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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER III—BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B.E.P.Q. 493, Rev.]

ADMINISTRATIVE INSTRUCTIONS RELATING TO PINK BOLLWORM QUARANTINE [1]

RESTORING THE TREATMENT REQUIREMENTS AS TO COTTON LINTERS, COTTONSEED HULLS, CAKE AND MEAL, AND EXTENDING THE AREA IN WHICH BALED COTTON LINT MAY BE MOVED FROM CERTAIN LIGHTLY INFESTED AREAS IN NEW MEXICO AND TEXAS WITHOUT TREATMENT

Introductory Note

MAY 1, 1940.

Administrative instructions issued March 30, 1939, (circular B.E.P.Q. 493) [2] modified the treatment requirements for the pink bollworm as to baled lint and linters and products thereof, and also as to cottonseed hulls, cake, and meal when moved interstate from certain counties in northwestern Texas and from Lea and Roosevelt Counties, N. Mex. At the time this action was taken, it was hoped that climatic conditions unfavorable to the development of the pink bollworm, plus control and regulatory activities, would result in elimination of the pink bollworm in northwest Texas and adjacent areas in New Mexico. However, infestations have persisted in such areas and spread to additional counties to the south and southeast. Therefore, it is considered necessary to restore the restrictions previously in effect so that linters, cottonseed hulls, cake, and meal shall be produced, as a condition of interstate movement from such areas, from sterilized seed, or in the case of linters, otherwise treated as specified in quarantine regulations. Baled cotton lint, however, may, under the current instructions, continue to be shipped from the designated area, without the treatment formerly required.

The purposes of the present revision of the administrative instructions are therefore (1) to return to the treatment requirements of paragraphs (a) and (c) of regulation 4, in shipping cotton linters, cottonseed hulls, cake and meal, and (2) to extend the area from which it is considered safe to remove treatment requirements for baled cotton lint, by adding the Texas counties of Concho, Irion, Mitchell, Sterling, Tom Green, and the regulated part of Coke County.

Modification of Restrictions

Under authority contained in the second proviso of Notice of Quarantine No. 52, revised [3] (§ 301.52), and having determined that facts exist as to the pest risk involved which make it safe to modify, by making less stringent, the restrictions contained in paragraph (a) of regulation 4 [3] (§ 301.52–4) of the pink bollworm quarantine, notice is hereby given that baled cotton lint and products thereof may be moved interstate without restriction from the following area:

New Mexico: Lea and Roosevelt Counties.

Texas: Counties of Andrews, Cochran, Concho, Dawson, Ector, Gaines, Glasscock, Hockley, Howard, Irion, Martin, Midland, Mitchell, Sterling, Terry, Tom Green, Yoakum, and the regulated parts of *Bailey, Coke,* and *Lamb* Counties:

Provided, (1) That the products have been produced in an authorized gin and subsequently protected from contamination, and (2) that a certificate of the United States Department of Agriculture has been obtained and attached to the containers or shipping papers in accordance with the requirements prescribed in regulation 11 [3] (§ 301.52–11) of said quarantine.

These instructions supersede and cancel those in circular B.E.P.Q. 493 dated March 30, 1939. (§ 301.52–4) [B.E.P.Q. 493 Revised May 1, 1940]

[SEAL] AVERY S. HOYT,
Acting Chief.

[F. R. Doc. 40–1686; Filed, April 26, 1940; 3:02 p. m.]

[1] § 301.52–4b.
[2] 4 F.R. 1437.
[3] 4 F.R. 1161.

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FEDERAL REGISTER

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CHAPTER VIII—SUGAR DIVISION

[G. S. R., S. 2, No. 7]

PART 801—GENERAL SUGAR REGULATIONS

AMENDMENT TO ORDERS, REGULATIONS, AND DETERMINATIONS UNDER THE SUGAR ACT OF 1937

Pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1937 (50 Stat. 915; 7 U.S.C., Supp. IV, 1174), I, Grover B. Hill, Acting Secretary of Agriculture, do hereby amend all orders, regulations, and determinations heretofore issued by the Secretary of Agriculture, pursuant to the Sugar Act of 1937, and now in effect, by striking out the words, "Sugar Section", "Sugar Section, Agricultural Adjustment Administration", "Sugar Section of the Agricultural Adjustment Administration", and "Sugar Division", wherever they appear, and by inserting in lieu thereof the words "Sugar Division of the Agricultural Adjustment Administration."

This regulation shall supersede General Sugar Regulations, Series 2, No. 4,[1] issued November 8, 1938.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 27th day of April 1940.

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

[F. R. Doc. 40-1705; Filed, April 27, 1940; 11:49 a. m.]

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE DURING THE CROP YEAR 1940, FOR THE TERRITORY OF HAWAII, PURSUANT TO THE SUGAR ACT OF 1937

Pursuant to the provisions of Section 301 (e) of the Sugar Act of 1937, I, Grover B. Hill, Acting Secretary of Agriculture, do hereby make the following determination:

§ 802.33b *Farming practices in connection with the production of the 1940 crop of sugarcane in the Territory of Hawaii*—(a) *Application of fertilizer.* The requirements of section 301 (e) of the Sugar Act of 1937 shall be deemed to have been met with respect to a farm in the Territory of Hawaii if fertilizer is applied as follows:

(1) *Amount.* There shall be applied to land on which sugarcane is growing during 1940 sufficient chemical fertilizer to provide an average quantity of plant food per acre fertilized equal to not less than the greater of either 150 pounds or 80 percent of the average quantity of plant food contained in the chemical fertilizer applied to similar land in 1938 or 1939, whichever is smaller, but any amount by which such 80 percent exceeds 250 pounds shall not be considered.

(2) *Acreage requirement.* The number of acres on which fertilizer is applied in 1940 shall be not less than the number of acres on the farm on which sugarcane is planted, or a ratoon crop of of sugarcane is started, at any time during 1940.

(b) *Definitions.* "Chemical fertilizer" means commercial chemical fertilizer of which not less than 15 percent of the gross weight consists of plant food. "Plant food" means the aggregate amount of nitrogen, available phosphoric acid and water-soluble potash. (Sec. 301, 50 Stat. 909; 7 U.S.C., Sup. IV, 1131)

Done at Washington, D. C., this 27th day of April 1940. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 40-1702; Filed, April 27, 1940; 11:49 a. m.]

CHAPTER IX—DIVISION OF MARKETING AND MARKETING AGREEMENTS

[Order No. 42, Amendment No. 1]

MARKETING ORDERS

PART 942—AMENDMENT NO. 1, TO THE ORDER REGULATING THE HANDLING OF MILK IN THE NEW ORLEANS, LOUISIANA, MARKETING AREA*

Sec.

942.0 Findings.
942.1 Definitions.
942.3 Reports of handlers.
942.4 Classification of milk.
942.5 Minimum prices.
942.6 Handlers who are also producers.
942.8 Payment for milk.

Whereas, H. A. Wallace, Secretary of Agriculture of the United States, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, issued, effective October 1, 1939, Order No. 42[1] regulating the handling of milk in the New Orleans, Louisiana, marketing area; and

[1] 3 F.R. 2660.

*Amendments to §§ 942.0, 942.1, 942.3, 942.4, 942.5, 942.6, and 942.8 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. § 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U.S.C. § 601 et seq. (Supp. IV, 1938).

[1] 4 F.R. 4079.

Whereas, the Secretary, having reason to believe that the issuance of an amendment to said order would tend to effectuate the declared policy of said act, gave, on January 25, 1940, notice of a public hearing[2] to be held in New Orleans, Louisiana, on February 5 and 7, 1940, on a proposed amendment to said order, and, at said times and place, conducted a public hearing at which all interested parties were afforded an opportunity to be heard on a proposed amendment to said order; and

Whereas, after such hearing, handlers of more than fifty percent of the volume of milk covered by such order, which is marketed within the New Orleans, Louisiana, marketing area, refused or failed to sign a tentatively approved marketing agreement, as amended, regulating the handling of milk in the same area in the same manner as said order, as amended; and

Whereas the requirements of section 8c (9) of said act have been complied with; and

Whereas, the Secretary finds, upon the evidence introduced at the above-mentioned public hearing, said findings being in addition to the findings made upon the evidence introduced at the original hearing on said order and being in addition to the other findings made prior to or at the time of the original issuance of said order (all of which findings are hereby ratified and affirmed, save only as such findings are in conflict with the findings hereinafter set forth):

§ 942.0 *Findings.* 1. That the prices calculated to give milk handled in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8e of said act, are not reasonable in view of the prices of feeds, the available supplies of feeds, and other economic conditions which affect the market supply of and demand for milk, and that the minimum prices set forth in this amendment to said order are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

2. That the other provisions of this amendment to said order are necessary for the more effective administration of said order;

3. That the order, as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to handlers specified in the tentatively approved marketing agreement, as amended, upon which a hearing has been held; and

4. That the issuance of this amendment to the order and all of its terms and conditions, as so amended, will tend to effectuate the declared policy of the act:

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby orders that Order No. 42 regulating the handling of milk in the New Orleans, Louisiana, marketing area be and it is hereby amended as follows:

1. Delete § 942.1 (a) (2) and substitute therefor the following:

(2) The term "New Orleans, Louisiana, marketing area," hereinafter called the "marketing area," means the cities, towns, and villages of New Orleans in Orleans Parish; Gretna, Westwego, Marrero, Harvey, Metairie, and Belle Chasse in Jefferson Parish; Poydras, St. Bernard, Violet, Meraux, Chalmette, and Arabi in St. Bernard Parish; all in the State of Louisiana.

2. Delete § 942.1 (a) (5) and substitute therefor the following:

(5) The term "delivery period" means the current marketing period from the first to, and including, the last day of each month.

3. Delete § 942.3 (a) (1) and substitute therefor the following:

(1) On or before the 4th day after the end of each delivery period (a) the receipts of milk at each plant from producers and new producers, (b) the receipts of milk and/or milk products at each plant from handlers, (c) the quantity of milk, if any, produced by such handler, (d) the receipts of milk and/or milk products from any other source, (e) the utilization of all receipts of milk and/or milk products for the delivery period, and (f) the name and address of each new producer.

4. Delete § 942.3 (b) and substitute therefor the following:

(b) *Verification of reports.* Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section and § 942.4 (c), and (2) those facilities which are necessary for the sampling, weighing, and testing of the milk of each producer and new producer.

5. Delete § 942.4 (b) (2) and substitute therefor the following:

(2) Class II milk means all milk (excepting milk from which the skimmed milk was disposed of as Class I milk) disposed of as cream (for consumption as cream) and creamed cottage cheese.

6. Delete § 942.4 (c) and substitute therefor the following:

(c) *Interhandler and nonhandler sales.* Milk, including skimmed milk, disposed of by a handler to another handler or to a person who is not a handler, but who distributes milk or manufactures milk products, shall be classified by the market administrator as Class I milk: *Provided,* That if a different classification is agreed upon in written reports furnished to the market administrator by the selling handler and the purchaser, the milk, or skim milk, shall be classified according to such reports, subject to verification by the market administrator: And provided further, That in no event shall the amount so reported in any class be greater than the total amount of milk disposed of in such class by the purchaser.

7. Delete § 942.5 (a) and substitute therefor the following:

(a) *Class prices.* Except as set forth in paragraph (c) of this section, each handler shall pay, at the time and in the manner set forth in § 942.8, not less than the following prices for milk of 4.0 percent butterfat content received at plants located in the 61–70 mile freight zone described in paragraph (b) of this section:

(1) Class I milk—$2.32 per hundredweight: *Provided,* That with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be $2.00 per hundredweight;

(2) Class II milk—$1.85 per hundredweight; and

(3) Class III milk—The price per hundredweight resulting from the following computation by the market administrator: add 9 cents to the average wholesale price per pound of 92-score butter at Chicago, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and multiply the resulting sum by 4.

8. Delete § 942.6 (a) and substitute therefor the following:

(a) *Application of provisions.* No provision hereof shall apply to a handler who is also a producer and who receives no milk from other producers, an association of producers, or other handlers, except that such handler shall make such reports as the market administrator may request, and shall permit the market administrator to verify such reports.

9. Add as § 942.6 (c) the following:

(c) The market administrator, in computing the value of milk received by a handler, shall consider as Class III milk any milk or cream received in bulk from a handler who receives no milk from producers other than that of his own production. If such receiving handler has disposed of such milk or cream as other than Class III milk, the market administrator shall add to the total value computed for such receiving handler, pursuant to § 942.7 (a), the difference between (a) the value of such milk or cream at the Class III price, and (b) the value computed in accordance with its use.

10. Delete § 942.8 and substitute therefor the following:

§ 942.8. *Payment for milk*—(a) *Time and method of payment.* On or before the 25th day of each delivery period each

[2] 5 F.R. 308.

handler shall pay, with respect to all milk received during the first 15 days of such delivery period, $1.85 per hundredweight of milk to each producer and $0.75 per hundredweight to each new producer.

(b) On or before the 10th day after the end of each delivery period, each handler shall make payment, subject to the butterfat differential set forth in paragraph (d) of this section and to the location differentials set forth in paragraph (e) of this section, and less the payment made in accordance with paragraph (a) of this section, for the total value of milk received from producers and new producers during the delivery period, computed pursuant to § 942.7 (a), as follows:

(1) To each producer to whom payment is not made pursuant to subparagraph (3) of this paragraph, at not less than the uniform price computed pursuant to § 942.7 (a) for the quantity of milk received from such producer;

(2) To each new producer to whom payment is not made pursuant to subparagraph (3) of this paragraph, at the Class III price for the quantity of milk received from such new producer; and

(3) To a cooperative association, with respect to milk which it causes to be delivered to a handler from producers and new producers who have signed membership agreements or other contracts with the cooperative association, which agreements or contracts expressly authorize the cooperative to collect the amount due such producers and new producers for their milk, and pursuant to which authorization the cooperative association is collecting payment for milk on behalf of its producers and new producers, or expressly assumes such responsibility by some authorized act of the board of directors, or of the membership in accordance with its bylaws, the total amount of money which such handler is obligated to pay for milk received from such producers and new producers, calculated as follows: (a) multiply the volume of milk received from such producers by not less than the uniform price computed pursuant to § 942.7 (a), (b) multiply the volume of milk received from such new producers by the Class III price, and (c) add together the resulting amounts.

(c) *Errors in payments.* Errors in making any of the payments prescribed in this section shall be corrected not later than the date for making final payments for the delivery period during which such errors are disclosed.

(d) *Butterfat differential.* If during the delivery period any handler has received from any producer or new producer milk having an average butterfat content other than 4.0 percent, such handler, in making the payments prescribed in paragraph (b) of this section, shall add for each one-tenth of 1 percent of average butterfat content in milk above 4.0 percent not less than, or shall deduct for each one-tenth of 1 percent of average butterfat content in milk below 4.0 percent not more than, an amount equal to one-fortieth of the price for Class III milk computed pursuant to § 942.5 (a) (3).

(e) *Location differentials.* In making payments pursuant to paragraph (b) of this section for milk received from producers and new producers at a plant not located in the 61–70 mile freight zone, each handler shall add or deduct from such payment, with respect to all milk received from such producers and new producers, the amount per hundredweight specified pursuant to § 942.5 (b) (1) for the zone in which the plant is located.

(f) *Additional payments.* Any handler may make payments to producers, not including new producers, for milk in addition to the payments to be made pursuant to paragraph (b) of this section: *Provided*, That such additional payments shall be made on a uniform basis for all milk of like grade and quality received by him.

Now, therefore, Grover B. Hill, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute in duplicate and issue this amendment to the order regulating the handling of milk in the New Orleans, Louisiana, marketing area, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 26th day of April 1940, and declares this amendment to be effective on and after the 1st day of May 1940.

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

[F. R. Doc. 40–1704; Filed, April 27, 1940; 11:50 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER II—AGRICULTURAL MARKETING SERVICE

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

APRIL 26, 1940.

TO JOHN A. DAVIS, *Doing business as Davis Sales Yard, Hynes, Calif.*

Notice is hereby given that after inquiry, as provided by section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b)), it has been ascertained by me that the stockyard known as the Davis Sales Yard, at Hynes, State of California, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to sections 303 and 306 (7 U.S.C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

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

[F. R. Doc. 40–1685; Filed, April 26, 1940; 3:02 p. m.]

[1] Modifies list posted stockyards 9 CFR 204.1.

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3940]

IN THE MATTER OF INDIAN RIVER MEDICINE COMPANY

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly — Results.* Disseminating, etc., in connection with offer, etc., of respondent's "Scalf's Indian River Tonic", advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce of respondent's said "Scalf's Indian River Tonic" or other similar medical preparation, which advertisements represent, directly or through implication, that respondent's said preparation will prevent or cure colds or build up resistance to other bodily ailments, or is a cure or remedy for rheumatism, or has any therapeutic value in the treatment of (1) the causes of such symptomatic conditions as sleeplessness, nervousness, indigestion or aches and pains in the head or joints, or of (2) liver, kidney or stomach disorders, or that its use constitutes a cure or remedy for any of such disorders, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Indian River Medicine Company, Docket 3940, April 17, 1940]

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Disseminating, etc., in connection with offer, etc., of respondent's "Scalf's Indian River Tonic," advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce of respondent's said "Scalf's Indian River Tonic" or other similar medical preparation, which advertisements represent, directly or through implication, that respondent's said preparation will increase weight, restore strength or build up the health of the user thereof, or is composed of natural vegetable ingredients, or is a cure or remedy for asthma or has any therapeutic value in the treatment thereof, or affords positive or certain relief for any ailment, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and

desist order, Indian River Medicine Company, Docket 3940, April 17, 1940]

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of April, A. D. 1940.

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

It is ordered, That the respondent, Indian River Medicine Company, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its medical product "Scalf's Indian River Tonic", do forthwith cease and desist from: Disseminating or causing to be disseminated any advertisement by means of United States mails or in commerce, as "commerce" is defined in the Federal Trade Commission Act, by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of a medical preparation containing drugs now designated by the name "Scalf's Indian River Tonic", or any other medical preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or under any other name or names, or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said medical preparation, which advertisements represent directly or through implication

1. That respondent's preparation will prevent or cure colds or build up resistance to other bodily ailments;

2. That respondent's preparation is a cure or remedy for rheumatism;

3. That respondent's preparation has any therapeutic value in the treatment of the causes of such symptomatic conditions as sleeplessness, nervousness, indigestion or aches and pains in the head or joints;

4. That respondent's preparation has any therapeutic value in the treatment of liver, kidney or stomach disorders or that its use constitutes a cure or remedy for any of such disorders;

5. That respondent's preparation will increase weight, restore strength or build up the health of the user thereof;

6. That respondent's preparation is composed of natural vegetable ingredients;

7. That respondent's preparation is a cure or remedy for asthma or that it has any therapeutic value in the treatment thereof;

8. That respondent's preparation affords positive or certain relief for any ailment.

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

By the Commission.

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

[F. R. Doc. 40-1698; Filed, April 27, 1940; 11:46 a. m.]

[Docket No. 4038]

IN THE MATTER OF EILEEN-JOY FASHIONS, INC., ET AL.

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.55 *Furnishing means and instrumentalities of misrepresentation or deception:* § 3.66 (a7) *Misbranding or mislabeling—Composition.* Using, in connection with offer, etc., in commerce, of dresses and other wearing apparel for women, the unqualified terms "satin", "taffeta", "crepe de chine", "crepe" or any other descriptive terms of similar import or meaning indicative of silk, to describe, designate or in any manner refer to any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm, prohibited; subject to the provision, however, that when said words or descriptive terms are used truthfully to designate or describe the type of weave, construction or finish, such words must be qualified by using in connection and conjunction therewith, in letters of at least equal size and conspicuousness, a word or words clearly and accurately naming or describing the fibers or materials from which said products are made. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Eileen-Joy Fashions, Inc., et al., Docket 4038, April 17, 1940]

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.55 *Furnishing means and instrumentalities of misrepresentation or deception:* § 3.66 (a7) *Misbranding or mislabeling—Composition.* Using, in connection with offer, etc., in commerce, of dresses and other wearing apparel for women, the unqualified term "silk", or any other term or terms of similar import or meaning indicative of silk, to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm, prohibited; subject to the provision that, in the case of a fabric or product composed in part of silk and in part of materials other than silk, such term or similar terms may be used as descriptive of the silk content when immediately accompanied by a word or words of equal conspicuousness accurately describing and designating such other materials in the order of their predominance by weight, beginning with the largest single constituent. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Eileen-Joy Fashions, Inc., et al., Docket 4038, April 17, 1940]

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.55 *Furnishing means and instrumentalities of misrepresentation or deception:* § 3.66 (a7) *Misbranding or mislabeling—Composition.* Using, in connection with offer, etc., in commerce, of dresses and other wearing apparel for women, words "pure dye" or any other word or words of similar import or meaning, to designate or describe fabrics which are not composed wholly of unweighted silk, the product of the cocoon of the silkworm, prohibited; subject to the provision that, in the case of a fabric or material composed in part of unweighted silk and in part of materials other than unweighted silk, such words may be used as descriptive of the unweighted silk content if there is used, in immediate connection or conjunction therewith, in letters of equal size and conspicuousness, a word or words accurately describing and designating each constituent fiber or material thereof in the order of its predominance by weight, beginning with the largest single constituent. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Eileen-Joy Fashions, Inc., et al., Docket 4038, April 17, 1940]

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.55 *Furnishing means and instrumentalities of misrepresentation or deception:* § 3.66 (a7) *Misbranding or mislabeling—Composition:* § 3.71 (a) *Neglecting, unfairly or deceptively, to make material disclosure—Composition.* Advertising, offering for sale or selling fabrics, garments or other products composed in whole or in part of rayon, in connection with offer, etc., in commerce, of dresses and other wearing apparel for women, without clearly disclosing the fact that such fabrics or products are composed of rayon, prohibited; subject to the provision that, when such fabrics or products are composed in part of rayon and in part of other fibers or materials, such fibers or materials, including the rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Eileen-Joy Fashions, Inc., et al., Docket 4038, April 17, 1940]

IN THE MATTER OF EILEEN-JOY FASHIONS, INC., A CORPORATION; TEEN FROCKS, INC., A CORPORATION; AND MORRIS SCHARF AND HENRY DUDKIN, INDIVIDUALLY, AND AS OFFICERS OF EILEEN-JOY FASHIONS, INC. AND TEEN FROCKS, INC., AND FORMERLY COPARTNERS TRADING AS EILEEN-JOY FASHIONS

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of April, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the original and supplemental answer of respondents, in which supplemental answer respondents admit all the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Eileen-Joy Fashions, Inc., a corporation, and Teen Frocks, Inc., a corporation, and their officers, representatives, agents and employees, and Morris Scharf and Henry Dudkin, individually and as officers of Eileen-Joy Fashions, Inc., and Teen Frocks, Inc., and their agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of dresses and other wearing apparel for women in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Using the unqualified terms "satin," "taffeta," "crepe de chine," "crepe" or any other descriptive terms of similar import or meaning indicative of silk to describe, designate or in any manner refer to any fabric or product which is not composed wholly of silk the product of the cocoon of the silkworm: *Provided, however,* That when said words or descriptive terms are used truthfully to designate or describe the type of weave, construction or finish, such words must be qualified by using in connection and conjunction therewith in letters of at least equal size and conspicuousness a word or words clearly and accurately naming or describing the fibers or materials from which said products are made;

(2) Using the unqualified term "silk," or any other term or terms of similar import or meaning indicative of silk to describe or designate any fabric or product which is not composed wholly of silk the product of the cocoon of the silkworm, provided that in the case of a fabric or product composed in part of silk and in part of materials other than silk, such term or similar terms may be used as descriptive of the silk content when immediately accompanied by a word or words of equal conspicuousness accurately describing and designating such other materials in the order of their predominance by weight, beginning with the largest single constituent;

(3) Using words "pure dye" or any other word or words of similar import or meaning to designate or describe fabrics which are not composed wholly of unweighted silk, the product of the cocoon of the silkworm, provided that in the case of a fabric or material composed in part of unweighted silk and in part of materials other than unweighted silk, such words may be used as descriptive of the unweighted silk content if there is used in immediate connection or conjunction therewith in letters of equal size and conspicuousness, a word or words accurately describing and designating each constituent fiber or material thereof in the order of its predominance by weight, beginning with the largest single constituent;

(4) Advertising, offering for sale or selling fabrics, garments or other products, composed in whole or in part of rayon, without clearly disclosing the fact that such fabrics or products are composed of rayon, and when such fabrics or products are composed in part of rayon and in part of other fibers or materials, such fibers or materials including the rayon shall be named in the order of their predominance by weight, beginning with the largest single constituent.

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

By the Commission.

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

[F. R. Doc. 40-1699; Filed, April 27, 1940; 11:46 a. m.]

[Docket No. 4048]

IN THE MATTER OF LENOIR WOODFINISHING COMPANY, INC., ET AL.

§ 3.15 (a) (1) *Bribing customers' employees—To influence employers—Employees of private concerns:* § 3.15 (b) *Bribing customers' employees—To purchase or push donor's goods.* Giving sums of money and other things of value, on the part of respondent company and respondent individual, and their officers, representatives, etc., and in connection with offer, etc., in commerce of their paints, varnishes, stains, thinners, sealers and other woodfinishing products, to officials and employees of respondents' customers or prospective customers, without the knowledge or consent of said customers, for the purpose of inducing said officials and employees to purchase respondents' woodfinishing materials for use by their employers or to recommend the purchase of the same by their employers, or as payments to said officials and employees for having induced the purchase or recommended the use of respondents' products by their employers, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Lenoir Woodfinishing Company, Inc., et al., Docket 4048, April 17, 1940]

IN THE MATTER OF LENOIR WOODFINISHING COMPANY, INC., AND ARTHUR G. SPENCER, INDIVIDUALLY AND TRADING AS LENOIR SOLVENT COMPANY

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of April, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents Lenoir Wood-finishing Company, Inc., its officers, and Arthur G. Spencer, individually and trading as Lenoir Solvent Company, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of their paints, varnishes, stains, thinners, sealers and other woodfinishing products, in commerce as commerce is defined in the Federal Trade Commission Act, do cease and desist from giving sums of money and other things of value, to officials and employees of respondents' customers or prospective customers, without the knowledge or consent of said customers, for the purpose of inducing said officials and employees to purchase respondents' woodfinishing materials for use by their employers or to recommend the purchase of the same by their employers, or as payments to said officials and employees for having induced the purchase or recommended the use of respondent's products by their employers;

It is further ordered, That the respondents shall within sixty days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

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

[F. R. Doc. 40-1700; Filed, April 27, 1940; 11:46 a. m.]

TITLE 22—FOREIGN RELATIONS

CHAPTER I—DEPARTMENT OF STATE

PART 12—COMMERCE WITH STATES ENGAGED IN ARMED CONFLICT

§ 12.1 *Exportation or transportation of articles or materials*—(f) *Norway.* The regulations under section 2 (c) and (i) of the joint resolution of Congress approved November 4, 1939, which the Secretary of State promulgated on November 10 (22 CFR 12.1 (a)–(d)[1] and November 25 (22 CFR 12.1 (e))[2] 1939, henceforth apply equally in respect to the export or transport of articles and materials to Norway. (Secs. 2 (c), (i), Public Res. 54, 76th Cong. 2d sess., approved Nov. 4, 1939; Proc. No. 2398, April 25, 1940)

[SEAL] CORDELL HULL,
Secretary of State.

APRIL 25, 1940.

[F. R. Doc. 40–1709; Filed, April 29, 1940; 9:40 a. m.]

PART 40—SOLICITATION AND COLLECTION OF CONTRIBUTIONS FOR USE IN CERTAIN COUNTRIES

§ 40.17 *Contributions for use in Norway.* The rules and regulations (22 CFR 40.1–16) under section 8 of the joint resolution of Congress approved November 4, 1939, which the Secretary of State promulgated on November 6, 1939,[3] henceforth apply equally to the solicitation and collection of contributions for use in Norway. (Sec. 8, Public Res. 54, 76th Cong., 2d sess., approved Nov. 4, 1939; Proc. No. 2398, April 25, 1940)

CORDELL HULL,
Secretary of State.

APRIL 25, 1940.

[F. R. Doc. 40–1708; Filed, April 29, 1940; 9:39 a. m.]

PART 55C—TRAVEL

Pursuant to the provisions of section 5 of the joint resolution of Congress, approved November 4, 1939, and of the President's Proclamation of April 10, 1940, the regulations in 22 CFR 55C.1 and 55C.2 of November 6, 1939, as amended November 17, 1939,[4] are hereby amended to read as follows:

§ 55C.1 *American diplomatic, consular, military, and naval officers.* American diplomatic and consular officers and their families, members of their staffs and their families, and American military and naval officers and personnel and their families may travel pursuant to orders on vessels of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, the Union of South Africa, and Norway if the public service requires. (Sec. 5, Public Res. 54, 76th Cong., 2d sess., approved Nov. 4, 1939; Proc. No. 2398, April 25, 1940)

§ 55C.2 *Other American citizens.* Other American citizens may travel on vessels of France; Germany; Poland; or the United Kingdom, India, Australia, Canada, New Zealand, the Union of South Africa, and Norway: *Provided, however,* That travel on or over the north Atlantic Ocean, north of 35 degrees north latitude and east of 66 degrees west longitude or on or over other waters adjacent to Europe or over the continent of Europe or adjacent islands shall not be permitted except when specifically authorized by the Passport Division of the Department of State or an American Diplomatic or Consular officer abroad in each case. (Sec. 5, Public Res. 54, 76th Cong., 2d sess., approved Nov. 4, 1939; Proc. No. 2398, April 25, 1940)

[SEAL] CORDELL HULL,
Secretary of State.

APRIL 25, 1940.

[F. R. Doc. 40–1707; Filed, April 29, 1940; 9:39 a. m.]

TITLE 25—INDIANS

CHAPTER I—OFFICE OF INDIAN AFFAIRS

SUBCHAPTER R—LEASES AND SALES OF MINERALS, RESTRICTED INDIAN LANDS

PART 204—LEASING OF OSAGE RESERVATION LANDS, OKLAHOMA, FOR MINING, EXCEPT OIL AND GAS

APRIL 20, 1940.

Section 204.2, which reads:

§ 204.2 *Sale of leases.* Any person, firm or corporation desiring to lease any particular tract of land for mining purposes (other than oil and gas) shall file with the officer in charge an application giving a description of same. At such times as the Secretary of the Interior may direct and as soon as practicable thereafter, the officer in charge shall offer such lands as may be desired to be leased at public auction to the highest responsible bidder after advertising same in such manner as he may deem appropriate. Bids will be received for a bonus in addition to stipulated royalties, and the right is reserved by the Secretary of the Interior to reject any and all bids. The successful bidder must deposit with the officer in charge on the day of the sale a certified check on a solvent bank in an amount equal to 25 percent of the bonus bid as a guaranty of good faith. Successful bidders shall execute leases and file same, with necessary accompanying papers, with the officer in charge as soon as practicable and within 30 days from notice of acceptance of bid. Failure on the part of any bidder to comply with this requirement will operate as a forfeiture of the amount theretofore paid and subject the lease, if thereafter submitted, to disapproval. After execution of the lease of the successful bidder by the principal chief of the Osage Tribe, with the approval of the council, the officer in charge shall forward the papers to the Commissioner of Indian Affairs for the consideration of the Secretary of the Interior. In event any bid is rejected the amount deposited on day of sale shall be returned. If lease is approved, balance due shall be paid before delivery of lease.

is hereby amended to read:

§ 204.2 *Sale of leases.* Leases of minerals other than oil and gas may be negotiated with the Tribal Council after permission to do so has been obtained from the officer in charge. Leases, with all papers required, shall be filed with the officer in charge within thirty days from the date of execution by the lessee and the principal chief of the Osage Tribe. The lease will be forwarded to the Commissioner of Indian Affairs for consideration by him and the Secretary of the Interior and will become effective only after approval by the Secretary of the Interior. If any lease should be disapproved through no fault of the lessee, all amounts deposited by him will be promptly refunded.

W. C. MENDENHALL,
Acting Assistant Secretary of the Interior.

[F. R. Doc. 40–1706; Filed, April 29, 1940; 9:37 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

CHAPTER I—INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF REGULATIONS TO GOVERN THE FORMS AND RECORDING OF PASSES, ISSUE OF 1917

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 9th day of April, A. D. 1940.

The matter of issuing passes for private passenger-train cars being under consideration:

It is ordered, That the Regulations to Govern the Forms and Recording of Passes, Issue of 1917, prescribed under an order of the Commission, entered on July 8, 1916, be, and they are hereby, amended by adding between lines 11 and 12 in paragraph 15 the following in lieu of the four sentences added by the amendatory order of July 30, 1929:

A car pass may be issued only for cars owned by the issuing carrier or held by it under lease for use in its business as a common carrier, and for cars owned by another carrier used for the benefit of the issuing carrier in a *bona fide* test of transportation equipment (including the return of such

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[1] Regulations (1)–(4) in "Regulations under section 2 (c) and (i) of the joint resolution of Congress approved November 4, 1939," which was published in the FEDERAL REGISTER of November 16, 1939 (4 F.R. 4598 DI), have been designated as 22 CFR 12.1 (a)–(d).

[2] Regulation (5) (4 F.R. 4701 DI) has been designated as 22 CFR 12.1 (e).

[3] 4 F.R. 4510 DI.

[4] 4 F.R. 4640.

cars after the completion of the test). It may not be issued for other cars. This provision is not to be construed as prohibiting the issuance of passes for cars of lines operated as a part of the same system. See *In the Matter of the Use of Private Passenger Train Cars*, 155 I. C. C. 775.

And it is further ordered, That this order shall become effective May 1, 1940.

By the Commission, division 1.

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

[F. R. Doc. 40–1715; Filed, April 29, 1940; 11:45 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Division of Marketing and Marketing Agreements.

DETERMINATION OF THE SECRETARY OF AGRICULTURE, APPROVED BY THE PRESIDENT OF THE UNITED STATES, WITH RESPECT TO AMENDMENT NO. 1 TO ORDER NO. 942 REGULATING THE HANDLING OF MILK IN THE NEW ORLEANS, LOUISIANA, MARKETING AREA

Whereas, H. A. Wallace, Secretary of Agriculture of the United States, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, issued, effective October 1, 1939, Order No. 942 regulating the handling of milk in the New Orleans, Louisiana, marketing area; [1] and

Whereas, the Secretary, having reason to believe that the issuance of an amendment to said order would tend to effectuate the declared policy of said act, gave, on the 25th day of January 1940, notice of a public hearing [2] to be held in New Orleans, Louisiana, which hearing was held there on February 5 and 7, 1940, on a proposed amendment to said order, and at said times and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on a proposed amendment to said order; and

Whereas, after such hearing, handlers of more than fifty percent of the volume of milk covered by such order, which is marketed within the New Orleans, Louisiana, marketing area, refused or failed to sign a tentatively approved marketing agreement, as amended, regulating the handling of milk in the same area in the same manner as said order, as amended:

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by said act, hereby determines:

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

2. That the issuance of the proposed amendment to the order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is produced for sale in said area; and

3. That the issuance of the proposed amendment to the order is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of January, 1940, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof, H. A. Wallace, Secretary of Agriculture of the United States, has executed this determination in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 24th day of April 1940.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

Approved.

FRANKLIN D ROOSEVELT, *The President of the United States.*

Dated April 25, 1940.

[F. R. Doc. 40–1703; Filed, April 27, 1940; 11:50 a. m.]

Sugar Division.

DECISION AND ORDER OF THE SECRETARY OF AGRICULTURE ALLOTTING THE 1940 SUGAR QUOTA FOR THE MAINLAND CANE SUGAR AREA

Preliminary Statement

General Sugar Quota Regulations, Series 7, No. 1, Revision 1,[1] issued by the Secretary of Agriculture pursuant to the provisions of the Sugar Act of 1937 (hereinafter referred to as the "act"), established a 1940 sugar quota for the mainland cane sugar area of 420,167 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by reguations prescribe.

On February 7, 1940, the Secretary issued the following finding:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress), and on the basis of information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1940 sugar quota for the mainland cane sugar area is necessary to prevent the disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States * * *"

The Secretary, on the basis of that finding and pursuant to General Sugar Regulations, Series 2, No. 2, Revised,[2] gave due notice [3] of a public hearing to be held at New Orleans, Louisiana, on February 29, 1940, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1940 sugar quota for the mainland cane sugar area among persons who market such sugar in the continental United States.

The hearing was duly held at the time and place specified in the notice.

The presiding officer announced at the hearing that the finding of necessity for the allotment of the quota for the mainland cane sugar area was in the nature of a preliminary finding, based on the best information available to the Secretary at the time, and that it would be appropriate at the hearing to present evidence on the basis of which the Secretary might affirm, modify, or change such preliminary finding and make or withhold allotment of the quota in accordance therewith. (R. pp. 13, 26) A witness who claimed to speak for a large group of Louisiana processors testified that, due to the recent freeze in Louisiana and an expected carryover into 1941 of about one-half of the 1940–41 crop of Louisiana sugar, the marketing of sugar in the fall of 1940 from the 1940–41 crop would not exceed the difference between the inventory on January 1, 1940, and the quota, and that, consequently, marketing allotments for 1940 are unnecessary. (Burguieres, R. pp. 26–34) The witness offered no definite testimony in regard to the extent of the damage caused by the freeze, nor was he able to offer any substantial evidence in support of his statement that, without allotments, processors in the mainland cane sugar area would not market from the 1940–41 crop more than the difference between the quota and the inventory of sugar on hand on January 1, 1940.

A representative of the State office of the Agricultural Adjustment Administration at Baton Rouge, Louisiana, testified that, over a period of the past four years, processors of sugar in Louisiana had marketed, on the average, approximately 60% of the sugar of a given crop in the year in which it was produced. (Grayson, R. pp. 91–92.) The witness further stated that the estimated production of sugar in the mainland cane sugar area from proportionate share acreages of the 1940–41 crop was 505,000 short tons of

[1] 4 F.R. 4079.
[2] 5 F.R. 308.
[1] 5 F.R. 1121.
[2] 4 F.R. 520.
[3] 5 F.R. 639.

sugar. The witness representing the Sugar Division introduced in evidence figures showing an effective inventory[1] for the mainland cane sugar area as of January 1, 1940, of 217,507 short tons of sugar. (Davis, R. Gov't Ex. 2.)

The witness representing the Youngsville Sugar Company testified that there is not, at the present time, in the hands of any one processor more sugar than he should be permitted to market during 1940, and, for that reason, marketing allotments are not necessary at the present time. (Yarbrough, R. pp. 158–159.) The witness conceded that, if the estimated production of 505,000 short tons of sugar from the 1940–41 crop is approximately correct, allotments would be necessary, but stated that, due to unfavorable weather conditions, it was not possible to estimate the production from the 1940–41 crop at this time. (R. pp. 160–162.) The witness representing the Webre-Steib Company testified that allotments were not necessary but offered no factual data in support of such assertion. (McWaters, R. pp. 169–173.)

In regard to the manner in which allotments should be made, thirty-seven of the sixty-seven Louisiana processors, testifying through their representative or in their own behalf, recommended that 1940 allotments be made upon the same basis as the 1939 allotments were made, except that both marketings and processings be moved forward one year. (E. A. Burguieres, J. M. Burguieres, Moresi, R. pp. 40, 109–113, 144–145, 163–164)

The representative of the South Coast Corporation recommended that 1940 allotments be made by allotting 40 percent of the quota on the basis of effective inventory as of January 1, 1940, and that the remaining 60 percent of the quota be allotted on the basis of the formula used in 1939. (Dahlberg, R. pp. 116–120, 130–134) The witness representing the Youngsville Sugar Company recommended that allotments be made on the basis of the 1939 formula but requested that 1 percent weight be given to past marketings and 99 percent weight be given to processings from proportionate shares. (Yarbrough, R. pp. 162–163) The witness recommended, further, that, if figures are available, processings from the 1940 crop be used instead of processings from the 1939 crop. (R. p. 162) Three other Louisiana processors indicated that they are opposed to the use of the 1939 formula in making allotments for 1940. (Caldwell Sugars, Inc., Columbia Sugar Company, McCollam Bros., Inc., R. p. 111)

The representative of the Fellsmere Sugar Producers Association objected to the use of the 1939 formula in the manner proposed by the group of Louisiana processors. The use of 1939 processings would, it was stated, unduly penalize growers who made substantial reductions in their proportionate share acreages in 1939, in accordance with the determination of proportionate shares for the mainland cane sugar area. The witness then proposed that 1940 allotments be made on the basis of actual allotments in 1939, reduced by a percentage equal to the percentage reduction in the 1940 quota below the quota for 1939. (Heiser, R. pp. 43–48)

The representative of the United States Sugar Corporation proposed that allotments for 1940 be made, first, by giving to all processors who would not claim a benefit payment under the act a marketing allotment equal to their production of sugar, and, secondly, by allotting the balance of the quota under a formula in which the following factors would be given weighted values:

(1) The length of the harvest season (1 point for each day);

(2) Average yearly earnings of employees (1 point for each dollar of annual wages);

(3) Cost of production of sugar (100 points at three cents, with reductions above and additions below); and

(4) Tons of sugar produced per acre (100 points for each ton).

The witness then proposed (a) that the basis for the establishment of the point weights be the averages for the districts set forth in Sugar Determination No. 28, issued by the Secretary of Agriculture on April 15, 1938, as amended, and (b) that the sum of the points so calculated for each producer of sugar be multiplied by the average annual production of sugar for the two preceding years and the resultant totals of all producers of sugar be used as the basis for the proration. (Bitting, R. pp. 193–194)

Basis of Allotment

Section 205 (a) of the act provides, in part, as follows:

> Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him.

It is believed that, in order to make a fair, efficient, and equitable distribution of the 1940 sugar quota for the mainland cane sugar area, allotments should be made on the basis of (1) processings of sugar from sugarcane to which proportionate shares, determined pursuant to section 302 (b) of the act, pertained, and (2) past marketings of sugar. In measuring past marketings, it is believed that the use of the most favorable of the following options will afford a fair and reasonable measure of such marketings:

(a) 100 percent of the average quantity of sugar marketed during any three of the calendar years 1936, 1937, 1938, and 1939;

(b) 80 percent of the average quantity of sugar marketed during any two of the calendar years 1936, 1937, 1938, and 1939; or

(c) 70 percent of the average quantity of sugar marketed during any one of the calendar years 1936, 1937, 1938, and 1939.

The use of processings from proportionate shares of sugarcane for the 1939–40 crop will afford a fair and reasonable measure of that standard.

It is believed, further, that the act contemplates a method of allotment which will not only result in a fair, efficient, and equitable distribution of the quota but will, at the same time, afford a maximum of protection to the producers of sugarcane. This result may be accomplished by giving one-fourth weight to past marketings, measured in the manner hereinbefore stated, and three-fourths weight to processings from proportionate shares of sugarcane for the 1939–40 crop. This weighting will result in a fair, efficient, and equitable distribution of the quota, and will also provide an incentive to processors to grind as much proportionate share sugarcane as possible for purposes of future allotments.

The representative of the Louisiana State University requested that the university be given an allotment of 350 tons of sugar, regardless of what allotment it would be entitled to under the method of allotment finally adopted. (Keller, R. pp. 145–146) The witness stated that an allotment of 350 tons of sugar was necessary in order to enable the university to operate its experimental factory at Baton Rouge, which is a non-profit organization operating at considerable expense to the university. (R. p. 145) It is deemed advisable, therefore, before calculating allotments for other Louisiana processors, to allot to Louisiana State University, from the portion of the quota allocable to Louisiana processors under the foregoing formula, the difference between the quantity of sugar which would be allocated to it under such formula and the 350 tons of sugar requested.

Findings of fact

On the basis of the record of the hearing, I hereby find that:

1. The effective inventory of all sugar processors in the mainland cane sugar area as of January 1, 1940, was 217,507 short tons of sugar, raw value.

2. The production of sugar for the 1940–41 crop period from proportionate share acreages in the mainland cane sugar area will be approximately 505,000 short tons of sugar, raw value.

3. The total supply of mainland cane sugar available for market in 1940 will be substantially in excess of the 1940 quota for such area.

4. The use of the most favorable of the following options constitutes a fair and reasonable measure of past marketings of sugar for each processor:

[1] Effective inventory is the quantity of sugar on hand on January 1, 1940, plus the estimated quantity to be produced after January 1 1940, from the 1939–40 crop of sugarcane. (R. p. 23.)

(1) 100 percent of the average quantity of sugar marketed during any three of the calendar years 1936, 1937, 1938, and 1939;

(2) 80 percent of the average quantity of sugar marketed during any two of the calendar years 1936, 1937, 1938, and 1939; or

(3) 70 percent of the average quantity of sugar marketed during any one of the calendar years 1936, 1937, 1938, and 1939.

5. The past marketings of each processor, measured by the best option of the three given above, are as follows:

Processor	Best option	Amount (short tons, raw value)
Alma Plantation, Ltd.[1]	Av. 1936-38-39	7,279
J. Aron & Co., Inc.[1]	Av. 1936-37-39	9,231
Billeaud Sugar Factory [1]	Av. 1936-38-39	10,017
Blanchard Planting Company.[1]	Av. 1936-37-39	2,512
Caire & Graugnard [1]	70%—1939	4,622
Caldwell Sugars, Inc.[1]	Av. 1936-37-39	7,557
A. & J. E. Champagne [1]	Av. 1936-37-38	722
Columbia Sugar Company.[1]	Av. 1936-37-39	4,492
Cora-Texas Manufacturing Co., Inc.[1]	Av. 1937-38-39	3,625
Cypremort Sugar Company, Inc.[1]	Av. 1936-38-39	7,214
Delgado-Albania Plt'n Commission.[1]	Av. 1936-37-38	7,363
Dugas & LeBlanc, Ltd.[1]	Av. 1937-38-39	7,038
Duhe & Bourgeois Sugar Co., Inc.[1]	Av. 1937-38-39	5,165
Erath Sugar Company [1]	Av. 1936-38-39	9,050
Evan Hall Sugar Cooperative.[1]	70%—1939	12,654
Evangeline Pepper & Food Prod. Co.[1]	Av. 1937-38-39	2,759
W. Prescott Foster [1]	Av. 1936-37-38	6,862
E. J. Gay Pltg. & Mfg. Co.[1]	Av. 1936-38-39	3,865
Glenwood Sugar Coop., Inc.[1]	Av. 1936-38-39	5,714
Godchaux Sugars, Inc.[1]	Av. 1937-38-39	39,612
Haas Investment Co., Inc.[1]	Av. 1937-38-39	3,195
Helvetia Sugar Cooperative, Inc.[1]	Av. 1937-38-39	5,359
Iberia Sugar Company [1]	Av. 1937-38-39	8,636
M. J. Kahao [1]	Av. 1936-37-38	1,048
Kessler & Sternfels [1]	70%—1936	461
Lafourche Sugar Company [1]	Av. 1937-38-39	7,334
T. Lanaux's Sons [1]	Av. 1936-37-38	540
Harry L. Laws and Co., Inc.[1]	Av. 1936-37-39	17,404
Levert-St. John, Inc.[1]	Av. 1936-38-39	11,398
Louisiana Penitentiary Board.[1]	Av. 1936-37-38	6,302
Louisiana State University	70%—1939	223
Magnolia Sugar Cooperative, Inc.[1]	Av. 1936-38-39	3,989
The Maryland Company, Inc.[1]	Av. 1937-38-39	4,634
S. M. Mayer [1]	70%—1936	290
Meeker Sugar Refining Co.[1]	Av. 1937-38-39	6,406
Milliken & Farwell, Inc.[1]	Av. 1936-37-39	15,266
M. A. Patout & Son [1]	70%—1939	7,444
Poplar Grove Pltg. & Ref. Co.[1]	Av. 1937-38-39	7,445
Realty Operators, Inc.[1]	Av. 1936-37-39	38,574
Roane Sugars, Inc.[1] (R. pp. 50-53).	Av. 1936-37-38	5,826
E. G. Robichaux Co., Ltd.[1]	Av. 1936-38-39	6,131
Ruth Sugar Company, Inc.[1]	Av. 1936-37-38	2,733
St. James Operators, Inc.[1]	70%—1937	2,239
San Francisco P. & M. Co., Ltd.[1]	Av. 1936-37-39	2,562
Clarence J. Savoie [1]	Av. 1937-38-39	6,230
Shadyside Company, Ltd.[1]	Av. 1937-38-39	5,341
Slack Brothers [1]	Av. 1937-38-39	3,341
Smedes Brothers, Inc.[1]	Av. 1936-38-39	3,494
Mrs. L. M. Soniat (Estate)[1]	Av. 1936-37-38	3,722
South Coast Corporation [1]	Av. 1936-38-39	39,191
Sterling Sugars, Inc.[1]	Av. 1937-38-39	13,906
J. Supple's Sons Pltg. Co., Ltd.[1]	Av. 1936-37-39	6,479
Tally Ho, Inc.[1]	Av. 1936-37-39	6,615
Teche Sugar Co., Inc.[1]	Av. 1936-37-38	4,614
Valentine Sugars, Inc.[1]	Av. 1936-37-39	13,847
Vermilion Sugar Company.[1]	Av. 1936-38-39	6,668
Vida Sugars, Inc.[1]	Av. 1937-38-39	4,740
Waguespack Planting Company.[1]	Av. 1936-37-39	1,015
Waterford Sugar Coop., Inc.[1]	Av. 1936-37-39	6,061
Waverly Sugar Mfg. Co., Ltd.[1]	70%—1937	693
Webre-Steib Company, Ltd.[1]	Av. 1936-37-38	1,278
A. Wilbert's Sons L. & S. Co.[1]	Av. 1936-37-39	7,567
Youngsville Sugar Company [1]	Av. 1936-38-39	6,934
Baldwin Sugar Co.[1]	70%—1939	799
Breaux Bridge Sugar Co-op., Inc.[1]	80%—1938-39	3,741
McCollam Brothers [1]	80%—1937-39	456
D. Moresi's Sons [1]	80%—1938-39	2,091
Gay Union Corp., Inc.[1] (R. pp. 71-84)		0
Canal Bank and Trust Co.[1] (R. pp. 85-90)		0
Fellsmere Sugar Prod. Association [1]	70%—1939	4,997
U. S. Sugar Corporation [1]	Av. 1937-38-39	70,936

[1] R., Gov't Ex. 3.

6. The use of processings of sugar from proportionate shares of sugarcane for the 1939–40 crop will afford a fair and reasonable measure of the stautory standard of "processings of sugar ____ from ____ sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained."

7. The processings of sugar from proportionate shares of sugarcane for the 1939–40 crop are as follows:

Processor:	Amount (*short tons, raw value*)
Alma Plantation Ltd.[1]	7,253
J. Aron & Co., Inc.[1]	7,259
Billeaud Sugar Factory [1]	10,675
Blanchard Planting Company [1]	2,513
Caire & Graugnard [1]	3,189
Caldwell Sugars, Inc.[1]	6,908
A. & J. E. Champagne [1]	0
Columbia Sugar Company [1]	4,160
Cora-Texas Manufacturing Co., Inc.[1]	4,992
Cypremort Sugar Company, Inc.[1]	6,173
Delgado-Albania Plt'n Commission [1]	5,921
Dugas & LeBlanc, Ltd.[1]	8,667
Duhe & Bourgeois Sugar Co., Inc.[1]	7,250
Erath Sugar Company [1]	10,197
Evan Hall Sugar Cooperative [1]	11,241
Evangeline Pepper & Food Prod. Co.[1]	3,617
W. Prescott Foster [1]	7,383
E. J. Gay Pltg. Mfg. Co.[1]	3,170
Glenwood Sugar Coop., Inc.[1]	6,569
Godchaux Sugars, Inc.[1]	33,499
Haas Investment Co., Inc.[1]	3,362
Helvetia Sugar Cooperative, Inc.[1]	4,739
Iberia Sugar Company [1]	11,352
M. J. Kahao [1]	0
Kessler & Sternfels [1]	301
Lafourche Sugar Company [1]	6,885
T. Lanaux's Sons [1]	0
Harry L. Laws & Co., Inc.[1]	16,315
Levert-St. John, Inc.[1]	9,944
Louisiana Penitentiary Board [1]	5,363
Louisiana State University [1]	318
Magnolia Sugar Cooperative, Inc.[1]	4,382
The Maryland Company, Inc.[1]	4,234
S. M. Mayer [1]	0
Meeker Sugar Refining Co.[1]	6,751
Milliken & Farwell, Inc.[1]	14,638
M. A. Patout & Son [1]	6,621
Poplar Grove Pltg. & Ref. Co.[1]	6,888
Realty Operators, Inc.[1]	33,638
Roane Sugars, Inc.[1]	6,205
E. G. Robichaux Co., Ltd.[1]	5,461
Ruth Sugar Company, Inc.[1]	3,166
St. James Operators, Inc.[1]	0
San Francisco P. & M. Co., Ltd.[1]	1,459
Clarence J. Savoie [1]	7,276
Shadyside Company, Ltd.[1]	6,062
Slack Brothers [1]	3,464
Smedes Brothers, Inc.[1]	3,530
Mrs. L. M. Soniat (Estate) [1]	3,979
South Coast Corporation [1]	32,239
Sterling Sugars, Inc.[1]	12,548
J. Supple's Sons Pltg. Co., Ltd.[1]	5,227
Tally Ho, Inc.[1]	4,145
Teche Sugar Co., Inc.[1]	5,016
Valentine Sugars, Inc.[1]	8,401
Vermilion Sugar Company [1]	6,653
Vida Sugars, Inc.[1]	3,843
Waguespack Planting Company [1]	0
Waterford Sugar Corp., Inc.[1]	5,877
Waverly Sugar Mfg. Co., Ltd.[1]	0
Webre-Steib Company, Ltd.[1]	847
A. Wilbert's Sons L. & S. Co.[1]	6,894
Youngsville Sugar Company [1]	6,652
Baldwin Sugar Company [1]	1,457
Breaux Bridge Sugar Coop., Inc.[1]	7,046
McCollam Brothers [1]	0
D. Moresi's Sons [1]	3,195
Gay Union Corp., Inc.[1] (R. pp. 71-84)	0
Canal Bank and Trust Co.[1] (R. pp. 85-90)	0
Fellsmere Sugar Prod. Association [1] (R. p. 107)	4,567
U. S. Sugar Corporation [1]	65,345

[1] R., Gov't Ex. 2.

8. The giving of one-fourth weight to past marketings of sugar and three-fourths weight to processings of sugar from proportionate shares of sugarcane for the 1939–40 crop will result in allotments to processors which are fair and reasonable, and will afford protection to the producers of proportionate share sugarcane.

Conclusions

On the basis of the foregoing, and after consideration of the briefs submitted by interested persons following the hearing and the objections filed in opposition to the proposed findings of fact, conclusions, and order of the presiding officers who conducted the hearing, I hereby determine and conclude that the allotment of the 1940 sugar quota for the mainland cane sugar area is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States, and that, in order to make a fair, efficient, and equitable distribution of such quota, as required by section 205 (a) of the act, allotments should be made by giving one-fourth weight to past marketings, measured by the most favorable of the following three options:

(1) 100 percent of the average quantity of sugar marketed during any three of the calendar years 1936, 1937, 1938, and 1939;

(2) 80 percent of the average quantity of sugar marketed during any two of the calendar years 1936, 1937, 1938, and 1939;

(3) 70 percent of the average quantity of sugar marketed during any one of the calendar years 1936, 1937, 1938, and 1939;

and by giving three-fourths weight to processings from proportionate shares of sugarcane for the 1939–40 crop.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered that:

§ 821.41 *Original allotments.* The 1940 sugar quota for the mainland cane sugar area is hereby allotted to the following processors in the amounts which appear opposite their respective names:

Processor:	*Allotment (short tons, raw value)*
Alma Plantation, Ltd	5,896
J. Aron & Co., Inc	6,295
Billeaud Sugar Factory	8,535
Blanchard Planting Company	2,041
Caire & Graugnard	2,880
Caldwell Sugars, Inc	5,742
A. & J. E. Champagne	146
Columbia Sugar Company	3,446
Cora-Texas Manufacturing Co., Inc	3,776
Cypremort Sugar Company, Inc	5,224
Delgado-Albania Plt'n Commission	5,102
Dugas & LeBlanc, Ltd	6,708
Duhe & Bourgeois Sugar Co., Inc	5,465
Erath Sugar Company	8,048
Evan Hall Sugar Cooperative	9,415
Evangeline Pepper & Food Prod. Co	2,764
W. Prescott Foster	5,890
E. J. Gay Pltg. Mfg. Co	2,716
Glenwood Sugar Coop., Inc	5,161
Godchaux Sugars, Inc	28,445
Haas Investment Co., Inc	2,696
Helvetia Sugar Cooperative, Inc	3,974
Iberia Sugar Company	8,667
M. J. Kahao	213
Kessler & Sternfels	277
Lafourche Sugar Company	5,682
T. Lanaux's Sons	110
Harry L. Laws & Co., Inc	13,470
Levert-St. John, Inc	8,371
Louisiana Penitentiary Board	4,546
Louisiana State University	350
Magnolia Sugar Cooperative, Inc	3,479
The Maryland Company, Inc	3,520
S. M. Mayer	59
Meeker Sugar Refining Co	5,413
Milliken & Farwell, Inc	12,015
M. A. Patout & Son	5,544
Poplar Grove Pltg. & Ref. Co	5,707
Realty Operators, Inc	28,319
Roane Sugars, Inc	4,962
E. G. Robichaux Co., Ltd	4,570
Ruth Sugar Company, Inc	2,483
St. James Operators, Inc	455
San Francisco P. & M. Co., Ltd	1,409
Clarence J. Savoie	5,696
Shadyside Company, Ltd	4,777
Slack Brothers	2,788
Smedes Brothers, Inc	2,859
Mrs. L. M. Soniat (Estate)	3,179
South Coast Corporation	27,593
Sterling Sugars, Inc	10,466
J. Supple's Sons Pltg. Co., Ltd	4,499
Tally Ho, Inc	3,867
Teche Sugar Co., Inc	3,992
Valentine Sugars, Inc	7,928
Vermilion Sugar Company	5,528
Vida Sugars, Inc	3,303
Waguespack Planting Company	206
Waterford Sugar Coop. Inc	4,810
Waverly Sugar Mfg. Co., Ltd	140
Webre-Steib Company, Ltd	776
A. Wilbert's Sons L. & S. Co	5,735
Youngsville Sugar Company	5,459
Baldwin Sugar Company	1,050
Breaux Bridge Sugar Coop., Inc	5,051
McCollam Brothers	93
D. Moresi's Sons	2,371
Fellsmere Sugar Prod. Association	3,797
U. S. Sugar Corporation	54,218
Other Processors	0
Total	420,167

(Sec. 205, 50 Stat. 906; 7 U.S.C., Supp. IV, 1115.)

§ 821.42 *Additional allotments.* Any increase or decrease in the 1940 sugar quota for the mainland cane sugar area shall be prorated among processors on the basis of the allotments set forth above, and such allotments shall be increased or decreased, as the case may be, accordingly. (Sec. 205, 50 Stat. 906; 7 U.S.C., Supp. IV, 1115)

§ 821.43 *Restrictions on marketing.* Processors of sugarcane in the mainland cane sugar area are hereby prohibited from shipping, transporting, or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugarcane grown in the mainland cane sugar area in excess of the marketing allotments established in Secs. 821.41 and 821.42 hereof. (Sec. 209, 50 Stat. 908; 7 U.S.C., Supp. IV, 1119)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 27th day of April 1940.

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

[F. R. Doc. 40–1701; Filed, April 27, 1940; 11:49 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

IN THE MATTER OF THE PARTIAL EXEMPTION OF THE CLEANING AND PREPARING OF GARDEN SEED AND SEED CORN AT COUNTRY CLEANING PLANTS FROM THE MAXIMUM HOURS PROVISIONS

Whereas applications were filed by the American Seed Trade Association and sundry other parties for partial exemption of the cleaning and preparing of garden seed and seed corn at country cleaning plants from the maximum hours provisions of the Fair Labor Standards Act of 1938 as a branch of an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Act and Part 526 of the Regulations issued thereunder, and

Whereas, upon the basis of the applications and investigations conducted thereon, it appeared that—

(1) Garden seed and seed corn come to maturity and are harvested each year during regularly recurring periods, and

(2) Almost all garden seed and seed corn in the United States is grown on contract and normally this seed crop is delivered by the farmer, as soon after harvesting as weather and other farm work permits, to country cleaning plants where it is cleaned, purified, sorted, dried, graded and otherwise rendered suitable for seed, and

(3) Most seed crops after being received at the cleaning plants must be immediately prepared including drying and fumigating in order to prevent loss of germination, disease or other deterioration, and

(4) That these plants are located at convenient points where it is practical and not unduly costly for the farmers to deliver their crops, and

(5) The aforesaid country cleaning plants are devoted solely to the cleaning and preparing of garden seed and seed corn and that such plants open up when the crop begins to ripen and operate until all the seed has been delivered, and

(6) The average operating season of these seed plants is about five months, some plants operating for as little as three or four months; a number operating as long as six months; and a negligible number operating over six months, and

(7) That within a six months' period at least ninety-five per cent of all garden seed and seed corn is cleaned and prepared by these plants, and

(8) After the crop has been cleaned and prepared these country cleaning plants shut down except for maintenance, repair and occasional shipments of seeds because the materials used by the industry, i. e., garden seed and seed corn, are no longer available because of natural factors, and

(9) These country cleaning plants are devoted solely and exclusively to the cleaning and preparing of garden seed and seed corn and no other work is done in these plants at any time.

The term "cleaning and preparing" is understood to mean receiving of the seed crop into the cleaning plant and the cleaning, purifying, sorting, drying, grading, and otherwise rendering such crop suitable for seed. It may include the bulk packaging of seed for delivery to a central point of distribution.

The term "country cleaning plants" is understood to designate those establishments wherein the seed crop is received direct from farmers (and no part of which is shipped from other plants) and is cleaned, purified, sorted, dried, graded, and otherwise rendered suitable for seed, and

Whereas the Administrator caused to be published in the FEDERAL REGISTER on April 2, 1940 (5 F.R. 1283), a notice which stated that a *prima facie* case had been shown for the granting of an exemption pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of the Regulations issued thereunder to the cleaning and preparing of garden seed and seed corn at country cleaning plants, and which further stated that if no objection and request for hearing was received within fifteen days thereafter, the Administrator would make a finding upon the *prima facie* case shown upon the applications, and

Whereas, no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

Now, therefore, pursuant to § 526.5 (b) (ii) of the Regulations, as amended, the Administrator hereby finds on the *prima facie* case shown in the said applications that the cleaning and preparing of garden seed and seed corn at country cleaning plants is a seasonal industry within the meaning of section 7 (b) (3) of the

Fair Labor Standards Act of 1938 and Regulations issued thereunder, and, therefore, is entitled to the exemption provided in section 7 (b) (3) of the said Act.

Signed at Washington, D. C., this 26 day of April 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40–1696; Filed, April 27, 1940; 10:47 a. m.]

IN THE MATTER OF THE APPLICATION FOR EXEMPTION OF THE OPEN-CUT MINING OF PLACER GOLD IN THE STATE OF COLORADO FROM THE MAXIMUM HOURS PROVISIONS

Whereas, on November 6, 1939, an authorized representative of the Administrator of the Wage and Hour Division, United States Department of Labor, determined, after a public hearing held before him in Washington, D. C. on June 19 and 20, 1939, that the open-cut mining of placer gold in the States of Idaho, Montana, Nevada, Oregon, South Dakota, Utah, Washington, and Wyoming and the Territory of Alaska is a branch of an industry of a seasonal nature and therefore entitled to the seasonal exemption provided in section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of the Regulations issued thereunder, and

Whereas, on January 3, 1940, the Administrator made this exemption effective by publication in the FEDERAL REGISTER, and

Whereas the Colorado Mining Association filed an application with the Administrator for a determination that the open-cut mining of placer gold in the State of Colorado is included within the aforesaid branch of the industry and therefore is entitled to the seasonal exemption, and

Whereas it was alleged in the application filed by the Colorado Mining Association that the open-cut mining of placer gold in Colorado is similar in all material respects to the open-cut mining of placer gold in the States of Idaho, Montana, Nevada, Oregon, South Dakota, Utah, Washington and Wyoming and the Territory of Alaska, and

Whereas the Administrator caused to be published in the FEDERAL REGISTER on April 2, 1940 (5 F.R. 1284), a notice which stated that upon consideration of the facts stated in the said application, and upon further investigation the Administrator determined, pursuant to § 526.5 (c) of the Regulations, that a *prima facie* case had been shown for the granting of an exemption, pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of the Regulations, to the open-cut mining of placer gold in the State of Colorado as part of the branch of the open-cut placer gold mining industry found to be a branch of a seasonal industry as set forth in the first and second paragraphs of the notice, and which stated further that if no objection and request for hearing were received within fifteen days, the Administrator would make a finding upon the *prima facie* case shown in the application, and

Whereas, no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

Now, therefore, pursuant to § 526.5 (b) (ii) of the Regulations, as amended, the Administrator hereby finds on the *prima facie* case shown in the said application that the open-cut mining of placer gold in the State of Colorado is a part of a branch of an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Regulations issued thereunder and, therefore, is entitled to the exemption provided in section 7 (b) (3) of the said Act.

Signed at Washington, D. C., this 26 day of April 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40–1697; Filed, April 27, 1940; 10:47 a. m.]

[Administrative Order No. 49]

ACCEPTANCE OF RESIGNATION FROM AND APPOINTMENT TO INDUSTRY COMMITTEE NO. 9 FOR THE RAILROAD CARRIER INDUSTRY

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Philip B. Fleming, Administrator of the Wage and Hour Division, Department of Labor,

Do hereby accept the resignation of Mr. E. J. McClees from Industry Committee No. 9[1] for the Railroad Carrier Industry and do appoint in his stead as representative for the employers on such Committee, Mr. H. E. Jones, of New York, New York.

Signed at Washington, D. C., this 29th day of April 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40–1716; Filed, April 29, 1940; 11:51 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and § 522.5 of Regulations Part 522, as amended, to the employers listed below effective April 30, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of § 522.13 or § 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 24, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F.R. 4531).

Glove Order, February 20, 1940 (5 F.R. 714).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Annette Sports Wear Co., Westminster, Maryland; Apparel; Sport Dresses & Play Suits; 5 learners; October 24, 1940.

Her Majesty Underwear Co., 314 North 13th Street, Philadelphia, Pennsylvania; Apparel; Slips; 5 percent; October 24, 1940.

Dayton Dress Company, 38 West Fifth Street, Dayton, Ohio; Apparel; House Dresses; 5 percent; October 24, 1940.

Dayton Dress Company, 38 West Fifth Street, Dayton, Ohio; Apparel; House Dresses; 60 learners; August 20, 1940.

Shelco Manufacturing Co., Inc., 1234 Washington Avenue, St. Louis, Missouri; Apparel; Skirts, Slack Suits, Play Suites; 5 learners; October 24, 1940.

Smoler Brothers, Inc., 318 East Colfax Street, South Bend, Indiana; Apparel; Dresses; 5 percent; October 24, 1940.

Smoler Brothers, Inc., 318 East Colfax Street, South Bend, Indiana; Apparel; Dresses; 190 learners; August 27, 1940.

Robinhold and Company, Port Clinton, Pennsylvania; Knitted Wear; Cotton Underwear, Vests and Panties; 2 learners; October 24, 1940.

Royalknit Glove Corporation, Johnstown, New York; Glove; Knit Wool Gloves; 5 learners; October 24, 1940.

Signed at Washington, D. C., this 29th day of April 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40–1718; Filed, April 29, 1940; 11:59 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment

[1] 4 F.R. 4466.

of learners at hourly wages lower than the minimum rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued pursuant to Section 14 of the said Act and § 522.5 (b) of Regulations Part 522 (4 F.R. 2088), as amended (4 F.R. 4226), to the employers listed below effective April 30, 1940. These Certificates are issued upon their representations that experienced workers for the learner occupations are not available and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. These Certificates may be canceled in the manner provided for in § 522.5 (b) of the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of § 522.5 (b). The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Albe Lamp & Shade Company, 83 East Laurel Street, Philadelphia, Pennsylvania; Lamp & Shade Manufacturing; Lamp Shades; 2 learners; 8 weeks for any one learner; 25¢ per hour; Acetate Lamp Shade Operator; October 29, 1940.

Blossom Fruit Packers Corporation, 29 S. 11th Street, Brooklyn, New York; Fruit Packing; Fruit Packers; 12 learners; 4 weeks for any one learner; 25¢ per hour; Olive Filler; October 29, 1940.

E. Kessling Thermometer Company, 682-684 Jamaica Avenue, Brooklyn, New York; Scientific Apparatus; Thermometers; 1 learner; 8 weeks for any one learner; 25¢ per hour; Thermometer Penciler; July 9, 1940.

Grand Novelty Company, 144 West 18th Street, New York, New York; Hassocks; Hassock Finishing; 2 learners; 4 weeks for any one learner; 25¢ per hour; Hassock Finisher; July 9, 1940.

T. L. Brice Company, 300 East Sycamore Street, Sherman, Texas; Pickle Packing; Pickle Packing; 3 learners; 6 weeks for any one learner; 25¢ per hour; Pickle Packer; August 6, 1940.

Weber Lifelike Fly Company, 133 W. Ellis Street, Stevens Point, Wisconsin; Fishing Tackle; Flies; 8 learners; 12 weeks for any one learner; 25¢ per hour; Fly Tiers; October 29, 1940.

Signed at Washington, D. C., this 29th day of April 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40-1717; Filed, April 29, 1940; 11:59 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 370]

IN THE MATTER OF THE APPLICATION OF PAN AMERICAN AIRWAYS COMPANY (OF DELAWARE) FOR AN ORDER FIXING AND DETERMINING THE FAIR AND REASONABLE RATE OF COMPENSATION FOR THE TRANSPORTATION OF MAIL BY AIRCRAFT, THE FACILITIES USED AND USEFUL THEREFOR, AND THE SERVICES CONNECTED THEREWITH, ON ADDITIONAL FREQUENCIES BETWEEN THE UNITED STATES AND EUROPE IN TRANS-ATLANTIC SERVICE, PURSUANT TO SECTIONS 406 (A) AND (B) OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF POSTPONEMENT OF HEARING

Upon request of the applicant, the above entitled proceeding instituted by the Authority for the limited purpose of fixing and determining fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor and the services connected therewith, on a total of three round trips per week between the United States and Europe in trans-Atlantic service, now assigned for hearing [1] on May 1, 1940, is hereby postponed to May 14, 1940, 10 o'clock a. m. (Eastern Standard Time), at the Carlton Hotel, 923 16th Street NW., Washington, D. C., before Examiner Francis W. Brown.

Dated Washington, D. C., April 26, 1940.

[SEAL] FRANCIS W. BROWN,
Examiner.

[F. R. Doc. 40-1710; Filed, April 29, 1940; 11:18 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 3979]

IN THE MATTER OF JACOB HOLTZ AND ABRAHAM L. HOLTZ INDIVIDUALLY AND AS COPARTNERS TRADING UNDER THE NAMES OF JACOB HOLTZ AND JAY HOLTZ COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1940.

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

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

It is further ordered, That the taking of testimony in this proceeding begin on Friday, May 10, 1940, at one o'clock in the afternoon of that day (eastern standard time) in the United States Court House, Foley Square, New York, New York.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1691; Filed, April 27, 1940; 10:18 a. m.]

[Docket No. 3772]

IN THE MATTER OF JOHN B. ROCHE, AN INDIVIDUAL, TRADING AS THE G-H-R ELECTRIC DILATOR COMPANY, AND THE ROCHE ELECTRIC MACHINE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1940.

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

It is ordered, That Lewis C. Russell, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, June 1, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in the North Court Room, Federal Building, Grand Rapids, Michigan.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1687; Filed, April 27, 1940; 10:16 a. m.]

[Docket No. 3924]

IN THE MATTER OF VON SCHRADER MANUFACTURING COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in

[1] 5 F.R. 1374.

the City of Washington, D. C., on the 26th day of April, A. D. 1940.

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

It is ordered, That Lewis C. Russell, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 3, 1940, at ten o'clock in the forenoon of that day (central standard time) in the Hearing Room, Racine Court House, Racine, Wisconsin.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1688; Filed, April 27, 1940; 10:17 a. m.]

[Docket No. 3925]

IN THE MATTER OF FINE-CRAHAN CANDY COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1940.

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

It is ordered, That Lewis C. Russell, an examiner of this Commision, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, May 17, 1940, at ten o'clock in the forenoon of that day (central standard time) in the Sixth Floor Court Room, Federal Building, Oklahoma City, Oklahoma.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1689; Filed, April 27, 1940; 10:17 a. m.]

[Docket No. 3972]

IN THE MATTER OF D. D. D. CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1940.

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

It is ordered, That Lewis C. Russell, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, May 31, 1940, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1690; Filed, April 27, 1940; 10:18 a. m.]

[Docket No. 3986]

IN THE MATTER OF J. O. DAVIES, AN INDIVIDUAL, TRADING AS BABY TOUCH HAIR REMOVER COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1940.

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

It is ordered, That Lewis C. Russell, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 27, 1940, at ten o'clock in the forenoon of that day (central standard time), in Room 429, Federal Building, St. Louis, Missouri.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1692; Filed, April 27, 1940; 10:18 a. m.]

[Docket No. 4013]

IN THE MATTER OF MONITE WATERPROOF GLUE COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1940.

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

It is ordered, That Lewis C. Russell, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, June 6, 1940, at ten o'clock in the forenoon of that day (central standard time) in Room 208, Federal Building, Minneapolis, Minnesota.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1693; Filed, April 27, 1940; 10:19 a. m.]

[Docket No. 4014]

IN THE MATTER OF SAMUEL SWIMMER, AN INDIVIDUAL, DOING BUSINESS UNDER THE FIRM NAME OF SEABOARD PAINT AND VARNISH COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1940.

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

It is ordered, That Lewis C. Russell, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, June 20, 1940, at nine o'clock in the forenoon of that day (eastern standard time) in the St. George Hotel, Brooklyn, New York.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1694; Filed, April 27, 1940; 10:19 a. m.]

[Docket No. 4088]

IN THE MATTER OF JACOB SWIMMER, AN INDIVIDUAL, TRADING AS NATIONAL LACQUER MFG. CO., AND AS NATIONAL TITANIUM COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1940.

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

It is ordered, That Lewis C. Russell, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 19, 1940, at nine o'clock in the forenoon of that day (eastern standard time) in the St. George Hotel, Brooklyn, New York.

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

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1695; Filed, April 27, 1940; 10:19 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 31–221]

IN THE MATTER OF THE APPLICATION OF EASTERN SHORE PUBLIC SERVICE COMPANY (DEL.)

ORDER AMENDING PREVIOUS ORDER AND GRANTING TEMPORARY EXEMPTION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of April, A. D. 1940.

Eastern Shore Public Service Company (Del.) having heretofore filed its application in the above matter for an exemption as a holding company pursuant to section 3 (a) (2) of the Public Utility Holding Company Act of 1935, and the Commission having heretofore denied such application;

Such holding company having thereafter filed its notification of registration under section 5 (a) of said Act, and having subsequently filed an application for exemption from section 13 (a) of said Act (File No. 37–51) with respect to the continuance of a course of business under which such holding company performed services and construction for, and sold goods to, its subsidiary companies, and having requested a temporary exemption covering such arrangements pending hearing and final determination of such application;

It is hereby ordered, That the denial of the application for exemption heretofore made be, and the same is, amended so as to provide that a temporary exemption from the provisions of section 13 (a) of such Act be, and the same is, hereby granted to applicant to the extent requested in said application in File No. 37–51, pending the hearing and final determination thereon: *Provided, however,* That during the period when such exemption remains applicable such applicant shall comply with all provisions of the rules regarding performance of services, or construction, or the sale of goods at cost, and shall keep appropriate records of such costs, and the allocation thereof. The Commission reserves the right to require retroactive adjustments of all charges made during the period of such temporary exemption to the extent necessary to effect compliance with such rules and regulations.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–1714; Filed, April 29, 1940; 11:25 a. m.]

[File No. 59–3]

IN THE MATTER OF ELECTRIC BOND AND SHARE COMPANY AND ITS SUBSIDIARY COMPANIES, RESPONDENTS

ORDER DENYING APPLICATION FOR POSTPONEMENT

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of April, A. D. 1940.

The Commission having issued a Notice of and Order for Hearing in the within matter pursuant to section 11 (b) (1) of the Public Utility Holding Company Act of 1935; said Notice of and Order for Hearing having required that the respondents herein file with the Secretary of the Commission on or before the 6th day of April 1940 their joint or several answers thereto; the Commission having extended the time for filing answers to the 20th day of April, 1940 by Order dated April 6, 1940, and having further extended the date for filing answers to the 27th day of April 1940 by Order dated April 19, 1940,[1] and the respondents having filed on April 26, 1940 their "Application for Order of Postponement" requesting further extension of the time for filing answers for an additional period of at least 90 days from and after the 27th day of April 1940; and

The Commission having duly considered said Application for Order of Postponement and having filed its "Memorandum Opinion" in connection therewith:

It is ordered, (1) That said Application for Order of Postponement be, and the same hereby is, denied; and (2) that the time for filing answers be, and the same hereby is, extended for one week until the 4th day of May 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–1712; Filed, April 29, 1940; 11:25 a. m.]

[File No. 70–44]

IN THE MATTER OF WEST COAST POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of April, A. D. 1940.

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission

[1] 5 F.R. 1524.

thereunder be held on May 15, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 10, 1940.

The matter concerned herewith is in regard to the proposed purchase by West Coast Power Company of all the electric utility assets of the McCall Light & Power Company, an Idaho corporation, owning and operating an electric generating and distributing system in the village and vicinity of McCall, Idaho. The gross consideration will be $65,000 and no fees or commissions are to be paid.

The applicant has designated Section 10 as applicable.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–1713; Filed, April 29, 1940; 11:25 a. m.]

[File No. 70–45]

IN THE MATTER OF LACLEDE POWER & LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of April, A. D. 1940.

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on May 16, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 11, 1940.

The matter concerned herewith is in regard to:

(a) The issuance by the applicant of a series of 36 promissory notes, aggregating $372,750 principal amount, representing the unpaid balance of the purchase price of certain equipment to be purchased from General Electric Corporation and to be secured by a chattel mortgage upon such equipment. The notes are to have consecutive monthly maturities, commencing July 15, 1940. Twenty-four of the notes are to be in the principal amount of $8,270.83 each and the remaining twelve are to be in the principal amount of $8,270.84 each. The twelve notes first to mature are to bear interest at the rate of 3% per annum, the next twelve to mature are to bear interest at the rate of 3½% per annum and the last twelve to mature are to bear interest at the rate of 4% per annum.

(b) The issuance by the applicant of a series of 6 promissory notes, aggregating $297,750 principal amount, representing the unpaid balance of the purchase price of certain equipment to be purchased from Westinghouse Electric and Manufacturing Company and to be secured by a conditional sales contract covering such equipment. Each note is to be in the principal amount of $12,500 and is to bear interest at the rate of 3½% per annum. The first note of the series is to mature December 15, 1940 and the others successively semi-annually thereafter.

Applicant designates sections 6 (a) and 6 (b) of the Public Utility Holding Company Act of 1935 and Rule U-3D-10 promulgated thereunder as applicable to the above matter.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–1711; Filed, April 29, 1940; 11:25 a. m.]