

**EXECUTIVE ORDERS
IN TIMES OF WAR
AND NATIONAL EMERGENCY**

**REPORT
OF THE
SPECIAL COMMITTEE ON NATIONAL
EMERGENCIES AND DELEGATED
EMERGENCY POWERS
UNITED STATES SENATE**



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I

**SPECIAL COMMITTEE ON NATIONAL EMERGENCIES AND
DELEGATED EMERGENCY POWERS**

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FOREWORD

The Federal Register Act was passed on July 26, 1935. Since then Proclamations and Executive Orders have been published in the *Federal Register* in order to give public notice of directives issued by the President which have legal effect; that is, which require compliance by the bureaucracy or private individuals, or which require the expenditure of public funds. Through Executive directives of various kinds issued by the President, the laws passed by the Congress are executed. The *Federal Register* was created in order to provide an accountable record of orders given by the President to carry out the will of the people, as enacted by the Legislature, according to processes prescribed by the Constitution. Executive Orders, in order to be lawful, must be pursuant to authorities delegated to the President by statute or by specific provisions of the Constitution. The *Federal Register* as a part of National Archives is intended to serve as the repository for Proclamations and Executive Orders, and these documents cite the authorities upon which the lawfulness of Presidential actions are based. The Special Committee was fortunate to receive on November 28, 1978, the testimony and advice of former Solicitor-General Erwin Griswold,¹ whose *Harvard Law Review* article² written in 1934, was in large measure the inspiration for the Federal Register Act. Dr. Griswold's views have proved to be most helpful to the work of the Special Committee.

The Special Committee on National Emergencies and Delegated Emergency Powers has been engaged in a study, over the past year, of all Proclamations and Executive Orders that have been issued pursuant to the authorities contained in provisions of Federal law delegating to the Executive extraordinary authority in time of national emergency. This has been a very difficult task. In this regard, a Library of Congress study prepared by Grover S. Williams, entitled "Executive Orders: A Brief History" was of great assistance to the Special Committee. That study and a comprehensive bibliography of Executive Orders will be found in the appendix to this compilation. Prior to 1935, directives issued by the President were not collected in any central official depository. While the listing of unclassified Executive Orders—issued since 1935 when the Federal Register Act was passed—is complete, there is, unfortunately, no way of knowing with certainty the legal status of Executive Orders issued prior to the passage of the Federal Register Act.

The Special Committee, in close cooperation with the executive branch, the Library of Congress, and legal scholars, has brought to—

¹ See Hearings before the Special Committee on the Termination of the National Emergency, Part 3—Constitutional Questions Concerning Emergency Powers, Nov. 28, 1978.

² *Ibid.*, p. 881.

gether in this compilation as complete a collection as possible of Executive Orders and Proclamations issued pursuant to states of war or national emergency. The Office of the Federal Register of GSA's National Archives and Records Service was most helpful in the preparations of the compilation (see Appendix) and the Special Committee is particularly grateful to Fred J. Emery, director of the Federal Register and to his able assistant Ruth Pontius for the thorough and scholarly assistance they have given over the past year. The following compilation, with its introductory and explanatory matter, is intended to give Congress and the public an educated insight into the general extent of Executive Orders issued by the President concerning emergency powers. The compilation is also intended to illustrate the principal areas of concern with regard to emergency powers.

It is our hope that this compilation, in addition to the compilation of Emergency Powers Statutes (S. Rept. 93-549), will be of assistance to the Legislature, the Executive, and the public when the Special Committee makes its final recommendations and proposed legislation concerning how delegated emergency powers can most effectively be provided to the Executive in time of necessity and yet maintain the integrity of constitutional processes.

During the course of the Special Committee's study of Executive Orders, it has become evident that many Presidential directives of great importance are not a part of the public record contained in the *Federal Register* or anywhere else. A practice has grown up in recent decades whereby Presidential directives, if called anything other than an Executive Order, are not recorded for the purposes of public notice or legislative accountability. In the view of the Special Committee, this practice—evident in the area of emergency powers—affects every area of our national life, and remedial legislation to correct this recent practice of public administration should be a priority for Congress.

This Special Committee study contains a listing of all Proclamations and Executive Orders related to national emergencies that we were able to discover, as well as introductory and explanatory matter. The document was compiled and written by the staff under the direction of Staff Director William G. Miller and Thomas A. Dine.

The Special Committee is also grateful for the valuable assistance provided by the American Law Division of the Library of Congress; to Lester S. Jayson and many members of his Congressional Research Service of the Library of Congress who responded so promptly and courteously to requests for specific materials and copies of Executive Orders; and to Patrick M. Norton, Patrick A. Shea, Roland Moore, William K. Sawyer, Audrey Hatry, Martha Mecham, David J. Kyte and Paul Spatz.

The Special Committee is now in the process of editing a history of the use of emergency powers from the beginning of the Republic to the present, as well as concluding work which will lead to recommendations for legislative action. These two reports will be issued in the very near future.

**EXECUTIVE ORDERS
IN TIMES OF WAR
AND NATIONAL EMERGENCY**

_____, 1974.—Ordered to be printed

Mr. CHURCH (for himself, and Mr. MATHIAS) as cochairmen of the Special Committee on National Emergencies and Delegated Emergency Powers, submitted the following

REPORT

[Pursuant to S. Res. 242, 98d Cong., 2d Sess.]

INTRODUCTION

**A. STRENGTHENING THE INSTITUTIONAL MEANS FOR
THE LEGAL ACCOUNTABILITY OF DECISIONS
MADE BY THE EXECUTIVE**

The means used by the executive branch to carry out the law and the policy goals set by Congress helps to explain the dominance of the Presidency in the government of the United States. The President is now the head of the most powerful executive complex in the world. In addition to his power as the Chief Executive of the largest superstate the world has ever seen, the President possesses, through congressional delegation, a growing amount of legislative or quasi-legislative power. This enormous power is sufficient reason to determine in exactly what ways the Executive gives directions to "take care that the laws be faithfully executed." It is important that the different ways in which the President gives orders to carry out the law be understood and studied because it has become evident in recent years that many Executive directives are given without any means on

the part of the Congress or the public of determining whether such orders are lawful and in the spirit of our constitutional system of checks and balances.

A BRIEF HISTORICAL SKETCH CONCERNING EXECUTIVE ORDERS

Presidential directives issued to officials and agencies of the executive branch to carry out the laws made by Congress follow a tangled historical path almost impossible to trace. From the time of the birth of the Nation, the day-to-day conduct of Government business has, of necessity, required the issuance of Presidential orders and policy decisions to carry out the provisions of the Constitution that specify that the President, "shall take Care that the Laws be faithfully executed." For many decades, however, the process was a haphazard, if not chaotic, one. The earliest Executive Orders sometimes took the form of hastily scribbled Presidential endorsements on legal briefs or upon the margins of maps. Successive Presidents wrote, "Approved," "Let it be done," or other short comments and these jottings sufficed to stamp a proposal with the authority of the Presidential imprimatur. Although such on-the-spot pragmatic moments of Executive decision predominated, formal "Executive Orders" or "Proclamations" were vested with the full trappings and dignity associated with official national documents—the use of highly formulaic language, and the impression of the Great Seal of the United States executed by the Secretary of State. Yet, the criteria for deciding exactly which orders would be selected for such formal treatment were, and still remain, capricious and arbitrary.

In 1907, the first attempt was made to impose a measure of order on this process with the initiation of a numbering system for all Executive Orders and Proclamations. At that time, the system was back-numbered to President Lincoln's order of October 20, 1862, establishing military courts in Louisiana. Unfortunately, many (how many will probably never be known) eighteenth and nineteenth century Presidential orders—issued both before and after 1862—had never been deposited with the Department of State for recording and retention. Consequently, the backnumbering was incomplete. Estimates made by officials of the National Archives, the Library of Congress, and the Department of Justice, of the number of pre-1907 orders which were never serialized and deposited for the record range from 15,000 to 50,000.

As long as Federal Departments and Agencies were relatively small, the task of systematizing Executive directives was also relatively manageable. With the burgeoning of the bureaucracy that accompanied the expansion of the Government during the New Deal, however, the problem of keeping track of and maintaining any degree of oversight concerning the legality of Executive Orders took on a new dimension. President Roosevelt issued hundreds of Executive Orders each year to implement his many new programs; the programs themselves generated an unprecedented volume of governmental regulations. For instance, the National Recovery Administration disseminated its regulations in the form of 5,991 press releases constituting in all over 10,000 pages of "law."

To regulate this flood of documents reporting executive directives, Congress passed the Federal Register Act of 1935 [44 U.S.C. 1501 et seq.]¹. This Act required the publication in the *Federal Register* of all Executive Orders and Proclamations, and provided that the President might designate other classes of documents to be similarly published. A variety of indices and tables were designed to accompany the actual publication of the documents and provide a means for ascertaining the exact status of any particular order or regulation.

In the Federal Register Act of 1935, however, there were no substantive standards set specifying which Executive directives had to be incorporated in the form of Executive Orders or Proclamations, or, indeed, in any other express format. Nor did past practice offer useful guidelines. Early administrations had used Executive Orders and Proclamations to give legal force to directives to regulate everything from the erection of lighthouses to personnel decisions in the Civil Service to the performance of major military functions. In World War I, a number of very important executive agencies such as the War Trades Board and the Grain Corporation were established by such orders. This practice of creating new agencies by Executive fiat was continued by Franklin D. Roosevelt. However, many important decisions were issued in other forms not easily accessible to the public, while many trivial matters were given full legal form in Executive Orders or Proclamations. The fundamental ambiguity and arbitrariness in the use of Executive Orders remains one of the most troubling problems of public administration yet to be resolved by Congress.

CURRENT PROCEDURES FOR ISSUING EXECUTIVE ORDERS

The Federal Register Act of 1935 provides the present statutory guidelines for the issuance of Executive decisions or orders. It is supplemented by a series of Executive orders by which the Executive prescribes for itself additional procedures to be observed. Both the statutory and the self-imposed regulations, however, fail to diminish significantly the fundamental arbitrariness of the system, and the Executive's own procedures appear to be followed only insofar as it is convenient to the Executive's purpose at the time.

The Federal Register Act [44 U.S.C. 1505]² provides for the publication of:

1. Presidential Proclamations and Executive Orders, except those not having general applicability and legal effect or effective only against Federal Agencies or persons in their capacity as officers, agents or employees thereof;
2. Documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and
3. Documents or classes of documents that may be required so to be published by Act of Congress.

The categories enumerated herein are not all-inclusive. First of all, there is the problem of terminology. If a document is not specifically designated as an "Executive Order" or "Presidential Proclamation,"

¹ See Appendix, p. 207.

² See Appendix, p. 209.

the decision of whether or not it will be published as a part of the public record is left to the discretion of the President and his advisers. If he wishes a document to have "general applicability and legal effect," he will presumably have it published. If, however, the order is directed only to an official or an agency and does not purport to regulate the conduct of private citizens, there is no legal necessity for its publication. Most Executive directives fall into this category. Although most Executive directives pertain to exclusively internal bureaucratic operations, many others have great consequences for the Government, the Nation, and individuals as well. One need cite only the decisionmaking which governed the war in Indochina to illustrate the point most vividly. Although clause 3 of 44 U.S.C. 1505 permits Congress to designate classes of documents for publication, Congress has never addressed itself directly to this question in the broad sense here considered.

Even among the two classes of documents, Proclamations and Executive Orders, which are published, there is a considerable degree of confusion. In general, it appears that Proclamations are issued when it is felt that the decree is addressed to the public at large. They tend to be hortatory in nature, proclaiming national days of celebration or ceremonial events. Many Executive Orders are addressed to subordinates in Executive Agencies. But in practice the distinction is not clear.

A study of Executive Orders made in 1957 by the House Committee on Government Operations concluded that "a precise and uniformly applicable differentiation between Executive Orders and Proclamations is impossible." The situation is not any more precise today. In response to inquiries made by the staff of the Senate Special Committee on National Emergencies and Delegated Emergency Powers those responsible for the procedures relating to Executive Orders at both the Justice Department and the Federal Register acknowledged their inability to define with precision the difference between Executive Orders and Presidential Proclamations and emphasized the inconsistencies which pervade their usage. The arbitrariness of this system is illustrated by two instances of very similar situations of federally-enforced school integration in the South. In the first instance, President Eisenhower relied on an Executive Order, while, only a few years later, President Kennedy issued a Proclamation.

Executive Order 11030, as amended by Executive Order 11354¹ sets standards for the "preparation, presentation, filing, and publication" of Executive Orders and proclamations. Like the statutory regulations, these self-imposed Executive standards fail to prescribe criteria for the subject matter to be published as an Executive Order or as a proclamation. Section 2 of Order 11030 does, however, establish a procedure for the intra-executive clearance procedures of proposed Executive Orders and proclamations. According to Section 2, a proposed Executive Order must be sent first to the Director of the Office of Management and Budget, and then to the Attorney General. Only after their approval is obtained may an Executive Order be forwarded to the President for official sanction and subsequent publication. The Special Committee's study shows that this procedure has been usually

¹ See Appendix, p. 210.

followed in routine matters. It has not, however, been universally complied with. The Justice Department acknowledges that it has received notice of some important Executive Orders after their promulgations. The August 15, 1971, Executive Order issued from Camp David concerning America's international financial position is an example. In some cases the justification for not following regular procedures is explained as required by the exigencies of an "emergency"; bypassing regular clearance procedures appears to occur frequently in times of national emergency. The point that does not escape notice is that successive administrations have followed established procedures only when convenient to do so.

If the format and procedures for issuing Executive Orders and Proclamations appear inadequate and inconsistent, the situation regarding other Executive directives is even more so, bordering on the chaotic. Title 3 of the *Code of Federal Regulations* indicates that in issuing decisions and commands, Presidents have used such diverse forms as letters, memorandums, directives, notices, reorganization plans, administrative designation, and military orders. The decision whether to publish an Executive decision is clearly a result of the President's own discretion rather than any prescription of law. In recent years, the National Security Action Memorandums of Presidents Kennedy and Johnson and the National Security Action Directives of President Nixon represent a new method for promulgating decisions, in areas of the gravest importance. Such decisions are not specifically required by law to be published in any register, even in a classified form; none have prescribed formats or procedures; none of these vital Executive decisions are revealed to Congress or the public except under irregular, arbitrary or accidental circumstances. For instance, the 1969-1970 secret bombing of Cambodia¹ has recently come before congressional and public notice. The public record reveals very little about how the commands for such far reaching actions were issued. What is most disturbing is the lack of access to any authoritative records in these matters. In short, there is no formal accountability for the most crucial Executive decisions affecting the lives of citizens and the freedom of individuals and institutions.

The problem is exacerbated by the classification of sensitive or important Executive decisions, classification which in most cases prevents even Congress from having access to these documents. While no one would wish to prevent sensitive documents from being classified for reasonable cause, the absolute discretion given to the Executive in this area has led to abuse. It has permitted and encouraged inclusion in this category of many documents in no way connected with essential national security. Moreover, not only are their contents kept secret, but even the extent of such documents is unascertainable. On the basis of the handling of past Presidential papers, many of these documents will, of course, in one manner or another, eventually be declassified, but many have been withheld by Executive discretion.

Until recently, classified Executive Orders were inserted chronologically in the prescribed serialization of the *Federal Register* by the use of a letter suffix after the number of the last preceding order, for

¹ See Emergency Powers Statutes, Nov. 19, 1978: The "Feed and Forage" Act of 1861; applicability under 41 U.S.C. 11, pp. 819-821.

example, Executive Order 7784-A. It seems evident that even this provision for recording classified Executive directives has, by and large, not been used because other less public forms of Executive directives have proven more convenient for executive branch purposes.

The legal record of executive decisionmaking has thus continued to be closed from the light of public or congressional scrutiny through the use of classified procedures which withhold necessary documents from Congress, by failure to establish substantive criteria for publication and by bypassing existing standards. As a result, the legality of a substantial area of operations of the Government has in large measure been immune from any oversight or scrutiny by Congress. And the situation is growing worse. The number of formal Executive Orders and Proclamations has, in recent years, declined from many hundreds to about 70 annually. Since it is certain that as the United States has grown in size and power the Executive has issued more and more decisions, many of which are of the greatest importance, it can only be surmised that such commands continue to be issued in irregular form and in ways unaccountable to Congress and the people. As the role of the Executive in Government continues to expand, this must be cause for the greatest concern.

THE LEGAL STATUS OF EXECUTIVE DECISIONS

Article I of the Constitution vests all legislative power in Congress. Nowhere in the Constitution is the President empowered to make law. Nevertheless, in the course of executing Acts of Congress and of directing the executive branch, the President must issue numerous orders to the bureaucracy which have a binding effect on subordinate officials, and, in many cases, on Congress, and on individuals from the general public as well. For all intents and purposes many of these Executive directives or orders constitute "law," even though the parties affected may be unaware of their existence.

In its consideration of the legal status of Executive decisions, the Special Committee has concerned itself primarily with formally declared Executive Orders and proclamations designated as such, or with other documents published in the *Federal Register*. There is, at present, no way of knowing how and by what legal authority those Executive directives not recorded in the *Federal Register* affect the public. The primary conduct of individuals in their everyday lives presumably may not be regulated by such unpublished orders, since the statutes (44 U.S.C., Chapter 15) and normal standards of due process probably require publication before an order may be given direct legal effect. But many decisions within the Executive branch itself often have repercussions much more severe for the general public than any attempt to regulate its conduct directly. And there is often no means for the public, or its congressional representatives, to ascertain the content of these decisions, or even the fact that they are being made.

The legality of an Executive Order or a proclamation depends upon the applicability of the legal authority which the President cites at its issuance. This authority is of two kinds: That which Congress specifically delegates to the President by statute; and that which he asserts to derive from certain constitutional powers, express or implied, of the Presidency itself.

The legality of an Executive Order is most certain when it is based solely on a specific congressional delegation of authority. In such cases, the Presidential order is regarded as of equal validity with the Act itself and has "the force and effect of law." *Maryland Casualty Co. v. United States*, 251 U.S. 342, 349 (1919). The constitutional authority for such a delegated power is as broad as the power of Congress. This is only limited by the restriction that when the Constitution expressly vests a power in Congress, that body may not entirely relinquish its constitutional responsibility by delegating full discretion and authority in that area to any other body or person. Since the Presidential power to issue an order is, in such instances, based entirely on an Act of Congress, a subsequent act by Congress may supersede, annul, or modify such an order.

Where statutory delegation is relied upon, there is ample precedent to support the firm proposition that it *must* be invoked or the order will fail to meet the constitutional requirements of due process of law (*see* 16 Am. Jur. 2d § 552). Unfortunately, a number of Executive Orders cite only "the statutes" as authority. This is, at least arguably, too vague to satisfy reasonable standards of due process.

At the other end of the spectrum are those Executive Orders based solely on the President's expressed or implied constitutional powers. Several points should be noted: Those powers which are within the exclusive domain of the President are few. Even the expressed powers of the President as Commander in Chief of the Army and Navy or in the field of foreign affairs overlap those of Congress, which is required by the Constitution to make rules and regulations governing the Armed Forces and to provide the means for their use.

In those instances where Congress has set unequivocal statutory standards, the Executive must abide by those standards. *Youngstown Sheet & Tube v. Sawyer* 343 U.S. 579 (1952).

The *Youngstown Case*, or as it is more commonly called, the *Steel Seizure Case*, provides useful guidelines for this problem. In that case, President Truman's Executive Order directing seizure of the steel mills, based on his position as Commander in Chief, was found to be in direct conflict with the express will of Congress; Executive action was declared illegal and revoked by decision of the Supreme Court. Situations can, of course, be cited where the will of Congress is by no means so clear, or where the Executive action only partially deviated, or only arguably deviated, from Congressional intent. In grey areas such as these the courts have in the past been reluctant to intervene and determine exactly what Congress did intend and to what extent the Executive had deviated from that intent.

The exact extent of Presidential authority poses a special problem in time of declared national emergency, when extraordinary powers are delegated by the Congress to the Executive.

When an Executive Order has been issued on the basis of both statutory and constitutionally derived authority, there arises the question of what effect a subsequent congressional action might have on the legality of the order. Since the President is required by the Constitution to adhere to properly enacted statutory guidelines, a requirement spelled out in the concurring opinions expressed in the *Youngstown*

Case, a subsequent properly enacted statute of Congress could modify or revoke an Executive Order even though Presidential powers have been invoked as authority. Congress has, indeed, done so on several occasions (for example, E.O. 9250 was rescinded by 57 Stat. 63 § 4(b)). But if there does exist exclusive constitutional authority for the President for a particular Executive Order the degree of congressional power of rescission must be limited. As the decision in *Ex parte Milligan* 4 Wall. 2, 139 (1866) observed:

The power to make the necessary laws is in Congress; the power to execute in the President. Both powers imply many subordinate and auxiliary powers. Each includes all authorities essential to its due exercise. But neither can the President, in war more than in peace, intrude upon the proper authority of Congress, nor can Congress upon the proper authority of the President.

In the case of a dispute between the legislative intent of a statute and the constitutional powers of the President, only the courts can resolve the dispute. In the case of a dispute, neither branch can legally impose its will, and both branches must abide by the decision of the courts.

Many statutes require the existence of a specific state of facts before they take effect. The authority to make a determination is frequently entrusted to the President, and has long been regarded as a legitimate delegation of authority (*Field v. Clark* 143 U.S. 649), although doubts have arisen in recent years as to the wisdom of the widespread use of this procedure. For example, although there is no constitutional provision to do so, it has been the practice over the past 40 years that the simple declaration by the President that a national emergency exists is all that is required to obtain extraordinary grants of authority contained in over 470 provisions of law. (See Proclamations 2914, 3972, and 4074.) More than 470 statutes currently in effect provide that the President upon declaration of a national emergency thereby receives the authority to use the extraordinary powers delegated to the President by the statutes.

To summarize the legal situation with regard to national emergencies: The President, at his own discretion, may declare that a state of national emergency exists. He thereby activates for his own use, without any congressional oversight, over 470 powers affecting every area of government and private life. Any Executive Orders or directives which he validly exercises pursuant to these statutes have themselves the force and effect of law. Yet the body of statutes providing emergency powers to the President almost without exception provide no standards to limit this authority. Nor is there in almost all of the over 470 statutes a requirement that the state of emergency be of limited duration.

Thus, whenever the President so decides, he may legitimately establish a Government rule not subject to many normal congressional checks. The Constitution and especially the Bill of Rights still provide significant restraints, but the institutional checks designed to protect the guarantees of the Constitution and Bill of Rights are significantly weakened by the growing tendency to give the President grants of

extraordinary power without provision for effective congressional oversight, or without any limitation upon the duration for which such awesome powers may be used.

CONCLUSION

The Special Committee's study of Executive Orders, Presidential Proclamations and Directives reveals considerable confusion in procedure, a decided absence of a comprehensive means for public accountability and an uncertain basis for determination of legal authority on which executive directives may be issued or challenged. This situation is reason for the gravest concern in periods of peace and stability. This concern is all the greater in times of war, national crisis, or emergency when many additional powers and responsibilities devolve on the President. Congress in particular can dispel this disorder and lessen dangers to constitutional government by establishing standards to be used by the Executive in time of a crisis and procedures for Congress itself to follow to assure effective oversight of the executive branch in times of national emergency.

In order to make those Executive decisions that have already been published more useful, the first task is one of codification. Although many Executive Orders now specify which orders they are modifying or superseding and at least some statutes do likewise, this practice is by no means uniform. The exact legal status of executive directives or procedure in many areas is virtually impossible to ascertain. Such a codification of all published Executive Orders is currently being undertaken by the *Federal Register*, although more support for this effort should be given by more adequate funding from Congress. When completed—and if it is kept properly updated—this codification will make it possible, for the first time, to have a definitive compilation of published Executive directives.

Unfortunately, a great many of the most significant Presidential decisions are not available for congressional or public scrutiny through the *Federal Register*. This lack is primarily due to a failure by Congress to specify substantive standards under which all presidential directives should be recorded. In addition, Congress has not yet enacted laws which would prevent the Executive from using classification to withhold information from Congress and the public. The problem of public accountability can affect, in a very profound sense, the viability of Constitutional Government. What the Executive does with public funds and who is entitled to know about Executive directives, are among the most important questions now being asked of our system of Government. Until Congress grapples with these issues directly, it will be faced with a continuing veil of secrecy and be unable to carry out its constitutional task of overseeing the Executive. The Indochina war and "Watergate" tragically illustrate the results of such congressional inattention.

The awesome power contained in delegated emergency powers involves the same fundamental questions being asked of Government. This much is, however, clear: In the grey areas of overlapping executive and legislative responsibility, the Executive must carry out the clearly expressed intentions of Congress, as indicated in *Youngstown Sheet and Tube Co. v. Sawyer*, when such properly enacted statutes

exist. The continuance of arbitrary presidential decisions made apart from the public record and thereby unaccountable during times of crisis or emergency could jeopardize essential freedoms and the strength of cherished free institutions. Congress, where possible, should legislate, therefore, in advance, standards to guide the President and to prevent, insofar as law can prevent, adverse authoritarian rule. Only Congress has the responsibility to strengthen constitutional means to bridle the possible future exercise of authoritarian power.

It is the intention of the Special Committee when its work is completed to recommend to Congress specific legislative remedies that if enacted would assure that all Presidential directives, by whatever name called, which have legal effect upon individuals or institutions will be published in the *Federal Register*. This recommended legislation will include provisions for a classified Federal Register to be used when appropriate.

EMERY, Fred J.
re EXECUTIVE ORDERS
file FEDERAL REGISTER

March 6, 1974

Mr. Fred J. Emery
Director
Office of the Federal Register
National Archives and Record Service
Washington, D.C. 20408

Dear Mr. Emery:

The Special Committee on National Emergencies and Delegated Emergency Powers is now compiling a catalogue of all Proclamations and Executive Orders issued pursuant to statutory powers, triggered by the four states of national emergency now in effect. The Committee staff, over the past six months, has been engaged in a study of all relevant Executive Orders and Proclamations. Your office has been of immeasurable assistance and we wish to thank you for the intelligent and resourceful support that you and your able assistant, Mrs. Ruth Pontius, have given the staff of the Special Committee.

The Special Committee has one additional request. We would like a list of all Executive Orders and Proclamations now in force issued pursuant to the four now existing states of national emergency. We recognize that for various reasons it may be impossible to supply a complete listing, but we would like to have as complete a list as can be provided.

We thank you for your assistance. With kind regards we are

Yours sincerely,

Frank Church

Charles McC. Mathias, Jr.

WGM:ah/dk

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
National Archives and Records Service
Washington, DC 20408



March 26, 1974

Honorable Frank Church and
Honorable Charles McC. Mathias, Jr.
Co-Chairmen
Special Committee on the Termination
of the National Emergency
United States Senate
Washington, D. C. 20510

Dear Senator Church and Senator Mathias:

Thank you for your letter of March 6, 1974, and particularly for your kind words concerning Ms. Pontius. It is always nice to hear when the efforts of staff members to be of assistance are both successful and appreciated. I apologize for the delay in replying to your letter but, as you know from the work of your Committee, research in this area is difficult and time consuming.

We have attempted to comply with your request that we supply a list of all Executive orders and proclamations now in force issued pursuant to the four now existing states of national emergency. The attached listings represent the most complete information we have been able to assemble. Each list is based on the information contained in our card file. A definitive answer as to the applicability of any particular Executive order as of this time would, of course, have to come from the Attorney General.

The enclosed listings include:

- List 1, which contains proclamations and Executive orders that we have been able to identify as being issued under or related to Proclamation 2039 of March 6, 1933, and Public Law 1, 73rd Congress, 1st Session, March 9, 1933 (48 Stat. 1), and which appear to be still in effect.
- List 2, which contains a comparable listing with respect to Proclamation 2914 of December 12, 1959.

2

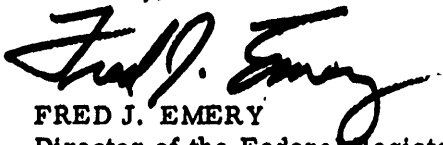
We have found no additional information relating to Proclamation 3972 of March 23, 1970.

The only information we can find relating to Proclamation 4074 of August 15, 1971, was that it was modified by Proclamation 4098 of December 20, 1971.

Also enclosed as Attachment A is a description of finding aids that may be useful to the Committee staff in further researching this area.

I hope this information is useful to you. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred J. Emery". The signature is fluid and cursive, with the first name "Fred" being particularly prominent.

FRED J. EMERY
Director of the Federal Register

Enclosures

LIST 1

List of proclamations and Executive orders related to or issued pursuant to Proclamation 2039, March 6, 1933, and Public Law 1, 73rd Congress, 1st Session, March 9, 1933 (48 Stat. 1), which appear to be still in effect according to our card file:

PROCLAMATIONS:

2040 - March 9, 1933
 2070 - December 30, 1933
 2725 - April 7, 1947

EXECUTIVE ORDERS:

6073	-	March 10, 1933	8701	-	March 4, 1941
6260	-	August 28, 1933	8711	-	March 13, 1941
6359	-	October 25, 1933	8721	-	March 24, 1941
6556	-	January 12, 1934	8746	-	April 28, 1941
6558	-	January 15, 1934	8785	-	June 14, 1941
6559	-	January 15, 1934	8832	-	July 26, 1941
6560	-	January 15, 1934	8963	-	December 9, 1941
8389	-	April 10, 1940	8998	-	December 26, 1941
8405	-	May 10, 1940	10644	-	November 7, 1955
8446	-	June 17, 1940	10905	-	January 14, 1961
8484	-	July 15, 1940	11037	-	July 20, 1962
8493	-	July 25, 1940	11281	-	May 13, 1966
8565	-	October 10, 1940			

LIST 2

List of Executive orders issued pursuant to Proclamation 2914 of December 12, 1950, which appear to be still in effect according to our card file:

EXECUTIVE ORDERS:

- 10251 - June 7, 1951 (Amended by 10416, December 2, 1952)
- 10262 - June 28, 1951
- 10282 - August 29, 1951 (Amended by 10416, December 2, 1952)
- 10379 - August 2, 1952 (Amended by 10515, January 22, 1954)
- 10398 - September 26, 1952
- 10443 - April 7, 1953
- 10616 - June 21, 1955
- 10617 - June 28, 1955
- 10632 - August 19, 1955
- 10725 - August 16, 1957
- 10780 - September 2, 1958
- 10781 - September 2, 1958
- 10789 - November 14, 1958 (Amended by 11051, September 27, 1962; 11382, November 28, 1967; 11610, July 22, 1971)
- 10861 - February 11, 1960
- 10896 - November 29, 1960
- 10976 - November 15, 1961

(See also the following Executive orders):

- 11051 - September 27, 1962
- 11075 - January 15, 1963
- 11106 - April 18, 1963
- 11113 - June 13, 1963
- 11556 - September 4, 1970
- 11725 - June 27, 1973
- 11749 - December 10, 1973

Finding Aids

Prior to 1936, the only way to be absolutely sure that you have all the Executive orders and proclamations related to existing national emergencies would be to read the texts of every one from 1933 to 1936. The texts of these Executive orders and proclamations can be found either at the Office of the Federal Register or the Library of Congress.

After 1936, Table 5 in Title 3 of the Code of Federal Regulations lists the statutes cited as authority for Presidential documents. If the United States Code or Statutes at Large citation is known, proclamations or Executive orders issued under the authority of a particular law can be located. This would be a substantial research project.

Several additional sources which could be used as starting places for adding to the partial list we have provided are:

(1) There were various publications done during the war years which list emergency statutes, proclamations, and Executive orders on limited subject areas. Some of these publications that might be helpful to you are mentioned in Government Publications and Their Use on pages 235 to 238 under the heading "War Legislation." (Attached).

(2) Table 4 of the Code of Federal Regulations Cumulative Supplement, Titles 1-3, Book 1, lists Executive orders issued pursuant to the First and Second War Powers Acts for the period December, 1941 to March, 1943. (Attached).

(3) The U. S. Government Manual--1945, Second Edition, which was published by the Division of Public Inquiries, Government Information Service, Bureau of the Budget, lists the emergency war agencies and the authority for their establishment. In many cases they were set up by Executive orders. Our office has a copy of the 1945 Manual if your Committee should need one.

(4) The records for many of these emergency agencies during the depression and war years are kept in the Industrial and Social Branch, Civil Archives Division, National Archives and Records Service. Mr. Joseph Howerton would be able to answer your questions on these records. His telephone number is 962-1047 or 962-8041.

TABLE 4—EXECUTIVE ORDERS ISSUED PURSUANT TO THE FIRST AND SECOND WAR POWERS ACTS

FIRST WAR POWERS ACT (55 STAT. 838; 50 U. S. C., APP. 601-622)

No.	Date	Subject	Page
	1941		
8965	Dec. 19	Office of Censorship; establishment, functions and duties.....	1047
8998	Dec. 26	Foreign exchange transactions, amendment of prior order as amended. (Hong Kong).....	1053
9001	Dec. 27	War Department, Navy Department and U. S. Maritime Commission authorized to exercise the powers described in Title II of Act to expedite prosecution of war effort.	1054
	1942		
9023	Jan. 14	Contract regulations extended to Treasury, Agriculture, Federal Works Agency, Panama Canal, Government Printing Office, National Advisory Committee for Aeronautics.	1078
9054	Feb. 7	War Shipping Administration; establishment, functions and duties defined.....	1066
9055	Feb. 10	Interior Department, contract regulations extended to.....	1068
9058	Feb. 13	Tennessee Valley Authority, contract regulations extended to.....	1069
9066	Feb. 23	Agriculture Department, certain agencies consolidated within.....	1094
9070	Feb. 24	National Housing Agency, established by consolidation of certain agencies and functions	1095
9071	Feb. 24	Federal Loan Agency, functions transferred to Department of Commerce.....	1098
9079	Feb. 26	Public Health Service, certain hospitals made available for care of insane persons.....	1101
9083	Feb. 26	Army of the United States, reorganization and transfer of functions within the War Department.	1103
9083	Feb. 26	Maritime functions, redistribution of.....	1104
9095	Mar. 11	Alien Property Custodian, office established.....	1121
9096	Mar. 12	Navy Department and Naval Service, reorganization of.....	1121
9103	Mar. 18	Statistical Information; control, publication and use.....	1123
9112	Mar. 26	Contract financing.....	1129
9116	Mar. 26	Contract regulations extended to Office of Coordinator of Inter-American Affairs, Civil Aeronautics Administration, National Housing Agency, Veterans' Administration, Federal Communications Commission.	1131
9126	Apr. 8	Hydrographic Office transferred from Bureau of Navigation to Chief of Naval Operations.	1137
9137	Apr. 10	Defense contractors, agencies designated to inspect plants and audit books.....	1138
9138	Apr. 13	Board of Economic Warfare, additional functions and duties.....	1139
9133	Apr. 14	Civilian Conservation Corps motor repair shops transferred to War Department.....	1141
9139	Apr. 18	War Manpower Commission, establishment.....	1145
9142	Apr. 21	Alien Property Custodian, certain functions, etc., transferred from Justice Department..	1148
9148	Apr. 27	Credit Union functions, transferred from Farm Credit Administration to Federal Deposit Insurance Corporation.....	1150
9176	May 29	Registration of foreign agents, functions transferred from Secretary of State to Attorney General.....	1165
9177	May 30	Authority to make emergency purchases of war materials abroad conferred on certain officials.....	1166
9181	June 11	Alaska, administration of Federal government services by Alaska War Council.....	1167
9182	June 13	Office of War Information, established by consolidation of certain agencies.....	1169
9193	July 6	Alien Property Custodian Office, establishment order amended.....	1174
9194	July 7	Navy Department, acquisition and disposal of real estate, functions transferred to Chief of Bureau of Yards and Docks.....	1178
9198	July 11	Merchant Marine training functions, transfer to War Shipping Administration.....	1184
9204	July 21	Fishery Coordination, Office of, establishment.....	1185
9219	Aug. 11	Scientific Research and Development, Office of, contract regulations.....	1192
9221	Aug. 15	Federal Prison Industries, Inc., contract regulations.....	1193
9232	Aug. 20	Work Projects Administration, Sample Surveys Section, functions transferred to Bureau of the Census.....	1203
9233	Aug. 22	Board of Economic Warfare, contract regulations.....	1208
9235	Aug. 31	Effective utilization of Government supplies and equipment.....	1208
9241	Sept. 1	Office of Strategic Services, contract regulations.....	1208
9244	Sept. 16	War Shipping Administration, establishment order amended.....	1209
9245	Sept. 16	U. S. Commissioner to the Philippines, functions transferred to Secretary of Interior.....	1210
9246	Sept. 17	Rubber program coordination and control.....	1210
9247	Sept. 17	War Manpower Commission, transfer of certain employment service and training functions to.	1211
9253	Oct. 9	Immigration and Naturalization Service, contract regulations.....	1219
9262	Nov. 8	Secretary of Navy, additional functions, etc., defined.....	1223
9294	Nov. 8	Commerce Department, contract regulations.....	1223
9299	Nov. 11	Treasury Department contracts for architectural and engineering services, limitation fixed fees modified.	1225

Tables of Presidential Documents

TABLE 4—EXECUTIVE ORDERS ISSUED PURSUANT TO THE FIRST AND SECOND WAR POWERS ACTS—Continued

No.	Date	Subject	Page
	1943		
9279	Dec. 8	Manpower mobilization; Selective Service System transferred to War Manpower Commission.	1293
9287	Dec. 24	Council National Defense, certain functions transferred to Secretary of Interior.....	1241
	1943		
9299	Jan. 20	Contracts and Purchases, reports of.....	1249
9300	Feb. 8	Interdepartmental Committee to consider cases of subversive activity on part of Federal employees, establishment.	1293
9302	Feb. 9	Internal Revenue, Commissioner of, transfer of certain functions relating to taxes and penalties imposed for violations of the National Prohibition Act.	1293
9310	Mar. 6	Defense Health and Welfare Services, Office of, transfer of nutrition functions to Department of Agriculture.	1299
9312	Mar. 9	War Information, Office of, foreign information activities defined.....	1299
9315	Mar. 16	Secretary of Agriculture, transfer of certain functions from the President to.....	1299
9322	Mar. 26	Food Production and Distribution Administration, centralizing and delegating authority with respect to.	1293
9325	Apr. 7	Allen Property Custodian, Office of, payment of expense of the.....	1265
9327	Apr. 7	Congested Production Areas, providing for the more effective handling of governmental problems in.	1299
9328	Apr. 8	Wages, Prices, and Salaries; stabilization of.....	1297
9330	Apr. 16	Office for Emergency Management, certain central administrative services transferred from.	1298
9334	Apr. 19	War Food Administration, establishment.....	1273
9336	Apr. 24	Financing arrangements to facilitate the prosecution of the war authorized.....	1276
9338	Apr. 29	Federal Security Agency, functions of Office of Defense Health and Welfare Services transferred to.	1275
9339	Apr. 29	Civil Air Patrol transferred to War Department, from Office of Civilian Defense.....	1275
9343	May 19	Certain lands on Government Island, California, to the Navy Department; transfer of jurisdiction and control over.	1278
9347	May 27	War Mobilization, Office of, established.....	1261

Executive Orders Issued Pursuant to the First and Second War Powers Acts

TABLE 4—EXECUTIVE ORDERS ISSUED PURSUANT TO THE FIRST AND SECOND WAR POWERS ACTS—Continued

SECOND WAR POWERS ACT (56 STAT. 176; 50 U. S. C., APP. 631-645a)

No.	Date	Subject	Page
1943			
9137	Apr. 10	Defense contractors, agencies designated to inspect plants and audit books.....	1138
9139	Apr. 13	Maritime Commission authorized to acquire and dispose of property.....	1140
9138	Apr. 17	Acquisition of property required for prosecution of the war.....	1144
9180	Apr. 29	National Housing Agency authorized to acquire and dispose of property.....	1181
9133	Apr. 29	Census reports, directions and regulations.....	1181
9187	May 9	Secretary of Commerce to make available records, schedules, reports, returns, etc.....	1188
9178	May 20	Helium program of Interior Department, Secretary authorized to acquire and dispose of property.	1167
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EXECUTIVE ORDERS:

**A Brief History of Their Use and the
President's Power to Issue Them**

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I. Background of the Executive Order.

A. General

From 1789 Presidents have issued orders and directives which in general terms may be termed and described as Executive Orders. These orders in the early years of the Republic differed extensively as to form and substance from what we know as Executive Orders today.

Essentially, an Executive Order is a written document issued by the President and titled as such by him or at his direction. The subject matter of each Executive Order must be ascertained from an examination of the order itself.

The Executive Order in the last fifty years has become a governmental instrument of broad and increasing importance, a fact which has been made particularly obvious since 1933.

Since Executive Orders are directives or actions by the President and when such documents are founded on the authority of the President derived from the United States Constitution or a Federal Statute they have the force and effect of law.

Executive Orders may be repealed or modified by the President issuing them or by a following President even if many years have passed. Executive Orders may be repealed or modified by an act of the Congress or by a decision of the Judiciary. Some Executive Orders become obsolete by the passage of time, as when it bears an expiration date or when the purpose for which it was issued no longer exists. Otherwise, an Executive Order once issued remains in effect until repealed or modified or expires.

There is no law or even an Executive Order which attempts to define the term "Executive Order". In the narrower sense Executive Orders

are written documents denominated as such.

Generally, Executive Orders are directed to, and govern actions by Government officials and agencies. They usually affect private individuals only indirectly.

B. Form

All Presidents beginning with George Washington in 1789 have issued orders which in general terms can be described as Executive Orders.

During the early period of the Republic there was no set form with which such orders were required to comply and consequently such orders varied widely as to form and substance.

Often a President would merely write "approved", "Let it be done", or "I approve the accompanying recommendation and order that it would be effected," or similar words, at the end of a recommendation drawn up by a Cabinet member. Many times such an order was not signed by the President but by a Secretary at the order of the President. In fact, seven of the first 33 Executive Orders in the numbered series were signed by the Secretary of State. An example is Executive Order No. 2 dated April 4, 1865, which offered a reward for the capture and conviction of certain felons and their abettors.

Executive Order 113, dated February 8, 1899, which ordered the flying of the flag at half-mast during the removal of the remains of John A. Rawlins to Arlington National Cemetery, was signed by J. A. Porter who was a secretary to President McKinley.

Some orders that have been considered Executive Orders have been signed and issued during the absence of both the President and the Vice President. For example, Executive Order 7 was issued and signed by Secretary of State William H. Seward on July 28, 1868. This Executive Order certified

the 14th Amendment to the Constitution as in effect, and ordered its publication.

Other orders have been signed by other department heads, and they purported to have the same effect as if they had been signed by the President. For example, Secretary of War William Howard Taft signed Executive Order 348-A, dated August 29, 1905, to define the boundaries of a proposed military reservation on reclaimed harbor land at Manila, Philippine Islands.

As late as 1906, Executive Orders were treated with the utmost informality. Executive Order 396 dated in 1906 (but not by month and day) is simply an endorsement on a letter written by Senator Knute Nelson, making a certain woman eligible for re-instatement as a classified laborer in the Department of Agriculture.

On February 18, 1936, President Roosevelt issued Executive Order 7298 to be effective on March 12, 1936. It prescribed a uniform manner of preparing proposed Executive Orders and proclamations including their filing and publication. Executive Order 7298 was later superseded by Executive Order 10006 of October 11, 1948; this in turn was superseded by Executive Order 11030, issued on June 19, 1962. The latter Order remains in effect.

C. Subject Matter of Executive Orders.

In use from the earliest days of the Republic the Executive Order was at first employed mainly for the disposition of the public domains, for the withdrawal of lands for Indian, military, naval, and lighthouse reservations, or for other similar public purposes. Later it was used frequently for the creation, alteration, or disposition of forest, oil, gas and coal reserves, and for the withdrawal of public lands from sale or entry for purposes of accurate classification. It was also used to establish, transfer, and abolish land offices

and land districts, supplementing acts of the Congress.

The Executive Order became an essential instrument in the evolution of the Civil Service, blanketing into the classified service additional positions as authorized by law, promulgating rules for the service, and exemptions from those rules, both with and without the approval of the Civil Service Commission. It was used to effect various regulations applying to governmental employees outside as well as inside the growing classified service. It established days of mourning for the death of famous citizens. It extended Indian trust period allotments.

The Executive Order was also employed to give public notice of changes of general interest in the regulations governing the consular and diplomatic service. Customs districts and offices were set up or altered by Executive Orders. Army regulations on punishments, both in peace and war, and allowances for subsistence and housing are set forth by the President through this vehicle.

During World War I, the use of the Executive Order was widened, as executive authority and power increased and its scope greatly broadened. Important agencies such as the Food Administration, the Grain Corporation, the War Trade Board and the Committee on Public Information were set up by Executive Orders. Also, Presidential powers, which vastly increased in wartime, were specifically delegated to subordinate officers by Executive Orders.

During the New Deal era in the 1930's, the use of Executive Order was widened, both in the administration of the recovery from the depression and in reform programs and in the evolution of the defense and war projects.

Important agencies with great powers, such as the National Labor Board and the War Trade Board, were created by Executive Orders. Relief funds were allocated to specific agencies, NRA codes were approved, and part of the machinery for farm loans and the establishment of the AAA were set up by Executive Orders.

The use of Executive Orders has decreased in number from the 1930's and 1940's but their scope as to their function and powers has been broadened. Executive Order 11605, dated July 2, 1971 granted to the Subversive Activities Control Board new, sweeping powers to investigate various organizations and groups in America to determine if they are intelligently or politically dangerous to the security of the Nation. Executive Order 11708, dated March 23, 1973, which relates to the Executive Salary Schedules, may involve millions of taxpayers' dollars, notwithstanding the fact that under it the Congress does have a veto if it acts before a specified date.

Executive Order 11748, dated December 4, 1973 created a Federal Energy Office with powers over Energy matters which affect the lives of all citizens of the United States.

D. Numbering of Executive Orders.

The earliest Executive Orders were not numbered. The numbering of Executive Orders seems not to have been instituted until 1907, when the Department of State began to assign numbers to all Executive Orders which it then had in its files and as it received new orders as issued. The order which it designated as Executive Order 1 was issued by the authority of President Lincoln on October 20, 1862 and concerned the establishment of military courts in Louisiana.

Although all Presidential Orders prior to 1935 were supposed to be deposited with the Department of State, a majority of the earlier orders were in fact, never deposited. It seems that thousands of such orders were simply filed away in the Federal agencies' files and were soon forgotten. Many of such unnumbered orders, when later uncovered, seem in retrospect to have been of great importance. For example, an unnumbered Executive Order dated April 7, 1917, issued on the day after the war was declared on Germany, allowed the removal of any Government employee when his retention was deemed inimical to the public welfare. Because of this lack of system in filing Executive Orders and the custody involved, no one knows exactly how many Executive Orders have ever been issued. It is possible that some, even thousands, today lie in dusty files of Federal agencies and departments, untouched for years. It is also thought that numerous orders may lie in unexplored Presidential papers. Former Secretary of the Interior Harold L. Ickes once estimated that the number of unnumbered Executive Orders exceeded 15,000, while others have placed the figure as high as 50,000. Occasionally, even at this late date an unnumbered and forgotten Executive Order is uncovered and made public.

After the Department of State began numbering in 1907 the Executive Orders which it then had on file and later received, numerous Executive Orders have been uncovered or orders which when issued were classified and have been later de-classified, have been received and numbered. These orders have been given such suffixes as A, B, C, 1/2 or -1, etc, to be used with the number of the Executive Order corresponding to the nearest date when issued. Such examples are Executive Order 23-1; Executive Order 106 1/2;

Executive Order 130A; Executive Order 310B; Executive Order 344C; and Executive Order 3016X. Because of this type of numbering there are several hundred more numbered Executive Orders than the number given to the latest Executive Order.

In 1935 the Congress enacted the Federal Register Act (44 U. S. C. 1501, et seq.). This Act required that every Executive Order be filed with the Division of the Federal Register, rather than the Department of State, and it is this Division which now assigns numbers to Executive Orders. Thus in recent years there have been virtually no unnumbered Executive Orders (with the possible exception of classified Executive Orders, discussed in a later section of this report.)

Numbers of Executive Orders run consecutively. In 1951, a proposal to change the numbering of Executive Orders to an annual series was abandoned, largely as the result of opposition from the Department of Justice and the National Archives.

E. Publication of Executive Orders

As pointed out earlier in this paper, prior to 1907 Executive Orders were issued in an unsystematic manner, and there was no complete central file of all Executive Orders. In 1895 there was started the "Documentary Catalog" which listed every Executive Order printed in slip form (i. e., as a single printed sheet) by the Government Printing Office, but there was no central publication or codification.

The Federal Register Act of 1935 (44 U. S. C. 1501, et seq.) finally brought some order out of the chaos into which the filing of Executive Orders had fallen since 1789. This act provided for the custody of Executive Orders

and for the prompt and uniform printing and distribution of them. Primary duty for custody was placed in the Archivist of the United States, and the Public Printer with the Archivist is required to undertake prompt and uniform printing and the distribution of Executive Orders and other documents.

Executive Orders are now printed in the Federal Register and in bound volumes of Title 3 of the Code of Federal Regulations (an annual publication). The first Executive Order to be published in the Federal Register was Executive Order 7316 dated March 14, 1936, which concerned a bird refuge in South Carolina. The text of Executive Orders from Executive Order 7316 appear in bound volumes of Title 3 of the Code of Federal Regulations as follows: 1936-1938, Executive Orders 7316-7905; (2) 1938-1943, Executive Orders 7906-9347; (3) 1943-1948, Executive Orders 9348-10025; (4) 1949-1953, Executive Orders 10026-10510; (5) 1954-1958, Executive Orders 10511-10797; (6) 1959-1963, Executive Orders 10798-11134; (7) 1964-1965, Executive Orders 11135--11263; and (8) 1966-1970, Executive Orders 11264-11574.

Executive Orders after Executive Order 11574 appear in temporary volumes of Title 3 of the Code of Federal Regulations as well as daily issues of the Federal Register.

There is no up-to-date revision of Executive Orders, as distinguished from codification and we know of no effort that is being made to present a codification clear of orders which for one reason or another are not in force and effect today. For example, a person who is interested in ascertaining whether a specific Executive Order of 1930 is still of application is obliged to trace that order through all subsequent compilations. There is no one comprehensive table or digest to which to turn, to learn quickly and conveniently

if that Executive Order still has the force of law.

There is no overall index or digest of Executive Orders. The Works Projects Administration Historical Records Survey published in 1944 a two-volume list of index of Executive Orders in the numbered series, running up to Executive Order 8030, December 29, 1938. It is entitled, Presidential Executive Orders. In 1943 the New Jersey Historical Records Survey of the Works Project Administration published its List and Index of Presidential Executive Orders covering the known unnumbered list of Executive Orders from 1789 to 1941. Neither of these publications give the texts or complete summaries of the orders.

Pursuant to the authority contained in the Federal Register Act a new weekly publication entitled "Weekly Compilation of Presidential Documents" was inaugurated in July 1965. Volume 1 of the publication is dated Monday, August 2, 1965 for the week ending Friday, July 30, 1965. This publication also publishes the texts of Executive Orders. The first Executive Order appearing in this publication is Executive Order 11236 dated July 23, 1965 and released July 26, 1965. It established the President's Commission on Law Enforcement and Administration of Justice.

F. Authorities Cited in Executive Orders.

Virtually all Executive Orders cite some authority upon which they are issued. Some rely exclusively upon the general powers of the President, some cite specific Federal statutes, while a few of a transitory and noncontroversial nature fail to cite any authority. An example of orders which have not cited any authority is Executive Order 10871, dated June 26, 1956, which directs that United States flags be flown at half-mast in honor of the late Adm. Ernest J. King.

A very large number of Executive Orders cite only broad grants of authority such as, "By virtue of the authority vested in me by the Constitution and laws of the United States, and as President of the United States." Some orders simply state, "By virtue of the authority vested in me as President of the United States." Forms such as these appear to be used when there is no express statutory authority, or when express statutory authority may exist but it is desired to use a catch-all expression. In a few cases the Charter of the United Nations has been given as authority. Executive Order 10422 is an example. It was issued by President Truman on Jan. 3, 1953 to prescribe procedures for making available to the Secretary General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations.

Many Executive Orders cite both general powers and specific statutory authority as authority for their issuance.

G. Classified Executive Orders.

Throughout the years there have been various Executive Orders issued that were classified at the time of issuance and not made public. An example is Executive Order 22451/2, issued on September 14, 1915. It is thought that most such orders have been later declassified, usually years after the event, and made accessible to the public. Thus President Roosevelt issued Executive Order 9153-A on April 30, 1942. This order was declassified on June 27, 1946, and its text is found in the 1946, Supplement to the Code of Federal Regulations.

Executive Order 9153-A withdrew certain public lands in Alaska for the use of the War Department for military purposes.

Since an Executive Order is an act of the President himself, the President makes the final decision as to classification, though a recommendation as to classification is made by the agency where the suggestion and draft of the Executive Order is originated. The President may declassify an Executive Order or authorize declassification by someone else. For example, Executive Order 9153-A had its confidential status released by a letter of the Secretary of War dated June 27, 1946. The order itself had stated that it should "not be made public in any other manner except upon prior authorization by the Secretary of War."

Other examples of classified Executive Orders are Executive Order 10026-A dated January 5, 1949; Executive Order 10369-A dated July 1, 1952; and Executive Order 10571-A, dated October 26, 1954. These three classified Executive Orders were uncovered in a limited survey by the House Committee on Government Operations in 1957 and are listed on page 40 of its Committee Print entitled, Executive Orders and Proclamations, 1957.

Original copies of all unclassified Executive Orders are now kept at the National Archives, but of the three confidential orders mentioned above the original of Executive Order 10026-A is in the custody of the Department of State, that of Executive Order 10369-A is in the White House files, and that of Executive Order 10571-A is kept by the Department of Defense.

It would appear that confidential Executive Orders issued now would be governed by Executive Order 11652 of March 8, 1972 which prescribes regulations for the classification of public documents.

II. Legal Basis for Executive Orders.

A. Constitution

Under the Constitution of the United States, the President is vested

with the Executive power of the Government (Article II, Section 1 Clause 1). He is granted the power to preserve, protect and defend the Constitution of the United States of America (Article II, Section 1, Clause 8). He is made the Commander-in-Chief of the Army and Navy of the United States (Article II, Section 2, Clause 1). He is granted the power to see that the laws are faithfully executed (Article II, Section 3). From these powers is implied the authority to issue Executive Orders.

B. Federal Statutes.

There is no law or even Executive Order which attempts to define the term "Executive Order." The statutes which specifically relate to Executive Orders are concerned primarily with matters of publication, notice, and evidence.

The growth in use of Executive Orders and agency regulations in the early day of the "New Deal Era" gave a tremendous impetus to the movement for having a central publication of Presidential and agency-made law. President Roosevelt had issued 674 Executive Orders in the 15 months immediately following March 4, 1933. In one instance, even the United States Government itself had to ask the Supreme Court to dismiss an appeal by the Government based on a regulation which no longer existed. This chaos helped to bring about the passage of the Federal Register Act (44 U.S.C. 1501, et. seq.) This Act requires the publication of specified documents in a serial publication (including Executive Orders) designated the "Federal Register". Publication of the daily issues began on March 14, 1936.

There are numerous provisions in the United States Code which grant the President power to issue Executive Orders under a specific act or

for a specific purpose. An example of such provisions is 5 U.S.C. 3323a, which grants the President when in his judgement the public interest so requires, the power to exempt by Executive Order a civil service employment from the mandatory retirement age.

C. Executive Orders.

President Franklin Roosevelt, in order to provide some uniformity in the issuance and publication of Executive Orders issued Executive Order 7298 to be effective on March 12, 1936. This Executive Order prescribed the manner of preparing proposed Executive Orders and proclamations. Executive Order 7298 was superseded by Executive Order 10006 on October 1, 1948 and the latter by Executive Order 11030, issued by President Kennedy on June 19, 1962. It is entitled "Preparation, Presentation, Filing, and Publication of Executive Orders and Proclamations.

D. Others.

As stated earlier in this report the United National Charter has been cited as authority for issuance of Executive Orders. President Truman issued Executive Order 10422 dated January 3, 1953.

III. Highlights of Legal Developments Affecting the Use of Executive Orders.

The nature and limitations of Executive power have been a matter of controversy from the very beginning of our nation. Some of these controversies have involved Executive Orders.

Even Chief Executives have differed in the use of such powers:

President Theodore Roosevelt stated his views of the Presidential office as follows:

* * *I decline to adopt the view that what was imperatively necessary for the Nation could not be done by the President unless he could find some specific authorization to do it. My belief was that it was not only his right but his duty to do anything that the

needs of the Nation demanded unless such action was forbidden by the Constitution or by the law. Under this interpretation of Executive power I did and caused to be done many things not previously done by the President and the heads of the Departments. I did not usurp powers, but I did greatly broaden the use of Executive power. * * * (quoted in Rankin M. Gibson, the President's Inherent Emergency Powers in 12 Federal Bar Journal p. 113)

President Franklin D. Roosevelt expressed himself even more strongly along the same lines as follows:

"In the event that Congress should fail to act, and act adequately, I shall accept the responsibility, and I will act..." (Rankin M. Gibson, op. cit., p. 114).

In contrast, President William H. Taft expressed his views on the Presidential office in these words:

* * *that a President can exercise no power which cannot fairly and reasonably be traced to some specific grant of power, or justly implied and included within such grant of power and necessary to its exercise. Such specific grants must be either in the Federal Constitution, or in any act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to him to be in the public interest." (Rankin M. Gibson, op. cit., pp 113.)

The validity of Executive Orders has been questioned many times, but a ruling as to the extent or limit to which they may be used has never been determined by the Judiciary or by the Congress.

The order of President Truman, Executive Order 10340 dated April 8, 1952, which seized the steel industry was held by the Supreme Court to be without Constitutional or Congressional authority and therefore could not stand. [Youngstown Sheet and Tube Co. v. Sawyer, 343 U.S.C. 579 (1952).] The power sought to be exercised under it was a lawmaking power which the United States Constitution vests in Congress alone.

"Nor," said the Court (p. 587), " can the seizure order be sustained because of the several Constitutional provisions that grant executive power to the President. In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is

to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad."

Justice Frankfurter, in his concurring opinion (p. 613), quoted a statement made by Justice Brandeis in Myer v. United States, 272 U.S. 293 (1926), that:

"The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was, not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy."

The Court, it seems, refused to recognize the "inherent powers" or "aggregate powers" doctrines as a basis of the claimed power of the President to seize private property in time of emergency.

Most of the Supreme Court cases in which Executive Orders are involved are concerned with the question of actions taken under an Order and not the Constitutionality of the Order itself. However, references to the President's power have been made, by way of dicta, in a few cases which are quoted below:

Peters v. Hobby, 349 U.S. 331, 349 (1944), involved the Loyalty Review Board's action under Executive Order 9835. The Court stated that the constitutionality of the Order did not come into issue, but Mr. Justice Black, in his concurring opinion, made the following pertinent statement (p. 349):

. . . I agree that it is generally better for this Court not to decide constitutional questions in cases which can be adequately disposed of on non-constitutional grounds. . . . [but here] I think it would be better judicial practice to reach and decide the constitutional issues, although I agree with the Court that the Presidential Order can justifiably be construed as denying the Loyalty Review Board the power exercised in this case. . . . But I wish it distinctly understood that I have grave doubt as to whether the Presidential Order has been authorized by any Act of Congress. That order and others associated with it embody a broad

far-reaching espionage program over government employees. These orders look more like legislation to me than properly authorized regulations to carry out a clear and explicit command of Congress. I also doubt that the Congress could delegate power to do what the President has attempted to do in the Executive Order under consideration here. And of course the Constitution does not confer law-making power on the President.

I have thought it necessary to add these statements to the Court's opinion in order that the President's power to issue the order might not be considered as having been decided sub silentio.

In Greene v. McElroy, 360 U.S. 474, 508 (1959), the question dealt with action taken under Executive Orders 10290 and 10501 dealing with the safeguarding of official information. In the opinion of the Court, Chief Justice Warren declared we do not "decide whether the President has inherent authority to create such a program, whether congressional action is necessary, or what the limits on executive or legislative authority may be. . . ."

In United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936) the Supreme Court indicated that, in the field of foreign relations, the President possesses certain inherent powers, apart from grants of power by the Constitution, so that delegations of legislative power by Congress to the President to place embargoes on foreign commerce (a field specifically enumerated by the Constitution as one of the areas of Congressional power) will be more liberally construed by the courts than in the field of foreign relations were not involved.

The Congress has on numerous occasions repealed Executive Orders, even at times many years after their issuance.

Executive Order 27-A dated September 4, 1890, which created the United States Board on Geographical Names was repealed by an Act of July 25, 1947 (61 Stat. 477 §6).

Executive Order 597 1/2 of March 22, 1907, which promulgated the Code of Civil Procedure of the Canal Zone was repealed by the Act of February 27, 1933 (47 Stat. 1123 §1240).

Executive Order 1141 dated November 23, 1909, which made the enticing of laborers from the Canal Zone a misdemeanor was repealed by the Act of February 16, 1933 (47 Stat. 810).

Certain sections in Executive Orders 6098 and 6568 of March 31, 1933 and January 19, 1934, relating to veteran's pensions were canceled by the Act of August 25, 1937 (50 Stat. 798).

Executive Order 9250 dated October 3, 1942, limiting salaries to \$25,000 after payment of taxes, was rescinded by the Act of April 11, 1943 (57 Stat. 63 §4(b)).

Just as Congress has the power to repeal Executive Orders, attention is called to the fact that even this power seems to have its limitations. The United States Supreme Court declared in Ex parte Milligan, 4 Wall. 2, 139 (1866), the following:

"The power to make the necessary laws is in the Congress; the power to execute is in the President. Both powers imply many subordinate and auxiliary powers. Each includes all authorities essential to its due exercise. But neither can the President, in war more than in peace, intrude upon the proper authority of Congress, nor Congress upon the proper authority of the President. Both are servants of the people, whose will is expressed in the fundamental law."

IV. Number of Executive Orders by Presidents.

A. General

As noted earlier in this memorandum, no Executive Orders were numbered and no systematic filing system was in existence prior to 1907. The Department of State during this year began numbering the Executive Orders

it had on file and those it received after that date.

For the Presidents listed prior to 1907 the following table does not purport to be complete. It lists only the number of Executive Orders which have been assigned numbers for this period.

Also, as discussed earlier, for various reasons many Executive Order Numbers carry other Executive Orders under the prime numbers such as 350A, 350B, 502 1/2, 600-1 etc. This will account for the differences in the totals for some years showing more executive orders in the total column than the differences between the number for the first of the year and the last number for the end of the year.

The table lists the President issuing the orders; term of service by the President, year issued, number of first and last Executive Order issued during the year, total number for the year, and the total number of Executive Orders issued by the President during his term of service.

The number of Executive Orders covered are Executive Order 1 issued by President Lincoln dated October 20, 1862 through Executive Order 11766 issued by President Nixon dated January 29, 1974.

Year	President	Time served	Ex. O. Nos.	Total
B.	Abraham Lincoln	March 4, 1861-April 15, 1865 March 4, 1861-Dec. 31, 1862	1	1
1862			1A*	1
1863		through April 15, 1865	2	1
1865			total	3
C.	Andrew Johnson	April 15, 1865-March 3, 1869 April 15, 1865-Dec. 31, 1865	3-4	2
1865			5	1
1866		through March 3, 1869	6-7	2
1868			total	5
D.	Ulysses S. Grant	March 4, 1869-March 3, 1877 Jan. 1, 1872-Dec. 31, 1872	8	1
1872			8-1 thru 11	5
1873		Jan. 1, 1876-Dec. 31, 1876	12-17	6
1874			18-19	2
1875			20	1
1876		total	15	

* Does not appear in Numbered Series but appears as no 1 (12 stat. 731).

CRS-19

Year	President	Time served	Ex. O. Nos.	Total
E.	Rutherford B. Hayes	March 4, 1877-March 3, 1881	0 total	0 0
F.	James A. Garfield	March 4, 1881-Sept. 19, 1881	0 total	0 0
G. 1881 1884	Chester A. Arthur	Sept. 20, 1881-March 3, 1885	21* 22-23 total	1 2 3
H. 1885 1887	Grover Cleveland	March 4, 1885-March 3, 1889	23-1 thru 26 28 thru 27-1 total	3 3 6

*Although numbered in series it is also numbered as Proc. #1.

CRS-20

Year	President	Time served	Ex. O. Nos.	Total
I.	Benjamin Harrison	March 4, 1889-March 3, 1893		
1890			28	1
1891			28-1	1
1892			28A	1
1893			through March 3, 1893	29
		total	4	
J.	Grover Cleveland	March 4, 1893-March 3, 1897 March 4, 1893-Dec. 31, 1893		
1893			30-31	3
1894			32-56	24
1895			57-84	28
1896			85-93	12
1897			through March 3, 1897	94-98
		total	71	
K.	William McKinley	March 4, 1897-Sept. 14, 1901 March 4, 1897 -----		
1897			97-103	7
1898			104-110	10
1899			111-122	12
1900			123-134	16
1901			through March 3, 1901	135-140
		total	51	
L.	Theodore Roosevelt	Sept. 14, 1901-March 3, 1909 March 4, 1901-----		
1901			141-153	13
1902			154-196	44
1903			197-242	47
1904			243-288 1/2	47
1905			289-389	172
		CRS-21		

Year	President	Time served	Ex. O. Nos.	Total
1906			389A-542	165
1907			543-723	188
1908			724-1000	280
1909		through March 3, 1909	1001-1050	50
			total	1006
M.	William H. Taft	March 4, 1909-March 3, 1913		
1909		March 4, 1909-----	1051-1150	100
1910			1151-1277	129
1911			1278-1451	175
1912			1452-1673	223
1913		through March 3, 1913	1674-1743	71
			total	698
N.	Woodrow Wilson	March 3, 1913-March 3, 1921		
1913		March 4, 1913-----	1744-1875	134
1914			1876-2113	243
1915			2114-2294	188
1916			2295-2502	212
1917			2503-2778	297
1918			2779-3019B	283
1919			3020-3207	224
1920			3208-3380	175
1921		through March 3, 1921	3381-3415	35
		CRS-22	total	1791

Year	President	Time served	Ex. O. Nos.	Total
O.	Warren G. Harding	March 4, 1921-Aug. 2, 1923 March 4, 1921 -----	3416-3604A	192
1921				
1922			3605-3770-A	174
1923		through August 2, 1923	3771-3885	118
			total	484
P.	Calvin Coolidge	August 3, 1923-March 3, 1929 August 3, 1923 -----	3885A-3940	62
1923				
1924			3941-4119	190
1925			4120-4363A	271
1926			4364-4559	202
1927			4560-4791	238
1928			4792-5018	234
1929		through March 3, 1929	5019-5074	56
			total	1253
Q.	Herbert Hoover	March 4, 1929-March 3, 1933 March 4, 1929 -----	5075-5255	183
1929				
1930			5256-5523	268
1931			5524-5770	248
1932			5770-5984	216
1933		through March 3, 1933	5985-6070	88
		total	1004	
		CRS-23		

Year	President	Time served	Ex. O. Nos.	Total	
R.	Franklin D. Roosevelt	March 4, 1933-April 12, 1945 March 4, 1933 -----			
1933			6071-6544	567	
1934			6545-6935A	474	
1935			6936-7261A	384	
1936			7262-7531	275	
1937			7532-7784	256	
1938			7784A-8030	248	
1939			8031-8316	287	
1940			8317-8624	310	
1941			8625-9005	382	
1942			9006-9292	289	
1943			9293-9412	122	
1944			9413-9508	100	
1945			through April 12, 1945	9509-9537	29
				total	3723
S.	Harry S. Truman	April 12, 1945-Jan. 20, 1953 April 12, 1945-Dec. 31, 1945			
1945			9538-9670	137	
1946			9671-9817	150	
1947			9818-9918	103	
1948			9919-10025	109	
1949			10026-10094	69	
1950			10095-10189	105	
1951		10200-10317	118		
		CRS-24			

Year	President	Time served	Ex. O. Nos.	Total
1953		through Jan. 19, 1953	10422-10431	10
			total	905
T. 1953	Dwight D. Eisenhower	Jan. 20, 1953-Jan. 19, 1961 Jan. 20, 1953-Dec. 31, 1953	10432-10511	80
1954			10512-10584	73
1955			10585-10649	65
1956			10650-10693	44
1957			10694-10747	54
1958			10748-10797	50
1959			10798-10857	60
1960			10858-10899	42
1961		through Jan. 19, 1961	10900-10913	14
			total	482
U. 1961	John F. Kennedy	Jan. 20, 1961-Nov. 22, 1963 Jan. 20, 1961-Dec. 31, 1961	10914-10983	70
1962			10984-11072	89
1963		through Nov. 22, 1963	11073-11127	55
			total	214
V. 1963	Lyndon B. Johnson	Nov. 22, 1963-Jan. 19, 1969 Nov. 22, 1963-Dec. 31, 1963	11128-11134	7
1964			11135-11190	56
1965			11191-11264	74
1966			11265-11321	57
		CRS-25		

Year	President	Time served	Ex. O. Nos.	Total
1967			11322-11386	65
1968			11387-11442	56
1969		through Jan. 19, 1969	11443-11451	9
			total	324
W. 1969	Richard M. Nixon	Jan. 20, 1969 ----- Jan. 20, 1969-Dec.31, 1969	11452-11503	52
1970			11504-11575	72
1971			11576-11638	64
1972			11639-11693	56
1973			11694-11757	64
1974			11758-11766	9
			total	317
		CRS-26		

B. EXECUTIVE ORDERS CURRENTLY IN EFFECT ISSUED PURSUANT TO EMERGENCY POWERS STATUTES

Hundreds of Executive Orders have been issued pursuant to emergency powers statutes in the last few decades. Most have been revoked or have lapsed by their own terms. Those included here appear to have continued effect in whole or in part. The orders are divided into four groups: The first two groups provide for the implementation of various parts of the Defense Production Act and the Trading with the Enemy Act. The third includes the suspension of limitations on the maximum number of military officers permissible in various grades. The fourth group is a collection of miscellaneous orders.

There is, regrettably, no way of being certain that this compilation contains all Executive Orders still in effect issued pursuant to emergency powers statutes. Nearly 12,000 Executive Orders have been serialized; many thousands more were issued in earlier years. All of these orders still have, or had, the "force and effect of law." Earlier Executive Orders may be rescinded, modified, or superseded by subsequent orders which in far too many instances do not specifically refer to these previous Executive Orders or to the statutes which give the Executive Orders legal force. Determining the exact legal status of a particular Executive Order is a difficult task and ascertaining which of the thousands of Executive Orders that have been issued are still in force is a labor of Herculean proportions. Unfortunately, it has been past practice in the Executive Branch to avoid any definitive codification, while at the same time resurrecting ancient and long-neglected documents whenever it has suited the Executive's purposes.

C. SIGNIFICANT EXAMPLES OF EXECUTIVE ORDERS ISSUED PURSUANT TO EMERGENCY POWERS STATUTES

1. DEFENSE PRODUCTION ACT

EXECUTIVE ORDER 10480

FURTHER PROVIDING FOR THE ADMINISTRATION OF THE DEFENSE MOBILIZATION PROGRAM

By virtue of the authority vested in me by the Constitution and laws of the United States, including the Defense Production Act of 1950, as amended (50 U. S. C. App. 2061 et seq.), and as President of the United States and Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

PART I. GENERAL DIRECTION OF PROGRAM

SECTION 101. (a) The Director of the Office of Defense Mobilization shall, on behalf of the President, coordinate all mobilization activities of the executive branch of the Government, including all such activities relating to production, procurement, manpower, stabilization, and transport. Every officer and agency of the Government having functions under the Defense Production Act of 1950, as amended, delegated, redelegated, or otherwise assigned thereto by or under the authority of the President after the date of this order (whether heretofore or hereafter acquired, or acquired by this order) shall perform the said functions subject to the direction and control of the Director of the Office of Defense Mobilization.

(b) In carrying out the functions conferred upon him by this order, the Director of the Office of Defense Mobilization shall, among other things:

(1) Perform the central programming functions incident to the determination of the production programs required to meet defense needs.

(2) Make determinations as to the provision of adequate facilities for defense production and as to the procedure and methods followed by agencies of the Government with respect to the accomplishments of defense production programs.

(3) Be the certifying authority for the purposes of and within the meaning of subsections (e) and (g) of Section 124A of the Internal Revenue Code, as added by section 216 of the Revenue Act of 1950, approved September 23, 1950.

(4) Issue such directives, consonant with law, on policy and program to officers and agencies of the Government for execution by them as may be necessary to carry out the functions assigned to him by this order, and resolve inter-

agency issues which otherwise would require the attention of the President.

(5) Report to the President from time to time concerning his operations under this order.

SEC. 102. (a) There is hereby established in the Office of Defense Mobilization the Defense Mobilization Board, which shall consist of the Director of the Office of Defense Mobilization as Chairman, the Secretaries of State, Defense, the Treasury, the Interior, Commerce, Agriculture, and Labor, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Foreign Operations Administration, and such other officials of the Government as the Director of the Office of Defense Mobilization may from time to time designate. The said Board shall be advisory to the Director of the Office of Defense Mobilization.

(b) The Director of the Office of Defense Mobilization shall be chairman of the National Advisory Board on Mobilization Policy established by Executive Order 10224¹ of March 15, 1951 (16 F. R. 2543).

PART II. PRIORITIES AND ALLOCATIONS

SEC. 201. (a) The functions conferred upon the President by Title I of the Defense Production Act of 1950, as amended, are hereby delegated to the Director of the Office of Defense Mobilization, who shall, in carrying out the said functions, provide by redelegation or otherwise for their performance, subject to the provisions of section 101 of this order, by

(1) The Secretary of the Interior with respect to petroleum, gas, solid fuels and electric power.

(2) The Secretary of Agriculture with respect to food and with respect to the domestic distribution of farm equipment and commercial fertilizer.

(3) The Commissioner of the Interstate Commerce Commission who is responsible for the supervision of the Bureau of Service of the Commission, with respect to domestic transportation, storage, and port facilities, or the use thereof, but excluding air transport, coastwise, intercoastal, and overseas shipping.

(4) The Secretary of Commerce with respect to all other materials and facilities.

¹ 3 CFR, 1051 Supp., p. 418.

(b) Findings made under or pursuant to and for the purposes of section 101 (b) of the Act shall not be effective until approved by the Director of the Office of Defense Mobilization.

PART III. EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

Sec. 301. The Department of the Army, the Department of the Navy, the Department of the Air Force, the Atomic Energy Commission, the Department of Commerce, the Department of the Interior, the Department of Agriculture, and the General Services Administration, in this Part referred to as guaranteeing agencies, and each officer having functions delegated to him pursuant to section 201 (a) of this order shall develop and promote measures for the expansion of productive capacity and of production and supply of materials and facilities necessary for the national defense.

Sec. 302. (a) Each guaranteeing agency is hereby authorized, in accordance with section 301 of the Defense Production Act of 1950, as amended, subject to the provisions of this section, in order to expedite production and deliveries or services under Government contracts, and without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve Bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, or for the purpose of financing any contractor, subcontractor, or other person in connection with or in contemplation of the termination, in the interest of the United States, of any contract made for the national defense; but no small business concern (as defined in section 714 (a) (1) of the said Act) shall be held in-

eligible for the issuance of such a guaranty by reason of alternative sources of supply.

(b) Each Federal Reserve Bank is hereby designated and authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of section 301 of the said Act, as amended, in respect to private financing institutions.

(c) All actions and operations of Federal Reserve Banks, under authority of or pursuant to section 301 of the said Act, as amended, shall be subject to the supervision of the Board of Governors of the Federal Reserve System. Said Board is hereby authorized, after consultation with the heads of the guaranteeing agencies, (1) to prescribe such regulations governing the actions and operations of fiscal agents hereunder as it may deem necessary, (2) to prescribe, either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and (3) to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

Sec. 303. The Administrator of General Services is hereby authorized and directed to purchase and make commitments to purchase metals, minerals, and other materials, for Government use or resale, as authorized by and subject to the provisions of section 303 of the Defense Production Act of 1950, as amended: *Provided*, That the Secretary of Agriculture may also exercise the said functions under section 303 of the said Act, as amended, with respect to food, and with respect to plant fibers (except abaca) not included in the definition of food to the extent that the procurement of such fibers involves the encouragement and development of sources of supply within the United States and its Territories and possessions.

Sec. 304. The Director of the Office of Defense Mobilization is hereby authorized and directed to encourage the exploration, development, and mining of critical and strategic minerals and metals, as authorized by and subject to

the provisions of section 303 of the Defense Production Act of 1950, as amended.

Sec. 305. The Administrator of General Services is hereby authorized and directed to make subsidy payments, to determine the amounts, manner, terms, and conditions thereof, and to make findings, as authorized by and subject to the provisions of section 303 (c) of the Defense Production Act of 1950, as amended.

Sec. 306. The functions conferred upon the President by section 303 (e) of the Defense Production Act of 1950, as amended, with respect to the installation of additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and with respect to the installation of (Government-owned equipment in plants, factories, and other industrial facilities owned by private persons, are hereby delegated to the Administrator of General Services.

Sec. 307. The functions conferred upon the President by section 303 (f) of the Defense Production Act of 1950, as amended, with respect to transfers to the stockpile referred to in the said section, are hereby delegated to the Director of the Office of Defense Mobilization.

Sec. 308. The authority conferred upon the President by section 304 (b) of the Defense Production Act of 1950, as amended, to approve borrowing from the Treasury of the United States is hereby delegated to the Director of the Office of Defense Mobilization.

Sec. 309. All functions provided for in sections 303 to 307, inclusive, and in sections 310 and 311 of this order, shall be carried out within such amounts of funds as may be made available pursuant to the Defense Production Act of 1950, as amended.

Sec. 310. (a) The Reconstruction Finance Corporation is hereby authorized and directed to make loans (including participations in, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, exclusive of such expansion, development

and production in foreign countries, as authorized by and subject to section 302 of the Defense Production Act of 1950, as amended.

(b) Loans under section 310 (a) hereof (1) shall be made upon such terms and conditions as the Corporation shall determine, (2) shall be made only after the Corporation has determined in each instance that financial assistance is not available on reasonable terms from private sources or from other governmental sources, and (3) except in the case of working capital loans (involving no more than minor expansion of capacity which is incidental to a loan for working capital) shall be made only upon certificate of essentiality of the loan, which certificate shall be made by the Director of the Office of Defense Mobilization.

(c) Applications for loans under section 310 (a) hereof shall be received from applicants by the Corporation or by such agencies of the Government as the Corporation shall designate for this purpose.

Sec. 311. (a) The Export-Import Bank of Washington is hereby authorized and directed to make loans (including participations in, or guarantees of, loans) to private business enterprises, for the expansion of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, in those cases where such expansion, development or production is carried on in foreign countries, as authorized by and subject to section 302 of the Defense Production Act of 1950, as amended.

(b) Loans under section 311 (a) hereof (1) shall be made upon such terms and conditions as the said Bank shall determine, (2) shall be made only after the Bank has determined in each instance that financial assistance is not available on reasonable terms from private sources and that the loan involved cannot be made under the provisions of and from funds available to the Bank under the Export-Import Bank Act of 1945, as amended, and (3) shall be made only upon certificate of essentiality of the loan, which certificate shall be made by the Director of the Office of Defense Mobilization.

(c) Applications for loans under section 311 (a) hereof shall be received from applicants by the said Bank or by such agencies of the Government as the

Bank shall designate for this purpose.

SEC. 312. The functions conferred by sections 303, 305, and 306 of this order shall be carried out in accordance with programs certified by the Director of the Office of Defense Mobilization. Each officer and agency of the Government delegated or assigned functions by or pursuant to Part II or Part III of this order shall make recommendations to the Director of the Office of Defense Mobilization for the issuance of certificates or other action under sections 302 and 303 of the Defense Production Act of 1950, as amended, and for the issuance of certificates under subsections (e) and (g) of Section 124A of the Internal Revenue Code, with respect to the materials and facilities within his or its particular jurisdiction.

SEC. 313. The Director of the Office of Defense Mobilization is hereby authorized and directed to submit to the Congress the reports required by the second proviso of section 304 (b) of the Defense Production Act of 1950, as amended.

PART IV. LABOR SUPPLY

SEC. 401. The Secretary of Labor shall utilize the functions vested in him so as to meet most effectively the labor needs of defense industry and essential civilian employment, and to this end he shall:

(a) Assemble and analyze information on, and make a continuing appraisal of, the nation's labor requirements for defense and other activities and the supply of workers. All agencies of the Government shall cooperate with the Secretary in furnishing information necessary for this purpose.

(b) Consult with and advise each delegate of the Director of the Office of Defense Mobilization referred to in section 201 (a) of this order and each official of the Government exercising guarantee or loan functions under Part III of this order concerning (1) the effect of contemplated actions on labor supply and utilization, (2) the relation of labor supply to materials and facilities requirements, (3) such other matters as will assist in making the exercise of priority and allocations functions consistent with effective utilization and distribution of labor.

(c) Formulate plans, programs, and policies for meeting defense and essential civilian labor requirements.

(d) Utilize the public employment

service system, and enlist the cooperation and assistance of management and labor to carry out these plans and programs and accomplish their objectives.

(e) Determine the occupations critical to meeting the labor requirements of defense and essential civilian activities and with the Secretary of Defense, the Director of Selective Service, and such other persons as the Director of the Office of Defense Mobilization may designate develop policies applicable to the induction and deferment of personnel for the armed services, except for civilian personnel in the reserves.

PART V. VOLUNTARY AGREEMENTS

SEC. 501. The functions conferred upon the President by section 708 of the Defense Production Act of 1950, as amended, are hereby delegated to the Director of the Office of Defense Mobilization. Each officer of the Government to whom functions under Title I of the Defense Production Act of 1950, as amended, are delegated or otherwise assigned by the Director of the Office of Defense Mobilization under section 201 (a) hereof may, with respect to the materials and facilities within his jurisdiction, carry out the consultations referred to in subsection 708 (a) of that Act, and make recommendations to the Director of the Office of Defense Mobilization for the approval of voluntary agreements and programs as provided in section 708 of that Act.

PART VI. GENERAL PROVISIONS

SEC. 601. As used in this order:

(a) The term "functions" includes powers, duties, authority, responsibilities, and discretion.

(b) The term "materials" includes raw materials, articles, commodities, products, supplies, components, technical information, and processes, but excludes fissionable materials as defined in the Atomic Energy Act of 1946.

(c) The term "petroleum" shall mean crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for the movement thereof.

(d) The term "gas" shall mean natural gas and manufactured gas, including pipelines for the movement thereof.

(e) The term "solid fuels" shall mean all forms of anthracite, bituminous, sub-bituminous, and lignitic coals; coke; and coal chemicals.

(f) The term "electric power" shall mean all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(g) The term "metals and minerals" shall mean all raw materials of mineral origin, including their refining and processing but excluding their fabrication.

(h) The term "food" shall mean all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. For the purposes of this order the term "food" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(i) The term "farm equipment" shall mean equipment manufactured for use on farms in connection with the production or processing of food.

(j) The term "fertilizer" shall mean fertilizer in form for distribution to the users thereof.

(k) The term "domestic transportation, storage, and port facilities" shall include locomotives, cars, motor vehicles, watercraft used on inland waterways, in harbors, and on the Great Lakes, and other vehicles, vessels, and all instrumentalities of shipment or carriage, irrespective of ownership, and all services in or in connection with the carriage of persons or property in intrastate, interstate, or foreign commerce within the United States, its Territories and possessions, and the District of Columbia, except movement of petroleum and gas by pipeline; and warehouses, piers, docks, wharves, loading and unloading equipment, and all other structures and facilities used in connection with the transshipment of persons and property between domestic carriers and carriers engaged in coastwise, intercoastal, and overseas transportation.

SEC. 602. (a) Except as otherwise provided in section 602 (c) of this order, each officer or agency of the Government having functions under the Defense Production Act of 1950, as amended, dele-

gated or assigned thereto by or pursuant to this Executive order may exercise and perform, with respect to such functions, the functions vested in the President by Title VII of the said Act.

(b) The functions which may be exercised and performed pursuant to the authority of section 602 (a) of this order shall include, but not by way of limitation, (1) except as otherwise provided in section 708 (c) of the Defense Production Act of 1950, as amended, the power to redelegate functions, and to authorize the successive redelegation of functions, to agencies, officers, and employees of the Government, (2) the power to create an agency or agencies, under the jurisdiction of the officer concerned, to administer functions delegated or assigned by or pursuant to this order, and (3) in respect of Part II of this order, the power of subpoena: *Provided*, That the subpoena power shall be utilized only after the scope and purpose of the investigation, inspection, or inquiry to which the subpoena relates have been defined either by the appropriate officer referred to in section 602 (a) of this order or by such other person or persons as he shall designate.

(c) There are excluded from the functions delegated by section 602 (a) of this order (1) the functions delegated by Part V of this order, (2) the functions of the President under section 710 (a) of the Defense Production Act of 1950, as amended, (3) the functions of the President with respect to regulations under sections 710 (b), 710 (c), and 710 (d) of the said Act, and (4) the functions of the President with respect to fixing compensation under section 703 (a) of the said Act.

(d) The functions conferred upon the President by section 710 (a) of the Defense Production Act of 1950, as amended, are hereby delegated as follows:

(1) Each officer or agency of the Government having functions under the said act delegated or assigned to such officer or agency by or pursuant to this order shall submit to the Chairman of the United States Civil Service Commission such requests for classification of positions in grades 16, 17, and 18 of the General Schedule as may be necessary, and shall accompany any such request with a certificate stating that the duties of the position are essential and appropriate for the administration of the said Act.

(2) Each requested position shall be placed in the appropriate grade of the General Schedule in accordance with the standards and procedures of the Classification Act of 1949, except that the placement of positions in Grade 18 of the General Schedule, and the removal of positions therefrom, shall be accomplished by the Chairman of the United States Civil Service Commission (instead of by the President upon the recommendation of the said Commission). No person shall be employed in a position of grade 16, 17, or 18 under authority of section 710 (a) of the Defense Production Act of 1950, as amended, except pursuant to notice of the Chairman of the United States Civil Service Commission of the classification of the position.

SEC. 603. All agencies of the Government (including, as used in this order, departments, establishments, and corporations) shall furnish to each officer of the Government to whom functions under the Defense Production Act of 1950, as amended, are delegated or assigned by or pursuant to this order such information relating to defense production or procurement, or otherwise relating to the said functions, delegated or assigned to such officer by or pursuant to this order as may be required to perform those functions.

SEC. 604. The Defense Materials Procurement Agency established by Executive Order No. 10281³ of August 28, 1951 (16 F. R. 8789), is hereby abolished and the personnel, records, property, and unexpended balances of appropriations, allocations and other funds thereof shall be transferred from it to the General Services Administration for use in connection with the functions assigned or delegated to the Administrator of General Services by or pursuant to this order or for purposes of liquidation, as the said Administrator shall determine.

SEC. 605. The Economic Stabilization Agency, established by Executive Order No. 10161⁴ of September 9, 1950, is continued to October 31, 1953, under the direction of the Director of the Office of Defense Mobilization who shall serve *ex officio* as the Economic Stabilization Administrator for the purpose of winding up and liquidating the affairs of said Agency.

SEC. 606. All orders, regulations, rulings, certificates, directives and other

actions relating to any function affected by this order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority, and nothing in this order shall affect the validity or force of anything heretofore done under previous delegations or other assignment of authority under the Defense Production Act of 1950, as amended.

SEC. 607. The following are superseded or revoked:

- (1) Executive Order No. 10161 of September 9, 1950 (15 F. R. 6105).
- (2) Executive Order No. 10169⁴ of October 11, 1950 (15 F. R. 6901).
- (3) Executive Order No. 10193⁴ of December 16, 1950 (15 F. R. 9031).
- (4) Executive Order No. 10200⁴ of January 3, 1951 (16 F. R. 61).
- (5) Executive Order No. 10223⁷ of March 10, 1951 (16 F. R. 2247).
- (6) Executive Order No. 10281 of August 28, 1951 (16 F. R. 8789).
- (7) Executive Order No. 10324⁴ of February 8, 1952 (17 F. R. 1171).
- (8) Executive Order No. 10359⁴ of June 9, 1952 (17 F. R. 3289).
- (9) Executive Order No. 10373¹¹ of July 14, 1952 (17 F. R. 6425).
- (10) Executive Order No. 10377¹¹ of July 25, 1952 (17 F. R. 6891).
- (11) Executive Order No. 10390¹¹ of August 30, 1952 (17 F. R. 7995).
- (12) Executive Order No. 10433¹¹ of February 4, 1953 (18 F. R. 761).
- (13) Executive Order No. 10467¹¹ of June 30, 1953 (18 F. R. 3777).

SEC. 608. To the extent that any provision of any prior Executive Order (including Executive Order No. 10461 of June 17, 1953 (18 F. R. 3513)) is inconsistent with the provisions of this order, the latter shall control and such prior provision is amended accordingly. The following designated orders, modified as required to conform them to the provisions of this order, shall remain in effect:

- Executive Order No. 10182¹¹ of November 21, 1950 (15 F. R. 8013), as amended by Executive Order No. 10295¹¹ of January 16, 1951 (16 F. R. 419).
- Executive Order No. 10210¹⁴ of February 28, 1951 (16 F. R. 1983).
- Executive Order No. 10224¹⁷ of March 15, 1951 (16 F. R. 2543).

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
August 14, 1953.

[Amended by Ex. Ord. 10489, 10537, 10574, 10662, 10819, 11051, 11062; revoked in part by Ex. Ord. 10773; see Ex. Ord. 11572, 11574, 11726, and F.R. Doc. 62-9459, 27 F.R. 9418.]

³ 3 CFR, 1951 Supp., p. 463.

⁴ 3 CFR, 1950 Supp., p. 123.

EXECUTIVE ORDER 10489**PROVIDING FOR THE ADMINISTRATION OF CERTAIN LOAN AND LOAN GUARANTEE FUNCTIONS UNDER THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED**

By virtue of the authority vested in me by the Constitution and laws of the United States, including the Defense Production Act of 1950, as amended (50 U. S. C. App. 2061 et seq.), and the Reconstruction Finance Corporation Liquidation Act (67 Stat. 231; Public Law 163, approved July 30, 1953), and as President of the United States and Commander in Chief of the armed forces of the United States, it is hereby ordered that section 310 of the "Executive Order Further Providing for the Administration of the Defense Mobilization Program," being Executive Order No. 10480 of August 14, 1953 (18 F.R. 4942), shall be, and it is hereby, amended, effective at the close of business on September 28, 1953, to read as follows:

"**Sec. 310.** (a) The Secretary of the Treasury, hereafter in this section referred to as the Secretary, is hereby authorized and directed to make loans (including participations in, or guarantees of, loans) to private business enterprises (including research corporations not organized for profit) for the expansion of capacity, the development of technological processes, and the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals, exclusive of such expansion, development and production in foreign countries, as authorized by and subject to section 302 of the Defense Production Act of 1950, as amended. The functions assigned to the Secretary by this section include the administration and servicing of all loans (including participations in, or guarantees of, loans) made by the Reconstruction Finance Corporation prior to September 29, 1953, pursuant to the said section 302.

"(b) Loans under section 310 (a) hereof (1) shall be made upon such terms and conditions as the Secretary shall determine, (2) shall be made only after the Secretary has determined in each instance that financial assistance is not available on reasonable terms from private sources or from other governmental sources, and (3) shall be made only upon certificate of essentiality of

the loan, which certificate shall be made by the Director of the Office of Defense Mobilization.

"(c) Applications for loans under section 310 (a) hereof shall be received from applicants by the Secretary or by such agencies of the Government as the Secretary shall designate for this purpose."

DWIGHT D. EISENHOWER
THE WHITE HOUSE,
September 26, 1953.

EXECUTIVE ORDER 10574**AMENDMENT OF EXECUTIVE ORDER NO. 10480 PROVIDING FOR THE ADMINISTRATION OF THE DEFENSE MOBILIZATION PROGRAM**

By virtue of the authority vested in me by the Constitution and laws of the United States, including the Defense Production Act of 1950, as amended (50 U. S. C. App. 2061 et seq.), and as President of the United States, it is ordered as follows:

SECTION 1. Sections 301 and 312 of Executive Order No. 10480 of August 14, 1953, entitled "Further Providing for the Administration of the Defense Mobilization Program", are hereby amended to read as follows:

"**Sec. 301.** The Department of the Army, the Department of the Navy, the Department of the Air Force, the Atomic Energy Commission, the Department of Commerce, the Department of the Interior, the Department of Agriculture, and the General Services Administration, in this Part referred to as guaranteeing agencies, each officer having functions delegated to him pursuant to section 201 (a) of this order, and each other agency of the Government having mobilization functions, shall, within areas of production designated by the Director of the Office of Defense Mobilization, develop and promote measures for the expansion of productive capacity and of production and supply of materials and facilities necessary for the national defense."

"**Sec. 312.** The functions conferred by sections 303, 305 and 306 of this order shall be carried out in accordance with programs certified by the Director of the Office of Defense Mobilization. Each officer and agency of the Government having mobilization functions shall make

recommendations to the Director of the Office of Defense Mobilization for the issuance of certificates or other action under sections 302 and 303 of the Defense Production Act of 1950, as amended, and for the issuance of certificates under subsections (e) and (g) of section 168 of the Internal Revenue Code of 1954, with respect to the materials and facilities which are, pursuant to the designation of areas of production by the Director of the Office of Defense Mobilization under section 301 of this order, as amended, within the jurisdiction of such officer or agency."

SEC. 2. Any reference in any regulation or other Executive document issued or approved by the President to any provision of the Internal Revenue Code of 1939 shall, except as may be inconsistent with the Internal Revenue Code of 1954 or otherwise inappropriate, be deemed also to refer to the corresponding provision of the Internal Revenue Code of 1954.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,

November 5, 1954.

[See Ex. Ord. 10819.]

2. TRADING WITH THE ENEMY ACT

Proclamation 2040—March 9, 1933

**CONTINUING IN FORCE THE BANK HOLIDAY
PROCLAMATION OF MARCH 6, 1933**

By the President of the United States

A Proclamation

WHEREAS, on March 6, 1933, I, Franklin D. Roosevelt, President of the United States of America, by Proclamation declared the existence of a national emergency and proclaimed a bank holiday extending from Monday the 6th day of March to Thursday the 9th day of March, 1933, both dates inclusive, in order to prevent the export, hoarding or earmarking of gold or silver coin, or bullion or currency, or speculation in foreign exchange; and

WHEREAS, under the Act of March 9, 1933, all Proclamations heretofore or hereafter issued by the President pursuant to the authority conferred by section 5(b) of the Act of October 6, 1917, as amended, are approved and confirmed; and

WHEREAS, said national emergency still continues, and it is necessary to take further measures extending beyond March 9, 1933, in order to accomplish such purposes:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, in view of such continuing national emergency and by virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917 (40 Stat. L., 411) as amended by the Act of March 9, 1933, do hereby proclaim, order, direct and declare that all the terms and provisions of said Proclamation of March 6, 1933, and the regulations and orders issued thereunder are hereby continued in full force and effect until further proclamation by the President.

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

FRANKLIN D. ROOSEVELT

Proclamation 2070—December 30, 1933**THE RESTORATION OF NON-MEMBER BANKS TO THE JURISDICTION
OF THEIR OWN STATE BANKING AUTHORITIES****By the President of the United States****A Proclamation**

WHEREAS, on March 6, 1933, I, Franklin D. Roosevelt, President of the United States of America, by virtue of authority vested in me by the act of October 6, 1917 (40 Stat. L. 411), as amended, issued a proclamation declaring that an emergency existed and that a national banking holiday be observed;

WHEREAS, on March 9, 1933, I issued a proclamation continuing the terms and conditions of said proclamation of March 6, 1933, in full force and effect until further proclamation by the President;

WHEREAS, on March 10, 1933, I issued an Executive Order authorizing the appropriate authority having immediate supervision of banking institutions in each State or any place subject to the jurisdiction of the United States to permit any banking institution not a member of the Federal Reserve System to perform any or all of its usual banking functions except as otherwise provided;

WHEREAS, the Secretary of the Treasury, pursuant to authority granted by other provisions of the said Executive Order of March 10, 1933, has acted upon all requests for licensing of banks members of the Federal Reserve System;

WHEREAS, the Federal Deposit Insurance Corporation has acted upon all applications to it for membership in the Temporary Federal Deposit Insurance Fund as provided for in section 12B(y) of the Federal Reserve Act as amended by section 8 of the act of June 16, 1933, Public No. 66, 73d Congress, and has admitted to the said fund all applicant banks which are duly and properly qualified; and

WHEREAS, it is now appropriate that the banking authority in each State and any place subject to the jurisdiction of the United States should have and exercise the sole responsibility for, and control over, banking institutions not members of the Federal Reserve System;

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, in order to assure that the banking authority in each State and in any place subject to the jurisdiction of the United States shall have and exercise the sole responsibility for, and control over, banking institutions which are not members of the Federal Reserve System, do hereby proclaim, order, direct, and declare that the proclamations of March 6, 1933, and March 9, 1933, and the Executive Order of March 10, 1933, and all orders and regulations pursuant thereto, are amended, effective the first day of January, nineteen hundred and thirty-four, to exclude from their scope banking institutions which are not members of the Federal Reserve System. Provided, however, That no banking institution shall pay out any gold coin, gold bullion, or gold certificates, except as authorized by the Secretary of the Treasury, nor allow the withdrawal of any currency for hoarding, nor engage in any transactions in foreign exchange except such as may

be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.

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

FRANKLIN D. ROOSEVELT

Proclamation 2725—April 7, 1947

**AMENDING THE PROCLAMATIONS OF MARCH 6 AND MARCH 9, 1933,
AND THE EXECUTIVE ORDER OF MARCH 10, 1933, TO EXCLUDE FROM
THEIR SCOPE MEMBER BANKS OF THE FEDERAL RESERVE SYSTEM**

By the President of the United States

A Proclamation

WHEREAS on March 10, 1933, the President of the United States, in pursuance of the program to permit resumption of banking operations following the Bank Holiday Proclamations No. 2039 of March 6 and No. 2040 of March 9, 1933, respectively, issued Executive Order No. 6073 which, among other things, authorized the Secretary of the Treasury to permit any member bank of the Federal Reserve System and any other banking institution organized under the laws of the United States to perform any or all of their usual banking functions except as otherwise prohibited; and

WHEREAS on December 30, 1933, the President of the United States issued Proclamation No. 2070 which excluded from the scope of the said proclamations of March 6 and March 9, 1933, and the Executive order of March 10, 1933, all banking institutions which were not members of the Federal Reserve System; and

WHEREAS by December 30, 1933, the Secretary of the Treasury had acted upon all requests for licensing of member banks of the Federal Reserve System; and

WHEREAS on December 31, 1945, the Secretary of the Treasury issued a General License to transact normal banking business to all banks thereafter authorized to begin business by the Comptroller of the Currency and to all State banks thereafter admitted to membership in the Federal Reserve System, and thereby dispensed with the requirement of an individual license for each new member bank of the Federal Reserve System; and

WHEREAS it is no longer necessary, or in the interest of government internal management, for the Secretary of the Treasury to license the transaction of normal banking business:

NOW, THEREFORE, I, Harry S. Truman, President of the United States of America, acting under and by virtue of the authority vested in me by section 5(b) of the Trading with the Enemy Act of October 6, 1917, 40 Stat. 415, as amended, and section 4 of the act of March 9, 1933, 48 Stat. 2, and by virtue of all other authority vested in me, do hereby, in the interest of the internal management of the Government,

proclaim, order, direct, and declare that the said proclamations of March 6 and March 9, 1933, and Executive order of March 10, 1933, as amended, are further amended to exclude from their scope banking institutions which are members of the Federal Reserve System: *Provided, however,* that no banking institution shall pay out any gold coin, gold bullion, or gold certificates, except as authorized by the Secretary of the Treasury, or allow the withdrawal of any currency for hoarding.

This proclamation shall become effective as of March 15, 1947.

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

HARRY S. TRUMAN

Executive Order 6073—March 10, 1933

REGULATIONS CONCERNING THE OPERATION OF BANKS

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917 (40 Stat. L., 411) as amended by the Act of March 9, 1933 and by Section 4 of the said Act of March 9, 1933, and by virtue of all other authority vested in me, I hereby issue the following Executive Order.

The Secretary of the Treasury is authorized and empowered under such regulations as he may prescribe to permit any member bank of the Federal Reserve System and any other banking institution organized under the laws of the United States, to perform any or all of their usual banking functions, except as otherwise prohibited.

The appropriate authority having immediate supervision of banking institutions in each State or any place subject to the jurisdiction of the United States is authorized and empowered under such regulations as such authority may prescribe to permit any banking institution in such State or place, other than banking institutions covered by the foregoing paragraph, to perform any or all of their usual banking functions, except as otherwise prohibited.

All banks which are members of the Federal Reserve System, desiring to reopen for the performance of all usual and normal banking functions, except as otherwise prohibited, shall apply for a license therefore to the Secretary of the Treasury. Such application shall be filed immediately through the Federal Reserve Banks. The Federal Reserve Bank shall then transmit such applications to the Secretary of the Treasury. Licenses will be issued by the Federal Reserve Bank upon approval of the Secretary of the Treasury. The Federal Reserve Banks are hereby designated as agents of the Secretary of the Treasury for the receiving of application and the issuance of licenses in his behalf and upon his instructions.

Until further order, no individual, partnership, association, or corporation, including any banking institution, shall export or otherwise remove or permit to be withdrawn from the United States or any place subject to the jurisdiction thereof any gold coin, gold bullion, or gold certificates, except in accordance with regulations prescribed by or under license issued by the Secretary of the Treasury.

No permission to any banking institution to perform any banking functions shall authorize such institution to pay out any gold coin, gold bullion or gold certificates except as authorized by the Secretary of the Treasury, nor to allow withdrawal of any currency for hoarding, nor to engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.

Every Federal Reserve Bank is authorized and instructed to keep itself currently informed as to transactions in foreign exchange entered into or consummated within its district and shall report to the Secretary of the Treasury all transactions in foreign exchange which are prohibited.

FRANKLIN D. ROOSEVELT

Executive Order 6260—August 28, 1933

RELATING TO THE HOARDING, EXPORT, AND EARMARKING OF GOLD COIN, BULLION, OR CURRENCY AND TO TRANSACTIONS IN FOREIGN EXCHANGE

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An act to provide relief in the existing national emergency in banking and for other purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following provisions for the investigation and regulation of the hoarding, earmarking, and export of gold coin, gold bullion, and gold certificates by any person within the United States or any place subject to the jurisdiction thereof; and for the investigation and regulation of transactions in foreign exchange and transfers of credit and the export or withdrawal of currency from the United States or any place subject to the jurisdiction thereof by any person within the United States or any place subject to the jurisdiction thereof.

SEC. 2. Definitions.—As used in this order the term "person" means an individual, partnership, association, or corporation; and the term "the United States" means the United States and any place subject to the jurisdiction thereof.

SEC. 3. Returns.—Within 15 days from the date of this order every person in possession of and every person owning gold coin, gold bullion, or gold certificates shall make under oath and file as hereinafter provided a return to the Secretary of the Treasury containing true and complete information relative thereto, including the name and address of the person making the return; the kind and amount of such coin, bullion, or gold certificates held and the location thereof; if held for another, the capacity in which held and the person for whom held, together with the post-office address of such person; and the nature of the transaction requiring the holding of such coin, bullion, or certificates and a statement explaining why such transaction cannot be carried out by the use of currency other than gold certificates; provided that no returns are required to be filed with respect to—

- a. Gold coin, gold bullion, and gold certificates in an amount not exceeding in the aggregate \$100 belonging to any one person;
- b. Gold coin having a recognized special value to collectors of rare and unusual coin;

c. Gold coin, gold bullion, and gold certificates acquired or held under a license heretofore granted by or under authority of the Secretary of the Treasury; and

d. Gold coin, gold bullion, and gold certificates owned by Federal Reserve banks.

Such return required to be made by an individual shall be filed with the collector of internal revenue for the collection district in which such individual resides, or, if such individual has no legal residence in the United States, then with the collector of internal revenue at Baltimore, Md. Such return required to be made by a partnership, association, or corporation shall be filed with the collector of internal revenue of the collection district in which is located the principal place of business or principal office or agency of such partnership, association, or corporation, or, if it has no principal place of business or principal office or agency in the United States, then with the collector of internal revenue at Baltimore, Md. Such return required to be made by an individual residing in Alaska shall be filed with the collector of internal revenue at Seattle, Wash. Such return required to be made by a partnership, association, or corporation having its principal place of business or principal office or agency in Alaska shall be filed with the collector of internal revenue at Seattle, Wash.

The Secretary of the Treasury may grant a reasonable extension of time for filing a return, under such rules and regulations as he shall prescribe. No such extension shall be for more than 45 days from the date of this Executive order. An extension granted hereunder shall be deemed a license to hold for a period ending 15 days after the expiration of the extension.

The returns required to be made and filed under this section shall constitute public records; but they shall be open to public inspection only upon order of the President and under rules and regulations prescribed by the Secretary of the Treasury.

A return made and held in accordance with this section by the owner of the gold coin, gold bullion, and gold certificates described therein, or his duly authorized agent, shall be deemed an application for the issuance under section 5 hereof of a license to hold such coin, bullion, and certificates.

SEC. 4. Acquisition of gold coin and gold bullion.—No person other than a Federal Reserve bank shall after the date of this order acquire in the United States any gold coin, gold bullion, or gold certificates except under license therefor issued pursuant to this Executive Order, provided that member banks of the Federal Reserve System may accept delivery of such coin, bullion, and certificates for surrender promptly to a Federal Reserve bank, and provided further that persons requiring gold for use in the industry, profession, or art in which they are regularly engaged may replenish their stocks of gold up to an aggregate amount of \$100, by acquisitions of gold bullion held under licenses issued under section 5(b), without necessity of obtaining a license for such acquisitions.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the acquisition of—

a. Gold coin or gold bullion which the Secretary is satisfied is required for a necessary and lawful transaction for which cur-

rency other than gold certificates cannot be used, by an applicant who establishes that since March 9, 1933, he has surrendered an equal amount of gold coin, gold bullion, or gold certificates to a banking institution in the continental United States or to the Treasurer of the United States;

b. Gold coin or gold bullion which the Secretary is satisfied is required by an applicant who holds a license to export such an amount of gold coin or gold bullion issued under subdivisions (c) or (d) of section 6 hereof, and

c. Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by an applicant regularly engaged in such industry, profession, or art, or in the business of furnishing gold therefor.

Licenses issued pursuant to this section shall authorize the holder to acquire gold coin and gold bullion only from sources specified by the Secretary of the Treasury in regulations issued hereunder.

SEC. 5. Holding of gold coin, gold bullion, and gold certificates.—After 30 days from the date of this order no person shall hold in his possession or retain any interest, legal or equitable, in any gold coin, gold bullion, or gold certificates situated in the United States and owned by any person subject to the jurisdiction of the United States, except under license therefor issued pursuant to this Executive Order; provided, however, that licenses shall not be required in order to hold in possession or retain an interest in gold coin, gold bullion, or gold certificates with respect to which a return need not be filed under section 3 hereof.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the holding of—

a. Gold coin, gold bullion, and gold certificates, which the Secretary is satisfied are required by the person owning the same for necessary and lawful transactions for which currency, other than gold certificates, cannot be used;

b. Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by a person regularly engaged in such industry, profession, or art or in the business of furnishing gold therefor;

c. Gold coin and gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government or foreign central bank or the Bank for International Settlements; and

d. Gold coin and gold bullion imported for reexport or held pending action upon application for export licenses.

SEC. 6. Earmarking and exporting of gold coin and gold bullion.—After the date of this order no person shall earmark or export any gold coin, gold bullion, or gold certificates from the United States, except under license therefor issued by the Secretary of the Treasury pursuant to the provisions of this order.

The Secretary of the Treasury, in his discretion and subject to such regulations as he may prescribe, may issue licenses authorizing—

a. The export of gold coin or gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government, foreign central bank, or the Bank for International Settlements;

b. The export of gold, (i) imported for reexport, (ii) refined from gold-bearing materials imported by the applicant under an agreement to export gold, or (iii) in bullion containing not more than 5 ounces of gold per ton;

c. The export of gold coin or gold bullion to the extent actually required for the fulfillment of a contract entered into by the applicant prior to April 20, 1933; but not in excess of the amount of the gold coin, gold bullion, and gold certificates surrendered by the applicant on or after March 9, 1933, to a banking institution in the continental United States or to the Treasurer of the United States; and

d. The earmarking for foreign account and/or export of gold coin or gold bullion, with the approval of the President, for transactions which the Secretary of the Treasury may deem necessary to promote the public interest.

SEC. 7. United States possessions—shipments thereto.—The provisions of section 3 and 5 of this order shall not apply to gold coin, gold bullion, or gold certificates which is situated in the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the Virgin Islands of the United States, and is owned by a person not domiciled in the continental United States. The provisions of section 4 shall not apply to acquisitions by persons within the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the Virgin Islands of the United States of gold coin or gold bullion which has not been taken or sent thereto since April 5, 1933, from the continental United States or any place subject to the jurisdiction thereof.

SEC. 8. Until further order, the Secretary of the Treasury is authorized, through any agency that he may designate, to investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit from any banking institution within the United States to any foreign branch or office of such banking institution or to any foreign bank or banker, and the export or withdrawal of currency from the United States, by any person within the United States; and the Secretary of the Treasury may require any person engaged in any transaction referred to herein to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person either before or after such transaction is completed.

SEC. 9. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this order. Such regulations may provide for the detention in the United States of any gold coin, gold bullion, or gold certificates sought to be transported beyond the limits of the continental United States, pending an investigation to determine if such coin, bullion, or certificates are held or are to be acquired in violation of the pro-

visions of this Executive order. Licenses and permits granted in accordance with the provisions of this order and the regulations prescribed hereunder, may be issued through such officers or agencies as the Secretary may designate.

SEC. 10. Whoever willfully violates any provision of this Executive Order or of any license, order, rule, or regulation issued or prescribed hereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SEC. 11. The Executive Orders of April 5, 1933, forbidding the hoarding of gold coin, gold bullion, and gold certificates, and April 20, 1933, relating to foreign exchange and the earmarking and export of gold coin or bullion or currency, respectively, are hereby revoked. The revocation of such prior Executive Orders shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal cause prior to said revocation, but all liabilities under said Executive orders shall continue and may be enforced in the same manner as if said revocation had not been made. This Executive Order and any regulations or licenses issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT

Executive Order 6359—October 25, 1933

RELATING TO GOLD RECOVERED FROM NATURAL DEPOSITS

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An Act to Provide Relief in the Existing National Emergency in Banking and for other Purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby issue the following Executive Order:

SECTION 1. The Executive Order of August 29, 1933, relating to the sale and export of gold recovered from natural deposits, is hereby revoked: *Provided, however,* That the Secretary of the Treasury is authorized to sell in accordance therewith gold received on consignment for sale on or before the date of this Executive Order.

SEC. 2. The United States mints and assay offices are hereby authorized, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to receive on consignment gold which the mint or assay office to which the gold is delivered is satisfied has been recovered from natural deposits in the United States or any place subject to the jurisdiction thereof.

SEC. 3. The Reconstruction Finance Corporation is authorized, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to acquire gold which has been received on consignment by a United States mint or assay office, and to hold, ear-

mark for foreign account, export, or otherwise dispose of such gold.

SEC. 4. The Executive Order of August 28, 1933, relating to the hoarding, export, and earmarking of gold coin, bullion, or currency and to transactions in foreign exchange, is hereby amended to permit, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, the export of articles fabricated from gold.

SEC. 5. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this Executive Order.

SEC. 6. This Executive Order and any regulations issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT

Executive Order 6556—January 12, 1934

AMENDMENT OF EXECUTIVE ORDER NO. 6260 OF AUGUST 28, 1933

The first paragraph of section 4 of Executive Order No. 6260 of August 28, 1933, relating to the hoarding, export, and earmarking of gold coin, bullion, or currency, and to transactions in foreign exchange is hereby amended to read as follows:

SEC. 4. Acquisition of gold coin and gold bullion. No person other than a Federal Reserve bank shall after the date of this order acquire in the United States any gold coin, gold bullion, or gold certificates except under license therefor issued pursuant to this Executive order, provided that member banks of the Federal Reserve System may accept delivery of such coin, bullion, and certificates for surrender promptly to a Federal Reserve bank, and provided further that persons requiring gold for use in the industry, profession, or art in which they are regularly engaged may replenish their stocks of gold up to an aggregate amount of \$100, by acquisitions of gold bullion held under licenses issued under section 5(b), without necessity of obtaining a license for such acquisitions, and provided further that collectors of rare and unusual coin may acquire from one another and hold without necessity of obtaining a license therefor gold coin having a recognized special value to collectors of rare and unusual coin (but not including quarter eagles, otherwise known as \$2.50 pieces, unless held, together with rare and unusual coin, as part of a collection for historical, scientific, or numismatic purposes, containing not more than four quarter eagles of the same date and design and struck by the same mint).

Section 6 of the aforesaid order is hereby amended by adding thereto the following subparagraph:

(e) Through any agency that he may designate, the export of gold coin having a recognized special value to collectors of rare and unusual coin (but not including quarter eagles, otherwise known as \$2.50 pieces, unless held, together with rare and unusual coin, as part of a collection for historical, scientific, or numismatic purposes, containing not more than four quarter eagles of the same date and design and struck by the same mint).

FRANKLIN D. ROOSEVELT

Executive Order 6558—January 15, 1934

RELATING TO RECEIPT OF GOLD ON CONSIGNMENT BY THE MINTS AND ASSAY OFFICES

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An Act to Provide Relief in the Existing National Emergency in Banking and for other Purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following regulations for receiving gold on consignment for sale:

SECTION 1. The United States mints and assay offices are hereby authorized subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to receive on consignment gold which the mint or assay office concerned is satisfied has not been held in noncompliance with the Executive orders, or the orders of the Secretary of the Treasury, issued under sections 2 and 3 of the act of March 9, 1933, or in noncompliance with any regulations or rulings made thereunder or licenses issued pursuant thereto.

SEC. 2. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this Executive order.

SEC. 3. This Executive order and any regulations issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT

Executive Order 6559—January 15, 1934

AMENDING THE EXECUTIVE ORDER OF MARCH 10, 1933, AND THE PROCLAMATION OF DECEMBER 30, 1933, CONCERNING THE OPER- ATION OF BANKS

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917 (40 Stat. L. 411), as amended by the act of March 9, 1933, and by section 4 of said act of March 9, 1933, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby issue the following Executive order:

SECTION 1. The last two paragraphs of the Executive Order of March 10, 1933, concerning the operation of banks, are amended, effective from the date of this order, by striking out the following:

"nor to engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.

“Every Federal Reserve bank is authorized and instructed to keep itself currently informed as to transactions in foreign exchange entered into or consummated within its district and shall report to the Secretary of the Treasury all transactions in foreign exchange which are prohibited.”

The Secretary of the Treasury is authorized to amend the licenses heretofore issued with his approval by the Federal Reserve banks under the Executive Order of March 10, 1933, by issuing through the Federal Reserve banks amendatory licenses removing the restriction upon transactions in foreign exchange contained in the licenses heretofore issued.

SEC. 2. The Proclamation of December 30, 1933, relating to the licensing of banking institutions which are not members of the Federal Reserve System, is amended, effective from the date of this order, by striking out the following:

“nor to engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.”

SEC. 3. The amendment of such Executive Order of March 10, 1933, or of any licenses issued thereunder, and the amendment of such Proclamation of December 30, 1933, shall not affect any act done, or any order, decision, or finding made, or relieve any person from the consequences of any unauthorized act committed prior to the date of this Executive Order; nor shall the amendment of the Executive Order of March 10, 1933, or the proclamation of December 30, 1933, relieve any person from the obligation of complying with the terms of the Executive Order of January 15, 1934, relating to the export of coin and currency and transactions in foreign exchange, or the regulations or licenses issued thereunder, or of any other provision of law affecting transactions in foreign exchange.

FRANKLIN D. ROOSEVELT

Executive Order 6560—January 15, 1934

REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917 (40 Stat. L., 411) as amended by section 2 of the act of March 9, 1933, entitled “An Act to provide relief in the existing national emergency in banking and for other purposes”, I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency continues to exist, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following regulations for the investigation, regulation, and prohibition of transactions in foreign exchange, transfers of credit between or payments by banking institutions as herein defined, and

export of currency or silver coin, by any person within the United States or any place subject to the jurisdiction thereof :

SECTION 1. Every transaction in foreign exchange, transfer of credit between any banking institution within the United States and any banking institution outside of the United States (including any principal, agent, home office, branch, or correspondent outside of the United States of a banking institution within the United States), and the export or withdrawal from the United States of any currency or silver coin which is legal tender in the United States, by any person within the United States, is hereby prohibited, except under license therefor issued pursuant to this Executive Order: *Provided, however,* That, except as prohibited under regulations prescribed by the Secretary of the Treasury, foreign exchange transactions and transfers of credit may be carried out without a license for (a) normal commercial or business requirements, (b) reasonable traveling and other personal requirements, or (c) the fulfillment of legally enforceable obligations incurred prior to March 9, 1933.

SEC. 2. Possessions of the United States.—Except as prohibited in regulations prescribed by the Secretary of the Treasury, transfers of credit between banking institutions in the continental United States and banking institutions in other places subject to the jurisdiction of the United States (including principals, agents, home offices, branches, or correspondents in such other places, of banking institutions within the continental United States), may be carried out without a license.

SEC. 3. Licenses.—The Secretary of the Treasury, acting directly or through any agencies that he may designate, and the Federal Reserve banks acting in accordance with such rules and regulations as the Secretary of the Treasury may from time to time prescribe, are hereby designated as agencies for the granting of licenses as hereinafter provided. Licenses may be granted authorizing such transactions in foreign exchange, transfers of credit, and exports of currency (other than gold certificates) or silver coin in such specific cases or classes of cases as the Secretary of the Treasury may determine in regulations prescribed hereunder and rulings made pursuant thereto.

SEC. 4. Reports.—The Federal Reserve banks shall keep themselves currently informed as to foreign exchange transactions entered into or consummated, and transfers of credit made between banking institutions outside of the continental United States and banking institutions, in their districts, and report to the Secretary of the Treasury all transactions in foreign exchange and all such transfers of credit not permitted under sections 1 or 2 hereof which are effected or attempted in their districts without a license.

SEC. 5. Regulations.—The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of this order, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by the Federal Reserve banks and by such other agencies as the Secretary of the Treasury may designate; and the Secretary of the Treasury may require any person engaged in any transaction, transfer, export, or withdrawal referred to in this Executive Order to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters,

or other papers, in connection therewith in the custody or control of such person either before or after such transaction, transfer, export, or withdrawal is completed.

SEC. 6. Penalties.—Whoever willfully violates or knowingly participates in the violation of any provision of this Executive order or of any license, order, rule, or regulation issued or prescribed hereunder, shall be subject to the penalties provided in section 5(b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933.

SEC. 7. Definitions.—As used in this Executive Order the term “United States” means the United States and any place subject to the jurisdiction thereof; the term “continental United States” means the States of the United States, the District of Columbia, and the Territory of Alaska; the term “person” means an individual, partnership, association, or corporation; and the term “banking institution” includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing and selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent; and, for the purposes of this order, each home office, branch, principal, agent, or correspondent of any person so engaged shall be regarded as a separate “banking institution”.

SEC. 8. Section 8 of the Executive Order of August 28, 1933, relating to the hoarding, export, and earmarking of gold coin, bullion, or currency and to transactions in foreign exchange, is hereby revoked.

This Executive Order and any rules, regulations, or licenses prescribed or issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT

Executive Order 8389—April 10, 1940

AMENDMENT OF EXECUTIVE ORDER NO. 6569, DATED JANUARY 15, 1934, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended by section 2 of the Act of March 9, 1933 (48 Stat. 1) and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange transfers of credit, and the export of coin and currency by adding the following sections after section 8 thereof:

“**SEC. 9.** Notwithstanding any of the provisions of sections 1 to 8, inclusive, of this Order, all of the following are prohibited, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant to this Order, if involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect:

“**A.** All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking

institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside of the United States, of a banking institution within the United States) ;

"B. All payments by any banking institution within the United States ;

"C. All transactions in foreign exchange by any person within the United States ;

"D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States ; and

"E. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

SEC. 10. Additional Reports. "A. Reports under oath shall be filed, on such forms, at such time or times and from time to time, and by such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway or Denmark or any national thereof is or was the owner, or in which Norway or Denmark or any national thereof has or had an interest of any nature whatsoever, direct or indirect and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

"B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information including the production of any books of account, contracts, letters or other papers with respect to the matters concerning which reports are required to be filed under this Section.

SEC. 11. Additional Definitions. In addition to the definitions contained in Section 7, the following definitions are prescribed :

"A. The terms 'Norway' and 'Denmark', respectively, mean the State and the Government of Norway and Denmark on April 8, 1940, and any political subdivisions, agencies and instrumentalities thereof, including territories, dependencies and possessions, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing. The terms 'Norway' and 'Denmark', respectively, shall also include any and all other governments (including political subdivisions, agencies, and instrumentalities thereof and persons acting or purporting to act directly or indirectly for the benefit or on behalf thereof) to the extent and only to the extent that such governments exercise or claim to exercise de jure or de facto sovereignty over the the area which, on April 8, 1940, constituted Norway or Denmark.

"B. The term 'national' of Norway or Denmark shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark of which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly,

one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"C. The term 'banking institution' as used in section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate 'banking institution'.

"SEC. 12. Additional Regulations. The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of sections 9 to 11, inclusive, of this Order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of sections 9 to 11, inclusive, of this Order as amended, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by such agencies as the Secretary of the Treasury may designate.

FRANKLIN D. ROOSEVELT

Executive Order 8405—May 10, 1940

AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940, AMENDING EXECUTIVE ORDER NO. 6560, DATED JANUARY 15, 1934

Executive Order No. 8389 of April 10, 1940, is amended to read as follows:

"AMENDMENT OF EXECUTIVE ORDER NO. 6560, DATED JANUARY 15, 1934, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY.

"By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange, transfers of credit, and the export of coin and currency by adding the following sections after section 8 thereof:

"SEC. 9. Notwithstanding any of the provisions of sections 1 to 8, inclusive, of this order, all of the following are prohibited, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant to this order, if involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, di-

rect or indirect, or if involving property in which the Netherlands Belgium or Luxembourg or any national thereof has at any time on or since May 10, 1940, had any interest of any nature whatsoever, direct or indirect:

“A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside of the United States, of a banking institution within the United States);

“B. All payments by or to any banking institution within the United States;

“C. All transactions in foreign exchange by any person within the United States;

“D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

“E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

“F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

“SEC. 10. Additional Reports. A. Reports under oath shall be filed on such forms at such time, or times and from time to time, and by such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway, Denmark, the Netherlands, Belgium, or Luxembourg or any national thereof is or was the owner, or in which Norway, Denmark, the Netherlands, Belgium or Luxembourg or any national thereof has or had an interest of any nature whatsoever, direct or indirect, and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

“B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information, including the production of any books of account, contracts, letters or other papers with respect to the matters concerning which reports are required to be filed under this section.

“SEC. 11. Additional Definitions. In addition to the definitions contained in section 7, the following definitions are prescribed:

“A. The terms “Norway” and “Denmark”, respectively, mean the State and the Government of Norway and Denmark on April 8, 1940, the terms “the Netherlands”, “Belgium”, and “Luxembourg”, mean the State and the Government of the Netherlands, Belgium and Luxembourg on May 10, 1940, and any political subdivisions, agencies and instrumentalities of any of the foregoing, including territories, dependencies and possessions, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. The terms “Norway”, “Denmark”, “the Netherlands”, “Bel-

gium" and "Luxembourg" respectively, shall also include any and all other governments (including political subdivisions, agencies, and instrumentalities thereof and persons acting or purporting to act directly or indirectly for the benefit or on behalf thereof) to the extent and only to the extent that such governments exercise or claim to exercise *de jure* or *de facto* sovereignty over the area which, on April 8, 1940, constituted Norway and Denmark and which on May 10, 1940, constituted the Netherlands, Belgium and Luxembourg.

"B. The term "national" of Norway or Denmark shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time on or since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"C. The term "national" of the Netherlands, Belgium or Luxembourg shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of the Netherlands, Belgium or Luxembourg at any time on or since May 10, 1940, but shall not include any individual domiciled and residing in the United States on May 10, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on May 10, 1940, had its principal place of business in the Netherlands, Belgium or Luxembourg, or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of the Netherlands, Belgium or Luxembourg, at any time on or since May 10, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"D. The term "banking institution" as used in section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

“**SEC. 12. Additional Regulations.** The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of sections 9 to 11, inclusive, of this Order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of sections 9 to 11, inclusive, of this Order as amended, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by such agencies as the Secretary of the Treasury may designate.’”

FRANKLIN D. ROOSEVELT

Executive Order 8446—June 17, 1940

**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which France or any national thereof has at any time on or since June 17, 1940, had any interest of any nature whatsoever, direct or indirect; except that, in defining “France” and “national” of France the date “June 17, 1940” shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT

Executive Order 8484—July 15, 1940

**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof, to, and with respect to, property in which Latvia, Estonia or Lithuania or any national thereof has at any time on or since July 10, 1940, had any interest of any nature whatsoever, direct or indirect; except that, in defining “Latvia”, “Estonia”, “Lithuania” and “national” thereof the date “July 10, 1940” shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT

Executive Order 8493—July 25, 1940**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, amending Executive Order No. 6560 of January 15, 1934, by adding the following sections after section 12 thereof:

"SEC. 13A. The following are prohibited except as specifically authorized by the Secretary of the Treasury by means of rulings, regulations, instructions, licenses, or otherwise:

"(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in this order, or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such a stamp or seal may, at any time, have been stamped, imprinted, affixed, or attached thereto.

"(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

"B. The Secretary of the Treasury may investigate, regulate, or prohibit under such rulings, regulations, or instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States. The provisions of General Ruling No. 5 of June 6, 1940, and all instructions issued pursuant thereto, are hereby continued in full force and effect, subject to amendment, modification or revocation pursuant to the provisions of this order.

"C. In the case of any transaction covered by this section, an application for license may be filed in the manner indicated in the Regulations of April 10, 1940, as amended, issued pursuant to this order.

"D. The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of this section.

"SEC. 14. The Secretary of the Treasury may require any person to furnish under oath, complete information relative to any transaction referred to in this order, or with respect to any property in which any foreign country designated in this order, or any national thereof, has any interest, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed."

FRANKLIN D. ROOSEVELT

Executive Order 8565—October 10, 1940**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Rumania or any national thereof has at any time on or since October 9, 1940, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Rumania" and "national" of Rumania, the date "October 9, 1940" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT

Executive Order 8701—March 4, 1941**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Bulgaria or any national thereof has at any time on or since March 4, 1941, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Bulgaria" and "national" of Bulgaria the date "March 4, 1941" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT

Executive Order 8711—March 13, 1941**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Hungary or any national thereof has at any time on or since March 13, 1941, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Hungary" and "national" of Hungary the date "March 13,

1941" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT

Executive Order 8721—March 24, 1941

**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Yugoslavia or any national thereof has at any time on or since March 24, 1941, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Yugoslavia" and "national" of Yugoslavia the date "March 24, 1941" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT

Executive Order 8746—April 28, 1941

**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Greece or any national thereof has at any time on or since April 28, 1941, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Greece" and "national" of Greece, the date "April 28, 1941" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT

Executive Order 8785—June 14, 1941

**REGULATING TRANSACTIONS IN FOREIGN EXCHANGE AND FOREIGN-
OWNED PROPERTY, PROVIDING FOR THE REPORTING OF ALL
FOREIGN-OWNED PROPERTY, AND RELATED MATTERS**

By virtue of and pursuant to the authority vested in me by Section 5 (b) of the Act of October 6, 1917 (40 Stat. 415), as amended, by virtue

of all other authority vested in me, and by virtue of the existence of a period of unlimited national emergency, and finding that this order is in the public interest and is necessary in the interest of national defense and security, I, Franklin D. Roosevelt, President of the United States of America, do prescribe the following:

Executive Order No. 8389 of April 10, 1940, as amended, is amended to read as follows:

SECTION 1. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if (i) such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in this order, or any national thereof, or (ii) such transactions involve property in which any foreign country designated in this order, or any national thereof, has at any time on or since the effective date of this order had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institution within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

SEC. 2. A. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise:

(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in this order or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

B. The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or instructions as he may pre-

scribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

SEC. 3. The term "foreign country designated in this order" means a foreign country included in the following schedule, and the term "effective date of this order" means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

- (a) April 8, 1940—Norway and Denmark;
- (b) May 10, 1940—The Netherlands, Belgium and Luxembourg;
- (c) June 17, 1940—France (including Monaco);
- (d) July 10, 1940—Latvia, Estonia and Lithuania;
- (e) October 9, 1940—Rumania;
- (f) March 4, 1941—Bulgaria;
- (g) March 13, 1941—Hungary;
- (h) March 24, 1941—Yugoslavia;
- (i) April 28, 1941—Greece; and
- (j) June 14, 1941—Albania, Andorra, Austria, Czechoslovakia, Danzig, Finland, Germany, Italy, Liechtenstein, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, and Union of Soviet Socialist Republics.

The "effective date of this order" with respect to any foreign country not designated in this order shall be deemed to be June 14, 1941.

SEC. 4. A. The Secretary of the Treasury and/or the Attorney General may require, by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, from time to time and at any time or times, complete information relative to, any transaction referred to in section 5(b) of the Act of October 6, 1917 (40 Stat. 415), as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of this order.

B. Every person engaging in any of the transactions referred to in sections 1 and 2 of this order shall keep a full record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

SEC. 5. A. As used in the first paragraph of section 1 of this order "transactions [which] involve property in which any foreign country designated in this order, or any national thereof, has . . . any interest of any nature whatsoever, direct or indirect," shall include, but not by way of limitation (i) any payment or transfer to any such foreign country or national thereof, (ii) any export or withdrawal from the United States to such foreign country, and (iii) any transfer of credit,

or payment of an obligation, expressed in terms of the currency of such foreign country.

B. The term "United States" means the United States and any place subject to the jurisdiction thereof; the term "continental United States" means the states of the United States, the District of Columbia, and the Territory of Alaska.

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation,

(i) The state and the government thereof on the effective date of this order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof,

(ii) Any other government (including any political subdivision, agency or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise *de jure* or *de facto* sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any person to the extent that such person, is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing.

E. The term "national" shall include,

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of this order,

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of this order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, such foreign country and/or one or more nationals thereof as herein defined,

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control or 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial

part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this order or national thereof, as herein defined.

F. The term "banking institution" as used in this order shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

G. The term "this order", as used herein, shall mean Executive Order No. 8389 of April 10, 1940, as amended.

SEC. 6. Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934. Executive Order No. 6560 of January 15, 1934, and the Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of this Order, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling, or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to this order; provided, however, that all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of this Order of any orders, regulations, rulings, instructions or licenses shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

SEC. 7. Without limitation as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provision of this order, the Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this order and to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate, and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

SEC. 8. Section 5 (b) of the Act of October 6, 1917, as amended, provides in part:

“. . . Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.”

SEC. 9. This order and any regulations, rulings, licenses or instructions issued hereunder may be amended, modified or revoked at any time.

FRANKLIN D. ROOSEVELT

Executive Order 8832—July 26, 1941

**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 415), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, by changing the period at the end of subdivision (j) of Section 3 of such Order to a semi-colon and adding the following new subdivision thereafter:

(k) June 14, 1941—China, and Japan.

FRANKLIN D. ROOSEVELT

Executive Order 8963—December 9, 1941

**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by Section 5 (b) of the Act of October 6, 1917 (40 Stat. 415), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, by changing the period at the end of subdivision (k) of Section 3 of such Order to a semi-colon and adding the following new subdivision thereafter:

(l) June 14, 1941—Thailand.

FRANKLIN D. ROOSEVELT

Executive Order 8998—December 26, 1941**AMENDMENT OF EXECUTIVE ORDER NO. 8389 OF APRIL 10, 1940,
AS AMENDED**

By virtue of the authority vested in me by Sections 3 (a) and 5 (b) of the Trading with the Enemy Act of October 6, 1917 (40 Stat. 415), as amended by Title III of the First War Powers Act, 1941 (Public No. 354, 77th Congress), and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, in the following respects:

(1) By changing the period at the end of subdivision (1) of section 3 of such Order to a semi-colon and adding the following new subdivision thereafter:

(m) June 14, 1941—Hong Kong.

(2) By amending paragraph B of section 5 of such Order to read as follows:

B. The term "United States" means the United States and any place subject to the jurisdiction thereof, and the term "continental United States" means the states of the United States, the District of Columbia, and the Territory of Alaska; *provided, however*, that for the purposes of this Order the term "United States" shall not be deemed to include any territory included within the term "foreign country" as defined in paragraph D of this section.

(3) By substituting the following in lieu of subdivision (iii) of paragraph D of section 5:

(iii) Any territory which on or since the effective date of this Order is controlled or occupied by the military, naval or police forces or other authority of such foreign country;

(iv) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. Hong Kong shall be deemed to be a foreign country within the meaning of this subdivision.

FRANKLIN D. ROOSEVELT

Executive Order 9788—October 14, 1946**TERMINATING THE OFFICE OF ALIEN PROPERTY CUSTODIAN AND
TRANSFERRING ITS FUNCTIONS TO THE ATTORNEY GENERAL**

By virtue of the authority vested in me by the Constitution and statutes, including the Trading with the Enemy Act of October 6, 1917, 40 Stat. 411, as amended, and the First War Powers Act, 1941, 55 Stat. 838, as amended, and as President of the United States, it is

hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Office of Alien Property Custodian in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942, is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such officers and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all proceeds thereof, which are held or administered by him on the effective date of this order are hereby transferred to the Attorney General.

3. All personnel, property, records, and funds of the Office of Alien Property Custodian are hereby transferred to the Department of Justice.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective on October 15, 1946.

HARRY S. TRUMAN

Executive Order 10587—January 13, 1955

ADMINISTRATION OF SECTION 32(h) OF THE TRADING WITH THE ENEMY ACT

By virtue of the authority vested in me by the Trading with the Enemy Act, as amended (50 U.S.C. App. 1 et seq.), and by section 301 of title 3 of the United States Code (65 Stat. 713), and as President of the United States, it is ordered as follows:

SECTION 1. The Jewish Restitution Successor Organization, a charitable membership organization incorporated under the laws of the State of New York, is hereby designated as successor in interest to deceased persons in accordance with and for the purposes of subsection (h) of section 32 of the Trading with the Enemy Act, as added by Public Law 626, approved August 23, 1954 (68 Stat. 767).

SEC. 2. Exclusive of the function vested in the President by the first sentence of the said subsection (h) of section 32 of the Trading with the Enemy Act, the Attorney General shall carry out the functions provided for in that subsection, including the powers, duties, authority and discretion thereby vested in or conferred upon the President; and functions under the said subsection are hereby delegated to the Attorney General, and the Attorney General is hereby designated thereunder, accordingly.

SEC. 3. The Attorney General may delegate to any officer and agency of the Department of Justice such of his functions under this order as he may deem necessary.

DWIGHT D. EISENHOWER

Executive Order 10644—November 7, 1955**ADMINISTRATION OF TITLE II OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AWARDED, RELATING TO THE VESTING AND LIQUIDATION OF BULGARIAN, HUNGARIAN, AND RUMANIAN PROPERTY**

By virtue of the authority vested in me by Title II of the International Claims Settlement Act of 1949, as added by Public Law 285, 84th Congress, approved August 9, 1955 (69 Stat. 562), and by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Attorney General, and, as designated by the Attorney General for this purpose, any Assistant Attorney General are hereby designated and empowered to perform the functions conferred by the said Title II of the International Claims Settlement Act of 1949 upon the President, and the functions conferred by that title upon any designee of the President.

SEC. 2. The Attorney General is hereby designated as the officer in whom property shall vest under the said Title II.

SEC. 3. As used in this order, the term "functions" includes duties, powers, responsibilities, authority, and discretion, and the term "perform" may be construed to include "exercise".

DWIGHT D. EISENHOWER

Executive Order 10896—November 29, 1960**AMENDMENT OF EXECUTIVE ORDER NO. 6260 OF AUGUST 28, 1933**

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended, 12 U.S.C. 95a, and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, I, Dwight D. Eisenhower, President of the United States of America, do hereby confirm Executive Order No. 6260 of August 28, 1933, as amended, and do hereby further amend Executive Order No. 6260 as follows:

1. Section 3 is revoked.

2. The first paragraph of section 5 is amended by deleting the proviso at the end thereof, and by inserting a period in place of the colon after the phrase "this Executive Order" where it appears in such paragraph.

3. Section 7 is revoked.

This amendment of Executive Order No. 6260, as amended, shall not affect any act done, or any right accruing or accrued or any suit or proceeding had or commenced in any civil or criminal cause prior to the effective date of this amendment, and all penalties, forfeitures, and liabilities under Executive Order No. 6260, as heretofore amended, shall continue and may be enforced as if this amendment had not been

made. All licenses, orders, rules, or regulations heretofore issued under Executive Order No. 6260, as amended, and now in effect, including the Gold Regulations constituting Part 54 of Title 31 of the Code of Federal Regulations, are hereby approved, ratified, and confirmed and shall continue in full force and effect until amended, modified, or revoked by the Secretary of the Treasury.

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

DWIGHT D. EISENHOWER

Executive Order 10905—January 14, 1961

AMENDMENT OF EXECUTIVE ORDER NO. 6260 OF AUGUST 28, 1933, AS AMENDED

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended, 12 U.S.C. § 96a, and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, I, Dwight D. Eisenhower, President of the United States of America, do hereby further amend Executive Order No. 6260, as amended, as follows:

1. By amending section 2 to read as follows:

"2. As used in this order, the term 'person' means an individual, partnership, association or corporation; the term 'United States' means the United States and any place subject to the jurisdiction thereof; and the term 'person subject to the jurisdiction of the United States' means: (a) any individual who is a citizen of the United States; (b) any individual, wherever located, who is a resident of, or domiciled in, the United States; (c) any partnership, association, corporation or other organization which is organized or doing business under the laws of the United States or of any state or territory thereof or the District of Columbia and; (d) any partnership, association, corporation or other organization wherever organized or doing business which is owned or controlled by persons specified in (a), (b), or (c)."

2. By adding at the end thereof a new section 12 reading as follows:

"12. Except under license issued therefor pursuant to the provisions of this order, no person subject to the jurisdiction of the United States shall, after the effective date of this section, acquire, hold in his possession, earmark, or retain any interest, legal or equitable, in any gold coin (other than gold coin having a recognized special value to collectors of rare and unusual coin), gold certificates, or gold bullion situated outside of the United States, or any securities issued by any person holding, as a substantial part of his assets, gold as a store of value or as, or in lieu of, money and not for a specific and customary industrial, professional or artistic use. The Secretary of the Treasury, subject to such other regulations as he may prescribe, is authorized to issue licenses permitting, until June 1, 1961, the holding and disposition of any such securities or gold coin, certificates or bullion acquired by persons subject to the jurisdiction of the United States prior to the effec-

tive date of this section and owned by such persons on such date. The Secretary is further authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside of the United States which the Secretary or such agency as he may designate is satisfied is required for legitimate and customary use in the industry, profession or art in which such person is regularly engaged."

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

DWIGHT D. EISENHOWER

Executive Order 11037—July 20, 1962

AMENDMENT OF SECTION 12 OF EXECUTIVE ORDER NO. 6260 OF AUGUST 28, 1933, AS AMENDED

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917, as amended, 12 U.S.C. 95a, and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, I, John F. Kennedy, President of the United States of America, do hereby further amend Executive Order No. 6260, as amended, as follows:

1. Section 12 is amended to read as follows:

"12. Except under license issued therefor pursuant to the provisions of this order, no person subject to the jurisdiction of the United States shall, after the effective date of this section, acquire, hold in his possession, earmark, or retain any interest, legal or equitable, in any gold coin, gold certificates, or gold bullion, situated outside of the United States or any securities issued by any person holding, as a substantial part of his assets, gold as a store of value or as, or in lieu of, money and not for a specific and customary industrial, professional or artistic use. The Secretary of the Treasury, subject to such other regulations as he may prescribe, is authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside of the United States which the Secretary or such agency as he may designate is satisfied is required for legitimate and customary use in the industry, profession, or art in which such person is regularly engaged."

2. Notwithstanding the provisions of Section 1 of this Order, the Secretary of the Treasury is authorized to issue licenses permitting, until January 1, 1963, the holding and disposition or importation of gold coins having a recognized special value to collectors of rare and unusual coin situated outside of the United States which were acquired by persons subject to the jurisdiction of the United States prior to the effective date of this amendment and are owned by such persons on such date.

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

JOHN F. KENNEDY

Executive Order 11086—February 26, 1963

AMENDMENT OF EXECUTIVE ORDER 10587 RELATING TO THE ADMINISTRATION OF SECTION 32(h) OF THE TRADING WITH THE ENEMY ACT

By virtue of the authority vested in me by the Trading with the Enemy Act, as amended (50 U.S.C. App. 1 *et seq.*), and by section 301 of title 3 of the United States Code (65 Stat. 713), and as President of the United States, it is ordered that sections 1, 2 and 3 of Executive Order No. 10587 of January 13, 1955 (20 F.R. 361) are amended to read as follows:

“SECTION 1. The Jewish Restitution Successor Organization, a charitable membership organization incorporated under the laws of the State of New York, is hereby designated as successor in interest to deceased persons in accordance with and for the purposes of subsection (h) of section 32 of the Trading with the Enemy Act, as added by the Act of August 23, 1954 (68 Stat. 767), and amended by section 204(a) of Public Law 87-846, approved October 22, 1962 (76 Stat. 1114).

“SEC. 2. Exclusive of the designation of the Jewish Restitution Successor Organization under section 1 of this Order and the exercise of jurisdiction over the claims referred to in section 3, the Foreign Claims Settlement Commission is hereby delegated and shall carry out the functions provided for in subsection (h) of section 32 of the Trading with the Enemy Act (as amended, including the designation or refusal of designation of other organizations under the first sentence of that subsection, the payment of \$500,000 out of the War Claims Fund to the designated organization or organizations and all other powers, duties, authority and discretion vested in or conferred upon the President.

“SEC. 3. Jurisdiction over the claims filed by the Jewish Restitution Successor Organization with the Attorney General under subsection (h) of section 32 of the Trading with the Enemy Act prior to the amendment thereof by section 204(a) of Public Law 87-846 shall remain with the Attorney General pending the discharge of such claims by that organization's acceptance of payment pursuant to subsection (h), as amended, or other discharge of such claims pursuant to law.”

JOHN F. KENNEDY

Executive Order 11281—May 13, 1966

TRANSFERRING JURISDICTION OVER CERTAIN BLOCKED ASSETS FROM THE ATTORNEY GENERAL TO THE SECRETARY OF THE TREASURY

WHEREAS before October 1, 1948, the Secretary of the Treasury administered the blocking controls and other restrictions over property and interests of certain foreign countries or their nationals that had been imposed, under the authority of section 5(b) of the Trading with

the Enemy Act, as amended (50 U.S.C. App. 5(b)), by means of and under Executive Order No. 8889 of April 10, 1940, as amended; and

WHEREAS by Executive Order No. 9989 of August 20, 1948, jurisdiction over the property and interests which remained blocked or restricted under Executive Order No. 8889 on September 30, 1948, was transferred, effective October 1, 1948, to the Attorney General to aid him in carrying out his functions as successor to the Alien Property Custodian, including, among others, the function of vesting property pursuant to the provisions of the Trading with the Enemy Act, as amended; and

WHEREAS by Executive Order No. 10644 of November 7, 1955, the Attorney General was designated to carry out the functions of the President under Title II of the International Claims Settlement Act of 1949 (as added by the Act of August 9, 1955, Public Law 285, 84th Congress, 69 Stat. 562), including certain vesting and blocking functions required by section 202 of that Act (22 U.S.C. 1631a), and the Attorney General, as designee of the President, exercises controls under Executive Order No. 8889 with respect to the net proceeds of certain property that are carried, pursuant to section 202, in blocked accounts with the Treasury; and

WHEREAS the functions of vesting property under the Trading with the Enemy Act and under section 202 of the International Claims Settlement Act of 1949 have been terminated; and

WHEREAS the blocking controls now exercised by the Attorney General under Executive Order No. 8889 are limited in application to property of Hungary or its nationals acquired on or before January 1, 1945; property of Czechoslovakia, Estonia, Latvia, Lithuania or nationals of those countries acquired on or before December 7, 1945; property of East Germany or its nationals acquired on or before December 31, 1946, and certain securities scheduled in General Rulings No. 5 and No. 5B, as amended (8 CFR 511.205 and 511.205b); and

WHEREAS the Office of Alien Property, through which the Attorney General carries out or has carried out the various responsibilities described above, will be abolished on or before June 30, 1966, and the Attorney General thereafter will not be in a position to administer blocking controls under Executive Order No. 8889 efficiently; and

WHEREAS in the interest of efficiency it is desirable to return to the Secretary of the Treasury jurisdiction over the property and interests remaining subject to such blocking controls:

Now, THEREFORE, by virtue of the authority vested in me by the Constitution and the laws of the United States, including the Trading with the Enemy Act, as amended, Title II of the International Claims Settlement Act of 1949 and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The authority granted to the Attorney General by Executive Order No. 9989 with respect to property and interests blocked or otherwise subject to restriction under Executive Order No. 8889 is hereby terminated and Executive Order No. 9989 is hereby superseded.

SEC. 2. The Secretary of the Treasury shall hereafter be responsible for the administration of the controls exercisable under Executive Order No. 8889, and he is authorized and directed to take such action as

he may deem necessary with respect to any property or interest that remains blocked or restricted under Executive Order No. 8389 on the effective date of this order. In the performance of the functions and duties hereby reassigned to him, the Secretary of the Treasury may act personally or through any officer, person, agency or instrumentality designated by him.

SEC. 3. All orders, regulations, rulings, instructions or licenses issued prior to the effective date of this order by the Attorney General or the Secretary of the Treasury with respect to any of the property or interests referred to in Section 2 shall continue in full force and effect except as hereafter amended, modified or revoked by the Secretary of the Treasury.

SEC. 4. No person affected by any order, regulation, ruling, instruction, license or other action issued or taken by either the Attorney General or the Secretary of the Treasury in the administration of Executive Order No. 8389 may challenge the validity thereof or otherwise excuse any action, or failure to act, on the ground that it was within the jurisdiction of the Secretary of the Treasury rather than the Attorney General or *vice versa*.

SEC. 5. Section 1 of Executive Order No. 10644 of November 7, 1955, is hereby amended to read as follows:

"**SECTION 1.** (a) With the exception of the functions referred to in subsection (b) of this section, the Attorney General, and, as designated by the Attorney General for this purpose, any Assistant Attorney General are hereby designated and empowered to perform the functions conferred by Title II of the International Claims Settlement Act of 1949 upon the President, and the functions conferred by that title upon any designee of the President.

"(b) The Secretary of the Treasury, and any officer, person, agency or instrumentality designated by the Secretary of the Treasury for this purpose, are hereby designated and empowered to perform the functions conferred upon the President by section 202 of Title II with respect to the release of blocked property and of the net proceeds of property that are carried in blocked accounts with the Treasury."

SEC. 6. Executive Order No. 8389, this order and all delegations, designations, regulations, rulings, instructions and licenses issued or to be issued under Executive Order No. 8389 or this order are hereby continued in force according to their terms for the duration of the period of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950. Executive Order No. 10348 of April 26, 1952 is hereby superseded.

SEC. 7. Nothing in this order shall be deemed to revoke or limit any powers heretofore conferred on the Secretary of the Treasury by or under any statute or Executive order, or to revoke or limit any powers heretofore conferred upon the Attorney General by or under any statute or Executive order other than Executive Order No. 9989 or No. 10644.

SEC. 8. This order shall become effective at midnight, May 15, 1966.

LYNDON B. JOHNSON

Executive Order 11387**GOVERNING CERTAIN CAPITAL TRANSFERS ABROAD**

By virtue of the authority vested in the President by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 96a), and in view of the continued existence of the national emergency declared by Proclamation No. 2914 of December 16, 1950, and the importance of strengthening the balance of payments position of the United States during this national emergency, it is hereby ordered:

1. (a) Any person subject to the jurisdiction of the United States who, alone or together with one or more affiliated persons, owns or acquires as much as a 10% interest in the voting securities, capital or earnings of a foreign business venture is prohibited on or after the effective date of this Order, except as expressly authorized by the Secretary of Commerce, from engaging in any transaction involving a direct or indirect transfer of capital to or within any foreign country or to any national thereof outside the United States.

(b) The Secretary of Commerce is authorized to require, as he determines to be necessary or appropriate to strengthen the balance of payments position of the United States, that any person subject to the jurisdiction of the United States who, alone or together with one or more affiliated persons, owns or acquires as much as a 10% interest in the voting securities, capital or earnings of one or more foreign business ventures shall cause to be repatriated to the United States such part as the Secretary of Commerce may specify of (1) the earnings of such foreign business ventures which are attributable to such person's investments therein and (2) bank deposits and other short term financial assets which are held in foreign countries by or for the account of such person. Any person subject to the jurisdiction of the United States is required on or after the effective date of this Order, to comply with any such requirement of the Secretary of Commerce.

(c) The Secretary of Commerce shall exempt from the provisions of this section 1, to the extent delineated by the Board of Governors of the Federal Reserve System (hereinafter referred to as the Board), banks or financial institutions certified by the Board as being subject to the Federal Reserve Foreign Credit Restraint Programs, or to any program instituted by the Board under section 2 of this Order.

2. The Board is authorized in the event that it determines such action to be necessary or desirable to strengthen the balance of payments position of the United States:

(a) to investigate, regulate or prohibit any transaction by any bank or other financial institution subject to the jurisdiction of the United States involving a direct or indirect transfer of capital to or within any foreign country or to any national thereof outside the United States; and

(b) to require that any bank or financial institution subject to the jurisdiction of the United States shall cause to be repatriated to the United States such part as the Board may specify of the bank deposits and other short term financial assets which are held in foreign countries

by or for the account of such bank or financial institution. Any bank or financial institution subject to the jurisdiction of the United States shall comply with any such requirement of the Board on and after its effective date.

3. The Secretary of Commerce and the Board are respectively authorized, under authority delegated to each of them under this Order or otherwise available to them, to carry out the provisions of this Order, and to prescribe such definitions for any terms used herein, to issue such rules and regulations, orders, rulings, licenses and instructions, and to take such other actions, as each of them determines to be necessary or appropriate to carry out the purposes of this Order and their respective responsibilities hereunder. The Secretary of Commerce and the Board may each redelegate to any agency, instrumentality or official of the United States any authority under this Order, and may, in administering this Order, utilize the services of any other agencies, Federal or State, which are available and appropriate.

4. The Secretary of State shall advise the Secretary of Commerce and the Board with respect to matters under this Order involving foreign policy. The Secretary of Commerce and the Board shall consult as necessary and appropriate with each other and with the Secretary of the Treasury.

5. The delegations of authority in this Order shall not affect the authority of any agency or official pursuant to any other delegation of presidential authority, presently in effect or hereafter made, under section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a).



THE WHITE HOUSE
10:45 a.m.,
Jan. 1, 1968,
L.B.J. Ranch.

EXECUTIVE ORDER 11677**Continuing the Regulation of Exports**

By virtue of the authority vested in the President by the Constitution and statutes of the United States, including Section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a), and in view of the continued existence of the national emergencies declared by Proclamation No. 2914 of December 16, 1950, and Proclamation No. 4074 of August 15, 1971, and the importance of continuing (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious inflationary impact of abnormal foreign demand, it is hereby ordered:

Section 1. Notwithstanding the expiration of the Export Administration Act of 1969, as amended, the provisions for administration of that act contained in Executive Order 11533 of June 4, 1970 shall continue in full force and effect and shall authorize the exercise and administration of export controls, under the authority vested in me as President of the United States by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a).

Sec. 2. Except to the extent another basis is provided in the second sentence of Section 3 of this order, all rules and regulations issued by the Secretary of Commerce, published in Title 15, Chapter 3, Subchapter B, of the Code of Federal Regulations, Parts 368 to 399 inclusive, and all orders, licenses and other forms of administrative action issued or taken pursuant thereto, shall until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this order, except that the maximum fine which may be imposed under § 387.1(a)(1) shall not exceed \$10,000 and that the civil penalty provided for under § 387.1(b)(3) will not be applicable to any violation of the regulations under this order.

Sec. 3. The delegations of authority in this order shall not affect the authority of any agency or official pursuant to any other delegation of Presidential authority, presently in effect or hereafter made, under Section 5(b) of the act of October 6, 1917, as amended. Those regulations

issued under the Export Control Act of 1949, as amended, to implement foreign policy set forth in Executive Orders Nos. 11322 of January 5, 1967 and 11419 of July 29, 1968, shall until amended or revoked by the Secretary of Commerce continue to apply as regulations issued under such orders.



THE WHITE HOUSE,
August 1, 1972.

3. QUOTAS FOR CERTAIN GRADE MILITARY OFFICERS

Executive Order 10262—June 28, 1951

SUSPENSION OF PROFESSIONAL EXAMINATIONS FOR PROMOTION OF MEDICAL, DENTAL, AND VETERINARY OFFICERS IN THE REGULAR ARMY AND AIR FORCE

By virtue of the authority vested in me by section 507 (b) of the Officer Personnel Act of 1947 (61 Stat. 893), it is hereby ordered as follows:

The operation of all provisions of law requiring professional examinations for promotion in the Regular Army of officers of the Medical, Dental, and Veterinary Corps, and in the United States Air Force of officers designated as medical, dental, and veterinary officers thereof, are hereby suspended for the duration of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950.

HARRY S. TRUMAN

Executive Order 10379—August 2, 1952

SUSPENSION OF THE OPERATION OF CERTAIN PROVISIONS OF THE OFFICER PERSONNEL ACT OF 1947 APPLICABLE TO THE RETIREMENT OF COLONELS OF THE REGULAR ARMY AND THE REGULAR AIR FORCE

By virtue of the authority vested in me by subsection (f) of section 514 of the Officer Personnel Act of 1947 (61 Stat. 906), and as President of the United States, it is ordered that the operation of the provisions of paragraph 3, subsection (d), section 514 of the said Officer Personnel Act of 1947, applicable to the mandatory retirement of colonels of the Regular Army and the Regular Air Force be, and it is hereby, suspended for the duration of the emergency proclaimed by Proclamation No. 2914 of December 16, 1950, or until June 30, 1957, whichever is earlier, but only with respect to such colonels of the Regular Army and the Regular Air Force as the appropriate Secretary shall, in his discretion, select for retention on the active list from among those who but for the suspension made by this order would be eliminated from the active list and retired pursuant to the provisions of the said paragraph 3, subsection (d), section 514: *Provided,*

that in no event shall the total number of officers so selected by the appropriate Secretary for retention exceed sixty per cent of the total number of officers in the respective service who but for the suspension made by this order would be eliminated from the active list and retired, after the date hereof, pursuant to the provisions of the said paragraph 8, subsection (d), section 514: *And provided further*, that such selection shall be based upon military needs, the qualifications of the officers selected, and such other factors as the appropriate Secretary may deem appropriate, and shall be effected in accordance with rules and regulations prescribed by the said Secretary, with the approval of the Secretary of Defense.

HARRY S. TRUMAN

Executive Order 10398—September 26, 1952

MILITARY PROTECTION OF THE CANAL ZONE

WHEREAS the Commander in Chief, Caribbean, is responsible, subject to the authority of the President, the Secretary of Defense, the Secretary of the Army, and the Joint Chiefs of Staff, for the military security, protection, and defense of the Canal Zone;

WHEREAS the Canal Zone Government, under the Governor of the Canal Zone and subject to the supervision of the Secretary of the Army, is charged, except as otherwise provided by law, with the performance of various duties connected with the civil government, including protection, of the Canal Zone;

WHEREAS as a practical matter, the aforesaid duties of the Commander and the Governor are not wholly mutually exclusive, particularly in time of emergency; and

WHEREAS it is necessary to make appropriate arrangements concerning the security of the Canal Zone during the present emergency:

Now, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes, including the Canal Zone Code, and as President of the United States and Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

1. As between the Commander in Chief, Caribbean, and Governor of the Canal Zone, the views of the former shall prevail with respect to determinations as to whether any aspect of the protection of the Canal Zone pertains to its military security, protection, and defense, as distinguished from the protection afforded by the civil authorities. Should the Governor of the Canal Zone disagree with any specific decision of the Commander in Chief, Caribbean, under this paragraph, the said Governor may, through the Secretary of the Army or through the Board of Directors of the Panama Canal Company, as may be appropriate, appeal such decision to the President. Pending any modification of the said decision by the President pursuant to appeal, such decision shall remain binding and effective. The provisions of this

paragraph shall remain in force until the termination of the emergency proclaimed by the President December 16, 1950.

2. Executive Order No. 2882 of May 17, 1918, is hereby revoked.

HARRY S. TRUMAN

Executive Order 10616—June 21, 1955

SUSPENSION OF CERTAIN PROVISIONS OF THE OFFICER PERSONNEL ACT OF 1947, AS AMENDED, WHICH RELATE TO OFFICERS OF THE MARINE CORPS OF THE GRADE OF BRIGADIER GENERAL

By virtue of the authority vested in me by section 426 (c) of the Officer Personnel Act of 1947, as amended by section 1 (h) of the act of June 30, 1951, 65 Stat. 109, it is ordered as follows:

1. The operation of those provisions of Title III of the Officer Personnel Act of 1947, as amended, which relate to the service-in-grade requirements of officers of the Marine Corps of the grade of brigadier general for eligibility for consideration by a selection board for temporary promotion to the grade of major general is hereby suspended until June 30 of the fiscal year following that in which the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950 shall end.

2. This order shall become effective on July 1, 1955.

DWIGHT D. EISENHOWER

Executive Order 10617—June 28, 1955

SUSPENSION OF THE OPERATION OF CERTAIN PROVISIONS OF THE OFFICER PERSONNEL ACT OF 1947 APPLICABLE TO THE RETIREMENT OF COLONELS OF THE REGULAR ARMY

By virtue of the authority vested in me by subsection (f) of section 514 of the Officer Personnel Act of 1947 (61 Stat. 906), it is ordered as follows:

The operation of those provisions of paragraph 3, subsection (d), section 514 of the Officer Personnel Act of 1947 which are applicable to the mandatory retirement of colonels of the Regular Army is hereby suspended until termination of the emergency proclaimed by Proclamation No. 2914 of December 16, 1950, or until June 30, 1957, or until a date specified by the Secretary of the Army, whichever is earliest, with respect to any colonel of the Regular Army who holds a temporary grade higher than that of colonel and whom the Secretary of the Army, in his discretion, selects for retention on the active list in the public interest.

DWIGHT D. EISENHOWER

Executive Order 10632—August 19, 1955

SUSPENSION OF CERTAIN PROVISIONS OF THE OFFICER PERSONNEL ACT OF 1947, AS AMENDED, WHICH RELATE TO THE PROMOTION OF OFFICERS OF THE MEDICAL CORPS AND DENTAL CORPS OF THE NAVY

By virtue of the authority vested in me by section 426 (c) of the Officer Personnel Act of 1947, as amended by section 1 (h) of the act of June 30, 1951, 65 Stat. 109, it is ordered as follows:

Except as to the provision which reads,

“The number to be furnished the board in respect to the temporary promotion of officers not restricted in the performance of duty to the grades of captain and commander * * * shall be determined by the Secretary of the Navy as of the date of the convening of the board”, the operation of the provisions of paragraph (2) of section 308 (b) of the Officer Personnel Act of 1947 (61 Stat. 847) to the extent that such provisions are applicable to the Medical Corps and Dental Corps is hereby suspended until June 30 of the fiscal year following that in which the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, shall end.

DWIGHT D. EISENHOWER

Executive Order 10725—August 16, 1957

SUSPENSION OF THE PROVISIONS OF SECTION 5751(b) OF TITLE 10, UNITED STATES CODE, WHICH RELATES TO OFFICERS OF THE MARINE CORPS OF THE GRADE OF CAPTAIN

By virtue of the authority vested in me by section 5785 (a) of title 10 of the United States Code, and finding that the needs of the Marine Corps so require, it is ordered as follows:

1. The operation of the provision of section 5751 (b) of title 10 of the United States Code which relates to the service-in-grade requirement for officers of the Marine Corps of the grade of captain for eligibility for consideration by a selection board for promotion to the next higher grade is hereby suspended until June 30, 1958.

2. This order supersedes Executive Order No. 10546 of July 16, 1954, entitled “Suspension of Certain Provisions of the Officer Personnel Act of 1947, as amended, Which Relate to Officers of the Marine Corps of the Grades of First Lieutenant and Captain.”

DWIGHT D. EISENHOWER

Executive Order 10780—September 2, 1958

SUSPENSION OF CERTAIN PROVISIONS OF SECTION 5762(a) OF TITLE 10 OF THE UNITED STATES CODE WHICH RELATE TO THE PROMOTION OF OFFICERS OF THE SUPPLY CORPS, CHAPLAIN CORPS, CIVIL ENGINEER CORPS, AND MEDICAL SERVICE CORPS OF THE NAVY

By virtue of the authority vested in me by section 5785 (b) of title 10 of the United States Code, it is ordered as follows:

Except as to the provisions which, as amended by section 201 (9) (A) of the act of August 21, 1957, 71 Stat. 383, reads,

The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers, not restricted in the performance of duty, other than women officers appointed under section 5590 of this title, that may be recommended for promotion to the grade of captain or commander in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, Dental Corps, or the Medical Service Corps,

the provisions of section 5762 (a) of title 10 of the United States Code, to the extent that such provisions are applicable to promotions to the grade of commander in the Supply Corps, the Chaplain Corps, the Civil Engineers Corps. and the Medical Service Corps, are hereby suspended until June 30 of the fiscal year following that in which the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, shall end.

DWIGHT D. EISENHOWER

Executive Order 10781—September 2, 1958

SUSPENSION OF CERTAIN PROVISIONS OF SECTION 5764(a) OF TITLE 10 OF THE UNITED STATES CODE WHICH RELATE TO THE ESTABLISHMENT OF ZONES FOR THE PROMOTION OF MALE OFFICERS OF THE NAVY

By virtue of the authority vested in me by section 5785 (b) of title 10 of the United States Code, it is ordered as follows:

Except as to the provisions which read,

The Secretary of the Navy shall establish a promotion zone in each grade for male officers in the line of the Navy not restricted in the performance of duty when he convenes a selection board under chapter 543 of this title to consider officers in that grade for recommendation for promotion to the next higher grade. The promotion zone in each grade shall be composed of that number of the most senior such officers under consideration, who are eligible for selection for promotion to the next higher grade and who have not previously

failed of such selection, that must either be selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the terms of service set out in section 5768 of this title and in order best to assure to individuals in succeeding years equality of opportunity for promotion, the provisions of section 5764 (a) of title 10 of the United States Code are hereby suspended until June 30 of the fiscal year following that in which the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, shall end.

DWIGHT D. EISENHOWER

Executive Order 10861—February 11, 1960

SUSPENSION OF CERTAIN PROVISIONS OF SECTION 5762 OF TITLE 10 OF THE UNITED STATES CODE WHICH RELATE TO THE PROMOTION OF OFFICERS OF THE SUPPLY CORPS, CHAPLAIN CORPS, CIVIL ENGINEER CORPS, AND MEDICAL SERVICE CORPS OF THE NAVY

By virtue of the authority vested in me by section 5785 (b) of title 10 of the United States Code, it is ordered as follows:

SECTION 1. Except as to the provision which reads

The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers, not restricted in the performance of duty, other than women officers appointed under section 5590 of this title, that may be recommended for promotion to the grade of captain or commander in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, Dental Corps, or the Medical Service Corps * * *,

the provisions of section 5762 (a) of title 10 of the United States Code, to the extent that such provisions are applicable to promotions to the grade of captain in the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, and the Medical Service Corps, are hereby suspended until June 30 of the fiscal year following that in which the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, shall end.

SEC. 2. Except as to the provision which reads

The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of male officers in the Supply or the Civil Engineer Corps, not restricted in the performance of duty, that may be recommended for promotion to the grade of lieutenant commander or lieutenant * * *

the provisions of section 5762 (b) of title 10 of the United States Code, are hereby suspended until June 30 of the fiscal year following that in which the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, shall end.

DWIGHT D. EISENHOWER

Executive Order 11270**SUSPENSION OF SECTION 5232(b) OF TITLE 10, UNITED STATES CODE,
WHICH RELATES TO THE NUMBER OF LIEUTENANT GENERALS IN THE
MARINE CORPS**

By virtue of the authority vested in me by Section 5234 of Title 10 of the United States Code, it is ordered as follows:

The provisions of section 5232(b) of Title 10 of the United States Code relating to the number of officers serving in the grade of lieutenant general are hereby suspended until June 30 of the fiscal year following that in which the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, shall end.

LYNDON B. JOHNSON

THE WHITE HOUSE,
February 19, 1966.

EXECUTIVE ORDERS

No. 11684

September 19, 1972, 37 F.R. 17959

**AMENDMENT OF EXECUTIVE ORDER NO. 11554, SUSPENDING THE
PROVISIONS OF SECTION 5707(c) OF TITLE 10, UNITED STATES
CODE, WHICH RELATE TO PROMOTION OF NAVY AND MARINE
CORPS OFFICERS**

By virtue of the authority vested in me by section 5711(b) of title 10, United States Code, Executive Order No. 11554 of August 29, 1970,⁷⁶ is amended to read as follows:

"The operation of so much of the provisions of section 5707(c) of title 10 of the United States Code as restrict, to a percentage of five percent of the total number of officers that a board is authorized to recommend for promotion, the number of Navy and Marine Corps officers below the appropriate promotion zone who may be recommended as best fitted for promotion to the grade concerned, is hereby suspended until June 30, 1974."

RICHARD NIXON.

THE WHITE HOUSE,
August 30, 1972

(Emphasis added.)

4. MISCELLANEOUS EMERGENCY EXECUTIVE ORDERS

Executive Order 10251—June 7, 1951

SUSPENSION OF THE EIGHT-HOUR LAW AS TO LABORERS AND MECHANICS EMPLOYED BY THE DEPARTMENT OF DEFENSE ON PUBLIC WORK ESSENTIAL TO THE NATIONAL DEFENSE

WHEREAS by Proclamation No 2914 of December 16, 1950, I proclaimed the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible; and

WHEREAS by section 1 of the act of August 1, 1892, 27 Stat. 340, as amended by the act of March 3, 1913, 37 Stat. 726 (40 U.S.C. 321), the service or employment of all laborers and mechanics employed by the Government of the United States upon any public work of the United States is limited to eight hours in any one calendar day, except in case of extraordinary emergency; and

WHEREAS I find that as to public work being performed by the Department of Defense an extraordinary emergency exists:

NOW, THEREFORE, by virtue of the authority vested in me by section 1 of the said act of August 1, 1892, as amended by the said act of March 3, 1913, and as President of the United States, I hereby suspend for the duration of the national emergency proclaimed by me on December 16, 1950, the above-mentioned provisions of law prohibiting more than eight hours of labor in any one calendar day by laborers and mechanics employed by the Government of the United States as to all work performed by laborers and mechanics employed by the Department of Defense on any public work which is essential to the national defense: *Provided*, That the wages of all laborers and mechanics so employed by the Department of Defense shall be computed on a basic day rate of eight hours of work with overtime to be paid at time and one-half for all hours of work in excess of eight hours in any one day.

Executive Order No. 9898 of October 14, 1947, as amended by Executive Order No. 9926 of January 17, 1948, and as extended by Executive Orders No. 9974 of July 1, 1948, No. 10064 of June 30, 1949, and No. 10135 of June 30, 1950, is hereby superseded; but nothing contained in this order shall prejudice any action heretofore taken under or pursuant to the said Executive Order No. 9898 as amended and extended.

HARRY S. TRUMAN

Executive Order 10282—August 29, 1951

SUSPENSION OF THE EIGHT-HOUR LAW AS TO LABORERS AND MECHANICS EMPLOYED BY THE DEPARTMENT OF THE INTERIOR ON PUBLIC WORK ESSENTIAL TO THE NATIONAL DEFENSE

WHEREAS by Proclamation No. 2914 of December 16, 1950, I proclaimed the existence of a national emergency which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible; and

WHEREAS by section 1 of the act of August 1, 1892, 27 Stat. 340, as amended by the act of March 3, 1913, 37 Stat. 726 (40 U.S.C. 321), the service or employment of all laborers and mechanics employed by the Government of the United States upon any public work of the United States is limited to eight hours in any one calendar day, except in case of extraordinary emergency; and

WHEREAS the Department of the Interior is engaged in public work which is essential to the defense program; and

WHEREAS I find that as to such public work being performed by the Department of the Interior an extraordinary emergency exists:

Now, THEREFORE, by virtue of the authority vested in me by section 1 of the said act of August 1, 1892, as amended by the said act of March 3, 1913, and as President of the United States, I hereby suspend for the duration of the national emergency proclaimed by me on December 16, 1950, the abovementioned provisions of law prohibiting more than eight hours of labor in any one calendar day by laborers and mechanics employed by the Government of the United States as to all work performed by laborers and mechanics employed by the Department of the Interior on any public work which is designated by the Secretary of the Interior as essential to the defense program: *Provided*, that the wages of all laborers and mechanics so employed by the Department of the Interior shall be computed on a basic day rate of eight hours of work with overtime to be paid at time and one-half for all hours of work in excess of eight hours in any one day.

Executive Order No. 9360 of July 7, 1943, entitled "Suspension of Eight-Hour Law as to Laborers and Mechanics Employed by the Department of the Interior on Public Works within the United States", and Executive Order No. 9368 of August 9, 1943, extending the provisions of the aforesaid order to certain public work within the Territory of Alaska, are hereby superseded; but nothing contained in this order shall prejudice any action heretofore taken under or pursuant to the said Executive Order No. 9360 or the said Executive Order No. 9368.

HARRY S. TRUMAN

Executive Order 10433—April 7, 1953

SUSPENSION OF THE EIGHT-HOUR LAW AS TO LABORERS AND MECHANICS EMPLOYED BY THE ATOMIC ENERGY COMMISSION ON PUBLIC WORK ESSENTIAL TO THE NATIONAL DEFENSE

WHEREAS by Proclamation No. 2914, of December 16, 1950, the President proclaimed the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible; and

WHEREAS by section 1 of the act of August 1, 1892, 27 Stat. 340, as amended by the act of March 3, 1913, 37 Stat. 726 (40 U.S.C. 321), the service or employment of all laborers and mechanics employed by the Government of the United States upon any public work of the United

States is limited to eight hours in any one calendar day, except in case of extraordinary emergency; and

WHEREAS I find that as to public work essential to the national defense being performed by the Atomic Energy Commission an extraordinary emergency exists:

Now, THEREFORE, by virtue of the authority vested in me by section 1 of the said act of August 1, 1892, as amended by the said act of March 3, 1913, and as President of the United States, I hereby suspend for the duration of the national emergency proclaimed on December 16, 1950, Proclamation No. 2914 the above-mentioned provisions of law prohibiting more than eight hours of labor in any one calendar day by laborers and mechanics employed by the Government of the United States as to all work performed by laborers and mechanics employed by the Atomic Energy Commission on any public work which is essential to the national defense: *Provided*, That the wages of all laborers and mechanics so employed shall be computed on a basic day rate of eight hours of work with overtime to be paid at a rate not less than time and one-half for all hours of work in excess of eight hours in any one day.

DWIGHT D. EISENHOWER

EXECUTIVE ORDER 10789

AUTHORIZING AGENCIES OF THE GOVERNMENT TO EXERCISE CERTAIN CONTRACTING AUTHORITY IN CONNECTION WITH NATIONAL-DEFENSE FUNCTIONS AND PRESCRIBING REGULATIONS GOVERNING THE EXERCISE OF SUCH AUTHORITY

By virtue of the authority vested in me by the act of August 28, 1958, 72 Stat. 972, hereinafter called the act, and as President of the United States, and in view of the existing national emergency declared by Proclamation No. 2914¹ of December 16, 1950, and deeming that such action will facilitate the national defense, it is hereby ordered as follows:

PART I—DEPARTMENT OF DEFENSE

Under such regulations, which shall be uniform to the extent practicable, as may be prescribed or approved by the Secretary of Defense:

1. The Department of Defense is authorized, within the limits of the amounts appropriated and the contract authorization provided therefor, to enter into contracts and into amendments or modifications of contracts heretofore or hereafter made, and to make advance payments thereon, without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts, whenever, in the judgment of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or the duly authorized representative of any such Secretary, the national defense will be facilitated thereby.

2. The Secretaries of Defense, the Army, the Navy, and the Air Force, respectively, may exercise the authority herein conferred and, in their discretion and by their direction, may delegate such authority to any other military or civilian officers or officials of their respective departments, and may confer upon any such military or civilian officers or officials the power to make further delegations of such authority within their respective commands or organizations: *Provided*, that the authority herein conferred shall not be utilized to obligate the United States in an amount in excess of \$50,000 without approval by an official at or above the level of an Assistant Secretary or his Deputy, or by a de-

partmental Contract Adjustment Board.

3. The contracts hereby authorized to be made shall include agreements of all kinds (whether in the form of letters of intent, purchase orders, or otherwise) for all types and kinds of property or services necessary, appropriate, or convenient for the national defense, or for the invention, development, or production of, or research concerning, any such property or services, including, but not limited to, aircraft, missiles, buildings, vessels, arms, armament, equipment or supplies of any kind, or any portion thereof, including plans, spare parts and equipment therefor, materials, supplies, facilities, utilities, machinery, machine tools, and any other equipment without any restriction of any kind as to type, character, location, or form.

4. The Department of Defense may by agreement modify or amend or settle claims under contracts heretofore or hereafter made, may make advance payments upon such contracts of any portion of the contract price, and may enter into agreements with contractors or obligors modifying or releasing accrued obligations of any sort, including accrued liquidated damages or liability under surety or other bonds. Amendments or modifications of contracts may be with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished hereunder, irrespective of the time or circumstances of the making, or the form, of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

5. Proper records of all actions taken under the authority of the act shall be maintained within the Department of Defense. The Secretaries of Defense, the Army, the Navy, and the Air Force shall make such records available for public inspection except to the extent that they, or their duly authorized representatives, may respectively deem the disclosure of information therein to be detrimental to the national security.

6. The Department of Defense shall, by March 15 of each year, report to the Congress all actions taken within that department under the authority of the act during the preceding calendar year. With respect to actions which involve actual or potential cost to the United States in excess of \$50,000, the report shall (except as the disclosure of such

(Emphasis added.)

¹ 3 CFR, 1949-1953 Comp.

information may be deemed to be detrimental to the national security)—

- (a) name the contractor;
- (b) state the actual cost or estimated potential cost involved;
- (c) describe the property or services involved; and
- (d) state further the circumstances justifying the action taken.

7. There shall be no discrimination in any act performed hereunder against any person on the ground of race, religion, color, or national origin, and all contracts entered into, amended, or modified hereunder shall contain such nondiscrimination provision as otherwise may be required by statute or Executive order.

8. No claim against the United States arising under any purchase or contract made under the authority of the act and this order shall be assigned except in accordance with the Assignment of Claims Act of 1940 (54 Stat. 1029), as amended.

9. Advance payments shall be made hereunder only upon obtaining adequate security.

10. Every contract entered into, amended, or modified pursuant to this order shall contain a warranty by the contractor in substantially the following terms:

"The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona-fide employees or bona-fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee."

11. All contracts entered into, amended, or modified pursuant to authority of this order shall include a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors

engaged in the performance of, and involving transactions related to, such contracts or subcontracts.

12. Nothing herein contained shall be construed to constitute authorization hereunder for—

- (a) the use of the cost-plus-a-percentage-of-cost system of contracting;
- (b) any contract in violation of existing law relating to limitation of profits or fees;
- (c) the negotiation of purchases of or contracts for property or services required by law to be procured by formal advertising and competitive bidding;
- (d) the waiver of any bid, payment, performance, or other bond required by law;
- (e) the amendment of a contract negotiated under section 2304 (a) (15) of title 10 of the United States Code to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder; or

(f) the formalization of an informal commitment, unless the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or the duly authorized representative of any such Secretary, finds that at the time the commitment was made it was impracticable to use normal procurement procedures.

13. The provisions of the Walsh-Healey Act (49 Stat. 2036), as amended, the Davis-Bacon Act (49 Stat. 1011), as amended, the Copeland Act (48 Stat. 948), as amended, and the Eight Hour Law (37 Stat. 137), as amended, if otherwise applicable, shall apply to contracts made and performed under the authority of this order.

14. Nothing herein contained shall prejudice anything heretofore done under Executive Order No. 9001^a of December 27, 1941, or Executive Order No. 10210^b of February 2, 1951, or any amendments or extensions thereof, or the continuance in force of an action heretofore taken under those orders or any amendments or extensions thereof.

15. Nothing herein contained shall prejudice any other authority which the Department of Defense may have to enter into, amend, or modify contracts, and to make advance payments.

^a 3 CFR, 1943 Cum. Supp.

^b 3 CFR, 1949-1953 Comp.

PART II—EXTENSION OF PROVISIONS OF
PARAGRAPHS 1-14

21. Subject to the limitations and regulations contained in paragraphs 1 to 14, inclusive, hereof, and under any regulations prescribed by him in pursuance of the provisions of paragraph 22 hereof, the head of each of the following-named agencies is authorized to perform or exercise as to his agency, independently of any Secretary referred to in the said paragraphs 1 to 14, all the functions and authority vested by those paragraphs in the Secretaries mentioned therein:

Department of the Treasury
Department of the Interior
Department of Agriculture
Department of Commerce
Atomic Energy Commission
General Services Administration
Office of Civil and Defense Mobilization
National Aeronautics and Space Administration
Federal Aviation Agency
Tennessee Valley Authority
Government Printing Office

22. The head of each agency named in paragraph 21 hereof is authorized to prescribe regulations governing the carrying out of the functions and authority vested with respect to his agency by the provisions of paragraph 21 hereof. Such regulations shall, to the extent practicable, be uniform with the regulations prescribed or approved by the Secretary of Defense under the provisions of Part I of this order.

23. Nothing contained herein shall prejudice any other authority which any agency named in paragraph 21 hereof may have to enter into, amend, or modify contracts and to make advance payments.

24. Nothing contained in this Part shall constitute authorization thereunder for the amendment of a contract negotiated under section 302 (c) (14) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 394), as amended by section 2 (b) of the act of August 28, 1958, 72 Stat. 966, to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
November 14, 1958.

EXECUTIVE ORDER 10824

DESIGNATING THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AS AN AGENCY TO HAVE CERTAIN CONTRACTUAL AUTHORITY UNDER THE ASSIGNMENT OF CLAIMS ACT OF 1940, AS AMENDED

WHEREAS the Assignment of Claims Act of 1940, 54 Stat. 1029, as amended by the act of May 15, 1951, 65 Stat. 41 (31 U.S.C. 203),¹ contains the following provisions:

Any contract of the Department of Defense, the General Services Administration, the Atomic Energy Commission, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated in such manner, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or set-off, and if such provision or one to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract, whether during or after such war or emergency, shall not be subject to reduction or set-off for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of (1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract, (2) fines, (3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract), or (4) taxes, social security contributions, or the withholding or nonwithholding of taxes or social security contributions, whether arising from or independently of such contract.

AND WHEREAS it appears that it would be in the public interest to make those provisions applicable to the Na-

(Emphasis added.)

¹ 31 U.S.C.A. § 203.

tional Aeronautics and Space Administration:

NOW, THEREFORE, by virtue of the authority vested in me by the above-quoted statutory provisions, I hereby designate the National Aeronautics and Space Administration as an agency of the United States to which such statutory provisions shall apply in the same manner and to the same extent that they apply to the Department of Defense, the General Services Administration, and the Atomic Energy Commission.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
May 29, 1959.

Executive Order 10840

DESIGNATING THE FEDERAL AVIATION AGENCY AS AN AGENCY TO HAVE CERTAIN CONTRACTUAL AUTHORITY UNDER THE ASSIGNMENT OF CLAIMS ACT OF 1940, AS AMENDED

WHEREAS the Assignment of Claims Act of 1940 (54 Stat. 1029) as amended by the act of May 15, 1951, 65 Stat. 41 (31 U.S.C. 203), contains the following provisions:

Any contract of the Department of Defense, the General Services Administration, the Atomic Energy Commission, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated in such manner, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or set-off, and if such provision or one to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract, whether during or after such war or emergency, shall not be subject to reduction or set-off for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of (1) renegotiation under any renegotiation statute or under any statutory renegotiation

(Emphasis added.)

article in the contract, (2) fines, (3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract), or (4) taxes, social security contributions, or the withholding or nonwithholding of taxes or social security contributions, whether arising from or independently of such contract.

AND WHEREAS it appears that it would be in the public interest to make those provisions applicable to the Federal Aviation Agency:

NOW, THEREFORE, by virtue of the authority vested in me by the above-quoted statutory provisions, I hereby designate the Federal Aviation Agency as an agency of the United States to which such statutory provisions shall apply in the same manner and to the same extent that they apply to the Department of Defense, the General Services Administration, and the Atomic Energy Commission.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
September 30, 1959.

Executive Order 10976

SUSPENSION OF THE EIGHT-HOUR LAW AS TO LABORERS AND MECHANICS EMPLOYED BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

WHEREAS by section 1 of the act of August 1, 1892, 27 Stat. 340, as amended by the act of March 3, 1913, 37 Stat. 726 (40 U.S.C. 321), the service or employment of all laborers and mechanics employed by the Government of the United States upon any public work of the United States is limited to eight hours in any one calendar day, except in case of extraordinary emergency; and

WHEREAS by Proclamation No. 2914¹ of December 16, 1950, the President proclaimed the existence of a national emergency and that emergency still exists; and

WHEREAS the attainment and maintenance by this Nation of a clearly leading role in aeronautical and space

(Emphasis added.)

¹ 3 CFR, 1949-1953 Comp., p. 99.

achievement has become a vital national objective; and

WHEREAS in order to achieve this objective it is essential to conduct the Nation's aeronautical and space program with a major national commitment of manpower, material, and facilities, and to pursue this program with all possible speed and efficiency; and

WHEREAS the development and administration of our national aeronautical and space program are the primary responsibility of the National Aeronautics and Space Administration:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, I hereby find and declare that as to public work being performed by the National Aeronautics and Space Administration an extraordinary emergency exists within the meaning of section 1 of the said act of

August 1, 1892, as amended by the said act of March 3, 1913, and that the service or employment of laborers and mechanics employed by the National Aeronautics and Space Administration on any public work need not be limited to eight hours in any one calendar day, *Provided*, That overtime compensation at no less than time and one-half shall be paid in accordance with applicable law to all laborers and mechanics so employed.

This order shall remain in force and effect during the period of the national emergency declared by the said Proclamation No. 2914 unless sooner terminated by Executive order of the President.

JOHN F. KENNEDY

THE WHITE HOUSE,
November 15, 1961.

(Emphasis added.)

Executive Order 11051—September 27, 1962

PRESCRIBING RESPONSIBILITIES OF THE OFFICE OF EMERGENCY PLANNING IN THE EXECUTIVE OFFICE OF THE PRESIDENT

WHEREAS national preparedness must be achieved and maintained to support such varying degrees of mobilization as may be required to deal with increases in international tension, with limited war, or with general war including attack upon the United States; and

WHEREAS the national security and our continuing economic growth and prosperity are interdependent, appropriate attention must be directed to effective coordination of emergency preparedness measures with national economic policies and objectives; and

WHEREAS mobilization readiness and civil defense activities can be accomplished most effectively and efficiently through the performance by departments and agencies of the Government of those emergency preparedness functions related to their established roles and capabilities; and

WHEREAS responsibility for emergency preparedness involves virtually every agency of the Federal Government, and there is need to provide a central point of leadership and coordination in the Executive Office of the President:

Now, THEREFORE, by virtue of the authority vested in me as President of the United States, including the authorities contained in the National Security Act of 1947, the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.), and other authorities of law vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), and also including the authority vested in me by the provisions of Section 301 of title 3 of the United States Code, it is hereby ordered as follows:

PART I. SCOPE

SECTION 101. *Resumé of responsibilities.* The Director of the Office of Emergency Planning (hereinafter referred to as the Director) shall:

(a) Advise and assist the President in the coordination of and in the determination of policy for the emergency plans and preparedness assignments of the Federal departments and agencies (hereinafter referred to as Federal agencies) designed to make possible at Federal, State and local levels the mobilization of the human, natural and industrial resources of the nation to meet all conditions of national emergency, including attack on the United States.

(b) Under the direction of the President, be responsible for the preparation of nonmilitary plans and preparedness programs with respect to organization and functioning of the Federal Government under emergency conditions and with respect to specific areas of Federal activity necessary in time of war which are neither performed in the normal operations of the regular departments and agencies nor assigned thereto by or under the authority of the President.

(c) Perform such other functions as are vested in him by law or

are by this order, or by orders referred to in this order, delegated or otherwise assigned to him.

(d) Perform such additional functions as the President may from time to time direct.

PART II. GENERAL COORDINATING RESPONSIBILITIES

SEC. 201. *General.* (a) The Director shall advise and assist the President in (1) the development of planning assumptions and broad emergency preparedness objectives with respect to various conditions of national emergency, (2) the development of policies and procedures to determine the relationship between available supplies of the nation's resources and the requirements of military, foreign, and essential civilian programs, including those of civil defense, (3) the development of policies, programs, and control systems designed to deal with supply deficiencies and to meet effectively the most urgent requirements for those resources in the interests of national defense, and (4) coordinating the governmental programs designed to achieve these ends.

(b) The Director shall advise and assist the President with respect to resolving any issues, related to emergency preparedness responsibilities of Federal agencies, which arise between two or more such agencies.

SEC. 202. *Resources and Requirements.* The Director shall provide policy guidance to the heads of Federal agencies having resource mobilization or claimancy responsibilities to assist them in (1) the development and submission of estimated military and foreign as well as industrial and consumer requirements, (2) the development of resource supply estimates; and (3) the periodic evaluation of requirements estimates in relation to estimates of availability of resources from all sources.

SEC. 203. *Central program determination.* The Director shall develop an overall emergency system for reaching central program decisions for the utilization of resources on the basis that he will have the responsibility for making such central decisions in the initial period of an emergency. This system shall include uniform criteria and procedures for:

(a) The development by each Federal agency of the amounts and types of resources which it must claim in order to meet the requirements of its planned programs;

(b) The central consideration of the supply-requirements evaluations of planned programs;

(c) The central determination of major resource utilization programs under varied conditions of national emergency on a relative urgency basis and central direction for the adjustment of agency programs consistent with such determinations; and

(d) The decentralization of controls if required by emergency conditions.

SEC. 204. *Control systems.* The Director shall develop policies and procedures for the coordinated application by Federal agencies, in time of emergency, of priorities, allocations, and other resource con-

trol and distribution systems (including a system for the rationing of consumer goods) for the conduct of approved major programs.

SEC. 205. *Research.* The Director shall develop, maintain, and conduct a central research planning program for emergency preparedness purposes. The Director shall maintain, with the participation and support of Federal agencies concerned, a national resources evaluation capability for predicting and monitoring the status of resources under all degrees of emergency, for identifying resource deficiencies and feasible production programs and for supplying resource evaluations at national and subordinate levels to support mobilization base planning, continuity of government, resource management and economic recovery.

SEC. 206. *Dispersal and protection of facilities.* (a) The Director, after consultation with the appropriate Federal agencies, shall advise the President concerning the strategic relocation of industries, services, government and economic activities, the operations of which are essential to the nation's security. He shall coordinate the efforts of Federal agencies with respect to the application of the principle of geographic dispersal of certain industrial facilities, both government- and privately-owned, in the interest of national defense.

(b) The Director, under authority of, and in accordance with the provisions of, Executive Order No. 10421 of December 31, 1952, shall perform functions in respect of the physical security of facilities important to the national defense.

(c) In addition, the Director shall review all measures being taken by the Federal agencies with respect to the physical security and protection of facilities important to defense mobilization, defense production, civil defense or the essential civilian economy, including those under the provisions of emergency preparedness assignments to such agencies and shall recommend to the President such actions as are necessary to strengthen such measures.

SEC. 207. *Civil defense.* (a) Under authority of the provisions of Section 2 of Executive Order No. 10952 of July 20, 1961, and as there prescribed, the Director shall advise and assist the President, and shall perform other functions, in respect of civil defense.

(b) Under authority of, and in accordance with the provisions of, Executive Order No. 10958 of August 14, 1961, the Director shall advise and assist the President with respect to the stockpiling of food and medical supplies.

(c) The Director shall advise and assist the President with respect to the need for stockpiling various items essential to the survival of the population, additional to food and medical supplies, and with respect to programs for the acquisition, storage, and maintenance of such stockpiles.

SEC. 208. *Federal-State relations.* (a) The Director shall represent the President in working with State Governors to stimulate vigorous State and local participation in emergency preparedness measures.

(b) He shall provide advice and guidance to the States with regard to preparations for the continuity of State and local civilian political authority in the event of nuclear attack on the United States which shall include, but not be limited to, programs for maintaining lines of succession to office, safekeeping of essential records, provision for

alternate sites of government, the protection and effective use of government resources, personnel, and facilities, and interstate compacts and reciprocal legislation relating to emergency preparedness.

(c) He shall assist the President in achieving a coordinated working relationship between the various elements of State governments and the Federal agencies to which specific emergency preparedness functions have been assigned pursuant to statute or Executive order.

(d) The civil defense activities involved in the functions prescribed by the foregoing provisions of this section shall be carried out in accordance with the provisions of Section 2 of Executive Order No. 10952 of July 20, 1961.

SEC. 209. *Review and evaluation.* The Director shall from time to time furnish the President overall reports and recommendations concerning the emergency preparedness programs, including the state of preparedness of Federal, State, and local governments to carry out their emergency functions.

PART III. SPECIAL EMERGENCY PLANNING RESPONSIBILITY

SEC. 301. *General.* Under the direction of the President, the Director shall have primary responsibility (1) for planning assumptions and broad nonmilitary emergency preparedness objectives, (2) for planning the nonmilitary organization and functioning of the Federal Government in time of national emergency, (3) for developing, in association with interested agencies, the emergency planning, including making recommendations to the President as to the appropriate roles of Federal agencies, in currently unassigned matters, such as, but not necessarily limited to, economic stabilization, economic warfare, emergency information, and wartime censorship, (4) for planning for the emergency mobilization of telecommunications resources, and (5) for the development of nonmilitary policies and programs for use in the event of enemy attack on the United States designed to restore the national defense potential of the nation.

SEC. 302. *Emergency organization.* The Director, in consultation with the Director of the Bureau of the Budget, shall plan for the organization and functioning of the Federal Government in an emergency, including provisions for the central direction of all emergency mobilization activities and the creation of such emergency agencies as may be required for the conduct of emergency activities including those within the normal jurisdiction of existing agencies. Plans shall provide for maximum practicable reliance to be placed on existing Federal agencies with competence in emergency operations and, as best may be, shall be harmonious with related operations of the Government as a whole.

SEC. 303. *Emergency authorities.* The Director shall provide for the prompt exercise of Federal emergency authority through the advance preparation of such proposed legislation, Executive orders, rules, regulations, and directives as would be necessary to put into effect operating programs appropriate to the emergency situation.

SEC. 304. *Continuity of Federal Government.* The Director shall develop policies and plans to assure the continuity of essential Federal Government activities through programs to provide for lines of suc-

cession to office, safekeeping of essential record, alternate sites for Government operations, and the protection and effective use of Government resources, personnel, and facilities.

SEC. 305. *Executive Reserve.* The Director, under authority of, and in accordance with the provisions of, Executive Order No. 10660 of February 15, 1956, shall develop policies and plans for the provision of an Executive Reserve of personnel capable of filling executive positions in the Government in time of emergency.

SEC. 306. *Emergency telecommunications.* The Director shall be responsible for (1) planning for the mobilization of the nation's telecommunications resources in time of national emergency, and (2) carrying out, under the authority of, and in accordance with the provisions of, Executive Order No. 10705 of April 17, 1957, the functions thereby delegated or otherwise assigned to him.

SEC. 307. *Post-attack recovery.* Under the direction of the President, the Director, with the cooperation and assistance of the Federal agencies, shall develop policies, plans, and programs designed to provide for the rapid restoration after an attack on the United States of a national capability to support a strong national defense effort.

PART IV. CURRENT MANAGEMENT RESPONSIBILITIES

SEC. 401. *Defense production.* Under the authority of, and in accordance with the provisions of, Executive Order No. 10480 of August 14, 1953, the Director shall perform the functions thereby delegated or otherwise assigned to him.

SEC. 402. *Strategic and critical materials stockpiling.* (a) There are hereby delegated to the Director all those functions under the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98 et seq.), under Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)), and under Section 204(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485 (f)), which were transferred to the President by the provisions of Reorganization Plan No. 1 of 1958 (72 Stat. 1799).

(b) The Director, under the provisions of the said Strategic and Critical Materials Stockpiling Act, shall determine which materials are strategic and critical and the quality and quantity of such materials which shall be stockpiled, and shall direct the General Services Administration in the purchase, storage, refinement, rotation, and disposal of materials.

(c) The Director is hereby designated as an agency under and for the purposes of the provisions of clause (b) of Section 5 of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98d (clause (b))); and, accordingly, in the event of enemy attack upon the United States the Director is authorized and directed to order the release by the Administrator of General Services of such materials from stockpiles established under the said Act, in such quantities, for such uses, and on such terms and conditions, as the Director determines to be necessary in the interests of the national defense.

SEC. 403. *Supplemental stockpile.* The Director, under authority of the provisions of Section 4(d)(2) of Executive Order No. 10900 of January 6, 1961, shall determine from time to time the materials to

be contracted for or purchased for a supplemental stockpile with foreign currencies pursuant to the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(b)).

SEC. 404. *Imports threatening the national security.* (a) The Director, under the authority of, and in accordance with the provisions of Section 2 of the Act of July 1, 1954 (68 Stat. 360; 19 U.S.C. 1352a), shall make appropriate investigations of the effects of imports on the national security and shall advise the President of any case in which the Director is of the opinion that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

(b) The Director, under authority of, and in accordance with the provisions of, Section 3(d) of Executive Order No. 10582 of December 17, 1954, shall furnish advice to procuring agencies with respect to the rejection of bids or offers to furnish materials of foreign origin on the ground that such rejection is necessary to protect essential national security interests.

SEC. 405. *Disaster relief.* The Director, under authority of, and in accordance with the provisions of, Executive Order No. 10427 of January 16, 1953, and Executive Order No. 10737 of October 29, 1957, shall exercise authority under the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855 et seq.).

SEC. 406. *Telecommunications.* Under authority of, and in accordance with the provisions of, Executive Order No. 10995 of February 16, 1962, the Director shall perform functions in respect of telecommunications.

PART V. GENERAL PROVISIONS

SEC. 501. *Rules and regulations.* In carrying out his responsibilities under this order, the Director is authorized to issue such rules and regulations, and directives, consonant with law and Executive order, as he deems necessary and appropriate to the functions involved.

SEC. 502. *Boards and committees.* The Director is hereby authorized to establish in headquarters and in the field such boards and committees as he deems necessary to advise him in the conduct of activities outlined herein.

SEC. 503. *Certain additional authorities.* (a) There are hereby delegated to the Director all those now-existing functions under the National Security Act of 1947 which were transferred to the President by the provisions of Reorganization Plan No. 1 of 1958 (72 Stat. 1799).

(b) In performing the functions under the Federal Civil Defense Act of 1950 assigned to him, and subject to applicable provisions of Executive orders, the Director is authorized to exercise the authority conferred by Title IV of that Act. The foregoing provision of this subsection shall not be deemed to derogate from any authority under Title IV heretofore available to the Secretary of Defense.

SEC. 504. *Reports.* The Director is authorized to require from Federal agencies such statistical data and progress reports at such intervals as he deems necessary to discharge his responsibilities under this order.

SEC. 505. *Prior actions.* All orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority, and nothing in this order shall affect the validity or force of anything done under previous delegations or other assignments of the functions affected by this order.

SEC. 506. *Executive Order 11030.* Nothing in this order or in any order amended by this order shall derogate from the provisions of Executive Order No. 11030 of June 19, 1962.

SEC. 507. *References to orders and Acts.* Except as may for any reason be inappropriate, references in this order to any other Executive order or to any Act, and references in this order or in any other Executive order to this order, shall be deemed to include references thereto, respectively, as amended from time to time.

PART VI. PRIOR EXECUTIVE ORDERS AND PROCLAMATIONS

SEC. 601. *General amendments.* Each reference to the Office of Civil and Defense Mobilization or to the Director of the Office of Civil and Defense Mobilization in the following is hereby amended to refer to the Office of Emergency Planning and the Director of the Office of Emergency Planning, respectively:

- (1) Executive Order No. 10296 of October 2, 1951
- (2) Executive Order No. 10312 of December 10, 1951
- (3) Executive Order No. 10346 of April 17, 1952 (penultimate sentence of Section 2, only)
- (4) Executive Order No. 10421 of December 31, 1952
- (5) Executive Order No. 10427 of January 16, 1953
- (6) Executive Order No. 10480 of August 14, 1953
- (7) Executive Order No. 10494 of October 14, 1953
- (8) Executive Order No. 10601 of March 21, 1955
- (9) Executive Order No. 10634 of August 25, 1955
- (10) Executive Order No. 10660 of February 15, 1956
- (11) Executive Order No. 10705 of April 17, 1957
- (12) Executive Order No. 10737 of October 29, 1957
- (13) Executive Order No. 10900 of January 5, 1961
- (14) Executive Order No. 10952 of July 20, 1961
- (15) Executive Order No. 10958 of August 14, 1961
- (16) Proclamation No. 3279 of March 10, 1959

SEC. 602. *Executive Order 10242.* Executive Order No. 10242 of May 8, 1951, is hereby amended:

(1) By deleting from subsection 101(a) thereof the following: "upon the Director of the Office of Civil and Defense Mobilization, hereinafter referred to as the Director,".

(2) By deleting from Sections 101(c), 101(d), 102, 103, 104, 106 (preamble), 201, and 301 the following: "upon the Director of the Office of Civil and Defense Mobilization".

(3) By substituting for the words "the Director of the Office of Civil and Defense Mobilization", at each place where they occur in the order and are not deleted or otherwise amended by this order, the following: "the delegate of the President".

(4) By substituting for the words "shall not be delegated" in subsection 101(d) the following: "shall not be redelegated by the delegate of the President".

(5) By adding after Section 106 new Sections 107, 108, and 109, reading as follows:

"SEC. 107. The words 'the delegate of the President' as used in this order:

"(1) In respect of functions under the Act delegated or otherwise assigned to the Secretary of Defense, mean the Secretary of Defense.

"(2) In respect of functions delegated or otherwise assigned to the Director of the Office of Emergency Planning, mean the Director of the Office of Emergency Planning.

"SEC. 108. The authority conferred by Section 401(a) of the Act to employ part-time or temporary advisory personnel deemed necessary in carrying out the provisions of the Act, and delegated by the provisions of Section 101(a) of this order, shall be available as follows: (1) To the Secretary of Defense in respect of not to exceed eighty personnel (including not to exceed twenty subjects of the United Kingdom and Canada), and (2) to the Director of the Office of Emergency Planning in respect of not to exceed twenty personnel (including not to exceed five subjects of the United Kingdom and Canada).

"SEC. 109. The relevant provisions of this Part shall be subject to the provisions of the Memorandum of the President, pertaining to conflicts of interest, dated February 9, 1962 (27 F.R. 1341ff.)."

(6) By amending Section 401 to read as follows:

"SEC. 401. The approval of the President is hereby given for the employment of retired personnel of the armed services, pursuant to the provisions of subsection 401(a) of the Act as follows: (1) By the Secretary of Defense, not to exceed twenty persons, and (2) by the Director of the Office of Emergency Planning, not to exceed five persons."

SEC. 603. Other orders. (a) Executive Order No. 10260 of June 27, 1951, is hereby amended by striking from Section 1 thereof the following: "Office of Civil and Defense Mobilization, the".

(b) Executive Order No. 10346 of April 17, 1952, is hereby amended by substituting for the reference therein to the Director of the Office of Civil and Defense Mobilization, and for each reference therein to the Office of Defense Mobilization except that in the penultimate sentence of Section 2, the following: "the Office of Emergency Planning or the Department of Defense or both, as may be determined under the provisions of appropriate Executive orders".

(c) Executive Order No. 10421 of December 31, 1952, is hereby amended by inserting before the period at the end of Section 3(b) (9) thereof a comma and the following: "including recommendations as to actions necessary to strengthen the program provided for in this order".

(d) Executive Order No. 10529 of April 22, 1954, is hereby amended by substituting for each reference therein to the Director of the Office of Civil and Defense Mobilization the following: "the Director of the Office of Emergency Planning or the Secretary of Defense or both as may be determined under appropriate Executive orders".

(e) Executive Order No. 10582 of December 17, 1954, is hereby amended by striking from Section 3(d) thereof the words "from any officer of the Government designated by the President to furnish such advice" and by inserting in lieu of the stricken words the following: "from the Director of the Office of Emergency Planning. In providing this advice the Director shall be governed by the principle that exceptions under this section shall be made only upon a clear showing that the payment of a greater differential than the procedures of this section generally prescribe is justified by consideration of national security".

(f) Executive Order No. 10789 of November 14, 1958, is hereby amended by striking from Section 21 thereof the words "Office of Civil and Defense Mobilization".

SEC. 604. *Superseded orders.* To the extent that the following have not heretofore been made or become inapplicable, they are hereby superseded and revoked:

- (1) Executive Order No. 9981 of July 26, 1948
- (2) Executive Order No. 10219 of February 28, 1951
- (3) Executive Order No. 10289 of July 6, 1951
- (4) Executive Order No. 10438 of March 13, 1953
- (5) Executive Order No. 10461 of June 17, 1953
- (6) Executive Order No. 10524 of March 31, 1954
- (7) Executive Order No. 10539 of June 22, 1954 (without prejudice to final liquidation of any affairs thereunder)
- (8) Executive Order No. 10638 of October 10, 1955
- (9) Executive Order No. 10773 of July 1, 1958
- (10) Executive Order No. 10782 of September 6, 1958
- (11) Executive Order No. 10902 of January 9, 1961

JOHN F. KENNEDY

Executive Order 11075—January 15, 1963

ADMINISTRATION OF THE TRADE EXPANSION ACT OF 1962

By virtue of the authority vested in me by the Trade Expansion Act of 1962 (Public Law 87-794, approved October 11, 1962; 76 Stat. 872), and by Section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Definition.* As used in this order the term "the Act" means the Trade Expansion Act of 1962 (Public Law 87-794, approved October 11, 1962), exclusive, however, of chapters 2, 3, and 5 of title III thereof.

SEC. 2. *Special Representative.* (a) The Special Representative for Trade Negotiations provided for in Section 241 of the Act (hereinafter referred to as the Special Representative) shall be located in the Executive Office of the President and shall be directly responsible to the President.

(b) There shall be a Deputy Special Representative for Trade Negotiations with the rank of Ambassador, whose principal functions shall be to conduct negotiations under title II of the Act, and who

shall perform such additional duties as the Special Representative may direct.

SEC. 3. *Functions of Special Representative.* (a) The Special Representative shall have the functions conferred upon him by the Act, the functions delegated or otherwise assigned to him by the provisions of this order, and such other functions as the President may from time to time direct.

(b) The Special Representative generally shall assist the President in the administration of, and facilitate the carrying out of, the Act. Except as may be unnecessary by reason of delegations of authority contained in this order or for other reasons, the Special Representative shall furnish timely and appropriate recommendations, information, and advice to the President in connection with the administration and execution of the Act by the President.

(c) As he may deem to be necessary for the proper administration and execution of the Act and of this order, the Special Representative (1) shall draw upon the resources of Federal agencies, and of bodies established by or under the provisions of this order, in connection with the performance of his functions, and (2) except as may be otherwise provided by this order or by law, may assign to the head of any such agency or body the performance of duties incidental to the administration of the Act.

(d) In connection with the performance of his functions the Special Representative shall, as appropriate and practicable, consult with Federal agencies.

(e) The Special Representative shall from time to time furnish the President lists of articles proposed for publication and transmittal to the Tariff Commission by the President under the provisions of Section 221 (a) of the Act.

(f) The functions conferred upon the President by Section 222 of the Act are hereby delegated to the Special Representative.

(g) The functions conferred upon the President by the first sentence of Section 223 of the Act are hereby delegated to the Special Representative. The Special Representative is hereby designated to perform the functions prescribed by the second sentence of that section.

(h) The Special Representative shall make arrangements under which the committee established by Section 4 of this order shall provide for public hearings in pursuance of the second sentence of Section 252(d) of the Act. The functions conferred upon the President by the first sentence of that section are hereby delegated to the Special Representative.

(i) Any proclamation proposed for issuance under Section 201 (a) or Section 351 (a) of the Act (submitted pursuant to the provisions of subsection (b) of this section) shall be subject to the provisions of Executive Order No. 11030 of June 19, 1962.

(j) Advice furnished by the Secretaries of Commerce and Labor under Section 351 (c) of the Act shall be transmitted by the respective Secretaries to the President through the Special Representative.

(k) Subject to available financing, the Special Representative may employ such personnel as may be necessary to assist him in the performance of his functions.

SEC. 4. Trade Expansion Act Advisory Committee. (a) There is hereby established the Trade Expansion Act Advisory Committee (hereinafter referred to as the Committee). The Committee shall be composed of the Special Representative, who shall be its chairman, and the following other members: the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce and the Secretary of Labor.

(b) Each Secretary referred to in Section 4(a) of this order may designate an official from his department, who is in status not below that of an Assistant Secretary of an executive or military department, to serve as a member of the Committee in lieu of the designating Secretary when the latter is unable to attend any meeting of the Committee. In corresponding circumstances, the Special Representative may designate the Deputy Special Representative for Trade Negotiations, for a corresponding purpose. Except for his accountability to his designating authority, any person while so serving shall have in all respects the same status, as a member of the Committee, as do other members of the Committee.

(c) The Special Representatives may from time to time designate any member of the Committee (including any person serving as a member of the Committee under the provisions of Section 4(b) hereof) to act as chairman of the Committee when the Special Representative is unable to attend any meeting of the Committee.

(d) The Committee shall have the functions conferred by the Act upon the interagency organization referred to in Section 242 of the Act and shall also perform such other functions as the President may from time to time direct.

(e) The recommendations made by the Committee under Section 242(b)(1) of the Act, as approved or modified by the President, shall guide the administration of the trade agreements program.

(f) The functions conferred upon the President by the second sentence of Section 242(c) of the Act, to the extent that they are in respect of procedures, are hereby delegated to the Committee.

SEC. 5. Tariff Commission. (a) The United States Tariff Commission is requested to determine the ad valorem equivalent, and, for this purpose, the authority conferred upon the President by the provisions of Section 256(7) of the Act is hereby delegated to the Commission.

(b) Reports required to be made, and transcripts of hearings and briefs required to be furnished, by the Tariff Commission under the provisions of Section 301(f)(1) of the Act (1) shall, in respect of investigations made by it under Section 301(c)(1) of the Act be transmitted by the Commission to the President through the Secretary of Commerce, and (2) shall, in respect of investigations made by it under Section(c)(2) of the Act, be transmitted to the President through the Secretary of Labor.

(c) All other reports, findings, advice, hearing transcripts, briefs, and information which, under the terms of the Act, the Tariff Commission is required to furnish, report, or otherwise deliver to the President shall be transmitted to him through the Special Representative.

(d) Advice of the Tariff Commission under Section 221(b) of the Act shall not be released or disclosed in any manner or to any

extent not specifically authorized by the President or by the Special Representative.

SEC. 6. *Secretary of the Treasury.* There is hereby delegated to the Secretary of the Treasury, the authority to issue regulations, conferred upon the President by the provisions of Section 352(b) of the Act.

SEC. 7. *Secretary of Commerce.* The authority to certify, conferred upon the President by the Provisions of Section 302(c) of the Act, to the extent that such authority is in respect of firms, is hereby delegated to the Secretary of Commerce.

SEC. 8. *Secretary of Labor.* There are hereby delegated to the Secretary of Labor the authority to certify, conferred upon the President by the provisions of Section 302(c) of the Act, to the extent that such authority is in respect of groups of workers, and the authority conferred upon the President by the provisions of Section 302(e) of the Act.

SEC. 9. *Committees and task forces.* To perform assigned duties in connection with functions under the Act and as may be permitted by law, the Special Representative may from time to time cause to be constituted appropriate committees or task forces made up in whole or in part of representatives or employees of interested agencies, of representatives of the committee established by the provisions of Section 4 of this order, or of other persons. Assignments of personnel from agencies, in connection with the foregoing, and assignments of duties to them, shall be made with the consent of the respective heads of agencies concerned.

SEC. 10. *Threat of impairment of national security.* Executive Order No. 11051 of September 27, 1962, is hereby amended by striking from Section 404(a) thereof the text "Section 2 of the Act of July 1, 1954 (68 Stat. 360; 19 U.S.C. 1352a)" and inserting in lieu of the stricken text the following: "Section 232 of the Trade Expansion Act of 1962".

SEC. 11. *References.* Except as may for any reason be inappropriate, references in this order to any other Executive order or to the Act or to the Trade Expansion Act of 1962 or to any other statute, and references in this order or in any other Executive order to this order, shall be deemed to include references thereto, respectively, as amended from time to time.

SEC. 12. *Prior bodies and orders.* (a) The pending business, and the records and property, of the Trade Policy Committee, Trade Agreements Committee, and Committee for Reciprocity Information (now existing under orders referred to in Section 12(b) below) shall be completed or transferred as the Special Representative, consonant with law and with the provisions of this order, shall direct; and the said committees are abolished effective as of the thirtieth day following the date of this order.

(b) Subject to the foregoing provisions of this section, the following are hereby superseded and revoked:

- (1) Executive Order No. 10082 of October 5, 1949.
- (2) Executive Order No. 10170 of October 12, 1950.
- (3) Executive Order No. 10401 of October 14, 1952.
- (4) Executive Order No. 10741 of November 25, 1957.

JOHN F. KENNEDY

Executive Order 11106—April 18, 1963

PROVIDING FOR THE ADMINISTRATION OF THE TRADE AGREEMENTS PROGRAM AND RELATED MATTERS

By virtue of the authority vested in me by the Trade Expansion Act of 1962 (76 Stat. 872), Section 350 of the Tariff Act of 1930, as amended (19 U.S.C. 1351), and Section 301 of title 3 of the United States Code, and as President of the United States, it is ordered that Executive Order No. 11075 of January 15, 1963 (28 F.R. 473), be, and it is hereby, amended as follows:

SECTION. 1. Amend the heading of the order to read "Administration of the Trade Agreements Program".

SEC. 2. In Section 1, substitute "*Definitions. (a)*" for "*Definition.*". and add the following new subsection (b):

"(b) As used in this order the term 'the trade agreements program' includes all activities consisting of, or related to, the negotiation or administration of trade agreements (other than treaties) concluded pursuant to the authority vested in the President by the Constitution, Section 350 of the Tariff Act of 1930, as amended, or the Act."

SEC. 3. Amend Section 2 to read as follows:

"SEC. 2. *Office of Special Representative. (a)* There is hereby established in the Executive Office of the President an agency which shall be known as the Office of the Special Representative for Trade Negotiations.

"(b) There shall be at the head of the said Office the Special Representative for Trade Negotiations provided for in Section 241 of the Act (hereinafter referred to as the Special Representative), who shall be directly responsible to the President.

"(c) There shall be in the said Office a Deputy Special Representative for Trade Negotiations with the rank of Ambassador, whose principal functions shall be to conduct negotiations under title II of the Act, and who shall perform such additional duties as the Special Representative may direct."

SEC. 4. In Section 3, amend subsection (b) to read as follows:

"(b) The Special Representative shall advise and assist the President in the administration of, and facilitate the carrying out of, the trade agreements program. In addition, the Special Representative shall advise the President with respect to non-tariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements program."

SEC. 5. In subsection (c) of Section 3, substitute "trade agreements program" for "Act" in each place that word appears.

SEC. 6. In Section 3, delete subsection (i), redesignate subsection (h) as subsection (i), and insert the following new subsection (h):

"(h) After the President has entered into a trade agreement which provides for any new tariff concession, the Special Representative shall submit to the President, for transmission by him to each House of Congress, copies of such trade agreement, together with a draft of the statement relating thereto provided for in Section 226 of the Act.

In addition, the Special Representative shall transmit to each House of Congress copies of agreements supplementary to trade agreements which do not provide for any new tariff concession, and of such other documents relating to the trade agreements program as he considers appropriate, together with a brief statement describing each such supplementary agreement or other document."

SEC. 7. In Section 3, add the following new subsection (1) at the end of the section :

"(1) The Special Representative shall prepare or have prepared for consideration by the President, in a form suitable for inclusion in title 48 of the Code of Federal Regulations, any proclamation which relates wholly or primarily to the trade agreements program. Any such proclamation shall be subject to the provisions of Executive Order No. 11030 of June 19, 1962 (27 F.R. 5847), except that such proclamation need not be submitted for approval to the Director of the Bureau of the Budget as provided in Section 2 (a) and (b) of that order but may be transmitted directly to the Attorney General for his consideration as to both form and legality."

SEC. 8. In Section 4, redesignate subsection (f) as subsection (g), and insert the following new subsection (f) :

"(f) Before making recommendations to the President under Section 242(b) (2) of the Act, the Committee shall, through the Special Representative, request the advice of the Adjustment Assistance Advisory Board, created by the provisions of Section 361 of the Trade Expansion Act of 1962, concerning the feasibility of adjustment assistance to workers and firms."

SEC. 9. In Section 9, insert "or this order" after "the Act".

SEC. 10. Substitute "13(b)" for "12(b)" in Section 12(a), renumber Sections 11 and 12 as Sections 12 and 13, respectively, and insert the following new section 11 :

"SEC. 11. *Redelegation.* Delegations of authority made by this order to the Special Representative, the Secretary of Commerce, and the Secretary of Labor, and other assignment of authority made by this order to the Special Representative, shall be deemed to include the power of successive redelegation."

Section 2 of Executive Order No. 11075 of January 15, 1963 (28 F.R. 473), as amended by Section 3 of this order shall be deemed to have become effective January 15, 1963; and said Executive Order No. 11075 as amended shall be codified under title 48 of the Code of Federal Regulations.

JOHN F. KENNEDY

Executive Order 11113—June 13, 1963

AMENDMENT OF EXECUTIVE ORDER NO. 11075, AS AMENDED, RELATING TO THE ADMINISTRATION OF THE TRADE AGREEMENTS PROGRAM

By virtue of the authority vested in me by the Trade Expansion Act of 1962 (76 Stat. 872), and as President of the United States, it is

ordered that Executive Order No. 11075 of January 15, 1963 (28 F.R. 473), as amended by Executive Order No. 11106 of April 18, 1963 (28 F.R. 3911) be, and it is hereby, further amended by substituting for subsection (c) of Section 2 thereof (48 CFR § 1.2(c)) the following:

“(c) There shall be in the said Office two officers, each of whom shall have the title ‘Deputy Special Representative for Trade Negotiations’, with the rank of Ambassador. The principal functions of each shall be to conduct negotiations under title II of the Act, and each shall perform such additional duties as the Special Representative may direct.”

JOHN F. KENNEDY

Executive Order 11336**DELEGATING TO THE SECRETARY OF AGRICULTURE CERTAIN
AUTHORITY RELATING TO EMERGENCY LIVESTOCK FEED**

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) The Secretary of Agriculture is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by clause (1) of the fifth sentence of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), to the extent prescribed in subsection (b) of this section.

(b) Whenever the Secretary of Agriculture determines that the chronic economic distress of the needy members of an Indian tribe is materially increased by severe drought, flood, hurricane, blizzard, or other uncontrollable catastrophe affecting any reservation or other land designated for Indian use which is utilized by members of such tribe for grazing livestock, he may, under subsection (a) of this section, declare such reservation or other land to be an acute distress area because of unemployment or other economic reasons if he finds that the use of farm commodities or the products thereof made available by the Commodity Credit Corporation for livestock feed in that area will not displace or interfere with normal marketing of agricultural commodities.

SEC. 2. Federal assistance in relieving distress, extended as a result of action by the Secretary of Agriculture under the authority delegated by section 1 of this order, shall terminate in each instance upon notice by the Secretary of Agriculture.

SEC. 3. In carrying out the provisions of this order the Secretary of Agriculture shall maintain liaison with the Secretary of the Interior and shall consult with the latter as may be appropriate.

SEC. 4. The declaration contained in the letter of the President to the Secretary of Agriculture, dated February 1, 1965, that reservation lands in Arizona, Utah and New Mexico, which are grazed in common by Indian tribes, are an acute distress area shall continue in effect until January 1, 1968, or until such earlier date as may be fixed by notice of the Secretary of Agriculture published in the FEDERAL REGISTER.



THE WHITE HOUSE,
March 22, 1967.

(Emphasis added.)

Executive Order 11556—September 9, 1970**ASSIGNING TELECOMMUNICATIONS FUNCTIONS**

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, and in consonance with the intention expressed in my message to the Congress transmitting Reorganization Plan No. 1 of 1970, it is hereby ordered as follows:

SECTION 1. Amended and superseded orders. Executive Orders Nos. 10705 of April 17, 1957, 11051 of September 27, 1962, 11191 of January 4, 1965, and 11490 of October 28, 1969, and the President's Memorandum of August 21, 1968, headed "Establishment of the National Communications System" (28 F.R. 9413) are amended as provided herein. Executive Orders Nos. 10695-A of January 16, 1957, 10995 of February 16, 1962, and 11084 of February 15, 1968, to the extent not heretofore made inapplicable, are hereby revoked.

SEC. 2. General functions. Subject to the authority and control of the President, the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director) shall:

(a) Serve as the President's principal adviser on telecommunications.

(b) Develop and set forth plans, policies, and programs with respect to telecommunications that will promote the public interest, support national security, sustain and contribute to the full development of the economy and world trade, strengthen the position and serve the best interests of the United States in negotiations with foreign nations, and promote effective and innovative use of telecommunications technology, resources, and services. Agencies shall consult with the Director to insure that their conduct of telecommunications activities is consistent with the Director's policies and standards.

(c) Assure that the executive branch views are effectively presented to the Congress and the Federal Communications Commission on telecommunications policy matters.

(d) Coordinate those interdepartmental and national activities which are conducted in preparation for U.S. participation in international telecommunications conferences and negotiations, and provide to the Secretary of State advice and assistance with respect to telecommunications in support of the Secretary's responsibilities for the conduct of foreign affairs.

(e) Coordinate the telecommunications activities of the executive branch and formulate policies and standards therefor, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

(f) Evaluate by appropriate means, including suitable tests, the capability of existing and planned telecommunications systems to meet national security and emergency preparedness requirements, and report the results and any recommended remedial actions to the President and the National Security Council.

(g) Review telecommunications research and development, system improvement and expansion programs, and programs for the testing,

operation, and use of telecommunications systems by Federal agencies. Identify competing, overlapping, duplicative or inefficient programs, and make recommendations to appropriate agency officials and to the Director of the Office of Management and Budget concerning the scope and funding of telecommunications programs.

(h) Coordinate the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, and be prepared to administer such resources in any emergency under the overall policy direction and planning assumptions of the Director of the Office of Emergency Preparedness.

(i) Develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

(j) Conduct and coordinate economic, technical, and systems analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

(k) Conduct studies and analyses to evaluate the impact of the convergence of computer and communications technologies, and recommend needed actions to the President and to the departments and agencies.

(l) Coordinate Federal assistance to State and local governments in the telecommunications area.

(m) Contract for studies and reports related to any aspect of his responsibilities.

SEC. 3. Frequency assignments. The functions transferred to the Director by section 1 of Reorganization Plan No. 1 of 1970 include the functions of amending, modifying, and revoking frequency assignments for radio stations belonging to and operated by the United States, or to classes thereof, which have heretofore been made or which may be made hereafter.

SEC. 4. War powers. Executive Order No. 10705 of April 17, 1957, headed "Delegating Certain Authority of the President Relating to Radio Stations and Communications", as amended, is further amended by:

(a) Substituting for subsection (a) of section 1 the following: "(a) Subject to the provisions of this order, the authority vested in the President by subsections 606(a), (c), and (d) of the Communications Act of 1934, as amended (47 U.S.C. 606(a), (c) and (d)), is delegated to the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director). That authority shall be exercised under the overall policy direction of the Director of the Office of Emergency Preparedness."

(b) Substituting for the text "subsections 305(a) and 606(a)" in subsection (b) of section 1 the following: "subsection 606(a)"

SEC. 5. Foreign government radio stations. The authority to authorize a foreign government to construct and operate a radio station at the seat of government vested in the President by subsection 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305(d)), is hereby delegated to the Director. Authorization for the construction and operation of a radio station pursuant to this subsection and the

assignment of a frequency for its use shall be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

SEC. 6. Office of Emergency Preparedness. (a) Executive Order No. 11051 of September 27, 1962, headed "Prescribing Responsibilities of the Office of Emergency Planning in the Executive Office of the President", as amended, is further amended by:

(1) Deleting subsection 301(4) and renumbering subsection 301(5) as subsection 301(4).

(2) Substituting for section 306 the following:

"**SEC. 306. Emergency telecommunication.** The Director shall be responsible for providing overall policy guidance to the Director of the Office of Telecommunications Policy planning for the mobilization of the Nation's telecommunications resources in time of national emergency."

(3) Deleting section 406.

SEC. 7. Emergency preparedness. Executive Order No. 11490 of October 28, 1969, headed "assigning emergency preparedness functions to Federal departments and agencies," as amended, is hereby further amended (1) by substituting "Policy (35 F.R. 6421)" for "Management (OEP)" in section 401(27), and (2) by substituting the number of this order for "10995" in section 1802 and in section 2002(3).

SEC. 8. National Communications System. The President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413), is amended by:

(a) Substituting the following for the first paragraph after the heading "Executive Office Responsibilities":

"The Director of the Office of Telecommunications Policy shall be responsible for policy direction of the development and operation of the National Communications System and shall."

(b) Substituting the term "Director of the Office of Telecommunications Policy" for the term "Special Assistant to the President for Telecommunications" wherever it appears in said memorandum.

SEC. 9. Communications Satellite Act of 1962. Executive Order No. 11191 of January 4, 1965, headed "Providing for the Carrying Out of Certain Provisions of the Communications Satellite Act of 1962", is amended by:

(a) Substituting the following for subsection (c) of section 1:

"(c) The term 'the Director' means the Director of the Office of Telecommunications Policy.", and

(b) Substituting the following for the catchline of section 2: "Director of the Office of Telecommunications Policy."

SEC. 10. Advisory committees. As may be permitted by law, the Director shall establish such interagency advisory committees and working groups composed of representatives of interested agencies and consult with such departments and agencies as may be necessary for the

most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Director. As may be permitted by law, the Director also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

SEC. 11. Rules and regulations. The Director shall issue such rules and regulations as may be necessary to carry out the duties and responsibilities delegated to or vested in him by this order.

SEC. 12. Agency assistance. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Director and to furnish him such information, support and assistance, not inconsistent with law, as he may require in the performance of his duties.

SEC. 13. Functions of the Secretary of Commerce. The Secretary of Commerce shall support the Director in the performance of his functions, shall be a primary source of technical research and analysis and, operating under the policy guidance and direction of the Director, shall:

(a) Perform analysis, engineering and administrative functions, including the maintenance of necessary files and data bases, responsive to the needs of the Director in the performance of his responsibilities for the management of the radio spectrum.

(b) Conduct technical and economic research upon request to provide information and alternatives required by the Director.

(c) Conduct research and analysis on radio propagation, radio systems characteristics, and operating techniques affecting the utilization of the radio spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

(d) Conduct research and analysis in the general field of telecommunication sciences in support of other Government agencies as required and in response to specific requests from the Director.

(e) Conduct such other activities as may be required by the Director to support him in the performance of his functions.

SEC. 14. Retention of existing authority. (a) Nothing contained in this order shall be deemed to impair any existing authority or jurisdiction of the Federal Communications Commission. In carrying out his functions under this order, the Director shall coordinate his activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as the regulator of the private sector.

(b) Except as specifically provided herein, nothing in this order shall be deemed to derogate from any existing assignment of functions to any other department or agency or officer thereof made by statute, Executive order, or other Presidential directives.

RICHARD NIXON

Executive Order 11678**PROVIDING FOR THE REPAIR AND RESTORATION OF NONPROFIT
PRIVATE EDUCATIONAL INSTITUTIONS DAMAGED BY
HURRICANE AND TROPICAL STORM AGNES**

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code,¹ and as President of the United States, the Director of the Office of Emergency Preparedness, hereinafter referred to as the Director, is hereby empowered to exercise the authority conferred upon me by section 4 of the Act, entitled "An Act to authorize for a limited period additional loan assistance under the Small Business Act for disaster victims, to provide a study and report to the Congress by the President setting forth recommendations for a comprehensive revision of disaster relief legislation, and for other purposes" without the approval, ratification or other action by the President. The Director may delegate or assign to the head of any agency of the executive branch of the Government, subject to the consent of the agency head concerned in each case, any authority or function delegated or assigned to the Director by the provisions of this Order. Any such head of agency may redelegate any authority or function so delegated or assigned to him by the Director to any officer or employee subordinate to such head of agency whose appointment is required to be made by and with the advice and consent of the Senate.

RICHARD NIXON.

THE WHITE HOUSE,
August 16, 1972.

(Emphasis added.)

¹ 3 U.S.C.A. § 301.

[See Ex. Ord. 11725.]

Executive Order 11725—June 29, 1973**TRANSFER OF CERTAIN FUNCTIONS OF THE OFFICE OF
EMERGENCY PREPAREDNESS**

Under and by virtue of the authority vested in me by Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.), the Disaster Relief Act of 1970, as amended (42 U.S.C. 4401, et seq.), and Section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Secretary of Housing and Urban Development is designated and empowered to exercise, without the approval, ratification, or other action of the President:

(1) All authority vested in the President by the Disaster Relief Act of 1970, as amended, and assigned or delegated to the Director of the Office of Emergency Preparedness by Executive Order No. 11575 of December 31, 1970, as amended by Executive Order No. 11662 of March 29, 1972.

(2) All authority which was vested in the Office of Emergency Preparedness, or the Director thereof, by the Disaster Relief Act of 1970, as amended, and which was transferred to the President by Reorganization Plan No. 1 of 1973.

(3) All authority which was vested in the Director of the Office of Emergency Preparedness with respect to determining whether a major disaster has occurred within the meaning of (A) section 16 of the act of September 23, 1950, as amended, (20 U.S.C. 646), (B) section 7 of the act of September 30, 1950, as amended (20 U.S.C. 241-1), and (C) section 762(a) of the Higher Education Act of 1965 as added by section 161(a) of the Education Amendments of 1972, Public Law 92-318, 86 Stat. 288 at 299 (relating to the furnishing by the Commissioner of Education of disaster relief assistance for educational purposes), and which was transferred to the President by Reorganization Plan No. 1 of 1973.

(4) All authority vested in the Office of Emergency Preparedness or the Director thereof, including serving as Chairman of the National Council on Federal Disaster Assistance, by Executive Order No. 11526 of April 22, 1970.

(5) All authority vested in the Director of the Office of Emergency Preparedness by Executive Order No. 11678 of August 16, 1972, relating to the administration of certain temporary disaster relief provisions, and

(6) All other incidental authority relating to matters described in paragraphs (1) through (5) of this section that has been vested in the Office of Emergency Preparedness or the Director thereof by the President by Executive order, proclamation, letter, memorandum, or other form of directive, or otherwise.

SEC. 2. The Secretary of the Treasury is designated and empowered to exercise, without approval, ratification, or other action of the President, all authority which was vested in the Director of the Office of

Emergency Preparedness by section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), and which was transferred to the President by Reorganization Plan No. 1 of 1973.

Sec. 3. All authority vested in the Director of the Office of Emergency Preparedness as of June 30, 1973, by Executive order, proclamation, or other directive issued by or on behalf of the President or otherwise, other than that specified in section 1 (relating to disaster relief), and section 2 (relating to import investigations) of this order, is hereby transferred to the Administrator of General Services who shall exercise such authority in conformance with such guidance as may be provided by the National Security Council and, with respect to the economic and disposal aspects of stockpiling of strategic and critical materials by the Council on Economic Policy. Those functions include, but are not limited to functions under—

(1) Executive Order No. 10242 of May 8, 1951, relating to employment of certain part-time and temporary advisory personnel under the Federal Civil Defense Act of 1950;

(2) Executive Order No. 10296 of October 2, 1951, as amended, relating to the designation of critical defense housing areas pursuant to section 101 of the Defense Housing and Community Facilities and Services Act of 1951, 42 U.S.C. 1591;

(3) Executive Order No. 10421 of December 31, 1952, as amended, relating to the protection of facilities important to the national security.

(4) Executive Order No. 10480 of August 14, 1953, as amended, relating to the administration of the Defense Production Act of 1950, as amended;

(5) Executive Order No. 10494 of October 14, 1953, relating to the liquidation of the Economic Stabilization Agency created under the Defense Production Act of 1950 as amended;

(6) Executive Order No. 10601 of March 21, 1955 (section 3), relating to the designation of strategic materials to be acquired in return for surplus agricultural commodities (Supplemental Stockpile);

(7) Executive Order No. 10634 of August 25, 1955, relating to loans under the Defense Production Act of 1950 with respect to defense facilities damaged by a major disaster;

(8) Executive Order No. 10705 of April 17, 1957, relating to the radio stations during time of war (see Executive Order No. 11556 of September 4, 1970);

(9) Executive Order No. 10900 of January 5, 1961, relating to the Supplemental Stockpile;

(10) Executive Order No. 10952 of July 20, 1961, relating to civil defense functions;

(11) Executive Order No. 10958 of August 14, 1961, relating to civil defense functions;

(12) Executive Order No. 11051 of September 27, 1962 (except sections 404(a) and 405), relating to nonmilitary emergency preparedness planning, particularly under the National Security Act of 1947, as amended, and related functions under the Defense Production Act of 1950, the Strategic and Critical Materials Stockpiling Act, the Supplemental Stockpile and the Buy American Act;

(13) Executive Order No. 11179 of September 22, 1964, relating to the National Defense Executive Reserve;

(14) Executive Order No. 11415 of June 24, 1968, relating to the National Health Resources Advisory Committee;

(15) Executive Order No. 11490 of October 28, 1969, relating to the assignment of emergency preparedness functions to Federal departments and agencies;

(16) Executive Order No. 11556 of September 4, 1970, relating to telecommunications contingency planning;

(17) Section 203(n) of the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 484(n)), relating to the disposal of surplus property;

(18) All other incidental authority relating to matters described in paragraphs (1) through (17) of this section that has been vested in the Office of Emergency Preparedness or the Director thereof by the President by Executive order, proclamation, letter, memorandum, or other form of directive, or otherwise.

SEC. 4. All rules, regulations, orders, determinations, permits, contracts, certifications, licenses, and privileges (including all delegations of authority and delegations of authority to redelegate) which have been issued, made, granted, or allowed to become effective by the President, the Director of the Office of Emergency Preparedness, or the Office of Emergency Preparedness or any official thereof, in the performance of functions which are transferred by this order and which are in effect at the time this order takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary of Housing and Urban Development, the Secretary of the Treasury, or the Administrator of General Services, as the case may be, or other authorized officials, or by operation of law.

SEC. 5. Pursuant to the authority vested in me by section 708 of the Defense Production Act of 1950 as amended (50 U.S.C. App. 2158), the Administrator is authorized to establish a subordinate agency within the General Services Administration to perform such of the functions under the Defense Production Act of 1950, as amended, as have been delegated to him under this order or any other Executive order, as the Administrator deems appropriate. The Administrator is authorized to appoint a head of that agency who shall be compensated at the rate now or hereafter established for level V of the Executive Schedule (5 U.S.C. 5316). That agency and its head shall perform such functions, in addition to functions under the Defense Production Act of 1950, as amended, as the Administrator may, from time to time, prescribe.

SEC. 6. (a) The transfer of functions accomplished by this Executive order shall in no way be deemed to diminish the need for, or the scope or priority of, the performance of those functions.

(b) All Federal executive departments and agencies are directed to cooperate fully with officials exercising authorities transferred under this order.

SEC. 7. Sections 404(a) and 405 of Executive Order No. 11051, as amended, are hereby revoked.

SEC. 8. This order shall be effective as of July 1, 1978.

RICHARD NIXON

Executive Order 11749—December 12, 1973**CONSOLIDATING RELIEF FUNCTIONS ASSIGNED TO THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT**

By virtue of the authority vested in me by Reorganization Plan No. 1 of 1973, the Disaster Relief Act of 1970, as amended (42 U.S.C. § 4401, et seq.), and section 301 of title 3 of the United States Code and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Housing and Urban Development is designated and empowered to exercise without the approval, ratification, or other action of the President, all of the authority vested in the President by the Disaster Relief Act of 1970, as amended, hereinafter referred to as the "Act", except (1) the authorities vested in the President by section 102(1) of the Act to declare a major disaster, by section 251 of the Act to provide for the restoration of Federal facilities, and by section 253 of the Act to prescribe time limits for granting priorities for certain public facilities and certain public housing assistance which are hereby reserved to the President; (2) the authority vested in the President by section 210 of the Act concerning the utilization and availability of the civil defense communications system for the purpose of disaster warnings which the Secretary of Defense is empowered to exercise by this order; and (3) the authority vested in the President by section 238 of the Act concerning food coupons and surplus commodities, which the Secretary of Agriculture is empowered to exercise by this order.

(b) The Secretary of Housing and Urban Development is hereby empowered to exercise without the approval, ratification, or other action of the President, all of the authority conferred upon the President, by section 4 of the act entitled "An Act to authorize for a limited period additional loan assistance under the Small Business Act for disaster victims, to provide for a study and report to the Congress by the President setting forth recommendations for a comprehensive revision of disaster relief legislation, and for other purposes."

(c) The Secretary of Housing and Urban Development may delegate or assign to the head of any agency of the executive branch of the Government, subject to the consent of the agency head concerned in each case, any authority or function delegated or assigned to the Secretary by the provisions of this section. Any such head of the agency may redelegate any authority or function so delegated or assigned to him by the Secretary to any officer or employee subordinate to such head of the agency whose appointment is required to be made by and with the advice and consent of the Senate.

SEC. 2. The Secretary of Housing and Urban Development is designated and empowered to exercise, without the approval, ratification, or other action of the President:

(1) All authority which was vested in the Office of Emergency Preparedness, or the Director thereof, by the Disaster Relief Act of 1970, as amended, and which was transferred to the President by Reorganization Plan No. 1 of 1973.

(2) All authority which was vested in the Director of the Office of Emergency Preparedness with respect to determining whether a major disaster has occurred within the meaning of (A) section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), (B) section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241-1), and (C) section 762(a) of the Higher Education Act of 1965 as added by section 161(a) of the Education Amendments of 1972, Public Law 92-318, 86 Stat. 288 at 299 (relating to the furnishing by the Commissioner of Education of disaster relief assistance for educational purposes), and which was transferred to the President by Reorganization Plan No. 1 of 1973.

SEC. 3. (a) There is hereby established the National Council on Federal Disaster Assistance (hereinafter referred to as the "Council") which shall be composed of the Secretary of Housing and Urban Development, who shall be the Chairman of the Council, and policy level representatives of the Departments of Defense; the Interior; Agriculture; Commerce; Labor; Health, Education, and Welfare; and Transportation; and of the Small Business Administration and the Office of Economic Opportunity, and such other members as the President may from time to time designate. This Council supersedes the National Council on Federal Disaster Assistance established by Executive Order No. 11526. Representatives of the other Federal departments or agencies, officials of State and local governments, and private citizens may be invited by the Chairman to participate in the deliberations of the Council.

(b) The Council shall advise and assist the Secretary of Housing and Urban Development in: (1) insuring that the Federal agencies furnish necessary assistance following a large-scale disaster on a priority basis to the Federal Coordinating Officer appointed by the President to operate under the Secretary of Housing and Urban Development, pursuant to section 201 of the Disaster Relief Act of 1970; (2) developing policies and programs to provide a strong and integrated total Federal disaster assistance effort; (3) stimulating cooperation and the sharing of data, views, and information concerning disaster assistance among Federal agencies, State and local governments, and private organizations having disaster assistance responsibilities and interests; (4) facilitating cooperation among Federal, State, and local governments with special concern for the maintenance of local initiative and decisionmaking with respect to emergency restoration and rebuilding programs; (5) promoting the participation of Federal agencies in providing Federal assistance for rebuilding efforts; (6) encouraging research on means of preventing disasters and ameliorating the effects of those that occur; (7) reviewing, from time to time, the effectiveness of the Federal disaster assistance programs and suggesting needed changes.

(c) Consistent with law, the Department of Housing and Urban Development shall provide staff and other assistance to the Council, and executive departments and agencies shall furnish to the Council such available information as the Council may require in performance of its functions.

(d) Nothing in this order shall be construed as subjecting any Federal agency or officer, or any function vested by law in, or assigned, pursuant to law to, any Federal agency or officer to the authority of the Council or of any other agency or officer or as abrogating any such function in any manner.

SEC. 4. The Secretary of Housing and Urban Development is designated and empowered to exercise, without the approval, ratification, or other action of the President all other incidental authority relating to matters described in sections 1 through 3 of this Executive order that has been vested in the Office of Emergency Preparedness or the Director thereof by the President by letter, memorandum, or other form of directive, or otherwise.

SEC. 5. (a) The Secretary of Defense is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 210 of the Act concerning the utilization and availability of the civil defense communications system for the purpose of disaster warnings.

(b) The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 238 of the act concerning food coupons and surplus commodities.

SEC. 6. (a) Executive Order Nos. 11526, 11575, 11662, and 11678, and section 1 of Executive Order No. 11725 are hereby superseded.

(b) This order shall be effective thirty days after the date of its issuance.

RICHARD NIXON

Chapter I

EXECUTIVE ORDERS PRESCRIBING PROCEDURES AND RESPONSIBILITIES IN TIME OF EMERGENCY

As a previous report of the Special Committee on the Termination of the National Emergency (Sen. Rept. 93-549) has shown, at least 470 statutes delegate extraordinary powers to the Executive in time of emergency. The following Executive Orders specify how the President has ordered that these powers are to be exercised by the various parts of the executive branch. In general, these Executive Orders enumerate the duties and responsibilities of the various Departments and Agencies and establish the procedures which are to be followed when a national emergency is declared. It should be stressed that this listing of Executive Orders reveals only a small portion of Presidential commands, by whatever names they are called, which may, during time of legally declared emergency, require compliance by individuals inside or outside of the Government, and which may also involve the expenditure of Government funds.

The general structure for emergency government outlined in the Executive Orders presented here is supplemented by detailed regulations issued by each Executive Department and Agency. These emergency regulations are compiled by the Office of the Federal Register and are collectively published as the "Code of Emergency Federal Regulations." How useful this publication may be is open to question. The most important Departments of Government during time of emergency—Defense, State, Justice, Commerce, and the Office of the President, among others—have never submitted their regulations for inclusion in the "CEFR". Many of the regulations which are in fact published are, moreover, dated or so hypothetically drawn as to be of little likely utility in actual time of emergency. If the emergency were of truly crisis proportions, it may therefore be doubted whether these regulations would meet the exigencies of the crisis.

A selective examination of the "CEFR" regulations does, however, demonstrate how regulations drawn up for emergency contingencies could jeopardize fundamental rights and values. In Section VII of the then Post Office Department's emergency regulations (appended at the end of this section) a comprehensive plan for censorship of all international mail is established, pursuant to Executive Order 11490, Section 601(a)(2). Neither the regulation itself nor the Executive Order cites any statutory authority whatever for this sort of drastic infringement of a citizen's right to privacy. Although the censorship is presumably designed for use only during wartime, it is on its face designed for any emergency declared by the President and might in-

deed be thereby activated. And as this Special Committee's studies have shown, Presidents in the past have declared "national emergencies" for many reasons unrelated to war, and the states of emergency thus created have often lasted far beyond the circumstances which gave rise to them. The possible dangers presented by these regulations for emergency postal censorship are, then, quite real. They may, moreover, be indicative of other, similar dangers to civil liberties in the present structure of delegated emergency powers.

CODE OF EMERGENCY FEDERAL REGULATIONS—15-1-7

(Excerpt from the Post Office Department's emergency regulations)

VII. An Executive Order [11490] has been issued directing the Department of Defense to institute censorship of communications crossing the borders of the United States, or any of its territories or possessions. Censorship stations are being activated as follows:

<i>District station No. and location</i>	<i>Area of responsibility</i>
1: Gardner, Mass.....	Maine, New Hampshire, Massachusetts, Rhode Island, and Vermont.
2: Poughkeepsie, N.Y.....	New York, Connecticut, and New Jersey.
3: Williamsport, Pa.....	Pennsylvania, Delaware, and Ohio.
4: Lynchburg, Va.....	District of Columbia, Virginia, Maryland, West Virginia, and Kentucky.
5: Bristol, Tenn.....	Tennessee, North Carolina, and South Carolina.
8: Ocala, Fla.....	Florida, Georgia, Alabama, and Mississippi.
10: Texarkana, Ark.....	Louisiana, Arkansas, and Oklahoma.
12: El Paso, Tex.....	New Mexico.
22: Bryan, Tex.....	Texas.
6: Quincy, Ill.....	Illinois, and Missouri.
7: Oshkosh, Wis.....	Wisconsin.
9: Battle Creek, Mich.....	Indiana and Michigan.
11: Fargo, N. Dak.....	Minnesota, North Dakota, and South Dakota.
13: Grand Island, Nebr.....	Wyoming, Colorado, Nebraska, Kansas, and Iowa.
14: Modesto, Calif.....	Post offices in that portion of California served through the following sectional centers: Burlingame, Eureka, Oakland, Palo Alto, Redding, Sacramento, Salinas, San Francisco, San Jose, San Rafael, Santa Rosa, Stockton, and Vallejo.
15: Bakersfield, Calif.....	Post offices in that portion of California served through the following sectional centers: Alhambra, Bakersfield, Fresno, Glendale, Huntington Park, Indio, Inglewood, Long Beach, Los Angeles, Mojave, North Hollywood, Oceanside, Pasadena, Pomona, San Bernardino, San Diego, San Luis Obispo, Santa Ana, Santa Monica, Van Nuys, Ventura, and Whittier.
16: Yakima, Wash.....	Washington, Oregon, Idaho, and Montana.
17: Tucson, Ariz.....	Arizona, Utah, and Nevada.
18: Anchorage, Alaska.....	Alaska.
19: Ft. DeRussy, Hawaii.....	Hawaii, and Guam.
20: San Juan, P.R.....	Puerto Rico and the Virgin Islands.
21: Ft. Clayton, C.Z.....	Canal Zone.

A. All outgoing international mail on hand and hereafter deposited at post offices (except that bearing United States national censorship clearance) shall be forwarded to the postmaster at the censorship station listed above which has responsibility for the State or portion thereof in which the post office of mailing is located.

B. All incoming international mail, and territorial mail not bearing United States national censorship clearance, on hand and hereafter received at exchange offices or other points of entry shall be forwarded promptly in pouches labeled to the censorship stations listed above which have responsibility for the State or portion thereof to which such mail is addressed. Following treatment at censorship stations the mail, which will not be individually endorsed to indicate clearance, will be turned over to the censorship station post offices for merging with mail of domestic origin for onward transmission to the offices of address. At such point this mail of foreign origin will, of course, lose its identity as having been processed at the censorship stations. It is to be assumed by all distributors through whose hands it thereafter passes that all such mail has been cleared by censor and it must not be further intercepted or delayed en route or at the office of delivery, but will be delivered promptly as addressed.

Postmasters where censorship stations are located are directed to cooperate fully with postal inspectors and district postal censors in charge of censorship stations, in implementing the censorship program. Separate instructions are being issued to those postmasters relative to operation of the censorship program.

Chapter II

EXECUTIVE DECISIONS IN TIME OF EMERGENCY

Crisis situations faced by Presidents in recent years have taken a great variety of forms. Only occasionally, however, have these crises been specifically designated as "emergencies." The criteria for such designation are obscure: The Korean War and a postal strike were "emergencies;" the Vietnam War and the urban riots of 1967-68 were not. Whatever the reasons for this terminological mystery, in order to understand emergency decisionmaking a much broader focus is required than just situations specifically denominated "national emergencies."

Despite the variety of the formal categorization of crises, certain aspects of emergency decisionmaking should be noted. First, the form in which a decision or order, by whatever name, will be issued is not prescribed by statute. In one situation an Executive Order will be used and published in the *Federal Register*. In another, and to all appearances, identical situation, a proclamation will be used and published in the *Federal Register*. In yet others, extremely important orders will be given, but nowhere published. Secondly, it is clear that the authority cited in issuing the order is important, for the order's legal status may well depend thereon. Whether the order was issued pursuant to an express statutory delegation of power, or whether it rests entirely on alleged constitutional powers of the presidency, may have political or judicial consequences.

The general categories here presented are intended as examples and are not to be considered exhaustive compilations. Similarly, the brief notes appended to each category of executive documents have been added for the purpose of outlining characteristic aspects of Presidential decisionmaking during emergencies.

PROCLAIMING AND TERMINATING STATES OF EMERGENCY

This section contains examples of declarations of national emergencies. There is, of course, no specific constitutional authority given to the President to do so, but the practice has never been challenged. These declarations are almost always incorporated in the form of official proclamations. Similarly, when the President wishes to terminate a state of declared emergency, he may do so by issuing a pro-

clamation (for example, Proclamation No. 2974). There are no statutory procedures which require such a termination, however, and indeed three of the proclamations here presented ¹ have not been terminated (nor has the 1933 emergency announced by Roosevelt and incorporated in the Banking Act of that year, 49 Stat. 1) and are still on the books.

Congress may also terminate a declared state of national emergency by statute or Concurrent Resolution.

Proclamation 2352—Sept. 8, 1939

PROCLAIMING A NATIONAL EMERGENCY IN CONNECTION WITH THE OBSERVANCE, SAFEGUARDING, AND ENFORCEMENT OF NEUTRALITY AND THE STRENGTHENING OF THE NATIONAL DEFENSE WITHIN THE LIMITS OF PEACE-TIME AUTHORIZATIONS

By the President of the United States

A Proclamation

WHEREAS a proclamation issued by me on September 5, 1939, proclaimed the neutrality of the United States in the war now unhappily existing between certain nations; and

WHEREAS this state of war imposes on the United States certain duties with respect to the proper observance, safeguarding, and enforcement of such neutrality, and the strengthening of the national defense within the limits of peace-time authorizations; and

WHEREAS measures required at this time call for the exercise of only a limited number of the powers granted in a national emergency:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do proclaim that a national emergency exists in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peace-time authorizations. Specific directions and authorizations will be given from time to time for carrying out these two purposes.

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

DONE at the City of Washington this eighth day of September, in the year of our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-fourth.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

¹ Nos. 2914, 3972, and 4074.

Proclamation 2487—May 27, 1941

PROCLAIMING THAT AN UNLIMITED NATIONAL EMERGENCY CONFRONTS THIS COUNTRY, WHICH REQUIRES THAT ITS MILITARY, NAVAL, AIR AND CIVILIAN DEFENSES BE PUT ON THE BASIS OF READINESS TO REPEL ANY AND ALL ACTS OR THREATS OF AGGRESSION DIRECTED TOWARD ANY PART OF THE WESTERN HEMISPHERE

By the President of the United States

A Proclamation

WHEREAS on September 8, 1939 because of the outbreak of war in Europe a proclamation was issued declaring a limited national emergency and directing measures "for the purpose of strengthening our national defense within the limits of peacetime authorizations",

WHEREAS a succession of events makes plain that the objectives of the Axis belligerents in such war are not confined to those avowed at its commencement, but include overthrow throughout the world of existing democratic order, and a worldwide domination of peoples and economics through the destruction of all resistance on land and sea and in the air, AND

WHEREAS indifference on the part of the United States to the increasing menace would be perilous, and common prudence requires that for the security of this nation and of this hemisphere we should pass from peacetime authorizations of military strength to such a basis as will enable us to cope instantly and decisively with any attempt at hostile encirclement of this hemisphere, or the establishment of any base for aggression against it, as well as to repel the threat of predatory incursion by foreign agents into our territory and society,

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do proclaim that an unlimited national emergency confronts this country, which requires that its military, naval, air and civilian defenses be put on the basis of readiness to repel any and all acts or threats of aggression directed toward any part of the Western Hemisphere.

I call upon all the loyal citizens engaged in production for defense to give precedence to the needs of the nation to the end that a system of government that makes private enterprise possible may survive.

I call upon all our loyal workmen as well as employers to merge their lesser differences in the larger effort to insure the survival of the only kind of government which recognizes the rights of labor or of capital.

I call upon loyal state and local leaders and officials to cooperate with the civilian defense agencies of the United States to assure our internal security against foreign directed subversion and to put every community in order for maximum productive effort and minimum of waste and unnecessary frictions.

I call upon all loyal citizens to place the nation's needs first in mind and in action to the end that we may mobilize and have ready for instant defensive use all of the physical powers, all of the moral strength and all of the material resources of this nation.

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

DONE at the City of Washington this twenty-seventh day of May, in the year of our Lord nineteen hundred and forty-one, and of the Independence of the United States of America the one hundred and sixty-fifth.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

Proclamation 2914—Dec. 16, 1950

PROCLAIMING THE EXISTENCE OF A NATIONAL EMERGENCY

By the President of the United States

A Proclamation

WHEREAS recent events in Korea and elsewhere constitute a grave threat to the peace of the world and imperil the efforts of this country and those of the United Nations to prevent aggression and armed conflict; and

WHEREAS world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world; and

WHEREAS if the goal of communist imperialism were to be achieved, the people of this country would no longer enjoy the full and rich life they have with God's help built for themselves and their children; they would no longer enjoy the blessings of the freedom of worshipping as they severally choose, the freedom of reading and listening to what they choose the right of free speech including the right to criticize their Government, the right to choose those who conduct their Government, the right to engage freely in collective bargaining, the right to engage freely in their own business enterprises, and the many other freedoms and rights which are a part of our way of life; and

WHEREAS the increasing menace of the forces of communist aggression requires that the national defense of the United States be strengthened as speedily as possible:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do proclaim the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace.

I summon all citizens to make a united effort for the security and well-being of our beloved country and to place its needs foremost in thought and action that the full moral and material strength of the Nation may be readied for the dangers which threaten us.

I summon our farmers, our workers in industry, and our businessmen to make a mighty production effort to meet the defense requirements of the Nation and to this end to eliminate all waste and inefficiency and to subordinate all lesser interests to the common good.

I summon every person and every community to make, with a spirit of neighborliness, whatever sacrifices are necessary for the welfare of the Nation.

I summon all State and local leaders and officials to cooperate fully with the military and civilian defense agencies of the United States for the national defense program.

I summon all citizens to be loyal to the principles upon which our Nation is founded, to keep faith with our friends and allies, and to be firm in our devotion to the peaceful purposes for which the United Nations was founded.

I am confident that we will meet the dangers that confront us with courage and determination, strong in the faith that we can thereby "secure the Blessings of Liberty to ourselves and our Posterity."

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

DONE at the City of Washington this 16th day of December, 10:20 a.m., in the year of our Lord nineteen hundred and fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

HARRY S. TRUMAN

By the President:
 DEAN ACHESON
Secretary of State

Proclamation 2950—Oct. 24, 1951

TERMINATION OF THE STATE OF WAR WITH GERMANY

By the President of the United States

A Proclamation

WHEREAS, by a joint resolution, approved by the President on December 11, 1941, the Congress of the United States formally declared a state of war to exist between the United States and the Government of Germany (55 Stat. 796); and

WHEREAS on December 31, 1946, the President proclaimed the cessation of hostilities of World War II; and

WHEREAS it has been and continues to be the policy of the United States to bring about the conclusion of a treaty of peace with the government of a united and free Germany, but efforts to this end have been frustrated and made impossible for the time being by the policy of the Soviet Government; and

WHEREAS it has nevertheless been considered desirable to bring the existing state of war with Germany to a close and to remove Germany from its present enemy status, thus eliminating certain disabilities affecting German nationals; and

WHEREAS the rights, privileges, and status of the United States and the other occupation powers in Germany, and the rights and privileges of the United States and its nationals to which it or they have become entitled as a result of the war, as well as the right to exercise or enforce the same, derive from the conquest of Germany and the assumption of supreme authority by the Allies and are not affected by the termination of the state of war; and

WHEREAS the Congress of the United States by a joint resolution, approved October 19, 1951 (Public Law 181, 82d Congress), has resolved that the state of war declared to exist between the United States and the Government of Germany is terminated and that such termination shall take effect on the date of enactment of such resolution:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, pursuant to such joint resolution, do proclaim that the state of war between the United States and the Government of Germany declared by the joint resolution of Congress approved December 11, 1941 was terminated on October 19, 1951.

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

DONE at the City of Washington this 24th day of October, in the year of our Lord nineteen hundred and fifty-one, and of the Independence of the United States of America the one hundred and seventy-sixth.

HARRY S. TRUMAN

By the President:

DEAN ACHESON

Secretary of State

Proclamation 2974—April 28, 1952

TERMINATION OF THE NATIONAL EMERGENCIES PROCLAIMED ON SEPTEMBER 8, 1939, AND MAY 27, 1941

By the President of the United States

A Proclamation

WHEREAS by Proclamation No. 2352 of September 8, 1939, the President proclaimed the existence of a national emergency in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States of America and the strengthening of our national defense within the limits of peace-time authorizations; and

WHEREAS by Proclamation No. 2487 of May 27, 1941, the President proclaimed the existence of an unlimited national emergency, requiring that the military, naval, air, and civilian defenses of this country be put on the basis of readiness to repel any and all acts or

threats of aggression directed toward any part of the Western Hemisphere; and

WHEREAS acts of aggression against the United States of America by Axis Powers subsequently led to declarations by the Congress of the existence of states of war between the United States of America and Japan, Germany, Italy, Hungary, Rumania and Bulgaria; and

WHEREAS the state of war between the United States of America and Japan, which was the last of the aforesaid states of war still existing, was terminated by the coming into force this day of the Treaty of Peace with Japan signed at San Francisco on September 8, 1951:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do proclaim that the national emergencies declared to exist by the proclamations of September 8, 1939, and May 27, 1941, terminated this day upon the entry into force of the Treaty of Peace with Japan.

Nothing in this proclamation shall be construed to affect Proclamation No. 2914, issued by the President on December 16, 1950, declaring that world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world, and proclaiming the existence of a national emergency requiring that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace; and nothing herein shall be construed to affect the continuation of the said emergency of September 8, 1939, as specified in the Emergency Powers Interim Continuation Act, approved April 14, 1952 (Public Law 313—82d Congress), for the purpose of continuing the use of property held under the Act of October 14, 1940, ch. 862, 54 Stat. 1125, as amended.

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

DONE at the City of Washington this twenty-eighth day of April in the year of our Lord nineteen hundred and fifty-two, and of the Independence of the United States of America the one hundred and seventy-sixth.

HARRY S. TRUMAN

By the President:

DEAN ACHESON

Secretary of State

Proclamation 3972—March 23, 1970

DECLARING A NATIONAL EMERGENCY

By the President of the United States

A Proclamation

WHEREAS certain employees of the Postal Service are engaged in an unlawful work stoppage which has prevented the delivery of

the mails and the discharge of other postal functions in various parts of the United States; and

WHEREAS, as a result of such unlawful work stoppage the performance of critical governmental and private functions, such as the processing of men into the Armed Forces of the United States, the transmission of tax refunds and the receipt of tax collections, the transmission of Social Security and welfare payments, and the conduct of numerous and important commercial transactions, has wholly ceased or is seriously impeded; and

WHEREAS the continuance of such work stoppage with its attendant consequences will impair the ability of this nation to carry out its obligations abroad, and will cripple or halt the official and commercial intercourse which is essential to the conduct of its domestic business:

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, pursuant to the powers vested in me by the Constitution and laws of the United States and more particularly by the provisions of Section 673 of Title 10 of the United States Code, do hereby declare a state of national emergency, and direct the Secretary of Defense to take such action as he deems necessary to carry out the provisions of the said Section 673 in order that the laws of the United States pertaining to the Post Office Department may be executed in accordance with their terms.

IN WITNESS WHEREOF, I have hereunto set my hands this 23rd day of March in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fourth.

RICHARD NIXON

Proclamation-4074—Aug. 15, 1971

IMPLEMENTATION OF SUPPLEMENTAL DUTY FOR BALANCE OF PAYMENTS PURPOSES

By the President of the United States

A Proclamation

WHEREAS, there has been a prolonged decline in the international monetary reserves of the United States, and our trade and international competitive position is seriously threatened and, as a result, our continued ability to assure our security could be impaired;

WHEREAS, the balance of payments position of the United States requires the imposition of a surcharge on dutiable imports;

WHEREAS, pursuant to the authority vested in him by the Constitution and the statutes, including, but not limited to, the Tariff Act of 1930, as amended (herein after referred to as "the Tariff Act"), and the Trade Expansion Act of 1962 (hereinafter referred to as "the TEA"), the President entered into, and proclaimed tariff rates under, trade agreements with foreign countries;

WHEREAS, under the Tariff Act, the TEA, and other provisions

of law, the President may, at any time, modify or terminate, in whole or in part, any proclamation made under his authority;

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including, but not limited to, the Tariff Act, and the TEA, respectively, do proclaim as follows:

A. I hereby declare a national emergency during which I call upon the public and private sector to make the efforts necessary to strengthen the international economic position of the United States.

B. (1) I hereby terminate in part for such period as may be necessary and modify prior Presidential Proclamations which carry out trade agreements insofar as such proclamations are inconsistent with, or proclaim duties different from, those made effective pursuant to the terms of this Proclamation.

(2) Such proclamations are suspended only insofar as is required to assess a surcharge in the form of a supplemental duty amounting to 10 percent ad valorem. Such supplemental duty shall be imposed on all dutiable articles imported into the customs territory of the United States from outside thereof, which are entered, or withdrawn from warehouse, for consumption after 12:01 a.m., August 16, 1971, provided however, that if the imposition of an additional duty of 10 percent ad valorem would cause the total duty or charge payable to exceed the total duty or charge payable at the rate prescribed in column 2 of the Tariff Schedules of the United States, then the column 2 rate shall apply.

C. To implement section B of this Proclamation, the following new subpart shall be inserted after subpart B of part 2 of the Appendix to the Tariff Schedules of the United States.

SUBPART C—TEMPORARY MODIFICATIONS FOR BALANCE OF PAYMENTS PURPOSES

SUBPART C HEADNOTES

1. This subpart contains modifications of the provisions of the tariff schedules proclaimed by the President in Proclamation 4074.

2. *Additional duties imposed*—The duties provided for in this subpart are cumulative duties which apply in addition to the duties otherwise imposed on the articles involved. The provisions for these duties are effective with respect to articles entered on and after 12:01 a.m., August 16, 1971, and shall continue in effect until modified or terminated by the President or by the Secretary of the Treasury (hereinafter referred to as the Secretary) in accordance with headnote 4 of this subpart.

3. *Limitation on additional duties*—The additional 10 percent rate of duty specified in rate of duty column numbered 1 of item 948.00 shall in no event exceed that rate which, when added to the column numbered 1 rate imposed on the imported article under the appropriate item in schedules 1 through 7 of these schedules, would result in an aggregated rate in excess of the rate provided for such article in rate of duty column numbered 2.

4. For the purposes of this subpart—

(a) *Delegation of authority to Secretary*—The Secretary may from time to time take action to reduce, eliminate or reimpose the rate of additional duty herein or to establish exemption therefrom, either generally or with respect to an article which he may specify either generally or as the product of a particular country, if he determines that such action is consistent with safeguarding the balance of payments position of the United States.

(b) *Publication of Secretary's actions*—All actions taken by the Secretary hereunder shall be in the form of modifications of this subpart published in the Federal Register. Any action reimposing the additional duties on an article exempted therefrom by the Secretary shall be effective only with respect to articles entered on and after the date of publication of the action in the Federal Register.

(c) *Authority to prescribe rules and regulations*—The Secretary is authorized to prescribe such rules and regulations as he determines to be necessary or appropriate to carry out the provisions of this subpart.

5. *Articles exempt from the additional duties*—In accordance with determinations made by the Secretary in accordance with headnote 4(a), the following described articles are exempt from the provisions of this subpart:

Item	Article	Rates of duty	
		1	2
948.00.....	Articles, except as exempted under headnote 5 of this subpart, which are not free of duty under these schedules and which are the subject of tariff concessions granted by the United States in trade agreements.	10 percent ad valorem (see headnote 3 of this subpart).	No change.

D. This Proclamation shall be effective 12:01 a.m., August 16, 1971.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of August in the year of our Lord nineteen hundred and seventy-one, and of the Independence of the United States of America the one hundred and ninety-sixth.

RICHARD NIXON

Chapter III

EXECUTIVE DIRECTIVES IN TIME OF WAR OR ARMED HOSTILITIES

It would go far beyond the scope of this report to discuss the types and manner of issuance of all Executive Orders used in time of war or armed hostilities. Nevertheless, the overwhelming importance of this area deserves some study, for the consequences of wartime orders are especially momentous, the range of executive wartime powers especially great, and their effects often persist long after hostilities may have ceased. Moreover, the need for secrecy, a necessary part of wars, obfuscates the already shadowy process of executive decisionmaking, and makes it all the more important that the decisionmaking process be understood.

Nearly all of the documents presented here fall into one of three classes: a small number of historical interest dating back to the 19th century; a selection of World War II orders; and various decisions relating to the Southeast Asian War. The historical documents are of interest because they illustrate some of the kinds of powers relied upon by Presidents from the very earliest days of the Republic. They are all in the form of Proclamations and appear to be designed to give notice of Presidential policy and declare an intention to follow it through. If and when actual orders were issued to implement these policies, they presumably took a variety of forms. President Kennedy's Proclamation declaring the arms blockade of Cuba of October 1962 both asserts a policy and orders its implementation, but in most respects it is strikingly similar to the much earlier documents in form and in indicating a presidential response to a relatively isolated incident of threatened hostilities.

In time of war, an enormous volume of presidential commands of both a military and civilian nature are issued. The diversity of subject matter of the documents from World War II is included here to convey some impression of the remarkable range of such commands. Their diversity of format is a striking illustration of the randomness which—as noted elsewhere in this report—tends to characterize the issuance of executive decisions generally. Thus, a prescription for controlling the Boston Maritime Area is incorporated in a formal Proclamation; the infamous order (E.O. 9066) which permitted establishment of internment camps for Americans of Japanese origin or ancestry is an Executive Order; and military commissions for the trial of war crimes are set up by a "Military Order." It is a matter of sheer conjecture why any of these decisions should have been incorporated in one particular format rather than one of the others.

The World War II orders and the Cuban arms blockade proclamation were all issued pursuant to statute or congressional resolution and were all published. Not so the documents printed in this study dealing with the Southeast Asian War, most of which are from the "Pentagon Papers." Wartime orders undoubtedly cover a spectrum from the simplest internal directives of the Executive or the military to the most public of proclamations. By their very nature many of those orders are classified and properly so. But Congress should have had some access to these directives under appropriate security arrangements. The *Federal Register* has provision for classified orders. Determining exactly where the line must fall between those orders which must cite legal authority and should be published in the *Federal Register*, and those which need not because they are of a purely intra-bureaucratic nature is a very delicate question demanding discretion. The Southeast Asian War documents demonstrate that the failure to give legal notice of vital decisions can have the most disastrous consequences.

The Pentagon Papers reveal that decisionmaking procedures were devised whereby thousands of troops were put into hostilities and the most awesome technical military power in history unleashed without the knowledge or approval of the Legislature, the press or the general public. To observe in hindsight that the results were contrary to the national interest does not resolve the delicate question of what decisions should be recorded and subjected to legal review and which because of their relative unimportance need not. At the very least, the Pentagon Papers suggest that there is a need for statutory guidelines for procedures to require the accountability for all important Executive decisions.

Further observations may be made about the format of these orders. The most important policy papers were designated with the cumbersome and euphemistic title of "National Security Action Memoranda," or its equally cumbersome acronym, "NSAM." (In the Nixon administration this has for some reason been altered to "National Security Directive Memoranda".) Given their secrecy and the virtually certain compliance of the parties to whom they were addressed, it is not surprising that they do not cite authority or adopt the rigidly formal style of Executive Orders or proclamations. To judge by the numbering system, there have been many hundreds of such "NSAM's" and "NSDM's." More specific and urgent orders appear to have been sent directly to officials in the field in the form of cables or telephone calls.

It should also be observed that many of the Southeast Asian War orders were issued in the name of presidential subordinates. Many of these undoubtedly represent valid and necessary delegations of Presidential authority. Many others, however, were probably expressly approved by the President although the documents may not show this approval. One of the best examples of the latter is General Wheeler's memorandum to then Secretary of Defense Melvin Laird asking authorization for continued secret bombing of Cambodia. The approval is initialed by Laird, but President Nixon has subsequently acknowledged that he personally authorized this policy. The difficulty entailed in eliciting that acknowledgement—or even Laird's acknowledgement of his approval expressly in writing—argues for much more clearly

delineated decisionmaking procedures. That ultimate responsibility for an order of such significance could not be immediately ascertained is a cause for great concern.

Lastly, there is included the text of President Nixon's radio and television address announcing the invasion of Cambodia. Whatever the merits of that decision, this statement did at least make clear the nature of an important decision being made and the responsibility for it. Although the decision cited no specific authority and its legality may be questioned, failure to require legal justification for what may have been an illegal use of power can in this case only be attributed to congressional and public inaction, and not to their lack of awareness of what was actually being done. After long debate, the Cooper-Church amendment restricted U.S. military activity in Cambodia. It is a distressing comment on the nature of Presidential communications in our time, that television addresses, and sometimes even press conferences, have become the preferred instruments used to issue decisions of great moment.

Proclamation—July 2, 1807

OFFENCES COMMITTED BY BRITISH ARMED VESSELS

By the President of the United States

A Proclamation

DURING the wars which, for some time, have unhappily prevailed among the powers of Europe, the United States of America, firm in their principles of peace, have endeavored by justice, by a regular discharge of all their national and social duties, and by every friendly office their situation has admitted, to maintain with all the belligerents their accustomed relations of friendship, hospitality, and commercial intercourse; taking no part in the questions which animate these powers against each other, nor permitting themselves to entertain a wish but for the restoration of general peace, they have observed with good faith the neutrality they assumed, and they believe that no instance of a departure from its duties can be justly imputed to them by any nation. A free use of their harbors and waters, the means of refitting and of refreshment, of succor to their sick and suffering, have, at all times, and on equal principles, been extended to all, and this too, amidst a constant recurrence of acts of insubordination to the laws, of violence to the persons, and of trespasses on the property of our citizens, committed by officers of one of the belligerent parties received among us. In truth, these abuses of the laws of hospitality have, with few exceptions, become habitual to the commanders of the British armed vessels hovering on our coasts, and frequenting our harbors. They have been the subject of repeated representations to their government. Assurances have been given that proper orders should restrain them within the limit of the rights and of the respect due to a friendly nation; but those orders and assurances have been without effect; no instance of punishment for past wrongs has taken place; at length a deed, transcending all we have hitherto seen or suffered, brings the

public sensibility to a serious crisis, and our forbearance to a necessary pause. A frigate of the United States, trusting to a state of peace, and leaving her harbor on a distant service, has been surprised and attacked by a British vessel of superior force, one of a squadron then lying in our waters and covering the transaction, and has been disabled from service, with the loss of a number of men killed and wounded. This enormity was not only without provocation or justifiable cause, but was committed with the avowed purpose of taking by force, from a ship of war of the United States, a part of her crew; and that no circumstance might be wanting to mark its character, it had been previously ascertained that the seamen demanded were native citizens of the United States. Having effected her purpose, she returned to anchor with her squadron within our jurisdiction. Hospitality, under such circumstances, ceases to be a duty; and a continuance of it, with such uncontrolled abuses, would tend only, by multiplying injuries and irritations, to bring on a rupture between the two nations. This extreme resort is equally opposed to the interests of both, as it is to assurances of the most friendly dispositions on the part of the British government, in the midst of which this outrage has been committed. In this light, the subject cannot but present itself to that government, and strengthen the motives to an honorable reparation of the wrong which has been done, and to that effectual control of its naval commanders, which alone can justify the government of the United States in the exercise of those hospitalities it is now constrained to discontinue.

In consideration of these circumstances, and of the right of every nation to regulate its own police, to provide for its peace and for the safety of its citizens, and consequently to refuse the admission of armed vessels into its harbors or waters, either in such numbers, or of such descriptions, as are inconsistent with these, or with the maintenance of the authority of the laws, I have thought proper, in pursuance of the authorities specially given by law, to issue this my Proclamation, hereby requiring all armed vessels bearing commissions under the government of Great Britain, now within the harbors or waters of the United States, immediately, and without any delay, to depart from the same, and interdicting the entrance of all the said harbors and waters to the said armed vessels, and to all others bearing commissions under the authority of the British government.

And if the said vessels, or any of them, shall fail to depart as aforesaid, or if they or any others, so interdicted, shall hereafter enter the harbors or waters aforesaid, I do in that case forbid all intercourse with them, or any of them, their officers or crews, and do prohibit all supplies and aid from being furnished to them or any of them.

And I do declare and make known, that if any person from, or within the jurisdictional limits of the United States, shall afford any aid to any such vessel, contrary to the prohibition contained in this proclamation, either in repairing any such vessel, or in furnishing her, her officers or crew, with supplies of any kind, or in any manner whatsoever; or if any pilot shall assist in navigating any of the said armed vessels, unless it be for the purpose of carrying them, in the first instance, beyond the limits and jurisdiction of the United States, or unless it be in the case of a vessel forced by distress, or charged with

public despatches as hereinafter provided for, such person or persons shall, on conviction, suffer all the pains and penalties by the laws provided for such offences.

And I do hereby enjoin and require all persons bearing office, civil or military, within or under the authority of the United States, and all others, citizens or inhabitants thereof, or being within the same, with vigilance and promptitude, to exert their respective authorities, and to be aiding and assisting to the carrying this proclamation, and every part thereof, into full effect.

THOMAS JEFFERSON

Proclamation—April 25, 1851

**ALIENS IN THE UNITED STATES PREPARING TO OUTFIT FOR HOSTILITIES
AGAINST FRIENDLY NATIONS**

By the President of the United States

A Proclamation

WHEREAS there is reason to believe that a military expedition is about to be fitted out in the United States with intention to invade the Island of Cuba, a colony of Spain, with which this country is in peace; and whereas it is believed that this expedition is instigated and set on foot chiefly by foreigners who dare to make our shores the scene of their guilty and hostile preparations against a friendly power; and seek by falsehood and misrepresentation to seduce our own citizens, especially the young and inconsiderate, into their wicked schemes—an ungrateful return for the benefits conferred upon them by this people, in permitting them to make our country an asylum from oppression—and in flagrant abuse of the hospitality thus extended to them;

And whereas such expeditions can only be regarded as adventures for plunder and robbery, and must meet the condemnation of the civilized world, whilst they are derogatory to the character of our country—in violation of the laws of nations—and expressly prohibited by our own. Our statutes declare “that if any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for, any military expedition or enterprise, to be carried on from thence against the territory or dominations of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, every person, so offending, shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding three thousand dollars, and imprisoned not more than three years:”

Now, therefore, I have issued this my Proclamation, warning all persons who shall connect themselves with any such enterprise or expedition in violation of our laws and national obligations that they will thereby subject themselves to the heavy penalties denounced against such offences, and will forfeit their claim to the protection of this government, or any interference in their behalf, no matter to what

extremities they may be reduced in consequence of their illegal conduct. And therefore I exhort all good citizens, as they regard our national reputation, as they respect their own laws and the laws of nations, as they value the blessings of peace and the welfare of their country, to discountenance, and, by all lawful means, prevent any such enterprise; and I call upon every officer of this government, civil or military, to use all efforts in his power, to arrest for trial and punishment every such offender against the laws of the country.

Given under my hand, the twenty-fifth day of April, in the year of our Lord one thousand eight hundred and fifty-one, and the seventy-fifth of the Independence of the United States.

MILLARD FILLMORE

Proclamation 2406—May 11, 1940

**USE OF PORTS OR TERRITORIAL WATERS OF THE UNITED STATES
BY SUBMARINES OF FOREIGN BELLIGERENT STATES**

By the President of the United States

A Proclamation

WHEREAS section 11 of the Joint Resolution approved November 4, 1939, provides:

“Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state, will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.”

WHEREAS there exists a state of war between Germany on the one hand and Belgium and the Netherlands on the other hand;

WHEREAS the United States of America is neutral in such war;

WHEREAS by my proclamation of November 4, 1939, issued pursuant to the provision of law quoted above, I placed special restrictions on the use of ports and territorial waters of the United States by the submarines of France; Germany; Poland; and the United Kingdom, India, Australia, Canada, New Zealand and the Union of South Africa;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority vested in me by the foregoing provision of section 11 of the Joint Resolution approved November 4, 1939, do by this proclamation declare and proclaim that the provisions of my proclamation of November 4, 1939, in regard to the use of the ports and territorial waters of the United States, exclusive of the Canal Zone, by the submarines of France; Germany; Poland; and the United Kingdom, India, Australia, Canada, New Zealand, and the Union of South Africa, shall also apply to the use of the ports and territorial waters of the United States, exclusive of the Canal Zone, by the submarines of Belgium and the Netherlands.

AND I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution, and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

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

DONE at the City of Washington this eleventh day of May, in the year of our Lord nineteen hundred and forty, and of the Independence of the United States of America the one hundred and sixty-fourth.

FRANKLIN D. ROOSEVELT

Proclamation 2540—Feb. 10, 1942

**ESTABLISHING BOSTON MARITIME CONTROL AREA AND
PRESCRIBING REGULATIONS FOR THE CONTROL THEREOF**

By the President of the United States

A Proclamation

WHEREAS the United States is now at war, and the establishment of the maritime control area hereinafter described is necessary in the interests of national defense:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, by virtue of the authority vested in me as President of the United States, and as Commander-in-Chief of the Army and Navy of the United States, and in accordance with the principle of self-defense of the Law of Nations, do hereby establish and proclaim the following-described area as the Boston Maritime Control Area, and prescribe the following regulations for the control thereof:

BOSTON MARITIME CONTROL AREA

All waters within the area enclosed by lines running as follows:

Beginning at the intersection of the western shore of Sandy Bay, Cape Ann, Massachusetts, and the parallel of latitude 42°40' North, in approximate Longitude 70°37'23" West;

thence along that parallel to Longitude 70°12'30" West;
 thence along approximate true bearing 152° to position Latitude 42°00' North, Longitude 69°44' West; and
 thence west true to the eastern shore of Cape Cod, Massachusetts, in approximate Longitude 72°01'10" West.

REGULATIONS FOR THE CONTROL OF BOSTON MARITIME CONTROL AREA

1. A vessel not proceeding under United States naval or other United States authorized supervision shall not enter or navigate the waters of the above-described Maritime Control Area except during daylight, when good visibility conditions prevail, and then only after specific permission has been obtained. Advance arrangements for entry into or navigation through or within the said Area must be made, preferably by application at a United States Naval District Headquarters in advance of sailing, or by radio or visual communication on approaching the seaward limits of the Area. If radio telegraphy is used, the call "NQO" shall be made on a frequency of 500 kcs, and permission to enter the port requested. The name of the vessel, purpose of entry, and name of master must be given in the request. If visual communications are used, the procedure shall be essentially the same.

2. Even though permission has been obtained, it is incumbent upon a vessel entering the said Area to obey any further instructions received from the United States Navy, or other United States authority.

3. A vessel may expect supervision of its movements within the said Area, either through surface craft or aircraft. Such controlling surface craft and aircraft shall be identified by a prominent display of the Union Jack.

4. These regulations may be supplemented by regulations of the local United States naval authority as necessary to meet local circumstances and conditions.

5. Should any vessel or person within the said Area disregard these regulations, or regulations issued pursuant hereto, or fail to obey an order of the United States naval authority, or perform any act threatening the efficiency of mine or other defenses, or take any action therein inimical to the defense of the United States, such vessel or person may be subjected to the force necessary to require compliance, and may be liable to detention or arrest, or penalties or forfeiture, in accordance with law.

The Secretary of the Navy is charged with the enforcement of these regulations.

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

DONE at the City of Washington this 10th day of February, in the year of our Lord nineteen hundred and forty-two, and of the Independence of the United States of America the one hundred and sixty-sixth.

FRANKLIN D. ROOSEVELT

Executive Order 9066—Feb. 19, 1942**AUTHORIZING THE SECRETARY OF WAR
TO PRESCRIBE MILITARY AREAS****By the President of the United States**

WHEREAS the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104) :

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941,¹ and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospi-

¹ 6 F.R. 6821, 6823, 6824.

talization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972,¹ dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

FRANKLIN D. ROOSEVELT

Military Order—Jan. 11, 1945

GOVERNING THE ESTABLISHMENT OF MILITARY COMMISSIONS FOR THE TRIAL OF CERTAIN OFFENDERS AGAINST THE LAW OF WAR, AND GOVERNING THE PROCEDURE FOR SUCH COMMISSIONS

By the President of the United States

By virtue of the authority vested in me as President and as Commander in Chief of the Army and Navy, under the Constitution and statutes of the United States, and more particularly the Thirty-Eighth Article of War (10 U.S.C. 1509), it is ordered as follows:

1. All persons who are subjects, citizens or residents of any nation at war with the United States or who give obedience to or act under the direction of any such nation, and who during time of war enter or attempt to enter the United States or any territory or possession thereof, through coastal or boundary defenses, and are charged with committing or attempting or preparing to commit sabotage, espionage, hostile or warlike acts, or violations of the law of war, shall be subject to the law of war and to the jurisdiction of military tribunals. The commanding generals of the several service and defense commands in the continental United States and Alaska, under the supervision of the Secretary of War, are hereby empowered to appoint military commissions for the trial of such persons.

2. Each military commission so established for the trial of such persons shall have power to make and shall make, as occasion requires, such rules for the conduct of its proceedings, consistent with the powers of military commissions under the Articles of War, as it shall deem necessary for a full and fair trial of the matters before it: *Provided*, that—

(a) Such evidence shall be admitted as would, in the opinion of the president of the commission, have probative value to a reasonable man;

(b) The concurrence of at least two-thirds of the members of the commission present at the time the vote is taken shall be necessary for a conviction or sentence;

(c) The provisions of Article 70 of the Articles of War, relating to investigation and preliminary hearings, shall not be deemed to apply to the proceedings;

(d) The record of the trial, including any judgment or sentence, shall be promptly reviewed under the procedures established in Article 50½ of the Articles of War.

FRANKLIN D. ROOSEVELT

Proclamation 2655—July 14, 1945

REMOVAL OF ALIEN ENEMIES

By the President of the United States

A Proclamation

WHEREAS section 4067 of the Revised Statutes of the United States (50 U.S.C. 21) provides:

Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies. The President is authorized, in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety;

WHEREAS sections 4068, 4069, and 4070 of the Revised Statutes of the United States (50 U.S.C. 22, 23, 24) make further provision relative to alien enemies;

WHEREAS the Congress by joint resolutions approved by the President on December 8 and 11, 1941, and June 5, 1942, declared the existence of a state of war between the United States and the Governments of Japan, Germany, Italy, Bulgaria, Hungary, and Rumania;

WHEREAS by Proclamation No. 2525 of December 7, 1941, Proclamations Nos. 2526 and 2527 of December 8, 1941, Proclamation No. 2533 of December 29, 1941, Proclamation No. 2537 of January 14, 1942, and Proclamation No. 2563 of July 17, 1942, the President prescribed and proclaimed certain regulations governing the conduct of alien enemies; and

WHEREAS I find it necessary in the interest of national defense and public safety to prescribe regulations additional and supplemental to such regulations:

NOW, THEREFORE, I HARRY S. TRUMAN, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution of the United States and the aforesaid sections of the Revised Statutes of the United States, do hereby prescribe and proclaim the following regulations, additional and supplemental to those prescribed by the aforesaid proclamations:

All alien enemies now or hereafter interned within the continental limits of the United States pursuant to the aforesaid proclamations of the President of the United States who shall be deemed by the Attorney General to be dangerous to the public peace and safety of the United States because they have adhered to the aforesaid enemy governments or to the principles of government thereof shall be subject upon the order of the Attorney General to removal from the United States and may be required to depart therefrom in accordance with such regulations as he may prescribe.

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

DONE at the City of Washington this 14th day of July in the year of our Lord nineteen hundred and forty-five and of the Independence of the United States of America the one hundred and seventieth.

HARRY S. TRUMAN

Proclamation 3504—Oct. 23, 1962

**INTERDICTION OF THE DELIVERY OF OFFENSIVE WEAPONS TO
CUBA**

By the President of the United States of America

A Proclamation

WHEREAS the peace of the world and the security of the United States and of all American States are endangered by reason of the establishment by the Sino-Soviet powers of an offensive military capability in Cuba, including bases for ballistic missiles with a potential range covering most of North and South America;

WHEREAS by a Joint Resolution passed by the Congress of the United States and approved on October 3, 1962, it was declared that the United States is determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere, and to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

WHEREAS the Organ of Consultation of the American Republics meeting in Washington on October 23, 1962, recommended that the Member States, in accordance with Articles 6 and 8 of the Inter-

American Treaty of Reciprocal Assistance, take all measures, individually and collectively, including the use of armed force, which they may deem necessary to ensure that the Government of Cuba cannot continue to receive from the Sino-Soviet powers military materiel and related supplies which may threaten the peace and security of the Continent and to prevent the missiles in Cuba with offensive capability from ever becoming an active threat to the peace and security of the Continent:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under and by virtue of the authority conferred upon me by the Constitution and statutes of the United States, in accordance with the aforementioned resolutions of the United States Congress and of the Organ of Consultation of the American Republics, and to defend the security of the United States, do hereby proclaim that the forces under my command are ordered, beginning at 2:00 P.M. Greenwich time October 24, 1962, to interdict, subject to the instructions herein contained, the delivery of offensive weapons and associated materiel to Cuba.

For the purposes of this Proclamation, the following are declared to be prohibited materiel:

Surface-to-surface missiles; bomber aircraft; bombs, air-to-surface rockets and guided missiles; warheads for any of the above weapons; mechanical or electronic equipment to support or operate the above items; and any other classes of materiel hereafter designated by the Secretary of Defense for the purpose of effectuating this Proclamation.

To enforce this order, the Secretary of Defense shall take appropriate measures to prevent the delivery of prohibited materiel to Cuba, employing the land, sea and air forces of the United States in cooperation with any forces that may be made available by other American States.

The Secretary of Defense may make such regulations and issue such directives as he deems necessary to ensure the effectiveness of this order, including the designation, within a reasonable distance of Cuba, of prohibited or restricted zones and of prescribed routes.

Any vessel or craft which may be proceeding toward Cuba may be intercepted and may be directed to identify itself, its cargo, equipment and stores and its ports of call, to stop, to lie to, to submit to visit and search, or to proceed as directed. Any vessel or craft which fails or refuses to respond to or comply with directions shall be subject to being taken into custody. Any vessel or craft which it is believed is en route to Cuba and may be carrying prohibited materiel or may itself constitute such materiel shall, wherever possible, be directed to proceed to another destination of its own choice and shall be taken into custody if it fails or refuses to obey such directions. All vessels or craft taken into custody shall be sent into a port of the United States for appropriate disposition.

In carrying out this order, force shall not be used except in case of failure or refusal to comply with directions, or with regulations or directives of the Secretary of Defense issued hereunder, after reasonable efforts have been made to communicate them to the vessel or craft, or in case of self-defense. In any case, force shall be used only to the extent necessary.

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

Done in the City of Washington this twenty-third day of October in the year of our Lord, nineteen hundred and sixty-two, and of the Independence of the United States of America the one hundred and eighty-seventh.

JOHN FITZGERALD KENNEDY

**ORDER BY PRESIDENT JOHNSON REAFFIRMING EX-PRESIDENT
KENNEDY'S POLICY ON VIETNAM**

Excerpts from National Security Action Memorandum 273, Nov. 26, 1963, four days after the assassination of President Kennedy, as provided in the body of the Pentagon study. Paragraphs in *italics* are the study's paraphrase.

A National Security Action Memorandum was drafted to give guidance and direction to our efforts to improve the conduct of the war under the new South Vietnamese leadership. It described the purpose of the American involvement in Vietnam as, "to assist the people and Government of that country to win their contest against the externally directed and supported Communist conspiracy." It defined contribution to that purpose as the test of all U.S. actions in Vietnam. It reiterated the objectives of withdrawing 1,000 U.S. troops by the end of 1963 and ending the insurgency in I, II, and III Corps by the end of 1964, and in the Delta by the end of 1965. U.S. support for the new regime was confirmed and all U.S. efforts were directed to assist it to consolidate itself and expand its popular support. . . .

The objectives of the United States with respect to the withdrawal of U.S. military personnel remains as stated in the White House statement of October 2, 1963. . . .

The President expects that all senior officers of the government will move energetically to insure the full unity of support for established U.S. policy in South Vietnam. Both in Washington and in the field, it is essential that the government be unified. It is of particular importance that express or implied criticism of officers of other branches be assiduously avoided in all contacts with the Vietnamese government and with the press. . . .

We should concentrate our efforts, and insofar as possible we should persuade the government of South Vietnam to concentrate its effort, on the critical situation in the Mekong Delta. This concentration should include not only military but political, economic, social, educational and informational effort. We should seek to turn not only the tide of battle but of belief, and we should seek to increase not only the controlled hamlets but the productivity of this area, especially where the proceeds can be held for the advantage of anti-Communist forces . . .

It is a major interest of the United States government that the present provisional government of South Vietnam should be assisted in consolidating itself in holding and developing increased public support.

. . . And in conclusion, plans were requested for clandestine operations by the GVN against the North and also for operations up to 50 kilometers into Laos; and, as a justification for such measures, State was directed to develop a strong, documented case "to demonstrate to the world the degree to which the Viet Cong is controlled, sustained and supplied from Hanoi, through Laos and other channels. . . .

U.S. ORDERS FOR PREPARATIONS FOR SOME RETALIATORY ACTION

Excerpts from National Security Action Memorandum 288, "U.S. Objectives in South Vietnam," March 17, 1964, as provided in the body of the Pentagon study. The words in brackets are the study's. The paragraphs in *italics* is the paraphrase by a writer of the study.

[The United States' policy is] to prepare immediately to be in a position on 72 hours' notice to initiate the full range of Laotian and Cambodian "Border Control actions" . . . and the "Retaliatory Actions" against North Vietnam, and to be in a position on 30 days' notice to initiate the program of "Graduated Overt Military Pressure" against North Vietnam. . . .

We seek an independent non-Communist South Vietnam. We do not require that it serve as a Western base or as a member of a Western Alliance. South Vietnam must be free, however, to accept outside assistance as required to maintain its security. This assistance should be able to take the form not only of economic and social measures but also police and military help to root out and control insurgent elements.

Unless we can achieve this objective in South Vietnam, almost all of Southeast Asia will probably fall under Communist dominance (all of Vietnam, Laos, and Cambodia), accommodate to Communism so as to remove effective U.S. and anti-Communist influence (Burma), or fall under the domination of forces not now explicitly Communist but likely then to become so (Indonesia taking over Malaysia). Thailand might hold for a period without help, but would be under grave pressure. Even the Philippines would become shaky, and the threat to India on the West, Australia and New Zealand to the South, and Taiwan, Korea, and Japan to the North and East would be greatly increased.

All of these consequences would probably have been true even if the U.S. had not since 1954, and especially since 1961, become so heavily engaged in South Vietnam. However, that fact accentuates the impact of a Communist South Vietnam not only in Asia but in the rest of the world, where the South Vietnam conflict is regarded as a test case of U.S. capacity to help a nation to meet the Communist "war of liberation."

Thus, purely in terms of foreign policy, the stakes are high. . . .

We are now trying to help South Vietnam defeat the Viet Cong, supported from the North, by means short of the unqualified use of U.S. combat forces. We are not acting against North Vietnam except by a modest "covert" program operated by South Vietnamese (and a few Chinese Nationalists)—a program so limited that it is unlikely to have any significant effect. . . .

There were and are some sound reasons for the limits imposed by the present policy—the South Vietnamese must win their own fight; U.S. intervention on a larger scale, and/or GVN actions against the North, would disturb key allies and other nations; etc. In any case, it is vital that we continue to take every reasonable measure to assure success in South Vietnam. The policy choice is not an “either/or” between this course of action and possible pressure against the North; the former is essential and without regard to our decision with respect to the latter. The latter can, at best, only reinforce the former. . . .

Many of the actions described in the succeeding paragraphs fit right into the framework of the [pacification] plan as announced by Khanh. Wherever possible, we should tie our urgings of such actions to Khanh's own formulation of them, so that he will be carrying out a Vietnamese plan and not one imposed by the United States. . . .

Among the alternatives considered, but rejected for the time being . . . were overt military pressure on North Vietnam, neutralization, return of U.S. dependents, furnishing of a U.S. combat unit to secure the Saigon area, and a full takeover of the command in South Vietnam by the U.S. With respect to this last proposal, it was said that

. . . the judgment of all senior people in Saigon, with which we concur, was that the possible military advantages of such action would be far outweighed by adverse psychological impact. It would cut across the whole basic picture of the Vietnamese winning their own war and lay us wide open to hostile propaganda both within South Vietnam and outside.

CABLE AUTHORIZING AIR STRIKES ON LAOS INFILTRATION ROUTES

Cablegram from the State Department and the Defense Department to the United States Embassy in Vientiane, Oct. 6, 1964. Copies of the cablegram were sent to the United States Embassies in Saigon and Bangkok and to the commander-in-chief of Pacific forces. The embassy in Saigon was asked to relay the message to the United States commander in Vietnam.

You are authorized to urge the RLG to begin air attacks against Viet Cong infiltration routes and facilities in the Laos Panhandle by RLA F T-28 aircraft as soon as possible. Such strikes should be spread out over a period of several weeks, and targets should be limited to those deemed suitable for attack by T-28s and listed Para. 8 Vientiane's 581, excluding Mu Gia pass and any target which Lao will not hit without U.S. air cover or fire support since decision on this matter has not yet been made.

You are further authorized to inform Lao that YANKEE TEAM suppressive fire strikes against certain difficult targets in Panhandle, interspersing with further T-28 strikes, are part of the over-all concept and are to be anticipated later but that such U.S. strikes are not repeat not authorized at this time.

Report soonest proposed schedule of strikes and, upon implementation, all actual commitments of RLG T-28s, including targets attacked, results achieved, and enemy opposition. Also give us any views in addition to those in Vientiane's 581 as to any targets which

are deemed too difficult for RLG air strikes and on which U.S. suppressive strikes desire.

FYI: Highest levels have not authorized YANKEE TEAM strikes at this time against Route 7 targets. Since we wish to avoid the impression that we are taking first step in escalation, we inclined defer decision on Route 7 strikes until we have strong evidence Hanoi's preparation for new attack in PDJ, some of which might come from RLAf operations over the Route, END FYI.

You may inform RLG, however, that U.S. will fly additional RECCE over Route 7 to keep current on use being made of the Route by the PL and to identify Route 7 targets and air defenses. The subject of possible decision to conduct strikes on Route 7 being given study in Washington.

FYI: Cross border ground operations not repeat not authorized at this time.

WHITE HOUSE CABLE TO TAYLOR ON THE ROLLING THUNDER DECISION

Excerpts from cablegram from the State Department to Ambassador Taylor, Feb. 13, 1965, as provided in the body of the Pentagon study. The words in brackets are those of the study. The narrative says this message was drafted at the White House.

The President today approved the following program for immediate future actions in follow-up decisions he reported to you in Deptel 1653. [The first FLAMING DART reprisal decision.]

1. We will intensify by all available means the program of pacification within SVN.

2. We will execute a program of measured and limited air action jointly with GVN against selected military targets in DRV, remaining south of 19th parallel until further notice.

FYI. Our current expectation is that these attacks might come about once or twice a week and involve two or three targets on each day of operation. END FYI.

3. We will announce this policy of measured action in general terms and at the same time, we will go to UN Security Council to make clear case that aggressor is Hanoi. We will also make it plain that we are ready and eager for 'talks' to bring aggression to an end.

4. We believe that this 3-part program must be concerted with SVN, and we currently expect to announce it by Presidential statement directly after next authorized air action. We believe this action should take place as early as possible next week.

5. You are accordingly instructed to seek immediate GVN agreement on this program. You are authorized to emphasize our conviction that announcement of readiness to talk is stronger diplomatic position than awaiting inevitable summons to Security Council by third parties. We would hope to have appropriate GVN concurrence by Monday [Feb. 14th] if possible here.

In presenting above to GVN, you should draw fully, as you see fit, on following arguments:

a. We are determined to continue with military actions regardless of Security Council deliberations and any 'talks' or negotiations when

[words illegible]. [Beginning of sentence illegible] that they cease [words illegible] and also the activity they are directing in the south.

b. We consider the UN Security Council initiative, following another strike, essential if we are to avoid being faced with really damaging initiatives by the USSR or perhaps by such powers as India, France, or even the UN.

c. At an early point in the UN Security Council initiative, we would expect to see calls for the DRV to appear in the UN. If they failed to appear, as in August, this will make doubly clear that it is they who are refusing to desist, and our position in pursuing military actions against the DRV would be strengthened. For some reason we would now hope GVN itself would appear at UN and work closely with U.S.

d. With or without Hanoi, we have every expectation that any 'talks' that may result from our Security Council initiative would in fact go on for many weeks or perhaps months and would above all focus constantly on the cessation of Hanoi's aggression as the precondition to any cessation of military action against the DRV. We further anticipate that any detailed discussions about any possible eventual form of agreement returning to the essentials of the 1954 Accords would be postponed and would be subordinated to the central issue. . . .

APRIL 1965 ORDER INCREASING GROUND FORCE AND SHIFTING MISSION

National Security Action Memorandum 828, April 6, 1965, signed
McGeorge Bundy and addressed to the Secretary of State, the
Secretary of Defense and the Director of Central Intelligence.

On Thursday, April 1, The President made the following decisions with respect to Vietnam:

1. Subject to modifications in light of experience, to coordination and direction both in Saigon and in Washington, the President approved the 41-point program of non-military actions submitted by Ambassador Taylor in a memorandum dated March 31, 1965.

2. The President gave general approval to the recommendations submitted by Mr. Rowan in his report dated March 16, with the exception that the President withheld approval of any request for supplemental funds at this time—it is his decision that this program is to be energetically supported by all agencies and departments and by the re-programming of available funds as necessary within USIA.

3. The President approved the urgent exploration of the 12 suggestions for covert and other actions submitted by the Director of Central Intelligence under date of March 31.

4. The President repeated his earlier approval of the 21-point program of military actions submitted by General Harold K. Johnson under date of March 14 and re-emphasized his desire that aircraft and helicopter reinforcements under this program be accelerated.

5. The President approved an 18-20,000 man increase in U.S. military support forces to fill out existing units and supply needed logistic personnel.

6. The President approved the deployment of two additional Marine Battalions and one Marine Air Squadron and associated headquarters and support elements.

7. The President approved a change of mission for all Marine Battalions deployed to Vietnam to permit their more active use under conditions to be established and approved by the Secretary of Defense in consultation with the Secretary of State.

8. The President approved the urgent exploration, with the Korean, Australian, and New Zealand Governments, of the possibility of rapid deployment of significant combat elements from their armed forces in parallel with the additional Marine deployment approved in paragraph 6.

9. Subject to continuing review, the President approved the following general framework of continuing action against North Vietnam and Laos:

We should continue roughly the present slowly ascending tempo of ROLLING THUNDER operations being prepared to add strikes in response to a higher rate of VC operations, or conceivably to slow the pace in the unlikely event VC slacked off sharply for what appeared to be more than a temporary operational lull.

The target systems should continue to avoid the effective GGI range of MIGs. We should continue to vary the types of targets, stepping up attacks on lines of communication in the near future, and possibly moving in a few weeks to attacks on the rail lines north and northeast of Hanoi.

Leaflet operations should be expanded to obtain maximum practicable psychological effect on North Vietnamese population.

Blockade or aerial mining of North Vietnamese ports need further study and should be considered for future operations. It would have major political complications, especially in relation to the Soviets and other third countries, but also offers many advantages.

Air operation in Laos, particularly route blocking operations in the Panhandle area, should be stepped up to the maximum remunerative rate.

10. Ambassador Taylor will promptly seek the reactions of the South Vietnamese Government to appropriate sections of this program and their approval as necessary, and in the event of disapproval or difficulty at that end, these decisions will be appropriately reconsidered. In any event, no action into Vietnam under paragraphs 6 and 7 above should take place without GVN approval or further Presidential authorization.

11. The President desires that with respect to the actions in paragraphs 5 through 7, premature publicity be avoided by all possible precautions. The actions themselves should be taken as rapidly as practicable, but in ways that should minimize any appearance of sudden changes in policy, and official statements on these troop movements will be made only with the direct approval of the Secretary of Defense, in consultation with the Secretary of State. The President's desire is that these movements and changes should be understood as being gradual and wholly consistent with existing policy.

AUTHORITY FOR B-52 STRIKES AGAINST TARGETS IN CAMBODIA (TS)

Undated, now reclassified from top secret—sensitive—your eyes only, memorandum to the Secretary of Defense from Earle G. Wheeler, chairman, Joint Chiefs of Staff.

1. (TS) Reference is made to your memorandum, dated 13 November 1969, which requested answers to several questions related to risk versus value in the MENU Operation. This memorandum responds to your request and proposes additional MENU Operations during the week of 23 November.

2. (TS) Steps are being taken on a continuing basis to minimize the risk of striking Cambodian people and structures. The Cambodian Base Areas have been the object of an intelligence collection effort that makes maximum use of all collection and analytical assets available to MACV. One of the primary purposes of this continuing program has been the identification of areas of Cambodian habitation. The risks of striking Cambodian people and structures are minimized by extensive visual and photographic aerial reconnaissance, use of SOG ground teams, debriefings of SOG observers, analysis of Cambodian area and demographic studies, a special PW and Rallier interrogation program, and detailed examination of documents, PW and agent reports. The primary source of information has been a visual and photo reconnaissance program that keeps MENU strike areas under active surveillance. Suspected areas of habitation identified from these sources are objects of additional reconnaissance with special emphasis given to SOG low level aerial photography and visual observation. If identified as an area of Cambodian habitation, no target boxes are placed closer than one kilometer to this area. Doubtful areas are considered as containing Cambodian personnel and structures and are carefully avoided in targeting. This criteria is applied even when the area in question is surrounded by identified VC/NVA military facilities. Application of this criteria has precluded the targeting of many otherwise lucrative areas. While there is always an inherent risk that itinerant Cambodians or those working in enemy camps may be in the MENU strike area, this risk is considered minimal. According to Ralliers and PWs, the VC/NVA attempt to prevent Cambodian entry into Base Areas, and Cambodians carefully avoid them.

3. (TS) Indication of Cambodian reaction to MENU strikes has been minimal. The only specific instance which appeared to be MENU related was reported by the Cambodians on 8 and 9 October. On these two occasions, a total of 11 villagers were reported killed by B-52 strikes. Visual and photo reconnaissance of the areas of these incidents failed to reveal the presence of any Cambodians. There was insufficient evidence to establish positively that the reported incidents pertained to the MENU Operation. In order to be on the safe side, this general area has been avoided and will continue to be isolated from the MENU program.

4. (TS) The value of MENU strikes against Cambodian Base Areas should be classed as one of the most significant contributions of the war by B-52s. Detailed damage assessment is made after each MENU strike. Each assessment takes a minimum of 48-72 hours to develop. MENU Operations have been concentrated primarily against Base

Areas 350, 351, 352 and 353 and have included strikes against previously untargeted areas as well as areas that have been struck repeatedly. Heavy jungle canopy limits the analysis of some MENU results; however, practically all have revealed extensive destruction of bunkers, supply caches, structures, and trenchworks. Increasing evidence of cave-ins indicate damage far more extensive than bomb damage assessment could support. A higher than average number of secondary explosions from B-52 strikes continues to be reported by aircrews, including one 50 times the size of a normal bomb burst from an 8 November strike in Base Area 350. This is the largest secondary reported in ARC LIGHT operations.

5. (TS) There are indications that the enemy has taken steps to compensate for MENU strikes. Activity levels in portions of Base Areas 350 and 351 have decreased. Supplies have been dispersed over a greater area than before; and supplies have been moved into densely covered, unstruck areas on the periphery of base areas. This tends to be confirmed by the increased activity noted since mid-October approximately mid-way between Base Areas 350 and 351. Moving into this area have been elements of the 5th VC Division and 7th NVA Divisions. The 165th NVA Regiment is located in or in close proximity thereto. However, even with his increased dispersal of personnel and supplies, the enemy continues to use portions of his old areas.

6. (TS) In view of the foregoing, MACV has submitted a proposal for two MENU Operations during the week of 23 November, Strikes are to be conducted against targets in Base Areas 740 and 351. Intelligence and target assessment are as follows:

a. *Base Area 740.* The enemy has relocated troops formerly concentrated northeast of Base Area 351 into the vicinity of Base Area 740 where they pose a threat to the Duc Lap CIDG Camp and fire support bases in the area. Logistics facilities and base camps in Base Area 740 appear to provide the bulk of support to these forces which include the 28th and 66th NVA Regiments, the K-37 Sapper Battalion, the 394th NVA Battalion, and a battalion of the 40th NVA Artillery Regiment that has moved 85MM and 105MM artillery into the area. Proposed target boxes contain 23 base camp/bivouac areas, six storage areas, numerous bunkers, trenches, and defensive positions, and an extensive road and trail network. An increased number of enemy troops have been located in the target area by SOG reports. The closest area of civilian habitation to the proposed target boxes is three kilometers.

b. *Base Area 351.* Many sections of this major base area remain highly active. SOG teams have located an area containing four base-camp/bivouac areas, a truck park, intact bunkers, trenches, defensive positions, and scattered supply caches. Last week four SOG ground teams received heavy opposition from enemy combat troops and were unable to enter the area. On 15 November, 30 enemy personnel were observed moving supplies into the proposed target area. There is no civilian habitation within three kilometers.

7. (TS) The concept of operation is to employ 41 B-52s against MENU targets on each of two nights during the week of 23 November. The remaining available aircraft will be employed to strike cover

targets as well as targets elsewhere in-country and in Laos. Strikes on these latter targets will provide a resemblance to normal operations thereby providing a credible story for replies to press inquiries. The 41 MENU sorties will strike seven targets each night. Strike areas will be diversified in an effort to avoid establishing a predictable pattern. The strike pattern proposed is as follows:

STRIKE SCHEDULE—SAIGON TIME (7 STRIKES EACH NIGHT FOR A TOTAL OF 41 SORTIES; TOT's WILL BE BETWEEN 1900 AND 0600)

Date	Base areas	Strikes
Nov. 24-25	740	7
Nov. 29-30	351	4
Dec.	740	3

8. (TS) All sorties against targets in Cambodia will be programmed against preplanned alternate targets in RVN and strike request messages will so indicate. In the event the operations should be cancelled, release would be made on these alternate targets.

9. (TS) In view of the favorable results from previous MENU Operations, the high military value of the available targets, and the minimal risk to Cambodians, strikes against these base areas should be continued as long as the threat persists. Therefore, recommend authority be obtained to conduct B-52 strikes against target areas as proposed. To insure proper planning and efficiency of operation, a minimum of 48 hours notice to MACV prior to the first time over target will be required.

EARLE G. WHEELER,
Chairman, Joint Chiefs of Staff.

**ADDRESS BY THE PRESIDENT
ON THE SITUATION IN SOUTHEAST ASIA
BEFORE LIVE RADIO AND TELEVISION
APRIL 30, 1970**

Ten days ago, in my report to the Nation on Vietnam, I announced a decision to withdraw an additional one hundred and fifty thousand American troops over the next year. I said then I was making that decision despite our concern over increased enemy activity in Laos, in Cambodia, and in South Vietnam.

At that time, I warned that if I concluded that increased enemy activity in any of these areas endangered the lives of Americans remaining in Vietnam, I would not hesitate to take strong and effective measures to deal with that situation.

Despite that warning, North Vietnam has increased its military aggression in all three areas—particularly in Cambodia.

After full consultation with the National Security Council, Ambassador Bunker, General Abrams and my other advisers, I have concluded that the actions of the enemy in the last ten days clearly endanger the lives of Americans who are in Vietnam now and would constitute an unacceptable risk to those who will be there after our withdrawal of 150,000.

To protect our men who are in Vietnam and to guarantee the continued success of our withdrawal and Vietnamization programs, I have concluded the time has come for action.

Tonight, I shall describe the actions of the enemy, the actions I have ordered to deal with that situation, and the reasons for my decision.

Cambodia, a small country of seven million people has been a neutral nation since the Geneva Agreement of 1954—an agreement signed by the Government of North Vietnam.

American policy since then has been to scrupulously respect the neutrality of the Cambodian people. We have maintained a skeleton diplomatic mission of fewer than fifteen in Cambodia's capital since last August. For the previous four years—from 1965–1969, we did not have any diplomatic mission whatever. For the past five years, we have provided no military assistance and no economic assistance whatever to Cambodia.

North Vietnam, however, has not respected that neutrality.

For the past five years—as indicated on this map—North Vietnam has occupied military sanctuaries all along the Cambodian frontier with South Vietnam. Some of these extend up to 20 miles into Cambodia. They are used for hit-and-run attacks on American and South Vietnamese forces in South Vietnam.

These Communist occupied territories contain major base camps, training sites, logistics facilities, weapons and ammunition factories, air strips and prisoner of war compounds.

For five years, neither the United States nor South Vietnam moved against those enemy sanctuaries because we did not wish to violate the territory of a neutral nation. Even after the Vietnamese Communists began to expand these sanctuaries four weeks ago, we counselled patience to our South Vietnamese allies and imposed restraints on our commanders.

In contrast to our policy, the enemy in the past two weeks has stepped up his guerrilla actions and he is concentrating his main forces in the sanctuaries where they are building up to launch massive attacks on our forces and those of South Vietnam.

North Vietnam in the last two weeks has stripped away all pretense of respecting the sovereignty or neutrality of Cambodia. Thousands of their soldiers are invading the country from the sanctuaries; they are encircling the Capital of Phnom Penh. Cambodia has sent out a call to the United States and a number of other nations for assistance.

If this effort succeeds, Cambodia would become a vast enemy staging area and springboard for attacks on South Vietnam along 600 miles of frontier—and a refuge where enemy troops could return from combat without fear of retaliation.

North Vietnamese men and supplies could then be poured into that country, jeopardizing not only the lives of our own men but the people of South Vietnam as well.

Confronted with this situation, we have three options.

First, we can do nothing. The ultimate result of that course of action is clear. Unless we indulge in wishful thinking, the Americans remaining in Vietnam after our next withdrawal would be gravely threatened.

Our second option is to provide massive military assistance to Cambodia. Unfortunately, while we deeply sympathize with the plight of

seven million Cambodians whose country is being invaded, massive amounts of military assistance could not be rapidly and effectively utilized by the small Cambodian Army against the immediate threat. With other nations, we shall do our best to provide the small arms and other equipment which the Cambodian Army needs and can use now for its defense. The aid we will provide will be limited to the purpose of enabling Cambodia to defend its neutrality—not for the purpose of making it an active belligerent on one side or the other.

Our third choice is to go to the heart of the trouble. That means cleaning out major North Vietnamese and Viet Cong occupied sanctuaries which serve as bases for attacks on both Cambodia and American and South Vietnamese forces in South Vietnam. Some of these are as close to Saigon as Baltimore is to Washington.

This is my decision :

In cooperation with the armed forces of South Vietnam, attacks are being launched this week to clean out major enemy sanctuaries on the Cambodian-Vietnam border.

A major responsibility for the ground operations is being assumed by South Vietnamese forces. For example, the attacks in several areas including the Parrot's Beak are exclusively South Vietnamese ground operations under South Vietnamese command with the United States providing air and logistical support.

There is one area, however, where I have concluded that a combined American and South Vietnamese operation is necessary. Tonight, American and South Vietnamese units will attack the headquarters for the entire Communist military operation in South Vietnam. This key control center has been occupied by the North Vietnamese and Viet Cong for years in blatant violation of Cambodia's neutrality.

This is not an invasion of Cambodia. The areas in which these attacks will be launched are completely occupied and controlled by North Vietnamese forces. Our purpose is not to occupy the areas. Once enemy forces are driven out of these sanctuaries and their military supplies destroyed, we will withdraw.

These actions are in no way directed at the security interests of any nation. Any government that chooses to use these actions as a pretext for harming relations with the United States will be doing so on its own responsibility and at its own initiative and we will draw the appropriate conclusions.

A majority of the American people are for the withdrawal of our forces from Vietnam. The action I have taken tonight is indispensable for the continuing success of that withdrawal program.

A majority of the American people want to end this war rather than have it drag on interminably. The action I take tonight will serve that purpose.

A majority of the American people want to keep the casualties of our brave men in Vietnam at an absolute minimum. The action I take tonight is essential if we are to accomplish that goal.

We take this action not for the purpose of expanding the war into Cambodia but for the purpose of ending the war in Vietnam and winning the just peace we all desire. We have made and will continue to make every possible effort to end this war through negotiation at the conference table rather than through more fighting on the battlefield.

Let us look at the record. We have stopped the bombing of North

Vietnam. We have cut air operations by over twenty percent. We have announced the withdrawal of over 250,000 of our troops. We have offered to withdraw all of our men if they withdraw theirs. We have offered to negotiate all issues with only one condition—that the future of South Vietnam be determined not by North Vietnam, not by the United States, but by the people of South Vietnam themselves.

Their answer has been intransigence at the conference table, belligerence in Hanoi, massive military aggression in Laos and Cambodia and stepped-up attacks in South Vietnam, designed to increase American casualties.

This attitude has become intolerable. We will not react to this threat to American lives merely by plaintive diplomatic protests. If we did, the credibility of the United States would be destroyed in every area of the world where only the power of the United States deters aggression.

Tonight, I again warn the North Vietnamese that if they continue to escalate the fighting when the United States is withdrawing its forces I shall meet my responsibility as Commander-in-Chief of our Armed Forces to take the action I consider necessary to defend the security of our American men.

This action puts the leaders of North Vietnam on notice that we will be patient in working for peace, we will be conciliatory at the conference table, but, we will not be humiliated. We will not be defeated. We will not allow American men by the thousands to be killed by an enemy from privileged sanctuaries.

The time came long ago to end this war through peaceful negotiations. We stand ready for those negotiations. We have made major efforts, many of which must remain secret. All offers and approaches made previously remain on the conference table whenever Hanoi is ready to negotiate seriously.

But if the enemy response to our most conciliatory offers for peaceful negotiation continues to be to increase its attacks and humiliate and defeat us we shall react accordingly.

We live in an age of anarchy both abroad and at home. We see mindless attacks on all the great institutions which have been created by free civilizations in the last five hundred years. Here in the United States, great universities are being systematically destroyed. Small nations all over the world find themselves under attack from within and from without.

If when the chips are down the U.S. acts like a pitiful helpless giant, the forces of totalitarianism and anarchy will threaten free nations and free institutions throughout the world.

It is not our power but our will and character that is being tested tonight. The question all Americans must ask and answer tonight is this: Does the richest and strongest nation in the history of the world have the character to meet a direct challenge by a group which rejects every effort to win a just peace, ignores our warning, tramples on solemn agreements, violates the neutrality of an unarmed people, and uses our prisoners as hostages?

If we failed to meet this challenge all other nations will be on notice that despite its overwhelming power the United States, when a real crisis comes, will be found wanting.

My fellow Americans: During my campaign for the Presidency, I pledged to bring Americans home from Vietnam. They are coming home.

I promised to end the war. I shall keep that promise.

I promised to win a just peace. I shall keep that promise.

We shall avoid a wider war. But we are also determined to put an end to this war.

In this room, Woodrow Wilson made the great decisions which led to victory in World War I. Franklin Roosevelt made the decisions which led to our victory in World War II. Dwight D. Eisenhower made decisions which ended the war in Korea and avoided war in the Middle East, John F. Kennedy, in his finest hour, made the great decision which removed Soviet nuclear missiles from Cuba and the Western Hemisphere.

The decision I have announced tonight is not of the same magnitude. Between those decisions and this decision, however, there is a difference that is very fundamental. In those decisions, the American people were not assailed by counsels of doubt and defeat from some of the most widely known opinion leaders of the nation.

A Republican Senator has said that this action means my party has lost all chance of winning the November elections. Others are saying today that this move against the enemy sanctuaries will make me a one-term President.

No one is more aware than I am of the political consequences of the action I have taken. It is tempting to take the easy political path: (1) To blame this war on previous Administrations and to bring all of our men home immediately regardless of the consequences; even though that would mean defeat for the United States; (2) To desert 18 million South Vietnamese people, who have put their trust in us and to expose them to the same slaughter and savagery which the leaders of North Vietnam inflicted on hundreds of thousands of North Vietnamese who chose freedom when the Communists took over North Vietnam; (3) To get peace at any price now even though I know that a peace of humiliation for the United States will lead to a bigger war or surrender later.

But I have rejected all political considerations in making this decision.

Whether my party gains in November is nothing compared to the lives of 400 thousand brave Americans fighting for our country and for the cause of peace and freedom in Vietnam. Whether I may be a one-term President is insignificant compared to whether by our failure to act in this crisis the United States proves itself to be unworthy to lead the forces of freedom in this critical period. I would rather be a one-term President than to be a two-term President at the cost of seeing America become a second rate power and see this nation accept the first defeat in its proud 190-year history.

I realize that in this war there are honest and deep differences about whether we should have ever become involved in Vietnam. There are differences as to how the war should be conducted. But the decision I announce tonight transcends those differences.

For the lives of American men are involved. The opportunity for 150,000 American men to come home over the next twelve months is involved. The future of 18 million in South Vietnam and seven million people in Cambodia is involved. The possibility of winning a just peace in Vietnam and in the Pacific is at stake.

It is customary in a speech from the White House to ask support for the President of the United States. Tonight, what I ask for is more important. I ask for support of our brave men fighting tonight half-way around the world—not for territory—not for glory—but so that their younger brothers and their sons and your sons will be able to live in peace and freedom.

RICHARD NIXON

Chapter IV

EXECUTIVE DIRECTIVES CONCERNING DOMESTIC DISORDERS

The maintenance of public order has proved to be a recurrent problem for Presidents throughout American history. From Shay's Rebellion of 1786, to the urban riots of 1967-68, Federal force has been used when State and local governments were unable to control disorders. Although the circumstances which have required recourse to Federal assistance have varied greatly, the formal means of declaring an intention to meet threats to Government has been strikingly uniform.

The first three documents included in this section illustrate only a few of the many historical situations in which Presidents have taken action to quell domestic disturbances. The Executive decisions are all cast in the form of Proclamations. The Proclamation issued by President Adams acknowledges the existence and nature of the disorder and then calls upon those perceived to be "insurgents" to disperse and retire to their homes. Lincoln's response to the outbreak of Civil War entailed much more extreme measures. Not only did he call upon the Secessionists to disperse, but he also convened an extraordinary session of Congress, called out 75,000 militia, declared martial law, and suspended the writ of *habeas corpus*. The last of these actions was subsequently determined by the Supreme Court to have been in excess of his authority. *Ex parte Milligan*, 4 Wall. 2 (1866). The range of Presidential powers as they have been exercised historically can, however, be plainly seen in these examples.

Presidential authority to meet domestic disturbances was confirmed soon after Lincoln's actions (R.S. 5297 et seq.) and has remained essentially unchanged from that time (10 U.S.C. 331 et seq.). These provisions of law are included at the end of this section to illustrate the current extent of that authority. The power to call the State militia into Federal service or to use the regular armed forces within the United States is contingent on either of two exigencies: the express request for assistance by the legislature or Governor of a State when local law agencies are unable to contain an "insurrection;" or, determination by the President himself that the execution of the laws in a particular State is being impeded, or that certain citizens of a State are being denied their constitutional or legal rights. When either of these contingencies makes it necessary to call up the militia or to use the regular armed forces, the President is required to issue a Proclamation calling upon the insurgents to disperse and retire.

Recent examples of Presidential exercise of these powers demonstrate how closely Presidents have adhered to these laws. In Procla-

mations 3204, 3497, 3554, 3645, and 3795. Presidents Eisenhower, Kennedy, and Johnson declared that disorders threatened to obstruct justice, and pursuant to 10 U.S.C. 332 et seq., they ordered all those participating in such disorders to disperse. Immediately following each Proclamation, an Executive Order was issued providing for the use of Federal forces to end the disorder. The procedure used in each case was virtually identical.

It should be noted, however, that the majority of the recent examples included in this section pertain to situations where local governmental authorities themselves resisted Federal attempts at racial integration. In these cases the determination of the necessity for the use of Federal force was at the President's discretion, and power was exercised under 10 U.S.C. 332 and 333. Proclamation 3795 and Executive Order 11364, however, were issued to meet race riots in Detroit in 1967. In instances where local authorities are attempting to restore order, Federal troops may only be used at the specific request of the Governor or State legislature. In the case of the Detroit riots, Governor Romney delayed in making this request and Attorney General Clark and President Johnson scrupulously refrained from taking any action until he did. There were many subsequent situations in 1967 and 1968 analogous to that in Detroit. The procedure followed, as far as can be determined, was identical.

RELEVANT PROVISIONS OF THE UNITED STATES CODE

10 U.S.C. 331. FEDERAL AID FOR STATE GOVERNMENTS

Whenever there is an insurrection in any State against its government, *the President may*, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

 10 U.S.C. 332. USE OF MILITIA AND ARMED FORCES TO ENFORCE FEDERAL AUTHORITY

Whenever the *President considers* that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

 10 U.S.C. 333. INTERFERENCE WITH STATE AND FEDERAL LAW

The President, by using the militia or the armed forces, or both, or by any other means, *shall take such measures as he considers necessary* to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution. (Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

 10 U.S.C. 334. PROCLAMATION TO DISPERSE

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, *he shall, by proclamation*, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time. (Aug. 10, 1956, ch. 1041, 70A Stat. 16.)

[Emphasis supplied.]

Proclamation—March 12, 1799**COMBINATIONS TO RESIST THE LAWS OF THE UNITED STATES****By the President of the United States****A Proclamation**

WHEREAS combinations to defeat the execution of the laws for the valuation of the lands and dwelling-houses within the United States, have existed in the counties of Northampton, Montgomery, and Bucks, in the State of Pennsylvania, and have proceeded in a manner subversive of the just authority of the government, by misrepresentations to render the law odious, by deterring the public officers of the United States to forbear the execution of their functions, and by openly threatening their lives: And whereas the endeavours of the well-affected citizens, as well as of the executive officers, to conciliate a compliance with those laws, have failed of success, and certain persons in the county of Northampton aforesaid, have been hardy enough to perpetrate certain acts, which I am advised amount to treason, being overt acts of levying war against the United States, the said persons exceeding one hundred in number, and armed and arrayed in a warlike manner, having, on the seventh day of this present month of March, proceeded to the house of Abraham Lovering, in the town of Bethlehem, and there compelled William Nichols, Marshal of the United States, in and for the District of Pennsylvania, to desist from the execution of certain legal process in his hands to be executed, and having compelled him to discharge and set at liberty certain persons whom he had arrested by virtue of criminal process duly issued for offences against the United States, and having impeded and prevented the Commissioner and the Assessors, appointed in conformity with the laws aforesaid, in the county of Northampton, aforesaid, by threats and personal injury from executing the said laws, avowing as the motives of these illegal and treasonable proceedings, an intention to prevent, by force of arms, the execution of the said laws, and to withstand, by open violence, the lawful authority of the government of the United States: And whereas by the Constitution and Laws of the United States, I am authorized, whenever the laws of the United States shall be opposed or the execution thereof obstructed in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings or by the powers vested in the Marshals, to call forth military force to suppress such combinations, and to cause the laws to be duly executed: And whereas it is in my judgment necessary to call forth military force in order to suppress the combinations aforesaid, and to cause the laws aforesaid to be duly executed: And I have accordingly determined so to do, under the solemn conviction that the essential interests of the United States demand it: Wherefore, I, JOHN ADAMS, President of the United States, do hereby command all persons being insurgents as aforesaid, and all others whom it may concern, on or before Monday next, being the eighteenth day of this present month, to disperse and retire peaceably to their respective abodes; and I do moreover warn all persons whomsoever against aiding, abetting, or comforting

the perpetrators of the aforesaid treasonable acts; and I do require all officers and others, good and faithful citizens, according to their respective duties and the laws of the land, to exert their utmost endeavours to prevent and suppress such dangerous and unlawful proceedings.

In testimony whereof, I have caused the Seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the City of Philadelphia, the twelfth day of March, in the year of our Lord, one thousand seven hundred and ninety-nine, and of the independence of the said United States of America the twenty-third.

JOHN ADAMS

Proclamation—April 15, 1861

MILITIA CALLED OUT TO CAUSE LAWS TO BE DULY EXECUTED

By the President of the United States

A Proclamation

WHEREAS the laws of the United States have been, for some time past, and now are opposed, and the execution thereof obstructed, in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law:

Now, therefore, I, ABRAHAM LINCOLN, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be duly executed.

The details for this object will be immediately communicated to the State authorities through the War Department.

I appeal to all loyal citizens to favor, facilitate, and aid this effort to maintain the honor, the integrity, and the existence of our National Union, and the perpetuity of popular government; and to redress wrongs already long enough endured.

I deem it proper to say that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event, the utmost care will be observed, consistently with the objects aforesaid, to avoid any devastation, any destruction of, or interference with, property, or any disturbance of peaceful citizens in any part of the country.

And I hereby command the persons composing the combinations aforesaid to disperse, and retire peaceably to their respective abodes within twenty days from this date.

Deeming that the present condition of public affairs presents an extraordinary occasion, I do hereby in virtue of the power in me vested

by the Constitution, convene both Houses of Congress. Senators and Representatives are therefore summoned to assemble at their respective chambers, at twelve o'clock, noon, on Thursday, the fourth day of July, next, then and there to consider and determine such measures as, in their wisdom, the public safety and interest may seem to demand.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the City of Washington, this fifteenth day of April, in the year of our Lord one thousand eight hundred and sixty-one, and of the Independence of the United States the eighty-fifth.

ABRAHAM LINCOLN

Proclamation—Sept. 24, 1862

REBELS AND THEIR ABETTORS TO BE SUBJECT TO MARTIAL LAW

By the President of the United States

A Proclamation

WHEREAS, it has become necessary to call into service not only volunteers but also portions of the militia of the states by draft in order to suppress the insurrection existing in the United States, and disloyal persons are not adequately restrained by the ordinary processes of law from hindering this measure and from giving aid and comfort in various ways to the insurrection:

Now, therefore, be it ordered, First.—That during the existing insurrection and as a necessary measure for suppressing the same, all rebels and insurgents, their aiders and abettors within the United States, and all persons discouraging volunteer enlistments, resisting militia drafts, or guilty of any disloyal practice, affording aid and comfort to rebels against the authority of the United States, shall be subject to martial law and liable to trial and punishment by courts-martial or military commissions:

Second.—That the writ of habeas corpus is suspended in respect to all persons arrested, or who are now, or hereafter during the rebellion shall be, imprisoned in any fort, camp, arsenal, military prison, or other place of confinement by any military authority or by the sentence of any court-martial or military commission.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-two, and of the Independence of the United States the eighty-seventh.

ABRAHAM LINCOLN

Proclamation 2588—June 21, 1943**DOMESTIC VIOLENCE IN THE STATE OF MICHIGAN****By the President of the United States****A Proclamation**

WHEREAS, the Governor of the State of Michigan has represented that domestic violence exists in said State which the authorities of said State are unable to suppress; and

WHEREAS, it is provided in the Constitution of the United States that the United States shall protect each State in this Union, on application of the Legislature, or of the Executive, when the Legislature cannot be convened, against domestic violence; and

WHEREAS, by the law of the United States in pursuance of the above, it is provided that in all cases of insurrection in any State or of obstruction of the laws thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, when the Legislature cannot be convened, to call forth the militia of any other State or States and to employ such part of the land and naval forces of the United States as shall be judged necessary for the purpose of suppressing such insurrection and causing the laws to be duly executed; and

WHEREAS, the Legislature of the State of Michigan is not now in session and cannot be convened in time to meet the present emergency, and the Executive of said State under Section IV of Article IV of the Constitution of the United States, and the laws passed in pursuance thereof, has made due application to me in the premises for such part of the military forces of the United States as may be necessary and adequate to protect the State of Michigan and the citizens thereof against domestic violence and to enforce the due execution of the laws; and

WHEREAS, it is required that whenever it may be necessary, in the judgment of the President, to use the military forces of the United States for the purpose aforesaid, he shall forthwith, by proclamation, command such insurgents to disperse and retire peacefully to their respective homes within a limited time;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby make proclamation and I do hereby command all persons engaged in said unlawful and insurrectionary proceedings to disperse and retire peacefully to their respective abodes immediately, and hereafter abandon said combinations and submit themselves to the laws and constituted authorities of said State;

And I invoke the aid and cooperation of all good citizens thereof to uphold the laws and preserve the public peace.

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

DONE at the City of Washington this twenty-first day of June, in the year of our Lord, nineteen hundred and forty-three, and of the Independence of the United States of America the one hundred and sixty-seventh.

FRANKLIN D. ROOSEVELT

Proclamation 3204—Sept. 25, 1957**OBSTRUCTION OF JUSTICE IN THE STATE OF ARKANSAS****By the President of the United States of America****A Proclamation**

WHEREAS certain persons in the State of Arkansas, individually and in unlawful assemblages, combinations, and conspiracies, have wilfully obstructed the enforcement of orders of the United States District Court for the Eastern District of Arkansas with respect to matters relating to enrollment and attendance at the public schools, particularly at Central High School, located in Little Rock School District, Little Rock, Arkansas; and

WHEREAS such wilful obstruction of justice hinders the execution of the laws of that State and of the United States, and makes it impracticable to enforce such laws by the ordinary course of judicial proceedings; and

WHEREAS such obstruction of justice constitutes a denial of the equal protection of the laws secured by the Constitution of the United States and impedes the course of justice under those laws:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 882, 883 and 884 thereof, do command all persons engaged in such obstruction of justice to cease and desist therefrom, and to disperse forthwith.

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

DONE at the City of Newport, Rhode Island this twenty-third day of September in the year of our Lord nineteen hundred and fifty-seven and of the Independence of the United States of America the one hundred and eighty-second.

DWIGHT D. EISENHOWER**Executive Order 10730—Sept. 25, 1957****PROVIDING ASSISTANCE FOR THE REMOVAL OF AN OBSTRUCTION OF JUSTICE WITHIN THE STATE OF ARKANSAS**

WHEREAS on September 23, 1957, I issued Proclamation No. 3204 reading in part as follows:

“**WHEREAS** certain persons in the State of Arkansas, individually and in unlawful assemblages, combinations, and conspiracies, have wilfully obstructed the enforcement of orders of the United States District Court for the Eastern District of Arkansas with respect to

matters relating to enrollment and attendance at public schools, particularly at Central High School, located in Little Rock School District, Little Rock, Arkansas; and

"WHEREAS such wilful obstruction of justice hinders the execution of the laws of that State and of the United States, and makes it impracticable to enforce such laws by the ordinary course of judicial proceedings; and

"WHEREAS such obstruction of justice constitutes a denial of the equal protection of the laws secured by the Constitution of the United States and impedes the course of justice under those laws:

"NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States, under and by virtue of the authority vested in me by the Constitution and Statutes of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 882, 888 and 884 thereof, do command all persons engaged in such obstruction of justice to cease and desist therefrom, and to disperse forthwith:" and

WHEREAS the command contained in that Proclamation has not been obeyed and wilful obstruction of enforcement of said court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and Statutes of the United States, including Chapter 15 of Title 10, particularly sections 882, 888 and 884 thereof, and section 801 of Title 8 of the United States Code, it is hereby ordered as follows:

Section 1. I hereby authorize and direct the Secretary of Defense to order into the active military service of the United States as he may deem appropriate to carry out the purposes of this Order, any or all of the units of the National Guard of the United States and of the Air National Guard of the United States within the State of Arkansas to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders.

Sec. 2. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce any orders of the United States District Court for the Eastern District of Arkansas for the removal of obstruction of justice in the State of Arkansas with respect to matters relating to enrollment and attendance at public schools in the Little Rock School District, Little Rock, Arkansas. In carrying out the provisions of this section, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to Section 1 of this Order.

Sec. 3. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Eastern District of Arkansas, the Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

Sec. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this Order.

DWIGHT D. EISENHOWER.

Proclamation 3497—Oct. 2, 1962

OBSTRUCTIONS OF JUSTICE IN THE STATE OF MISSISSIPPI

By the President of the United States of America

A Proclamation

WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 16 of Title 10 of the United States Code, particularly sections 882, 883 and 884 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith.

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

DONE at the City of Washington this 30th day of September in the year of our Lord nineteen hundred and sixty-two, and of the Independence of the United States of America the one hundred and eighty-seventh.

JOHN F. KENNEDY

Executive Order 11053—Oct. 2, 1962

**PROVIDING ASSISTANCE FOR THE REMOVAL OF UNLAWFUL
OBSTRUCTIONS OF JUSTICE IN THE STATE OF MISSISSIPPI**

WHEREAS on September 30, 1962, I issued Proclamation No. 3497 reading in part as follows:

"WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and

conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

"WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

"WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

"NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 882, 883 and 884 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith;" and

WHEREAS the commands contained in that proclamation have not been obeyed and obstruction of enforcement of those court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10, particularly Sections 882, 883 and 884 thereof, and Section 801 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce all orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit and to remove all obstructions of justice in the State of Mississippi.

Sec. 2. In the furtherance of the enforcement of the aforementioned orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit, the Secretary of the Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

Sec. 3. I hereby authorize the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Mississippi to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to this section.

Sec. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

JOHN F. KENNEDY

Proclamation 3554—Sept. 10, 1963**OBSTRUCTION OF JUSTICE IN THE STATE OF ALABAMA****By the President of the United States****A Proclamation**

WHEREAS the Governor of the State of Alabama, together with certain other officials of that State, and other persons, individually and in unlawful assemblies, combinations, and conspiracies, have been and are willfully opposing and obstructing the execution of the laws of the United States, including the enforcement of orders entered by the United States District Courts in the State of Alabama relating to the enrollment and attendance of students in public schools in that State, and have been and are impeding the course of justice under those laws; and

WHEREAS such unlawful assemblies, combinations, and conspiracies make it impracticable to enforce the laws of the United States in the State of Alabama by the ordinary course of judicial proceedings; and

WHEREAS such unlawful assemblies, combinations, and conspiracies so hinder the execution of the laws of the State of Alabama, and of the United States within the State of Alabama, that a part or class of its people is deprived of rights, privileges, immunities, and protections named in the Constitution and secured by law, and the constituted authorities of that State refuse to protect such rights, privileges, or immunities, or to give that protection:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including chapter 15 of Title 10 of the United States Code [this chapter], particularly sections 882, 888, and 884 thereof, do command all persons engaged in such unlawful obstructions of justice, assemblies, combinations, and conspiracies to cease and desist therefrom and to disperse and retire peaceably forthwith.

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

DONE at the city of Washington this tenth day of September in the year of our Lord nineteen hundred and sixty-three, and of the Independence of the United States of America the one hundred and eighty-eighth.

JOHN FITZGERALD KENNEDY**Executive Order 11118—Sept. 10, 1963****ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS
OF JUSTICE IN THE STATE OF ALABAMA**

WHEREAS, on September 10, 1963, I issued a proclamation entitled "Obstructions of Justice in the State of Alabama" pursuant in part to the provisions of section 884 of Title 10 of the United States Code and

WHEREAS the commands contained in that proclamation have not been obeyed and the unlawful obstructions of justice, assemblies, combinations, and conspiracies referred to therein continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including chapter 15 of Title 10 of the United States Code [this chapter], particularly sections 882, 883 and 884 thereof, and section 801 of Title 8 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is authorized and directed to take all appropriate steps to remove obstructions of justice in the State of Alabama, to enforce the laws of the United States within that State, including any orders of United States Courts relating to the enrollment and attendance of students in public schools in the State of Alabama, and to suppress unlawful assemblies, combinations, conspiracies, and domestic violence which oppose, obstruct, or hinder the execution of the law or impede the course of justice under the law within that State.

SEC. 2. In furtherance of the authorization and direction contained in Section 1 hereof, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

SEC. 3. I hereby authorize and direct the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Alabama to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, of the Army National Guard and of the Air National Guard of the State of Alabama called into the active military service of the United States pursuant to this section or otherwise.

SEC. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

JOHN F. KENNEDY

Proclamation 3645—Mar. 20, 1965

PROVIDING FEDERAL ASSISTANCE IN THE STATE OF ALABAMA

By the President of the United States of America

A Proclamation

WHEREAS, ON March 17, 1965, the United States District Court for the middle district of Alabama entered an order in the case of Williams et al., Plaintiffs, United States of America, Plaintiff-Intervenor v. Wallace et al., Defendants, Civil Action No. 2181-N, approving an exercise by the Plaintiffs and the members of the class they represent of their right to march along United States Highway 80 from Selma to Montgomery, Alabama, commencing in Selma, Alabama, not earlier than Friday, March 19, 1965, and not later than

Monday, March 22, 1965, and terminating in Montgomery, Alabama, within five days from commencement; and

WHEREAS, in relation to such judicial order and march the Governor of the State of Alabama has advised me that the state is unable and refuses to provide for the safety and welfare, among others, of the plaintiffs and the members of the class they represent; and

WHEREAS, as a consequence of such inability and refusal of the State of Alabama, and by reason of recent events in and about Selma and Montgomery, Alabama, there is a substantial likelihood that domestic violence may occur in connection with such march, with the consequence of obstructing the execution and enforcement of the laws of the United States, including the aforesaid judicial order:

NOW, THEREFORE, I, Lyndon B. Johnson, President of the United States of America, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, particularly Sections 882, 883, and 884 thereof, do command all persons engaged or who may engage in such domestic violence obstructing the execution and enforcement of the laws to cease and desist therefrom and to disperse and retire peaceably forthwith.

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

Done at Johnson City, Texas, this twentieth day of March in the Year of our Lord Nineteen hundred and sixty-five, and of the Independence of the United States of America the one hundred and eighty-ninth.

LYNDON B. JOHNSON

Executive Order 11207—Mar. 20, 1965

PROVIDING FEDERAL ASSISTANCE IN THE STATE OF ALABAMA

WHEREAS, on March 20, 1965, I issued proclamation No. 8645, pursuant in part to the provisions of Section 884 of Title 10, United States Code; and

WHEREAS, the likelihood of domestic violence and obstruction of the execution and enforcement of the laws of the United States referred to therein continues:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, particularly Sections 882, 883, and 884 thereof, and Section 801 of Title 8 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is authorized and directed, for the period commencing with the signing of this order and ending as soon as practicable after the termination of the march referred to in the above-mentioned proclamation, to take all appropriate steps, including the provision of assistance to the law enforcement agencies of the State of Alabama, to remove obstructions to the execution and enforcement of the laws of the United States in that State, including the order of the court referred to in the above-mentioned proclamation, and to suppress domestic violence in any way related to the said march.

SEC. 2. In furtherance of the authorization and direction contained in Section 1 hereof, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

SEC. 3. I hereby authorize and direct the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units or members of the Army National Guard and of the Air National Guard of the State of Alabama to serve in the active military service of the United States until relieved by appropriate orders. The Secretary of Defense is further authorized to recall any unit or member so relieved if he deems such recall appropriate to carry out the purposes of this order. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, called or recalled into the active military services of the United States pursuant to this section.

SEC. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

LYNDON B. JOHNSON

Proclamation 3795—July 24, 1967

LAW AND ORDER IN THE STATE OF MICHIGAN

By the President of the United States of America

A Proclamation

WHEREAS the Governor of the State of Michigan has informed me that conditions of domestic violence and disorder exist in the City of Detroit in that State, obstructing the execution and enforcement of the laws, and that the law enforcement resources available to the City and State, including the National Guard, have been unable to suppress such acts of violence and to restore law and order; and

WHEREAS the Governor has requested me to use such of the armed forces of the United States as may be necessary for those purposes; and

WHEREAS such domestic violence and disorder are also obstructing the execution of the laws of the United States, including the protection of federal property in the City of Detroit:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, do command all persons engaged in such acts of violence to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of July, in the year of our Lord nineteen hundred and sixty-seven, and the Independence of the United States of America the one hundred and ninety-second.

LYNDON B. JOHNSON

Executive Order 11364—July 24, 1967**PROVIDING FOR THE RESTORATION OF LAW AND ORDER
IN THE STATE OF MICHIGAN**

WHEREAS on July 24, 1967, I issued Proclamation No. 3795, pursuant in part to the provisions of Chapter 15 of Title 10 of the United States Code; and

WHEREAS the conditions of domestic violence and disorder, described therein continue, and the persons engaging in such acts of violence have not dispersed;

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States and Commander in Chief of the Armed Forces by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, and Section 801 of Title 8 of the United States Code, it is hereby ordered as follows:

Section 1. The Secretary of Defense is authorized and directed to take all appropriate steps to disperse all persons engaged in the acts of violence described in the proclamation and to restore law and order.

Sec. 2. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

Sec. 3. The Secretary of Defense is hereby authorized and directed to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Michigan to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. Units, or members thereof, may be relieved subject to recall at the discretion of the Secretary of Defense. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use units, and members thereof, called or recalled into the active military service of the United States pursuant to this section.

Sec. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

LYNDON B. JOHNSON

Chapter V

EXECUTIVE DIRECTIVES TO COPE WITH STRIKES

Strikes in major industries frequently raise the possibility of serious disruptions in the economy as a whole. During war they may cripple military production. Confronted by such strikes, Presidents have relied on a whole spectrum of authorities to terminate the threat and, whenever possible, resolve the labor-management dispute as well. Most of these responses were under the expressly delegated authority of Congress, but on at least one occasion a President relied solely on what he regarded as his rightful constitutional power.

If normal labor-management negotiations have failed to head off a strike in a major sector of the economy, the typical Presidential response seems to be the establishment of an "emergency board" to mediate and report back to the President. Executive Orders 11276 (April 21, 1966) and 11694 (January 2, 1973) are included here as examples of this kind of action. Many hundreds of such boards have been set up over the last few decades, all by orders very similar in format to these.

When it appears that whatever action the Executive may take will not avert serious economic dislocations, the President may set priorities for contract fulfillments, giving preference to governmental contractors or others whose activity he deems sufficiently important (50 U.S.C. App. 2071 (a), based on the Defense Production Act of 1950). President Nixon relied upon this power in issuing Executive Order 11594 to set priorities in the use of other transportation facilities during a railroad strike in 1971. This authority could, however, be used in many other circumstances.

On a number of occasions, especially in the wake of World War II, Presidents have felt it necessary actually to seize control of an industry and maintain its production in the face of a strike. This has, indeed, been done more than 70 times.¹ In the period immediately after World War II, authority for such seizures was based on the Smith-Connally Act of 1945, formerly known as the War Labor Disputes Act. Executive Order 9728 is included here as an example of this kind of seizure. Subsequent to the Smith-Connally Act's expiration on June 30, 1947, some seizures were successfully based on the Transportation Act of 1916.

Refusal to renew Smith-Connally in 1947 reflected a growing Congressional policy in the late 1940's to discourage plant seizures in response to labor disputes. During the Korean War President Truman

¹ John L. Blackman, Jr., *Presidential Seizure in Labor Disputes* (Cambridge, 1967).

was confronted with a stoppage of steel production and was unable to find sufficient statutory authority on which to base seizure of that industry. He seized the steel plants, nonetheless (Executive Order 10840), citing his inherent powers under the Constitution as President and Commander-in-Chief. This action was litigated in the famous "Steel Seizure Case" (*Youngstown v. Sawyer*, 343 U.S. 579), in which the Supreme Court rejected Truman's claim of inherent Presidential power. The Court decided that, at least in areas where the President and Congress have overlapping constitutional powers, the President must defer to clear congressional policy as expressed in statutes. In *Youngstown* that policy, as clearly defined by legislative history, was not to allow such seizures, and therefore the Supreme Court ruled that President Truman's action was in excess of his legitimate power.

A strike in the public sector—specifically, the postal service—has also occasioned extraordinary Presidential action. On March 28, 1970, President Nixon declared that the post office strike constituted a "national emergency" (Proclamation 3972), and called into active military service members of the Army and Air National Guards (Executive Order 11519) to handle the mails. As authority for this action he relied on 10 U.S.C. 3500 and 8500 empowering him to call up the Ready Reserve when he is "with the regular forces unable to execute the laws of the United States." It may be questioned whether a mail stoppage was envisioned in granting this power. In any event, the declaration of a full state of national emergency in these circumstances to meet a mail delivery strike activated *all* of the President's over 470 statutory emergency powers. As such, this action represents a good illustration of the broad use of "emergency" terminology and the manner in which it may, in fact, authorize powers far beyond those actually required by the particular events.

Executive Order 9728—May 21, 1946

AUTHORIZING THE SECRETARY OF THE INTERIOR TO TAKE POSSESSION OF AND TO OPERATE CERTAIN COAL MINES

WHEREAS after investigation I find and proclaim that there are interruptions or threatened interruptions in the operation of the mines producing bituminous coal as a result of existing or threatened strikes and other labor disturbances; that the coal produced by such mines is required for the war effort and is indispensable for the continued operation of the national economy during the transition from war to peace; that the war effort will be unduly impeded or delayed by such interruptions; and that the exercise, as hereinafter specified, of the powers vested in me is necessary to insure the operation of such mines in the interest of the war effort and to preserve the national economic structure in the present emergency:

NOW, THEREFORE, by virtue of the power and authority vested in me by the Constitution and laws of the United States, including Section 9 of the Selective Training and Service Act of 1940 (54 Stat. 892) as amended by the War Labor Disputes Act (57 Stat. 163), as President of the United States and Commander-in-Chief of the Army and Navy of the United States, it is hereby ordered as follows:

1. The Secretary of the Interior is authorized and directed to take possession of any and all such mines, and, to the extent that he may deem necessary, of any real or personal property, franchises, rights, facilities, funds, and other assets used in connection with the operation of such mines; to operate or to arrange for the operation of such mines in such manner as he may deem necessary in the interest of the war effort; and to do all things necessary for, or incidental to, the production, sale, and distribution of the coal produced, prepared, or handled by the said mines.

2. The Secretary of the Interior shall operate the said mines in accordance with such terms and conditions of employment as are in effect at the time possession thereof is taken, subject to the provisions of Section 5 of the War Labor Disputes Act.

3. Subject to the national wage and price stabilization policies as determined by the National Wage Stabilization Board and the Economic Stabilization Director, the Secretary of the Interior is authorized, pursuant to the provisions of Section 5 of the War Labor Disputes Act, following such negotiations as he may deem necessary with the duly constituted representatives of the employees, to apply to the National Wage Stabilization Board for appropriate changes in the terms and conditions of employment for the period of the operation of the mines by the Government.

4. In carrying out this order, the Secretary of the Interior shall act through or with the aid of such public or private instrumentalities or persons as he may designate. All Federal agencies are directed to cooperate with the Secretary of the Interior to the fullest extent possible in carrying out the purposes of this order.

5. The Secretary of the Interior shall make employment available and provide protection to all employees working at such mines and to all persons seeking employment so far as they may be needed; and upon the request of the Secretary of the Interior, the Secretary of War shall take such action, if any, as he may deem necessary or desirable to provide protection to all such persons and mines.

6. The Secretary of the Interior shall permit the managements of the mines taken under the provisions of this order to continue with their managerial functions to the maximum degree possible consistent with the aims of this order.

7. The Secretary of the Interior is authorized and directed to maintain customary working conditions in the mines and customary procedure for the adjustment of workers' grievances. He shall recognize the right of the workers to continue their membership in any labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, provided that such concerted activities do not interfere with the operations of the mines.

8. Possession of any mine or mines taken under this order shall be terminated by the Secretary of the Interior as soon as practicable, but in no event more than sixty days after the restoration of the productive efficiency of any such mine or mines prevailing prior to the taking of possession thereof.

HARRY S. TRUMAN

Executive Order 10340—April 8, 1952**DIRECTING THE SECRETARY OF COMMERCE TO TAKE POSSESSION AND OPERATE THE PLANTS AND FACILITIES OF CERTAIN STEEL COMPANIES**

WHEREAS on December 16, 1950, I proclaimed the existence of a national emergency which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made throughout the United Nations and otherwise to bring about a lasting peace; and

WHEREAS American fighting men and fighting men of other nations of the United Nations are now engaged in deadly combat with the forces of aggression in Korea, and forces of the United States are stationed elsewhere overseas for the purpose of participating in the defense of the Atlantic Community against aggression; and

WHEREAS the weapons and other materials needed by our armed forces and by those joined with us in the defense of the free world are produced to a great extent in this country, and steel is an indispensable component of substantially all of such weapons and materials; and

WHEREAS steel is likewise indispensable to the carrying out of programs of the Atomic Energy Commission of vital importance to our defense efforts; and

WHEREAS a continuing and uninterrupted supply of steel is also indispensable to the maintenance of the economy of the United States, upon which our military strength depends; and

WHEREAS a controversy has arisen between certain companies in the United States producing and fabricating steel and the elements thereof and certain of their workers represented by the United Steel Workers of America, CIO, regarding terms and conditions of employment; and

WHEREAS the controversy has not been settled through the processes of collective bargaining or through the efforts of the Government, including those of the Wage Stabilization Board, to which the controversy was referred on December 22, 1951, pursuant to Executive Order No. 10233, and a strike has been called for 12:01 A.M., April 9, 1952; and

WHEREAS a work stoppage would immediately jeopardize and imperil our national defense and the defense of those joined with us in resisting aggression, and would add to the continuing danger of our soldiers, sailors, and airmen engaged in combat in the field; and

WHEREAS in order to assure the continued availability of steel and steel products during the existing emergency, it is necessary that the United States take possession of and operate the plants, facilities, and other property of the said companies as hereinafter provided:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, and as President

of the United States and Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

1. The Secretary of Commerce is hereby authorized and directed to take possession of all or such of the plants, facilities, and other property of the companies named in the list attached hereto, or any part thereof, as he may deem necessary in the interests of national defense; and to operate or to arrange for the operation thereof and to do all things necessary for, or incidental to, such operation.

2. In carrying out this order the Secretary of Commerce may act through or with the aid of such public or private instrumentalities or persons as he may designate; and all Federal agencies shall cooperate with the Secretary of Commerce to the fullest extent possible in carrying out the purposes of this order.

3. The Secretary of Commerce shall determine and prescribe terms and conditions of employment under which the plants, facilities, and other properties possession of which is taken pursuant to this order shall be operated. The Secretary of Commerce shall recognize the rights of workers to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining, adjustment of grievances, or other mutual aid or protection, provided that such activities do not interfere with the operation of such plants, facilities, and other properties.

4. Except so far as the Secretary of Commerce shall otherwise provide from time to time, the managements of the plants, facilities, and other properties possession of which is taken pursuant to this order shall continue their functions, including the collection and disbursement of funds in the usual and ordinary course of business in the names of their respective companies and by means of any instrumentalities used by such companies.

5. Except so far as the Secretary of Commerce may otherwise direct, existing rights and obligations of such companies shall remain in full force and effect, and there may be made, in due course, payments of dividends on stock, and of principal, interest, sinking funds, and all other distributions upon bonds, debentures, and other obligations, and expenditures may be made for other ordinary corporate or business purposes.

6. Whenever in the judgment of the Secretary of Commerce further possession and operation by him of any plant, facility, or other property is no longer necessary or expedient in the interest of national defense, and the Secretary has reason to believe that effective future operation is assured, he shall return the possession and operation of such plant facility, or other property to the company in possession and control thereof at the time possession was taken under this order.

7. The Secretary of Commerce is authorized to prescribe and issue such regulations and orders not inconsistent herewith as he may deem necessary or desirable for carrying out the purposes of this order; and he may delegate and authorize subdelegation of such of his functions under this order as he may deem desirable.

HARRY S. TRUMAN

Executive Order 11276—April 21, 1966

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE CARRIERS REPRESENTED BY THE FIVE CARRIERS NEGOTIATING COMMITTEE AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the air carriers represented by the Five Carriers Negotiating Committee, designated in List A¹ attached hereto and made a part hereof, and certain of their employees represented by the International Association of Machinists and Aerospace Workers, AFL-CIO, a labor organization; and

WHEREAS these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS these disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of three members, to be appointed by me, to investigate these disputes. No member of the board shall be pecuniarily or otherwise interested in any organization of airline employees or in any air carrier.

The board shall report its findings to the President with respect to the disputes within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the carriers represented by the Five Carriers Negotiating Committee, or by their employees, in the conditions out of which the disputes arose.

LYNDON B. JOHNSON

Proclamation 3972—March 23, 1970

DECLARING A NATIONAL EMERGENCY

By the President of the United States of America

A Proclamation

WHEREAS certain employees of the Postal Service are engaged in an unlawful work stoppage which has prevented the delivery of the mails and the discharge of other postal functions in various parts of the United States; and

WHEREAS, as a result of such unlawful work stoppage the performance of critical governmental and private functions, such as

¹ List A:

- Eastern Air Lines, Inc.
- National Airlines, Inc.
- Northwest Airlines, Inc.
- Trans World Airlines, Inc.
- United Air Lines, Inc.

the processing of men into the Armed Forces of the United States, the transmission of tax refunds and the receipt of tax collections, the transmission of Social Security and welfare payments, and the conduct of numerous and important commercial transactions, has wholly ceased or is seriously impeded; and

WHEREAS the continuance of such work stoppage with its attendant consequences will impair the ability of this nation to carry out its obligations abroad, and will cripple or halt the official and commercial intercourse which is essential to the conduct of its domestic business:

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, pursuant to the powers vested in me by the Constitution and laws of the United States and more particularly by the provisions of Section 678 of Title 10 of the United States Code, do hereby declare a state of national emergency, and direct the Secretary of Defense to take such action as he deems necessary to carry out the provisions of the said Section 678 in order that the laws of the United States pertaining to the Post Office Department may be executed in accordance with their terms.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of March in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fourth.

RICHARD NIXON

Executive Order 11519—March 23, 1970

**CALLING INTO SERVICE MEMBERS AND UNITS
OF THE NATIONAL GUARD**

WHEREAS certain employees of the Postal Service are engaged in an unlawful work stoppage which has prevented the delivery of the mails and the discharge of other postal functions in various parts of the United States; and

WHEREAS the laws of the United States, including Sections 707, 5102, 6001, and 6101 of Title 39, United States Code require that the business of the Post Office Department, including the expeditious processing and delivery of the mail, be regularly carried on; and

WHEREAS the aforesaid unlawful work stoppage has prevented and is preventing the execution of the aforesaid laws relating to the Post Office Department; and

WHEREAS the breakdown of the postal service in the numerous areas affected by the said unlawful work stoppage is a matter of grave national concern; and

WHEREAS I am charged by the Constitution of the United States to take care that the laws be faithfully executed, and I have determined that I am unable solely with the regular forces to cause the aforesaid laws to be executed:

NOW, THEREFORE, I, RICHARD NIXON, by virtue of the authority vested in me by the Constitution and laws of the United States, including Sections 3500 and 8500 of Title 10 of the United

States Code and Section 301 of Title 3 of the United States Code, do hereby order as follows:

SECTION 1. The Secretary of Defense is authorized and directed to take all appropriate steps to respond to requests of the Postmaster General for assistance in restoring and maintaining Postal service and to execute the Postal laws of the United States.

SEC. 2. In furtherance of the authorization and direction contained in section 1 hereof, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

SEC. 3. I hereby authorize and direct the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard that he deems appropriate to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of this order, the Secretary of Defense is authorized to use the units, and members thereof, of the Army National Guard and of the Air National Guard called into the active military service of the United States pursuant to this section.

SEC. 4. The Secretary of Defense is authorized to delegate within the Department of Defense any of the authority conferred upon him by this Executive order.

RICHARD NIXON

Executive Order 11594—May 17, 1971

PROVIDING FOR THE USE OF TRANSPORTATION PRIORITIES AND ALLOCATIONS DURING THE CURRENT RAILROAD STRIKE

WHEREAS the current railroad strike threatens to halt virtually all transportation of persons and things by rail, and the remaining transportation facilities of the nation will be unable to handle all the essential traffic requirements put upon them; and

WHEREAS section 101(a) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2071(a)) provides that:

“The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.”

and

WHEREAS the foregoing powers of the President have been delegated to certain officers of the Government by and pursuant to Executive Order No. 10480 of August 14, 1953, as amended:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States and Commander-in-Chief of the armed forces, including the authority conferred upon me by the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.), it is hereby ordered as follows:

SECTION 1. This order shall constitute a finding in pursuance of section 101(b) of the Defense Production Act of 1950, as amended, with respect to the exercise, as directed by section 2 of this order, of the powers vested in me by section 101(a) of that Act.

SEC. 2. The officers of the Government in whom are vested (by or pursuant to Executive Order No. 10480, as amended), the allocation and priorities powers of the Defense Production Act of 1950, as amended, shall exercise those powers to accomplish the transportation and delivery of such persons and things as they deem necessary or proper to promote the national defense, including the accomplishment of military requirements; governmental functions, defense production and measures essential to the public health and safety.

SEC. 3. Notwithstanding any other provision of this order or any other order:

(1) The Secretary of Transportation is directed to determine, with the concurrence of the Director of the Office of Emergency Preparedness, the proper overall apportionment and allocation of available transportation capacity.

(2) The Secretary of Transportation, subject to the general policy guidance of the Director of the Office of Emergency Preparedness, shall exercise centralized direction in the use of transportation priorities to accomplish the purposes of this order.

(3) The Secretary of Transportation shall provide the organization, procedures and redelegations to carry out the functions under the foregoing provisions of this section.

SEC. 4. This order takes effect at once and shall remain effective until the resumption of rail service makes it unnecessary but in no event more than fifteen days after the termination of the current railroad strike.

RICHARD NIXON

Executive Order 11694—Jan. 2, 1973

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE PORT AUTHORITY TRANS-HUDSON CORPORATION AND CERTAIN OF ITS EMPLOYEES

WHEREAS, a dispute exists between the Port Authority Trans-Hudson Corporation and certain of its employees represented by the Brotherhood Railway Carmen of the United States and Canada, a labor organization; and

WHEREAS, this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS, this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of three members, to be appointed by me, to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The board shall report its finding to the President with respect to the dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the Port Authority Trans-Hudson Corporation, or by its employees, in the conditions out of which the dispute arose.

RICHARD NIXON

APPENDIX

Statutes and Regulations Prescribing Form of Presidential Documents and Procedures for Their Issuance

TITLE 44—PUBLIC PRINTING AND DOCUMENTS

CHAPTER 15—FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

Sec.

- 1501. Definitions.
- 1502. Custody and printing of Federal documents; appointment of Director.
- 1503. Filing documents with Office; notation of time; public inspection; transmission for printing.
- 1504. "Federal Register"; printing; contents; distribution; price.
- 1505. Documents to be published in Federal Register.
- 1506. Administrative Committee of the Federal Register; establishment and composition; powers and duties.
- 1507. Filing document as constructive notice; publication in Federal Register as presumption of validity; judicial notice; citation.
- 1508. Publication in Federal Register as notice of hearing.
- 1509. Cost of publication; appropriations authorized; penalty mail privilege.
- 1510. Code of Federal Regulations.
- 1511. International agreements excluded from provisions of chapter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 77sss.

44 U.S.C. 1501. DEFINITIONS

As used in this chapter, unless the context otherwise requires—

"document" means a Presidential proclamation or Executive order and an order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument, issued, prescribed, or promulgated by a Federal agency;

"Federal agency" or "agency" means the President of the United States, or an executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States but not the legislative or judicial branches of the Government;

"person" means an individual, partnership, association, or corporation.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1278.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 804 (July 26, 1935, ch. 417, § 4, 49 Stat. 501).

44 U.S.C. 1502. CUSTODY AND PRINTING OF FEDERAL DOCUMENTS; APPOINTMENT OF DIRECTOR

The Administrator of General Services, acting through the Office of the Federal Register, is charged with the custody and, together with

the Public Printer, with the prompt and uniform printing and distribution of the documents required or authorized to be published by section 1505 of this title. There shall be at the head of the Office a director, appointed by, and who shall act under the general direction of, the Administrator of General Services in carrying out this chapter and the regulations prescribed under it. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1273.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 301 (July 26, 1935, ch. 417, § 1, 49 Stat. 500; 1939 Reorg. Plan No. II, § 202, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1485; June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381).

44 U.S.C. 1508. FILING DOCUMENTS WITH OFFICE; NOTATION OF TIME; PUBLIC INSPECTION; TRANSMISSION FOR PRINTING

The original and two duplicate originals or certified copies of a document required or authorized to be published by section 1505 of this title shall be filed with the Office of the Federal Register, which shall be open for that purpose during all hours of the working days when the National Archives Building is open for official business. The Administrator of General Services shall cause to be noted on the original and duplicate originals or certified copies of each document the day and hour of filing. When the original is issued, prescribed, or promulgated outside the District of Columbia, and certified copies are filed before the filing of the original, the notation shall be of the day and hour of filing of the certified copies. Upon filing, at least one copy shall be immediately available for public inspection in the Office. The original shall be retained in the archives of the National Archives of the United States and shall be available for inspection under regulations prescribed by the Administrator. The Office shall transmit immediately to the Government Printing Office for printing, as provided by this chapter, one duplicate original or certified copy of each document required or authorized to be published by section 1505 of this title. Every Federal agency shall cause to be transmitted for filing the original and the duplicate originals or certified copies of all such documents issued, prescribed, or promulgated by the agency. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 302 (July 26, 1935, ch. 417, § 2, 49 Stat. 500; June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1504, 1506, 1507 of this title.

44 U.S.C. 1504. "FEDERAL REGISTER"; PRINTING; CONTENTS; DISTRIBUTION; PRICE

Documents required or authorized to be published by section 1505 of this title shall be printed and distributed immediately by the Government Printing Office in a serial publication designated the "Federal Register." The Public Printer shall make available the facilities of the Government Printing Office for the prompt printing and distri-

bution of the Federal Register in the manner and at the times required by this chapter and the regulations prescribed under it. The contents of the daily issues shall be indexed and shall comprise all documents, required or authorized to be published, filed with the Office of the Federal Register up to the time of the day immediately preceding the day of distribution fixed by regulations under this chapter. There shall be printed with each document a copy of the notation, required to be made by section 1508 of this title, of the day and hour when, upon filing with the Office, the document was made available for public inspection. Distribution shall be made by delivery or by deposit at a post office at a time in the morning of the day of distribution fixed by regulations prescribed under this chapter. The prices to be charged for the Federal Register may be fixed by the Administrative Committee of the Federal Register established by section 1506 of this title without reference to the restrictions placed upon and fixed for the sale of Government publications by sections 1705 and 1708 of this title. (Pub. L. 90-620, Oct 22, 1968, 82 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 308 (July 26, 1935, ch. 417, § 8, 49 Stat. 500).

44 U.S.C. 1505. DOCUMENTS TO BE PUBLISHED IN FEDERAL REGISTER

(a) Proclamations and Executive Orders; documents having general applicability and legal effect; documents required to be published by Congress.

There shall be published in the Federal Register—

(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;

(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

(3) documents or classes of documents that may be required so to be published by Act of Congress.

For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

(b) Documents authorized to be published by regulations; comments and news items excluded.

In addition to the foregoing there shall also be published in the Federal Register other documents or classes of documents authorized to be published by regulations prescribed under this chapter with the approval of the President, but comments or news items of any character may not be published in the Federal Register.

(c) Suspension of requirements for filing of documents; alternate systems for promulgating, filing, or publishing documents; preservation of originals.

In the event of an attack or threatened attack upon the continental United States and a determination by the President that as a result of an attack or threatened attack—

(1) publication of the Federal Register or filing of documents with the Office of the Federal Register is impracticable, or

(2) under existing conditions publication in the Federal Register would not serve to give appropriate notice to the public of the contents of documents, the President may, without regard to any other provision of law, suspend all or part of the requirements of law or regulation for filing with the Office or publication in the Federal Register of documents or classes of documents.

The suspensions shall remain in effect until revoked by the President, or by concurrent resolution of the Congress. The President shall establish alternate systems for promulgating, filing, or publishing documents or classes of documents affected by such suspensions, including requirements relating to their effectiveness or validity, that may be considered under the then existing circumstances practicable to provide public notice of the issuance and of the contents of the documents. The alternate systems may, without limitation, provide for the use of regional or specialized publications or depositories for documents, or of the press, the radio, or similar mediums of general communication. Compliance with alternate systems of filing or publication shall have the same effect as filing with the Office or publication in the Federal Register under this chapter or other law or regulation. With respect to documents promulgated under alternate systems, each agency shall preserve the original and two duplicate originals or two certified copies for filing with the Office when the President determines that it is practicable. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1274.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 805 (July 26, 1955, ch. 417, § 5, Stat. 501; June 25, 1956, ch. 444, 70 Stat. 387).

EX. ORD. NO. 11030. PREPARATION, PRESENTATION, FILING, AND PUBLICATION OF EXECUTIVE ORDERS AND PROCLAMATIONS

Ex. Ord. No. 11030, June 19, 1962, 27 F.R. 5847, as amended by Ex. Ord. 11854, May 23, 1967, 32 F.R. 7695, provided:

By virtue of the authority vested in me by the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. *et seq.*) [now this chapter], and as President of the United States, I hereby prescribe the following regulations governing the preparation, presentation, filing, and publication of Executive orders and proclamations:

SECTION 1. Form. Proposed Executive orders and proclamations shall be prepared in accordance with the following requirements:

- (a) The order or proclamation shall be given a suitable title.
- (b) The order or proclamation shall contain a citation of the authority under which it is issued.
- (c) Punctuation, capitalization, spelling, and other matters of style shall, in general, conform to the most recent edition of the Style Manual of the United States Government Printing Office.
- (d) The spelling of geographic names shall conform to the decisions of the Board on Geographic Names, established by Section 2 of the Act of July 25, 1947, 61 Stat. 456 (43 U.S.C. 364a).
- (e) Descriptions of tracts of land shall conform, so far as practicable, to the most recent edition of the "Specifications for Description of Tracts of Land for Use in Executive Orders and Proclamations," prepared by the Bureau of Land Management, Department of the Interior.
- (f) Proposed Executive orders and proclamations shall be typewritten on paper approximately 8 x 18 inches, shall have a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch, and shall be double-spaced, except that quotations, tabulations, and descriptions of land may be single-spaced.

(g) Proclamations issued by the President shall conclude with the following described recitation—

IN WITNESS WHEREOF, I have hereunto set my hand this ----- day of -----, in the year of our lord -----, and of the Independence of the United States of America, the -----

Sec. 2. Routing and approval of drafts. (a) A proposed Executive order or proclamation shall first be submitted, with seven copies thereof, to the Director of the Bureau of the Budget [now Office of Management and Budget], together with a letter, signed by the head or other properly authorized officer of the originating Federal agency, explaining the nature, purpose, background, and effect of the proposed Executive order or proclamation and its relationship, if any, to pertinent laws and other Executive orders or proclamations.

(b) If the Director of the Bureau of the Budget [now Office of Management and Budget] approves the proposed Executive order or proclamation, he shall transmit it to the Attorney General for his consideration as to both form and legality.

(c) If the Attorney General approves the proposed Executive order or proclamation, he shall transmit it to the Director of the Office of the Federal Register, National Archives and Records Service, General Services Administration: *Provided*, that in cases involving sufficient urgency the Attorney General may transmit it directly to the President; and *provided further*, that the authority vested in the Attorney General by this section may be delegated by him, in whole or in part, to the Deputy Attorney General, Solicitor General, or to such Assistant Attorney General as he may designate.

(d) After determining that the proposed Executive order or proclamation conforms to the requirements of Section 1 of this order and is free from typographical or clerical errors, the Director of the Office of the Federal Register shall transmit it and three copies thereof to the President.

(e) If the proposed Executive order or proclamation is disapproved by the Director of the Bureau of the Budget [now Office of Management and Budget], it shall not thereafter be presented to the President unless it is accompanied by a statement of the reasons for such disapproval.

Sec. 3. Routing and certification of originals and copies. (a) If the order or proclamation is signed by the President, the original and two copies thereof shall be forwarded to the Director of the Office of the Federal Register for publication in the **FEDERAL REGISTER**.

(b) The Office of the Federal Register shall cause to be placed upon the copies of all Executive orders and proclamations forwarded as provided in subsection (a) of this section the following notation, to be signed by the Director or by some person authorized by him to sign such notation: "Certified to be a true copy of the original."

Sec. 4. Proclamations calling for the observance of special days or events. Except as may be otherwise provided by law, responsibility for the preparation and presentation of proposed proclamations calling for the observance of special days, or other periods of time, or events shall be assigned by the Director of the Bureau of the Budget [now Office of Management and Budget] to such agencies as he may consider appropriate. Such proposed proclamations shall be submitted to the Director at least sixty days before the date of the specified observance.

Sec. 5. Proclamations of treaties excluded. Consonant with the provisions of section 12 of the Federal Register Act (49 Stat. 508; 44 U.S.C. 312) [now section 1511 of this title], nothing in this order shall be construed to apply to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

Sec. 6. Definition. The term "Presidential proclamations and Executive orders," as used in Section 5(a) of the Federal Register Act (44 U.S.C. 305(a)) [now subsec. (a) of this section], shall, except as the President or his representative may hereafter otherwise direct, be deemed to include such attachments thereto as are referred to in the respective proclamations or orders.

Sec. 7. Prior order. Upon its publication in the **FEDERAL REGISTER**, this order shall supersede Executive Order No. 10006 of October 9, 1948.

The regulations prescribed by this order shall be codified under Title 1 of the Code of Federal Regulations.

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502-1504, 1506, 1507 of this title.

**44 U.S.C. 1506. ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER;
ESTABLISHMENT AND COMPOSITION; POWERS AND DUTIES**

The Administrative Committee of the Federal Register shall consist of the Archivist of the United States or Acting Archivist, who shall be chairman, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer. The Director of the Federal Register shall act as secretary of the committee. The authority of the Administrator of General Services, under section 754 of title 40, to regroup, transfer, and distribute functions within the General Services Administration, does not extend to the Committee or its functions. The committee shall prescribe, with the approval of the President, regulations for carrying out this chapter. The regulations shall provide, among other things--

(1) the manner of certification of copies required to be certified under section 1508 of this title, which certification may be permitted to be based upon confirmed communications from outside the District of Columbia;

(2) the documents which shall be authorized under section 1505(b) of this title to be published in the Federal Register;

(3) the manner and form in which the Federal Register shall be printed, reprinted, compiled, indexed, bound, and distributed;

(4) the number of copies of the Federal Register, which shall be printed, reprinted, and compiled, the number which shall be distributed without charge to Members of Congress, officers and employees of the United States, or Federal agency, for official use, and the number which shall be available for distribution to the public; and

(5) the prices to be charged for individual copies of, and subscriptions to, the Federal Register and reprints and bound volumes of it.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1275.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §§ 806, 891 (part) (July 26, 1985, ch. 417, § 6, 49 Stat. 501; June 30, 1949, ch. 288, title I, § 104, 68 Stat. 381).

This section incorporates only the last sentence from former section 891(b). The remainder of that section will be found in sections 2102, 2301, 2501, and 2902 of the revision.

DELEGATION OF FUNCTIONS

For delegations of functions vested in the President by section 6 of the Federal Register Act [now this section], to the Attorney General and Administrator of General Services, see section 6(b) of Ex. Ord. No. 10630, May 11, 1964, 19 F.R. 2709, set out as a note under section 801 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1504 of this title.

44 U.S.C. 1507. FILING DOCUMENT AS CONSTRUCTIVE NOTICE; PUBLICATION IN FEDERAL REGISTER AS PRESUMPTION OF VALIDITY; JUDICIAL NOTICE; CITATION

A document required by section 1505 (a) of this title to be published in the Federal Register is not valid as against a person who has not had actual knowledge of it until the duplicate originals or certified copies of the document have been filed with the Office of the Federal Register and a copy made available for public inspection as provided by section 1508 of this title. Unless otherwise specifically provided by statute, filing of a document, required or authorized to be published by section 1505 of this title, except in cases where notice by publication is insufficient in law, is sufficient to give notice of the contents of the document to a person subject to or affected by it. The publication in the Federal Register of a document creates a rebuttable presumption—

- (1) that it was duly issued, prescribed, or promulgated;
- (2) that it was filed with the Office of the Federal Register and made available for public inspection at the day and hour stated in the printed notation;
- (3) that a copy contained in the Federal Register is a true copy of the original; and
- (4) that all requirements of this chapter and the regulations prescribed under it relative to the document have been complied with.

The contents of the Federal Register shall be judicially noticed and without prejudice to any other mode of citation, may be cited by volume and page number. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1276.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 807 (July 26, 1985, ch. 417, § 7, 49 Stat. 502).

44 U.S.C. 1508. PUBLICATION IN FEDERAL REGISTER AS NOTICE OF HEARING

A notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress, or which may otherwise properly be given, shall be deemed to have been given to all persons residing within the States of the Union and the District of Columbia, except in cases where notice by publication is insufficient in law, when the notice is published in the Federal Register at such a time that the period between the publication and the date fixed in the notice for the hearing or for the termination of the opportunity to be heard is—

- (1) not less than the time specifically prescribed for the publication of the notice by the appropriate Act of Congress; or
- (2) not less than fifteen days when time for publication is not specifically prescribed by the Act, without prejudice, however, to the effectiveness of a notice of less than fifteen days where the shorter period is reasonable.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1276.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 308 (July 26, 1935, ch. 417, § 8, 49 Stat. 502; June 25, 1959, Pub. L. 80-70, § 84, 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 33, 74 Stat. 421).

44 U.S.C. 1509. COST OF PUBLICATION; APPROPRIATIONS AUTHORIZED; PENALTY MAIL PRIVILEGE

Payments made for the Federal Register shall be covered into the Treasury as miscellaneous receipts. The cost of printing, reprinting, wrapping, binding, and distributing the Federal Register and other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this chapter shall be borne by the appropriations to the Government Printing Office and the appropriations are made available, and are authorized to be increased by additional sums necessary for the purposes, the increases to be based upon estimates submitted by the Public Printer.

Copies of the Federal Register mailed by the Government are entitled to the free use of the United States mails in the same manner as the official mail of the executive departments of the Government. The cost of mailing the Federal Register to officers and employees of Federal agencies in foreign countries shall be borne by the respective agencies. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 309, (July 26, 1935, ch. 417, § 9, 49 Stat. 502). A reference to section 10 of Act June 19, 1934 is deleted because of the repeal of that section by Act June 30, 1949.

44 U.S.C. 1510. CODE OF FEDERAL REGULATIONS

(a) The Administrative Committee of the Federal Register, with the approval of the President, may require, from time to time as it considers necessary, the preparation and publication in special or supplemental editions of the Federal Register of complete codifications of the documents of each agency of the Government having general applicability and legal effect, issued or promulgated by the agency by publication in the Federal Register or by filing with the Administrative Committee, and are relied upon by the agency as authority for, or are invoked or used by it in the discharge of, its activities or functions, and are in effect as to facts arising on or after dates specified by the Administrative Committee.

(b) A codification published under subsection (a) of this section shall be printed and bound in permanent form and shall be designated as the "Code of Federal Regulations." The Administrative Committee shall regulate the binding of the printed codifications into separate books with a view to practical usefulness and economical manufacture. Each book shall contain an explanation of its coverage and other aids to users that the Administrative Committee may require. A general index to the entire Code of Federal Regulations shall be separately printed and bound.

(c) The Administrative Committee shall regulate the supplementation and the collation and republication of the printed codifications

with a view to keeping the Code of Federal Regulations as current as practicable. Each book shall be either supplemented or collated and republished at least once each calendar year.

(d) The Office of the Federal Register shall prepare and publish the codifications, supplements, collations, and indexes authorized by this section.

(e) The codified documents of the several agencies published in the supplemental edition of the Federal Register under this section, as amended by documents subsequently filed with the Office and published in the daily issues of the Federal Register shall be prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of publication.

(f) The Administrative Committee shall prescribe, with the approval of the President, regulations for carrying out this section.

(g) This section does not require codification of the text of Presidential documents published and periodically compiled in supplements to Title 3 of the Code of Federal Regulations. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1277.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 311 (July 20, 1935, ch. 417, § 11, 49 Stat. 508; June 19, 1937, ch. 389, 50 Stat. 304; 1939 Reorg. Plan No. II, § 202, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1435; Dec. 10, 1942, ch. 717, § 2, 56 Stat. 1045; June 30, 1949, ch. 288, title I, § 104 (b), 63 Stat. 381; Aug. 5, 1953, ch. 333, 67 Stat. 388; Dec. 2, 1963, Pub. L. 88-190, § 1, 77 Stat. 348).

RETROACTIVE AND PROSPECTIVE APPLICATION

Section 2 of Pub. L. 88-190, Dec. 2, 1963, 77 Stat. 344, provided that: "[Former] Section 11 of the Federal Register Act [(now) this section], as amended by the first section of this Act [amending former subsecs. (b)-(d), (g) of former section 11 (now subsecs. (b)-(d), (g) of this section)], shall apply to the Code of Federal Regulations previously authorized and published as well as to future publications made pursuant to that section as so amended."

DELEGATION OF FUNCTIONS

For delegation of functions vested in the President by section 11(a) and (f) of the Federal Register Act [now subsecs. (a) and (f) of this section], to the Attorney General and Administrator of General Services, see section 6(b) of Ex. Ord. No. 10630, May 11, 1954, 19 F.R. 2709, set out as a note under section 301 of Title 3, The President.

CODIFICATION OF EXECUTIVE AND ADMINISTRATIVE DOCUMENTS

Under authority of section 11(d) of the Federal Register Act [now subsec. (d) of this section] the Administrative Committee of the Federal Register issued regulations for the codification of executive and administrative documents, approved by the President Nov. 10, 1937, and set out in F.R. 2849 D.I., 2450 B. V.

EX. ORD. NO. 9930. PUBLICATION OF 1949 EDITION OF THE CODE OF FEDERAL REGULATIONS

Ex. Ord. No. 9930, Feb. 4, 1948, 18 F.R. 519, provided:

WHEREAS the act of December 10, 1942, 56 Stat. 1045, suspended the provision of section 11(a) of the Federal Register Act as amended by the act of June 19, 1937 (50 Stat. 304; 44 U.S.C.A. [former] 311(a) [now subsec. (a) of this section]), requiring the quinquennial preparation and the filing with the Administrative Committee of the Federal Register of the codification of certain classes of documents "until such time after the termination of the present war as the Administrative Committee of the Federal Register shall determine"; and

WHEREAS section 8 of Public Law 239, 80th Congress, 1st session, approved July 25, 1947 [Act July 25, 1947, ch. 327, § 8, 61 Stat. 451], provides that in the interpretation of the said act of December 10, 1942, the war shall be deemed to be terminated; and

WHEREAS on November 12, 1947, the suspension of the above-mentioned provision of [former] section 11(a) of the Federal Register Act as amended [now subsec. (a) of this section] was formally terminated by the Administrative Committee of the Federal Register, effective December 31, 1948; and

WHEREAS the required codification of documents in force and effect on December 31, 1948, will, under present procedures, be on file with the Administrative Committee of the Federal Register on that date; and

WHEREAS [former] section 11(a) of the Federal Register Act as amended [now subsec. (a) of this section] provides that the President may, after report thereon to him by the Administrative Committee, authorize and direct the publication of the codification required by that section in special or supplemental editions of the Federal Register; and

WHEREAS the Administrative Committee of the Federal Register has made an appropriate report to me with the recommendation that I authorize and direct the publication of the said codification of documents in force and effect on December 31, 1948; and

WHEREAS it is in the public interest and in the interest of efficient government that such codification be published:

NOW, THEREFORE, by virtue of the authority vested in me by [former] section 11(a) of the Federal Register Act [now subsec. (a) of this section], and as President of the United States, and subject to the appropriation by the Congress of funds therefor, the publication of the said codification as it is in force and effect on December 31, 1948, is hereby authorized and directed to be made in a special edition of the Federal Register dated January 1, 1949, and designated "Code of Federal Regulations, 1949 Edition."

All Federal agencies coming within the purview of the Federal Register Act [this chapter] are requested to cooperate with the Division of the Federal Register, the National Archives, in carrying out the purposes of this order.

This order shall be published in the Federal Register.

HARRY S. TRUMAN.

44 U.S.C. 1511. INTERNATIONAL AGREEMENTS EXCLUDED FROM PROVISION OF CHAPTER

This chapter does not apply to treaties, conventions, protocols, and other international agreements, or proclamations thereof by the President. (Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1278.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 812 (July 26, 1935, ch. 417, § 12, 49 Stat. 503).



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BACKGROUND AND STATUS OF EXECUTIVE ORDER 11490

Background

Since the establishment of the Federal government in 1789, Presidents of the United States have issued a variety of administrative and policy directives which can be described as Executive orders. There is no law or Executive instrumentality which attempts to define the nature of an Executive order.* Not even E.O. 10006 of October 11, 1948, governing the use and purpose of such edicts provides a description of them as a legal entity. Based upon the general clauses of Article II of the Constitution which assign the President his duties of office or upon statutory authority, Executive orders are generally addressed to, and govern the actions of, Government officials and agencies of the Executive Branch. Ordinarily, their effect upon private individuals is largely indirect. A Federal civilian employee who disobeys the provisions of an Executive order, however, should not be surprised if they are dismissed from their position for such action.

*See Lawrence F. Schmeckebier and Roy B. Eastin. *Government Publications and Their Use*. Washington: The Brookings Institution, 1961, pp. 318-319.

Beginning in 1907, Executive orders were assigned a serial number and this accountancy system now records directives reaching back into the era of the Lincoln Administration. Since 1935, with the enactment of the Federal Register Act (49 Stat. 500), law has required the publication of Executive orders in the Federal Register. They are also compiled in annual and cumulative volumes of the Code of Federal Regulations (Title 3). Certain orders have been included in the annotations and notes of the U.S. Code. Classified Executive orders are assigned a serial number and, thereby, their existence is made known though knowledge of their actual contents remains restricted.

Leaving aside presidential initiatives based upon constitutionally conferred powers, an Executive order cannot exceed statutory authority (see Kendall vs. United States, 12 Peters 524 (1838)). Accordingly, an order might be challenged in court (see Youngstown Sheet & Tube Company vs. Sawyer, 343 U.S. 579 (1952)) or otherwise overturned by legislation which specifies a different policy with regard to the matter in question. In the absence of a statutory declaration of policy, however, an Executive order may be presumed to be binding.

E.O. 11490

On October 30, 1969, President Nixon issued E.O. 11490 which he had signed two days earlier. The directive was purportedly a consolidation of some 21 prior Executive orders and 2 Defense Mobilization orders on emergency preparedness matters issued between 1951 and 1966 (and listed at the end of E.O. 11490). As authority for its issuance, the order cites the general provisions of Reorganization Plan No. 1 of 1958

(72 Stat. 1799) pertaining to civil defense organization, the National Security Act of 1947 (61 Stat. 495), the Defense Production Act of 1950 (64 Stat. 798), and the Federal Civilian Defense Act of 1950 (64 Stat. 1245). As issued, the order contains the following important provision (§105):

The purpose and legal effect of the assignments contained in this order do not constitute authority to implement the emergency plans prepared pursuant to this order. Plans so developed may be effectuated only in the event that authority for such effectuation is provided by a law enacted by the Congress or by an order or directive issued by the President pursuant to statutes or the Constitution of the United States.

These references to a subsequent instrumentality for causing the effectuation of this order are, presumably, a declaration of war by Congress and/or a proclamation of a condition of national emergency by the President. Under the Constitution, only Congress may declare war, the last occasion for so doing being the inauguration of American entry into World War II in 1941. Conditions of national emergency may be declared by Congress or, more often, by the President. The matter of proclaiming a national emergency generally derives from constitutional powers granted the Chief Executive and certain special statutes. Since the termination of World War II, presidential proclamations of a condition of national emergency have been made in 1950 (64 Stat. A454) on the occasion of the invasion of Korea by Communist Chinese troops, in 1970 (84 Stat. 2222) on the occasion of a halt in postal service, and in 1971 (7 P.D. 1174) on the occasion of a balance in payments crisis which required the imposition of a supplemental duty surcharge on imports. During the 1970 and 1971 situations the provisions of E.O. 11490 did not go into effect.

Presumably E.O. 11490 is designed to be implemented under circumstances of total war, nuclear attack, or a similar circumstance bringing halocaust to the United States. It might be speculated that its provisions generally follow the provisions of the U.S. Code which are activated by an emergency proclamation. While this contention may not hold true for every provision of the order, the following list indicates general comparability for the sections cited.

Comparable Emergency Authority	
E.O. 11490	U. S. Code (1970 ed.)
§2801	5 U.S.C. 3101 note
§803	7 U.S.C. 1158(a) 7 U.S.C. 1371(b) 7 U.S.C. 1743(a)(6) 7 U.S.C. 1903
§501(5)	8 U.S.C. 1182(a)(22)
§301	12 U.S.C. 95a
§2701	16 U.S.C. 831a
§1901 §701(4)	16 U.S.C. 809
§1802	47 U.S.C. 606

E.O. 11490 constitutes stand-by authority for Executive departments and agencies but it cannot be activated by any of these entities. In the event Congress should wish to eradicate its provisions, in whole or in part, a new statute on emergency preparedness functions would have to be

enacted or a joint resolution rescinding the order would have to be passed. For the moment, E.O. 11490 remains dormant, awaiting activation by action of Congress or the President.

The foregoing paragraphs raise certain points of consideration which are essential to any discussion of this subject. It is recognized that, in such a brief overview, some points could be analyzed from other perspectives and to a lengthier degree. There is no intention in bringing out these points to either advocate or oppose those aspects of the subject which is under discussion.

Harold C. Ralyea
Analyst, American National Government
Government and General Research Division
September 24, 1973

Title 3—THE PRESIDENT

Executive Order 11490

ASSIGNING EMERGENCY PREPAREDNESS FUNCTIONS TO FEDERAL DEPARTMENTS AND AGENCIES

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national emergency type situation that might conceivably confront the nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national emergency preparedness plans and has provided funds for the accomplishment thereof; and

WHEREAS this national emergency preparedness planning activity has been an established program of the United States Government for more than twenty years:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1700), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, it is hereby ordered as follows:

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Part 1—Purpose and Scope

SECTION 101 Purpose. This order consolidates the assignment of emergency preparedness functions to various departments and agencies heretofore contained in the 21 Executive orders and 2 Defense Mobilization orders listed in Section 3015 of this order. Assignments have been adjusted to conform to changes in organization which have occurred subsequent to the issuance of those Executive orders and Defense Mobilization orders.

Sec. 102 Scope. (a) This order is concerned with the emergency national planning and preparedness functions of the several departments and agencies of the Federal Government which complement the military readiness planning responsibilities of the Department of Defense; together, these measures provide the basic foundation for our overall national preparedness posture, and are fundamental to our ability to survive.

(b) The departments and agencies of the Federal Government are hereby severally charged with the duty of assuring the continuity of the Federal Government in any national emergency type situation that might confront the nation. To this end, each department and agency with essential functions, whether expressly identified in this order or not, shall develop such plans and take such actions, including but not limited to those specified in this order, as may be necessary to assure that it will be able to perform its essential functions, and continue as a viable part of the Federal Government, during any emergency that might conceivably occur. These include plans for maintaining the continuity of essential functions of the department or agency at the seat of government and elsewhere, through programs concerned with: (1) succession to office; (2) predelegation of emergency authority; (3) safekeeping of essential records; (4) emergency relocation sites supported by communications and required services; (5) emergency action steps; (6) alternate headquarters or command facilities; and (7) protection of Government resources, facilities, and personnel. The continuity of Government activities undertaken by the departments and agencies shall be in accordance with guidance provided by, and subject to evaluation by, the Director of the Office of Emergency Preparedness.

(c) In addition to the activities indicated above, the heads of departments and agencies described in Parts 2 through 29 of this order shall: (1) prepare national emergency plans, develop preparedness programs, and attain an appropriate state of readiness with respect to the functions assigned to them in this order for all conditions of national emergency; (2) give appropriate consideration to emergency preparedness factors in the conduct of the regular functions of their agencies, particularly those functions considered essential in time of emergency, and (3) be prepared to implement, in the event of an emergency, all appropriate plans developed under this order.

Sec. 103 Presidential Assistance. The Director of the Office of Emergency Preparedness, in accordance with the provisions of Executive Order No. 11051 of September 27, 1962, shall advise and assist the President in determining national preparedness goals and policies for the performance of functions under this order and in coordinating the performance of such functions with the total national preparedness program.

Sec. 104 General and Specific Functions. The functions assigned by Part 30, General Provisions, apply to all departments and agencies having emergency preparedness responsibilities. Specific functions are assigned to departments and agencies covered in Parts 2 through 29.

Sec. 105 Construction. The purpose and legal effect of the assignments contained in this order do not constitute authority to implement the emergency plans prepared pursuant to this order. Plans so developed may be effectuated only in the event that authority for such effectuation is provided by a law enacted by the Congress or by an order or directive issued by the President pursuant to statutes or the Constitution of the United States.

Part 2—Department of State

SECTION 201 Functions. The Secretary of State shall prepare national emergency plans and develop preparedness programs to permit modification or expansion of the activities of the Department of State and agencies, boards, and commissions under his jurisdiction in order to meet all conditions of national emergency, including attack upon the United States. The Secretary of State shall provide to all other departments and agencies overall foreign policy direction, coordination, and supervision in the formulation and execution of those emergency preparedness activities which have foreign policy implications, affect foreign relations, or depend directly or indirectly, on the policies and capabilities of the Department of State. The Secretary of State shall develop policies, plans, and procedures for carrying out his responsibilities in the conduct of the foreign relations of the United States under conditions of national emergency, including, but not limited to (1) the formulation and implementation, in consultation with the Department of Defense and other appropriate agencies, and the negotiation of contingency and post-emergency plans with our allies and of the intergovernmental agreements and arrangements required by such plans; (2) formulation, negotiation, and execution of policy affecting the relationships of the United States with neutral States; (3) formulation and execution of political strategy toward hostile or enemy States, including the definition of war objectives and the political means for achieving those objectives; (4) maintenance of diplomatic and consular representation abroad; (5) reporting and advising on conditions overseas which bear upon the national emergency; (6) carrying out or proposing economic measures with respect to other nations, including coordination with the export control functions of the Secretary of Commerce; (7) mutual assistance activities such as ascertaining requirements of the civilian economies of other nations, making recommendations to domestic resource agencies for meeting such requirements, and determining the availability of and making arrangements for obtaining foreign resources required by the United States; (8) providing foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs, and determination of the value thereof; (9) protection or evacuation of American citizens and nationals abroad and safeguarding their property; (10) protection and/or control of international organization and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States; (11) documentary control of persons seeking to enter or leave the United States; and (12) regulation and control of exports of items on the munitions list.

Part 3—Department of the Treasury -

SECTION 301 Functions. The Secretary of the Treasury shall develop policies, plans, and procedures for the performance of emergency functions with respect to (1) stabilization aspects of the monetary, credit, and financial system; (2) stabilization of the dollar in relation to foreign currencies; (3) collection of revenue; (4) regulation of financial institutions; (5) supervision of the Federal depository system; (6) direction of transactions in government securities; (7) tax and debt policies; (8) participation in bilateral and multilateral financial arrangements with foreign governments; (9) regulation of foreign assets in the United States and of foreign financial dealings (in consultation with the Secretaries of State and Commerce); (10) development of procedures for the manufacture and/or issuance and redemption of securities, stamps, coins, and currency; (11) development of systems for the issuance and payment of Treasury checks; (12) maintenance of the central government accounting and financial reporting system; (13) administration of customs laws, tax laws, and laws on control of alcohol, alcoholic beverages, tobacco, and firearms; (14) suppression of counterfeiting and forgery of government securities, stamps, coins, and currency; (15) protection of the President and the Vice President and other designated persons; (16) granting of loans (including participation in or guarantees of loans) for the

expansion of capacity, the development of technological processes, or the production of essential material; and (17) to the extent that such functions have not been transferred to the Secretary of Transportation, enforcement of marine inspection and navigation laws.

Sec. 302 *Financial Coordination.* The Secretary shall assume the initiative in developing plans for implementation of national policy on sharing war losses and for the coordination of emergency monetary, credit, and Federal benefit payment programs of those departments and agencies which have responsibilities dependent on the policies or capabilities of the Department.

Part 4—Department of Defense

SECTION 401 *Functions.* In addition to the civil defense functions assigned to the Secretary of Defense by Executive Order No. 10052, the Secretary of Defense shall perform the following emergency preparedness functions:

(1) Provide specific strategic guidance as required for emergency preparedness planning and programming, including, for example, guidance regarding such factors as accessibility of foreign sources of supply and estimated shipping loss discounts and aircraft losses in the event of war.

(2) Develop and furnish quantitative and time-phased military requirements for selected end-items, consistent with defined military concepts, and supporting requirements for materials, components, production facilities, production equipment, petroleum, natural gas, solid fuels, electric power, food, transportation, and other services needed to carry out specified Department of Defense current and mobilization procurement, construction, research and development, and production programs. The items and supporting resources to be included in such requirements, the periods to be covered, and the dates for their submission to the appropriate resource agency will be determined by mutual agreement between the Secretary of Defense and the head of the appropriate resource agency.

(3) Advise and assist the Office of Emergency Preparedness in developing a national system of production urgencies.

(4) Advise and assist the Office of Emergency Preparedness in developing a system, in conjunction with the Department of State, for the international allocation of critical materials and products among the United States and the various foreign claimants in the event of an emergency, including an attack on the United States.

(5) Plan for and administer priorities and allocations authority delegated to the Department of Defense. Authorize procurement and production schedules and make allotments of controlled materials pursuant to program determinations of the Office of Emergency Preparedness.

(6) Assist the Department of Commerce and other appropriate agencies in the development of the production and distribution controls plans for use in any period of emergency.

(7) Develop with industry, plans for the procurement and production of selected military equipment and supplies needed to fulfill emergency requirements, making maximum use of plants in dispersed locations, and, where essential and appropriate, providing for alternative sources of supply in order to minimize the effects of enemy attack.

(8) Develop with industry, plans and programs for minimizing the effect of attack damage to plants producing major items of military equipment and supply.

(9) Recommend to the Office of Emergency Preparedness measures for overcoming potential deficiencies in production capacity to produce selected military supplies and equipment needed to fulfill emergency requirements, when necessary measures cannot be effected by the Department of Defense.

(10) Furnish information and recommendations, when requested

by the Office of Emergency Preparedness, for purposes of processing applications for defense loans under Title III of the Defense Production Act of 1950, as amended.

(11) Furnish advice and assistance on the utilization of strategic and critical materials in defense production, including changes that occur from time to time.

(12) Analyze problems that may arise in maintaining an adequate mobilization production base in military-product industries and take necessary actions to overcome these problems within the limits of the authority and funds available to the Department of Defense.

(13) Assist the Secretary of Commerce with respect to the identification and evaluation of facilities important to the national defense.

(14) Advise and assist the Office of Emergency Preparedness in the development and review of standards for the strategic location and physical security of industries, services, government, and other activities for which continuing operation is essential to national security, and exercise physical security cognizance over the facilities assigned to him for such purpose.

(15) Develop and operate damage assessment systems and assist the Office of Emergency Preparedness and other departments and agencies in their responsibilities as stated in Section 3002(2); participate with the Office of Emergency Preparedness in the preparation of estimates of potential damage from enemy attack.

(16) Advise and assist the Office of Emergency Preparedness in the development of over-all manpower policies to be instituted in the event of an emergency, including an attack on the United States, including the provision of information relating to the size and composition of the Armed Forces.

(17) Advise on existing communications facilities and furnish military requirements for commercial communications facilities and services in planning for and in event of an emergency, including an attack on the United States.

(18) Furnish military requirements for all forms of transportation and transportation facilities in planning for and in the event of emergency, including an attack upon the United States.

(19) Assist the Office of Emergency Preparedness in preparation of legislative programs and plans for coordinating nonmilitary support of emergency preparedness programs.

(20) Develop plans and procedures for the Department of Defense utilization of nonindustrial facilities in the event of an emergency in order to reduce requirements for new construction and to provide facilities in a minimum period of time.

(21) Advise and assist the Office of Emergency Preparedness in (1) determining what key foreign facilities and operating rights thereto are important to the security of the United States, and (2) obtaining through appropriate channels protection against sabotage.

(22) Develop plans and procedures to carry out Department of Defense responsibilities stated in the National Censorship Agreement between the Department of Defense and the Office of Emergency Preparedness.

(23) Advise and assist the Department of State in planning for the evacuation of dependents from overseas areas, United States teachers and administrators in the overseas dependents schools, and such other United States citizens as may be working in United States schools overseas.

(24) Develop plans for implementation of approved Department of State/Department of Defense policies and procedures for the protection and evacuation of United States citizens and certain designated aliens abroad.

(25) Develop plans and procedures for the provision of logistical support to members of foreign forces, their employees and dependents

as may be present in the United States under the terms of bilateral or multilateral agreements which authorize such support in the event of a national emergency.

(26) Develop with the Department of Transportation and Federal Communications Commission plans and programs for the control of air traffic, civil and military, during an emergency.

(27) Develop with the Federal Communications Commission and the Office of Telecommunications Management (OET) plans and programs for the emergency control of all devices capable of emitting electromagnetic radiation.

Part 5—Department of Justice

SECTION 501 *Functions.* The Attorney General shall perform the following emergency preparedness functions:

(1) *Emergency documents and measures.* Provide advice, as appropriate, with respect to any emergency directive or procedure prepared by a department or agency as a part of its emergency preparedness function.

(2) *Industry support.* As appropriate, review the legal procedures developed by the Federal agencies concerned to be instituted if it becomes necessary for the Government to institute extraordinary measures with respect to vital production facilities, public facilities, communications systems, transportation systems, or other facility, system, or service essential to national survival.

(3) *Judicial and legislative liaison.* In cooperation with the Office of Emergency Preparedness, maintain liaison with Federal courts and with the Congress so there will be mutual understanding of Federal emergency plans involving law enforcement and the exercise of legal powers during emergencies of various magnitudes.

(4) *Legal advice.* Develop emergency plans for providing legal advice to the President, the Cabinet, and the heads of Executive departments and agencies wherever they may be located in an emergency, and provide emergency procedures for the review as to form and legality of Presidential proclamations, Executive orders, directives, regulations, and documents, and of other documents requiring approval by the President or by the Attorney General which may be issued by authorized officers after an armed attack.

(5) *Alien control and control of entry and departure.* Develop emergency plans for the control of alien enemies and other aliens within the United States and, in consultation with the Department of State and Department of the Treasury, develop emergency plans for the control of persons attempting to enter or leave the United States. These plans shall specifically include provisions for the following:

(a) The location, restraint, or custody of alien enemies.

(b) Temporary detention of alien enemies and other persons attempting to enter the United States pending determination of their admissibility.

(c) Apprehension of deserting alien crewmen and stowaways.

(d) Investigation and control of aliens admitted as contract laborers.

(e) Control of persons entering or departing from the United States at designated ports of entry.

(f) Increased surveillance of the borders to preclude prohibited crossings by persons.

(6) *Alien property.* Develop emergency plans, in consultation with the Department of State, for the seizure and administration of property of alien enemies under provisions of the Trading with the Enemy Act.

(7) *Security standards.* In consultation with the Department of Defense and with other executive agencies, to the extent appropriate,

prepare plans for adjustment of security standards governing the employment of Federal personnel and Federal contractors in an emergency.

(8) *Drug Control.* Develop emergency plans and procedures for the administration of laws governing the import, manufacture, and distribution of narcotics. Consult with and render all possible aid and assistance to the Office of Emergency Preparedness, the Department of Health, Education, and Welfare, and the General Services Administration in the allocation, distribution, and, if necessary, the replenishment of Government stockpiles of narcotic drugs.

SEC. 502 *Civil Defense Functions.* In consonance with national civil defense programs developed by the Department of Defense, the Attorney General shall:

(1) *Local law enforcement.* Upon request, consult with and assist the Department of Defense to plan, develop, and distribute materials for use in the instruction and training of law enforcement personnel for civil defense emergency operations; develop and carry out a national plan for civil defense instruction and training for enforcement officers, designed to utilize to the maximum extent practicable the resources and facilities of existing Federal, State, and local police schools, academies, and other appropriate institutions of learning; and assist the States in preparing for the conduct of intrastate and interstate law enforcement operations to meet the extraordinary needs that would exist for emergency police services under conditions of attack or imminent attack.

(2) *Penal and correctional institutions.* Develop emergency plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutional resources, when available, for cooperation with local authorities in connection with mass feeding and housing, for the storage of standby emergency equipment, for the emergency use of prison hospitals and laboratory facilities, for the continued availability of prison-industry products, and, in coordination with the Department of Labor, for the development of Federal prisoner skills to appropriately augment the total supply of manpower, advise States and their political subdivisions regarding the use of State and local prisons, jails, and prisoners for the purpose of relieving local situations and conditions arising from a state of emergency.

(3) *Identification and location of persons.* Develop emergency plans and procedures for the use of the facilities and personnel of the Department of Justice in assisting the Department of Health, Education, and Welfare with the development of plans and procedures for the identification of the dead and the reuniting of families during a civil defense emergency.

Part 6—Post Office Department

SECTION 601 *Functions.* The Postmaster General shall prepare plans and programs for emergency mail service and shall cooperate with indicated Federal agencies, in accordance with existing agreements or directives, in the following national emergency programs:

(1) *Registering of persons.* Assist the Department of Health, Education, and Welfare in planning a national program and developing technical guidance for States, and directing Post Office activities concerned with registering persons and families for the purpose of receiving and answering welfare inquiries and reuniting families in civil defense emergencies. The program shall include procurement, transportation, storage, and distribution of safety notification and emergency change of address cards in quantities and localities jointly determined by the Department of Defense and the Post Office Department.

(2) *Other emergency programs.* (a) Censorship of international mails. (Department of Defense; Department of the Treasury; Office of Emergency Preparedness)

(b) Provision for emergency mail service to Federal agencies at both regular and emergency sites. (General Services Administration)

(c) Emergency registration of Federal employees. (Civil Service Commission)

(d) Emergency leasing of space for Federal agencies. (General Services Administration)

(e) Registration of enemy aliens. (Department of Justice)

Part 7—Department of the Interior

SECTION 701 *Résumé of Responsibilities.* The Secretary of the Interior shall prepare national emergency plans and develop preparedness programs covering (1) electric power; (2) petroleum and gas; (3) solid fuels; (4) minerals; and (5) water, as defined in Section 702 of this part.

Sec. 702 *Definitions.* As used in this part:

(1) "Electric power" means all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(2) "Petroleum" means crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage.

(3) "Gas" means natural gas (including helium) and manufactured gas, including pipelines for their movement and facilities specially designed for their storage.

(4) "Solid fuels" means all forms of anthracite, bituminous, sub-bituminous, and lignitic coals, coke, and coal chemicals produced in the coke-making process.

(5) "Minerals" means all raw materials of mineral origin (except petroleum, gas, solid fuels, and source materials as defined in the Atomic Energy Act of 1954, as amended) obtained by mining and like operations and processed through the stages specified and at the facilities designated in an agreement between the Secretary of the Interior and the Secretary of Commerce as being within the emergency preparedness responsibilities of the Secretary of the Interior.

(6) "Water" means water from all sources except water after its withdrawal into a community system, or an emergency system for treatment, storage, and distribution for public use.

Sec. 703 *Resource functions.* With respect to the resources defined in Section 702, the Secretary of the Interior shall:

(1) *Minerals development.* Develop programs and encourage the exploration, development, and mining of strategic and critical minerals for emergency purposes.

(2) *Production.* Provide guidance and leadership to assigned industries in the development of plans and programs to insure the continuity of production in the event of an attack, and cooperate with the Department of Commerce in the identification and evaluation of essential facilities.

(3) *Water.* Develop plans with respect to water, including plans for the treatment and disposal, after use, of water after its withdrawal into a community system or an emergency system for treatment, storage, and distribution for public use. In developing any plans relating to water for use on farms and in food facilities, assure that those plans are in consonance with plans and programs of the Department of Agriculture.

(4) *Electric power and natural gas.* In preparedness planning for electric power and natural gas, the Federal Power Commission shall assist the Secretary of the Interior as set forth in Section 1901 of this order.

Part 8—Department of Agriculture

SECTION 801 *Résumé of Responsibilities.* The Secretary of Agriculture shall prepare national emergency plans and develop preparedness programs covering: (1) food resources, farm equipment, fertilizer, and food resource facilities as defined below; (2) lands under the jurisdiction of the Secretary of Agriculture; (3) rural fire control; (4) defense against biological and chemical warfare and radiological fallout pertaining to agricultural activities; and (5) rural defense information and education.

Sec. 802 *Definitions.* As used in this part:

(1) "Food resources" means all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk, by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. For the purposes of this order, the term "food resources" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(2) "Farm equipment" means machinery, equipment, and repair parts manufactured primarily for use on farms in connection with the production or preparation for market or use of "food resources".

(3) "Fertilizer" means any product or combination of products for plant nutrition in form for distribution to the users thereof.

(4) "Food resource facilities" means plants, machinery, vehicles (including on farm), and other facilities (including farm housing) for the production, processing, distribution, and storage (including cold storage) of food resources, and for domestic distribution of farm equipment and fertilizer.

Sec. 303 *Functions.* With respect to food resources, food resource facilities, lands under the jurisdiction of the Secretary, farm equipment, and fertilizer, the Secretary of Agriculture shall:

(1) *Production, processing, storage, and distribution.* Develop plans for priorities, allocations, and distribution control systems and related plans, including control of use of facilities designed to provide adequate and continuing production, processing, storage, and distribution of essential food resources in an emergency, and to provide for the domestic distribution of farm equipment and fertilizer.

(2) *Stockpiles.* In addition to the food stockpile functions identified in Executive Order No. 10958, take all possible measures in the administration of Commodity Credit Corporation inventories of food resources to assure the availability of such inventories when and where needed in an emergency. The Secretary shall also develop plans and procedures for the proper utilization of agricultural items stockpiled for survival purposes.

(3) *Land management.* Develop plans and direct activities for the emergency protection, management, and utilization of the lands, resources, and installations under the jurisdiction of the Secretary of Agriculture and assist in the development of plans for the emergency operation, production, and processing of forest products in cooperation with other Federal, State, and private agencies.

Sec. 804 *Civil Defense Functions.* In consonance with national civil defense programs developed by the Department of Defense, the Secretary of Agriculture shall:

(1) *Rural fire defense.* In cooperation with Federal, State, and local agencies, develop plans for a national program and direct activities relating to the prevention and control of fires in the rural areas of the United States caused by the effects of enemy attack.

(2) *Biological, chemical, and radiological warfare defense.* Develop plans for a national program, direct Federal activities, and furnish technical guidance to State and local authorities concerning (a) diagnosis and strengthening of defensive barriers and control or eradication of diseases, pests, or chemicals introduced as agents of biological or chemical warfare against animals, crops, or products thereof; (b) protective measures, treatment, and handling of livestock, including poultry, agricultural commodities on farms or ranches, agricultural lands, forest lands, and water for agricultural purposes, any of which have been exposed to or affected by radiation. Plans shall be developed for a national program and direction of Federal activities to assure the safety and wholesomeness and to minimize losses from biological and chemical warfare, radiological effects, and other emergency hazards of livestock, meat and meat products, poultry and poultry products in establishments under the continuous inspection of the Department of Agriculture, and agricultural commodities and products owned by the Commodity Credit Corporation or by the Department of Agriculture.

(3) *Defense information and education.* Conduct a defense information and education program in support of the Department's emergency responsibilities.

Part 9—Department of Commerce

SECTION 901 *Résumé of Responsibilities.* The Secretary of Commerce shall prepare national emergency plans and develop preparedness programs covering:

(1) The production and distribution of all materials, the use of all production facilities (except those owned by, controlled by, or under the jurisdiction of the Department of Defense or the Atomic Energy Commission), the control of all construction materials, and the furnishing of basic industrial services except those involving the following:

(a) Production and distribution of and use of facilities for petroleum, solid fuels, gas, electric power, and water;

(b) Production, processing, distribution, and storage of food resources and the use of food resource facilities for such production, processing, distribution, and storage;

(c) Domestic distribution of farm equipment and fertilizer;

(d) Use of communications services and facilities, housing and lodging facilities, and health, education, and welfare facilities;

(e) Production, and related distribution, of minerals as defined in Subsection 702(5), and source materials as defined in the Atomic Energy Act of 1954, as amended; and the construction and use of facilities designated as within the responsibilities of the Secretary of the Interior;

(f) Distribution of items in the supply systems of, or controlled by, the Department of Defense and the Atomic Energy Commission;

(g) Construction, use, and management of civil aviation facilities; and

(h) Construction and use of highways, streets, and appurtenant structures.

(2) Federal emergency operational control responsibilities with respect to ocean shipping, ports, and port facilities, except those owned by, controlled by, or under the jurisdiction of the Department of Defense, and except those responsibilities of the Department of the Treasury with respect to the entrance and clearance of vessels. The following definitions apply to this part:

(a) "Ocean shipping" includes all overseas, coastwise, intercoastal, and Great Lakes shipping except that solely engaged in the transportation of passengers and cargo between United States ports on the Great Lakes.

(b) "Port" or "port area" includes any zone contiguous to or associated in the traffic network of an ocean or Great Lakes port, or outport location, including beach loading sites, within which facilities exist for transshipment of persons and property between domestic carriers and carriers engaged in coastal, intercoastal, and overseas transportation.

(c) "Port facilities" includes all port facilities, port equipment including harbor craft, and port services normally used in accomplishing the transfer or interchange of cargo and passengers between ocean-going vessels and other media of transportation, or in connection therewith (including the Great Lakes).

(3) Scientific and technological services and functions, essential to emergency preparedness plans, programs, and operations of the Federal departments and agencies, in which the Department of Commerce has the capability, including, but not limited to:

(a) Meteorological and related services;

(b) Preparation, reproduction, and distribution of nautical and aeronautical charts, geodetic, hydrographic, and oceanographic data, and allied services for nonmilitary purposes;

(c) Standards of measurement and supporting services; and,

(d) Research, development, testing, evaluation, application, and associated services and activities in the various fields and disciplines of science and technology in which the Department has special competence.

(4) Collection, compilation, and reporting of census information and the provision of statistical and related services, as required, for emergency planning and operations.

(5) Regulation and control of exports and imports, under the jurisdiction of the Department of Commerce, in support of national security, foreign policy, and economic stabilization objectives.

(6) Regulation and control of transfers of capital to, and reinvestment of earnings of, affiliated foreign nationals pursuant to authority conferred by Executive Order No. 11337 of January 1, 1963.

Sec. 902 *Production Functions.* Within the areas designated in section 901(1) hereof, the Secretary of Commerce shall:

(1) *Priorities and allocations.* Develop control systems for priorities, allocation, production, and distribution, including provisions for other Federal departments and agencies, as appropriate, to serve as allotting agents for materials and other resources made available under such systems for designated programs and the construction and operation of facilities assigned to them.

(2) *New construction.* Develop procedures by which new production facility construction proposals will be reviewed for appropriate location in light of such area factors as locational security, availability of labor, water, power, housing, and other support requirements.

(3) *Industry evaluation.* Identify and evaluate the national security essentiality of those products and services, and their producing or supporting facilities, which are of exceptional importance to mobilization readiness, national defense, or post-attack survival and recovery.

(4) *Production capability.* Analyze potential effects of attack on actual production capability, taking into account the entire production complex, including shortages of resources, and conduct studies as a basis for recommending pre-attack measures that would strengthen capabilities for post-attack production.

(5) *Loans for plant modernization.* Develop plans, in coordination with the Small Business Administration, for providing emergency assistance to essential small business establishments through direct loans or participation loans for the financing of production facilities and equipment.

Sec. 903 *Maritime Functions.* Within the areas designated in section 901(2) of this part, the Secretary of Commerce shall develop plans and procedures in consonance with international treaties, under coordinating authority of the Secretary of Transportation and in cooperation with other appropriate Federal agencies and the States and their political subdivisions, to provide for Federal operational control of ocean ports and shipping, including:

(1) *Shipping allocation.* Allocation of specific ocean shipping to meet the national requirements, including those for military, foreign assistance, emergency procurement programs, and those essential to the civilian economy.

(2) *Ship acquisition.* Provision of ships for ocean shipping by purchase, charter, or requisition, by breakout from the national defense reserve fleet, and by construction.

(3) *Operations.* Operation of ocean shipping, directly or indirectly.

(4) *Traffic control.* Provisions for the control of passengers and cargo through port areas to assure an orderly and continuous flow of such traffic.

(5) *Traffic priority.* Administration of priorities for the movement of passengers and cargo through port areas.

(6) *Port allocation.* Allocation of specific ports and port facilities to meet the needs of the Nation and our allies.

(7) *Support activities.* Performance of supporting activities needed to carry out the above-described functions, such as: ascertaining national support requirements for ocean shipping, including those for support of military and other Federal programs and those essential to the civil economy; maintenance, repair, and arming of ships; recruiting, training, and assigning of officers and seamen; procurement, warehousing, and issuance of ships' stores, supplies, equipment, and spare parts; supervision of stevedoring and bunkering; management of terminals, shipyards, repair, and other facilities; and provision, maintenance, and restoration of port facilities.

Sec. 904 *Census Functions.* Within the area designated in section 901(4) hereof, the Secretary of Commerce shall:

(1) Provide for the collection and reporting of census information on the status of human and economic resources, including population, housing, agriculture, manufacture, mineral industries, business, transportation, foreign trade, construction, and governments, as required for emergency planning purposes.

(2) Plan, create, and maintain a capability for the conduct of post-attack surveys to provide information on the status of surviving populations and resources as required for the programs of the Office of Emergency Preparedness.

(3) Provide for and maintain the ability to make estimates of attack effects on industry, population, and other resources for use within the Department of Commerce.

Sec. 905 *Civil Defense Functions.* In consonance with national civil defense programs developed by the Department of Defense, the Secretary of Commerce shall:

(1) *Weather functions.* Prepare and issue currently, as well as in an emergency, forecasts and estimates of areas likely to be covered by radiological fallout in event of attack and make this information available to Federal, State, and local authorities for public dissemination.

(2) *Geodetic, hydrographic, and oceanographic data.* Provide geodetic, hydrographic, and oceanographic data and services to the Department of Defense and other governmental agencies, as appropriate.

Part 10—Department of Labor

SECTION 1001 *Résumé of Responsibilities.* The Secretary of Labor shall have primary responsibility for preparing national emergency

plans and developing preparedness programs covering civilian manpower mobilization, more effective utilization of limited manpower resources, including specialized personnel, wage and salary stabilization, worker incentives and protection, manpower resources and requirements, skill development and training, research, labor-management relations, and critical occupations.

Sec. 1002 Functions. The Secretary of Labor shall:

(1) *Civilian manpower mobilization.* Develop plans and issue guidance designed to utilize to the maximum extent civilian manpower resources, such plans and guidance to be developed with the active participation and assistance of the States and local political subdivisions thereof, and of other organizations and agencies concerned with the mobilization of the people of the United States. Such plans shall include, but not necessarily be limited to:

(a) *Manpower management.* Recruitment, selection and referral, training, employment stabilization (including appeals procedures), proper utilization, and determination of the skill categories critical to meeting the labor requirements of defense and essential civilian activities;

(b) *Priorities.* Procedures for translating survival and production urgencies into manpower priorities to be used as guides for allocating available workers; and

(c) *Improving mobilization base.* Programs for more effective utilization of limited manpower resources, and, in cooperation with other appropriate agencies, programs for recruitment, training, allocation, and utilization of persons possessing specialized competence or aptitude in acquiring such competence.

(2) *Wage and salary stabilization.* Develop plans and procedures for wage and salary stabilization and for the national and field organization necessary for the administration of such a program in an emergency, including investigation, compliance, and appeals procedures; statistical studies of wages, salaries, and prices for policy decisions and to assist operating stabilization agencies to carry out their functions.

(3) *Worker incentives and protection.* Develop plans and procedures for wage and salary compensation and death and disability compensation for authorized civil defense workers and, as appropriate, measures for unemployment payments, re-employment rights, and occupational safety, and other protection and incentives for the civilian labor force during an emergency.

(4) *Skill development and training.* Initiate current action programs to overcome or offset present or anticipated manpower deficiencies, including those identified as a result of resource and requirements studies.

(5) *Labor-management relations.* Develop, after consultation with the Department of Commerce, the Department of Transportation, the Department of Defense, the National Labor Relations Board, the Federal Mediation and Conciliation Service, the National Mediation Board, and other appropriate agencies and groups, including representatives of labor and management, plans and procedures, including organization plans for the maintenance of effective labor-management relations during a national emergency.

Part 11—Department of Health, Education, and Welfare

SECTION 1101 Résumé of Responsibilities. In addition to the medical stockpile functions identified in Executive Order No. 10958, the Secretary of Health, Education, and Welfare shall prepare national emergency plans and develop preparedness programs covering health services, civilian health manpower, health resources, welfare services, social security benefits, credit union operations, and educational programs as defined below.

SEC. 1102 *Definitions.* As used in this part:

(1) "Emergency health services" means medical and dental care for the civilian population in all of their specialties and adjunct therapeutic fields, and the planning, provision, and operation of first aid stations, hospitals, and clinics; preventive health services, including detection, identification and control of communicable diseases, their vectors, and other public health hazards, inspection and control of purity and safety of food, drugs, and biologicals; vital statistics services; rehabilitation and related services for disabled survivors; preventive and curative care related to human exposure to radiological, chemical, and biological warfare agents; sanitary aspects of disposal of the dead; food and milk sanitation; community solid waste disposal; emergency public water supply; and the determination of the health significance of water pollution and the provision of other services pertaining to health aspects of water use and water-borne wastes as set forth in an agreement between the Secretary of Health, Education, and Welfare and the Secretary of the Interior, approved by the President, pursuant to Reorganization Plan No. 2 of 1960, which plan placed upon the Secretary of the Interior responsibilities for the prevention and control of water pollution. It shall be understood that health services for the purposes of this order, however, do not encompass the following areas for which the Department of Agriculture has responsibility: plant and animal diseases and pest prevention, control, and eradication, wholesomeness of meat and meat products, and poultry and poultry products in establishments under continuous inspection service by the Department of Agriculture, veterinary biologicals, agricultural commodities and products owned by the Commodity Credit Corporation or the Secretary of Agriculture, livestock, agricultural commodities stored or harvestable on farms and ranches, agricultural lands and water, and registration of pesticides.

(2) "Health manpower" means physicians (including osteopaths); dentists; sanitary engineers; registered professional nurses; and such other occupations as may be included in the List of Health Manpower Occupations issued for the purposes of this part by the Director of the Office of Emergency Preparedness after agreement by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(3) "Health resources" means manpower, material, and facilities required to prevent the impairment of, improve, and restore the physical and mental health conditions of the civilian population.

(4) "Emergency welfare services" means feeding; clothing; lodging in private and congregate facilities; registration; locating and reuniting families; care of unaccompanied children, the aged, the handicapped, and other groups needing specialized care or services; necessary financial or other assistance; counseling and referral services to families and individuals; aid to welfare institutions under national emergency or post-attack conditions; and all other feasible welfare aid and services to people in need during a civil defense emergency. Such measures include organization, direction, and provision of services to be instituted before attack, in the event of strategic or tactical evacuation, and after attack in the event of evacuation or of refuge in shelters.

(5) "Social security benefits" means the determination of entitlement and the payment of monthly insurance benefits to those eligible, such as workers who have retired because of age or disability and to their dependent wives and children, and to the eligible survivors of deceased workers. It also includes determinations of eligibility and payments made on behalf of eligible individuals to hospitals, home health agencies, extended care facilities, physicians, and other providers of medical services.

(6) "Credit union operations" means the functions of any credit union, chartered either by a State or the Federal Government, in stimulating systematic savings by members, the investment and protection of those savings, providing loans for credit union members

at reasonable rates, and encouraging sound credit and thrift practices among credit union members.

(7) "Education" or "training" means the organized process of learning by study and instruction primarily through public and private systems.

SEC. 1103 Health Functions. With respect to emergency health services, as defined above, and in consonance with national civil defense plans, programs, and operation of the Department of Defense under Executive Order No. 10952, the Secretary of Health, Education, and Welfare shall:

(1) *Professional training.* Develop and direct a nationwide program to train health manpower both in professional and technical occupational content and in civil defense knowledge and skills. Develop and distribute health education material for inclusion in the curricula of schools, colleges, professional schools, government schools, and other educational facilities throughout the United States. Develop and distribute civil defense information relative to health services to States, voluntary agencies, and professional groups.

(2) *Emergency public water supply.* Prepare plans to assure the provision of usable water supplies for human consumption and other essential community uses in an emergency. This shall include inventorying existing community water supplies, planning for other alternative sources of water for emergency uses, setting standards relating to human consumption, and planning community distribution. In carrying on these activities, the Department shall have primary responsibility but will make maximum use of the resources and competence of State and local authorities, the Department of the Interior, and other Federal agencies.

(3) *Radiation.* Develop and coordinate programs of radiation measurement and assessment as may be necessary to carry out the responsibilities involved in the provision of emergency health services.

(4) *Biological and chemical warfare.* Develop and coordinate programs for the prevention, detection, and identification of human exposure to chemical and biological warfare agents as may be necessary to carry out the responsibilities involved in the provision of emergency health services, including the provision of guidance and consultation to Federal, State, and local authorities on measures for minimizing the effects of biological or chemical warfare.

(5) *Food, drugs, and biologicals.* Plan and direct national programs for the maintenance of purity and safety in the manufacture and distribution of food, drugs, and biologicals in an emergency.

(6) *Disabled survivors.* Prepare national plans for emergency operations of vocational rehabilitation and related agencies, and for measures and resources necessary to rehabilitate and make available for employment those disabled persons among the surviving population.

SEC. 1104 Welfare Functions. With respect to emergency welfare services as defined above, and in consonance with national civil defense plans, programs, and operations of the Department of Defense under Executive Order No. 10952, the Secretary of Health, Education, and Welfare shall:

(1) *Federal support.* Cooperate in the development of Federal support procedures, through joint planning with other departments and agencies, including but not limited to the Post Office Department, the Department of Labor, and the Selective Service System, the Department of Housing and Urban Development, and resource agencies, including the Department of Agriculture, the Department of the Interior, and the Department of Commerce, for logistic support of State and community welfare services in an emergency.

(2) *Emergency welfare training.* Develop and direct a nationwide program to train emergency welfare manpower for the execution of the functions set forth in this part, develop welfare educational

materials, including self-help program materials for use with welfare organizations and professional schools, and develop and distribute civil defense information relative to emergency welfare services to States, voluntary agencies, and professional groups.

(3) *Financial aid.* Develop plans and procedures for financial assistance to individuals injured or in want as a result of enemy attack and for welfare institutions in need of such assistance in an emergency.

(4) *Non-combatant evacuees to the Continental United States.* Develop plans and procedures for assistance, at ports of entry to U.S. personnel evacuated from overseas areas, their onward movement to final destination, and follow-up assistance after arrival at final destination.

SEC. 1105 *Social Security Functions.* With respect to social security, the Secretary of Health, Education, and Welfare shall:

(1) *Social security benefits.* Develop plans for the continuation or restoration of benefit payments to those on the insurance rolls as soon as possible after a direct attack upon the United States, and prepare plans for the acceptance and disposition of current claims for social security benefits.

(2) *Health insurance.* Develop plans for the payment of health insurance claims for reimbursement for items or services provided by hospitals, physicians, and other providers of medical services submitted by or on behalf of individuals who are eligible under the Medicare program.

SEC. 1106 *Credit Union Functions.* With respect to credit union functions, the Secretary of Health, Education, and Welfare shall:

(1) *Credit union operations.* Provide instructions to all State and Federally chartered credit unions for the development of emergency plans to be put into effect as soon as possible after an attack upon the United States in order to guarantee continuity of credit union operations.

(2) *Economic stabilization.* Provide guidance to credit unions that will contribute to stabilization of the Nation's economy by helping to establish and maintain a sound economic base for combating inflation, maintaining confidence in public and private financial institutions, and promoting thrift.

SEC. 1107 *Education Functions.* With respect to education, the Secretary of Health, Education, and Welfare shall:

(1) *Program guidance.* Develop plans and issue guidance for the continued function of educational systems under all conditions of national emergency. Although extraordinary circumstances may require the temporary suspension of education, plans should provide for its earliest possible resumption.

(2) *Educational adjustment.* Plan to assist civilian educational institutions, both public and private, to adjust to demands laid upon them by a large expansion of government activities during any type of emergency. This includes advice and assistance to schools, colleges, universities, and other educational institutions whose facilities may be temporarily needed for Federal, State, or local government programs in an emergency or whose faculties and student bodies may be affected by the demands of a sudden or long-standing emergency.

(3) *Post-attack recovery.* Develop plans for the rapid restoration and resumption of education at all levels after an attack. This includes assistance to educators and educational institutions to locate and use surviving facilities, equipment, supplies, books, and educational personnel. Particular emphasis shall be given to the role of educational institutions and educational leadership in reviving education and training in skills needed for post-attack recovery.

(4) *Civil defense education.* In consonance with national civil defense plans, programs, and operations of the Department of Defense, develop and issue instructional materials to assist schools, colleges,

and other educational institutions to incorporate emergency protective measures and civil defense concepts into their programs. This includes assistance to various levels of education to develop an understanding of the role of the individual, family, and community for civil defense in the nuclear age.

Part 12—Department of Housing and Urban Development

SECTION 1201 *Résumé of Responsibilities.* The Secretary of Housing and Urban Development shall prepare national emergency plans and develop preparedness programs covering all aspects of housing, community facilities related to housing, and urban development (except that housing assets under the jurisdiction and control of the Department of Defense, other than those leased for terms not in excess of one year, shall be and remain the responsibility of the Department of Defense).

Sec. 1202 *Definition.* As used in this part:

(1) "Emergency housing" means any and all types of accommodations used as dwellings in an emergency.

(2) "Community facilities related to housing" means installations necessary to furnish water, sewer, electric, and gas services between the housing unit or project and the nearest practical source or servicing point.

(3) "Urban development" means the building or restoration of urban community, suburban, and metropolitan areas (except transportation facilities).

SEC. 1203 *Housing and Community Facilities Functions.* The Secretary of Housing and Urban Development shall:

(1) *New housing.* Develop plans for the emergency construction and management of new housing and the community facilities related thereto to the extent that it is determined that it may be necessary to provide for such construction and management with public funds and through direct Federal action, and to the extent that such construction of new housing may have to be provided through Federal financial or credit assistance.

(2) *Community facilities.* Develop plans to restore community facilities related to housing affected by an emergency through the repair of damage, the construction of new facilities, and the use of alternate or back-up facilities.

SEC. 1204 *Urban Development Functions.* The Secretary of Housing and Urban Development shall:

(1) *Regional cooperation.* Encourage regional emergency planning and cooperation among State and local governments with respect to problems of housing and metropolitan development.

(2) *Vulnerability and redevelopment.* In cooperation with the Office of Emergency Preparedness, develop criteria and provide guidance for the design and location of housing and community facilities related to housing to minimize the risk of loss under various emergency situations. Develop criteria for determining which areas should be redeveloped in the event of loss or severe damage resulting from emergencies.

SEC. 1205 *Civil Defense Functions.* In consonance with national civil defense plans, programs, and operations of the Department of Defense under Executive Order No. 10052, the Secretary of Housing and Urban Development shall:

(1) *Transitional activities.* Develop plans for the orderly transfer of people from fallout shelters and from billets to temporary or permanent housing, including advice and guidance for State and local government agencies in the administration thereof. These plans shall be coordinated with national plans and guidance for emergency welfare services of the Department of Health, Education, and Welfare.

(2) *Temporary housing.* Develop plans for the emergency repair and restoration for use of damaged housing, for the construction and

management of emergency housing units and the community facilities related thereto, for the emergency use of tents and trailers, and for the emergency conversion for dwelling use of non-residential structures, such activities to be financed with public funds through direct Federal action or through financial or credit assistance.

(3) *Shelter.* In conformity with national shelter policy, assist in the development of plans to encourage the construction of shelters for both old and new housing, and develop administrative procedures to encourage the use of low-cost design and construction techniques to maximize protection in connection with national programs.

Part 13—Department of Transportation

SECTION 1301 *Résumé of Responsibilities.* The Secretary of Transportation, in carrying out his responsibilities to exercise leadership in transportation matters affecting the national defense and those involving national or regional transportation emergencies, shall prepare emergency plans and develop preparedness programs covering:

(1) Preparation and promulgation of over-all national policies, plans, and procedures related to providing civil transportation of all forms—air, ground, water, and pipelines, including public storage and warehousing (except storage of petroleum and gas and agricultural food resources including cold storage): *Provided* that plans for the movement of petroleum and natural gas through pipelines shall be the responsibility of the Secretary of the Interior except to the extent that such plans are a part of functions vested in the Secretary of Transportation by law;

(2) Movement of passengers and materials of all types by all forms of civil transportation;

(3) Determination of the proper apportionment and allocation for control of the total civil transportation capacity, or any portion thereof, to meet over-all essential civil and military needs;

(4) Determination and identification of the transportation resources available and required to meet all degrees of national emergencies and regional transportation emergencies;

(5) Assistance to the various States, the local political subdivisions thereof, and non-governmental organizations and systems engaged in transportation activities in the preparation of emergency plans;

(6) Rehabilitation and recovery of the Nation's transportation systems; and

(7) Provisions for port security and safety, for aids to maritime navigation, and for search and rescue and law enforcement over, upon, and under the navigable waters of the United States and the high seas.

SEC. 1302 *Transportation Planning and Coordination Functions.*

In carrying out the provisions of Section 1301, the Secretary of Transportation, with assistance and support of other Federal, State and local governmental agencies, and the transport industries, as appropriate, shall:

(1) Obtain, assemble, analyze, and evaluate data on current and projected emergency requirements of all claimants for all forms of civil transportation to meet the needs of the military and of the civil economy, and on current and projected civil transportation resources—of all forms—available to the United States to move passengers or materials in an emergency.

(2) Develop plans and procedures to provide—under emergency conditions—for the collection and analysis of passenger and cargo movement demands as they relate to the capabilities of the various forms of transport, including the periodic assessment of over-all transport resources available to meet emergency requirements.

(3) Conduct a continuing analysis of transportation requirements and capabilities in relation to economic projections for the purpose of initiating actions and/or recommending incentive and/or regulatory

programs designed to stimulate government and industry improvement of the structure of the transportation system for use in an emergency.

(4) Develop systems for the control of the movement of passengers and cargo by all forms of transportation, except for those resources owned by, controlled by, or under the jurisdiction of the Department of Defense, including allocation of resources and assignment of priorities, and develop policies, standards, and procedures for emergency enforcement of these controls.

SEC. 1803 *Departmental Emergency Transportation Preparedness.* Except for those resources owned by, controlled by, or under the jurisdiction of the Department of Defense, the Secretary of Transportation shall prepare emergency operational plans and programs for, and develop a capability to carry out, the transportation operating responsibilities assigned to the Department, including but not limited to:

(1) Allocating air carrier civil air transportation capacity and equipment to meet civil and military requirements.

(2) Emergency management, including construction, reconstruction, and maintenance of the Nation's civil airports, civil aviation operating facilities, civil aviation services, and civil aircraft (other than air carrier aircraft), except manufacturing facilities.

(3) Emergency management of all Federal, State, city, local, and other highways, roads, streets, bridges, tunnels, and appurtenant structures, including:

(a) The adaptation, development, construction, reconstruction, and maintenance of the Nation's highway and street systems to meet emergency requirements;

(b) The protection of the traveling public by assisting State and local authorities in informing them of the dangers of travel through hazardous areas; and

(c) The regulation of highway traffic in an emergency through a national program in cooperation with all Federal, State, and local governmental units or other agencies concerned.

(4) Emergency plans for urban mass transportation, including:

(a) Providing guidance to urban communities in their emergency mass transportation planning efforts, either directly or through State, regional, or metropolitan agencies;

(b) Coordinating all such emergency planning with the Department of Housing and Urban Development to assure compatibility with emergency plans for all other aspects of urban development;

(c) Maintaining an inventory of urban mass transportation systems.

(5) Maritime safety and law enforcement over, upon, and under the high seas and waters, subject to the jurisdiction of the United States, in the following specific programs:

(a) Safeguarding vessels, harbors, ports, and waterfront facilities from destruction, loss or injury, accidents, or other causes of a similar nature.

(b) Safe passage over, upon, and under the high seas and United States waters through effective and reliable systems of aids to navigation and ocean stations.

(c) Waterborne access to ice-bound locations in furtherance of national economic, scientific, defense, and consumer needs.

(d) Protection of lives, property, natural resources, and national interests through enforcement of Federal law and timely assistance.

(e) Safety of life and property through regulation of commercial vessels, their officers and crew, and administration of maritime safety law.

(f) Knowledge of the sea, its boundaries, and its resources through collection and analysis of data in support of the national interest.

(g) Operational readiness for essential wartime functions.

(6) Planning for the emergency management and operation of the Alaska Railroad, and for the continuity of railroad and petroleum pipeline safety programs.

(7) Planning for the emergency operation and maintenance of the United States-controlled sections of the Saint Lawrence Seaway.

Part 14—Atomic Energy Commission

SECTION 1401 Functions. The Atomic Energy Commission shall prepare national emergency plans and develop preparedness programs for the continuing conduct of atomic energy activities of the Federal Government. These plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including attack upon the United States and, consistent with applicable provisions of the Atomic Energy Act of 1954, as amended, shall be closely coordinated with the Department of Defense and the Office of Emergency Preparedness. The Atomic Energy Commission shall:

(1) *Production.* Continue or resume in an emergency essential (a) manufacture, development, and control of nuclear weapons and equipment, except to the extent that the control over such weapons and equipment shall have been transferred to the Department of Defense; (b) development and technology related to reactors; (c) process development and production of feed material, special nuclear materials, and other special products; (d) related raw materials procurement, processing, and development; and (e) repair, maintenance, and construction related to the above.

(2) *Regulation.* Continue or resume in an emergency (a) controlling the possession, use, transfer, import, and export of atomic materials and facilities; and (b) ordering the operation or suspension of licensed facilities, and recapturing from licensees, where necessary, special nuclear materials whether related to military support or civilian activities.

(3) *Public health and safety.* Shut down, where required, in anticipation of an imminent enemy attack on the United States, and maintain under surveillance, all Commission-owned facilities which could otherwise constitute a significant hazard to public health and safety, and insure the development of appropriate emergency plans for nuclear reactors and other nuclear activities licensed by the Commission whether privately-owned or Government-owned.

(4) *Scientific, technical, and public atomic energy information.* Organize, reproduce, and disseminate appropriate public atomic energy information and scientific and technical reports and data relating to nuclear science research, development, engineering, applications, and effects to interested Government agencies, the scientific and technical communities, and approved, friendly, and cooperating foreign nations.

(5) *International atomic energy affairs.* Maintain, in consultation with the Department of State, essential liaison with foreign nations with respect to activities of mutual interest involving atomic energy.

(6) *Health services.* Assist the Department of Health, Education, and Welfare, consistent with the above requirements, in integrating into civilian health programs in an emergency the Commission's remaining health manpower and facilities not required for the performance of the Commission's essential emergency functions.

(7) *Priorities and allocations.* Plan for the administration of any priorities and allocations authority delegated to the Atomic Energy Commission. Authorize procurement and production schedules and make allotments of controlled materials pursuant to program determinations of the Office of Emergency Preparedness.

Part 15—Civil Aeronautics Board

SECTION 1501 Definitions. As used in this part:

(1) "War Air Service Program" (hereinafter referred to as WASP) means the program designed to provide for the maintenance

of essential civil air routes and services, and to provide for the distribution and redistribution of air carrier aircraft among civil air transport carriers after withdrawal of aircraft allocated to the Civil Reserve Air Fleet.

(2) "Civil Reserve Air Fleet" (hereinafter referred to as CRAF) means those air carrier aircraft allocated by the Secretary of Transportation to the Department of Defense to meet essential military needs in the event of an emergency.

SEC. 1502 *Functions.* The Civil Aeronautics Board, under the coordinating authority of the Secretary of Transportation, shall:

(1) *Distribution of aircraft.* Develop plans and be prepared to carry out such distribution and redistribution of all air carrier civil aircraft allocated by the Secretary of Transportation among the civil air transport carriers as may be necessary to assure the maintenance of essential civil routes and services under WASP operations after the CRAF requirements have been met.

(2) *Economic regulations.* Develop plans covering route authorizations and operations, tariffs, rates, and fares charged the public, mail rates, government compensation and subsidy, and accounting and contracting procedures essential to WASP operations.

(3) *Operational controls and priorities.* Develop plans and procedures for the administration of operational controls and priorities of passenger and cargo movements in connection with the utilization of air carrier aircraft for WASP purposes in an emergency.

(4) *Investigation.* Maintain the capability to investigate violations of emergency economic regulations affecting air carrier operations.

(5) *Contracting.* Prepare to perform as a contracting agency, if such an agency is necessary, in connection with distribution and redistribution of aircraft for WASP.

Part 16—Export-Import Bank of the United States

SECTION 1601 *Functions.* (a) Under guidance of the Secretary of the Treasury, the Export-Import Bank shall develop plans for the utilization of the resources of the Bank, or other resources made available to the Bank, in expansion of productive capacity abroad for essential materials, foreign barter arrangements, acquisition of emergency imports, and in support of the domestic economy, or any other plans designed to strengthen the relative position of the Nation and its allies.

(b) In carrying out the guidance functions described above, the Secretary of the Treasury shall consult with the Secretary of State and the Secretary of Commerce as appropriate.

Part 17—Federal Bank Supervisory Agencies

SECTION 1701 *Financial Plans and Programs.* The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Farm Credit Administration, and the Federal Deposit Insurance Corporation shall participate with the Office of Emergency Preparedness, the Department of the Treasury, and other agencies in the formulation of emergency financial and stabilization policies. The heads of such agencies shall, as appropriate, develop emergency plans, programs, and regulations, in consonance with national emergency financial and stabilization plans and policies, to cope with potential economic effects of mobilization or an attack, including, but not limited to, the following:

(1) *Money and credit.* Provision and regulation of money and credit in accordance with the needs of the economy, including the acquisition, decentralization, and distribution of emergency supplies of currency; the collection of cash items and non-cash items; and the conduct of fiscal agency and foreign operations.

(2) *Financial institutions.* Provision for the continued or resumed operation of banking, savings and loan, and farm credit institutions, including measures for the re-creation of evidence of assets or liabilities destroyed or inaccessible.

(3) *Liquidity.* Provision of liquidity necessary to the continued or resumed operation of banking, savings and loan, credit unions, and farm credit institutions, including those damaged or destroyed by enemy action.

(4) *Cash withdrawals and credit transfers.* Regulation of the withdrawal of currency and the transfer of credits including deposit and share account balances.

(5) *Insurance.* Provision for the assumption and discharge of liability pertaining to insured deposits and insured savings accounts or withdrawable shares in banking and savings and loan institutions destroyed or made insolvent.

Sec. 1702 *Sharing of war losses.* Heads of agencies shall, as appropriate, participate with the Office of Emergency Preparedness and the Department of the Treasury in the development of policies, plans, and procedures for implementation of national policy on sharing war losses.

Part 18—Federal Communications Commission

SECTION 1801 *Definitions.* As used in this part:

(1) "Common carrier" means any person subject to Commission regulation engaged in providing, for use by the public, for hire, interstate or foreign communications facilities or services by wire or radio; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

(2) "Broadcast facilities" means those stations licensed by the Commission for the dissemination of radio communications intended to be received by the public directly or by the intermediary of relay stations.

(3) "Safety and special radio services" includes those non-broadcast and non-common carrier services which are licensed by the Commission under the generic designation "safety and special radio services" pursuant to the Commission's Rules and Regulations.

Sec. 1802 *Functions.* The Federal Communications Commission shall develop policies, plans, and procedures, in consonance with national telecommunications plans and policies developed pursuant to Executive Order No. 10705, Executive Order No. 10995, Executive Order No. 11051, the Presidential Memorandum of August 21, 1963, "Establishment of the National Communications System", and other appropriate authority, covering:

(1) *Common carrier service.* (a) Extension, discontinuance, or reduction of common carrier facilities or services, and issuance of appropriate authorizations for such facilities, services, and personnel in an emergency; and control of all rates, charges, practices, classifications, and regulations for service to Government and non-Government users during an emergency, in consonance with overall national economic stabilization policies.

(b) Development and administration of priority systems for public correspondence and for the use and resumption of leased inter-city private line service in an emergency.

(c) Use of common carrier facilities and services to overseas points to meet vital needs in an emergency.

(2) *Broadcasting service.* Construction, activation, or deactivation of broadcasting facilities and services, the continuation or suspension of broadcasting services and facilities, and issuance of appropriate authorizations for such facilities, services, and personnel in an emergency.

(3) *Safety and special radio services.* Authorization, operation, and use of safety and special radio services, facilities, and personnel in the national interest in an emergency.

(4) *Radio frequency assignment.* Assignment of radio frequencies to, and their use by, Commission licensees in an emergency.

(5) *Electromagnetic radiation.* Closing of any radio station or any device capable of emitting electromagnetic radiation or suspension or amending any rules or regulations applicable thereto, in any emergency, except for those belonging to, or operated by, any department or agency of the United States Government.

(6) *Investigation and enforcement.* Investigation of violations of pertinent law and regulations in an emergency, and development of procedures designated to initiate, recommend, or otherwise bring about appropriate enforcement actions required in the interest of national security.

Part 19—Federal Power Commission

SECTION 1901 *Functions.* The Federal Power Commission shall assist the Department of the Interior, in conformity with Part 7, in the preparation of national emergency plans and the development of preparedness programs for electric power and natural gas in the areas as set forth in the Memorandum of Agreement dated August 9, 1962, between the Secretary of the Interior and the Chairman of the Federal Power Commission.

Part 20—General Services Administration

SECTION 2001 *Résumé of Responsibilities.* The Administrator of General Services shall prepare national emergency plans and develop preparedness programs designed to permit modification or expansion of the activities of the General Services Administration under the Federal Property and Administrative Services Act of 1949, as amended and other statutes prescribing the duties and responsibilities of the Administrator. These plans and programs shall include, but not be limited to: (1) operation, maintenance, and protection of Federal buildings and their sites; construction, alteration, and repair of public buildings; and acquisition, utilization, and disposal of real and personal properties; (2) public utilities service management for Federal agencies; (3) telecommunications to meet the essential requirements of civilian activities of executive departments and agencies; (4) transportation management to meet the traffic service requirements of civilian activities of Federal agencies; (5) records management; (6) Emergency Federal Register; (7) Government-wide supply support; (8) service to survival items stockpiles; (9) national industrial reserve; (10) guidance and consultation to Government agencies regarding facilities protection measures; (11) administration of assigned functions under the Defense Production Act; and (12) administration and operation of the stockpile of strategic and critical materials in accordance with policies and guidance furnished by the Office of Emergency Preparedness.

Sec. 2002 *Functions.* The Administrator of General Services shall:

(1) *Public buildings.* Develop emergency plans and procedures for the operation, maintenance, and protection of both existing and new Federally-owned and Federally-occupied buildings, and construction, alteration, and repair of public buildings. Develop emergency operating procedures for the control, acquisition, assignment, and priority of occupancy of real property by the Federal Government and by State and local governments to the extent they may be performing functions as agents of the Federal Government.

(2) *Public utility service management.* Develop emergency operational plans and procedures for the claimancy, procurement, and use of public utility services for emergency activities of executive agencies of the Government.

(3) *Communications.* Plan for and provide, operate, and maintain appropriate telecommunications facilities designed to meet the essential requirements of Federal civilian departments and agencies during an emergency within the framework of the National Communications System. Plans and programs of the Administrator shall be in consonance with national telecommunications policies, plans, and programs developed pursuant to Executive Order No. 10705, Executive Order No. 10995, Executive Order No. 11051, and the Presidential

Memorandum of August 21, 1963, "Establishment of the National Communications System," or other appropriate authority.

(4) *Transportation.* Develop plans and procedures for providing: (a) general transportation and traffic management services to civilian activities of Federal agencies in connection with movement of property and supplies, including the claimancy, contracting, routing, and accounting of Government shipments by commercial transportation in time of emergency; and (b) motor vehicle service to meet the administrative needs of Federal agencies, including dispatch and scheduled Government motor service at and between headquarters, field offices, relocation sites, and other installations of the Federal and State governments.

(5) *Records.* Provide instructions and advice on appraisal, selection, preservation, arrangement, reference, reproduction, storage, and salvage of essential records needed for the operation of the Federal Government after attack, on an emergency basis, including a decentralized system.

(6) *Federal Register.* Develop emergency procedures for providing and making available, on a decentralized basis, a Federal Register of Presidential Proclamations and Executive Orders, Federal administrative regulations, Federal emergency notices and actions, and Acts of Congress during a national emergency.

(7) *Government-wide procurement and supply.* Prepare plans and procedures for the coordination and/or operation of Government-wide supply programs to meet the requirements of Federal agencies under emergency conditions, including the development of policies, methods, and procedures for emergency procurement and for emergency requisitioning of private property when authorized by law and competent authority; identification of essential civil agency supply items under the Federal catalog system; development of emergency Federal specifications and standards; determination of sources of supply; procurement of personal property and non-personal services; furnishing appropriate inspection and contract administration services; and establishment, coordination, and/or operation of emergency storage and distribution facilities.

(8) *Survival item stockpiles.* Assist the Department of Health, Education, and Welfare, insofar as civil defense medical stockpile items under its jurisdiction are concerned, and the Department of Defense, insofar as survival items under its jurisdiction are concerned, in formulating plans and programs for service activity support relating to stockpiling of such supplies and equipment. The Administrator shall arrange for the procurement, storage, maintenance, inspection, survey, withdrawal, and disposal of supplies and equipment in accordance with the provisions of interagency agreements with the departments concerned.

(9) *National industrial reserve and machine tool program.* Develop plans for the custody of the industrial plants and production equipment in the national industrial reserve and assist the Department of Defense, in collaboration with the Department of Commerce, in the development of plans and procedures for the disposition, emergency reactivation, and utilization of the plants and equipment of this reserve in the custody of the Administrator.

(10) *Excess and surplus real and personal property.* Develop plans and emergency operating procedures for the utilization of excess and surplus real and personal property by Federal Government agencies with emergency assignments or by State and local governmental units as directed, including review of the property holdings of Federal agencies which do not possess emergency functions to determine the availability of property for emergency use, and including the disposal of real and personal property and the rehabilitation of personal property.

(11) *Facilities protection and building and shelter manager service.* In accordance with the guidance from the Department of Defense,

promote, with respect to Federal buildings and installations, a Government-wide program (a) to stimulate protection, preparedness, and control in emergencies in order to minimize the effects of overt or covert attack, including dispersal of facilities; and (b) to establish shelter manager organizations, including safety and service personnel, shelter manager service, first aid, police, and evacuation service.

Sec. 2003 *Defense Production.* The Administrator of General Services shall assist the Office of Emergency Preparedness in the formulation of plans and programs relating to the certification of procurement programs, subsidy payments, and plant improvement programs provided for by the Defense Production Act of 1950, as amended.

Sec. 2004 *Strategic and Critical Materials Stockpiles.* The Administrator of General Services shall assist the Office of Emergency Preparedness in formulating plans, programs, and reports relating to the stockpiling of strategic and critical materials. Within these plans and programs, the Administrator shall provide for the procurement (for this purpose, procurement includes upgrading, rotation, and beneficiation), storage, security, maintenance, inspection, withdrawal, and disposal of materials, supplies, and equipment.

Part 21—Interstate Commerce Commission

SECTION 2101 *Résumé of Responsibilities.* The Chairman of the Interstate Commerce Commission, under the coordinating authority of the Secretary of Transportation, shall prepare national emergency plans and develop preparedness programs covering railroad utilization, reduction of vulnerability, maintenance, restoration, and operation in an emergency (other than for the Alaska Railroad—see Section 1303(0)); motor carrier utilization, reduction of vulnerability, and operation in an emergency; inland waterway utilization of equipment and shipping, reduction of vulnerability, and operation in an emergency; and also provide guidance and consultation to domestic surface transportation and storage industries, as defined below, regarding emergency preparedness measures, and to States regarding development of their transportation plans in assigned areas

Sec. 2102 *Definitions.* As used in this part:

(1) "Domestic surface transportation and storage" means rail, motor, and inland water transportation facilities and services and public storage;

(2) "Public storage" includes warehouses and other places which are used for the storage of property belonging to persons other than the persons having the ownership or control of such premises;

(3) "Inland water transportation" includes shipping on all inland waterways and Great Lakes shipping engaged solely in the transportation of passengers or cargo between United States ports on the Great Lakes;

(4) Specifically excluded, for the purposes of this part, are pipelines, petroleum and gas storage, agricultural food resources storage, including the cold storage of food resources, the St. Lawrence Seaway, ocean ports and Great Lakes ports and port facilities, highways, streets, roads, bridges, and related appurtenances, maintenance of inland waterways, and any transportation owned by or pre-allocated to the military.

Sec. 2103 *Transportation Functions.* The Interstate Commerce Commission shall:

(1) ***Operational control.*** Develop plans with appropriate private transportation and storage organizations and associations for the coordination and direction of the use of domestic surface transportation and storage facilities for movement of passenger and freight traffic.

(2) ***Emergency operations.*** Develop and maintain necessary orders and regulations for the operation of domestic surface transport and storage industries in an emergency.

Part 22—National Aeronautics and Space Administration

SECTION 2201 Functions. The Administrator of the National Aeronautics and Space Administration shall:

(1) *Research and development.* Adapt and utilize the scientific and technological capability of the National Aeronautics and Space Administration, consistent with over-all requirements, to meet priority needs of the programs of the Federal Government in an emergency. This will include the direction and conduct of essential research and development activities relating to (a) aircraft, spacecraft, and launch vehicles, (b) associated instrumentation, guidance, control and payload, propulsion, and communications systems, (c) scientific phenomena affecting both manned and unmanned space flights, (d) the life sciences (biology, medicine, and psychology) as they apply to aeronautics and space, and (e) atmospheric and geophysical sciences.

(2) *Military support.* Provide direct assistance as requested by the Department of Defense and other agencies in support of the military effort. This may include (a) undertaking urgent projects to develop superior aircraft, spacecraft, launch vehicles, and weapons systems, (b) developing methods to counter novel or revolutionary enemy weapons systems, (c) providing technical advice and assistance on matters involving air and space activities, and (d) furnishing personnel and facilities to assist in emergency repairs of equipment deficiencies and for other essential purposes.

Part 23—National Science Foundation

SECTION 2301 Functions. The Director of the National Science Foundation shall:

(1) *Manpower functions.* Assist the Department of Labor in sustaining readiness for the mobilization of civilian manpower by: (a) maintaining the Foundation's register of scientific and technical personnel in such form and at such locations as will assure maximum usefulness in an emergency; (b) being prepared for rapid expansion of the Foundation's current operation as a central clearing house for information covering all scientific and technical personnel in the United States and its possessions; and (c) developing, in consultation with the Department of Labor, the Selective Service System, the Department of Defense, and the Office of Science and Technology, plans and procedures to assure the most effective distribution and utilization of the Nation's scientific and engineering manpower in an emergency.

(2) *Special functions.* (a) Provide leadership in developing, with the assistance of Federal and State agencies and appropriate non-governmental organizations, the ability to mobilize scientists, in consonance with over-all civilian manpower mobilization programs, to perform or assist in performance of special tasks, including the identification of and defense against unconventional warfare; (b) advance the national radiological defense capability by including, in consultation with appropriate agencies, pertinent scientific information and radiological defense techniques in the Foundation's scientific institute program for science, mathematics, and engineering teachers; (c) assemble data on the location and character of major scientific research facilities, including non-governmental as well as government facilities, and their normal inventories of types of equipment and instruments which would be useful in identification and analysis of hazards to human life in the aftermath of enemy attack; and (d) prepare to carry on necessary programs for basic research and for training of scientific manpower.

Part 24—Railroad Retirement Board

SECTION 2401 Functions. The Railroad Retirement Board shall:

(1) *Manpower functions.* Within the framework of the over-all manpower plans and programs of the Department of Labor, assist in the mobilization of civilian manpower in an emergency by developing plans for the recruitment and referral of that segment of the Nation's

manpower resources subject to the Railroad Retirement and Railroad Unemployment Insurance Acts.

(2) *Benefit payments.* Develop plans for administering, under emergency conditions, the essential aspects of the Railroad Retirement Act and Railroad Unemployment Insurance Act consistent with overall Federal plans for the continuation of benefit payments after an enemy attack.

Part 25—Securities and Exchange Commission

SECTION 2501 *Functions.* The Securities and Exchange Commission shall collaborate with the Secretary of the Treasury in the development of emergency financial control plans, programs, procedures, and regulations for:

(1) *Stock trading.* Temporary closure of security exchanges, suspension of redemption rights, and freezing of stock and bond prices, if required in the interest of maintaining economic controls.

(2) *Modified trading.* Development of plans designed to reestablish and maintain a stable and orderly market for securities when the situation permits under emergency conditions.

(3) *Protection of securities.* Provision of a national records system which will make it possible to establish current ownership of securities in the event major trading centers and depositories are destroyed.

(4) *Flow of capital.* The control of the formation and flow of private capital as it relates to new securities offerings or expansion of prior offerings for the purpose of establishing or reestablishing industries in relation to the Nation's needs in or following a national emergency.

(5) *Flight of capital.* The prevention of the flight of capital outside this country, in coordination with the Secretary of Commerce, and the impounding of securities in the hands of enemy aliens.

Part 26—Small Business Administration

SECTION 2601 *Functions.* The Administrator of the Small Business Administration shall:

(1) *Prime contract authority.* Develop plans to administer a program for the acquisition of prime contracts by the Administration and, in turn, for negotiating or otherwise letting of subcontracts to capable small business concerns in an emergency.

(2) *Resource information.* Provide data on facilities, inventories, and potential production capacity of small business concerns to all interested agencies.

(3) *Procurement.* Develop plans to determine jointly with Federal procurement agencies, as appropriate, which defense contracts are to go to small business concerns and to certify to the productive and financial ability of small concerns to perform specific contracts, as required.

(4) *Loans for plant modernization.* Develop plans for providing emergency assistance to essential individual industrial establishments through direct loans or participation loans for the financing of production facilities and equipment.

(5) *Resource pools.* Develop plans for encouraging and approving small business defense production and research and development pools.

(6) *Financial assistance.* Develop plans to make loans, directly or in participation with private lending institutions, to small business concerns and to groups or pools of such concerns, to small business investment companies, and to State and local development companies to provide them with funds for lending to small business concerns, for defense and essential civilian purposes.

Part 27—Tennessee Valley Authority

SECTION 2701. Functions. The Board of Directors of the Tennessee Valley Authority shall:

(1) *Electric power.* Assist the Department of the Interior in the development of plans for the integration of the Tennessee Valley Authority power system into national emergency programs and prepare plans for the emergency management, operation, and maintenance of the system and for its essential expansion.

(2) *Waterways.* Assist the Interstate Commerce Commission, under the coordinating authority of the Secretary of Transportation, in the development of plans for integration and control of inland waterway transportation systems and, in cooperation with the Department of Defense and the Department of the Interior, prepare plans for the management, operation, and maintenance of the river control system in the Tennessee River and certain of its tributaries for navigation during an emergency.

(3) *Flood control.* Develop plans and maintain its river control operations for the prevention or control of floods caused by natural phenomena or overt and covert attack affecting the Tennessee River System and, in so doing, collaborate with the Department of Defense with respect to the control of water in the lower Ohio and Mississippi Rivers.

(4) *Emergency health services and sanitary water supplies.* Assist the Department of Health, Education, and Welfare in the development of plans and programs covering emergency health services, civilian health manpower, and health resources in the Tennessee Valley Authority area and, in collaboration with the Department of the Interior and the Department of Health, Education, and Welfare, prepare plans for the management, operation, and maintenance of the Tennessee River System consistent with the needs for sanitary public water supplies, waste disposal, and vector control.

(5) *Coordination of water use.* Develop plans for determining or proposing priorities for the use of water by the Tennessee Valley Authority in the event of conflicting claims arising from the functions listed above.

(6) *Fertilizer.* Assist the Department of Agriculture in the development of plans for the distribution and claimancy of fertilizer; assist the Department of Commerce and the Department of Defense in the development of Tennessee Valley Authority production quotas and any essential expansion of production facilities, and prepare plans for the management, operation, and maintenance of its facilities for the manufacture of nitrogen and phosphorous fertilizers.

(7) *Munitions production.* Perform chemical research in munitions as requested by the Department of Defense, maintain standby munitions production facilities, and develop plans for converting and utilizing fertilizer facilities as required in support of the Department of Defense's munitions program.

(8) *Land management.* Develop plans for the maintenance, management, and utilization of Tennessee Valley Authority-controlled lands in the interest of an emergency economy.

(9) *Food and forestry.* Assist the Department of Agriculture in the development of plans for the harvesting and processing of fish and game, and the Department of Commerce in the development of plans for the production and processing of forest products.

(10) *Coordination with Valley States.* Prepare plans and agreements with Tennessee Valley States, consistent with Federal programs, for appropriate integration of Tennessee Valley Authority and State plans for the use of available Tennessee Valley Authority resources.

Part 28—United States Civil Service Commission

SECTION 2801 *Functions.* The United States Civil Service Commission shall:

(1) *Personnel system.* Prepare plans for adjusting the Federal civilian personnel system to simplify administration and to meet emergency demands.

(2) *Utilization.* Develop policies and implementing procedures designed to assist Federal agencies in achieving the most effective utilization of the Federal Government's civilian manpower in an emergency.

(3) *Manpower policies.* As the representative of the Federal Government as an employer, participate, as appropriate, in the formulation of national and regional manpower policies as they affect Federal civilian personnel and establish implementing policies as necessary.

(4) *Manpower administration.* Prepare plans, in consonance with national manpower policies and programs, for the administration of emergency civilian manpower and employment policies within the executive branch of the Government, including the issuance and enforcement of regulations to implement such policies.

(5) *Wage and salary stabilization.* Participate, as appropriate, with the Office of Emergency Preparedness and the Department of Labor in the formulation of national and regional wage and salary stabilization policies as they affect Federal civilian personnel. Within the framework of such policies, prepare plans for the implementation of such policies and controls established for employees within the executive branch of the Government, including the issuance and enforcement of necessary regulations.

(6) *Assistance.* Develop plans for rendering personnel management and staffing assistance to new and expanding Federal agencies.

(7) *Recruiting.* Develop plans for the coordination and control of civilian recruiting policies and practices by all Federal agencies in order to increase the effectiveness of the total recruitment efforts during an emergency and to prevent undesirable recruitment practices.

(8) *Reassignment.* Develop plans to facilitate the reassignment or transfer of Federal civilian employees, including the movement of employees from one agency or location to another agency or location, in order to meet the most urgent needs of the executive branch during an emergency.

(9) *Registration.* Develop plans and procedures for a nationwide system of post-attack registration of Federal employees to provide a means for locating and returning to duty those employees who become physically separated from their agencies after an enemy attack, and to provide for the maximum utilization of the skills of surviving employees.

(10) *Deferment.* Develop plans and procedures for a system to control Government requests for the selective service deferment of employees in the executive branch of the Federal Government and in the municipal government of the District of Columbia.

(11) *Investigation.* Prepare plans, in coordination with agencies having responsibilities in the personnel security field, for the conduct of national agency checks and inquiries, limited suitability investigations, and full field investigations under emergency conditions.

(12) *Salaries, wages, and benefits.* Develop plans for operating under emergency conditions the essential aspects of salary and wage systems and such benefit systems as the Federal Employees Retirement System, the Federal Employees Group Life Insurance Program, the Federal Employees and Retired Federal Employees Health Benefits Programs, and the Federal Employees Compensation Program.

(13) *Federal manpower mobilization.* Assist Federal agencies in establishing manpower plans to meet their own emergency manpower requirements; identify major or special manpower problems of in-

dividual Federal agencies and the Federal Government as a whole in mobilizing a civilian work force to meet essential emergency requirements; identify sources of emergency manpower supply for all agencies where manpower problems are indicated; and develop Government-wide plans for the use of surplus Federal civilian manpower.

(14) *Distribution of manpower.* Participate in the formulation of policies and decisions on the distribution of the nation's civilian manpower resources, obtain appropriate civilian manpower data from Federal agencies, and establish necessary implementing policies and procedures within the Executive Branch.

(15) *Training.* Develop, organize, and conduct, as appropriate, interagency training programs in emergency personnel management for Federal employees.

Part 29—Veterans Administration

SECTION 2901 Functions. The Administrator of Veterans Affairs shall develop policies, plans, and procedures for the performance of emergency functions with respect to the continuation or restoration of authorized programs of the Veterans Administration under all conditions of national emergency, including attack upon the United States. These include:

(1) The emergency conduct of inpatient and outpatient care and treatment in Veterans Administration medical facilities and participation with the Departments of Defense and Health, Education, and Welfare as provided for in interagency agreements.

(2) The emergency conduct of compensation, pension, rehabilitation, education, and insurance payments consistent with over-all Federal plans for the continuation of Federal benefit payments.

(3) The emergency performance of insurance and loan guaranty functions in accordance with indirect stabilization policies and controls designed to deal with various emergency conditions.

Part 30—General Provisions

SECTION 3001 Resource Management. In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the Office of Emergency Preparedness under Executive Order No. 11051 of September 27, 1962, and subject to the provisions of the preceding parts, the head of each department and agency shall:

(1) *Priorities and allocations.* Develop systems for the emergency application of priorities and allocations to the production, distribution, and use of resources for which he has been assigned responsibility.

(2) *Requirements.* Assemble, develop as appropriate, and evaluate requirements for assigned resources, taking into account estimated needs for military, atomic energy, civilian, and foreign purposes. Such evaluation shall take into consideration geographical distribution of requirements under emergency conditions.

(3) *Evaluation.* Assess assigned resources in order to estimate availability from all sources under an emergency situation, analyze resource availabilities in relation to estimated requirements, and develop appropriate recommendations and programs, including those necessary for the maintenance of an adequate mobilization base. Provide data and assistance before and after attack for national resource analysis purposes of the Office of Emergency Preparedness.

(4) *Claimancy.* Prepare plans to claim from the appropriate agency supporting materials, manpower, equipment, supplies, and services which would be needed to carry out assigned responsibilities and other essential functions of his department or agency, and cooperate with other agencies in developing programs to insure availability of such resources in an emergency.

Sec. 3002 Facilities protection and warfare effects monitoring and reporting. In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the

Office of Emergency Preparedness under Executive Order No. 11051, and with the national civil defense plans, programs, and operations of the Department of Defense under Executive Order No. 10952, the head of each department and agency shall:

(1) *Facilities protection.* Provide facilities protection guidance material adapted to the needs of the facilities and services concerned and promote a national program to stimulate disaster preparedness and control in order to minimize the effects of overt or covert attack on facilities or other resources for which he has management responsibility. Guidance shall include, but not be limited to, organization and training of facility employees, personnel shelter, evacuation plans, records protection, continuity of management, emergency repair, dispersal of facilities, and mutual aid associations for an emergency.

(2) *Warfare effects monitoring and reporting.* Maintain a capability, both at national and field levels, to estimate the effects of attack on assigned resources and to collaborate with and provide data to the Office of Emergency Preparedness, the Department of Defense, and other agencies, as appropriate, in verifying and updating estimates of resource status through exchanges of data and mutual assistance, and provide for the detection, identification, monitoring and reporting of such warfare effects at selected facilities under his operation or control.

(3) *Salvage and rehabilitation.* Develop plans for salvage, decontamination, and rehabilitation of facilities involving resources under his jurisdiction.

(4) *Shelter.* In conformity with national shelter policy, where authorized to engage in building construction, plan, design, and construct such buildings to protect the public to the maximum extent feasible against the hazards that could result from an attack upon the United States with nuclear weapons; and where empowered to extend Federal financial assistance, encourage recipients of such financial assistance to use standards for planning design and construction which will maximize protection for the public.

SEC. 3003 *Critical skills and occupations.* (a) The Secretaries of Defense, Commerce, and Labor shall carry out the mandate of the National Security Council, dated February 15, 1963, to "maintain a continuing surveillance over the Nation's manpower needs and identify any particular occupation or skill that may warrant qualifying for deferment on a uniform national basis." In addition, the Secretaries of Defense, Commerce, Labor, and Health, Education, and Welfare shall carry out the mandate of the National Security Council to "maintain a continuing surveillance over the Nation's manpower and education needs to identify any area of graduate study that may warrant qualifying for deferment in the national interest." In carrying out these functions, the Secretaries concerned shall consult with the National Science Foundation with respect to scientific manpower requirements.

(b) The Secretaries of Commerce and Labor shall maintain and issue, as necessary, lists of all essential activities and critical occupations that may be required for emergency preparedness purposes.

SEC. 3004 *Research.* Within the framework of research policies and objectives established by the Office of Emergency Preparedness, the head of each department and agency shall supervise or conduct research in areas directly concerned with carrying out emergency preparedness responsibilities, designate representatives for necessary ad hoc or task force groups, and provide advice and assistance to other agencies in planning for research in areas involving each agency's interest.

SEC. 3005 *Stockpiles.* The head of each department and agency, with appropriate emergency responsibilities, shall assist the Office of Emergency Preparedness in formulating and carrying out plans for stockpiling of strategic and critical materials, and survival items.

Sec. 3006 *Direct Economic Controls.* The head of each department and agency shall cooperate with the Office of Emergency Preparedness and the Federal financial agencies in the development of emergency preparedness measures involving emergency financial and credit measures, as well as price, rent, wage and salary stabilization, and consumer rationing programs.

Sec. 3007 *Financial Aid.* The head of each department and agency shall develop plans and procedures in cooperation with the Federal financial agencies for financial and credit assistance to those segments of the private sector for which he is responsible in the event such assistance is needed under emergency conditions.

Sec. 3008 *Functional Guidance.* The head of each department and agency in carrying out the functions assigned to him by this order, shall be guided by the following:

(1) *National program guidance.* In consonance with the national preparedness, security, and mobilization readiness plans, programs, and operations of the Office of Emergency Preparedness under Executive Order No. 11051, and with the national civil defense plans, programs, and operations of the Department of Defense, technical guidance shall be provided to State and local governments and instrumentalities thereof, to the end that all planning concerned with functions assigned herein will be effectively coordinated. Relations with the appropriate segment of the private sector shall be maintained to foster mutual understanding of Federal emergency plans.

(2) *Interagency coordination.* Emergency preparedness functions shall be coordinated by the head of the department or agency having primary responsibility with all other departments and agencies having supporting functions related thereto.

(3) *Emergency preparedness.* Emergency plans, programs, and an appropriate state of readiness, including organizational readiness, shall be developed as an integral part of the continuing activities of each department or agency on the basis that that department or agency will have the responsibility for carrying out such plans and programs during an emergency. The head of each department or agency shall be prepared to implement all appropriate plans developed under this order. Modifications and temporary organizational changes, based on emergency conditions, shall be in accordance with policy determinations by the President.

(4) *Professional liaison.* Mutual understanding and support of emergency preparedness activities shall be fostered, and the National Defense Executive Reserve shall be promoted by maintaining relations with the appropriate non-governmental sectors.

Sec. 3009 *Training.* The head of each department and agency shall develop and direct training programs which incorporate emergency preparedness and civil defense training and information programs necessary to insure the optimum operational effectiveness of assigned resources, systems, and facilities.

Sec. 3010 *Emergency Public Information.* In consonance with such emergency public information plans and central program decisions of the Office of Emergency Preparedness, and with plans, programs, and procedures established by the Department of Defense to provide continuity of programming for the Emergency Broadcast System, the head of each department and agency shall:

(1) Obtain and provide information as to the emergency functions or assignments of the individual department or agency for dissemination to the American people during the emergency, in accordance with arrangements made by the Office of Emergency Preparedness.

(2) Determine requirements and arrange for prerecordings to provide continuity of program service over the Emergency Broadcast System so that the American people can receive information, advice, and guidance pertaining to the implementation of the civil defense and emergency preparedness plans or assignments of each individual department or agency.

SEC. 3011 *Emergency Actions.* This order does not confer authority to put into effect any emergency plan, procedure, policy, program, or course of action prepared or developed pursuant to this order. Plans so developed may be effectuated only in the event that authority for such effectuation is provided by a law enacted by the Congress or by an order or directive issued by the President pursuant to statutes or the Constitution of the United States.

SEC. 3012 *Redelegation.* The head of each department and agency is hereby authorized to redelegate the functions assigned to him by this order, and to authorize successive redelegations to agencies or instrumentalities of the United States, and to officers and employees of the United States.

SEC. 3013 *Transfer of Functions.* Any emergency preparedness function under this order, or parts thereof, may be transferred from one department or agency to another with the consent of the heads of the organizations involved and with the concurrence of the Director of the Office of Emergency Preparedness. Any new emergency preparedness function may be assigned to the head of a department or agency by the Director of the Office of Emergency Preparedness by mutual consent.

SEC. 3014 *Retention of Existing Authority.* Except as provided in Section 3015, nothing in this order shall be deemed to derogate from any now existing assignment of functions to any department or agency or officer thereof made by statute, Executive order, or Presidential directives, including Memoranda.

SEC. 3015 *Revoked Orders.* The following are hereby revoked:

- (1) Defense Mobilization Order VI-2 of December 11, 1953.
- (2) Defense Mobilization Order I-12 of October 5, 1954.
- (3) Executive Order No. 10312 of December 10, 1951.
- (4) Executive Order No. 10346 of April 17, 1952.
- (5) Executive Order No. 10997 of February 16, 1962.
- (6) Executive Order No. 10998 of February 16, 1962.
- (7) Executive Order No. 10999 of February 16, 1962.
- (8) Executive Order No. 11000 of February 16, 1962.
- (9) Executive Order No. 11001 of February 16, 1962.
- (10) Executive Order No. 11002 of February 16, 1962.
- (11) Executive Order No. 11003 of February 16, 1962.
- (12) Executive Order No. 11004 of February 16, 1962.
- (13) Executive Order No. 11005 of February 16, 1962.
- (14) Executive Order No. 11087 of February 26, 1963.
- (15) Executive Order No. 11088 of February 26, 1963.
- (16) Executive Order No. 11089 of February 26, 1963.
- (17) Executive Order No. 11090 of February 26, 1963.
- (18) Executive Order No. 11091 of February 26, 1963.
- (19) Executive Order No. 11092 of February 26, 1963.
- (20) Executive Order No. 11093 of February 26, 1963.
- (21) Executive Order No. 11094 of February 26, 1963.
- (22) Executive Order No. 11095 of February 26, 1963.
- (23) Executive Order No. 11310 of October 11, 1966.

THE WHITE HOUSE,

October 28, 1969.

Richard Nixon

Executive Order 10529—April 22, 1954**PARTICIPATION BY FEDERAL EMPLOYEES IN STATE AND LOCAL CIVIL DEFENSE PRE-EMERGENCY TRAINING PROGRAMS**

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the Federal Civil Defense Act of 1950, 64 Stat. 1245, as amended, it is hereby ordered as follows:

SECTION 1. In arranging for the use of personnel of Federal departments and agencies for civil-defense purposes in time of emergency and for their coordination with State and local civil-defense plans in consonance with the provisions of section 3 of Executive Order No. 10346¹ of April 17, 1952, the Federal Civil Defense Administrator, after consultation with the head of a department or agency, may recommend that the services of such personnel of the said department or agency as have volunteered their services and have been selected for civil-defense assignments be made available for participation in the program of a State or of any political sub-division thereof for training, prior to an emergency, in the performance of civil-defense duties.

SEC. 2. After consideration of the recommendation of the Federal Civil Defense Administrator, the head of a Federal department or agency, or such officer as the head thereof may designate, may from year to year authorize such of the said personnel of such department or agency as he may designate to participate in pre-emergency training programs and test exercises in cooperation with any State or political sub-division thereof, and such duties shall be performed on assignment by the particular Federal department or agency, subject to the following conditions:

(a) Personnel so assigned shall at all times remain subject to the administrative jurisdiction and control of their Federal department or agency;

(b) The period of official time that may be authorized for any such assignment pursuant to this order shall not exceed a total of forty working hours for any person during a calendar year; and

(c) There shall be satisfactory evidence from State or local civil defense authorities that such personnel served or participated in such programs or exercises pursuant to specific request of a public governmental body or organization established pursuant to and in accordance with a State civil defense law.

SEC. 3. During any period or periods in which such personnel shall be engaged in said civil-defense training duties under authority of this order, they shall continue to be compensated in usual course by their Federal department or agency, and shall continue in their status as Federal employees for all purposes. Where travel is involved in connection with the performance of such training duties, travel allowances and expenses may be authorized in accordance with the Standardized Government Travel Regulations.

SEC. 4. This order shall not be construed as restricting or limiting the activities of officers or employees of the Federal Civil Defense Administration in the performance of their functions and duties.

¹ Amended by Ex. Ord. 10773, 11051.

SEC. 5. As used in this Order:

(a) The term "personnel" shall mean persons who are in a full time pay status as civilian officers or employees of the United States Government.

(b) The term "State" shall mean any of the several States of the United States, the District of Columbia, each of the Territories and possessions of the United States, and the Commonwealth of Puerto Rico.

DWIGHT D. EISENHOWER

Executive Order 10705—April 17, 1957

DELEGATING CERTAIN AUTHORITY OF THE PRESIDENT RELATING TO RADIO STATIONS AND COMMUNICATIONS

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) Subject to the provisions of this order, the authority vested in the President by subsection 305 (a), and by subsections 606 (a), (c), and (d), of the Communications Act of 1934, as amended (47 U.S.C. 305 (a); 606 (a), (c), and (d)), is delegated to the Director of the Office of Defense Mobilization (hereinafter referred to as the Director).

(b) Without limiting the time of effect of the provisions of section 2 hereof, it is directed that the authority delegated by section 1 (a) of this order may be performed hereunder (1) in respect of the said subsections 305 (a) and 606 (a) *only during the continuance of a war in which the United States is engaged*, and (2) in respect of the said subsections 606 (c) and (d) *only upon proclamation by the President that there exists a state of war involving the United States*.

(c) The Director may issue such rules and regulations as he may deem necessary in connection with the authority delegated to him by subsection 1 (a) of this order.

(d) Nothing in this order shall be construed as authorizing the exercise of any authority with respect to the content of any station program or of communications transmitted by any communication facility.

SEC. 2. (a) Subject to the provisions of subsection 2 (b) of this order, the Director may, at any time after the issuance of this order, redelegate any authority delegated to him by section 1 of this order. Except as otherwise authorized by the said subsection 606 (a) of the Communications Act of 1934, as amended, any such redelegation shall be made only to an officer or officers of the executive branch of the Government *required to be appointed by the President by and with the advice and consent of the Senate*.

(b) The authority vested in the President by the said subsections 606 (c) and (d) and delegated to the Director by section 1 of this order to take over or use facilities or stations or to remove apparatus

(Emphasis added.)

or equipment from facilities or stations shall be exercised only by the Director or with his express approval in each case.

SEC. 3. This order shall not operate to terminate or modify the effect of any provision of any other Executive order, or of any rule, regulation, or other action, relating to any of the authority delegated by this order; but, subject to the respective limitations of time set forth in section 1 (b) of this order, authority to amend or revoke any such provision shall be deemed to be included within the authority delegated by section 1 of this order.

DWIGHT D. EISENHOWER

Executive Order 10863—Feb. 18, 1960

AUTHORIZING THE ATTORNEY GENERAL TO SEIZE ARMS AND MUNITIONS OF WAR, AND OTHER ARTICLES, PURSUANT TO SECTION I OF TITLE VI OF THE ACT OF JUNE 15, 1917, AS AMENDED

By virtue of the authority vested in me by section 1 of Title VI of the act of June 15, 1917, 40 Stat. 223, as amended by section 1 of the act of August 13, 1953, 67 Stat. 577 (22 U.S.C. 401), it is ordered as follows:

SECTION 1. *The Attorney General is hereby designated under section 1 of Title VI of the act of June 15, 1917, as amended by section 1 of the act of August 13, 1953, as a person duly authorized to seize and detain arms or munitions of war or other articles, and to seize and detain any vessel, vehicle, or aircraft containing such items or which has been, or is being, used in exporting or attempting to export such arms or munitions of war or other articles, whenever an attempt is made to export or ship from or take out of the United States such arms or munitions of war or other articles in violation of law, or whenever it is known, or there is probable cause to believe, that such arms or munitions of war or other articles are intended to be, or are being or have been, exported or removed from the United States in violation of law.*

SEC. 2. *The authority conferred upon the Attorney General by section 1 of this order may be exercised by any officer of the Department of Justice designated for such purpose by the Attorney General.*

DWIGHT D. EISENHOWER

(Emphasis added.)

Executive Order 10952—July 20, 1961

ASSIGNING CIVIL DEFENSE RESPONSIBILITIES TO THE SECRETARY OF DEFENSE AND OTHERS¹

WHEREAS the possibility of enemy attack upon the United States must be taken into account in developing our continental defense program; and

¹ Amended by Ex. Ord. 11051; see Ex. Ord. 10998, 11490, 11725.

WHEREAS following a thorough review and consideration of our military and nonmilitary defense activities, I have concluded that adequate protection of the civilian population requires a substantial strengthening of the Nation's civil defense capability; and

WHEREAS the rapid acceleration of civil defense activities can be accomplished most effectively and efficiently through performance by the regular departments and agencies of Government of those civil defense functions related to their established roles and capabilities; and

WHEREAS I have concluded that the undertaking of greatly accelerated civil defense activities, including the initiation of a substantial shelter program, requires new organizational arrangements;

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States and Commander in Chief of the armed forces of the United States, including the authority contained in the Federal Civil Defense Act of 1950, as amended, and other authorities of law vested in me pursuant to Reorganization Plan No. 1 of 1958, it is hereby ordered as follows:

SECTION 1. Delegation of Authority to the Secretary of Defense, (a) Except as hereinafter otherwise provided and as is reserved to the Office of Civil and Defense Mobilization in section 2 of this order, *the Secretary of Defense is delegated all functions (including as used in this order, powers, duties, and authority) contained in the Federal Civil Defense Act of 1950, as amended (hereinafter referred to as the Act), vested in me pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), subject to the direction and control of the President. Such functions to be performed by the Secretary of Defense, working as necessary or appropriate through other agencies by contractual or other agreements, as well as with State and local leaders, shall include but not be limited to the development and execution of:*

- (i) a fallout shelter program;
- (ii) a chemical, biological and radiological warfare defense program;
- (iii) all steps necessary to warn or alert Federal military and civilian authorities, State officials and the civilian population;
- (iv) all functions pertaining to communications, including a warning network, reporting on monitoring, instructions to shelters and communications between authorities;
- (v) emergency assistance to State and local governments in a post-attack period, including water, debris, fire, health, traffic police and evacuation capabilities;
- (vi) protection and emergency operational capability of State and local government agencies in keeping with plans for the continuity of government; and
- (vii) programs for making financial contributions to the States (including personnel and administrative expenses) for civil defense purposes.

(b) In addition to the foregoing, the Secretary shall:

- (i) develop plans and operate systems to undertake a nationwide postattack assessment of the nature and extent of the damage resulting from enemy attack and the surviving resources, including systems to

(Emphasis added.)

monitor and report specific hazards resulting from the detonation or use of special weapons; and

(ii) make necessary arrangements for the donation of Federal surplus property in accordance with section 203(j) (4) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j) (4)), subject to applicable limitations.

SEC. 2. Civil Defense Responsibilities of the Office of Civil and Defense Mobilization. The Director of the Office of Civil and Defense Mobilization shall

(a) advise and assist the President in:

(i) determining policy for, planning, directing and coordinating, including the obtaining of information from all departments and agencies, the total civil defense program;

(ii) reviewing and coordinating the civil defense activities of the Federal departments and agencies with each other and with the activities of the States and neighboring countries in accordance with section 201(b) of the Act;

(iii) determining the appropriate civil defense roles of Federal departments and agencies, and enlisting State, local and private participation, mobilizing national support, evaluating progress of programs, and preparing reports to the Congress relating to civil defense matters;

(iv) helping and encouraging the States to negotiate and enter into interstate civil defense compacts and enact reciprocal civil defense legislation in accordance with section 201(g) of the Act; and

(v) providing all practical assistance to States in arranging, through the Department of State, mutual civil defense aid between the States and neighboring countries in accordance with section 203 of the Act;

(b) develop plans, conduct programs and coordinate preparations for the continuity of Federal governmental operations in the event of attack; and

(c) develop plans, conduct programs and coordinate preparations for the continuity of State and local governments in the event of attack, which plans, programs and preparations shall be designed to assure the continued effective functioning of civilian political authority under any emergency condition.

SEC. 3. Excluded Functions. The following functions of the President under the provisions of the Act are excluded from delegations to the Secretary of Defense made by this order and are reserved to the President:

(a) Those under subsections (h) and (i) of section 201 of the Act (50 U.S.C. App. 2281 (h), (i)) to the extent that they pertain to medical stockpiles and food stockpiles.

(b) Those under the following provision of the Act; Sections 102(a), 201(b), and 402 and Title III.

SEC. 4. Transfer of property, Facilities, Personnel and Funds. Subject to applicable law, there shall be hereby transferred to the Secretary of Defense such portion of the property, facilities, and personnel of the Office of Civil and Defense Mobilization engaged in the performance of the civil defense responsibilities herein assigned to the Secretary of Defense as shall be agreed upon by the Secretary and the Director of the Office of Civil and Defense Mobilization together

with such portions of the funds currently available for those purposes as shall be approved by the Director of the Bureau of the Budget.

SEC. 5. Reports. The Secretary of Defense shall annually submit to the President a written report covering expenditures, contributions, activities, and accomplishments of the Secretary of Defense pursuant to this order.

SEC. 6. Redelegation. *The Secretary of Defense is hereby authorized to redelegate within the Department of Defense the functions hereinabove delegated to him.*

SEC. 7. Amendment. The Director of the Office of Civil and Defense Mobilization is hereby relieved of responsibilities under the Act except as otherwise provided herein, and the provisions of Executive Order No. 10773, as amended, are amended accordingly.

SEC. 8. Prior actions. (a) Except to the extent that they may be inconsistent with the provisions of this order, and except as particular Executive orders or other orders are amended, modified, or superseded by the provisions of this order, all determinations, authorizations, regulations, rulings, certificates, orders (including emergency preparedness orders), directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order, and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by the President or other appropriate authority; but, to the extent necessary to conform to the provisions of this order, any of the foregoing shall be deemed to refer to the Secretary of Defense or other appropriate officer or agency instead of, or in addition to, the Office of Civil and Defense Mobilization or the Director thereof.

(b) This order shall not terminate any delegation or assignment of any substantive (program) function to any delegate agency made by any emergency preparedness order heretofore issued by the Director of the Office of Civil and Defense Mobilization (26 F.R. 651-662; 835-840) (which emergency preparedness order shall remain in effect until amended or revoked by or at the specific direction of the President). No such emergency preparedness order shall limit the delegation or assignment of any substantive (program) function to the Secretary of Defense made by the foregoing sections of this order.

SEC. 9. Effective Date. This order shall become effective on the first day of August, 1961.

JOHN F. KENNEDY

(Emphasis added.)

Executive Order 10958—Aug. 14, 1961

DELEGATING FUNCTIONS RESPECTING CIVIL DEFENSE STOCKPILES OF MEDICAL SUPPLIES AND EQUIPMENT AND FOOD¹

By virtue of the authority vested in me by Reorganization Plan No. 1 of 1958¹ (72 Stat. 1799), and as President of the United States, it is ordered as follows:

¹ Amended by Ex. Ord. 11051; see Ex. Ord. 11400.

PART I. MEDICAL STOCKPILES

SECTION 101. Delegation of functions. Certain functions under the Federal Civil Defense Act of 1950, as amended (which were *transferred to the President* by the provisions of Reorganization Plan No. 1 of 1958 (72 Stat. 1799), *are hereby delegated to the Secretary of Health, Education, and Welfare*, hereafter in this Part referred to as the Secretary, as follows:

(a) All functions (including, as used in this order, powers, duties, and authority) under section 201(h) of that Act, 50 U.S.C. App. 2281 (h), to the extent that they pertain to the stockpiling of medical supplies and equipment.

(b) To the extent that they are incidental to or necessary for the performance by or under the Secretary of the functions delegated by the provisions of section 101(a) of this order, other functions under the Federal Civil Defense Act of 1950, as amended, excluding, however, functions under sections 102(a), 201(b), and 402 and Title III of that Act.

SEC. 102. Redlegation. *The Secretary may redelegate any of the functions delegated to him by this order to any of his subordinates.*

PART II. FOOD STOCKPILES

SEC. 201. Delegation of functions. Certain functions under the Federal Civil Defense Act of 1950, as amended (which were transferred to the President by the provisions of Reorganization Plan No. 1 of 1958 (72 Stat. 1799)), *are hereby delegated to the Secretary of Agriculture*, hereafter in this Part referred to as the Secretary, as follows:

(a) All functions under section 201(h) of that Act, 50 U.S.C. App. 2281 (h), to the extent that they pertain to the stockpiling of food.

(b) To the extent that they are incidental to or necessary for the performance by or under the Secretary of the functions delegated by the provisions of section 201(a) of this order, other functions under the Federal Civil Defense Act of 1950, as amended, excluding, however, functions under sections 102(a), 201(b), and 402 and Title III of that Act.

SEC. 202. Redlegation. *The Secretary may redelegate any of the functions delegated to him by this order to any of his subordinates.*

PART III. GENERAL PROVISIONS

SEC. 301. Relationships with other agencies. The responsibilities of the Director of the Office of Civil and Defense Mobilization in respect of the functions delegated by the provisions of Parts I and II of this order shall be those stated in section 2(a) of Executive Order No. 10952 of July 20, 1961 (26 F.R. 6577).

SEC. 302. Property, personnel, and records. Subject to law, property, personnel, and records of the Office of Civil and Defense Mobilization shall be transferred as follows:

(a) To the Department of Health, Education, and Welfare, so much thereof, related to the functions delegated by the provisions of Part I of this order, as may be determined jointly by the Secretary of Health, Education, and Welfare and the Director of the said Office.

(Emphasis added.)

(b) To the Department of Agriculture, so much thereof, related to the functions delegated by the provisions of Part II of this order, as may be determined jointly by the Secretary of Agriculture and the said Director.

SEC. 303. Funds. There shall be transferred to the Department of Agriculture and to the Department of Health, Education, and Welfare so much of the appropriations, allocations, and other funds (available or to be made available) of the Office of Civil and Defense Mobilization as shall be determined in pursuance of the provisions of section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b)) and section 1(k) of Executive Order No. 10580 of May 10, 1954.

SEC. 304. Prior Executive orders. Exclusive of Executive Order No. 10952 of July 20, 1961, all prior Executive orders (including Executive Order No. 10773 of July 1, 1958, as amended, and Executive Order No. 10902 of January 9, 1961) are hereby superseded to the extent that, immediately prior to the issuance of this order and in respect of the functions delegated by the provisions of Parts I and II of this order (to the extent there delegated), they delegate or otherwise assign, or authorize the delegation or other assignment of, functions or subject, or authorize the subjection of, the performance of functions to supervision, direction, control, or coordination.

SEC. 305. Other prior actions. Except to the extent that they may be inconsistent with the provisions of this order, and except to the extent revoked, superseded or otherwise rendered inapplicable before the date of this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions heretofore made, issued, or entered into with respect to any function delegated by the provisions of Part I or of Part II of this order (to the extent there delegated) *shall continue in effect until such time as the Secretary of Health, Education, and Welfare or the Secretary of Agriculture, as the case may be, under the authority of this order, shall amend, modify, or terminate them.* The status of prior Executive orders shall be governed by the provisions of section 304 of this order.

JOHN F. KENNEDY

(Emphasis added.)

Executive Order 11179—Sept. 22, 1964

PROVIDING FOR THE NATIONAL DEFENSE EXECUTIVE RESERVE ¹

By virtue of the authority vested in me by the Constitution and statutes of the United States, including Section 703(a) and 710(e) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2153 (a); 2160(e)), and as President of the United States, it is hereby ordered as follows:

SECTION 1. There shall be in the Executive Branch of the Government a National Defense Executive Reserve composed of persons

¹ See Ex. Ord. 11725.

selected from various segments of the civilian economy and from government for training for employment in executive positions in the Federal Government *in the event of the occurrence of an emergency* that requires such employment.

SEC. 2. The Director of the Office of Emergency Planning (hereinafter referred to as the Director) shall administer the Executive Reserve program; coordinate the activities of other agencies in establishing units of the Reserve; provide for appropriate standards of recruitment and training; approve prospective members of the Executive Reserve; and issue necessary rules and regulations in connection with the program.

SEC. 3. The Director, in carrying out his responsibilities under this order, may utilize the services of other departments and agencies in the maintenance of agency and centralized rosters and in the development of training programs and materials.

SEC. 4. (a) *The head of any department or agency of the Government* (hereinafter referred to as a Secretary), designated by the Director after appropriate consultation, *may establish a unit of the Executive Reserve* (hereinafter referred to as Executive Reserve Units) in his respective department or agency.

(b) Executive Reserve Units existing under Executive Order No. 10660 of February 15, 1956, as amended, on the date of this order shall henceforth be deemed to be Executive Reserve Units under this order.

SEC. 5. Membership in Executive Reserve Units shall be subject to the following:

(1) Subject to the provisions of this order, particularly paragraph (4) of this section, an individual who on the date of this order was a member of an Executive Reserve Unit under Executive Order No. 10660 may continue to serve therein without further designation.

(2) A Secretary desiring to designate an individual to serve as a member of an Executive Reserve Unit of his department or agency shall submit the name of the prospective designee to the Director for approval. Upon approval of the prospective designee by the Director, *the Secretary concerned may designate the individual as a member of the Executive Reserve Unit of his department or agency.*

(3) An individual whose membership in an Executive Reserve Unit has at any time expired, or is at any time about to expire, under the terms of this order *may be redesignated as a member under the procedure set forth in paragraph (2) of this section.*

(4) Without limiting the authority of the respective Secretaries to terminate the membership of any individual in an Executive Reserve Unit at any time, it is directed that continued service of a member under paragraph (1) of this section, and the designation or redesignation of a member under paragraph (2) or (3) of this section, respectively (including any designation of an individual occurring at the expiration of his continued service under paragraph (1)), shall be for a period not to exceed three years.

SEC. 6. Activities of any person by reason of his continuance, designation, or redesignation as an Executive Reservist under this order shall not include acting or advising on any matter pending before any

(Emphasis added.)

department or agency but shall be limited to receiving training for mobilization assignments under the Reserve program.

SEC. 7. The Director shall report to the President annually, and at such other times as may be appropriate, on the status and operation of the Executive Reserve program.

SEC. 8. Executive Order No. 10660 of February 15, 1956, entitled "Providing for the Establishment of a National Defense Executive Reserve," as amended, is hereby superseded.

LYNDON B. JOHNSON

Executive Order 11485—Oct. 1, 1969

**SUPERVISION AND CONTROL OF THE NATIONAL GUARD
OF THE DISTRICT OF COLUMBIA**

By virtue of the authority vested in me as President of the United States and Commander-in-Chief of the Armed Forces of the United States and the National Guard of the District of Columbia under the Constitution and laws of the United States, including section 6 of the Act of March 1, 1889, 25 Stat. 773 (District of Columbia Code, sec. 39-112), and section 110 of title 32 and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. *The Secretary of Defense, except as provided in section 3, is authorized and directed to supervise, administer and control the Army National Guard and the Air National Guard of the District of Columbia (hereinafter "National Guard") while in militia status. The Commanding General of the National Guard shall report to the Secretary of Defense or to an official of the Department of Defense designated by the Secretary on all matters pertaining to the National Guard. Through the Commanding General, the Secretary of Defense shall command the military operations, including training, parades and other duty, of the National Guard while in militia status. Subject to the direction of the President as Commander-in-Chief, the Secretary may order out the National Guard under title 39 of the District of Columbia Code to aid the civil authorities of the District of Columbia.*

SEC. 2. *The Attorney General is responsible for: (1) advising the President with respect to the alternatives available pursuant to law for the use of the National Guard to aid the civil authorities of the District of Columbia; and (2) for establishing after consultation with the Secretary of Defense law enforcement policies to be observed by the military forces in the event the National Guard is used in its militia status to aid civil authorities of the District of Columbia.*

SEC. 3. *The Commanding General and the Adjutant General of the National Guard will be appointed by the President. The Secretary of Defense, after consultation with the Attorney General, shall at such times as may be appropriate submit to the President recommendations with respect to such appointments.*

SEC. 4. *The Secretary of Defense and the Attorney General are authorized to delegate to subordinate officials of their respective*

Departments any of the authority conferred upon them by this order.

SEC. 5. Executive Order No. 10030 of January 26, 1949, is hereby superseded.

RICHARD NIXON

Executive Order 11522—April 6, 1970

ASSIGNING EMERGENCY PREPAREDNESS FUNCTIONS TO THE UNITED STATES INFORMATION AGENCY¹

By virtue of the authority vested in me as President of the United States, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, Executive Order No. 11490 of October 28, 1969, is amended by inserting immediately after Part 28 a new Part 28A, as follows:

"PART 28A. UNITED STATES INFORMATION AGENCY

"SECTION 2850. Functions. (a) The Director of the United States Information Agency shall prepare national emergency plans and develop preparedness programs for the continuation of essential emergency foreign information activities. These plans and programs shall be designed to develop a state of readiness which will permit continuing necessary activities under all conditions of national emergency including attack upon the United States.

"(b) The Director shall (1) develop plans for the formulation and execution of foreign information programs utilizing the Agency's overseas posts and all media designed to promote an intelligent understanding abroad of the status of the emergency within the United States and the efforts, policies, activities, needs, and aims of the United States in dealing with the international situation then existing; (2) develop emergency plans and programs, and emergency organizational structures required thereby, as an integral part of the continuing activities of the United States Information Agency on the basis that it will have the responsibility for carrying on such programs during an emergency; (3) provide and maintain the capability necessary for simultaneous direct radio broadcasting in major world languages to all areas of the world and wireless teletype to all United States Embassies; (4) provide advice to the Executive Branch on foreign opinion, and its implications for United States policies, programs, and official statements; (5) maintain liaison with the information agencies of friendly nations for the purpose of relating the United States Government information programs and facilities to those of such nations; (6) participate in the development of policy with regard to the psychological aspects of defense and develop plans for assisting the appropriate agencies in the execution of psychological operations with special attention to overseas crises short of war;

¹ See Ex. Ord. 11490.

(Emphases added.)

(7) maintain United States Information Service staffs abroad for the conduct of public information for all agencies of the Government, recognizing that in a theater of operations the United States Information Agency would make available to the appropriate Commander all United States citizen personnel on the staff of the Agency, who agree to remain, to serve in support of psychological operations; and (8) lend appropriate support in psychological warfare to the military command in the theater or theaters of active military operations, and provide daily guidance and basic informational materials.

“(c) The Director shall insure development of appropriate plans necessary under this Part and issue emergency instructions required to implement all appropriate plans developed under this Part.”

RICHARD NIXON

Executive Order 11526—April 22, 1970

ESTABLISHING THE NATIONAL COUNCIL ON FEDERAL DISASTER ASSISTANCE¹

WHEREAS the Congress has enacted a number of statutory provisions authorizing Federal assistance to areas devastated by large-scale disasters; and

WHEREAS the Federal Disaster Act (P.L. 81-875), the Federal Disaster Relief Act of 1966 (P.L. 89-769), and the Disaster Relief Act of 1969 (P.L. 91-79) are, *pursuant to delegations of authority by the President*, administered by the Director of the Office of Emergency Preparedness; and

WHEREAS the Departments of Defense, the Interior, Commerce, Agriculture, Labor, Health, Education, and Welfare, Housing and Urban Development, and Transportation, and the Small Business Administration and the Office of Economic Opportunity, also administer important disaster assistance programs; and

WHEREAS a prompt and effective Federal response to a major disaster requires coordinated action by all of the Federal agencies involved; and

WHEREAS Federal coordination will be served by the establishment of a National Council on Federal Disaster Assistance:

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

SECTION 1. Establishment of Council. (a) There is hereby established the National Council on Federal Disaster Assistance (hereinafter referred to as the “Council”) which shall be composed of the Director of the Office of Emergency Preparedness, who shall be the Chairman of the Council, and policy level representatives of the Departments of Defense, the Interior, Agriculture, Commerce, Labor, Health, Education, and Welfare, Housing and Urban Development, and Transportation, and of the Small Business Administration and the Office of Economic Opportunity, and *such other members as the President may from time to time designate.*

¹ See Ex. Ord. 11725.

(b) Representatives of other Federal departments or agencies, officials of State and local governments, and private citizens may be invited by the Chairman to participate in the deliberations of the Council.

SEC. 2. Function of the Council. The Council shall advise and assist the Director of the Office of Emergency Preparedness in:

(a) Insuring that Federal agencies furnish necessary assistance following a large-scale disaster on a priority basis to *the Federal Coordinating Officer appointed by the President* to operate under the Director, Office of Emergency Preparedness, pursuant to Section 9 of the Disaster Relief Act of 1969;

(b) Developing policies and programs to provide a strong and integrated total Federal disaster assistance effort;

(c) Stimulating cooperation and the sharing of data, views, and information concerning disaster assistance among Federal agencies, State and local governments, and private organizations having disaster assistance responsibilities and interests;

(d) Facilitating cooperation among Federal, State, and local governments with special concern for the maintenance of local initiative and decision making with respect to emergency restoration and rebuilding programs;

(e) Promoting the participation of Federal agencies in providing Federal assistance for rebuilding efforts;

(f) Encouraging research on means of preventing disasters and ameliorating the effects of those that occur;

(g) Reviewing, from time to time, the effectiveness of the Federal disaster assistance programs and suggesting needed changes.

SEC. 3. Assistance to the Council. Consistent with law, the Office of Emergency Preparedness shall provide staff and other assistance to the Council, and Executive departments and agencies shall furnish to the Council such available information as the Council may require in performance of its functions.

SEC. 4. Construction. Nothing in this order shall be construed as subjecting any Federal agency or officer, or any function vested by law in, or assigned pursuant to law to, any Federal agency or officer, to the authority of the Council or of any other agency or officer or as abrogating any such function in any manner.

RICHARD NIXON

Executive Order 11556—Sept. 4, 1970

ASSIGNING TELECOMMUNICATIONS FUNCTIONS¹

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, and in consonance with the intention expressed in my message to the Congress transmitting Reorganization Plan No. 1 of 1970, it is hereby ordered as follows:

¹ See Ex. Ord. 10705, 11051, 11490, and 11725.
(Emphasis added.)

SECTION 1. Amended and superseded orders. Executive Orders Nos. 10705 of April 17, 1957, 11051 of September 27, 1962, 11191 of January 4, 1965, and 11490 of October 28, 1969, and the President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413) are amended as provided herein. Executive Orders Nos. 10695-A of January 16, 1957, 10995 of February 16, 1962, and 11084 of February 15, 1963, to the extent not heretofore made inapplicable, are hereby revoked.

SEC. 2. General functions. Subject to the authority and control of the President, the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director) shall:

(a) Serve as the President's principal adviser on telecommunications.

(b) Develop and set forth plans, policies, and programs with respect to telecommunications that will promote the public interest, support national security, sustain and contribute to the full development of the economy and world trade, strengthen the position and serve the best interests of the United States in negotiations with foreign nations, and promote effective and innovative use of telecommunications technology, resources, and services. Agencies shall consult with the Director to insure that their conduct of telecommunications activities is consistent with the Director's policies and standards.

(c) *Assure that the executive branch views are effectively presented to the Congress and the Federal Communications Commission on telecommunications policy matters.*

(d) Coordinate those interdepartmental and national activities which are conducted in preparation for U.S. participation in international telecommunications conferences and negotiations, and provide to the Secretary of State advice and assistance with respect to telecommunications in support of the Secretary's responsibilities for the conduct of foreign affairs.

(e) *Coordinate the telecommunications activities of the executive branch and formulate policies and standards therefor, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.*

(f) *Evaluate by appropriate means, including suitable tests, the capability of existing and planned telecommunications systems to meet national security and emergency preparedness requirements, and report the results and any recommended remedial actions to the President and the National Security Council.*

(g) Review telecommunications research and development, system improvement and expansion programs, and programs for the testing, operation, and use of telecommunications systems by Federal agencies. Identify competing, overlapping, duplicative or inefficient programs, and make recommendations to appropriate agency officials and to the Director of the Office of Management and Budget concerning the scope and funding of telecommunications programs.

(h) *Coordinate the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, and be prepared to administer such*

(Emphasis added.)

resources in any emergency under the overall policy direction and planning assumptions of the Director of the Office of Emergency Preparedness.

(i) Develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

(j) Conduct and coordinate economic, technical, and systems analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

(k) Conduct studies and analyses to evaluate the impact of the convergence of computer and communications technologies, and recommend needed actions to the President and to the departments and agencies.

(l) Coordinate Federal assistance to State and local governments in the telecommunications area.

(m) Contract for studies and reports related to any aspect of his responsibilities.

SEC. 3. Frequency assignments. The functions transferred to the Director by section 1 of Reorganization Plan No. 1 of 1970 include the functions of amending, modifying, and revoking frequency assignments for radio stations belonging to and operated by the United States, or to classes thereof, which have heretofore been made or which may be made hereafter.

SEC. 4. War powers. Executive Order No. 10705 of April 17, 1957, headed "Delegating Certain Authority of the President Relating to Radio Stations and Communications", as amended, is further amended by:

(a) Substituting for subsection (a) of section 1 the following: "(a) Subject to the provisions of this order, *the authority vested in the President by subsections 606 (a), (c), and (d) of the Communications Act of 1934, as amended (47 U.S.C. 606 (a), (c) and (d)), is delegated to the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director). That authority shall be exercised under the overall policy direction of the Director of the Office of Emergency Preparedness.*"

(b) Substituting for the text "subsections 305(a) and 606(a)" in subsection (b) of section 1 the following: "subsection 606(a)".

SEC. 5. Foreign government radio stations. The authority to authorize a foreign government to construct and operate a radio station at the seat of government vested in the President by subsection 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305(d)), is hereby delegated to the Director. Authorization for the construction and operation of a radio station pursuant to this subsection and the assignment of a frequency for its use shall be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

SEC. 6. Office of Emergency Preparedness. (a) Executive Order No. 11051 of September 27, 1962, headed "Prescribing Responsibilities of

(Emphasis added.)

the Office of Emergency Planning in the Executive Office of the President", as amended, is further amended by:

(1) Deleting subsection 301(4) and renumbering subsection 301(5) as subsection 301(4).

(2) Substituting for section 306 the following:

"**SEC. 306. Emergency telecommunication.** *The Director shall be responsible for providing overall policy guidance to the Director of the Office of Telecommunications Policy in planning for the mobilization of the Nation's telecommunications resources in time of national emergency.*"

(3) Deleting section 406.

SEC. 7. Emergency preparedness. Executive Order No. 11490 of October 28, 1969, headed "Assigning emergency preparedness functions to Federal departments and agencies," as amended, is hereby further amended (1) by substituting "Policy (35 F.R. 6421)" for "Management (OEP)" in section 401(27), and (2) by substituting the number of this order for "10995" in section 1802 and in section 2002(3).

SEC. 8. National Communications System. The President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413), is amended by:

(a) Substituting the following for the first paragraph after the heading "Executive Office Responsibilities":

"The Director of the Office of Telecommunications Policy shall be responsible for policy direction of the development and operation of the National Communications System and shall:"

(b) Substituting the term "Director of the Office of Telecommunications Policy" for the term "Special Assistant to the President for Telecommunications" wherever it appears in said memorandum.

SEC. 9. Communications Satellite Act of 1962. Executive Order No. 11191 of January 4, 1965, headed "Providing for the Carrying Out of Certain Provisions of the Communications Satellite Act of 1962", is amended by:

(a) Substituting the following for subsection (c) of section 1:

"(c) The term 'the Director' means the Director of the Office of Telecommunications Policy.", and

(b) Substituting the following for the catchline of section 2: "Director of the Office of Telecommunications Policy."

SEC. 10. Advisory committees. As may be permitted by law, the Director shall establish such interagency advisory committees and working groups composed of representatives of interested agencies and consult with such departments and agencies as may be necessary for the most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Director. As may be permitted by law, the Director also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

SEC. 11. Rules and regulations. The Director shall issue such rules and regulations as may be necessary to carry out the duties and responsibilities *delegated to or vested in him by this order.*

(Emphasis added.)

SEC. 12. Agency assistance. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Director and to furnish him such information, support and assistance, not inconsistent with law, as he may require in the performance of his duties.

SEC. 13. Functions of the Secretary of Commerce. The Secretary of Commerce shall support the Director in the performance of his functions, shall be a primary source of technical research and analysis and, operating under the policy guidance and direction of the Director, shall:

(a) Perform analysis, engineering and administrative functions, including the maintenance of necessary files and data bases, responsive to the needs of the Director in the performance of his responsibilities for the management of the radio spectrum.

(b) Conduct technical and economic research upon request to provide information and alternatives required by the Director.

(c) Conduct research and analysis on radio propagation, radio systems characteristics, and operating techniques affecting the utilization of the radio spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

(d) Conduct research and analysis in the general field of telecommunication sciences in support of other Government agencies as required and in response to specific requests from the Director.

(e) Conduct such other activities as may be required by the Director to support him in the performance of his functions.

SEC. 14. Retention of existing authority. (a) Nothing contained in this order shall be deemed to impair any existing authority or jurisdiction of the Federal Communications Commission. In carrying out his functions under this order, the Director shall coordinate his activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as the regulator of the private sector.

(b) Except as specifically provided herein, nothing in this order shall be deemed to derogate from any existing assignment of functions to any other department or agency or officer thereof made by statute, Executive order, or other Presidential directives.

RICHARD NIXON

Executive Order 11575—Dec. 31, 1970

**PROVIDING FOR THE ADMINISTRATION OF THE DISASTER
RELIEF ACT OF 1970**

By virtue of the authority vested in me by the Disaster Relief Act of 1970, hereinafter referred to as the Act, and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Section 1. (a) *The authorities vested in the President* by section 102(1) of the Act to declare a major disaster, by section 251 of the Act

(Emphasis added.)

to provide for the restoration of Federal facilities, and *by section 253 of the Act to prescribe time limits for granting priorities for certain public facilities and certain public housing assistance are reserved to the President.*

(b) Except as otherwise provided in subsections (a), (c), and (d) of this section, *the Director of the Office of Emergency Preparedness is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by the Act.*

(c) *The Secretary of Defense is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 210 of the Act concerning the utilization and availability of the civil defense communications system for the purpose of disaster warnings.*

(d) *The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 238 of the Act concerning food coupons and surplus commodities.*

Sec. 2. *The Director of the Office of Emergency Preparedness may delegate or assign to the head of any agency of the executive branch of the Government, subject to the consent of the agency head concerned in each case, any authority or function delegated or assigned to the Director by the provisions of this order. Any such head of agency may redelegate any authority or function so delegated or assigned to him by the Director to any officer or employee subordinate to such head of agency whose appointment is required to be made by and with the advice and consent of the Senate.*

Sec. 3. Rules, regulations, procedures, and documents issued under the authority of the Act of September 30, 1950 (64 Stat. 1109); the Disaster Relief Act of 1966 (80 Stat. 1316); and the Disaster Relief Act of 1969 (83 Stat. 125) shall remain in effect for purposes of the Act unless otherwise modified, superseded, or revoked by the appropriate Federal official, and, unless inappropriate, all references in those rules, regulations, procedures, and documents or in any Executive order or other document to the Act of September 30, 1950, the Disaster Relief Act of 1966, or the Disaster Relief Act of 1969 shall be deemed to be references to the Act.

Sec. 4. In order to assure the most effective utilization of the personnel, equipment, supplies, facilities, and other resources of Federal agencies pursuant to the Act, agencies shall make and maintain suitable plans and preparations in anticipation of their responsibilities in the event of a major disaster. The Director of the Office of Emergency Preparedness shall coordinate, on behalf of the President, such plans and preparations.

Sec. 5. Executive Order No. 10427 of January 16, 1953, Executive Order No. 10737 of October 29, 1957, and Executive Order No. 11495 of November 18, 1969, are hereby revoked. Unless inappropriate, any reference to those Executive orders in any rule, regulation, procedure, document, or other Executive order, shall be deemed to be a reference to this Executive order.

RICHARD NIXON

(Emphasis added.)

Executive Order 11589—April 1, 1971**DELEGATING TO THE UNITED STATES CIVIL SERVICE COMMISSION
CERTAIN AUTHORITIES OF THE PRESIDENT UNDER THE INTERGOV-
ERNMENTAL PERSONNEL ACT OF 1970 AND THE FEDERAL CIVIL
DEFENSE ACT OF 1950**

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. The United States Civil Service Commission is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(a) The authority of the President under section 3376 of title 5 of the United States Code to prescribe regulations for the administration of subchapter VI, "Assignments to and from States," of chapter 33 of that title.

(b) The authority of the President under section 205(a) (4) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286 (a) (4)) and as affected by Reorganization Plan No. 1 of 1958 (72 Stat. 1799), relating to the establishment and maintenance of personnel standards on the merit basis.

Sec. 2. To the extent that section 1(b) of this order is inconsistent with the provisions of Executive Order No. 10952 of July 20, 1961, as amended, section 1(b) shall control.

RICHARD NIXON

Government Publications And Their Use

LAURENCE F. SCHMECKEBIER

AND

ROY B. EASTIN

Revised Edition

The Brookings Institution—Washington, D.C.

WAR LEGISLATION*

The war legislation enacted prior to December 1917, as well as presidential proclamations, executive orders, and analogous legislation since 1775 by the United States, the several states, and the Confederate states, is collected in the volume published by the Department of Justice entitled *Emergency Legislation Passed Prior to December 1917 Dealing with the Control and Taking of Private Property for the Public Use, Benefit or Welfare . . .*, by J. Reuben Clark, Jr., 1919 (1,150 pages). There were two editions of this publication—one of 1,150 pages with title as indicated above and a second of 110 + 1,150 pages with one title page reading “Emergency Legislation . . . Summary Memorandum,” and a second title page as noted above. The two editions are identical with the exception of the 110 additional pages in the second edition.

The laws and regulations governing World War II are contained in several publications.

The legislative history, amendments, appropriations, cognates, and prior instruments of security are contained in a five-volume monograph entitled *The Selective Service Act*, published by the Selective Service System, 1954. These volumes contain the following material:

Vol. 1 and 2. Text, Chaps. I-XXIV, 797 pp.

Vol. 3. Apps. A-B, 488 pp. This volume contains background instruments of security from 1181 A.D. through Aug. 31, 1918, and legislative foreground documents from June 4, 1920, through Aug. 5, 1940.

Vol. 4. Apps. B-D, 307 pp. This is a continuation of Vol. 3 and covers the legislative foreground documents through Jan. 2, 1941, and the Selective Service Act from Sept. 16, 1940, through amendments to 1954.

Vol. 5. Apps. E-F, 301 pp. This volume contains the appropriations for and cognates of the Selective Service Act, a bibliography, and subject and name indexes.

(Emphasis added.)

*Excerpts from pages 235-238.

The Office of the Judge Advocate General of the Army prepared a publication for the use of the Committee on Military Affairs, United States Senate, 79th Congress, January 1945 (275 pages). This publication contains *The National Defense Act*, approved June 8, 1916, and the *Pay Readjustment Act*, approved June 16, 1942, both with amendments to January 1, 1945, and army-navy pay tables.

The principal statutes conferring war powers with particular reference to the circumstances of their termination are contained in *Report to the President by the Attorney General Concerning the Limitation, Suspension, or Termination of Emergency, National Defense and War Legislation*, Department of Justice, 1945 (97 pages).

Bulletin No. 5, *Acts of Congress Applicable in Time of Emergency as of April 12, 1941*, Legislative Reference Service, Library of Congress, 1941 (58 pages), contains a brief analysis of those provisions of federal law which are specifically applicable in time of emergency, including war.

The Federal Bureau of Investigation, Department of Justice, compiled the *Statutes, Proclamations and Executive Orders Pertaining to National Defense Matters*, 1941 (108 pages). This publication contains statutes defining criminal offenses, statutes relating to nationality and naturalization, aliens, manner of enforcement, proclamations, and executive orders.

A compilation of statutes, executive orders, regulations, and other documents relating to the construction, financing, operation, and maintenance of community facilities under the Lanham Act, as amended, are contained in *War Public Works*, Office of General Counsel, Federal Works Agency, 1943 (171 pages).

Laws relating to the control of prices are contained in *Price Control Laws and Executive Orders*, as amended, Office of Price Administration, 1946 (65 pages).

A selective list of statutes, proclamations, and executive orders pertaining specifically to World War II and the emergency of 1947-48 is contained in *Tabulation of War Emergency Legislation Relating to the Navy*, Revision 3, 1948, Office of the Judge Advocate General (21 pages).

Laws, executive orders, etc. pertaining to safeguarding military information are included in *Military Security*, Army Regulation No. 380-10, Department of the Army, 1951 (39 pages).

The National Security Act of 1947 as amended to August 1953, Committee Print 3, 83d Congress, 1st session, 1953 (38 pages), includes the National Security Act amendments of 1949, 1952, and 1953, as well as Reorganization Plan No. 6 of 1953.

To inform the general public of their responsibilities under federal laws relating to sabotage, espionage, etc., the Department of Defense issued a small brochure entitled *Federal Laws Covering Espionage, Sabotage, and Subversive Activities*, 1953 (12 pages).

A reference manual on all phases of the problem of protecting our internal security is found in the *Internal Security Manual, Revised*, Senate Document 40, 84th Congress, 1st session, 1955 (409 pages). This manual contains the provisions of federal statutes, executive orders, and congressional resolutions relating to the internal security of the United States through June 30, 1955, and is a revision of Senate Document 47, 83d Congress, 1st session.

PROCLAMATIONS AND EXECUTIVE ORDERS*

While proclamations and executive orders are published in separate series, they overlap in content, and for that reason are discussed together.

Under many statutes the President is given specific power to take certain action, and his action is formally expressed in a proclamation or an executive order. There is no hard-and-fast distinction between a proclamation and an executive order, but proclamations are generally used for matters of widespread interest, although some executive orders have had as far-reaching effects as proclamations. In some cases the law specifically says that the President shall "proclaim," and in such cases the proclamation is necessarily used. In other cases, such as a recommendation for the observance of Fire Prevention Week, the proclamation has no legal effect, but is merely an appeal to the public.

Executive orders have a wide scope, ranging from the authorization of the appointment of a chairwoman in a local post office (No. 6420) to prescribing rules and regulations under the Trading-with-the-Enemy Act (No. 2796). Most of them relate to the conduct of government business or to organization of the executive departments, but many have a wider significance. Most of the emergency agencies created in 1933 were established by executive order. The codes of fair competition authorized by Title I of the National Industrial Recovery Act (June 16, 1933) were approved by means of executive orders, but the details of the codes were published separately by the National Recovery Administration.

An executive order has never been defined by law or regulation. In a general sense every act of the President authorizing or directing that an act be performed is an executive order, but there are legitimate differences of opinion regarding the papers that should be included in such a classification. In 1907 the State Department began the numbering of executive orders, assigning numbers to those previously issued.¹ As the numbered executive orders by 1936 amounted to less than 8,000, it is evident that all the earlier papers that might fall in this group have not been taken into consideration. On March 31, 1936, the Secretary of the Interior informed the Senate Committee on the Judiciary that there "are estimated to be on file in the General Land Office 12,000 of such executive orders ranging in date from about the year 1806."²

Many early papers now classed as executive orders were recommendations by heads of departments which the President approved. On August 5, 1933, the President approved a recommendation of the National Recovery Administration that a National Labor Board be created. Apparently this was not transmitted through the usual office staff, but was presented to the President in person, was approved, and

*Excerpts from pages 318-325.

¹The method of promulgation and the form of executive orders are prescribed in Executive Order No. 10006 of Oct. 9, 1948. Earlier executive orders on the same subject were No. 5220 of Nov. 8, 1929, No. 5658 of June 24, 1931, No. 6247 of Aug. 10, 1933, No. 6497 of Dec. 15, 1933, No. 7081 of June 20, 1935, and No. 7298 of Feb. 18, 1936.

²74 Cong. 2 sess., S. Rept. 1756, p. 2.

was taken back to the National Recovery Administration. Apparently no copy was sent to the State Department, and this paper does not appear in the printed series of executive orders. But on December 16, 1933, an executive order (No. 6511) providing for the "Continuance of the National Labor Board, etc." was approved.

On December 11, 1933, the President created a committee "to recommend permanent machinery to coordinate all government relations to American foreign trade." No executive order was issued, the only information regarding the creation of the committee being a White House press release. On March 23, 1934, the office of Special Adviser on Foreign Trade was created by Executive Order No. 6651, which specifically stated that the committee was "supplanted by the present arrangement." In this case an executive order definitely terminated a unit created without an executive order.

Prior to March 14, 1936, executive orders were issued in separate form only, but beginning with that date the method of publication was changed as is indicated below. Notwithstanding their importance all of them have not been assembled or listed in any government publications.³ In a few cases the departments have printed collections of executive orders relating to their work, notably the executive orders relating to Indian reservations and the executive orders relating to the Panama Canal. Orders relating to appointments in the classified civil service without examination are generally listed or reprinted in the *Annual Report of the Civil Service Commission* or in the publication of that Commission entitled *Civil Service Act and Rules, Statutes, Executive Orders, and Regulations*, issued at irregular intervals. The text of some is given in the 1934 and later editions of the *United States Code*.

For some years prior to March 14, 1936, each proclamation was issued in separate form, but the method of publication of individual proclamations and executive orders was changed with the first issue of the *Federal Register* on March 14, 1936. Beginning on that date, the *Federal Register* contains all these papers "except such as have no general applicability and legal effect or are effective only against federal agencies or persons in their capacity as officers, agents or employees thereof." The existing series was continued as heretofore, but the separate prints included only such papers as were not published in the *Federal Register*.

Separate prints of the relatively infrequent executive orders without general applicability and legal effect were discontinued after the publication of Executive Order No. 10006 of October 9, 1948. This order requires current publication in the *Federal Register* of all proclamations and executive orders.

Beginning with Proclamation No. 2287 of June 6, 1938, and Executive Order No. 7906 of the same date, proclamations and executive orders have been published by the Office of the Federal Register in the supplements to Title 3 of the *Code of Federal Regulations*. The first of these was published in 1944 and covered the period through June 1, 1943. An additional supplement covered the remainder of

³ A manuscript checklist of papers bearing the designation "executive order," to Jan. 1, 1937, compiled by Sophy H. Powell, is on file at the School of Government of George Washington University.

1943. Subsequently, supplements covering calendar years were issued annually. Periodically they are cumulated in larger volumes entitled "compilations." As of January 1, 1960, the entire series was composed of the following volumes:

1. Title 3, Book 1, Cumulative Supplement;
2. Title 3, 1943-48 Compilation;
3. Title 3, 1949-53 Compilation; and
4. The 1954-58 Supplements to Title 3.

Prior to September 1947 all proclamations and executive orders were listed in the *Monthly Catalog* under the heading "President of United States" with citations to the *Federal Register* if they appear in that publication; in the index they are entered under the subject. In the biennial *Document Catalog* the detailed entry was under the subject matter, subentry "President of the United States." Prior to Volume 12 (1913-15) a detailed entry appeared also under the main entry "President of the United States," with subentry under the subject matter; in Volume 12 and later issues the only detailed entry is under the subject matter. Under the main entry "President of the United States," subentries "Proclamations" and "Executive orders," were numerical lists of the proclamations and executive orders with cross references to the subject-matter entry.

At present all proclamations are assembled in one section of the *Statutes at Large*, being generally in Part 2 if more than one part is printed. There is probably no volume or series that contains all the proclamations. Some of these papers issued between 1791 and 1855 are given in Volumes 3, 4, 5, 9, 10, and 11 of the *Statutes at Large*.

Each volume subsequent to Volume 10 purports to contain the proclamations issued during the congress or congresses covered by the volume. A note in Volume 11 states that it contains all proclamations not previously published, but this is not true, as President Washington's first Thanksgiving proclamation of October 3, 1789, did not appear in the *Statutes at Large* until 1932, when it was quoted in President Hoover's Thanksgiving proclamation of that year (47 Stat. 2539). It is given by Richardson, who quoted it from Jared Sparks' *Writings of George Washington*. Several other proclamations which are not in the *Statutes at Large* are given by Richardson, but one of March 22, 1880, referred to in an act of June 20, 1890 (26 Stat. 169), is in neither Richardson nor the *Statutes at Large*. The original of the proclamation of March 20, 1880, has not been located, but printed copies are reported at several places.

The files of the General Land Office contain copies of many papers which purport to the proclamations but which were never published in the *Statutes at Large*. Apparently none of these have been countersigned by the Secretary of State, and this circumstance probably accounts for their not appearing in the *Statutes at Large*. There appears to be no law requiring the countersignature of proclamations by the Secretary of State, and the absence of such countersignature apparently does not affect the validity of the instrument.

Richardson's *Messages and Papers of the Presidents* purports to contain proclamations during the period covered by that work, but as has been noted above there are omissions. Proclamations issued prior to 1909 changing rates of duty are given in *Tariff Acts . . . of the United*

States from 1789 to 1909, published as House Document 671, 61st Congress, 2d session; an earlier edition was published as House Document 562, 55th Congress, 2d session.

The more important proclamations of Presidents Hoover and Franklin D. Roosevelt are given in the collections of their papers cited on page 314. The Roosevelt papers contain also many of the executive orders. Complete lists of proclamations and executive orders from March 1933 to January 1937 are given on pages 515-624 of Volume 4 (1935) of the *Public Papers and Addresses of Franklin D. Roosevelt*.

There is no assembled index to all the proclamations, but citations to the *Statutes at Large* containing those prior to March 4, 1931, on certain subjects are given in *Index to the Federal Statutes, 1789-1931*, as follows:

	Page
Copyright privileges extended to citizens of foreign countries under acts of Mar. 4, 1909 (35 Stat. 1075), and Mar. 3, 1891 (26 Stat. 1110), as amended -----	256
Prohibition of exports under acts of Apr. 22, 1898 (30 Stat. 739), Mar. 14, 1912 (37 Stat. 630), Jan. 31, 1922 (42 Stat. 361) -----	414
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Changes in rates under acts of Sept. 21, 1922 (42 Stat. 941), and June 17, 1930 (46 Stat. 701) -----	305
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Suspension of tonnage duties under Sec. 4228, Revised Statutes -----	1047

OTHER PAPERS

While treaties are proclaimed by the President, they are not included in the proclamation series. Forms of publication of treaties are discussed in Chapter 13. Appointments made by and with the advice and consent of the Senate are listed in the *Congressional Record* when the nomination is transmitted to the Senate. As a general rule appointments made during a recess of the Senate or those not requiring confirmation cannot be verified in any official publication. Appointments in the Foreign Service are listed in the *Department of State Bulletin*.⁴

Not all the formal acts of the President are expressed in proclamations or executive orders. While the appointment of a clerk without regard to civil service rules is evidenced by an executive order, the pardon of a prisoner, the commutation of a sentence, and many other acts of the President are evidenced merely by endorsement of the recommendation and without formal publication.

Press statements issued by the White House are given in the published papers of President Hoover and Franklin D. Roosevelt. The Roosevelt papers contain also many transcripts of the questions and answers at the presidential press conferences.

⁴ Prior to July 1939 they were published in *Press Releases* issued by the State Department.

A list showing the places of deposit of the unpublished papers of the Presidents was inserted in the *Congressional Record* on July 13, 1939, during the debate on Senate Joint Resolution 118, which provides for the establishment and maintenance of the Franklin D. Roosevelt Library, where the manuscript papers of Franklin D. Roosevelt are deposited.⁵

PRESIDENTIAL LIBRARIES

Since 1939 three presidential libraries have been established under the sponsorship of the federal government. Only two similar institutions, the Hayes Memorial Library in Ohio and the Hoover Library at Stanford University in California, had been established prior to 1939.

The Franklin D. Roosevelt Library at Hyde Park, New York, was established by a joint resolution of Congress passed in 1939, which provided for its acceptance and operation by the Archivist of the United States. Under the act of 1955, generally called the Presidential Libraries Act, the Harry S. Truman Library at Independence, Missouri, and the Dwight D. Eisenhower Library at Abilene, Kansas, have been established.

The Hoover Foundation recently announced that a library museum to house papers, books, and documents of Herbert Hoover will be built at the Hoover birthplace park in West Branch, Iowa. The documents now housed at the Hoover Library at Stanford University will be located here.

While not a presidential library, a John Foster Dulles library of diplomatic history is planned by the State Department and Princeton University as a tribute to the former Secretary of State.

⁵ *Congressional Record*, daily ed., July 13, 1939, p. 12646.

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