplanted farm a white marketing card as evidence of the fact that, notwithstanding the amount of the marketing quota for the farm, there may be marketed, without regard to the manner prescribed in §§ 722.440 and 722.441 for the payment, collection, and remittance of penalties, the entire amount of the cotton produced on the farm in 1942, plus the amount of cotton from any previous crop which the producers thereon have on hand, if the county committee finds (1) that the actual production or the estimated production in 1942 on the entire farm does not exceed 1,000 pounds of lint cotton; (2) that no producer on the farm has carry-over penalty cotton; (3) that a farm acreage allotment was established for 1942 for the farm; and (4) that any marketing cards previously issued with respect to such farm have been returned to and canceled by the county committee by endorsing thereon in bold characters the notation "Canceled." A white marketing card so issued shall show information comparable to that provided to be shown on a white marketing card issued under § 722.429, except that the words "One Thousand Pounds" shall be endorsed in bold characters across its face. Any white marketing card so issued shall be issued upon the condition that any producer to or for whom it is issued shall nevertheless be subject to the penalty with respect to the marketing of cotton in excess of the farm marketing quota or producer marketing quota if the total production in 1942 of the farm exceeds 1,000 pounds of lint cotton. In the event the county committee determines that the total production in 1942 does not exceed 1,000 pounds of lint cotton, the county committee may, in lieu of issuing a white marketing card as otherwise provided in this paragraph, increase the amount of cotton shown on the excess marketing card which may be marketed without penalty to an amount equal to the amount of cotton produced in 1942 on the farm. (Sec. 375 (a), 52 Stat. 66)

§ 722.456 *Cotton marketed by publicly owned agricultural experiment stations*—(a) *Penalties.* Except as set forth in §§ 722.454 and 722.455, the penalty shall apply to any cotton grown by any publicly owned agricultural experiment station which is not grown solely for experimental purposes. The penalty shall not apply to the marketing of any cotton grown for experimental purposes only by any publicly owned agricultural experiment station. (Sec. 372 (d), 52 Stat. 204)

(b) *Issuing marketing cards.* Upon request of a responsible executive officer of any publicly owned agricultural experiment station, the State committee shall authorize the issuance to such experiment station, for cotton which is grown solely for experimental purposes by it, of a white marketing card. Such request shall be made in writing and shall show: (1) The name and address of the experiment station; (2) the location of the land on which such cotton was or is being produced; (3) the number of acres planted to cotton on such experiment station in 1942 for experimental purposes only and a brief statement of the nature of the experiment being conducted; and (4) the number of acres planted to cotton for other purposes. (Sec. 375 (a), 52 Stat. 66)

§ 722.457 *Designation of representatives of Secretary of Agriculture to examine records*—(a) *Designation of representatives.* In order to carry out the provisions of §§ 722.446, 722.447 (b), 722.448, and 722.449, relating to the examination of records, the respective Regional Directors of the Agricultural Adjustment Agency, with the approval of the Administrator or the Assistant Administrator of the Agricultural Conservation and Adjustment Administration or the Assistant to said Administrator, are hereby authorized and directed to designate in writing an appropriate number of persons, from the following classes of officers or employees of the Department of Agriculture, to act within the respective region or State, as the case may be, as the authorized representatives of the Secretary of Agriculture for the purposes of said provisions:

(1) Members of the State Agricultural Conservation Committees.

(2) Administrative Officers or employees of the State offices of the Agricultural Adjustment Agency employed in the work of administering cotton marketing quotas or as investigators in connection therewith.

(3) Officers or employees of the divisions or sections of the Agricultural Adjustment Agency.

(4) Officers or employees of the Division of Investigation, Office of the Secretary, in cases where exceptional circumstances warrant such designations.

(5) Officers or employees of the Office of the Solicitor.

(b) *Proof of designation.* Each person designated pursuant to this section shall be furnished with a copy of his designation, certified by the appropriate Regional Director of the Agricultural Adjustment Agency, as proof of his authority to act as such authorized representative of the Secretary of Agriculture.

(c) *Authorization to administer oaths.* Each person designated pursuant to this section to act as the authorized representative of the Secretary of Agriculture is hereby authorized and empowered, pursuant to the Act of Congress approved January 31, 1925 (Sec. 1, 43 Stat. 803; 5 U.S.C., sec. 521), to administer to or take from any person an oath, affirmation, or affidavit whenever such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of the cotton marketing quota provisions of Title III of the Agricultural Adjustment Act of 1938 or these regulations. (Sec. 373 (a), 52 Stat. 65)

Done at Washington, D. C., this 8th day of June 1942. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 42-5362; Filed, June 8, 1942; 11:28 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Administrator of Civil Aeronautics, Department of Commerce

PART 600—DESIGNATION OF CIVIL AIRWAYS

GREEN CIVIL AIRWAY NO. 3 REDUCED

JUNE 3, 1942.

It appearing that: There exists a serious condition of traffic congestion within the navigable air space designated as Green Civil Airway No. 3, between the fan marker at Beacon No. 59, approximately 36 miles west of Salt Lake City, and the Wendover Range Station, approximately 4 miles southwest of Wend, Utah;

The Administrator finds that: his action is desirable in the public interest and necessary to the successful prosecution of the war;

Now therefore, the Administrator, acting pursuant to the authority vested in him by section 302 of the Civil Aeronautics Act of 1938, as amended, hereby makes and promulgates the following special regulation:

Notwithstanding the provisions of Part 600 of the Administrator's Regulations to the contrary, Green Civil Airway No. 3, between the fan marker at Beacon No. 59, approximately 36 miles west of Salt Lake City, and the Wendover Range Station, approximately 4 miles southwest of Wend, Utah, is reduced so as to include only the navigable air space above all that area on the surface of the earth lying within 5 miles of the center line prescribed for such airway.

[SEAL] C. I. STANTON,
Acting Administrator.

[F. R. Doc. 42-5391; Filed, June 9, 1942; 9:33 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 4509]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

THE SEAMLESS RUBBER COMPANY

§ 3.6 (m 10) *Advertising falsely or misleadingly—Manufacture or preparation:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* In connection with offer, etc., of respondent's electrical heating pads, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said product, which advertisements represent, directly or through inference, that its electrical heating pads are each provided with a switch or other heat regulating apparatus which may be set in a manner which will provide for the maintenance of heat in said heating pads at more than one sustained level of temperature; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, The Seamless Rubber Company, Docket 4509, June 2, 1942]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2d day of June, A. D. 1942.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of the respondent, in which substitute answer the respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, The Seamless Rubber Company, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its electrical heating pads, do forthwith cease and desist from:

(1) Disseminating or causing to be disseminated any advertisement:

(a) By means of the United States mails, or

(b) By any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent, directly or through inference, that its electrical heating pads are each provided with a switch or other heat regulating apparatus which may be set in a manner which will provide for the maintenance of heat in said heating pads at more than one sustained level of temperature.

(2) Disseminating or causing to be disseminated, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said electrical heating pads, which advertisement contains any of the representations prohibited in paragraph (1) hereof.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 42-5394; Filed, June 9, 1942; 11:00 a. m.]

[Docket No. 4567]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

HOUSTON'S MINERAL WELL

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* In connection with offer, etc., of respondent's mineral water known as "Houston's Mineral Water", or any other similar preparation, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of respondent's mineral water, which advertisements represent, directly or through inference, that respondent's mineral water (1) has any therapeutic value in the treatment or control of diabetes, or that said mineral water contains any ingredient which can in any way supply a deficiency of insulin or enable a person suffering from diabetes to discontinue the use of insulin; (2) has any therapeutic value in the treatment of disorders of the kidneys, kidney stones, disorders of the gall bladder, stomach disorders, indigestion, ulcerated stomach, or any general run-down condition of the body; (3) has any value in the treatment of high blood pressure or that its use will have any effect in building up the blood; or (4) has any therapeutic value or beneficial effect in the treatment of ailments of the prostate gland; or which advertisements represent, as aforesaid, (5) that the use of respondent's mineral water will restore health or supply any minerals needed for the sustaining of health; (6) that respondent's mineral water contains any minerals in quantities sufficient to be of any value in the treatment of acidity, acne, apoplexy, anemia, bed wetting, Bright's disease, colitis, constipation, cystitis, diarrhea, epilepsy, jaundice, jerking in limbs, enlarged liver, liver trouble, liver tumors, lumbago, low blood pressure, nerve nourishment, neuritis, bloody stools, acid stomach, inability to digest food, underweight, weakness, arthritis, bone building, bad complexion, eczema, gas and gastritis, goiter, heart trouble, insomnia, rheumatism, or intestinal tumors; or (7) that respondent's mineral water has any therapeutic value in the treatment of any disease or condition of the human body in excess of that afforded through the use of ordinary drinking water; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, Houston's Mineral Well, Docket 4567, June 2, 1942]

In the Matter of W. A. Houston, Individually and Trading Under the Name, Houston's Mineral Well

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2d day of June, A. D. 1942.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence taken before James A. Purcell, a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiner upon the evidence, and briefs filed in support of the complaint and in opposition thereto; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, W. A. Houston, an individual trading as Houston's Mineral Well, or trading under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of his mineral water known as Houston's Mineral Well, or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other names, do forthwith cease and desist from, directly or indirectly,

(1) Disseminating, or causing to be disseminated, any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference,

(a) That respondent's mineral water has any therapeutic value in the treatment or control of diabetes, or that said mineral water contains any ingredient which can in any way supply a deficiency of insulin or enable a person suffering from diabetes to discontinue the use of insulin;

(b) That respondent's mineral water has any therapeutic value in the treatment of disorders of the kidneys, kidney stones, disorders of the gall bladder, stomach disorders, indigestion, ulcerated stomach, or any general run-down condition of the body;

(c) That respondent's mineral water has any value in the treatment of high blood pressure or that its use will have any effect in building up the blood;

(d) That respondent's mineral water has any therapeutic value or beneficial effect in the treatment of ailments of the prostate gland;

(e) That the use of respondent's mineral water will restore health or supply any minerals needed for the sustaining of health;

(f) That respondent's mineral water contains any minerals in quantities sufficient to be of any value in the treatment of acidity, acne, apoplexy, anemia, bed wetting, Bright's disease, colitis, constipation, cystitis, diarrhea, epilepsy, jaundice, jerking in limbs, enlarged liver, liver trouble, liver tumors, lumbago, low blood pressure, nerve nourishment, neuritis, bloody stools, acid stomach, inability to digest food, underweight, weakness, arthritis, bone building, bad complexion, eczema, gas and gastritis, goiter, heart trouble, insomnia, rheumatism, or intestinal tumors;

(g) That respondent's mineral water has any therapeutic value in the treatment of any disease or condition of the human body in excess of that afforded through the use of ordinary drinking water;

(2) Disseminating, or causing to be disseminated, any advertisement by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of respondent's mineral water, which advertisement contains any of the representations prohibited in paragraph (1) hereof and the respective subdivisions thereof.

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

By the Commission.

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

[F. R. Doc. 42-5393; Filed, June 9, 1942; 11:00 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter III—U. S. Board of Tax Appeals

PART 701—RULES OF PRACTICE

RULES OF PRACTICE AMENDED

The amendment to paragraph (h) of § 701.6 *Initiation of a proceeding; petition,* printed in the FEDERAL REGISTER of June 2, 1942,[1] is in error, and should be disregarded.

Effective as of June 1, 1942.

C. R. ARUNDELL, *Acting Chairman.*

Dated: June 8, 1942.

[F. R. Doc. 42-5392; Filed, June 9, 1942; 10:22 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

[Docket No. A-1454]

PART 321—MINIMUM PRICE SCHEDULE, DISTRICT NO. 1

RELIEF GRANTED

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 1 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 1.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, re-

[1] 7 F.R. 4132.

questing the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 1; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 321.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 321.24 (*General prices*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof; and commencing forthwith the shipping point and freight origin group number appearing in the aforesaid "Supplement R" for Mine Index No. 845 are effective in place of the shipping point and freight origin group number heretofore assigned to this mine.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: May 29, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 321, Minimum Price Schedule for District No. 1 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 321.7 *Alphabetical list of code members*—Supplement R

[Alphabetical listing of code members having railway loading facilities, showing price classifications by size group numbers]

Mine Index No.	Code member	Mine name	Subdistrict No.	Seam	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
745	Bona, John	Bona #2	5	B	Brockway, Pa.	PRR	120	(†)	(†)	E	(†)	(†)
3481	Calverley, J. G. (Joe-Mar Coal Co.)	Joe-Mar (Strip)	33	B	Windber, Pa.	PRR	49	(†)	(†)	A	(†)	(†)
2539	Claypool & Gray (Earl Claypool).	L. C. Marshall	11	E	Colwell, Pa.	P&S	119	(†)	(†)	G	(†)	(†)
3558	David Dibert Mines, Inc.	David Dibert	29	C′	Johnstown, Pa.	J&SO	48	(†)	(†)	E	(†)	(†)
3541	Freebrook Corporation c/o Marion E. Brown.	Pittshaw #33	5	C′	Sugar Hill, Pa.	P&S	119	(†)	(†)	F	F	F
3542	Freebrook Corporation c/o Marion E. Brown.	Pittshaw #34 (Strip).	5	E	Sugar Hill, Pa.	P&S	119	(†)	(†)	G	G	G
3535	Freebrook Corporation c/o Marion E. Brown.	Pittshaw #35	6	D	Valier, Pa.	B&O	112	(†)	(†)	E	(†)	(†)
3536	Freebrook Corporation c/o Marion E. Brown.	Pittshaw #36 (Strip).	6	D	North Point, Pa.	B&O	112	(†)	(†)	E	E	E
3508	Hoover, Joseph	Alder Run #2	8	B	Bigler, Pa.	PRR	45	(†)	(†)	D	(†)	(†)
3537	Low Ash Coal Co., The (Foster Shaffer).	Low Ash #2	33	B	Windber, Pa.	PRR	49	(†)	(†)	A	(†)	(†)
3286	Ramper Brothers (Steve Ramper, Jr.).	Ramper	39	Fulton	Broad Top City, Pa.	H&BTM	43	(†)	(†)	B	(†)	(†)
3366	Rossey, Russell, Earl, & Everett (Russell Rossey).	Rossey	1	B	Waterson, Pa.	LEF&C	31	(†)	(†)	F	(†)	(†)
845	Schreckengost Coal Mines, Homer & Miles (Homer Schreckengost).	Schreckengost	11	E	Dayton, Pa.[1]	B&O	112	(†)	(†)	(*)	(†)	(†)
3539	Wallwork, George F.	Walico #1 (Strip)	4	A′	Sligo, Pa.	PRR	90	---	---	G	H	---
3540	Wallwork, George F.	Walico #2 (Strip)	4	B	Sligo, Pa.	PRR	90	---	---	G	H	---
3538	Wood, Frank B. (F. B. Wood Coal Mining Company).	Pine Ridge #2 (Strip).	17	C′	Hastings, Pa.	PRR	50	---	---	E	---	---
2277	Zahursky Coal Co. (J. G. Zahursky).	Zahursky Coal Co.	24	D	St. Benedict, Pa.	NYC	44	---	---	E	---	---

[1] Denotes change in Shipping Point, Freight Origin Group, and Railroad. Shipping point at Colwell, Pa., on the Pittsburgh and Shawmut Railroad in freight Origin Group No. 119 is no longer applicable.

†Denotes no classifications effective for this Size Group.

*Indicates prices and classification previously established for this size group.

FOR TRUCK SHIPMENTS

§ 321.24 *General prices*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Sub. district No.	County	Seam	All lump coal double screened top size 2" and over	Double screened top size 2" and under	Run of mine modified RPM	2" and under check	3/4" and under check
						1	2	3	4	5
Alwine, Clarence & Steve Toth (Steve Toth).	3107	Toth & Alwine	29	Somerset	C'	(†)	(†)	222	(†)	(†)
Bona, John	745	Bona #2	5	Jefferson	B	(†)	(†)	222	(†)	(†)
Calverley, J. G. (Joe-Mar Coal Co.).	3481	Joe-Mar (Strip)	33	Somerset	B	(†)	(†)	212	(†)	(†)
Freebrook Corporation c/o Marion E. Brown.	3541	Pittshaw #33	5	Jefferson	C'	(†)	(†)	220	210	200
reebrook Corporation c/o Marion E. Brown.	3542	Pittshaw #34 (Strip).	5	Jefferson	E	(†)	(†)	212	222	195
Freebrook Corporation c/o Marion E. Brown.	3535	Pittshaw #35	6	Jefferson	D	(†)	(†)	222	(†)	(†)
Freebrook Corporation c/o Marion E. Brown.	3536	Pittshaw #36 (Strip).	6	Indiana	D	(†)	(†)	222	212	205
Kozielec, Andrew V. & John N. (Andrew Kozielec).	2925	Kozielec	32	Somerset	B	(†)	(†)	(*)	212	205
Low Ash Coal Co., The (Foster Shaffer).	3537	Low Ash #2	33	Somerset	B	(†)	(†)	212	(†)	(†)
Ramper Brothers (Steve Ramper, Jr.).	3286	Ramper	39	Huntingdon	Fulton	(†)	(†)	212	(†)	(†)
Wallace, Jesse Dale, Emory Swope, & Wilbur Wallace (Jesse Dale Wallace).	3152	Wallace No. 1	8	Clearfield	D	(†)	(†)	222	(†)	(†)
Wallwork, George F	3539	Walco #1 (Strip)	4	Clarion	A'	210	215	212	200	190
Wallwork, George F	3540	Walco #2 (Strip)	4	Clarion	B	210	215	212	200	190
Wood, Frank B. (F. B. Wood Coal Mining Company).	3538	Pine Ridge #2 (Strip).	17	Cambria	C'	(†)	(†)	222	(†)	(†)

*Indicates prices previously established for this size group.
†Indicates no prices effective for this size group.

[F. R. Doc. 42-5347; Filed, June 8, 1942; 11:03 a. m.]

[Docket No. A-1399 Part II]

PART 322—MINIMUM PRICE SCHEDULE, DISTRICT NO. 2

BEACON FUEL COMPANY

Order cancelling hearing and conditionally providing for final relief in the matter of the petition of District Board No. 2 for the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 1200 and 2100 of Joseph E. Gross (Beacon Fuel Co.) for all shipments except truck, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

The original petitioner in the above matter having filed a motion to withdraw its request for the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 1200 and 2100 of Joseph E. Gross (Beacon Fuel Co.) in Size Group Nos. 14-16, inclusive, for special use; and

It appearing that such request was the sole reason, as set forth in the Order of May 11, 1942, 7 F.R. 3534, for scheduling a hearing in the above-entitled matter, and, therefore, that there is no further necessity for holding a hearing;

Now, therefore, it is ordered, That the hearing heretofore scheduled in this proceeding for June 9, 1942, be, and it hereby is, cancelled.

It is further ordered, That pleadings in opposition to the original petition in the above matter and applications to stay, terminate, or modify the temporary relief heretofore granted herein by the Order of May 11, 1942, may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the temporary price classifications and minimum prices established in Supplement R, § 322.7, (*Alphabetical list of code members*) by the Order of May 11, 1942, for the coals of Mine Index Nos. 1200 and 2100 of Joseph E. Gross (Beacon Fuel Co.), a code member in District No. 2, for river and ex-river shipments from Charleroi, Pennsylvania, shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: June 6, 1942.

[SEAL] DAN H. WHEELER, *Acting Director.*

[F. R. Doc. 42-5399; Filed, June 9, 1942; 11:04 a. m.]

[Docket No. A-1420]

PART 324—MINIMUM PRICE SCHEDULE, DISTRICT NO. 4

RELIEF ORDER AMENDED

Order amending order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 4 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 4.

On May 7, 1942, 7 F.R. 3844, an Order Granting Temporary Relief and Conditionally Providing for Final Relief was issued in the above-entitled matter, in which, *inter alia,* minimum prices were established for on-line railroad fuel shipments for the coals of the Fife Mine (Mine Index No. 3031) of the Buckeye Coal Mining Company, Inc., (H. H. Pierson), a code member in District No. 4, in Size Groups 1 to 10, inclusive, and 12.

It appears that the said mine produces strip mine coals; that the said minimum prices are the same as those established for deep mine coals; that minimum prices for strip mine coals in District No. 4 for on-line railroad fuel shipments are ten cents per net ton less than those established for deep mine coals for such shipments, and, therefore, that the said minimum prices should be reduced ten cents per net ton.

Now, therefore, it is ordered, That Supplement R-V, § 324.11 (*Special prices*—(a) *Railroad fuel prices for all movements exclusive of lake cargo railroad fuel*) in the said Order of May 7, 1942, in the above-entitled matter be, and it hereby is, amended, by deleting the minimum prices shown therein for the coals of the Fife Mine (Mine Index No. 3031) of the Buckeye Coal Mining Company, Inc., (H. H. Pierson) in Size Groups 1 to 10, inclusive, and 12, for on-line railroad fuel shipments to the Erie Railroad and by inserting, in lieu thereof, minimum prices of $2.10 in Size Group Nos. 1 to 5, inclusive, $1.95 in Size Group No. 6, $1.55 in Size Group Nos. 7 and 8, $1.70 in Size Group No. 9, $1.55 in Size Group No. 10, and $1.95 in Size Group No. 12.

It is further ordered, That in all other respects the said Order of May 7, 1942, in the above-entitled matter be, and it hereby is, continued in full force and effect, unless otherwise ordered.

Dated: June 6, 1942.

[SEAL] DAN H. WHEELER, *Acting Director.*

[F. R. Doc. 42-5400; Filed, June 9, 1942; 11:05 a. m.]

[Docket No. A-276]

PART 340—MINIMUM PRICE SCHEDULE, DISTRICT NO. 20

Order overruling exceptions to the proposed findings of fact, proposed conclusions of law and recommendations of the examiner, and granting relief in the matter of the petition of the Bituminous Coal Producers Board for District No. 20 for modification of the effective minimum prices for coals produced in District No. 20 for shipment into market areas 200 and 201.

This proceeding having been instituted upon a petition filed with the Bituminous Coal Division by District Board 20, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, requesting that

the same minimum f. o. b. mine prices be established for coal shipped by rail from Subdistrict 1 of District 20 to Market Areas 200 and 201 as are applicable for similar shipments to Market Areas 202 and 203;

Temporary relief pending final disposition of this matter having been granted by order of the Director dated December 16, 1940, 5 F.R. 5173;

Pursuant to an Order of the Director, a hearing in this matter having been held on January 29, 1941, before a duly designated Examiner of the Division, at a hearing room thereof, in Salt Lake City, Utah, at which appearances were entered on behalf of the petitioner and Consumers' Counsel Division;

The preparation and filing of a Report by the Examiner having been waived, the record was thereupon submitted to the Director who, on September 30, 1941, 6 F.R. 5046, issued his Findings of Fact, and on the basis of the conclusions drawn therefrom, denied the requested relief;

Pursuant to an order entered on November 22, 1941, 6 F.R. 6001, the order of September 30, 1941 denying relief having been stayed and the hearing having been reopened for the purpose of adducing additional evidence;

The reopened hearing having been held on January 28, 1942 before D. C. McCurtain, a duly designated Examiner of the Division, at a hearing room thereof in Cheyenne, Wyoming, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard, and at which District Board 20 appeared;

The Examiner having submitted his Report, Proposed Findings of Fact, Proposed Conclusions of Law and Recommendation in this matter on April 13, 1942, in which he recommended that the relief requested be granted;

All parties having been afforded an opportunity to file exceptions to the Examiner's Report and supporting briefs;

Exceptions to the Examiner's Report having been filed herein on April 28, 1942 by the Bituminous Coal Consumers' Counsel;

The undersigned having considered said exceptions and having made Findings of Fact and Conclusions of Law and having rendered an Opinion in this matter which are filed herewith;

Now, therefore, it is ordered, That the exceptions filed herein by the Bituminous Coal Consumers' Counsel be, and they hereby are, overruled.

It is further ordered, That § 340.5 (*General prices; minimum prices for shipment via rail transportation*) in the Schedule of Effective Minimum Prices for District No. 20 for All Shipments Except Truck be, and it hereby it, amended as follows:

a. Prices listed for Market Areas 202 and 203 under "*Subdistrict No. 1 Castlegate*" and "*Chesterfield Coal Company, Chesterfield Mine*" shall also apply for Market Areas 200 and 201.

b. Note 5 in § 340.5 is amended to include Market Areas 200 and 201.

Dated: June 8, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5398; Filed, June 9, 1942; 11:04 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

[No. 84]

ASSIGNMENT TO WORK OF NATIONAL IMPORTANCE

ORDER PRESCRIBING FORM

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

Revision of DSS Form 49 "Assignment to Work of National Importance,"[1] effective immediately upon the filing hereof with the Division of the Federal Register. The supply of original DSS Form 49 on hand will be used until exhausted.

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

LEWIS B. HERSHEY,
Director.

MAY 14, 1942.

[F. R. Doc. 42-5372; Filed, June 8, 1942; 2:29 p. m.]

[No. 85]

LIST OF REGISTRANTS

ORDER PRESCRIBING FORM

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

Addition of a new form designated as DSS Form 3B, entitled "List of Registrants,"[1] effective immediately upon the filing hereof with the Division of the Federal Register.

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

LEWIS B. HERSHEY,
Director.

MAY 22, 1942.

[F. R. Doc. 42-5373; Filed, June 8, 1942; 2:29 p. m.]

[1] Filed as part of the original document.

Chapter IX—War Production Board

Subchapter B—Division of Industry Operations

PART 1176—IRON AND STEEL CONSERVATION

[Amendment 1 to General Conservation Order M-126]

List A of General Conservation Order M-126[1] (§ 1176.1) is amended by eliminating the item "Stamps and tablets" and by adding the items "Stamps (except for marking metal)" and "tablets".

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

Issued this 9th day of June 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-5402; Filed, June 9, 1942; 11:30 a. m.]

PART 1217—COCOA

[Interpretation 1 of Conservation Order M-145]

The following official interpretation is hereby issued by the Director of Industry Operations with respect to § 1217.1 *Conservation Order M-145:*[2]

Paragraph (c) (4) of Order M-145 permits any person to process, without charge to his quota, such amount of cocoa beans as may be necessary to provide material for filling certain types of orders. Some processing methods yield two materials—cocoa butter and cocoa powder. Cocoa butter is used for some products; cocoa powder is used for other products. Some quota-exempt orders may require the use of only one of the two materials. While Order M-145 does not prohibit the use of the other material in filling orders which are not quota-exempt, the processor is accountable for the quantity of such other material if he subsequently receives quota-exempt orders requiring such material. Therefore, he may process cocoa beans, without charge to his quota, to supply such other material for those orders only if and to the extent that the quantity of such other material for which he is accountable is insufficient.

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

Issued this 9th day of June 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-5401; Filed, June 9, 1942; 11:30 a. m.]

[1] 7 F.R. 3364, 3518, 3881.
[2] 7 F.R. 3480.

Chapter XI—Office of Price Administration

PART 1335—CHEMICALS

[Amendment 3 to Revised Price Schedule 76[1]]

HIDE GLUE

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

Paragraph (c) of § 1335.707, and paragraph (d) of § 1335.709 are amended to read as set forth below:

§ 1335.707 *Definitions.* * * *

(c) "Jobber" means a person engaged in the warehousing and reselling of hide glue, but does not include a person consuming hide glue in the production of materials other than adhesives: *Provided,* That a jobber who is also a producer of hide glue or who is controlled by or under common control with a producer of hide glue, may charge the maximum prices established for jobbers only for such quantity of hide glue which he has purchased for resale and which shall not exceed in any one year the average annual quantity of hide glue purchased by him during the period 1940–1941.

* * * * *

§ 1335.709 *Appendix A: Maximum prices for hide glue.* * * *

(d) No charges for containers may be added to the maximum prices established in this section, but the buyer may be required to make a reasonable deposit for the return of containers. Transportation expenses in connection with the return of such containers must be paid by the seller and the deposit must be refunded to the buyer when the containers are returned.

* * * * *

§ 1335.708a *Effective dates of amendments.* * * *

(c) Amendment No. 3 (§§ 1335.707 (c) and 1335.709 (d)) to Revised Price Schedule No. 76 shall become effective June 10, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 8th day of June 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-5378; Filed, June 8, 1942; 4:53 p. m.]

PART 1389—APPAREL

[Maximum Price Regulation No. 153[2] As Amended]

WOMEN'S, GIRLS', AND CHILDREN'S OUTERWEAR GARMENTS

Sec.
1389.1 New lines of garments subject to this Maximum Price Regulation, as amended.
1389.2 Prohibition against dealing at prices above the maximum.
1389.3 Maximum prices.
1389.4 Incorporation of provisions of the General Maximum Price Regulation.
1389.5 Less than maximum prices.
1389.6 Evasion.
1389.7 Enforcement.
1389.8 Records.
1389.9 Invoices, sales slips and receipts.
1389.10 Definitions.
1389.11 Effective dates of amendments.
1389.12 Termination date.
1389.13 Appendix A: Classification of garments belonging to the same category.

A statement of the considerations involved in the issuance of this Maximum Price Regulation No. 153, as amended, has been issued simultaneously herewith and has been filed with the Division of the Federal Register.

Sections 1389.1 to 1389.13, inclusive, are amended and renumbered to read as set forth below:

AUTHORITY: §§ 1389.1 to 1389.13, inclusive, issued under Pub. Law 421, 77th Cong.

§ 1389.1 *New lines of women's, girls', and children's outerwear garments subject to this Maximum Price Regulation No. 153, as amended.* (a) This Maximum Price Regulation No. 153, as amended, shall apply, and, except as provided in § 1389.4, the General Maximum Price Regulation[3] shal not apply, to sales of any new line of any women's, girls', and children's outerwear garments delivered by the seller on and after June 15, 1942.

(b) As used in this Maximum Price Regulation No. 153, as amended, the term:

(1) "Women's, girls' and children's outerwear garments" includes garments of the following types: coats, suits, separate jackets, separate skirts, dresses, blouses, snowsuits, legging sets and separate leggings as defined in § 1389.10.

(2) "New line" of any women's, girls' or children's outerwear garments means any women's, girls' or children's outerwear garments, the maximum price for which cannot be established under § 1499.2 (a) of the General Maximum Price Regulation.[3]

§ 1389.2 *Prohibition against dealing in new lines of women's, girls' and children's outerwear garments at prices above the maximum.* On and after June 15, 1942, regardless of any contract or other obligation, no person shall sell or deliver any new line of any women's, girls' or children's outerwear garments, and no person shall buy or receive any new line of any women's, girls' or children's outerwear garments in the course of trade or business, at prices higher than the maximum prices established by § 1389.3; and no person shall agree, offer, solicit or attempt to do any of the foregoing: *Provided,* That contracts entered into prior to June 15, 1942, at prices in compliance with Maximum Price Regulation No. 153[3] or the General Maximum Price Regulation[3] may be carried out at the contract prices.

§ 1389.3 *Maximum prices for new lines of women's, girls' and children's outerwear garments*—(a) *Sales at wholesale or retail.* In the case of a sale at wholesale or retail, the seller's maximum price for each garment in any new line of any women's, girls' and children's outerwear garments shall be determined as follows:

(1) *In those cases where the garments to be priced fall in cost price lines corresponding to the seller's cost price lines for garments of the same category delivered during his last selling season:*

The seller's maximum selling price for each garment in any cost price line shall be his selling price in effect during his last selling season on deliveries of the largest number of units in his corresponding cost price line for garments of the same category.

(2) *In those cases where the garments to be priced fall in cost price lines which do not correspond to the seller's cost price lines for garments of the same category delivered during his last selling season:*

(i) Except as provided in subdivision (ii) of this subparagraph, the seller's maximum price shall be:

(*a*) The total of the cost to the seller of the garment being priced plus the average initial dollar mark-up taken by the seller on deliveries during his last selling season of his next lower cost price line for garments of the same category; or

(*b*) In the absence of any deliveries on any lower cost price line, the total of the cost to the seller of the garment being priced plus the average initial percentage mark-up taken by the seller on deliveries during his last selling season of his next higher price line for garments of the same category or the average mark-up in the department in which garments of the same category were sold during his last selling season, whichever is higher.

(ii) Where the seller purchases garments at a price below the customary established cost price line at which such garments are regularly offered, the seller's maximum price for such garments shall be the cost to the seller of the garment being priced plus the average initial dollar mark-up taken by the seller on deliveries of garments of the same category at the customary established price line during his last selling season: *Provided,* That in no case shall any seller at wholesale or retail sell or deliver any new line of any women's, girls' and children's outerwear garments in a price line which is higher than the highest price line at which he delivered garments of the same category during his last selling season.

(b) *Sales other than at wholesale or retail.* In the case of a sale, other than at wholesale or retail, the seller's maximum price for each garment in any new line of any women's, girls' and children's outerwear garments shall be determined as follows:

(1) *In those cases where the new lines correspond to the seller's price lines for garments of the same category delivered by the seller during his last selling season:*

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[1] 7 F.R. 1351, 1836, 2132, 2241, 2818.
[2] 7 F.R. 3901.
[3] 7 F.R. 3153, 3330, 3666, 3990, 3991.

The seller's maximum price for each garment shall be the total of the cost to the seller of the garment being priced plus the average initial percentage margin taken by the seller on his corresponding price line for garments of the same category delivered during his last selling season: *Provided,* That, except as provided in subparagraph (2) of this paragraph, in no case shall any such seller sell or deliver any new lines of any women's, girls' or children's outerwear garments at price lines which differ from or are higher than the price lines at which he delivered garments of the same category during his last selling season.

(2) *In those cases where the new lines are lower than the lowest price line for garments of the same category delivered by the seller during his last selling season:*

The seller's maximum price shall be the total of the cost to the seller of the garment being priced plus the average initial percentage margin taken by the seller on his lowest price line for garments of the same category delivered by the seller during his last selling season.

(c) *Sales of new lines of women's, girls' and children's outerwear garments which cannot be priced under paragraphs* (a) *and* (b) *of this section.* (1) The seller's maximum price for garments in any new line of any women's, girls' and children's outerwear garments where the garments in such new line are not in the same category as any garments which the seller delivered during his last selling season, or where the garments in such new line cannot otherwise be priced under paragraphs (a) and (b) of this section, shall be a maximum price in line with the level of maximum prices established by this Maximum Price Regulation No. 153, as amended. Such price shall be a price determined by the seller after specific authorization from the Office of Price Administration. A seller who seeks an authorization to determine a maximum price under the provisions of this paragraph shall file with the Office of Price Administration an application setting forth: (i) a description in detail of the garment or garments for which a maximum price is sought; and (ii) a statement of the facts which differentiate such garment or garments from other garments, if any, delivered or offered for delivery by such seller during March, 1942, or delivered during his last selling season. If such authorization is given, it will be accompanied by instructions as to the method for determining the maximum price. Within ten days after such price has been determined, the seller shall report such price to the Office of Price Administration upon a form, duly filled out and signed under oath or affirmation, which will be furnished him. The price so reported shall be subject to adjustment at any time by the Office of Price Administration.

(2) The applications and reports required by this paragraph shall be filed in accordance with orders, to be issued by the Office of Price Administration under this Maximum Price Regulation No. 153, as amended, which will be filed with and published by the Division of the Federal Register.

(d) *Garments of the same category.* For purposes of this section, all garments which fall into any one of the enumerated classifications listed in Appendix A (§ 1389.13) shall be deemed to be garments of the same category.

(e) *Meaning of terms.* As used in this Maximum Price Regulation No. 153, as amended, the term:

(1) "Cost to the seller" means:

(i) In the case of any sale at wholesale or retail, the price paid by the seller for the garment; and

(ii) In the case of any sale, other than at wholesale or retail, the total of:

(*a*) Actual material cost and trimming cost or the net price which the seller would have to pay to replace such materials and trimmings after June 14, 1942, whichever is lower, and

(*b*) Direct labor cost computed on the basis of wage rates paid by the seller on March 31, 1942, plus any increase subsequent thereto pursuant to a collective bargaining contract or other wage agreement which contract was entered into on or before April 27, 1942, and provides for an unconditional increase in wage rates of a fixed amount or percentage:

Provided, That in no case shall any seller include in his cost any amount charge or expense established by means of or resulting from a fictitious sale, or fictitious billing or fictitious valuation of materials or trimmings.

(2) "Mark-up" and "margin" mean the difference between the selling price of a garment and its cost to the seller.

(3) "Last selling season" means with respect to each garment the maximum price of which is established by § 1389.3:

(i) For purposes of sales at retail, the period between August 1 to December 31, 1941, inclusive;

(ii) For purposes of sales at wholesale, the period between July 1 to October 31, 1941, inclusive;

(iii) For purposes of sales, other than sales at wholesale retail, the period between July 1 to September 30, 1941, inclusive.

§ 1389.4 *Incorporation of provisions of the General Maximum Price Regulation.*[3] The provisions of § 1499.4 (Supplemental Regulations), § 1499.5 (Transfers of Business or Stock in Trade), § 1499.13 (Maximum Prices of Cost-of-Living Commodities; Statement, Marking or Posting), § 1499.15 (Registration), § 1499.16 (Licensing), § 1499.18 (Applications for Adjustment by Retail Sellers), and § 1499.19 (Petitions for Amendment) of the General Maximum Price Regulation shall apply to all sales for which maximum prices are established by § 1389.3 and to all persons making such sales. References in § 1499.18 of the General Maximum Price Regulation to §§ 1499.2 and 1499.3 thereof, for the purposes of this Maximum Price Regulation No. 153, as amended, shall be deemed to refer to § 1389.3. The registration and licensing provisions of §§ 1499.15 and 1499.16 of the General Maximum Price Regulation shall apply to every person selling at wholesale or retail any garment covered by this Maximum Price Regulation No. 153, as amended, with the same force and effect as though this Maximum Price Regulation No. 153, as amended, had been issued on or before April 28, 1942.

§ 1389.5 *Less than maximum prices.* Lower prices than those established by this Maximum Price Regulation No. 153, as amended, may be charged, demanded, paid or offered.

§ 1389.6 *Evasion.* (a) The price limitations set forth in this Maximum Price Regulation No. 153, as amended, shall not be evaded, whether by direct or indirect methods, in connection with an offer, solicitation, agreement, sale, delivery, purchase, or receipt of or relating to any new lines of women's, girls' and children's outerwear garments, alone or in conjunction with any other commodity or by way of commission, service, transportation, or any other charge, or discount, premium or other privilege, or by tying-agreement or other trade understanding, or otherwise.

(b) Specifically, but not exclusively, the following practices are prohibited:

(1) No seller shall, for the purpose of evading the price limitations set forth in this Maximum Price Regulation No. 153, as amended, sell, purchase, deliver, contract, deal or otherwise operate with or through any other person under common control with, controlled by, controlling, or otherwise affiliated with the seller.

(2) No seller shall change his customary allowances, discounts or other price differentials unless such change results in a lower net price.

§ 1389.7 *Enforcement.* Persons violating any provisions of this Maximum Price Regulation No. 153, as amended, are subject to the criminal penalties, civil enforcement actions, suits for treble damages and proceedings for suspension of licenses provided by the Emergency Price Control Act of 1942.

§ 1389.8 *Records.* In addition to any records required to be kept by § 1389.4 every person selling garments for which, upon sale by that person, maximum prices are established by § 1389.3, shall:

(a) *In the case of sales at wholesale or retail:*

(1) Keep and make available for examination by, and upon demand file with, the Office of Price Administration a record of all such prices thus established. The records shall show with respect to each such price: the cost to the seller of the garment priced, the mark-up added to the cost of the garment priced, and as precisely as possible the basis upon which the seller established such price;

(2) Prepare, on or before August 1, 1942, on the basis of all available information and records, and thereafter keep and make available for examination by, and upon demand file with the Office of Price Administration a statement showing:

[3] *Supra,* note 3

(i) The cost price lines and the corresponding selling prices at which he delivered women's, girls' and children's outerwear garments in each category during his last selling season;

(ii) The selling prices at which he delivered the largest number of units for each cost price line of garments in each category during his last selling season;

(3) Preserve for examination by the Office of Price Administration all his existing records relating to the cost of the garments in the price lines delivered during his last selling season, the mark-up added to such cost and the selling price of such garments.

(b) *In the case of sales, other than at wholesale or retail:*

(1) Keep and make available for examination by, and upon demand file with, the Office of Price Administration, a record of all such prices thus established. The records shall show with respect to each price: the cost to the seller of the garment priced, the margin added to the cost of the garment priced and as precisely as possible the basis upon which the seller established such price;

(2) Prepare, and on or before August 1, 1942 file with the Office of Price Administration in Washington, D. C., a statement showing:

(i) The price lines at which he delivered women's, girls' and children's outerwear garments in each category during his last selling season.

(ii) The average initial percentage margin taken by the seller on each price line of women's, girls' and children's outerwear garments in each category delivered during his last selling season;

(3) Preserve for examination by the Office of Price Administration all his existing records relating to the cost of the garments in the price lines delivered during his last selling season, the margin added to such cost and the selling price of such garments.

§ 1389.9 *Invoices, sales slips and receipts.* (a) Every person other than a person selling at retail, whose sales are subject to maximum prices established by § 1389.3, shall in connection with each such sale deliver an invoice or other similar document showing (1) the date, (2) the name and address of the seller and purchaser, (3) the style number of each of the different styles of garment sold, (4) the quantity of each different style of garment sold, (5) the price contracted for or charged by the seller for each different style of garment sold, and (6) all discounts, allowances and other price differentials.

(b) Every person selling at retail whose sales of women's, girls' and children's outerwear garments are subject to maximum prices established by § 1389.3 who has customarily given a purchaser a sales slip, receipt or similar evidence of purchase shall continue to do so. Upon request from a purchaser, any such seller, regardless of previous custom shall give the purchaser a receipt showing (1) the date, (2) the name and address of the seller, (3) the name or description of each garment sold, and (4) the price received for it.

§ 1389.10 *Definitions.* (a) When used in the Maximum Price Regulation No. 153, as amended, the term:

(1) "Delivered" means received by the purchaser or by any carrier other than carrier owned or controlled by the seller for shipment to the purchaser.

(2) "Coats" mean feminine outerwear garments, commonly known as coats, in sizes from 3 and up, fabricated from yard goods, usually worn over other outer apparel, untrimmed, trimmed and fur-trimmed, sport and dress, including capes and wraps, but not including rainwear garments or garments made of artificial leather.

(3) "Suits" include feminine outerwear garments, commonly known as suits, in sizes from 3 and up, fabricated from yard goods, consisting of a separate jacket and separate skirt of either matching or contrasting material to be sold at a unit price.

(4) "Separate jackets" include feminine outerwear garments, commonly known as jackets, in sizes from 3 and up, fabricated from yard goods, but not including garments made of artificial leather.

(5) "Separate skirts" include feminine outerwear garments, commonly known as skirts, in sizes from 3 and up, fabricated from yard goods, but not including culottes.

(6) "Dresses" include feminine outerwear garments, commonly known as dresses, in sizes from 3 and up, fabricated from yard goods.

(7) "Blouses" include feminine outerwear garments, commonly known as blouses or shirtwaists, in sizes from 30 and up, fabricated from yard goods.

(8) "Snowsuits" include children's outerwear garments, commonly known as snowsuits, fabricated from yard goods, in sizes from 3 to 14, inclusive, for two-piece snowsuits, and in sizes from 1 to 6, inclusive, for one-piece snowsuits.

(9) "Legging sets" and "separate leggings" include children's outergarments, commonly known as legging sets and separate leggings, fabricated from yard goods, in sizes from 1 to 10, inclusive, but not including garments made of artificial leather.

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

(11) "Sale at retail" or "selling at retail" means a sale to an ultimate consumer but shall not include any sale by a producer, manufacturer, or fabricator of any garment produced, manufactured, or fabricated by him, or on his behalf by an agent or contractor, except that for purposes of § 1389.9 (a), no person making a sale to an ultimate consumer shall be required to deliver an invoice or other similar document showing the items specified in that section.

(12) "Sale at wholesale" means a sale by a person who receives delivery of a commodity and resells it, without changing its form, to any person other than the ultimate consumer, but shall not include any sale by a producer, manufacturer, or fabricator of any garment produced, manufactured, or fabricated by him, or on his behalf by an agent or contractor.

(13) "Records" includes books of account, sales lists, sales slips, orders, vouchers, contracts, receipts, invoices, bills of lading, and other papers and documents.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used herein.

§ 1389.11 *Effective dates of amendments.* (a) Maximum Price Regulation No. 153, as amended, (§§ 1389.1–1389.13, inclusive) shall become effective June 15, 1942.

§ 1389.12 *Termination date.* This Maximum Price Regulation No. 153, as amended, shall not be applicable to any new lines of women's, girls' and children's outerwear garments manufactured for purpose of ultimate sale at retail during the Spring 1943 season. Without limiting the generality of the aforegoing, this Maximum Price Regulation No. 153, as amended, shall become inoperative on December 1, 1942, except for sales and deliveries of new lines of women's, Girls' and children's outerwear garments in stock or recuts and reorders of new lines of women's, girls' and children's outerwear garments in stock or in process of manufacture.

§ 1389.13 *Appendix A: Classification of garments belonging to the same category.* For the purposes of § 1389.3, all garments which fall into any one of the following enumerated classifications shall be deemed to belong to the same category:

1. All "women's" coats in all sizes.
2. All "misses'" and "jr. misses'" coats, in sizes from 9 to 20, inclusive.
3. All "teen age" coats, in sizes from 10 to 16, inclusive.
4. All "girls'" coats, in sizes from 7 to 14, inclusive.
5. All "children's" coats, in sizes from 3 to 6, inclusive.
6. All "women's" suits, in all sizes.
7. All "misses'" and "jr. misses'" suits, in sizes from 9 to 20, inclusive.
8. All "teen age" suits, in sizes from 10 to 16, inclusive.
9. All "girls'" suits, in sizes from 7 to 14, inclusive.
10. All "children's" suits, in sizes from 3 to 6, inclusive.
11. All "women's" separate jackets, in all sizes.
12. All "misses'" and "jr. misses'" separate jackets, in sizes from 9 to 20, inclusive.
13. All "teen age" separate jackets, in sizes from 10 to 16, inclusive.
14. All "girls'" separate jackets, in sizes from 7 to 14, inclusive.
15. All "children's" separate jackets, in sizes from 3 to 6, inclusive.

16. All "women's" separate skirts, in all sizes.
17. All "misses'" and "jr. misses'" separate skirts, in sizes from 9 to 20, inclusive.
18. All "teen age" separate skirts in sizes from 10 to 16, inclusive.
19. All "girls'" separate skirts, in sizes from 7 to 14, inclusive.
20. All "children's" separate skirts, in sizes from 3 to 6, inclusive.
21. All "women's" dresses, in all sizes.
22. All "misses'" and "jr. misses'" dresses, in sizes from 9 to 20, inclusive.
23. All "teen age" dresses, in sizes from 10 to 16, inclusive.
24. All "girls'" dresses, in sizes from 7 to 14, inclusive.
25. All "children's" dresses, in sizes from 3 to 6, inclusive.
26. All blouses, in sizes 30 and up.
27. All one-piece snowsuits, in sizes from 1 to 6, inclusive.
28. All two-piece snowsuits, in sizes from 3 to 14, inclusive.
29. All legging sets in sizes from 1 to 10, inclusive.
30. All separate leggings, in sizes from 1 to 10, inclusive.

Issued this 9th day of June 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-5407; Filed, June 9, 1942; 12:07 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Maximum prices authorized under § 1499.3 (b) of the General Maximum Price Regulation[1]—Order No. 8]

TENNESSEE COAL, IRON AND RAILROAD COMPANY, MAXIMUM PRICES FOR CHROME-VANADIUM-STEEL SCRAP

The Tennessee Coal, Iron and Railroad Company, Birmingham, Alabama, has made application pursuant to § 1499.3 (b) of the General Maximum Price Regulation for the determination of a maximum price for certain chrome-vanadium-steel scrap. Due consideration has been given to the application and an Opinion in support of this Order has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the Opinion under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, and pursuant to § 1499.3 (b) of the General Maximum Price Regulation issued by the Office of Price Administration, it is ordered:

§ 1499.43 *Maximum prices for certain chrome-vanadium-steel scrap sold by the Tennessee Coal, Iron and Railroad Company, Birmingham, Alabama.* (a) On and after June 9, 1942 Tennessee Coal, Iron and Railroad Company, Birmingham, Alabama, may sell and deliver to the Kilby Steel Company, Anniston, Alabama, and the Kilby Steel Company may purchase approximately 50 tons of the following grades of chrome-vanadium-steel scrap containing 8 to 10% chome, 1.20% to 1.30% molybdenum, .65% to .75% vanadium, small percentages of carbon, manganese, sulphur, phosphorus and silicon, and the remainder steel at the prices set forth below:

Grade:	*Prices per long ton f. o. b. shipping point*
Solids	$51.82
Turnings and borings	44.04

(b) This Order No. 8 may be revoked or amended by the Office of Price Administration at any time.

(c) This Order No. 8 (§ 1499.43) shall become effective June 9, 1942. (Pub. Law 421, 77th Cong.)

Issued this 8th day of June 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-5379; Filed, June 8, 1942; 4:54 p. m.]

[1] 7 F.R. 3153, 3330, 3666.

Chapter XIII—Office of Petroleum Coordinator for War

[Recommendation No. 24, Amendment]

PART 1500—ADMINISTRATIVE—GENERAL

COMMITTEE ON COST AND PRICE ADJUSTMENT

Pursuant to the President's letter of May 28, 1941, establishing the Office of Petroleum Coordinator for War, Recommendation No. 24, dated December 11, 1941, as amended February 6, 1942, §§ 1500.8 to 1500.12, inclusive, of this chapter, is hereby amended by the addition thereto of the following section:

§ 1500.13 *Functions and duties of Committee on Cost and Price Adjustment.* (a) The Committee on Cost and Price Adjustment of the Petroleum Industry War Council, established pursuant to Recommendation No. 24, as amended, shall obtain, analyze, and keep current all pertinent and available facts, figures, and other data with respect to the effect of war conditions on the economic and financial status of the petroleum industry. The Committee on Cost and Price Adjustment shall:

(1) Investigate and report to the Petroleum Coordinator for War and the Petroleum Industry War Council concerning the effect upon petroleum supply of rules, regulations, orders, and other actions of the Office of Price Administration relating to costs and prices which affect the petroleum industry.

(2) Upon the request of the Office of Petroleum Coordinator for War or of the Office of Price Administration, prepare facts, figures, or other data, or economic analyses thereof for use in connection with any price or cost proceeding before the Office of Price Administration.

(3) Serve as a liaison committee between the Council and the Committees established by the Office of Petroleum Coordinator for War and the Office of Price Administration on matters relating to petroleum industry cost and price adjustments.

(b) In carrying out the duties, responsibilities, and functions under this section, the Committee on Cost and Price Adjustment is authorized, in the name of the Petroleum Industry War Council:

(1) To direct such inquiries and questionnaires to such companies, organizations, or persons as may be necessary or appropriate to the conduct of its activities.

(2) To ask and receive expert assistance from any company, organization, or person.

(3) To consult with any of the committees or temporary or permanent subcommittees of the Petroleum Coordinator for War or of the Petroleum Industry War Council, and with any appropriate representative of the Office of Petroleum Coordinator for War or of the Office of Price Administration.

The chairman of any General Committee for any District of the Office of Petroleum Coordinator for War may, upon request by the chairman of the Committee on Cost and Price Adjustment, designate a temporary cost adjustment committee to assist with respect to any specific economic case or problem which may arise within such District, to serve only until the particular case or problem has been disposed of by the Office of Price Administration, or otherwise. The Committee on Cost and Price Adjustment shall maintain such staff and appoint such persons as it finds necessary to carry out its duties, responsibilities, and functions under this section. Operating expenses of the Committee shall be paid from available Petroleum Industry War Council funds. (President's letter of May 28, 1941, to the Secretary of the Interior, 6 F.R. 2760)

R. K. DAVIES,
Deputy Petroleum Coordinator for War.

JUNE 1, 1942.

[F. R. Doc. 42-5374; Filed, June 8, 1942; 4:12 p. m.]

[Petroleum Directive No. 52]

PART 1504—PROCESSING AND REFINING

SYNTHETIC RUBBER

To the Petroleum Refining Industry and to the Industry Committees:

Among other duties, the Office of Petroleum Coordinator for War has the task of coordinating and directing action by the petroleum industry to obtain the necessary production of war products by the fullest and most timely development and utilization of all petroleum resources and facilities. Since the severance of this Nation from the major portion of its sources of supply of natural rubber the need for instituting and expanding programs for the production of raw materials to be made into synthetic rubber has become increasingly pressing. It appears likely that the petroleum refining industry can satisfy this need in substantial measure by the application of various processes to existing operations, the use of available charging materials, and the maximum utilization of existing equipment, without impairment of the production program for other war prod-

ucts. Moreover, the use of as much existing equipment as possible would reduce the present need for new critical materials and would consequently shorten the period within which the raw materials and ultimately the synthetic rubber would begin to be produced.

Therefore, in order to bring about that action required by the President's letter of May 28, 1941 defining the objectives and duties of the Office of Petroleum Coordinator for War and pursuant thereto, I do hereby direct that immediately and until further notice:

§ 1504.66 *Surveys.* The duly constituted industry committees and advisers to the Office of Petroleum Coordinator for War including the Petroleum Industry War Council and the committees thereof, shall, subject to the approval of the Office of the Petroleum Coordinator for War, appoint such other committees, sub-committees or persons from time to time as may be required to survey and investigate, subject to the direction of this Office, the operations of of the various members of the petroleum refining industry to determine the nature and extent of existing facilities and equipment adaptable to the production of raw materials to be used in the manufacture of synthetic rubber, the sources and availability of charging stocks, the nature and extent of any alterations that may be required, the character and suitability of the processes that can be used, the nature and extent of any additional critical or other materials that may be required, the probable investment and operating costs in connection with plants suitable for adaptation to production of raw materials for synthetic rubber, the probable quantities, qualities and dates of production of such raw materials, the location of such plants; to supervise the conduct of development work and testing and to collect such further information and otherwise act as may be necessary or useful in such connection.

§ 1504.67 *Meetings.* Any committee, sub-committee or person referred to in § 1504.66 or any member of any such committee or sub-committee may meet with any member of the petroleum refining industry or other person for the purpose of obtaining information or otherwise carrying out the duties and functions referred to in said § 1504.66. Each member of the petroleum refining industry shall cooperate to the extent that it is possible so to do with any such committee, sub-committee or person referred to in said § 1504.66 by furnishing such information as it may have which may be requested.

§ 1504.68 *Reports and plans.* From time to time from the date of issuance hereof, each committee, sub-committee or person, as the case may be, shall submit reports upon request to the Director of Refining of the Office of Petroleum Coordinator for War, showing the progress that has been made and, whenever the survey of each is sufficiently advaned to permit of such action, shall submit plans upon request by the Director of Refining for the approval of Chief Counsel covering the maximum use of existing facilities and equipment to produce raw materials for synthetic rubber or any other subject of such survey so requested.

§ 1504.69 *Proposals.* Upon the approval by Chief Counsel of the Office of Petroleum Coordinator for War of any plan submitted pursuant to § 1504.68, such members of the petroleum refining industry as are indicated therein and any other member of the petroleum refining industry requested by this Office or wishing so to do shall promptly prepare and submit proposals to this Office, outlining, among other things, the existing facilities and equipment to the extent which may be indicated which such member has available for the production of raw materials for synthetic rubber, the nature and extent of any adaptation or alteration to make such facilities and equipment suitable for use for such purpose, the estimated investment, operating and maintenance costs that would be incurred in connection therewith, the amount and character of the charging materials available, the amount, type and proportion of new critical and other materials that may have to be ordered, the availability of transportation for the charging materials, intermediate and final products, the estimated period within which operations can begin, divided into periods of design and construction or alteration, the estimated quantities, qualities and dates of production of such of the raw materials to be so produced, and the extent of any financing required.

§ 1504.70 *Negotiations and further action.* Whenever any proposal submitted pursuant to § 1504.69 is found acceptable by this Office, the member or members of the petroleum refining industry submitting it shall carry on negotiations with this Office to the end that proper recommendations may be issued and proper agreements made, relating to the production and sale of raw materials for synthetic rubber, at the earliest practicable time, and shall take such other action indicated by this Office as may be necessary or desirable in the premises.

(President's letter of May 28, 1941, to the Secretary of the Interior, 6 F.R. 2760)

R. K. DAVIES,
Deputy Petroleum Coordinator for War.

JUNE 6, 1942.

[F. R. Doc. 42-5376; Filed, June 8, 1942; 4:12 p. m.]

[Recommendation No. 12, Amendment]

PART 1505—TRANSPORTATION

POINT OF SHIPMENT OF SUPPLIES FOR DISTRICT ONE

To the Transportation Committee for District One and to all suppliers of petroleum and petroleum products in said District:

Pursuant to the President's letter of May 28, 1941, establishing the Office of Petroleum Coordinator for War, Recommendation No. 12, dated September 30, 1941, as amended March 12, 1942, §§ 1505.19 to 1505.21, inclusive, of this chapter, is hereby amended by the addition thereto of the following section:

§ 1505.22 *Point of shipment of supplies for District One.* Except where such action will adversely affect the production or availability of petroleum products to fill war requirements, each supplier who imports petroleum or petroleum products into District One shall ship such petroleum or petroleum products from that point where there is available a supply filling the requirements of such supplier, which involves the shortest railroad haul. (President's letter of May 28, 1941, to the Secretary of the Interior, 6 F.R. 2760)

R. K. DAVIES,
Deputy Petroleum Coordinator for War.

JUNE 2, 1942.

[F. R. Doc. 42-5375; Filed, June 8, 1942; 4:12 p. m.]

TITLE 36—PARKS AND FORESTS

Chapter II—Forest Service

PART 231—GRAZING[1]

PERMITS FOR USE OF NATIONAL FOREST RANGE

By virtue of the authority vested in the Secretary of Agriculture by the Act of June 4, 1897 (30 Stat. 35, 16 U.S.C. 551), and the Act of February 1, 1905 (33 Stat. 628, 16 U.S.C. 472), Regulation G-3 of the rules and regulations governing the occupancy, use, protection, and administration of the national forests, which constitutes § 231.3, Part 231, Chapter II, Title 36, Code of Federal Regulations, is amended by modifying paragraph (a) to read as follows:

§ 231.3 *Applications and permits.* (a) The issuance of paid term or annual permits to persons who own the livestock to be grazed and who otherwise qualify for use of national-forest range; and the issuance of temporary permits, where surplus range exists, to persons who do not possess any or all of the qualifications necessary for a term or annual permit. A term permit shall not exceed ten years and shall have the full force and effect of a contract between the United States and the permittee. It shall not be reduced or modified except as may be specifically provided for in the permit itself and shall not be revoked or canceled except for violation of its terms or by mutual agreement. (30 Stat. 35, 33 Stat. 628; 16 U.S.C. 551, 472)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, this 9th day of June 1942.

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

[F. R. Doc. 42-5404; Filed, June 9, 1942; 11:38 a. m.]

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[1] 5 F.R. 1463; 6 F.R. 1785.

TITLE 46—SHIPPING

Chapter IV—War Shipping Administration

[General Order 2,[1] Sup. 1]

PART 301—REGULATIONS AFFECTING MARITIME CARRIERS

UNIFORM TANKER VOYAGE CHARTER PARTY—"WARSHIPOILVOY"

Whereas an unlimited National Emergency was proclaimed by the President of the United States on May 27, 1941; and

Whereas, by Executive Order No. 9054, dated February 7, 1942, the President of the United States conferred upon the War Shipping Administration the functions, duties, and powers with respect to the provisions of Section 902 of the Merchant Marine Act, 1936, as amended, to requisition or charter the use of any vessel or watercraft owned by citizens of the United States or under construction with the United States, for any period during such emergency; and

Whereas, pursuant to the aforesaid Proclamation and Executive Order of the President and the provisions of Section 902 of the Merchant Marine Act, 1936, as amended, the Administrator, War Shipping Administration, has requisitioned and will from time to time requisition the use on a time charter basis of vessels owned by citizens of the United States, and has, and will from time to time, acquire the use on a time charter basis of vessels of citizens of foreign countries.

Now, therefore, it is hereby ordered, That:

§ 301.2a *Uniform tanker voyage charter party.* (a) Voyage charters entered into by the United States of America, acting by and through the Administrator, War Shipping Administration, or his duly appointed agents, for the carriage of Petroleum and/or its products in bulk on vessels the use of which has been requisitioned or acquired by the United States on a time charter basis, shall consist of two parts, designated respectively, Part I and Part II.

(b) The form of Part I of said voyage charter shall be as follows:

Form No. 104
WARSHIPOILVOY
6/1/42

Contract No. _____

TANKER VOYAGE CHARTER PARTY

PART I

Charter Party made as of _____, 194 , at _____ between the United States of America, acting by and through the War Shipping Administration (hereinafter called the "Owner") of the good MS _____ SS _____ (hereinafter called the "Vessel") and_____ (hereinafter called the "Charterer").

This Charter Party consists of this Part I and Part II on the reverse hereof. Unless in this Part I otherwise provided, all of the provisions of Part II shall be part of this Charter Party as though fully incorporated herein.

Net Registered Tonnage of Vessel: _____

Classed: _____.

Loaded Draft of Vessel Applicable for this Voyage, _____ ft. _____ in. in salt water.

Capacity of _____ bbls. (of 42 American measured gallons at 60° F. each) or_____ tons of 2240 lbs. of _____. (10% more or less, vessel's option.)

Now _____. Coiled _____.

Loading Port_____.

Cargo _____.

Discharging Port_____.

Freight Rate_____. Payable at_____.

Readiness Date_____. Canceling Date _____.

Hours for Loading and Discharging_____.

Demurrage per hour_____. Last 2 cargoes _____.

Special provisions: _____

_____

_____

_____

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

Witness the signature of:

UNITED STATES OF AMERICA,
By WAR SHIPPING ADMINISTRATION,
By _____,
By _____,
Agents.

Witness the signature of_____

I, _____, certify that I am the duly chosen, qualified, and acting Secretary of _____ a party to this Agreement, and, as such, I am the custodian of its official records and the minute books of its governing body; that _____ who signed this Agreement on behalf of said corporation, was then the duly qualified _____ of said corporation; that said officer affixed his manual signature to said Agreement in his official capacity as said officer for and on behalf of said corporation by authority and direction of its governing body duly made and taken; that said Agreement is within the scope of the corporate and lawful powers of this corporation.

[CORPORATE SEAL] _____,
Secretary.

(c) The uniform terms and conditions designated Part II, and which in the printed form hereof will appear on the reverse side of Part I, applicable to the carriage of Petroleum and/or its products on all tank vessels time chartered by the War Shipping Administration, shall be as follows:

TANKER VOYAGE CHARTER PARTY

PART II

LOADING PORT WARRANTY CARGO DISCHARGING PORT FREIGHT RATE INSPECTOR'S CERTIFICATE

1 (a). The Vessel, classed as aforesaid and to be so maintained during the currency of this Charter, shall, with all convenient dispatch, proceed as ordered to Loading Port or so near thereunto as she may safely get (always afloat), and being tight, staunch and strong, and having all pipes, pumps, and heater coils in good working order, and being in every respect fitted for the voyage, so far as the foregoing conditions can be attained by the exercise of due diligence, perils of the sea and any other cause of whatsoever kind beyond the Owner's control excepted, shall load (always afloat) from the factors of the Charterer a full and complete cargo of Petroleum and/or its products in bulk, not exceeding what she can reasonably stow and carry over and above her tackle, apparel, stores and furniture (sufficient space to be left in the expansion tanks to provide for the expansion of the cargo), and being so loaded shall forthwith proceed, as ordered on signing Bills of Lading, to Discharging Port, or so near thereunto as she may safely get (always afloat), and deliver said cargo. The freight shall be at and after the rate stipulated in Part I hereof, based on intake quantity as shown on the Inspector's Certificate of Inspection, the services of the Petroleum Inspector to be arranged and paid for by the Charterer who shall furnish the Owner's Agent with a copy of the Inspector's Certificate. No deduction of freight shall be made for water and/or sediment contained in the Oil.

1 (b). *Freight payable.* Full freight shall be irrevocably earned on cargo as loaded, vessel and/or cargo lost or not lost; payment to be made in United States Dollars to Owner's Agent at the Agent's place of business upon receipt by the Agent of figures indicating quantity or cargo loaded as provided in 1 (a) above. On completion of loading, Owner will order vessel to sail to discharging port, Charterer nevertheless remaining liable to the Owner for all freight and charges, vessel and/or cargo lost or not lost.

1 (c). *Advances.* Cash shall be advanced by Charterer to the Master or Owner's Agents, if required, for ordinary disbursements at ports of loading and/or discharge at current rates of exchange.

2. *Time for naming loading port.* The Charterer shall name the loading port twenty-four (24) hours prior to the Vessel's readiness to sail from the last previous port of discharge, or from her bunkering port for the voyage, or upon signing this Charter if the Vessel has already sailed. Any extra expenses incurred by reason of the Charterer's delay in furnishing loading port orders shall be paid for by the Charterer, and any time thereby lost to the Vessel shall count as used lay time.

3. *Readiness and cancelling date.* Lay time shall not commence before the readiness date stipulated in Part I hereof, except with the Charterer's sanction, and should the Vessel not be ready to load by 4:00 o'clock P. M. (local time) on the cancelling date stipulated in Part I hereof, the Charterer shall have the option of cancelling this Charter by giving Owner notice of such cancellation within twenty-four (24) hours after such cancellation date; otherwise this Charter to remain in full force and effect.

4. *Notice of readiness.* The Master or his representative shall give the Charterer or his agent at the ports of loading and discharge notice in writing during ordinary business hours that the Vessel is ready to load or discharge cargo, berth or no berth, and lay time shall commence upon the expiration of six (6) hours after receipt of such notice, or upon the Vessel's arrival in berth (i. e., finished mooring when at a sealoading or discharging terminal, and all fast when loading or discharging alongside a wharf), whichever first occurs: *Provided, however,* That where, because of routing instructions or other orders of the Owner over which the Charterer has no control, delay is caused to the Vessel for more than six (6) hours after notice of readiness is given, in waiting turn to load or discharge, lay time shall not commence until Vessel is berthed.

5. *Hours for loading and discharging.* Such number of running hours as are stipulated in Part I hereof shall be allowed the Charterer as lay time for loading and discharging cargo; but if the Vessel's condition or facilities do not admit of loading and discharging in the time allowed, then the additional time necessary therefor shall be included in lay time. If regulations of the Owner or port authorities prohibit loading or discharging of the cargo at night, time so lost shall not count as used lay time; if the Charterer, Shipper, or Consignee prohibits loading or discharging at night, time so lost shall count as used lay time.

6 (a). *Safe berth.* The Vessel shall load and discharge at any safe place or wharf, or alongside vessels or lighters reachable on her arrival, which shall be designated and secured by the Charterer, any lighterage being at the expense, risk and peril of the Charterer, pro-

[1] 7 F.R. 1505.

vided that the Vessel can proceed thereto, lie at, and depart therefrom always safetly afloat. The Charterer shall have the right of shifting the Vessel at ports of loading and/or discharge from one safe berth to another on payment of all expenses incurred, except as stated in Clause 14 hereof. Time consumed on account of shifting shall count as used lay time, except as stated in Clause 14.

6 (b). *Flashpoint.* No petroleum or its products having a flashpoint under 150° Fahrenheit (Closed Cup Abel Test) shall be loaded from lighters but this clause shall not restrict the Charterer from loading or topping off crude oil from vessels or barges inside or outside the bar at any port or place where bar conditions exist.

7. *Pumping in and out.* The cargo shall be pumped into the Vessel at the expense, risk and peril of the Charterer, and shall be pumped out of the Vessel at the expense of the Vessel, but at the risk and peril of the Vessel only so far as the Vessel's permanent hose connections, where delivery of the cargo shall be taken by the Charterer or its Consignee. The Vessel shall supply her pumps and the necessary steam for discharging in all ports where the regulations permit of fire on board, as well as necessary hands. Should regulations not permit fires on board, the Charterer or Consignee shall supply, at its expense, all steam necessary for discharging as well as loading, but the Owner shall pay for steam supplied to the Vessel for all other purposes. If cargo is loaded from lighters, the Vessel, if permitted to have fires on board, shall, if required, furnish steam to lighters at Charterer's expense for pumping cargo into the Vessel.

8. *Hoses.* Hoses for loading and discharging to be furnished by Charterer at its risk and expense.

9. *Dead freight.* Should the Charterer fail to supply a full cargo, the Vessel may, at the Masters option, and shall, upon request of the Charterer, proceed on her voyage, provided that the tanks in which cargo is loaded are sufficiently filled to put her in seaworthy condition. In that event, however, dead freight shall be paid on the difference between the quantity loaded and the quantity the Vessel would have carried if loaded to her minimum permissible freeboard for the voyage.

10. *Demurrage.* Charterer shall pay demurrage per running hour and pro rata for a part thereof at the rate stipulated in Part I for all time that loading and discharging and used lay time as elsewhere herein provided exceeds the allowed lay time herein specified. If, however, demurrage shall be incurred at ports of loading and/or discharge because of fire or explosion in or about the plant, or because of breakdown of machinery of the Charterer, shipper, or consignee of the cargo, the rate of demurrage shall be reduced to one-half the rate stipulated in Part I hereof per running hour and pro rata of such reduced rate for part of an hour for demurrage so incurred.

11. *Dues, wharfage.* Dues and other charges on the cargo shall be paid by the Charterer, and dues and other charges on the Vessel shall be paid by the Owner. The Vessel, however, shall always be free of wharfage, dockage, and quay dues.

12. *Previous cargo.* The last two successive cargoes carried, or to be carried, by the Vessel immediately preceding her entering upon this Charter consisted, or will consist, of cargoes as stipulated in Part I hereof.

13. *Products excluded.* No product shall be shipped which fails to meet one or the other of the two following requirements: (1) The vapor pressure at one hundred degrees Fahrenheit (100° F.) shall not exceed thirteen pounds (13 lbs.) as determined by the A. S. T. M. Method (Reid Method) identified as D-323 current at the time shipment is made. (2) The distillation loss shall not exceed four per cent (4%) and the sum of the distillation loss and the distillate collected in the receiving graduate shall not exceed ten per cent (10%) when the thermometer reads one hundred twenty-two degrees Fahrenheit (122° F.).

NOTE: The distillation test shall be made by A. S. T. M. Method identified as D-86 current at the time shipment is made. When products other than Naphtha or Gasoline are tested, the distillation loss may be determined by distilling not less than twenty-five per cent (25%) and deducting from one hundred per cent (100%) the sum of the volumes of the distillate and the residue in the flask (cooled to a temperature of sixty degrees Fahrenheit (60° F.)).

14. *Two ports counting as one.* The following two ports, viz., Paulsboro (New Jersey), and Marcus Hook (Pennsylvania), Paulsboro (New Jersey), and Wilmington (Delaware), Beaumont and Sabine (Texas), Baytown and Texas City (Texas), Ingleside and Harbor Island (Texas), and Baton Rouge (Louisiana) and a safe port on the Mississippi River below Baton Rouge, respectively, shall count as one port, and all expenses incurred in shifting from Paulsboro to Marcus Hook, Paulsboro (New Jersey) to Wilmington (Delaware), or vice versa, or from Beaumont to Sabine, or from Baytown to Texas City, or from Ingleside to Harbor Island, or from Baton Rouge to a safe port on the Mississippi River below Baton Rouge or vice versa, shall be for account of the Owner, except that any extra port charges incurred by reason of calling at the second port in each group shall be for account of the Charterer. Time consumed in shifting shall not count as used lay time.

15. *Ice.* In case port of loading or discharge should be inaccessible owing to ice, the Vessel shall direct her course according to Master's judgment, notifying by telegraph or radio, if available, the Charterer, Shipper or Consignee, who is bound to telegraph or radio orders for another port (at its option), which is free from ice, and where there are facilities for the loading or reception of Petroleum in bulk. The whole of the time occupied from the time the Vessel is diverted by reason of the ice until her arrival at an ice-free port of loading or discharge as the case may be shall be paid for by the Charterer at the rate stipulated in Part I hereof.

16. If on Vessel's arrival off the port of loading or discharge there is danger of the Vessel being frozen in, the Master shall communicate by telegraph or radio, if available, with the Charterer, Shipper or Consignee of the cargo, who shall telegraph or radio him in reply, giving orders to proceed to another port as per Clause 15, where there is no danger of ice and where there are the necessary facilities for the loading or reception of Petroleum in bulk, or to remain at the original port at their risk, and in either case Charterer to pay for the time that the Vessel may be delayed, at the rate stipulated in Part I hereof.

17. *Quarantine.* Should the Charterer send the Vessel to any port or place where a quarantine exists, any delay thereby caused to the Vessel shall count as used lay time; but should the quarantine not be declared until the Vessel is on passage to such port, the Charterer shall not be liable for any resulting delay.

18. If the Vessel, prior to or after entering upon this Charter, has docked or docks at any wharf which is not rat-free or stegomyia-free, she shall, before proceeding to a rat-free or stegomyia-free wharf, be fumigated by the Owner at his expense, except that if the Charterer ordered the Vessel to the infected wharf he shall bear the expenses of fumigation.

19. *Cleaning.* If requested by the Charterer, the Vessel will steam the tanks, pipes and pumps of the Vessel or Butterworth en route to loading port and there pump water ballast and/or slops into shore tank or barge to be supplied by Charterer immediately on arrival. Any delay in furnishing these facilities shall count as used lay time. Any further cleaning, if required, shall be done by and at the expense of Charterer and time consumed shall count as used lay time. If Charterer does not require additional cleaning at port of loading Owner shall not be responsible for any damage caused to or contamination of cargo, by reason of failure to have the tanks properly cleaned for receiving the shipment. Except as may otherwise be indicated in Part I, the Vessel shall not be responsible for leakage, shrinkage, difference between reported intake and reported outturn, deterioration, discoloration, or change in quality of the cargo, nor for any consequences arising out of shipping more than one grade of cargo.

20 (a). *Act of God, Etc.* The Vessel, her Master and Owner shall not, unless otherwise in this Charter expressly provided, be responsible for any loss or damage, or delay or failure in performing hereunder, arising or resulting from:—any act, neglect, default or barratry of the Master, pilots, mariners or other servants of the Owner in the navigation or management of the Vessel; fire, unless caused by the personal design or neglect of the Owner; collision, stranding, or peril, danger or accident of the sea or other navigable waters; saving or attempting to save life or property; wastage in weight or bulk, or any other loss or damage arising from inherent defect, quality or vice of the cargo; any act or omission of the Charterer or Owner, Shipper or Consignee of the cargo, their agents or representatives; insufficiency of packing; insufficiency or inadequacy of marks; explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, equipment or machinery; unseaworthiness of the Vessel unless caused by want of due diligence on the part of the Owner to make the Vessel seaworthy or to have her properly manned, equipped and supplied; or from any other cause of whatsoever kind arising without the actual fault or privity of the Owner. And neither the Vessel, her Master or Owner, nor the Charterer, shall, unless otherwise in this Charter expressly provided, be responsible for any loss or damage or delay or failure in performing hereunder, arising or resulting from:—Act of God; act of war; act of public enemies, pirates or assailing thieves; arrest or restraint of princes, rulers or people, or seizure under legal process provided bond is promptly furnished to release the Vessel or cargo; strike or lockout or stoppage or restraint of labor from whatever cause, either partial or general; or riot or civil commotion.

20 (b). *Water ballast.* Charges for handling, storing or disposing of water ballast at loading port to be for account of Charterer.

20 (c). *Taxes.* Any Habilitacion tax, customs overtime, and taxes on freight at loading or discharging ports, also any unusual taxes, assessments and governmental charges that are not presently in effect but in the future may be imposed on the vessel or freight are to be borne by Charterer.

21. *Jason clause.* In the event of accident, danger, damage, or disaster before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequence of which the Owner is not responsible by statute, contract, or otherwise, the cargo, shippers, consignees, or owners of the cargo shall contribute with the Owner in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect

of the cargo. If a salving ship is owned or operated by the Owner, salvage shall be paid for as fully as if the salving ship or ships belong to strangers.

22. *General average.* General average shall be adjusted, stated and settled, according to Rules 1 to 15, inclusive, 17 to 22, inclusive, and Rule F of York-Antwerp Rules 1924, at such port or place in the United States as may be selected by the Owner, and as to matters not provided for by these Rules, according to the laws and usages at the port of New York. In such adjustment, disbursements in foreign currencies shall be exchanged into United States money at the rate prevailing on the dates made and allowances for damage to cargo claimed in foreign currency shall be converted at the rate prevailing on the last day of discharge at the port or place of final discharge of such damaged cargo from the ship. Average agreement or bond and such additional security, as may be required by the Owner, must be furnished before delivery of the cargo. Such cash deposit as the Owner or his agents may deem sufficient as additional security for the contribution of the cargo and for any salvage and special charges thereon, shall, if required, be made by the cargo, shippers, consignees or owners of the cargo to the Owner before delivery. Such deposit shall, at the option of the Owner, be payable in United States money, and be remitted to the adjuster. When so remitted the deposit shall be held in a special account at the place of adjustment in the name of the adjuster pending settlement of the general average and refunds or credit balances, if any, shall be paid in United States money.

23. *Deviation.* The Vessel shall have liberty to call at any ports in any order, to sail with or without pilots, to tow or to be towed, to go to the assistance of vessels in distress, to deviate for the purpose of saving life or property or of landing any ill or injured person on board, and to call for fuel at any port or ports in or out of the regular course of the voyage. Any salvage shall be for the sole benefit of the Owner.

24. *Bills of lading.* Bills of Lading in the form appearing below, for cargo shipped shall be signed by the Master as requested. Any Bill of Lading signed by the Master or Agent of the Owner shall be without prejudice to the terms, conditions, and exceptions of this Charter. The Charterer hereby agrees to indemnify and hold harmless the Owner, the Master, and the Vessel from all consequences or liabilities that may arise from the Charterer or its agents, or the Master, signing bills of lading or other documents inconsistent with this Charter, or from any irregularity in papers supplied by the Charterer or its agents, or from complying with its or its agents' orders.

25. *Clause paramount.* All Bills of Lading issued hereunder shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 16, 1936, which shall be deemed to be incorporated therein, and nothing therein or herein contained shall be deemed a surrender by the Owner of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of any Bill of Lading issued hereunder be repugnant to said Act to any extent, such term shall be void to that extent but no further.

26. *Both to blame.* If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the master, mariner, pilot or the servants of the Owner in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owner against all loss or liability to the other or non-carrying ship or her Owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying ship or her Owners to the owners of said cargo and set off, recouped or recovered by the other or non-carrying ship or her Owners as part of their claim against the carrying ship or Owner. The foregoing provisions shall also apply where the Owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contact.

27. *Lien.* The Owner shall have an absolute lien on the cargo for all freight, dead freight, demurrage and costs, including attorney's fees, of recovering the same, which lien shall continue after delivery of the cargo into the possession of the Charterer, or of the holders of any Bills of Lading covering the same, or of any storageman.

28. *Agents.* The Owner shall appoint Vessel's agents at all ports.

29 (a). *War clause.* In any situation whatsoever and wheresoever occurring and whether existing or anticipated before commencement of or during the voyage, which in the judgment of the Owner or Master is likely to give rise to risk of capture, seizure, detention, damage, delay or disadvantage to or loss of the Vessel or any part of her cargo, or to make it unsafe, imprudent, or unlawful for any reason to commence or proceed on or continue the voyage or to enter or discharge the cargo at the port of discharge, or to give rise to delay or difficulty in arriving, discharging at or leaving the port of discharge or the usual place of discharge in such port, the Owner may before loading or before the commencement of the voyage, require the shipper or other person entitled thereto to take delivery of the cargo at port of shipment and upon their failure to do so, may warehouse the cargo at the risk and expense of the cargo; or the Owner or Master, whether or not proceeding toward or entering or attempting to enter the port of discharge or reaching or attempting to reach the usual place of discharge therein or attempting to discharge the cargo there, may discharge the cargo into depot, lazaretto, craft or other place; or the Vessel may proceed or return, directly or indirectly, to or stop at any such port or place whatsoever as the Master or the Owner may consider safe or advisable under the circumstances, and discharge the cargo, or any part thereof, at any such port or place; or the Owner or the Master may retain the cargo on board until the return trip or until such time as the Owner or the Master thinks advisable and discharge the cargo at any place whatsoever as herein provided or the Owner or the Master may discharge and forward the cargo by any means at the risk and expense of the cargo. The Owner or the Master is not required to give notice of discharge of the cargo, or the forwarding thereof as herein provided. When the cargo is discharged from the Vessel, as herein provided, it shall be at its own risk and expense; such discharge shall constitute complete delivery and performance under this contract and the Owner shall be freed from any further responsibility. For any service rendered to the cargo as herein provided the Owner shall be entitled to a reasonable extra compensation.

29 (b). The Owner, Master and Vessel shall have liberty to comply with any orders or directions as to loading, departure, arrival, routes, ports of call, stoppages, discharge, destination, delivery or otherwise howsoever given by the government of any nation or department thereof or any person acting or purporting to act with the authority of such government or of any department thereof, or by any committee or person having, under the terms of the war risk insurance on the Vessel, the right to give such orders or directions. Delivery or other disposition of the cargo in accordance with such orders or directions shall be a fulfillment of the contract voyage. The Vessel may carry contraband, explosives, munitions, warlike stores, hazardous cargo, and may sail armed or unarmed and with or without convoy.

29 (c). In addition to all other liberties herein the Owner shall have the right to withhold delivery of, reship to, deposit or discharge the cargo at any place whatsoever, surrender or dispose of the cargo in accordance with any direction, condition or agreement imposed upon or exacted from the Owner by any government or department thereof or any person purporting to act with the authority of either of them. In any of the above circumstances the cargo shall be solely at their risk and expense and all expenses and charges so incurred shall be payable by the owner or consignee thereof and shall be a lien on the cargo.

(30). *Priority.* All agreements of the Owner contained in this Charter Party shall be subject to any orders or instructions of priority or requisition issued by the United States Government or the Government of the flag of the Vessel or any agencies thereof, or the requirement of naval or military authorities or other Agencies of Government.

31. *Limitation of liability.* Any provision of this Charter to the contrary notwithstanding, the Owner shall have the benefit of all limitations of, and exemptions from, liability accorded to the Owner or Chartered Owner of vessels by any statute or rule of law for the time being in force.

32. *Approval.* The voyage under this Charter is subject to the approval of the War Shipping Administration and any conditions imposed by said Administration pursuant to the Ship Warrants Act (Public Law 173, 77th Congress).

33. *Assignment.* Subject to the approval of War Shipping Administration, the Charterer shall have the option of subletting or assigning this Charter to any individual or company, but the Charterer shall always remain responsible for the due fulfillment of this Charter in all its terms and conditions.

34. *Breach.* Damages for breach of this Charter shall include all provable damages, and all costs of suit and attorney fees incurred in any action hereunder.

35. *Members of Congress.* No member of or delegate to the Congress, nor Resident Commissioner, shall be admitted to any share or part of this Charter or to any benefit that may arise therefrom, except as provided in Section 116 of the Act approved March 4, 1909.

36. *Definition of "Owner".* Wherever the word "Owner" appears herein same shall be deemed to include a Time Charterer, Demise Charterer, or a Requisition Charterer or user.

37. This Charter Party consists of this Part II and of Part I on the reverse hereof. Unless in this Part II otherwise provided, all of the provisions of said Part I shall be part of this Charter Party as though fully incorporated herein. In the event of conflict between the provisions of this Part II and those of Part I, the provisions of Part I shall govern to the extent of such conflict.

BILL OF LADING

Shipped in apparent good order and condition by_____on board the Motorship _____Steamship _____ whereof_____is Master, at the port of _____to be delivered at the port of_____ or so near thereto as the Vessel can safely get, always afloat, unto_____or order on payment of freight at the rate of_____. This shipment is carried under and pursuant to the terms of the Charter dated _____ at_____ between

_____and_____, as Charter, and all the terms whatsoever of the said Charter except the rate and payment of freight specified therein apply to and govern the rights of the parties concerned in this shipment.

In Witness Whereof, the Master has signed _____Bills of Lading of this tenor and date, one of which being accomplished, the others will be void.

Dated at_____ this_____day of_____.

_____
Master

(E.O. 9054, 7 F.R. 837)

By Order of the War Shipping Administration.

[SEAL] W. C. PEET, Jr., *Secretary.*

JUNE 5, 1942.

[F. R. Doc. 42-5403; Filed June 9, 1942; 11:28 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

Subchapter D—Freight Forwarders

ORDER POSTPONING EFFECTIVENESS OF CERTAIN REGULATIONS

JUNE 8, 1942.

In the matter of the postponement of the taking effect of sections 405, 409, and 415 of Part IV of the Interstate Commerce Act.

At a general session of the Interstate Commerce Commission, held at its offices in Washington, D. C., on the 8th day of June, A. D. 1942.

It appearing, That by the provisions of section 6 of Part IV of the Interstate Commerce Act, approved May 16, 1942, the Commission is authorized and directed, if found necessary by it or desirable in the public interest, to postpone the taking effect of any of the provisions of that part to such time, but not beyond the first day of September 1942, as the Commission shall, by general or special order, prescribe;

It further appearing, That on the fifth day of June 1942, a number of freight forwarders subject to the Act filed a petition requesting that the date for the taking effect of sections 405 and 409 be postponed;

It further appearing, That the postponement of the taking effect of the provisions of sections 405, 409, and 415 is necessary and desirable in the public interest, and the Commission so finding;

It is ordered, That the date for the taking effect of the provisions of sections 405 and 415 of the Interstate Commerce Act be, and it is hereby, postponed until the 1st day of September 1942, and the date for the taking effect of the provisions of section 409 (a), (2) and (3) be, and it is hereby, postponed until the first day of July 1942;

And it is further ordered, That the notice of such postponement be given to freight forwarders subject to Part IV of the Interstate Commerce Act, and to the public by depositing a copy of this order in the office of the Secretary of the Commission, Washington, D. C., and by publishing this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 42-5405; Filed, June 9, 1942; 11:33 a. m.]

Chapter II—Office of Defense Transportation

[General Order O.D.T. No. 11]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART H—INTERCITY COMMON CARRIERS OF PASSENGERS BY BUS

By virtue of the authority vested in me by Executive Order No. 8989, dated December 18, 1941, and Executive Order No. 9156, dated May 2, 1942, and in order to assure maximum utilization of the facilities, services, and equipment of common carriers by motor vehicle for the preferential transportation of troops and material of war and to prevent shortages in motor vehicle equipment necessary for such transportation, as contemplated by section 6 (8) of the Interstate Commerce Act; to conserve and providently utilize vital equipment, material, and supplies, including rubber; and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war:

It is hereby ordered, That:

Sec.

501.45 Definitions.
501.46 Elimination of waste.
501.47 Operating requirements.
501.48 Operations by special authority.
501.49 Submission of plans.
501.50 Records and reports.

AUTHORITY: §§ 501.45 to 501.50, inclusive, issued under E.O. 8989, 6 F.R. 6725, and E.O. 9156, 7 F.R. 3349.

§ 501.45 *Definitions.* As used in this subpart:

(a) The term "bus" means any rubber-tired vehicle propelled or drawn by mechanical power and used upon the streets or highways (but not on rails) in the transportation of passengers.

(b) The term "intercity service" means all bus operations *except* (1) those wholly within any municipality or urban community and a zone extending 15 air miles from the boundaries thereof, or between contiguous municipalities or urban communities, or (2) round-trip schedules on which the average revenue per passenger carried is not more than 35 cents, or (3) round-trip schedules whose principal traffic consists of the movement of workers en route between their homes and their places of employment, or the movement of persons between military or naval establishments and nearby municipalities or urban communities.

(c) The term "common carrier" means any person which holds itself out to the general public to engage in the transportation of passengers by bus in intercity service for compensation.

(d) The term "seat miles" means the number of miles operated by a bus in passenger service (including deadhead mileage of extra buses operated in connection with regular schedules) multiplied by the seating capacity of the bus.

(e) The term "passenger miles" means the number of miles traveled by revenue passengers in buses operated in scheduled service, including extra buses.

(f) The term "round-trip schedule" means the regular operation of a bus (including any extra bus or buses operated in connection therewith) at a stated time over a fixed route from the starting point where passengers are first permitted to board the bus to the point served most distant therefrom and return to the starting point.

(g) The term "limited schedule" means a schedule which does not serve by regular stop or flag stop at least 90% of the municipalities and urban communities authorized to be served by the carrier on the route.

(h) The term "person" means any individual, firm, copartnership, corporation, company, association, including a farm cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or joint association; and includes any trustee, receiver, assignee or personal representative thereof.

§ 501.46 *Elimination of waste.* On and after the effective date specified in this subpart, every common carrier shall:

(a) Eliminate waste in operations and eliminate duplication of parallel services, and curtail schedules and services to the extent necessary to carry out the purposes of this subpart;

(b) Conserve and properly maintain tires, bus equipment and other facilities necessary in conducting the business of a common carrier.

§ 501.47 *Operating requirements.* On and after the effective date specified in this subpart, no common carrier shall:

(a) Operate a limited schedule in intercity service;

(b) Operate a round-trip schedule in intercity service where it is reasonable to believe, in the light of experience and prospective travel, that during any calendar month the number of passenger miles on such schedule will be less than 40% of the number of seat miles: *Provided, however,* That one round-trip schedule may be operated daily on each route;

(1) For the purpose of this subpart the number of passenger miles may be actual or may be estimated on the following basis: A record of passenger miles and passenger revenue shall be made on each round-trip schedule, or group of such schedules serving the same points, for the seven days ended June 30, 1942, and the passenger revenue per passenger mile (hereinafter called the "revenue factor") shall be determined therefrom. Thereafter the number of passenger

miles on each round-trip schedule for any period may be determined by dividing the passenger revenue by the revenue factor applicable to such schedule. In the event of any material change in fares or divisions thereof, or the establishment of a schedule performing a new or different service, a new revenue factor shall be calculated for the schedule affected using a representative seven-day period;

(c) Extend or inaugurate intercity service over a route not previously served by the carrier without the prior approval of this Office;

(d) Operate intercity service for the primary purpose of supplying transportation to or from a golf course, athletic field, race track, theatre, dancing pavilion, or other place conducted primarily for purposes of amusement or entertainment.

§ 501.48 *Operations by special authority.* The provisions of this subpart shall not apply to any bus which is engaged in a movement that is authorized by this Office.

§ 501.49 *Submission of plans.* Wherever two or more common carriers engage in competitive intercity service over the same or closely parallel routes they shall cause their representatives to meet for the purpose of formulating a plan of joint action to the end that maximum utilization of equipment and facilities be effected during the period of the emergency by one or more of the following methods:

(a) Pooling or joint use of equipment or other facilities;

(b) Pooling or division of traffic, service, or revenues;

(c) Alternation or staggering of schedules between any two or more points;

(d) Mutual honoring of one another's tickets at the option of the passenger;

(e) Suspension, lease, exchange, or joint use of operating rights.

Within thirty (30) days after the effective date specified in this subpart, such carriers shall jointly submit to this Office any plan of joint action so formulated or a statement setting forth the reasons why no plan of joint action has been agreed upon. Nothing in this subpart shall be construed to authorize carriers to engage in joint action by any of the methods described in this section unless directed so to do by specific order of this Office.

§ 501.50 *Records and reports.* Every common carrier shall prepare and maintain a record showing for each round-trip schedule in intercity service the number of passenger miles and seat miles, and the percentage of passenger miles to seat miles for each calendar month. Within thirty (30) days after the end of each calendar month each common carrier shall report to this Office a brief description of each such schedule where such percentage was less than 40%, and a statement that such schedule has been withdrawn or the reasons why it has been continued. Every common carrier shall prepare and maintain such other records, and make such reports, as this Office may hereafter require for the purpose of this subpart. Such records shall be available and open for convenient inspection to representatives of this Office at all reasonable times.

This subpart shall become effective July 1, 1942, and shall remain in full force and effect until further order of this Office.

Issued at Washington, D. C., this 8th day of June 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-5383; Filed, June 9, 1942; 9:16 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. C-6]

EMERALD COAL AND COKE COMPANY

ORDER POSTPONING HEARING

In the matter of the application of Emerald Coal and Coke Company for approval of a contract for the sale of coal pursuant to Rule 5 of Section VI of the Marketing Rules and Regulations.

The original petitioner having moved that the hearing in the above-entitled matter heretofore scheduled for June 9, 1942, be postponed until October 5, 1942, and said postponement having been consented to by all protestants, and good cause having been shown why said motion should be granted;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be postponed from June 9, 1942, until 10 o'clock in the forenoon of October 5, 1942, at the place and before the officers heretofore designated.

Dated: June 8, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5396; Filed, June 9, 1942; 11:04 a. m.]

[Docket No. A-1016]

PETITION OF DISTRICT BOARD 1

ORDER APPROVING AND ADOPTING PROPOSED FINDINGS OF FACT AND PROPOSED CONCLUSIONS OF LAW OF THE EXAMINER, AND GRANTING RELIEF

In the matter of the petition of District Board No. 1 for the establishment of price classifications and minimum prices, for all shipments except truck, for a mixture of the coals of the Cadogan Mine (Mine Index No. 76) of the Allegheny River Mining Company with the coals of certain other mines in District No. 1, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

This proceeding was instituted upon an original petition filed with the Bituminous Coal Division by the Bituminous Coal Producers Board for District No. 1 (hereinafter sometimes referred to as "District Board No. 1"), pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. Petitioner requests the establishment of temporary price classifications of "H" in Size Groups 1, 2 and 3 and "J" in Size Groups 4 and 5 for the coals of the Freebrook #7 Mine (Mine Index No. 664) of the Freebrook Corporation, the Loyal T. Henderson Mine (Mine Index No. 1491) of Loyal T. Henderson, the Orpha Mine (Mine Index No. 353) of the James Coal Mining Company, the Mohawk Mine (Mine Index No. 326) of the Mohawk Mining Company, the Radaker Mine (Mine Index No. 1921) of C. C. Radaker, when such coals are mixed with the coals of the Cadogan Mine (Mine Index No. 76) of the Allegheny River Mining Company and loaded over the Cadogan tipple. Intervening petitions were filed by the Bituminous Coal Producers Board for District No. 2 and by certain code members in District No. 1, namely, Carrier & Son, Clarion Coal Mining Company, Elba Coal Company, Inc., A. D. Grasso, P. & G. Coal Company and Wolf-O-Lack Coal Company.

After due notice to interested persons, a hearing in this matter was held on October 16 and 17, 1941, before Joseph D. Dermody, a duly designated Examiner of the Division at a hearing room thereof in Washington, D. C. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. Appearances were entered by petitioner, by the Bituminous Coal Producers Board for District No. 2 and by the District No. 1 intervenors.

Subsequent to the hearing the Freebrook Corporation, C. C. Radaker, and Loyal T. Henderson requested that the classifications proposed for the coals of their respective mines for preparation and loading at the Cadogan tipple be withdrawn from consideration in this proceeding. In his Report, Proposed Findings of Fact, Proposed Conclusions of Law and Recommendation which Examiner Dermody submitted on April 20, 1942, only that evidence pertaining to the classifications proposed for the coals of the Orpha and Mohawk Mines when mixed and loaded with the Cadogan coals was considered. Examiner Dermody recommended that in so far as such coals are concerned, the relief requested be granted since it would effectuate the purposes of subsections (a) and (b) of section 4 II of the Act.

The Examiner found that no reason was adduced for denying to the producers of Orpha and Mohawk coals the right to utilize the cleaning and preparation facilities at the Cadogan Mine, provided of course that suitable arrangements can be made with the Allegheny River Mining Company which will comply with the Marketing Rules and Regulations. He found that it would be impossible to clean and size the coals of the Orpha and Mohawk Mines at the Cadogan plant without mixing them with the Cadogan coals, and he was of the opinion that the only question presented for determination was the price classifications that should be established for the resultant

mixture of Orpha, Mohawk and Cadogan coals. Examiner Dermody concluded that the only basis for the establishment of temporary classifications for the mixing of the coals in question was the classifications presently established for the coals for shipment at the respective mines. The Examiner found that evidence adduced by intervening producers operating mines competing with the Cadogan Mine did not permit a finding that the classifications presently established for the coals in question are improperly related to the classifications effective for the competitive coals. The Examiner found that it had not been shown that the cleaning and mixing of the Orpha and Mohawk coals at the Cadogan plant would improve them sufficiently to justify the establishment of higher classifications than those now established for separate shipments. Examiner Dermody pointed out that whether such improvement would result from such cleaning and mixing could best be determined after the establishment of temporary prices as requested by District Board No. 1. Furthermore, the Examiner pointed out that the fair competitive opportunities of other producers will not be unduly prejudiced if the classifications proposed are established temporarily for a period of sixty (60) days, which period will afford the parties an opportunity to prepare analyses of the coals to determine whether or not the proposed classifications are proper.

An opportunity was afforded to all parties to file exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendation of the Examiner and supporting briefs. No exceptions or supporting briefs have been filed.

The undersigned has determined that the proposed findings of fact and proposed conclusions of law of the Examiner in this matter should be approved and adopted as the findings of fact and conclusions of law of the undersigned.

Now, therefore, it is ordered, That the said proposed findings of fact and proposed conclusions of law of the Examiner be, and they hereby are, approved and adopted as the findings of fact and conclusions of law of the undersigned.

It is further ordered That, commencing forthwith the Schedule of Effective Minimum Prices for District No. 1 For All Shipments Except Truck be, and it hereby is, temporarily amended for a period of sixty (60) days by adding thereto a provision reading as follows:

When the coals of Mine Index No. 353 and 326 are mixed and loaded in the same car with coals of the Allegheny River Mining Company at Cadogan, Pennsylvania, the price to be applied to such mixture shall be the price listed for the coals of the mine in such mixture having the highest price classification.

Dated: June 8, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5397; Filed, June 9, 1942; 11:04 a. m.]

CIVIL AERONAUTICS BOARD.

[Docket No. 609]

BRANIFF AIRWAYS, INC.

NOTICE OF HEARING

In the matter of the petition of Braniff Airways, Inc., for determination of rates of compensation for the transportation of mail by aircraft on routes Nos. 9, 15, and 50.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 406 and 1001 of said Act, in the above-entitled proceeding, that public hearing is hereby assigned to be held on June 12, 1942, at 10 a. m. (eastern standard time) in Conference Room C, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D. C., before Examiner William J. Madden.

Dated Washington, D. C., June 9, 1942.

[SEAL] WILLIAM J. MADDEN,
Examiner.

[F. R. Doc. 42-5406; Filed, June 9, 1942; 11:45 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4677]

WALTER H. JOHNSON CANDY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of June, A. D. 1942.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That W. W. Sheppard, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered That the taking of testimony in this proceeding begin Thursday, June 18, 1942, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 42-5395; Filed, June 9, 1942; 11:00 a. m.]

OFFICE OF DEFENSE TRANSPORTATION.

[Special Order O. D. T. No. B-3]

LOS ANGELES—ALBUQUERQUE

COORDINATION OF MOTOR VEHICLE PASSENGER SERVICE

Directing coordinated operation of passenger carriers by motor vehicle between Los Angeles, California, and Albuquerque, New Mexico.

Upon consideration of the application for authority to coordinate motor vehicle service in the transportation of passengers, filed with this Office by Pacific Greyhound Lines, San Francisco, California, The Santa Fe Trail Transportation Company, Wichita, Kansas, and Santa Fe Transportation Company, Los Angeles, California, and in order to assure maximum utilization of the facilities, services, and equipment of common carriers of passengers by motor vehicles, and to conserve and providently utilize vital equipment, material, and supplies, including rubber, the attainment of which purposes is essential to the successful prosecution of the war:

It is hereby ordered, That:

1. Pacific Greyhound Lines, The Santa Fe Trail Transportation Company, and Santa Fe Transportation Company (hereinafter called "carriers"), respectively, in the transportation of passengers on the routes served by them between Los Angeles, California, and Albuquerque, New Mexico, whether via Needles, California, or Wickenburg, Arizona, as common carriers by motor vehicle, shall:

(a) Honor each other's tickets between all points where equal fares apply and divert to each other traffic routed between such points for the purpose of relieving overloads and reducing the operation of additional equipment in extra sections;

(b) Adjust and establish schedules to eliminate duplication of times of departure of the respective carriers and provide reasonable frequency of service throughout the day;

(c) Wherever practicable eliminate duplicate depot facilities and commission ticket agencies and, in lieu thereof, utilize joint depot facilities and joint commission ticket agencies. At such depot facilities and commission ticket agencies used jointly by the carriers, service, travel information, and ticket sales shall be impartial, without preference or discrimination for or against any of the carriers.

2. On the routes described in paragraph numbered 1 hereof, Pacific Greyhound Lines shall reduce its through service to three (3) round trips daily and The Santa Fe Trail Transportation Company, and Santa Fe Transportation Company shall reduce their joint through service to two (2) round trips daily.

3. The carriers forthwith shall file with the Interstate Commerce Commission and with each appropriate State regulatory body, and publish, in accord-

ance with law, and continue in effect until further order, tariffs or appropriate supplements to filed tariffs, setting forth the changes in the fares, charges, operations, rules, regulations and practices of each carrier, which will be required to comply with the provisions of this order, and forthwith shall apply to said Commission and regulatory bodies for special permission for such tariffs or supplements to become effective on one day's notice.

This order shall become effective July 1, 1942, and shall remain in full force and effect until further order of this Office.

Issued at Washington, D. C., this 8th day of June 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-5384; Filed, June 9, 1942; 9:16 a. m.]

[Special Order O. D. T. No. B-4]

COORDINATION OF MOTOR VEHICLE PASSENGER SERVICE

SAN FRANCISCO—SALT LAKE CITY

Directing coordinated operation of passenger carriers by motor vehicle between San Francisco, California, and Salt Lake City, Utah.

Upon consideration of the application for authority to coordinate motor vehicle service in the transportation of passengers, filed with this Office by Pacific Greyhound Lines, San Francisco, California, and Burlington Transportation Company, Chicago, Illinois, and in order to assure maximum utilization of the facilities, services, and equipment of common carriers of passengers by motor vehicle, and to conserve and providently utilize vital equipment, material, and supplies, including rubber, the attainment of which purposes is essential to the successful prosecution of the war:

It is hereby ordered, That:

1. Pacific Greyhound Lines and Burlington Transportation Company, common carriers by motor vehicle, in the transportation of passengers on U. S. Highway No. 40 between San Francisco, California, and Salt Lake City, Utah, shall:

(a) Honor each other's tickets between all points where equal fares apply and divert to each other traffic routed between such points for the purpose of relieving overloads and reducing the operation of additional equipment in extra sections;

(b) Adjust and establish schedules to eliminate duplication of times of departure of the respective carriers and provide reasonable frequency of service throughout the day;

(c) Wherever practicable eliminate duplicate depot facilities and commission ticket agencies and, in lieu thereof, utilize joint depot facilities and joint commission ticket agencies. At such depot facilities and commission ticket agencies used jointly by said common carriers, service, travel information, and ticket sales shall be impartial, without preference or discrimination for or against either of such common carriers.

2. On the route described in paragraph numbered 1 hereof Pacific Greyhound Lines shall reduce its through service to two (2) round trips daily, and Burlington Transportation Company shall reduce its through service to one (1) round trip daily.

3. Pacific Greyhound Lines and Burlington Transportation Company forthwith shall file with the Interstate Commerce Commission and with each appropriate State regulatory body, and publish, in accordance with law, and continue in effect until further order, tariffs or appropriate supplements to filed tariffs, setting forth the changes in the fares, charges, operations, rules, regulations and practices of each carrier, which will be required to comply with the provisions of this order, and forthwith shall apply to said Commission and regulatory bodies for special permission for such tariffs or supplements to become effective on one day's notice.

This order shall become effective June 16, 1942, and shall remain in full force and effect until further order of this Office.

Issued at Washington, D. C. this 8th day of June 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-5385; Filed, June 9, 1942; 9:16 a. m.]

OFFICE OF PRICE ADMINISTRATION.

TRANSCONTINENTAL RUBBER CORPORATION

APPROVAL OF PRICES

Order No. 1 under Maximum Price Regulation No. 132[1]—Waterproof Rubber Footwear.

On May 25, 1942, Transcontinental Rubber Company of New York City, New York, filed an application pursuant to § 1315.70 (d) of Maximum Price Regulation No. 132 for approval of maximum prices for two types of women's footholds manufactured under special permit from the War Production Board, according to the specifications set forth in said application. Due consideration has been given to the application and an opinion in support of this Order No. 1 has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the opinion and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, it is hereby ordered:

(a) Transcontinental Rubber Company of New York City, New York, may sell and deliver, and agree, offer, solicit, and attempt to sell and deliver plain women's footholds, described in the above mentioned application, at a maximum price of 79.17¢ per pair, subject to the same discounts and allowances as were established under § 1315.70 (a) (2) of Maximum Price Regulation No. 132. This paragraph shall apply only to plain women's footholds produced after February 11, 1942.

(b) Transcontinental Rubber Corporation of New York City, New York, may sell and deliver, and agree, offer, solicit and attempt to sell and deliver dotted women's footholds, described in the above mentioned application, at a maximum price of 91.7¢ per pair, subject to the same discounts and allowances as were established under § 1315.70 (a) (2). This paragraph shall apply only to dotted women's footholds produced after February 11, 1942.

(c) This Order No. 1 may be revoked or amended by the Price Administrator at any time.

(d) Unless the context otherwise requires, the definitions set forth in § 1315.68 of Maximum Price Regulation No. 132 shall apply to terms used herein.

(e) This Order No. 1 shall become effective June 9, 1942.

Issued this 8th day of June, 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-5382; Filed, June 8, 1942; 4:53 p. m.]

[1] 7 F.R. 3161.

FLUORSPAR PROCESSING COMPANY

ORDER DETERMINING MAXIMUM PRICE

Order No. 1 under Maximum Price Regulation No. 126[1]—Fluorspar.

Under date of April 24, 1942, Fluorspar Processing Company, 126½ East Pikes Peak Avenue, Colorado Springs, Colorado, applied to the Office of Price Administration for the determination of a maximum price at which it might sell glass grade fluorspar, the specification of which is not less than 97% CaF_2, 2.25% SiO_2, and no iron. Under the provisions of § 1376.1 (a) (3) of Maximum Price Regulation No. 126, the Office of Price Administration will determine the maximum price at which fluorspar of a particular grade may be sold by a producer when the conditions named in that section exist. Due consideration has been given to that application, and an Opinion in support of this Order No. 1, has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the Opinion, under authority vested in the Price Administrator by the Emergency Price Control Act of 1942, it is hereby ordered that:

(a) Under the provisions of § 1376.1 (a) (3) of Maximum Price Regulation No. 126, issued April 28, 1942, the price of $27.40 per ton, f. o. b. Salida, Colorado, for glass grade fluorspar containing not less than 97% CaF_2, 2.25% SiO_2, and no iron, is determined to be a price in line with the level of maximum prices established

[1] 7 F.R. 3189.

by § 1376.1 of said Maximum Price Regulation for sales made by Fluorspar Processing Company, 126½ East Pikes Peak Avenue, Colorado Springs, Colorado, from its mill located in the vicinity of Salida, Colorado, and the maximum price at which said company may sell or deliver said grade of fluorspar.

(b) This Order No. 1 shall become effective June 9, 1942.

Issued this 8th day of June 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-5380; Filed, June 8, 1942; 4:53, p. m.]

[Docket No. 3126-1]

WESTERN FELDSPAR MILLING COMPANY

ORDER GRANTING PETITION FOR APPROVAL OF MAXIMUM PRICE

Order No. 2 under Maximum Price Regulation No. 126[1]—Fluorspar.

By a letter mailed on or about April 20, 1942, the Office of Price Administration approved a price of $14.50 per ton f. o. b. Denver, Colorado, for sales of 40 mesh fluorspar, 76% calcium fluoride, made by the petitioner, The Western Feldspar Milling Company, 1333 West Maple Street, Denver, Colorado. Petitioner is a "producer" (of fluorspar) as the term is defined in Maximum Price Regulation No. 126, and subject to the maximum prices as therein fixed. In accordance with § 1376.11 of said Maximum Price Regulation, petitioner has filed a Petition for Adjustment requesting approval of the aforementioned price, which Petition was filed with the Secretary, Office of Price Administration, Washington, D. C., May 29, 1942. It is found that said Petition has been filed in proper form, and that the petitioner is entitled to the approval of the price therein set out. Therefore, under authority vested in the Price Administrator by the Emergency Price Control Act of 1942, it is hereby ordered that:

(a) Under the provisions of § 1376.11 of Maximum Price Regulation No. 126, issued April 28, 1942, the price of $14.50 per ton, f. o. b. Denver, Colorado, for 40 mesh fluorspar, 76% calcium fluoride, is approved for sales made, or to be made, by The Western Feldspar Milling Company, 1333 West Maple Street, Denver, Colorado, and is the maximum price at which said company may sell or deliver said grade of fluorspar.

(b) This Order No. 2 shall become effective June 9, 1942.

Issued this 8th day of June 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-5381; Filed, June 8, 1942; 4:54 p. m.]

[1] 7 F.R. 3189.

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-552]

NATIONAL GAS & ELECTRIC CORPORATION

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pennsylvania, on the 6th day of June 1942.

Notice is hereby given that a declaration or application (or both) has been filed with this Commission by National Gas & Electric Corporation pursuant to the Public Utility Holding Company Act of 1935, particularly section 12 (d) thereof and Rule U-44 promulgated thereunder. All interested persons are referred to said declaration or application (or both), which is on file in the office of this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

National Gas & Electric Corporation, a registered holding company within the meaning of said Act, proposes to sell for $200,000 in cash all of its interest in its wholly-owned subsidiary company, The Greeley Gas and Fuel Company, such interest consisting of $160,000 principal amount of First Mortgage 5% Bonds, due February 1, 1953, and 400 shares of no par Common Stock which constitute all of the outstanding securities of said subsidiary company, and to apply the proceeds from the sale for the redemption of its First Lien Collateral Trust Bonds, Ten Year 5%, Series B, due June 1, 1947 presently outstanding in the principal amount of $200,000.

The declaration or application (or both) states that the contract of sale provides for the sale of said bonds for $160,000 plus accrued interest to the date of closing and of said common stock for the sum of $40,000 to Keith Kindred of Chicago, Illinois, who has stated that he is purchasing for himself and James G. Barkus, of Chicago, Illinois, and James C. Tucker, of Austin, Texas, each of whom will own, on consummation of the proposed sale, one-third of the total outstanding securities of The Greeley Gas and Fuel Company and that he is not an affiliate of any public utility or holding company; that the contract of sale provides for the payment by the purchaser, at the time of consummation of the transaction, of $5,000 to H. T. Landeryou of the firm of Smith, Landeryou & Co., Omaha, Nebraska, who was responsible for bringing the seller and buyer together and was instrumental in negotiating the transaction and the contract price; that the consideration or contract price was determined by negotiations; that no commissions will be paid by National Gas & Electric Corporation; that the estimated expenses of National Gas & Electric Corporation will be $2,560 of which $1,500 represents estimated fees of counsel and $500 represents the estimated fee of an independent engineer; and that the consummation of the transactions is desired so that the step in the integration program of National Gas & Electric Corporation may be accomplished.

It appearing to the Commission that it is appropriate in the public interest and the interest of investors and consumers that a hearing be held with respect to said matter, and that said declaration or application (or both) shall not be permitted to become effective nor granted except pursuant to further order of this Commission:

It is ordered, That a hearing on such matter under the applicable provisions of said Act and rules of the Commission thereunder be held on June 23, 1942 at 10:00 o'clock, A. M., E. W. T. at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania. On such day the hearing-room clerk in Room 318 will advise as to the room where such hearing will be held. At such hearing, cause shall be shown why such declaration or application (or both) shall become effective or shall be granted. Notice is hereby given of said hearing to the above-named declarant or applicant and to all interested persons, said notice to be given to said declarant or applicant by registered mail and to all other persons by publication in the FEDERAL REGISTER. It is requested that any person desiring to be heard or to be admitted as a party to this proceeding shall file a notice to that effect with the Commission on or before the 18th day of June, 1942.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of issues presented by said declaration or application (or both) otherwise to be considered in this proceeding, particular attention will be directed at the hearing to the following matters and questions:

(1) Whether the consideration or contract price to be received by National Gas & Electric Corporation is fair and reasonable;

(2) Whether the accounting proposed by National Gas & Electric Corporation to reflect the proposed sale is appropriate; and

(3) Generally, whether the proposed sale is detrimental to the public interest or the interest of investors or consumers or will tend to circumvent the provisions

of said Act or any rules, regulations, or orders of the Commission thereunder.

By the Commission.

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

[F. R. Doc. 42-5386; Filed, June 9, 1942; 9:32 a. m.]

[File Nos. 54-54, 70-559]

NORTHERN STATES POWER COMPANY (DELAWARE) AND NORTHERN STATES POWER COMPANY (MINNESOTA)

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 5th day of June, A. D. 1942.

Notice of filing and order for hearing under sections 6, 7, 11 (e), and 12; notice of and order instituting proceedings and for hearing under sections 11 (b) (2), 15 (f) and 20 (a); and order consolidating such hearings.

I

Notice is hereby given that a declaration or application (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 and the Rules promulgated thereunder by Northern States Power Company (Delaware), a registered holding company, and by Northern States Power Company (Minnesota), also a registered holding company and the only direct subsidiary of Northern States Power Company (Delaware). All interested persons are referred to said documents, which are on file in the office of this Commission, for a statement of the transactions therein proposed which are summarized as follows:

Northern States Power Company (Delaware) (hereinafter sometimes referred to as the Delaware Company) proposes to consummate a plan for its liquidation and dissolution pursuant to section 11 (e) of said Act for the purpose of enabling it to comply with the provisions of section 11 (b) of said Act, and Northern States Power Company (Minnesota) (hereinafter sometimes referred to as the Minnesota Company) proposes to do certain things hereinafter specified for the purpose of enabling the plan of its parent to become effective. The elements of the proposals are as follows:

A. (1) The payment by the Delaware Company of an open account indebtedness in the amount of $7,530,852.08 owing by it to the Minnesota Company by (a) the surrender to the latter of 481,111 shares of the presently outstanding no par value common stock of the Minnesota Company (all of which is owned by the Delaware Company) for a credit of $7,457,220 against such indebtedness, and (b) an assignment by the Delaware Company to the Minnesota Company of claims for federal income tax refunds, for a credit of $73,632.08 against such indebtedness (the sum of $7,457,220 at which the 481,111 shares are to be surrendered by the Delaware Company being equivalent to about $15.50 for each such share, which is the approximate cost per share of the stock to the Delaware Company as determined by it for the purposes of the Federal income tax laws, and the stated capital represented by these 481,111 shares being $10,824,997.50, or $22.50 per share).

(2) The crediting by the Minnesota Company to its paid-in surplus of the excess, namely $3,367,777.50, of the stated capital represented by the 481,111 shares of its common stock so surrendered to it by the Delaware Company over the amount at which they are to be so accepted by the Minnesota Company and the transfer by the Minnesota Company of such $3,367,777.50 of paid-in surplus to the stated capital represented by its outstanding shares of common stock—these outstanding shares then numbering 3,518,889, without par value, and being represented by stated capital (after such transfer), of $82,542,780.

(3) An annual retention in the earned surplus account of the Minnesota Company over a period of 16¾ years from April 1, 1942, of an amount equivalent to equal annual instalments on the sum of $7,457,220 (namely, $333,905.44 in the year 1942 and $445,207.16 in each of said years thereafter) which earned surplus so retained shall never be available for the declaration of dividends on the common stock of the Minnesota Company and shall be so restricted by an order of this Commission.

(4) The reclassification of the remaining shares of the no par value common stock of the Minnesota Company, namely, 3,518,889 shares, into 8,254,278 shares of common stock having a par value of $10 each.

(5) An increase in the voting rights of the Cumulative Preferred, $5 Series, stock of the Minnesota Company from one vote to three votes per share.

B. The liquidation of the Delaware Company by the distribution to its four classes of stockholders of the 8,254,278 shares of the $10 par value common stock of the Minnesota Company (which common stock constitutes practically all of the assets of the Delaware Company) on the following basis:

10 shares of the new common stock of the Minnesota Company for each share of 7% Cumulative Preferred Stock of the Delaware Company and all accumulated and unpaid dividends thereon;

9.1 shares of the new common stock of the Minnesota Company for each share of 6% Cumulative Preferred Stock of the Delaware Company and all accumulated and unpaid dividends thereon;

1.95 shares of the new common stock of the Minnesota Company for each share of the Class A common stock of the Delaware Company;

0.1625 shares of the new common stock of the Minnesota Company for each share of the Class B common stock of the Delaware Company.

Such distribution would result in the preferred and common stockholders of the Delaware Company receiving 90.5% and 9.5%, respectively, of the new common stock as follows:

The holders of the 7% Cumulative Preferred Stock of the Delaware Company would receive 3,910,770.00 shares, representing 47.38%, of the new common stock of the Minnesota Company;

The holders of the 6% Cumulative Preferred Stock of the Delaware Company would receive 3,559,000.90 shares, representing 43.12%, of the new common stock of the Minnesota Company;

The holders of the Class A common stock of the Delaware Company would receive 666,024.45 shares, representing 8.07%, of the new common stock of the Minnesota Company;

The holders of the Class B common stock of the Delaware Company would receive 118,482.65 shares, representing 1.43%, of the new common stock of the Minnesota Company;

In lieu of fractional shares of stock, scrip certificates of the Minnesota Company shall be issued representing such fractional shares and exchangeable, when accompanied by other scrip certificates representing one or more full shares of stock, for certificates for such full shares, but entitling the holders thereof to no rights as shareholders of the Minnesota Company until so exchanged. If not so exchanged, all scrip certificates will become void in five years from the date of their issuance.

C. The ultimate dissolution of the Delaware Company.

If this Commission should approve the above plan for the liquidation and dissolution of the Delaware Company, that company may, but does not obligate itself to, request this Commission to apply to a United States District Court pursuant to Sections 11 (e) and 18 (f) of said Act to enforce and carry out the terms and provisions of the plan. Submission of the plan to the security holders of the Delaware Company for their approval or rejection is not contemplated.

II

The reports filed by the Minnesota Company and its subsidiaries tend to show the following:

1. The Delaware Company has the following direct and indirect subsidiaries (indentation indicates degree of remoteness):

Northern States Power Company (Minnesota):
- Interstate Light & Power Co.
  - The Elizabeth Light and Poer Company.
- Interstate Light and Power Corporation.
- Interstate Light and Power Company.
- Minneapolis Mill Company.
- Mississippi and Rum River Boom Company.
- Saint Anthony Falls Water Power Company.
- St. Croix Power Company.
- Northern States Power Company (Wisconsin):
  - Chippewa and Flambeau Improvement Company.
  - Eau Claire Dells Improvement Company.
- Chippewa River Power & Fibre Co.
- Chippewa Valley Construction Company.
- United Power and Land Company.
- St. Croix Falls Wisconsin Improvement Company.

None of the above named companies except the Delaware Company is exclusively

a holding company: The Minnesota Company, a registered holding company, is an electric and gas utility company operating in Minnesota, North Dakota and South Dakota; Northern States Power Company (Wisconsin), an exempt holding company, is an electric and gas utility company operating in Wisconsin and Minnesota; and Interstate Light & Power Co., a registered holding company, is an electric utility company operating in Illinois.

2. The capitalization of the Delaware Company as of December 31, 1941 was represented by:

7% cumulative preferred stock 391,077 shs. $100 par value, including 1,467 shares which are intercompany owned	$39,107,700
6% cumulative preferred stock 391,099 shs. $100 par value including 836 shares which are intercompany owned	39,109,900
Class A common stock 341,551 shs. $25 par value	8,538,775
Class B common stock 729,166⅓ shs. without par value	Nil
Paid-in surplus	616,462
Earned surplus since January 2, 1938	1,491,230

Both series of the preferred stock and the Class A common stock have voting rights to the extent of one vote per share; pursuant to the provisions of a charter amendment adopted in connection with the recapitalization of the Delaware Company, effective January 2, 1938, the Class B common stock has had no voting rights since January 1, 1941.

There is no difference between the two series of preferred stock, other than as to dividend rate and redemption premium (the call prices of the 7% and 6% Cumulative Preferred Stock are 110 and 107½, respectively). Both series have a preference as to dividends over the Class A and Class B common stock and have a preference as to distribution of assets in event of either voluntary or involuntary liquidation over the Class A common stock to the extent of their par values and accumulated dividends. Any dividends paid on the Class A and Class B common stock are to be in the proportion of ten for each share of Class A common stock to one for each share of Class B common stock. The recapitalization plan above referred to also resulted in the adoption on December 28, 1938 of the following amendment to the Certificate of Incorporation of the Delaware Company:

VIII. In case of liquidation, dissolution or winding up, whether voluntary or involuntary, of the corporation, after the payment or distribution as hereinbefore provided to the holders of the preferred stock of the par value of their shares of such stock and the amount of all dividends accumulated and in arrears thereon, the remaining assets and funds shall then be divided among the holders of the Class A common stock, according to their respective shares, and the holders of the Class B common stock, as such, shall be entitled to no rights or interest in such assets or funds. Any division among the holders of the Class A common stock may be made in money or other assets of the corporation, or both, as the Board of Directors or the holders of the majority of the shares of said Class A common stock may determine.

3. The order of this Commission dated December 27, 1938, approving said recapitalization plan (*In re Northern States Power Company (Delaware) et al.*, Holding Company Act Release No. 1392) provided in part:

It is further ordered, That all the outstanding shares of Class B common stock of Northern States Power Company, a Delaware corporation, shall be cancelled not later than January 1, 1944 and, for the purpose of facilitating such cancellation all certificates for said shares of Class B common stock shall be surrendered to said corporation not later than January 1, 1944, for cancellation, unless on or prior to said date this Commission shall have entered an order finding that during any period of twelve consecutive calendar months ending after January 1, 1939, and prior to January 1, 1944, the consolidated net income of the Delaware Company and its subsidiaries available for dividends after provision for fair and reasonable depreciation shall have exceeded the sum of (a) the dividend requirements for such period and dividends in arrears at the end of such period on any stock of the Company and of any of its subsidiaries entitled to a preference in the distribution of earnings (other than stock owned by the Company or any of its subsidiaries) and (b) the net income applicable to minority interests in the common stocks of its subsidiaries.

4. Standard Gas and Electric Company, a registered holding company, owns the following securities of the Delaware Company (it owns no securities of any subsidiaries of the Delaware Company):

11,600 shares of the Class A common stock of the Delaware Company.
729,083⅓ shares of the Class B common stock of the Delaware Company.

The aforementioned shares of the Class A common and Class B common stock are carried on the books of Standard Gas and Electric Company at $916,502.14 and $7,328,397.02, respectively; the reported cost of these securities to the system company first acquiring them is $916,502.14 and $7,328,397.02, respectively.

5. The consolidated net income of the Delaware Company and its subsidiaries for the twelve months ended December 31, 1940 and December 31, 1941 was reported to be $6,186,057 and $6,120,659, respectively. The requirements for dividends on the publicly held preferred stock of the Delaware Company for each of these years aggregated $5,068,848. As of both December 31, 1940 and December 31, 1941, the dividend arrearages on the publicly held 7% Cumulative Preferred Stock and 6% Cumulative Preferred Stock of the last mentioned company amounted to $3.0625 and $2.625 per share, respectively, and aggregated $2,217,621.

6. For the year ended December 31, 1941, the Delaware Company had expenses of $437,295 of which $264,000 represented taxes and provision for Federal income taxes. That company has no salaried officers, performs only purely corporate functions, and is not in a position to furnish capital in any substantial amounts to its subsidiaries.

7. The only securities of the Minnesota Company or of any of its subsidiary companies owned by the Delaware Company are all, namely, 4,000,000 shares, of the common stock of the Minnesota Company.

8. The 4,000,000 shares of common stock of the Minnesota Company are carried on the books of the Delaware Company at $96,593,626; the reported cost of such shares to the system company originally acquiring them is $119,664,363.

9. As of December 31, 1941 the Delaware Company owed the Minnesota Company an open account indebtedness of $7,646,069. As of the same date the Minnesota Company owned 1,467 and 836 shares, respectively, of the 7% Cumulative Preferred and 6% Cumulative Preferred Stock of the Delaware Company.

10. As of December 31, 1941 the capitalization of the Minnesota Company on a corporate and consolidated basis was represented by:

	Corporate	Consolidated
Long term debt:		
Northern States Power Company (Minn.):		
First and refunding mortgage bonds, 3¾% series due 1967	$75,000,000	$75,000,000
St. Paul Gas Light Company, General mortgage gold bonds, 6%, due Mar. 1, 1944	4,999,000	4,999,000
Northern States Power Company (Wis.):		
First mortgage bonds, 3¼% series due Mar. 1, 1964	----------	17,000,000
Serial notes (noninterest bearing) due semiannually to May 1, 1944 ($32,635, maturing in 1942)	----------	81,712
Indebtedness to subsidiary companies—not current	1,233,435	----------
Total long term debt	81,232,435	97,080,712
Minority interest:		
Northern States Power Company (Wis.):		
Cumulative preferred stock, 5%, 5,427 shares, $100 par value	----------	542,700
Chippewa and Flambeau Improvement Co.:		
Common stock, 4,845 shares, $100 par value	----------	434,500
Surplus	----------	25,174
		1,052,374
Capital stock:		
$5 series, preferred, 275,000 shares without par value (stated capital $100 per share)	27,500,000	27,500,000
Common, 4,000,000 shares, without par value (stated capital $22.50 per share)	90,000,000	90,000,000
	117,500,000	117,500,000
Surplus:		
Surplus on books of subsidiary companies at date of recapitalization of the company or at dates of acquisition subsequent thereto	----------	723,220
Paid-in surplus	2,804,754	2,804,754
Earned surplus since Feb. 3, 1937	2,686,991	3,182,440
	5,491,745	6,710,414
Total capital stock and surplus	122,991,745	124,210,414
Total capitalization	204,244,240	222,843,500

The preferred and common stock of the Minnesota Company have equal voting rights of one vote per share. The preferred stock is entitled to receive $110 per share plus accumulated dividends upon voluntary liquidation and is entitled to receive $100 per share plus accumulated dividends in the event of in-

voluntary liquidation before any distribution is made on the common stock and is entitled to cumulative dividends of $5 per share per annum before any dividends are paid on the common stock.

11. As of December 31, 1941 the Depreciation Reserves of the Minnesota Company on a consolidated and corporate basis were 8.61% and 5.58%, respectively, of gross Plant and Equipment (including intangibles), and 9.85% and 6.54% of tangible property, respectively.

12. The appropriations for retirement and for depreciation of the Minnesota Company and its subsidiaries for the years ended December 31, 1940 and December 31, 1941 were $4,015,000 and $4,190,000, respectively which amounts represented 1.92% and 1.92%, respectively, of utility plant (including intangibles) and 2.20% of tangible property as at December 31, 1941 and 10.05% and 9.84%, respectively, of operating revenues.

13. The consolidating balance sheet of the Minnesota Company contains, among other things:

(a) An excess of book cost over "original cost" of utility plant as defined in the Uniform System of Accounts of the Federal Power Commission;

(b) Profits to affiliated interests included in property, plant and equipment accounts;

(c) Profits to affiliated interests and discounts on securities involved in the acquisition of properties and/or securities;

(d) Deferred charges being amortized over varying periods; and

(e) Deficits in the earned surplus accounts and other deficiencies appearing in the accounts of subsidiary companies.

III

It appearing to the Commission on the basis of allegations contained in the foregoing section II that there are reasonable grounds to believe that:

1. If the assets of the Delaware Company are worth substantially less than their book value, the voting power is unfairly and inequitably distributed among its security holders.

2. The corporate structure and continued existence of the Delaware Company unduly and unnecessarily complicates the structure of the holding company system, of which it is a part.

3. The Delaware Company should be wound up pursuant to section 11 (b) (2) of the Act.

4. The reserves for depreciation of the Minnesota Company and its subsidiary companies may be inadequate.

5. All or part of the items in the consolidating balance sheet of the Minnesota Company referred to in paragraph numbered 13 of section II hereof may have to be disposed of by accounting adjustments which may have some effect on future income accounts.

IV

It being the duty of the Commission pursuant to section 11 (b) (2) of the Act, to require by order, after notice and opportunity for hearing, that each registered holding company and each subsidiary company thereof shall take such steps as the Commission shall find necessary to ensure that the corporate structure or continued existence of any company in a holding-company system does not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among security holders of such holding company system, and to require each registered holding company (and any company in the same holding-company system with such holding company) to take such action as the Commission shall find necessary in order that such holding company shall cease to be a holding company with respect to each of its subsidiary companies which itself has a subsidiary company which is a holding company; and

It also being appropriate and in the public interest and in the interests of investors and consumers to institute proceedings against the Minnesota Company and its subsidiaries under sections 15 (f) and 20 (a) of the Act directed toward a determination of whether appropriate orders should be entered pursuant to said sections; and

The Commission being required by the provisions of section 11 (e) of said Act, before approving any plan thereunder, to find, after notice and opportunity for hearing that such plan, as submitted or as modified, is necessary to effectuate the provisions of section 11 (b), and is fair and equitable to the persons affected by such plan; and

It being appropriate that notice be given and a hearing held for the purpose of determining what action should be ordered under sections 11 (b) (2), 15 (f) and 20 (a), and for the purpose of ascertaining what action should be taken on all phases of the proposed plan both as it pertains to the liquidation and dissolution of the Delaware Company and to the proposed transactions on the part of the Minnesota Company; and the common issues of fact and law arising in connection with said proposed plan and transactions and the proceedings pursuant to sections 11 (b) (2), 15 (f) and 20 (a) hereby instituted making it appropriate that the hearings on said matters be consolidated;

It is hereby ordered, That the hearings on (a) the proposed plan for the liquidation and dissolution of Northern States Power Company (Delaware) filed pursuant to section 11 (e), (b) the applications and declarations (or both) filed by the Northern States Power Company (Minnesota) pursuant to sections 6, 7 and 12 and the applicable Rules promulgated thereunder with respect to the proposed transactions which are necessary and incidental to the carrying out of said plan, and (c) the proceedings pursuant to sections 11 (b) (2), 15 (f) and 20 (a) hereby instituted, be consolidated and that the consolidated hearing be held on the 8th day of July 1942, at 10:00 o'clock A. M., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, in such room as may be designated on that day by the hearing room clerk in Room 318; jurisdiction to separate, either for hearing or for disposition, in whole or in part, the matters so consolidated is hereby reserved.

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 hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice; and

It is further ordered, That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this order, by registered mail, to each of the respondents herein and to the Standard Gas and Electric Company; and that notice of said hearing is hereby given to all security holders of Northern States Power Company (Delaware), to all states, municipalities, or political subdivisions of states or foreign countries in which are located any of the utility assets of the holding-company system of the Northern States Power Company (Delaware) or under the laws of which any of said subsidiary companies are incorporated, to all state commissions, state securities commissions, and all agencies, authorities or instrumentalities of one or more states, municipalities, or other political subdivisions having jurisdiction over Northern States Power Company (Delaware) or any subsidiaries thereof or over any of the business affairs of any of them, and to all other persons, such notice to be given by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and by publication of this order in the FEDERAL REGISTER;

It is further ordered, That Northern States Power Company (Delaware) mail a copy of this notice and order at least twenty days prior to July 8, 1942, to each of its stockholders at his last-known address;

It is further ordered, That any person desiring to be heard in connection with these proceedings shall file with the Secretary of the Commission on or before the 29th day of June 1942, a written statement relative thereto; any person proposing to intervene shall file with the Secretary of the Commission on or before such date his application therefor, as provided by Rule XVII of the Commission's Rules of Practice:

It is further ordered, That without limiting the scope of the issues presented by the pending applications or declarations (or both) or by the proceedings hereby instituted, that evidence having particular bearing on the following matters will be adduced:

1. Whether the proposed plan filed pursuant to section 11 (e) of the Act is necessary to effectuate the provisions of section 11 (b) of said Act.

2. Whether the proposed plan is fair and equitable to the persons affected thereby.

3. Whether the plan should be submitted to the stockholders of Northern

States Power Company (Delaware) for their approval or rejection.

4. Whether the proposed transactions by Northern States Power Company (Minnesota) which are incidental to the consummation of the proposed plan comply with all of the requirements of the applicable provisions of the Act and Rules.

5. Whether the allegations contained in sections II and III hereof are true and correct.

6. Whether it is necessary or appropriate in the public interest or for the protection of investors or consumers to require pursuant to sections 15 (f) and 20 (a) of the Public Utility Holding Company Act of 1935 and rules thereunder that Northern States Power Company (Minnesota) or any of its subsidiaries restate their plant and equipment, investment, reserves, surplus, capital and other accounts so as to segregate, eliminate and/or dispose of intangibles in the plant and equipment accounts and investment accounts; set up adequate reserves for retirements and depreciation of plant and equipment, and make other accounting adjustments.

7. What orders, if any, should be entered pursuant to sections 11 (b) (2), 15 (f) and 20 (a) of the Act, to require Northern States Power Company (Delaware) and Northern States Power Company (Minnesota) to take such steps as the Commission shall find necessary to comply with the provisions of said sections.

It is further ordered, That jurisdiction be and is hereby reserved to separate, either for hearing, in whole or in part, or for disposition in whole or in part, any of the issues or questions which may arise in these proceedings, and to take such other action as may appear conducive to an orderly, prompt and economic disposition of the matters involved.

By the Commission.

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

[F. R. Doc. 42-5387; Filed, June 9, 1942; 9:32 a. m.]

[File No. 70-558]

AMERICAN UTILITIES SERVICE CORPORATION AND LOUISIANA PUBLIC SERVICE CORPORATION

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 8th day of June 1942.

Notice is hereby given that an application or declaration (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by American Utilities Service Corporation (hereinafter called American), a registered holding company, and Louisiana Public Service Corporation (hereinafter called Louisiana), a subsidiary of American; and

Notice is further given that any interested person may, not later than June 25, 1942, at 5:30 P. M., E. W. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania.

All interested persons are referred to said declaration or application, which is on file in the office of this Commission, for a statement of the transactions therein proposed, which are summarized below:

1. Louisiana proposes to sell to Louisiana Power and Light Company all of its electric properties for the sum of $437,155.95, in cash (such purchase price being subject to certain adjustments); also to sell all of its materials, supplies and accounts receivable with respect to such properties. The proceeds of such sale will be employed by Louisiana in payment of its note indebtedness to American and/or will be distributed to American in liquidation.

2. American plans to utilize the proceeds of such sale to be received from Louisiana as aforesaid, estimated at approximately $484,000, as follows:

(a) The acquisition and retirement, through Continental Illinois National Bank and Trust Company of Chicago, Indenture Trustee, which will invite tenders pursuant to the Indenture, of not exceeding $400,000 principal amount of its collateral trust bonds, Series A.

(b) The investment of $84,000 in additional securities of operating companies remaining in the American system.

By the Commission.

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

[F. R. Doc. 42-5388; Filed, June 9, 1942; 9:32 a. m.]

[Files No. 59-41 and 70-312]

MICHIGAN GAS AND ELECTRIC COMPANY AND THE MIDDLE WEST CORPORATION

ORDER CONCERNING SALE AND ISSUE OF SECURITIES

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 6th day of June, A. D. 1942.

Michigan Gas and Electric Company having filed an application (File No. 70-312) for an exemption from the provisions of section 6 (a) of the Public Utility Holding Company Act of 1935, pursuant to section 6 (b) of the Act, for the issue and sale of $3,500,000 principal amount of 3¾% first mortgage bonds and $750,000 principal amount of 3½% serial debentures:

The Commission having on March 23, 1942 ordered a hearing on said application as amended; the Commission having on March 28, 1942 instituted proceedings (File No. 59-41) against Michigan Gas and Electric Company and The Middle West Corporation, its parent, pursuant to sections 11 (b) (2), 12 (c) and 15 (f) of the Act; the Commission having consolidated said matters for hearing, reserving the right to sever the proceedings and issue separate orders therein; hearings having been held; and the Commission having been requested by the Michigan company to dispose of its application with respect to the issue and sale of said bonds and debentures;

Hearings having been completed with respect to the issue and sale of said bonds and debentures and certain related matters; the Michigan Gas and Electric Company having waived requested findings, briefs, reply briefs and oral argument with respect to such matters; and the Commission having considered the record and having made and filed its Findings and Opinion herein, and being of the opinion that action may appropriately be taken as hereinafter ordered;

It is ordered, That the application of Michigan Gas and Electric Company pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, for an exemption from the provisions of section 6 (a) of the Act with respect to the issue and sale of said $3,500,000 principal amount of first mortgage bonds and $750,000 principal amount of serial debentures be, and the same hereby is, granted, subject to the terms and conditions prescribed in Rule U-24 of the General Rules and Regulations under the Public Utility Holding Company Act of 1935 and subject to the additional condition that Michigan Gas and Electric Company, by appropriate charges to earned surplus, set up a reserve for plant adjustments in the amount of $470,000; and

It is further ordered, That jurisdiction be and is hereby reserved to consider all matters in these proceedings not hereby determined, including specifically, without limiting the generality of the foregoing, proper statement of the accounts of Michigan Gas and Electric Company, appropriate changes in its reserve for plant adjustments, fair and equitable distribution of voting power among its security holders, restriction of dividends, and any other problems presented under sections 11 (b) (2), 12 (c), 15 (f) and other applicable sections of the Act.

By the Commission.

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

[F. R. Doc. 42-5389; Filed, June 9, 1942; 9:33 a. m.]

[File No. 70-545]

NIAGARA, LOCKPORT AND ONTARIO POWER COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its

office in the City of Philadelphia, Pennsylvania, on the 8th day of June 1942.

Niagara, Lockport and Ontario Power Company, a subsidiary of Buffalo, Niagara and Eastern Power Corporation, in turn a subsidiary of Niagara Hudson Power Corporation, in turn a subsidiary of The United Corporation, a registered holding company, having filed a declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, proposing as follows: To execute and deliver to Irving Trust Company, as Trustee, an Indenture of Assumption with respect to an Indenture dated October 5, 1912, between Salmon River Power Company and Columbia-Knickerbocker Trust Company (now Irving Trust Company), as Trustee, and with respect to the First Mortgage 5% Bonds issued and outstanding thereunder. (As of December 31, 1941, $5,000,000 principal amount were outstanding; $2,631,000 principal amount was held by Irving Trust Company, Trustee, in the sinking fund provided for in the Indenture, and $2,369,000 principal amount was in the hands of the public.)

Declarant represents that the proposed Indenture of Assumption is requested by the Trustee, for two purposes: (1) to expressly recognize and confirm the obligation to make due and punctual payment of the principal and interest of said First Mortgage 5% Bonds; (2) to evidence the assumption of the covenants and conditions contained in the Indenture of October 5, 1912, under which said First Mortgage 5% Bonds were issued prior to the merger of a predecessor, Niagara, Lockport and Ontario Power Company, with Salmon River Power Company forming the immediate predecessor company, which, in turn, was consolidated with Western New York Utilities Co., Inc., to form the present Niagara, Lockport and Ontario Power Company; and

Said declaration having been filed on May 12, 1942 and a 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 a hearing with respect to said 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 declaration that the requirements of section 7 (c) of said Act are satisfied and that no adverse findings are necessary under section 7 (d) of said Act;

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

By the Commission, (Commissioner Healy dissenting for the reasons set forth in his memorandum of April 1, 1940).

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

[F. R. Doc. 42-5390; Filed, June 9, 1942; 9:33 a. m.]