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Washington, Friday, May 12, 1939

The President

EXECUTIVE ORDER

ESTABLISHING THE APPERT LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 1,162.76 acres, more or less, in Emmons County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 134 N., R. 76 W.,
sec. 2, lots 3 and 4, and S½NW¼;
sec. 3, all;
sec. 4, lots 1, 2, 3, and 4, and S½N½.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Appert Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8110]

[F. R. Doc. 39–1593; Filed, May 10, 1939; 4:11 p. m.]

EXECUTIVE ORDER

ESTABLISHING BILLINGS LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 760.00 acres, more or less, in Cavalier County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 159 N., R. 61 W.,
sec. 10, E½;
sec. 15, N½, N½SE¼, and SE¼SE¼.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Billings Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8111]

[F. R. Doc. 39–1594; Filed, May 10, 1939; 4:11 p. m.]

EXECUTIVE ORDER

ESTABLISHING BONE HILL CREEK MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 640.00 acres, more or less, in LaMoure County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 136 N., R. 65 W., sec. 33, all.

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THE PRESIDENT

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FEDERAL REGISTER

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It is unlawful for any person to pursue, hunt,. trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Bone Hill Creek Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8112]

[F. R. Doc. 39–1595; Filed, May 10, 1939; 4:11 p. m.]

EXECUTIVE ORDER

ESTABLISHING BUFFALO LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, and by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is ordered that all lands and waters owned or controlled by the United States within the following-described area, comprising 2,105 acres, more or less, in Pierce County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 152 N., R. 72 W.,
sec. 1, lot 5, SW¼NW¼ and NW¼SW¼;
sec. 2, lots 4, 6, 8, and 9, SE¼NE¼ and NE¼SE¼;
sec. 3, lots 1 to 6, inclusive;
sec. 11, lots 1, 2, and 3, SW¼NE¼, NW¼NW¼, S½NW¼, N½SW¼, and NW¼SE¼;
sec. 12, lots 1 to 5, inclusive; and lands, and lands under water, within the meander line of the lake in secs. 1, 2, 3, 11, and 12;
T. 153 N., R. 72 W.,
sec. 36, all fractional together with the lands, and lands under water, within the meander line of the lake.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

Executive Order No. 6910 of November 26, 1934, as amended, withdrawing lands in North Dakota and other states for classification, etc., is hereby revoked in so far as it affects any of the above-described lands.

This reservation shall be known as the Buffalo Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8113]

[F. R. Doc. 39–1596; Filed, May 10, 1939; 4:11 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE CAMP LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands and waters owned or controlled by the United States within the following-described area, comprising 1,212.44 acres, more or less, in McLean County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 149 N., R. 80 W.,
sec. 2, E½, including the lands and lands under water within the meander line (Strawberry Lake);
T. 150 N., R. 80 W.,
sec. 25, lot 1 and NE¼SE¼ and lands and lands under water within the meander line (Camp Lake);
sec. 35, lots 2, 3, and 4, and lands and lands under water within the meander line (Strawberry Lake);
sec. 36, all, including the lands and lands under water within the meander lines (Camp and Strawberry Lakes).

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Camp Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8114]

[F. R. Doc. 39–1597; Filed, May 10, 1939; 4:11 p. m.

EXECUTIVE ORDER

ESTABLISHING CANFIELD LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands and waters owned or controlled by the United States within the following-described area, comprising 453.00 acres, more or less, in Burleigh County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 143 N., R. 77 W.,
sec. 20, lots 1 to 6, inclusive;
sec. 21, lots 2 and 3; and lands and lands under water within the meander line of the lake in secs. 20, 21, and 29.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Canfield Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8115]

[F. R. Doc. 39–1598; Filed, May 10, 1939; 4:11 p. m.]

EXECUTIVE ORDER

ESTABLISHING CHARLES LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 800.00 acres, more or less, in Hettinger County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 134 N., R. 93 W.,
sec. 29, all;
sec. 30, NE¼.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Charles Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8116]

[F. R. Doc. 39–1599; Filed, May 10, 1939; 4:11 p. m.]

EXECUTIVE ORDER

ESTABLISHING DAKOTA LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands and waters owned or controlled by the United States within the following-described area, comprising 2,784.00 acres, more or less, in Dickey County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 129 N., R. 59 W.,
sec. 6, lot 5, and all lands and lands under water within the meander line (Dakota Lake);
T. 129 N., R. 60 W.,
sec. 1, all fractional;
sec. 2, lot 5, SE¼NE¼, N½SE¼, and SW¼SE¼;
sec. 11, lots 1 to 7, incl., and NW¼NE¼;
sec. 14, lot 4 and NW¼SW¼;
sec. 23, lots 1 to 4, incl.;
sec. 26, lots 1, 2, 5, and 6, and SE¼SW¼;
sec. 27, lots 1 and 2;
sec. 34, lots 1 and 2;
sec. 35, lots 1 and 2; and all lands and lands under water within the meander line (Dakota Lake), in secs. 1, 2, 11, 12, 14, 23, 26, 27, 34, and 35;
T. 130 N., R. 60 W.,
sec. 25, SW¼;
sec. 36, S½NE¼ and W½.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Dakota Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8117]

[F. R. Doc. 39–1600; Filed, May 10, 1939; 4:12 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE FLICKERTAIL MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 640.00 acres, more or less, in Emmons County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 132 N., R. 74 W., sec. 16, all.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Flickertail Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8118]

[F. R. Doc. 39–1601; Filed, May 10, 1939; 4:12 p. m.]

EXECUTIVE ORDER

ESTABLISHING FLORENCE LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands and waters owned or controlled by the United States within the following-described area, comprising 670.00 acres, more or less, in Burleigh County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 144 N., R. 76 W.,
sec. 16, all fractional; and lands and lands under water within the meander line of the lake in secs. 16, 17, 20, and 21.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Florence Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8119]

[F. R. Doc. 39–1602; Filed, May 10, 1939; 4:12 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE HALF-WAY MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 160.00 acres, more or less, in Stutsman County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 139 N., R. 68 W.,
sec. 20, SW¼NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Half-Way Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8120]

[F. R. Doc. 39–1603; Filed, May 10, 1939; 4:12 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE HUTCHINSON LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands and waters owned or controlled by the United States within the following-described area, comprising 478.90 acres, more or less, in Kidder County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 143 N., R. 74 W., sec. 30, fractional E½; and lands, and lands under water, within the meandered line of lake in secs. 29 and 30, and NW¼ sec. 32.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Hutchinson Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8121]

[F. R. Doc. 39–1604; Filed, May 10, 1939; 4:12 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE JOHNSON LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 1,928.00 acres, more or less, in Eddy and Nelson Counties, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 149 N., R. 61 W.,
sec. 30, lots 3 and 4, NE¼, E½SW¼, and SE¼;
sec. 31, lots 1 to 4, inclusive, NE¼, and E½W½;
T. 148 N., R. 62 W.,
sec. 1, lot 4, SW¼NW¼, and W½SW¼;
sec. 2, lots 1, 2, and 3, S½NE¼, SE¼NW¼, and SE¼;
sec. 11, NE¼;
T. 149 N., R. 62 W.,
sec. 36, E½.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Johnson Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8122]

[F. R. Doc. 39–1605; Filed, May 10, 1939; 4:12 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE LAKE MORAINE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 320.00 acres, more or less, in Burleigh County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 143 N., R. 78 W., sec. 13, N½.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Lake Moraine Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8123]

[F. R. Doc. 39–1606; Filed, May 10, 1939; 4:13 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE LAKE OLIVER MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 640.00 acres, more or less, in Oliver County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 141 N., R. 85 W., sec. 36, all.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Lake Oliver Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8124]

[F. R. Doc. 39-1607; Filed, May 10, 1939; 4:13 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE LITTLE GOOSE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 359.04 acres, more or less, in Grand Forks County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Prinipal Meridian

T. 151 N., R. 56 W., sec. 5, N½;
T. 152 N., R. 56 W., sec. 32, SW¼SE¼.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Little Goose Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8125]

[F. R. Doc. 39-1608; Filed, May 10, 1939; 4:13 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE LITTLE LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 480.00 acres, more or less, in Emmons County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 136 N., R. 76 W.,
sec. 33, E½;
sec. 34, SW¼.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Little Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8126]

[F. R. Doc. 39-1609; Filed, May 10, 1939; 4:13 p. m.]

EXECUTIVE ORDER

ESTABLISHING LORDS LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands and waters owned or controlled by the United States within the following-described area, comprising 1,915.22 acres, more or less, in Bottineau and Rolette Counties, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 161 N., R. 73 W.,
sec. 7, lots 2 to 8, inclusive;
sec. 18, lots 1 and 5; and lands and lands under water within the meander line of lakes in secs. 7 and 18;
T. 161 N., R. 74 W.,
sec. 1, SE¼SW¼;
sec. 11, lots 4 and 5, and SE¼SW¼;
sec. 12, all fractional;
sec. 13, lots 1 to 4, inclusive, and SE¼NE¼;
sec. 14, N½; and lands and lands under water within the meander line of lake in secs. 11, 12, and 13.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Lords Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8127]

[F. R. Doc. 39-1610; Filed, May 10, 1939; 4:13 p. m.]

EXECUTIVE ORDER

ESTABLISHING LOST LAKE MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands and waters owned or controlled by the United States within the following-described area, comprising 960.00 acres, more or less, in McLean County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 144 N., R. 81 W.,
sec. 25, SE¼;
sec. 35, lots 1 to 4, inclusive;
sec. 36, all fractional; and lands and lands under water within the meander line of lake in secs. 35 and 36.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Lost Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8128]

[F. R. Doc. 39-1611; Filed, May 10, 1939; 4:13 p. m.]

EXECUTIVE ORDER

ESTABLISHING MINNEWASTENA MIGRATORY WATERFOWL REFUGE

NORTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 144.30 acres, more or less, in Benson County, North Dakota, be, and they are hereby, reserved and set apart, subject to valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

Fifth Principal Meridian

T. 152 N., R. 65 W.,
sec. 12, lot 7 and SW¼SE¼;
sec. 13, lot 1 and NW¼NE¼.

It is unlawful for any person to pursue, hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of the refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Minnewastena Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 10, 1939.

[No. 8129]

[F. R. Doc. 39-1612; Filed, May 10, 1939; 4:13 p. m.]

CACHE NATIONAL FOREST—IDAHO AND UTAH

Correction

The land description appearing in Proclamation No. 2333 which was printed beginning on Page 1763 of the FEDERAL REGISTER for Wednesday, May 3, 1939 (F. R. Doc. 39-1491; Filed, May 2, 1939; 12:04 p. m.), should be corrected as follows: "secs. 24 and 25," appearing under "T. 7 N., R. 3 E.," should read "secs. 23 and 25,".

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

SUGAR DIVISION

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF THE 1939 CROP OF SUGARCANE IN THE MAINLAND CANE SUGAR AREA

Whereas Section 301 of the Sugar Act of 1937 authorizes the Secretary to make payments upon certain conditions with respect to sugar or liquid sugar commercially recoverable from the sugar beets and sugarcane grown on a farm for the extraction of sugar or liquid sugar, and

Whereas subsection (e) of section 301 of the said act provides, as one of the conditions for payment, as follows:

That there shall have been carried out on the farm such farming practices in connection with the production of sugar beets and sugarcane during the year in which the crop was harvested with respect to which a payment is applied for, as the Secretary may determine, pursuant to this subsection, for preserving and improving fertility of the soil and for preventing soil erosion, such practices to be consistent with the reasonable standards of the farming community in which the farm is situated.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby make the following determination:

§ 802.23a *Determination of farming practices to be carried out in connection with the production of the 1939 crop of sugarcane in the mainland cane sugar area*—(a) *Soil-building requirement.* The conditions prescribed in subsection (e) of section 301 of the Sugar Act of 1937 shall be deemed to have been fulfilled with respect to the production of the 1939 crop of sugarcane for sugar on any farm in the mainland cane sugar area if there is carried out in 1939, on land on the farm which is adapted to the production of sugarcane for sugar, an acreage of soil-building practices equal to not less than 30 per centum of the acreage of sugarcane for sugar growing on the farm for harvest in 1939.

(b) *Approved practices.* (1) Each acre of the following shall be counted as one acre of soil-building practices:

(i) Seeding winter legumes.

(ii) Plowing or disking under a good stand and good growth of a green manure crop, or cover crop (excluding lespedeza, peanuts hogged off, and nonleguminous cover crops).

(iii) Turning under a good stand and good growth of summer legumes (excluding peanuts, lespedeza, and summer legumes used as truck crops) NOT interplanted or grown in combination with row crops such as corn.

(2) Each two acres of the following shall be counted as one acre of soil-building practices:

(i) Turning under a good stand and good growth of summer legumes (excluding peanuts, lespedeza, and summer legumes used as truck crops) interplanted or grown in combination with row crops, such as corn, provided the summer legume occupies at least one-third of the land.

(3) Each of the following practices in the amounts specified shall be counted as one acre of soil-building practices if applied to a full seeding of winter legumes.

(i) Application of 300 pounds of 16-percent superphosphate (or its equivalent) to, or in connection with the seeding of, winter legumes.

(ii) Application of 500 pounds of basic slag or rock phosphate (including Colloidal phosphate) to, or in connection with the seeding of, winter legumes.

(4) Each one and one-half acres of land the top soil of which is combustible (determined as such by the State Agricultural Conservation Committee) on which there are carried out the practices specified in paragraphs B, C, D and E of Amendment 3 to Southern Region Bulletin 101, issued June 11, 1937, for protecting the soil against fire, assuring adequate drainage, and preventing soil oxidation and subsidence, shall be counted as one acre of soil-building practices: *Provided, however,* That there shall be carried out on such land on the farm such other practices as are recommended for the farm by the County Agricultural Conservation Committee, and approved by the State Agricultural Conservation Committee, for protecting the soil against fire, assuring adequate drainage, preventing soil oxidation and subsidence, and otherwise preserving and improving the fertility of the soil and preventing soil erosion, such practices to be consistent with reasonable standards of the farming community in which the land is located.

(c) *Standards of performance.* The soil conserving practices shall be carried out on the farm in accordance with farming methods commonly used in the community in which the farm is located and in accordance with specifications approved by the Director of the Southern Division of the Agricultural Adjustment Administration. (Sec. 301, 50 Stat. 909; 7 U.S.C., Sup. IV, 1131)

Done at Washington, D. C., this 10th day of May 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 39-1632; Filed, May 11, 1939; 11:54 a. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

RULES OF PRACTICE UNDER TITLE IV AND SECTION 1002 (D) TO (I) OF THE CIVIL AERONAUTICS ACT OF 1938

[Effective May 9, 1939]

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RULE 1

Proceedings

There shall be one form of formal proceeding (to be known as a "proceeding") under Title IV and section 1002 (d)-(i) of the Act.

A proceeding may be instituted (1) by order to show cause or other process of the Authority, (2) by the filing with the Authority of a formal application, complaint or petition.

RULE 2

General Requirements as to Papers in Proceedings

(a) *Informal complaints.* Complaints may be made to the Authority informally

by letter or other writing and matters so presented may, if their nature warrants, be taken up by correspondence or conference with the person or persons complained of. Any matter not disposed of informally may be made the subject of a formal proceeding.

(b) *Conformity to rules.* Any person wishing to institute a proceeding should consult the rules, regulations and orders of the Authority under the various sections of the Act. The Authority's rules, regulations and orders are numbered to correspond with the section numbers of the Act and any person wishing to proceed under any particular section of the Act may readily ascertain whether the Authority has issued any rules, regulations, or orders under such section.

(c) *Requirements in absence of rules.* In case there is no rule, regulation or order of the Authority which prescribes the contents of the formal application, complaint or petition in a given case, the application, complaint or petition should contain a concise but complete statement of the facts relied upon as the basis for the relief sought. The names and addresses of the persons, if any, against whom relief is sought, should also be set forth in full.

(d) *Insufficient allegations.* In any case where the Authority is of the opinion that a formal application, complaint or petition does not sufficiently set forth the material required to be set forth by any applicable rule, regulation or order of the Authority, or is otherwise insufficient, the Authority may advise the party filing the same of the deficiency and require that any additional information be supplied by amendment.

(e) *Answers.* Answers to formal complaints, petitions and orders to show cause will not usually be required. In case the Authority deems an answer to be desirable, the parties will be notified.

RULE 3

Form and Filing of Documents

(a) *Execution, number of copies, and service.* Unless otherwise required by applicable rule or regulation, every application, petition and formal complaint relating to any of the provisions of Title IV or of section 1002 (d)–(i) of the Act, and every answer or other formal document in any such proceeding, shall be signed by, or on behalf of, the person filing the same, and shall be verified by the person signing the same, in the manner required by paragraph (b) of this rule. Briefs and exceptions to reports of examiners shall be signed but need not be verified. Any general partner may sign on behalf of a partnership. Documents filed by a corporation, business trust or other similar organization must be signed by an officer who is duly authorized to take such action. An executed original copy of each such document, and nine true copies thereof, which need not be signed or verified, but which should have typed or facsimile signatures, shall be filed with the Authority. Each person filing any such document shall furnish such additional copies and shall make such service of the document on other persons as the Authority may at any time require. Such documents shall be delivered in person, through the mails, or otherwise, to the Civil Aeronautics Authority in Washington, D. C., and shall be deemed to have been filed on the date on which they are actually received by the Authority.

(b) *Verification.* Every verification shall set forth that the person verifying the document has read and is familiar with the contents thereof and the attached exhibits, if any; that he intends and desires that in granting or denying the relief requested, the Authority shall place full and complete reliance upon the accuracy of each and every statement therein contained; that he is familiar with the facts therein set forth; that to the best of his information and belief, every statement contained in the instrument is true and no such statement is misleading.

(c) *Formal specifications of papers.* All papers filed in proceedings should be on strong, durable paper not larger than 8½" by 13" in size except that tables, charts and other documents may be larger, folded to approximately that size. The left margin should be at least 1½" wide and, if the document is bound, it should be bound on the left side.

Papers may be reproduced by printing or by any other process, provided the copies are clear and legible. Appropriate notes or other indications should be used, so that the existence of deficits and any other matters normally shown in color will be accurately indicated on photostatic copies.

(d) *Waiver of strict compliance with rule.* The Authority may, in its discretion, waive strict compliance with any requirement of this rule.

RULE 4

Appearances by Third Persons and Formal Interventions

(a) *Appearances.* Any person, including any state, political subdivision thereof, state aviation commission, or other public body, may appear at any hearing and present any evidence which is relevant to the issues. Such persons may also suggest questions or interrogatories to be propounded by counsel for the Authority to witnesses called by other persons. With the consent of the examiner, or of the Authority, if the hearing is held before the Authority, such persons may also cross-examine witnesses directly.

(b) *Formal interventions.* Any person having a substantial interest in the subject matter of any proceeding may ask leave to intervene in such proceeding and become a party thereto upon compliance with the provisions of this paragraph. In general, such motions will not be granted unless the Authority, or, in appropriate cases, the examiner, shall find:

(1) that such person has a statutory right to be made a party to such proceeding, or,

(2) that such person will or may be bound by the order to be entered in the proceeding, or,

(3) that such person has a property or financial interest which may not be adequately represented by existing parties, if such intervention would not unduly broaden the issues or delay the proceeding.

However, the denial of such a motion for leave to intervene shall not prevent the moving person from participating in the proceeding in the manner described in paragraphs (a) or (b) of this rule.

Except for good cause clearly shown, every motion for leave to intervene shall be filed with the Authority not less than five (5) days before the date set for the first hearing of the proceeding. Copies of the motion papers shall be mailed or delivered to each party to the proceeding prior to the filing of the motion. The Authority, however, may pass upon any such motion without receiving testimony or argument either from the moving person or from other parties to the proceeding. The motion papers shall clearly set forth the interest of the moving party, and shall otherwise comply with the requirements of Rule 3.

If adequate cause is shown for failure to comply with the preceding provisions of this rule, a motion for leave to intervene may be made within less than five (5) days before the date set for the hearing, and under extraordinary circumstances, such motion may be entertained by the Authority or an examiner at the time of the hearing. In the event that such motion is heard by an examiner, his determination shall be governed by the standards hereinabove set forth, but no decision by an examiner on such a motion shall be binding on the Authority. Interventions herein provided are for administrative purposes, and no decision to grant leave to intervene shall be deemed to constitute a finding or determination that the intervening party has such a substantial interest in the order that is to be entered in that proceeding as will entitle it to demand review of such order by the circuit courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

RULE 5

Hearings, Arguments, Examiner's Report and Proceedings Subsequent Thereto

(a) *Oral argument before examiner, proposed findings, briefs.* Upon request of any party, an examiner may permit oral argument at the close of the hearing. Oral argument shall be transcribed, but shall not constitute part of the record.

If a case presents unusually difficult questions of fact or law, the examiner may permit or require the submission of proposed findings of fact or conclusions of law, or of written briefs, to aid him in the preparation of his report.

(b) *Examiner's report.* In each case heard before an examiner, an appropriate announcement will be made by the examiner prior to the close of the hearing as to whether or not an examiner's report will be made in the proceeding. Such report will ordinarily be made, except in cases where the examiner, with the consent of counsel for the Authority, and without objection by any other party, announces at the hearing that he will recommend the granting of the application or other relief under consideration in the proceeding. If an examiner's report is to be made in the proceeding, the examiner will also announce, or state in his report,

(1) the names of the persons who are to receive copies of the same;
(2) the time within which exceptions are to be filed and exchanged; and
(3) the time thereafter within which briefs relating to such exceptions are to be filed and exchanged,

and may give other instructions relating to procedure after the hearing.

(c) *Exceptions and briefs; service thereof.* Any party to the proceeding may take exceptions either to the examiner's recommended findings of fact or conclusions of law. Exceptions to findings of fact shall designate, by exact and specific reference, the portions of the record which will be relied upon in support of such exceptions. Exceptions to conclusions of law shall briefly cite the statutory provisions or the principal authorities that will be relied upon in support of the exceptions to the conclusions of law.

After the filing and exchange of exceptions, each party should prepare a single brief supporting its own exceptions and covering any points which it wishes to raise in connection with exceptions filed by others. Except by special permission of the Authority, briefs shall not exceed 50 pages in length. Reply briefs will not be received except by special permission of the Authority. Exceptions and briefs shall be filed with the Authority and not with the examiner.

Each set of exceptions and brief shall, when filed, be accompanied by a proof of service thereof by mail upon all parties to the proceedings and upon such other persons designated by the examiner to receive copies of the report. The number of copies to be filed is governed by paragraph (a) of Rule 3.

(d) *Oral argument before the Authority.* If any person desires to argue a case orally before the Authority he must request leave of the Authority to make such argument. Such request should be filed with the briefs for the Authority in the proceeding. The Authority will advise the persons making such request as to its decision and if such argument is to be allowed all persons who have filed briefs in the proceedings will be advised of the date and hour set for such argument and the amount of time allowed to each such person.

RULE 6

Exhibits

Wherever practicable, one copy of each exhibit (in addition to the original offered in evidence at the hearing) should be furnished for the use of each examiner and two copies should be furnished to counsel representing the Authority. One of such copies will be made available for inspection by all persons present at the hearing. One copy should also be furnished to each party and the examiner may, in his discretion, direct that any other person deemed by him to have a sufficient interest shall receive copies of designated exhibits.

Excerpts from lengthy documents or of portions of the record in other proceedings before the Authority should be offered in the form of exhibits and copies furnished as above provided. Such exhibits may be received in evidence, subject to objection and rebuttal by counsel for the Authority or others, after opportunity to examine the exhibit in question and the source from which the same was taken.

RULE 7

Hearings Before the Authority and Before Boards of Examiners

Provisions of these rules governing the conduct of hearings before single examiners shall also govern, with necessary changes, in cases where such hearings are held before the Authority, a member thereof, or a board of more than one examiner.

RULE 8

Petition for Rehearing, Reargument, or Reconsideration

Any party may petition for rehearing, reargument, or reconsideration of any final order by the Authority in a proceeding, or for further hearing before decision by the Authority.

The matters of record claimed to have been erroneously decided must be specified, and the alleged errors, and the grounds relied upon must be briefly and specifically stated in the petition.

If a final order of the Authority is sought to be vacated or modified by reason of matters which have arisen since the hearing, or of a consequence which would result from a compliance therewith, or both, the new matter, the resulting consequence, or both, which are relied upon by the petitioner must each be set forth in the petition. Where the petition is based wholly or in part upon new matter, the petition must contain a verified statement that the petitioner, with due diligence, could not have known or discovered the new matter prior to the time of the hearing.

The petition must set forth a brief statement of the relief sought by the petitioner.

Such petition for rehearing, reargument, or reconsideration, must be filed within fifteen days after service of the order sought to be vacated or modified, and shall be served by the petitioner upon all parties to the proceeding or their attorneys of record.

No petition for rehearing, reargument, or reconsideration, or the granting thereof, filed in accordance with this Rule, shall operate as a stay of the effective date of the final order sought to be modified or vacated by such petition, unless specifically so ordered by the Authority.

Petitions under this Rule must conform to the requirements of Rule 3.

RULE 9

Memoranda in Opposition or Support

Each protest or memorandum of opposition to or in support of the issuance, alteration, amendment, modification, suspension, revocation or abandonment of a certificate of public convenience and necessity or of a foreign air carrier permit which is desired to be filed with the Authority pursuant to the provisions of section 401 or 402 of the Act, shall conform to the requirements of Rule 3 with respect to size, style and number of copies, shall be signed by the person filing it, and shall be acknowledged before a person authorized to administer oaths. Each such protest or memorandum shall clearly state on its face the particular proceeding in which it is desired to be filed and shall contain a concise but clear statement of the grounds of opposition or support. At the time of filing any such protest or memorandum with the Authority, the person filing it shall serve a copy thereof upon each party to the particular proceeding and upon such other persons as the Authority may require. No such protest or memorandum will be received as, or be considered to constitute, evidence in the particular proceeding of any fact mentioned or discussed therein. However, evidence in support of any such protest or memorandum may be presented by or on behalf of the person filing it in the manner provided in paragraph (a) of Rule 4.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39–1634; Filed, May 11, 1939; 12:15 p. m.]

[Amendment No. 2 to Regulation 605–B–1 [1]]

ACCESS TO AIRCRAFT BY DULY QUALIFIED AIR CARRIER INSPECTORS, AIRWAY TRAFFIC CONTROL MANAGERS, AND COMMUNICATIONS SUPERVISORS OF THE CIVIL AERONAUTICS AUTHORITY

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C. on the 9th day of May 1939.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 605 (b) and

[1] 3 F.R. 3033 DI.

205 (a) of said Act, and finding that its action is necessary to carry out the provisions of and to exercise its powers and duties under said Act, the Civil Aeronautics Authority hereby makes and promulgates the following:

Regulation 605–B–1 is hereby amended by adding thereto a new section (d) to read as follows:

"(d) Any air carrier may carry without charge on any aircraft which it operates, any airway traffic control manager or assistant manager or any communications supervisor or assistant communications supervisor of the Authority (including supervising officers of such persons), for the purpose of more fully and adequately acquainting such persons with the problems affecting airway traffic control and communications: *Provided,* however, that no such person shall be carried without charge on a round trip by any air carrier for such purpose more often than once in each year."

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39–1633; Filed, May 11, 1939; 12:15 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3202]

IN THE MATTER OF FEE & STEMWEDEL, INC.

§ 3.66 (k) (4) *Misbranding or mislabeling—Source or origin—Place—Imported product or parts as domestic.* Representing, in connection with offer, etc., in commerce, of barometers, combination thermometers, hygrometers and barometers, and other weather indicating instruments, by the use of the term "Made in U. S. A.", or any other terms of similar import or meaning, or in any other manner, that the said barometers and other products, as above indicated, are wholly of American manufacture, when such products, or the movements thereof, or a substantial portion of the parts thereof, are of foreign manufacture, 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, Fee & Stemwedel, Inc., Docket 3202, May 2, 1939]

§ 3.69 (b) (16) *Misrepresenting oneself and goods—Goods—Source or origin—Place—Imported product or parts as domestic.* Causing, in connection with offer, etc., in commerce, of barometers, combination thermometers, hygrometers and barometers, and other weather indicating instruments, the brands or marks on imported barometer movements or other parts, or on other similar products, which indicate the foreign origin or manufacture thereof, to be removed, erased or concealed so as to mislead or deceive ultimate purchasers with reference to the foreign origin or manufacture thereof, unless the removal or erasure or concealment of said brands or marks is necessary to the further manufacture or processing of said products, 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, Fee & Stemwedel, Inc., Docket 3202, May 2, 1939]

§ 366 (g) *Misbranding or mislabeling—Producer status of dealer.* Representing, in connection with offer, etc., in commerce, of barometers, combination thermometers, hygrometers and barometers, and other weather indicating instruments, that respondent manufactures barometers, unless and until it owns and operates or directly and absolutely controls the plant or factory wherein said products are manufactured by it, 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, Fee & Stemwedel, Inc., Docket 3202, May 2, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of May, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Arthur F. Thomas and John W. Addison, Examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Joseph C. Fehr, Counsel for the Commission, and by Frank T. O'Brien, Counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Fee & Stemwedel, Inc., 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 barometers, combination thermometers, hygrometers, and barometers, and other weather indicating instruments in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, by the use of the term "Made in U. S. A." or any other terms of similar import or meaning or in any other manner, that the said barometers, combination thermometers, hygrometers and barometers or other weather indicating instruments are wholly of American manufacture, when such products, or the movements thereof, or a substantial portion of the parts thereof, are of foreign manufacture;

2. Causing the brands or marks on imported barometer movements or other parts, or on other similar products, which indicate the foreign origin or manufacture thereof to be removed, erased or concealed so as to mislead or deceive ultimate purchasers with reference to the foreign origin or manufacture thereof, unless the removal or erasure or concealment of said brands or marks is necessary to the further manufacture or processing of said products;

3. Representing that respondent manufactures barometers unless and until it owns and operates or directly and absolutely controls the plant or factory wherein said products are manufactured by it.

It is further ordered, That the repondent 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. 39–1588; Filed, May 10, 1939; 2:56 p. m.]

[1] 3 F.R. 545 DI.

[Docket No. 3568]

IN THE MATTER OF GENERAL SALES COMPANY

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of electric razors, cameras, radios and other articles, or any other merchandise, others with push or pull cards, punch boards or other lottery devices to enable such persons to dispose of or sell any merchandise by use thereof, 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, General Sales Company, Docket 3568, May 3, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Mailing, etc., in connection with offer, etc., in commerce, of electric razors, cameras, radios and other articles, or any other merchandise, to agents or to distributors or members of the public, push or pull cards, punch boards or other lottery devices so prepared or printed as to enable said persons to sell or distribute any mer-

chandise by the use thereof, 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, General Sales Company, Docket 3568, May 3, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of electric razors, cameras, radios and other articles, or any other merchandise, any merchandise by the use of push or pull cards, punch boards or other lottery devices, 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, General Sales Company, Docket 3568, May 3, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 3rd day of May, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF HARRY CUTLER, INDIVIDUALLY AND TRADING AS GENERAL SALES COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission (respondent having filed no answer thereto), testimony and other evidence taken before Charles F. Diggs, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint (respondent having offered no evidence), brief filed by counsel for the Commission (respondent having filed no brief and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Harry Cutler, individually and trading as General Sales Company, or trading under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of electric razors, cameras, radios, kitchen appliances, pencils, and pen and pencil sets or any other merchandise in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others push or pull cards, punch boards or other lottery devices for the purpose of enabling such persons to dispose of or sell any merchandise by the use thereof;

(2) Mailing, shipping or transporting to agents or to distributors or members of the public push or pull cards, punch boards or other lottery devices so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof;

(3) Selling or otherwise disposing of any merchandise by the use of push or pull cards, punch boards or other lottery devices.

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

By the Commission.

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

[F. R. Doc. 39–1589; Filed, May 10, 1939; 2:56 p. m.]

[1] 3 F.R. 2477 DI.

[Docket No. 3569]

IN THE MATTER OF PARAMOUNT PRODUCTS COMPANY, ETC.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of rotary clocks, watches, fountain pen desk sets, pencils and numerous other articles, or any other articles, others with push or pull cards, punch boards or other lottery devices enabling such persons to dispose of or sell any merchandise by the use thereof, 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, Paramount Products Company, etc., Docket 3569, May 3, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Mailing, etc., in connection with offer, etc., in commerce, of rotary clocks, watches, fountain pen desk sets, pencils and numerous other articles, or any other articles, to agents or to distributors or members of the public, push or pull cards, punch boards or other lottery devices so prepared or printed as to enable such persons to sell or distribute any merchandise by the use thereof, 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, Paramount Products Company, etc., Docket 3569, May 3, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of rotary clocks, watches, fountain pen desk sets, pencils and numerous other articles, or any other articles, any merchandise by the use of push or pull cards, punch boards or other lottery devices, 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, Paramount Products Company, etc., Docket 3569, May 3, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of May, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF AL B. WOLF AND MAX SCHWARTZ, INDIVIDUALLY AND DOING BUSINESS UNDER THE TRADE NAMES OF PARAMOUNT PRODUCTS COMPANY AND PARAMOUNT GARMENT COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission (respondents having filed no answer thereto), testimony and other evidence taken before Charles F. Diggs, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint (respondents having offered no evidence), brief by counsel for the Commission (counsel for respondents having filed no brief and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Al B. Wolf and Max Schwartz, individually and doing business under the trade names of Paramount Products Company and Paramount Garment Company or trading under any other name, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of rotary clocks, watches, fountain pen desk sets, pencils, razors, bedroom sets, wearing apparel, kitchen appliances and aluminum sets, cameras, traveling cases, dresser sets, rifles, tableware, linens, cosmetics, or any other articles of merchandise in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others push or pull cards, punch boards or other lottery devices for the purpose of enabling such persons to dispose of or sell any merchandise by the use thereof;

(2) Mailing, shipping or transporting to agents or to distributors or members of the public push or pull cards, punch boards or other lottery devices so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof;

(3) Selling or otherwise disposing of any merchandise by the use of push or pull cards, punch boards or other lottery devices.

[1] 3 F.R. 2493 DI.

It is further ordered, That the respondents shall, within 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. 39-1590; Filed, May 10, 1939; 2:57 p. m.]

[Docket No. 3601]

IN THE MATTER OF CENTURY METALCRAFT CORPORATION

§ 3.18 *Claiming indorsements or testimonials falsely:* § 3.69 (b) (7) *Misrepresenting oneself and goods—Goods—Indorsements.* Representing, in connection with offer, etc., in commerce, of kitchen utensils, that doctors or hospitals have endorsed and recommended respondent's utensils unless and until such recommendation and endorsement has been made by doctors who are dietary experts or by hospitals acting by and through their dietary experts, 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, Century Metalcraft Corporation, Docket 3601, April 29, 1939]

§ 3.69 (a) (4) *Misrepresenting oneself and goods—Business status, advantages or connections—Dealer as manufacturer.* Representing, in connection with offer, etc., in commerce, of kitchen utensils, that respondent manufactures said utensils, unless and until it owns and operates, or directly and absolutely controls, the factory or factories wherein the same are manufactured by it, 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, Century Metalcraft Corporation, Docket 3601, April 29, 1939]

§ 3.48 (a) (8) *Disparaging competitors and their products—Competitors—Reliability and financial condition:* § 3.48 (b) (7) *Disparaging competitors and their products—Goods—Quality.* Circulating or publishing, in connection with offer, etc., in commerce, of kitchen utensils, unfair or disparaging statements concerning the business status or the quality of the products of the competitors of the respondent, 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, Century Metalcraft Corporation, Docket 3601, April 29, 1939]

§ 3.48 (b) (9) *Disparaging competitors and their products — Goods — Safety:* § 3.69 (b) 15 (c) *Misrepresenting oneself and goods—Goods—Scientific or other relevant facts.* Representing, in connection with offer, etc., in commerce, of kitchen utensils, that food cooked in granite or aluminum utensils is dangerous to the health of the consumers of such food, 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, Century Metalcraft Corporation, Docket 3601, April 29, 1939]

§ 3.69 (b) (12) *Misrepresenting oneself and goods—Goods—Qualities or properties:* § 3.69 (b) (17) *Misrepresenting oneself and goods—Goods—Value:* § 3.96 (a) (6) *Using misleading name—Goods—Qualities or properties:* § 3.96 (a) (10) *Using misleading name—Goods—Value.* Representing, in connection with offer, etc., in commerce, of kitchen utensils, through use of the term "Silver Seal", or any other term or terms of similar import or meaning, as the trade name for said utensils, or in any other manner, that the usefulness, durability or value of such utensils is enhanced or affected by reason of silver metal contained in such utensils, 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, Century Metalcraft Corporation, Docket 3601, April 29, 1939]

§ 3.69 (b) (1) *Misrepresenting oneself and goods—Goods—Composition.* Representing, in connection with offer, etc., in commerce, of kitchen utensils, that the utensils now designated as "Silver Seal" contain no aluminum or are not aluminum, prohibited. (Sec. 6, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Century Metalcraft Corporation, Docket 3601, April 29, 1939]

§ 3.48 (b) (6) *Disparaging competitors and their products—Goods—Qualities or properties:* § 3.69 (b) 5 (a) *Misrepresenting oneself and goods—Goods—History of product:* § 3.69 (b) (12) *Misrepresenting oneself and goods—Goods—Qualities or properties:* § 3.69 (b) 15 (a) *Misrepresenting oneself and goods—Goods—Results.* Representing, in connection with offer, etc., in commerce, of kitchen utensils, that the utensils now designated as "Silver Seal" are more durable or more easily cleaned than are aluminum or granite utensils; that said utensils will not pit; that the method of cooking made possible by said utensils is new or revolutionary; that the use of food cooked in said utensils will insure improved health; or that said utensils were used generally by the United States Army during the World War; 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, Century Metalcraft Corporation, Docket 3601, April 29, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of April, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] 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, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Century Metalcraft 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 kitchen utensils in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing that doctors or hospitals have endorsed and recommended respondent's utensils unless and until such recommendation and endorsement has been made by doctors who are dietary experts or by hospitals acting by and through their dietary experts;

(2) Representing that respondent manufactures said utensils unless and until it owns and operates or directly and absolutely controls the factory or factories wherein the same are manufactured by it;

(3) Circulating or publishing unfair or disparaging statements concerning the business status or the quality of the products of the competitors of the respondent;

(4) Representing that food cooked in granite or aluminum utensils is dangerous to the health of the consumers of such food;

(5) Representing through the use of the term "Silver Seal," or any other term or terms of similar import or meaning, as the trade name for said utensils, or in any other manner, that the usefulness, durability or value of such utensils is enhanced or affected by reason of silver metal contained in such utensils;

(6) Representing that the utensils now designated as "Silver Seal" contain no aluminum or are not aluminum;

(7) Representing that the utensils now designated as "Silver Seal" are more durable or more easily cleaned than are aluminum or granite utensils; that said utensils will not pit; that the method of cooking made possible by said utensils is new or revolutionary; that the use of food cooked in said utensils will insure improved health; or that said utensils were used generally by the United States Army during the World War.

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,

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[1] 4 F.R. 478 DI.

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. 39–1586; Filed, May 10, 1939; 1:01 p. m.]

TITLE 18—CONSERVATION OF POWER

FEDERAL POWER COMMISSION

[Order No. 60]

AMENDING THE "RULES OF PRACTICE AND REGULATIONS WITH APPROVED FORMS, EFFECTIVE JUNE 1, 1938"

MAY 9, 1939.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

The Commission, pursuant to authority vested in it by the Federal Power Act, particularly Section 309 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act, hereby adopts, promulgates, and prescribes the following amendment to the "Rules of Practice and Regulations With Approved Forms, Effective June 1, 1938" (under the Federal Power Act), as heretofore prescribed by Order No. 50, adopted April 19, 1938:

Part 1, Sec. 1.31 (Intervening Petitions) be and it is hereby amended to read as follows:

"§ 131 *Intervening petitions.* Any interested State, State commission, municipality, or any representative of interested consumers or security holders, or any competitor of a party to any pending proceeding, or any other person whose participation in a pending proceeding may be in the public interest, may petition to intervene in any proceeding pending before the Commission. Said petition to intervene must be filed with the Commission not less than five days next preceding the date set for public hearing in the proceeding in which petitioner seeks to intervene provided, however, that the Commission may on good cause being shown grant a petition to intervene when said petition is filed after the time limit for filing petitions to intervene set forth above has expired. Petitions for intervention must set forth the grounds of the proposed intervention; the position and interest of the petitioner in the proceeding; and must conform to the requirements of a formal complaint and must be subscribed and verified in the same manner as a formal complaint."

The amendment to the "Rules of Practice and Regulations With Approved Forms, Effective June 1, 1938" (under the Federal Power Act), adopted, promulgated, and prescribed by this order shall become effective on June 10, 1939; and the Secretary of the Commission shall cause publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

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

[F. R. Doc. 39–1615; Filed, May 11, 1939; 10:48 a. m.]

[Order No. 61]

AMENDING THE "PROVISIONAL RULES OF PRACTICE AND REGULATIONS UNDER THE NATURAL GAS ACT, WITH APPROVED FORMS, EFFECTIVE JULY 11, 1938"

MAY 9, 1939.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

The Commission, pursuant to authority vested in it by the Natural Gas Act, particularly Section 16 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act, hereby adopts, promulgates, and prescribes the following amendment to the "Provisional Rules of Practice and Regulations Under the Natural Gas Act, With Approved Forms, Effective July 11, 1938" as heretofore prescribed by Order No. 52, adopted July 5, 1938:

Part 50, Sec. 50.14 (Intervening Petitions) be and it is hereby amended to read as follows:

"§ 50.14 *Intervening Petitions.* Any interested State, State commission, municipality, or any representative of interested consumers or security holders, or any competitor of a party to any pending proceeding, or any other person whose participation in a pending proceeding may be in the public interest, may petition to intervene in any proceeding pending before the Commission. Said petition to intervene must be filed with the Commission not less than five days next preceding the date set for public hearing in the proceeding in which petitioner seeks to intervene, provided, however, that the Commission may on good cause being shown grant a petition to intervene when said petition is filed after the time limit for filing petitions to intervene set forth above has expired. Petitions for intervention must set forth the grounds of the proposed intervention; the position and interest of the petitioner in the proceeding; and must conform to the requirements of a formal complaint and must be subscribed and verified in the same manner as a formal complaint."

The amendment to the "Provisional Rules of Practice and Regulations Under the Natural Gas Act, With Approved Forms, Effective July 11, 1938" adopted, promulgated, and prescribed by this order shall become effective on June 10, 1939; and the Secretary of the Commission shall cause publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

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

[F. R. Doc. 39–1616; Filed, May 11, 1939; 10:48 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4899]

INCOME TAX

AMENDMENTS RELATING TO GAIN OR LOSS ON DISPOSITION OF INSTALLMENT OBLIGATIONS [1]

To Collectors of Internal Revenue and Others Concerned:

The next to the last paragraph of article 44–5 of Regulations 94 [2] (section 3.44–5 of Title 26, Code of Federal Regulations), the next to the last paragraph of article 44–5 of Regulations 101 [3] (section 9.44–5 of such Title 26), and the next to the last paragraph of that article as made applicable to the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939 [4] (part 465, Subpart B, of such Title 26) are each amended to read as follows:

"In the case of a decedent who dies possessed of installment obligations, no gain on account of the transmission at death of such obligations is required to be reported as income in the return of the decedent for the year of his death, if the executor or administrator of the estate of the decedent or any of the next of kin or legatees files with the Commissioner a bond on Form 1132 conditioned upon the return as income, by any person receiving any payment in satisfaction of such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and received such payment. The bond shall be subject to the approval of the Commissioner, shall be in an amount sufficient in his judgment to insure collection of the tax resulting from the fulfillment of the conditions stated in the bond, and shall be filed at the time of filing the return for the decedent for the year of his death or at such later time as may be specified by the Commissioner. The bond on Form 1132 may be (1) executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, or (2) secured by deposit of bonds or notes of the United States, or the installment obligations, in

[1] Subchapter A; Part 3 and Part 9, Subpart H; Subchapter E, Part 465, Subpart B of the Code of Federal Regulations.

[2] 1 F.R. 1855.

[3] 4 F.R. 679 DI.

[4] 4 F.R. 879 DI.

such amounts as the Commissioner may deem necessary to insure collection of the tax."

(This Treasury decision is prescribed pursuant to the following sections of law: Sections 44 (d) and 62 of the Revenue Act of 1936 (49 Stat. 1667, 1673; 26 U.S.C., Sup. IV, 44 (d), 62); sections 44 (d) and 62 of the Revenue Act of 1938 (52 Stat. 473, 480; 26 U.S.C. Sup. IV, 44 (d), 62); and sections 44 (d) and 62 of the Internal Revenue Code (53 Stat. Part 1).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, May 9, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-1592; Filed, May 10, 1939; 3:34 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

CHAPTER II—RULES RELATING TO NAVIGABLE WATERS

PART 203—BRIDGE REGULATIONS

§ 203.675. *Little Calumet River, Ill. and Ind.*—(a) *Bridge of Chicago, South Shore & South Bend Railroad between Hammond, Ind., and Kensington, Ill.*[1]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 39-1613; Filed, May 11, 1939; 10:48 a. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER VI. RULES GOVERNING FIXED PUBLIC RADIO SERVICES

The Commission, on May 8, 1939, repealed the following rules, to become effective immediately:

Rule numbers	*CFR Section Numbers*
230	60.01
231	60.02
232	60.03
233	60.04
234	60.05
235	60.06
236	60.07
237	60.08
238	61.01
239	61.02
240	61.03
241	61.04
241 (a)	61.05
242	61.06

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-1635; Filed, May 11, 1939; 12:33 p. m.]

[1] Paragraph (a) Section 203.675, Title 33, of the Code of Federal Regulations, is revoked as of April 29, 1939.

CHAPTER VI. RULES GOVERNING FIXED PUBLIC RADIO SERVICES

TABLE OF CONTENTS

§ 60.01 *Fixed public service.* The term "fixed public service" means a radio communication service carried on between fixed stations open to public correspondence.*†

§ 60.02 *Fixed public press service.*[1] The term "fixed public press service" means a limited radio communication service carried on between point-to-point telegraph stations, consisting of transmissions by fixed stations open to limited public correspondence, of news items, or other material related to or intended for publication by press agencies, newspapers, or for public dissemination. In addition, these transmissions may be directed to one or more fixed points specifically named in a station license, or to unnamed points in accordance with the provisions of Sec. 63.01.*†

§ 60.03 *Agriculture service.* The term "agriculture service" means a limited radio communication service carried on between point-to-point telegraph stations for the transmission of agricultural market information.*†

§ 60.04 *Point-to-point telegraph station.* The term "point-to-point telegraph station" means a fixed station authorized for radiotelegraph communication.*†

§ 60.05 *Point-to-point telephone station.* The term "point-to-point telephone station" means a fixed station authorized for radiotelephone communication.*†

§ 60.06 *Primary point of communication.* The term "primary point of communication" means the specific location set forth in the license to which a station is authorized to communicate for the transmission of public correspondence.*†

§ 60.07 *Secondary point of communication.* The term "secondary point of communication" means the specific location to which a station is authorized to communicate for the transmission of public correspondence when such location is specified as a primary point of communication in a license of another station of the same class of the licensee at the same transmitting point or common transmitter control point, or specifically authorized as a secondary point of communication in the station license.*†

§ 60.08 *Primary service.* The term "primary service" of a point-to-point radiotelegraph or point-to-point radiotelephone station means the transmission of public correspondence to a primary point of communication as defined in Sec. 60.06, or in accordance with Sec. 63.01*†

§ 60.09 *Secondary service.* The term "secondary service" of a point-to-point radiotelegraph or point-to-point radiotelephone station means the intermittent transmission subject to the provisions of Sec. 61.08 of public correspondence to a secondary point of communication as defined by Sec. 60.07.*†

§ 60.10 *Radiotelegraph.* The term "radiotelegraph" as hereinafter used shall be construed to include types A–0, A–1, A–2, and A–4 emission.*†

§ 60.11 *Radiotelephone.* The term "radiotelephone" as hereinafter used shall be construed to include type A–3 emission only.*†

PART 61. IN GENERAL

§ 61.01 *Types of emission, radiotelephone.* The licensee of a point-to-point radiotelephone station may also use type A–0, A–1, or A–2 emission for test purposes or the exchange of service messages.*†

§ 61.02 *Facsimile.* The licensee of a point-to-point radiotelephone or radiotelegraph station may be authorized to use A–4 emission for the transmission of facsimile service to a primary or secondary point of communication specifically named in a license. Each such instrument of authorization shall specify the maximum communication band width authorized and the provisions of Sec. (23.02) shall apply.*†

§ 61.03 *Band width, multiple channel and secret radiotelephony.* The

* Sec. 4, 44 Stat. 1163; 47 U.S.C. 84 (f) rules promulgated thereunder continued in effect by Sec. 604, 48 Stat. 1103; 47 U.S.C. 604—Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i).

† Adopted by the F. C. C., May 8, 1939, effective June 9, 1939.

[1] This rule is not intended as a definition of any press classification. Correspondence admissible under any press classification is determined by the tariffs of the various common carriers on file with the Commission.

licensee of a point-to-point radiotelephone station may be authorized to use a band width in excess of that authorized for type A–3 emission by Sec. (23.02) for multiple channel and secret radiotelephony.*†

§ 61.04 *Interference to transmissions beyond the United States.* Licenses which authorize the use of frequencies above 5000 kilocycles for communication between points within the continental limits of the United States shall be subject to the limitation that no interference shall result to international service; and in the event such interference is caused, the licensee shall immediately discontinue the use of the frequency or frequencies producing such interference and operation thereon may be conducted only at times when such interference will not be caused.*†

§ 61.05 *Special provisions in licenses.* Each instrument of authorization issued for fixed public or fixed public press service shall authorize communication to the point of communication and to the organization, agency, or person specified therein only, except as provided by Sec. 63.01: *Provided, however,* That in the event of a change in the organization, agency, or person specified or a change in the effective control of such organization, agency, or person, the licensee shall immediately notify the Commission of such change and shall file an application for modification of the instrument of authorization; and provided, further, that where such change is occasioned by reason of circumstances beyond the control of the licensee, communication under the then outstanding instrument of authorization shall be permitted to continue pending consideration of and action upon the application for modification of the instrument of authorization.*†

§ 61.06 *Points of communication, limitations.* No point of communication will be regularly authorized in any instrument of authorization for fixed public or fixed public press service in the absence of an adequate showing that public correspondence may be transmitted and received from such points, except as provided in Sec. 63.01.*†

§ 61.07 *Secondary communication.* The licensee of a station at a particular location may be authorized to communicate secondarily only with any primary point of communication specifically named in a license of another station of the same class of the licensee at the same transmitting point or at a common transmitter control point, or a secondary point of communication specifically named in the station license. In the event such transmissions to any secondary point of communication as authorized by this section are continued for a period of sixty days, authority to make such transmissions shall terminate unless within such period the Commission has authorized modification of authorization covering such communication.*†

§ 61.08 *Alternate transmitters.* The licensee of a station may use any transmitter of the same authorized type and power in substitution for the transmitter specifically authorized to such licensee in a particular license for fixed public or fixed public press service.*†

§ 61.09 *Experimental research.* The licensee of a station may be authorized to use a transmitter which is licensed for fixed public or fixed public press service for experimental research in accordance with the rules and regulations governing the experimental service upon the condition that no interference will be caused to the public service.*†

§ 61.10 *Special temporary authorization.* Requests for special temporary authority must comply with the applicable provisions of Sec. 15.15 of the Rules of Practice and Procedure and must be accompanied by a showing that interference will not be caused to the fixed public or fixed public press service to which the station is primarily licensed; and, in addition, such requests must be accompanied by the following:

(a) a statement of the call letters, location and frequency or frequencies of the transmitting station; the call letters, location, and frequency or frequencies of the receiving station and the type or types of emission to be employed by both stations.

(b) a statement as to whether or not the frequencies are to be used for contact control purposes only.

(c) a statement of the period for which the temporary authority is desired.

(d) a statement describing the service which is to be rendered.*†

§ 61.11. *Licenses, expiration date.* Licenses will be issued to expire December 1, following the date of issuance except in so far as provided by Sec. (22.06).*†

§ 61.12. *Tolerances.* The operating frequency of fixed public and fixed public press stations shall be maintained within a tolerance of plus or minus the assigned frequency as follows:

	Transmitters in service now and until Jan. 1, 1944, after which date they will conform to the tolerances indicated in column 2	New transmitters installed beginning Jan. 1, 1940
	Percent	*Percent*
Frequencies below 200 kc	0.1	0.1
Frequencies between 1,500 and 6,000 kc	.03	.01
On frequencies between 6,000 and 30,000 kc	.02	.01
On frequencies above 30,000 kc	.05	.03

*†

§ 61.13 *Quarterly report.* Beginning July 1, 1939, each licensee shall submit a quarterly report stating the hours of operation, the frequencies used to each point of communication for the transmission of public correspondence and the estimated total volume of paid public correspondence transmitted to each point by the use of each such frequency. Such quarterly report shall also include the frequencies, call letters and locations of all stations regularly received outside the limits of the continental United States during the preceding quarter.*†

§ 61.14 *Equipment and service tests.* Equipment and service tests may be conducted as authorized in Sec. (22.02 and 22.03).*†

§ 61.15 *Transmissions during international silent period.* During the international silent period prescribed for stations in the maritime mobile service, fixed public and fixed public press stations may transmit communications, other than distress or urgent safety messages, to maritime mobile stations required by treaty or statute to maintain a watch on the international distress frequency only if the licensee of such fixed station has made a satisfactory showing to the Commission that the continuation of such communications through the international silent period will not interfere with the maintenance of the prescribed watch by such maritime mobile stations.*†

§ 61.16 *Frequency measurement.* Each station shall provide for the measurement of the station frequency and establish a procedure for checking it regularly. These measurements shall be made by means independent of the frequency control of the transmitter and shall be of an accuracy sufficient to detect deviations from the assigned frequency within one-half the allowed tolerance.*†

§ 61.17 *Compliance with tariff requirements.* No licensee authorized to perform common carrier service by means of radiocommunication shall engage in such service without compliance with all statutory provisions and regulations of the Commission relative to the filing of tariffs; and nothing contained in this chapter shall be deemed as a waiver or modification of any such statutory provision or regulation.*†

PART 62. SPECIAL PROVISIONS, FIXED PUBLIC SERVICE

§ 62.01. *Addressed program material.* Stations operating in the fixed public service may be authorized to transmit, on a secondary basis, addressed program material for rebroadcast only by a broadcast station and only to points of communication outside the continental limits of the United States specifically named in an instrument of authorization granted to the licensee.*†

§ 62.02 *Mobile stations, transmission simultaneously to.* A point-to-point telegraph station, in addition to the fixed points of communication specified in an instrument of authorization, may be authorized to communicate secondarily and simultaneously with mobile stations for the transmission of press material destined primarily to fixed points.*†

PART 63. SPECIAL PROVISIONS, FIXING PUBLIC PRESS SERVICE

§ 63.01 Addressed press service.

§ 63.01 *Addressed press service.* Upon application being made, the Commission may grant a license, or a modification of license, for fixed public press service to authorize the use of the assigned frequency, or frequencies, for transmission without coordinated reception of addressed messages to one or more fixed points, in accordance with the provisions of Sec. 60.02. The points to which such transmission is authorized need not be named either generally or specifically in the license. After such application is made and granted, specific authorization for transmission to each new point shall be contingent upon the licensee's immediate notification to the Commission of the first transmission to said point and the location of the station or stations from which such transmission is made, and shall continue until the expiration date of the station license or licenses unless, within thirty (30) days, the licensee is otherwise notified by the Commission. After thirty (30) days from the commencement of such transmissions the Commission shall be notified on the first day of each calendar month of the frequencies used for the transmission of messages authorized by this rule and the points of communication to which each frequency was utilized. In addition, the licensee shall within such thirty-day period inform the Commission of the name of the organization, agency, or person operating the receiving end of the circuit. In addition, immediate notification shall be made of the deletion of any point which has been previously authorized by the provisions of this section, and any change in identity of the organization, agency, or person operating the receiving end of the circuit. Nothing herein shall be construed as a waiver of any provision of law or regulation requiring the filing with the Commission by the carrier of copies of contracts in relation to traffic, or other contracts.*†

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 39–1636; Filed, May 11, 1939; 12:34 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 273]

AN ORDER DIRECTING THE ELECTION OF PRODUCER MEMBERS OF DISTRICT BOARDS, AND ESTABLISHING RULES AND REGULATIONS FOR THE CONDUCT OF SUCH ELECTIONS

Whereas, The terms of office of District Board members will expire on or about the 22nd day of June, 1939, pursuant to the provisions of Section 4–I–(a) of the Bituminous Coal Act of 1937, and

Whereas, Provision should be made for the election of their successors,

Now, therefore, Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That there shall be held within each District, as defined in said Act, a meeting of the code members of the district for the purpose of electing successors to the present producer members of the District Board.

2. That the following rules and regulations are hereby established for the conduct of such elections:

(a) The Secretary of each District Board shall act as Chairman of the meeting, with authority to prescribe supplementary rules for the proper conduct of said meeting.

(b) The duties of said Chairman shall be as follows:

(1) To fix the time and place of the meeting, same to be held during the week of June 4, 1939.

(2) To give notice, in the manner and form herein provided, of the time and place of such meeting and to make distribution of all forms as required by this Order.

(3) To receive and safely keep for delivery to the District Board after the election, copies of all proxies filed, and to list and arrange, prior to the time of said meeting, such proxies in such manner as to facilitate their use at the meeting.

(4) To call said meeting to order at the time and place fixed in said notice, and to preside at said meeting.

(5) Subject to review by the Commission and in accordance with the provisions of the Act and the orders of the Commission, to determine the voting qualifications of all code members proposing to vote at such meeting, and also to determine the validity of all proxies filed on behalf of code members, and to do such other things as may be proper and expedient in the premises.

(6) Within ten (10) days after said meeting, to file with the Commission at Washington, D. C., a full report of the proceedings of said meeting, together with proof of service and of publication of the notice of meeting, in conformity with the requirements of this order. Proof of service of said notice shall be made as directed by the Commission. Proof of publication of said notice shall be made by affidavit of the publishers of the newspapers in a form customary in the district. Such report shall include such information as will enable the Commission to determine whether or not persons elected producer members of said Board are truly representative of all the mines of the district, as provided in said Act, and as to whether said meeting was conducted in conformity with the provisions of said Act and the orders of the Commission.

(c) The notice of the time and place of said meeting shall be in the form attached to this order, marked Form No. DBE–2. Not less than fifteen (15) days prior to the day fixed for said meeting, said notice shall be published once in at least one newspaper of general circulation in the District, and not less than fifteen (15) days prior to the day fixed for said meeting, a copy of said notice upon Form No. DBE–2 shall be mailed to all code members in the District, together with two copies of proxy, marked Form No. DBE–3.

(d) Each qualified code member may attend any meeting and vote in the manner provided in said Act either in person or by proxy, but shall not be entitled to vote at any meeting on a cumulative basis. No person other than a qualified code member or his duly authorized proxy, as herein provided, shall have any vote or voice at any meeting or the right to participate in said meeting.

(e) A qualified code member, within the meaning of this Order, shall be a producer, as defined in said Act, who, prior to the date and hour of said meeting, has filed with the Commission at Washington, D. C., his or its acceptance of the Bituminous Coal Code on the form promulgated by the Commission for that purpose, and whose membership in the Code has not been revoked by the Commission.

(f) The proxy shall be in the form attached to this Order and designated as Form No. DBE–3, and to be valid shall be executed as required in this Order and filed in fact with the Secretary of the District Board not less than twenty-four (24) hours prior to the date and hour fixed for said meeting. No proxy shall, under any circumstances, have any validity which shall not have been executed and filed in conformity with this Order.

(g) There shall be elected at said meeting the number of producer members provided in the By-Laws of the District Board, such election to be held in conformity with the provisions of Section 4 of the Act and of this Order. The annual tonnage of the code members in the district, for the calendar year 1938, subject to the provisions of Section 4 of the Act, shall be used in determining the number of votes each qualified code member may cast for the producer members who are to be elected on a tonnage basis.

3. That the persons elected as producer members of the District Board at said meeting shall assume the duties of the office on that date which is two (2) years subsequent to the date upon which the original members of the District Board were elected.

4. That the Commission shall approve or disapprove the election of the District Board. The disapproval of the election

of a person as a producer member of the District Board shall not invalidate any action taken by the District Board in which such person participated. The office held by such person shall be deemed vacant as of the date upon which the Commission disapproves his election.

That the Secretary of the Commission shall cause to be mailed a copy of this order to each code member, to the Secretary for each of the several District Boards, and to the Consumers' Counsel; and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 9th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

Form No. DBE–2

BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. ____

(Address) ----------

Notice to Code Members of Meeting to Elect Producer Members of Bituminous Coal Producers Board for District No. ____

Notice is hereby given to all code members within District No. ____, as defined by Act of Congress, entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, that:

A meeting will be held at ____ o'clock ____ M., on the ---------- day of ----------, A. D. 1939, at ----------

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for the above-named District No. ____, as defined by said Act, of all qualified code members, for the purpose of electing successors to the present producer members of the Bituminous Coal Producers Board for District No. ____.

Only code members, as defined in the Act, and qualified, as required in Order No. 273 of the National Bituminous Coal Commission, shall be entitled to participate in said meeting and vote therein. Copies of forms prescribed for use by code members in connection therewith may be procured from the undersigned at the address below stated.

Dated this ---------- day of ----------, A. D. 1939.

Bituminous Coal Producers
Board for District No. ____

Secretary

Address: ----------

INSTRUCTIONS TO DISTRICT BOARD SECRETARIES

(Not to be included in notices published in newspapers or mailed to code members)

A copy of the above notice, together with two copies of Form No. DBE–3, (proxy), shall be mailed to each code member in the district in accordance with the provisions of Order No. 273.

Form No. DBE–3

BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. ____

(Address) ----------

Proxy

The undersigned, a code member in District No. ____, as defined by the Bituminous Coal Act of 1937, and qualified, as required in Order No. 273 of the National Bituminous Coal Commission, does hereby make, constitute and appoint ----------, his, her, or its true and lawful proxy and attorney, to attend the meeting of code members of said District, to be held at ------ o'clock, ____ M., on the ---------- day of ----------, 1939, and any adjournment or adjournments of said meeting, and there to cast any and all votes which the undersigned could or would cast, if personally present, in electing producer members to said District Board, hereby ratifying and confirming any and all lawful acts of the said proxy and attorney done in conformity herewith.

In witness whereof the undersigned has caused these presents to be duly executed at ----------, State of ----------, this ---------- day of ----------, 1939.

Witness: ---------- (1) ---------- [SEAL]
Individual, receiver, trustee, etc.

(2) ----------
(A partnership)

Witness: ---------- By ---------- [SEAL]
(Partner)

(3) ----------
Attest: (A corporation)

---------- By ----------
(Name and title of officer) (Name and title of officer)

[CORPORATE SEAL]

Instructions

Every proxy must be signed and acknowledged before an officer qualified to take acknowledgements, and must be accompanied by an acknowledgment conforming to the laws of the State in which the proxy was executed. Proxies on behalf of partnerships must be signed and acknowledged by a partner. Proxies on behalf of corporations must be acknowledged by a duly authorized principal officer or officers of the corporation, and certified copies of resolutions of the Board of Directors or other corporate authority must accompany each corporation proxy.

Attention is called to the fact that if a code member desires to vote by proxy at the aforesaid meeting, an executed and acknowledged original of this form must be filed with (actually in the possession of) the Secretary of the District Board at least twenty-four (24) hours prior to the date and hour fixed for the aforesaid meeting.

[F. R. Doc. 39–1629; Filed, May 11, 1939; 11:18 a. m.]

[Docket No. 4–FD]

ORDER IN THE MATTER OF THE APPLICATION OF SMOKELESS COAL CORPORATION FOR PROVISIONAL APPROVAL AS MARKETING AGENCY

IN RE: PETITION OF SMOKELESS COAL CORPORATION FOR APPROVAL OF CHANGES IN FORMS OF CONTRACTS BETWEEN THE CORPORATION AND PRODUCERS AND SUB-AGENTS

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 10th day of May 1939.

It appearing that the above named petitioner, Smokeless Coal Corporation, did on the 25th day of January, 1939, file its petition for approval of changes in the forms of contracts between said Smokeless Coal Corporation and producers and sub-agents, and the matter by orders dated February 8, 1939[1] and February 13, 1939, having been assigned to Trial Examiner Hill McAlister, and proper notice having been given, the same came on for hearing before the said Examiner on the first day of March, 1939, and at said hearing the Petitioner having duly appeared, and representatives of the Legal Division of the Commission and of the office of Consumers' Counsel, as well as representatives of other interested parties having entered their respective appearances therein, the evidence was duly heard; and

It further appearing that the Trial Examiner having received said evidence did, on the first day of April, 1939, file with the Commission his Report and Proposed Findings of Fact, together with the recommendation that the request contained in said petition, filed as aforesaid by Smokeless Coal Corporation, be granted, and it appearing that true copies of said Report and Proposed Findings of Fact of the Examiner were duly served upon all parties appearing at said hearing on the 3rd day of April, 1939, and more than 15 days having elapsed since the service of said Report, no exceptions having been filed thereto; and

The Commission having considered the petition, the Report, the Proposed Findings of Fact, and Recommendation of the Examiner, and being fully advised of the evidence as the same is contained in the official transcript thereof, finds that the Findings of Fact as proposed by the Examiner are in all respects true and correct, and are hereby adopted as the findings of the Commission.

Now, therefore, pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

That the petition of Smokeless Coal Corporation, filed with this Commission on January 25, 1938, requesting the approval of forms of contracts, with producers and subagents, attached as exhibits to said petition, is hereby granted as prayed for therein, subject to the further orders of this Commission.

By order of the Commission.

Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–1619; Filed May 11, 1939; 11:15 a. m.]

[Docket 332–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE ROBINSON CLAY PRODUCT COMPANY FOR EXEMPTION

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 10th day of May 1939.

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, The Robinson Clay Product Company, a corporation, on the 13th day of April 1938, forwarded to the Commission its application for exemption, seeking to have exempted from the

[1] 4 F.R. 791 DI.

provisions of Section 4 of the Bituminous Coal Act of 1937, under the provisions of Section 4, Part II (1) of the Act, all bituminous coal produced and consumed by it in the process of manufacturing clay products at its plant located in Franklin Township, Tuscarawas County, Ohio, which application was filed pursuant to the provisions contained in the second paragraph of Section 4–A of the Act; and

It further appearing that the Commission by its orders referred and assigned said cause to Charles O. Fowler, a Trial Examiner of the Commission, for hearing at Zanesville, Ohio, on the 24th day of May, 1938; that due and proper notice of said hearing was given to all interested parties;[1] that the cause came on to be heard pursuant to said orders of reference and assignment; that the Examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon all interested parties in conformance with Rule XXIV of the Rules of Practice and Procedure before the Commission, and more than fifteen days having elapsed since that service, and no exceptions to said report having been filed with the Commission; and

The Commission being fully advised of the evidence as the same is contained in the official transcript of the testimony and documentary evidence filed therein, finds that the proposed Findings of Fact and Conclusions submitted by the Examiner, are in all respects true and correct, and the same are hereby adopted as the Findings of Fact and Conclusions of the Commission;

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937, apply to the bituminous coal produced and consumed by The Robinson Clay Product Company in the process of manufacturing clay products at its plant located in Franklin Township, Tuscarawas County, Ohio, and that such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

That Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and that Applicant shall file such accompanying reports with its application for renewal of this Order as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the Applicant, to the Consumers' Counsel, to the Secretary of each District Board; to the Commissioner of Internal Revenue; and to cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and to cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–1620; Filed, May 11, 1939; 11:15 a. m.]

[Docket No. 333–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE GENERAL CLAY PRODUCTS COMPANY FOR EXEMPTION

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 10th day of May 1939.

It appearing that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, Applicant, The General Clay Products Company, a corporation, filed with the Commission its application for exemption, seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937, under the provisions of Section 4, Part II (1) of the Act, all bituminous coal produced by it in its General Clay Shanesville mine, located near Shanesville, Ohio, which it consumes in its clay manufacturing plant near Baltic, Ohio, which application was filed pursuant to the provisions contained in the second paragraph of Section 4–A of the Act; and

It further appearing that the Commission by its orders referred and assigned said cause to Charles O. Fowler, a Trial Examiner of the Commission, for hearing at Zanesville, Ohio, on the 24th day of May, 1938; that due and proper notice of said hearing was given to all interested parties;[1] that the cause came on to be heard pursuant to said orders of reference and assignment; that the Examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon all interested parties in conformance with Rule XXIV of the Rules of Practice and Procedure before the Commission, and more than fifteen days having elapsed since that service, and no exceptions to said report having been filed with the Commission; and

The Commission being fully advised of the evidence as the same is contained in the application filed by the Applicant and in the official transcript of the testimony, finds that the proposed Findings of Fact and Conclusions submitted by the Examiner, are in all respects true and correct, and the same are hereby adopted as the Findings of Fact and Conclusions of the Commission;

Now, therefore, It is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937, apply to all the bituminous coal which The General Clay Products Company produces at its General Clay Shanesville mine located near Shanesville, Ohio, and consumes in the operation of its clay manufacturing plant located near Baltic, Ohio, and that such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

That Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and that Applicant shall file such accompanying reports with its application for renewal of this Order as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the Applicant, to the Consumers' Counsel, to the Secretary of each District Board; to the Commissioner of Internal Revenue; and to cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and to cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–1626; Filed, May 11, 1939; 11:17 a. m.]

[Docket 334–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE HICKORY CLAY PRODUCTS COMPANY FOR EXEMPTION

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 10th day of May 1939.

It appearing that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, applicant, The Hickory Clay Products Company, a corporation, forwarded to the Commission its application for exemption, seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937, under the provisions of Section 4, Part II (1) of the Act, all bituminous coal produced and consumed by it in the process of manufacturing hollow building tile at its clay manufacturing plant located near Mineral City, in Carroll County, Ohio, which application was filed pursuant to the provisions contained in the second paragraph of Section 4–A of the Act; and

[1] 3 F.R. 1039, 1077 DI.

[1] 3 F.R. 1039, 1077 DI.

It further appearing, that the Commission by its orders referred and assigned said cause to Charles O. Fowler, a Trial Examiner of the Commission, for hearing at Zanesville, Ohio, on the 24th day of May, 1938; that due and proper notice of said hearing was given to all interested parties;[1] that the cause came on to be heard pursuant to said orders of reference and assignment; that the Examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon all interested parties in conformance with Rule XXIV of the Rules of Practice and Procedure before the Commission, and more than fifteen days having elapsed since that service, and no exceptions to said report having been filed with the Commission; and

The Commission, being fully advised of the evidence as the same is contained in the official transcript of the testimony, finds that the proposed Findings of Fact and Conclusions submitted by the Examiner are in all respects true and correct, and the same are hereby adopted as the Findings of Fact and Conclusions of the Commission.

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 apply to all the bituminous coal produced and consumed by The Hickory Clay Products Company in the process of manufacturing hollow building tile at its clay manufacturing plant located near Mineral City, in Carroll County, Ohio, and that such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

That Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and that Applicant shall file such accompanying reports with its application for renewal of this Order as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the Applicant, to the Consumers' Counsel, to the Secretary of each District Board; to the Commissioner of Internal Revenue; and to cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and to cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–1621; Filed, May 11, 1939; 11:15 a. m.]

[1] 3 F.R. 1039, 1077 DI.

[Docket 340–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE METROPOLITAN PAVING BRICK COMPANY FOR EXEMPTION

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 10th day of May 1939.

It appearing that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, Applicant, The Metropolitan Paving Brick Company, a corporation, forwarded to the Commission its application for exemption, seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937, under the provisions of Section 4, Part II, (1) of the Act, all bituminous coal produced by it which it consumes in its clay manufacturing plant located about one mile south of Minerva, in Brown Township, Carroll County, Ohio, which application was filed pursuant to the provisions contained in the second paragraph of Section 4–A of the Act; and

It further appearing that the Commission by its orders referred and assigned said cause to Charles O. Fowler, a Trial Examiner of the Commission, for hearing at Zanesville, Ohio, on the 24th day of May, 1938; that due and proper notice of said hearing was given to all interested parties; [1] that the cause came on to be heard pursuant to said orders of reference and assignment; that the Examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon all interested parties in conformance with Rule XXIV of the Rules of Practice and Procedure before the Commission, and more than fifteen days having elapsed since that service, and no exceptions to said report having been filed with the Commission; and

The Commission being fully advised of the evidence as the same is contained in the application filed by the Applicant and in the official transcript of the testimony, finds that the proposed Findings of Fact and Conclusions submitted by the Examiner, are in all respects true and correct, and the same are hereby adopted as the Findings of Fact and Conclusions of the Commission;

Now therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937, apply to all the bituminous coal which The Metropolitan Paving Brick Company produces at its Mapleton, Ohio, clay mine and consumes in the operation of its clay manufacturing plant located about one mile south of Minerva, in Brown Township, Carroll County, Ohio, and that such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

That applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and that Applicant shall file such accompanying reports with its application for renewal of this Order as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the Applicant, to the Consumers' Counsel, and to the Secretary of each District Board; to the Commissioner of Internal Revenue; and to cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and to cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–1622; Filed, May 11, 1939; 11:16 a. m.]

[1] 3 F.R. 1039, 1077 DI.

[Docket 343–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE PORTSMOUTH CLAY PRODUCTS COMPANY FOR EXEMPTION

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 10th day of May 1939.

It appearing that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, Applicant, The Portsmouth Clay Products Company, forwarded to the Commission its application for exemption, seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937, under the provisions of Section 4, Part II (1) of the Act, all bituminous coal produced by it at its clay mine located near South Webster, in Lawrence County, Ohio, which it consumes in the manufacture of fire brick at its brick plant located at South Webster, in Scioto County, Ohio, which application was filed pursuant to the provisions contained in the second paragraph of Section 4–A of the Act; and

It further appearing that the Commission by its orders referred and assigned said cause to Charles O. Fowler, a Trial Examiner of the Commission, for hearing at Zanesville, Ohio, on the 24th day of May 1938; that due and proper notice of said hearing was given to all interested parties; [1] that the cause came

[1] 3 F.R. 1077 DI.

on to be heard pursuant to said orders of reference and assignment; that the Examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon all interested parties in conformance with Rule XXIV of the Rules of Practice and Procedure before the Commission, and more than fifteen days having elapsed since that service, and no exceptions to said report having been filed with the Commission; and

The Commission being fully advised of the evidence as the same is contained in the official transcript of the testimony, finds that the proposed Findings of Fact and Conclusions submitted by the Examiner are in all respects true and correct, and the same are hereby adopted as the Findings of Fact and Conclusions of the Commission:

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937, apply to all of the bituminous coal produced by the Portsmouth Clay Products Company at its clay mine located near South Webster, in Lawrence County, Ohio, and consumed by it in the manufacture of fire brick at its brick plant located at South Webster, in Scioto County, Ohio, and that such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

That the Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and that Applicant shall file such accompanying reports with its application for renewal of this Order as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the Applicant, to the Consumers' Counsel, to the Secretary of each District Board; to the Commissioner of Internal Revenue; and to cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and to cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–1623; Filed, May 11, 1939; 11:16 a. m.]

[Docket No. 457–FD]

MARRIOTT-REED COAL COMPANY, COLUMBIA, MISSOURI

ORDER IN THE MATTER OF THE APPLICATION FOR EXEMPTION UNDER THE SECOND PARAGRAPH OF SECTION 4–A OF THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 10th day of May 1939.

It appearing that the above named applicant having heretofore filed with the Commission its application for exemption from the provisions of Section 4 and the first paragraph of Section 4–A of the Bituminous Coal Act of 1937; and

It further appearing that the above named applicant has filed with the Commission its withdrawal, without prejudice, of its application for exemption;

Now, therefore, It is hereby ordered:

1. That the withdrawal of the said application for exemption from the provisions of Section 4–A and the first paragraph of Section 4–A filed by the above named applicant, be and the same hereby is granted without prejudice to the right of the above named applicant to file at any future time an application for exemption pursuant to the provisions of Section 4–A and without such withdrawal constituting a waiver of any exemption which might otherwise become effective during the pendency of a subsequent application; and

2. That the Secretary of the Commission is directed forthwith to mail a copy of this order to the above named applicant, to the Consumers' Counsel, to the Secretary of each District Board, to the Commissioner of Internal Revenue, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission.

By order of the Commission.
Dated this 10th day of May, 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–1624; Filed, May 11, 1939; 11:16 a. m.]

[Docket No. 563–FD]

THOMAS COAL MINE, MARSHFIELD, OREGON

ORDER IN THE MATTER OF THE APPLICATION FOR EXEMPTION UNDER THE SECOND PARAGRAPH OF SECTION 4–A OF THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 10th day of May 1939.

It appearing that the above named applicant having heretofore filed with the Commission its application for exemption from the provisions of Section 4 and the first paragraph of Section 4–A of the Bituminous Coal Act of 1937; and

It further appearing that the above-named applicant has filed with the Commission its withdrawal, without prejudice, of its application for exemption;

Now, therefore, It is hereby ordered:

1. That the withdrawal of the said application for exemption from the provisions of Section 4–A and the first paragraph of Section 4–A filed by the above named applicant, be and the same hereby is granted without prejudice to the right of the above named applicant to file at any future time an application for exemption pursuant to the provisions of Section 4–A and without such withdrawal constituting a waiver of any exemption which might otherwise become effective during the pendency of a subsequent application; and

2. That the Secretary of the Commission is directed forthwith to mail a copy of this order to the above named applicant, to the Consumers' Counsel, to the Secretary of each District Board, to the Commissioner of Internal Revenue, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission.

By order of the Commission.
Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–1625; Filed, May 11, 1939; 11:17 a. m.]

[Docket No. 609–FD]

ORDER IN THE MATTER OF THE APPLICATION OF MALVERN CLAY COMPANY FOR EXEMPTION

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 10th day of May 1939.

The above named applicant having heretofore filed with the Commission its application for exemption from the provisions of Section 4 and the first paragraph of Section 4–A of the Bituminous Coal Act of 1937; and

It appearing, after considering the allegations made in the verified application of the Malvern Clay Company, that applicant is the owner and producer of bituminous coal from a mine located at Malvern, Ohio, and that all of the bituminous coal produced at such mine is consumed by the applicant at Malvern, Ohio,

Now, therefore, it is hereby ordered:

That the provisions of Section 4 Part II (1) of the Bituminous Coal Act of 1937 do apply to the bituminous coal produced by the Malvern Clay Company at its mine located at Malvern, Ohio, which is consumed by that Company in its clay products manufacturing plant at Malvern, Ohio, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Within fifteen (15) days from the date of this Order, all interested parties are afforded the opportunity of filing a protest to this application requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the

Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and to the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39-1627; Filed, May 11, 1939; 11:17 a. m.]

[Docket No. 621-FD]

ORDER IN THE MATTER OF THE APPLICATION OF ALLEGHENY LUDLUM STEEL CORPORATION FOR EXEMPTION

At a regular session of the National Bituminous Coal Commission, held in its offices in Washington, D. C., on the 10th day of May 1939.

The above-named applicant having heretofore filed with the Commission its application for exemption from the provisions of Section 4, and the first paragraph of Section 4-A of the Bituminous Coal Act of 1937; and

It appearing, after considering the allegations made in the verified application of the Allegheny Ludlum Steel Corporation, that applicant is the owner and producer of bituminous coal from a certain mine located at West Leechburg, Pennsylvania, and that all of the bituminous coal produced at such mine is consumed by the applicant at its iron and steel plant located at West Leechburg, Pennsylvania, except a negligible amount sold to its own employees,

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 do apply to the bituminous coal produced by the Allegheny Ludlum Steel Corporation at its mine located at West Leechburg, which is consumed by that company at its iron and steel plant at West Leechburg, Pennsylvania, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Within fifteen (15) days from the date of this Order, all interested parties are afforded the opportunity of filing a protest to this determination requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 10th day of May 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39-1628; Filed, May 11, 1939; 11:18 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ECR-B-1, Rev., Sup. T]

1936 AGRICULTURAL CONSERVATION PROGRAM

EAST CENTRAL REGION BULLETIN NO. 1,[1] SUPPLEMENT T

Section 8 of Part V of East Central Region Bulletin No. 1, Revised, is hereby amended by inserting "(1)" after the title of the section and adding the following at the end of the section:

"(2) Where two or more farms located in an area which comprises one or more counties, whether or not in the same State, in which the type of farming is substantially uniform are operated by the same producer, a single application for payment may, at the option of such producer and with the consent of all producers who as sharecropper or sharetenant have an interest in the crops grown, be made with respect to such farms in lieu of any other method of submitting applications provided for by this bulletin if the Regional Director finds that the farms are, in fact, operated as a unit with respect to the rotation of crops."

Done at Washington, D. C., this 10th day of May 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 39-1630; Filed, May 11, 1939; 11:54 a. m.]

[1] 1 F.R. 1649.

[ECR-B-101—Del., Sup. (b), Md., Sup. (b), Va., Sup. (d), W. Va., Sup. (c), N. C., Sup. (b), Ky., Sup. (c), Tenn., Sup. (c)]

1937 AGRICULTURAL CONSERVATION PROGRAM, EAST CENTRAL REGION

DEFINITION OF A FARM

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Bulletin No. 101—Delaware, as amended; Bulletin No. 101—Maryland, as amended; Bulletin No. 101—Virginia, as amended; Bulletin No. 101—West Virginia, as amended; Bulletin No. 101—North Carolina, as amended; Bulletin No. 101—Kentucky, as amended; and Bulletin No. 101—Tennessee, as amended are hereby further amended as follows:

Part V, "Definitions," is amended by adding at the end of the definition of "Farm" the following:

"All adjacent or nearby farm land under the same ownership which is operated by one person may be considered a farm even though such land is located in more than one State if the Regional Director finds that such land is, in fact, operated as a unit with respect to the rotation of crops."

Done at Washington, D. C., this 10th day of May 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc 39-1631; Filed, May 11, 1939; 11:54 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5544]

IN THE MATTER OF OTTER TAIL POWER COMPANY

ORDER TO SHOW CAUSE AND FIXING DATE OF HEARING THEREON

MAY 9, 1939.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) By order of March 7, 1939, the Commission directed the Otter Tail Power Company to show cause why the rates and charges assessed and collected for electric energy furnished to the City of Fergus Falls, Minnesota, as provided in Otter Tail Power Company Rate Schedule F. P. C. No. 7, should not be made available to the Village of Marvin, South Dakota, the Villages of Lake Park and Odessa, Minnesota, the Cities of Breckenridge, Barnesville, and Ortonville, Minnesota, the Roberts County Power Company and the Minnesota Utilities Company;

(b) Pursuant to said order, the Otter Tail Power Company, on April 15, 1939,

filed a return under oath wherein it is alleged, among other things, that special considerations, contributions, and unusual and valuable conveyances of rights, properties, titles, and privileges, are firmly and irretrievably entwined and embedded in the foundations of the considerations for the rates and charges provided in said Otter Tail Power Company Rate Schedule F. P. C. No. 7, and that these rates should not be made available to any other villages or cities or wholesale purchasers;

(c) By letter of March 14, 1939, the Board of Railroad Commissioners of the State of North Dakota, a State Commission within the meaning of Section 3 (15) of the Federal Power Act, requested that a joint hearing be held in this proceeding and that said Board be permitted to participate therein;

The Commission, having considered the matters set forth in the order to show cause and the return thereto, finds that:

(1) Said return to the order to show cause does not in itself set forth sufficient information which would justify or explain why the rates and charges assessed and collected for electric energy furnished to the City of Fergus Falls, as provided in Otter Tail Power Company Rate Schedule F. P. C. No. 7, should not be made available to the villages, cities and other customers named in paragraph (a) hereof;

(2) It is advisable, necessary and proper, in the public interest, that a public hearing be held for the purpose of requiring Otter Tail Power Company (a) to make further showing why the rates and charges assessed and collected for electric energy furnished to the City of Fergus Falls, Minnesota, as provided in Otter Tail Power Company Rate Schedule F. P. C. No. 7, should not be made available to the Village of Marvin, South Dakota, the Villages of Lake Park and Odessa, Minnesota, the Cities of Breckenridge, Barnesville, and Ortonville, Minnesota, the Roberts County Power Company and the Minnesota Utilities Company; and (b) to show cause why this Commission should not find that the rates and charges assessed and collected for electric energy furnished to the Village of Marvin, South Dakota, the Villages of Lake Park and Odessa, Minnesota, the Cities of Breckenridge, Barnesville, and Ortonville, Minnesota, the Roberts County Power Company and the Minnesota Utilities Company are unjust, unreasonable or unduly discriminatory, and should not determine the just and reasonable rates and charges for said service and fix the same by order;

And the Commission orders that:

(A) A public hearing be held on June 12, 1939, at 10 o'clock a. m. in the Council Chamber, City Hall, in the City of Fergus Falls, Minnesota, and that at said hearing, Otter Tail Power Company (1) show further cause, if any there be, why the rates and charges assessed and collected for electric energy furnished to the City of Fergus Falls, Minnesota, as provided in Otter Tail Power Company Rate Schedule F. P. C. No. 7, should not be made available to the Village of Marvin, South Dakota, the Villages of Lake Park and Odessa, Minnesota, the Cities of Breckenridge, Barnesville, and Ortonville, Minnesota, the Roberts County Power Company and the Minnesota Utilities Company; and (2) show cause, if any there be, why this Commission should not find that the rates and charges assessed and collected for electric energy furnished to the Village of Marvin, South Dakota, the Villages of Lake Park and Odessa, Minnesota, the Cities of Breckenridge, Barnesville, and Ortonville, Minnesota, the Roberts County Power Company and the Minnesota Utilities Company are unjust, unreasonable, or unduly discriminatory and should not determine the just and reasonable rates and charges for said service and fix the same by order;

(B) The Board of Railroad Commissioners of the State of North Dakota, and any other interested State Commissions, may participate in said hearing as provided in Part 39 of the Rules of Practice and Regulations prescribed pursuant to the provisions of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 39-1614; Filed, May 11, 1939; 10:48 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3017]

IN THE MATTER OF CHARLES OF THE RITZ, INCORPORATED AND CHARLES OF THE RITZ DISTRIBUTORS CORPORATION

AMENDED AND SUPPLEMENTAL COMPLAINT

Count I

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of Section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Sec. 13), hereby issues its amended and supplemental complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Charles of the Ritz, Incorporated, is a corporation organized under the laws of the State of New York, with its office and principal place of business located at 9-11 University Place in the City of New York, State of New York.

Respondent Charles of the Ritz Distributors Corporation is a corporation organized under the laws of the State of New York with its office and principal place of business also located at 9-11 University Place in the City of New York, State of New York. Said respondent is a subsidiary selling corporation wholly owned by respondent Charles of the Ritz, Incorporated, and is the sole distributor for the commodities manufactured by said latter respondent.

Respondents Charles of the Ritz, Incorporated, and Charles of the Ritz Distributors Corporation are engaged in the manufacture, sale and distribution of cosmetics and toilet preparations as herein described. Respondents cause said commodities when sold to be transported from their place of business in the State of New York to the purchasers thereof located in the various states of the United States and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said cosmetics and toilet preparations sold and distributed by them in commerce among and between the various states of the United States and in the District of Columbia.

PAR. 2. In the sale and distribution of cosmetics and toilet preparations and in the course of trade as aforesaid, respondents are selling and distributing their cosmetics and toilet preparations directly to purchasers engaged in reselling and distributing the same directly to the purchasing and consuming public. In the furtherance of such sale and distribution and such resale and distribution of their cosmetics and toilet preparations as aforesaid, respondents are also contracting to furnish, are furnishing and are contributing to the furnishing to some but not all of such foregoing purchasers the services and facilities of special personnel known and described in the cosmetic and toilet preparations industry and trade as demonstrators.

Such demonstrators so furnished by respondents, in manner and method aforesaid, are installed in the places of business of certain of such foregoing purchasers of respondents' commodities to display, demonstrate, offer for sale and sell cosmetics and toilet preparations and as so furnished, installed and used, constitute substantially valuable services and facilities in connection with such purchasers' resale and distribution of the aforementioned commodities.

PAR. 3. Many of the foregoing purchasers of respondents' cosmetics and toilet preparations bought for resale are in competition with each other in the resale and distribution of said commodities, and respondents are discriminating in favor of such of said competitive purchasers who are furnished and accorded on terms the aforedescribed services and facilities in manner and method as hereinbefore set out, against all of such competitive purchasers of respondents' commodities who are not accorded the same on proportionally equal terms.

PAR. 4. The aforesaid methods, acts and practices of the respondents Charles of the Ritz, Incorporated, and Charles of

the Ritz Distributors Corporation, as herein alleged, are in violation of Paragraph (e) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13).

Count II

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Charles of the Ritz, Incorporated, a corporation and Charles of the Ritz Distributors Corporation, a corporation, hereinafter referred to as respondents, have violated the provisions of the said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, in this its amended and supplemental complaint now states its charges in respect thereto as follows:

PARAGRAPH 1. Paragraphs One and Two of Count I are hereby adopted and made a part of this Count as fully as if herein set out verbatim.

PAR. 2. Respondents in the course and conduct of their business as aforesaid, are in actual and substantial competition with other corporations and partnerships, firms and individuals engaged in the sale and distribution of cosmetics and toilet preparations in commerce among and between the various states of the United States and in the District of Columbia. Respondents in the course and conduct of their business in commerce as aforesaid, are in competition with other corporations and with partnerships, firms and individuals engaged in the sale and distribution of cosmetics and toilet preparations, and many purchasers of respondents' aforesaid commodities and other sellers and distributors of like commodities, are competitively engaged in the resale and distribution of such commodities.

PAR. 3. The confidence of the purchasing and consuming public in the merit of the merchandise carried by, and in the integrity of the personnel and the reputation for the business practices of, many of the retail stores purchasing respondent's said commodities for resale, is conducive to the ready sale by such retail stores of said commodities, and prospective purchasers and purchasers, in the selection, purchase and use of commodities as are herein described, have become accustomed to seek and accept as expert aid and advice the help and suggestions of such retail store personnel as are engaged in the sale of such commodities. Prospective purchasers and purchasers are guided largely by the aid and advice of such personnel in the selection and purchase of said commodities.

Such personnel as employed and furnished by respondents and installed in certain recipient purchasers' places of business as aforesaid, directly or impliedly are held out and appear to the prospective purchasing, the purchasing and consuming public as store sales personnel solely interested in such store sales as a whole, and the aforesaid public is not aware or informed of the true status of such personnel or of the fact that they are working directly in the interest of respondents.

Prospective purchasers and purchasers, in the selection and purchase of cosmetics and toilet preparations as above, are misled and deceived into so relying upon such personnel as furnished by respondents and installed as aforesaid, under the erroneous impression and belief that such personnel is store sale personnel working solely and only in the interests of and under the instructions and control of the respective stores concerned. Such deception of the prospective purchasing, the purchasing and the consuming public is further enhanced by the active participation of said personnel in such functions and duties as are usually expected of and performed by the sales personnel of said stores.

PAR. 4. Personnel furnished to certain purchasers by respondents in the manner and method as hereinbefore set out, for the most part are skilled in displaying, demonstrating, offering for sale and selling cosmetics and toilet preparations and in the giving of advice, suggestions and information designed to increase and further the sales and use of the said commodities.

Such personnel, when furnished said purchasers and installed in their places of business, as aforesaid, are particularly able to push and stress the merits, sales and use of respondents' commodities over and above and in opposition to the like and similar commodities of respondents' competitors.

Personnel employed by respondents and furnished to said certain purchasers and installed as aforesaid, depend solely and only for continuance in such employment upon adequate sales of respondents' commodities. In addition to the foregoing incentive toward continuing in such employment through the meeting of respondents' sales requirements, such personnel, as a further spur toward sales of respondents' commodities, are also awarded such bonuses and commissions in these connections as their services and sales records warrant in the sole determination of respondents.

Respondents' aforesaid personnel plan as used in the manner and method as hereinbefore set out is deceptive to a substantial number of the prospective purchasing, the purchasing and the consuming public in their selection of cosmetics and toilet preparations for purchase and use, and additionally has the capacity and tendency to lend itself to misrepresentation of competitors' commodities and the substitution of respondents' therefor at the point of the retail sale of such commodities. Such plan further has the capacity and tendency to deprive and prevent a substantial number of the aforesaid public in their selection of cosmetics and toilet preparations for purchase and use, of the complete exercise of their right to full access to and free choice of said commodities or such of said commodities as may be most suitable or adaptable to their particular needs and requirements.

PAR. 5. There are among respondents' competitors in commerce and other competitive sellers and distributors of cosmetics and toilet preparations, many who do not contract to furnish and who do not furnish or contribute to furnishing of sales personnel as hereinbefore described, and there are among the customers of respondents and respondents' competitors in said commerce and other competitive sellers and distributors of cosmetics and toilet preparations many engaged in the resale and distribution of said commodities who are not furnished and who do not avail themselves of such sales personnel as aforementioned.

PAR. 6. The foregoing methods, acts and practices of respondents constitute unfair methods of competition and unfair and deceptive acts and practices in commerce in that said methods, acts and practices have the capacity and tendency to, and do, mislead and deceive a substantial portion of the prospective purchasing, the purchasing and the consuming public in the selection, purchase and use of cosmetics and toilet preparations and cause them to purchase respondents' said commodities, and further place in the hands of unscrupulous dealers an instrumentality whereby fraud and deception therein may be practiced on said public. Said methods, acts and practices of respondents further have the capacity and tendency to, and do, place a restraint upon, stifle and substantially lessen competition between respondents and respondents' competitors in commerce and other sellers and distributors of cosmetics and toilet preparations, and between those customers of respondents and respondents' competitors and other sellers and distributors engaged in reselling and distributing cosmetics and toilet preparations who do not adopt, engage in or receive the benefits of the above described methods, acts and practices of respondents.

Respondents' said methods, acts and practices, as above described, place an uneconomical, unethical and unfair burden on present and potential competitors of respondents and certain of respondents' customers who are morally unwilling to engage in, adopt or enter the market and compete with the respondents and certain of respondents' customers on such basis and the burden of choice between loss of business and adoption and use of methods, acts and practices similar or equivalent to those engaged in and practiced by respondents and certain of their customers, as aforedescribed, is thus unfairly cast by respondents upon the aforesaid competitors. Such methods, acts and practices as aforesaid unduly enhance the prices of cosmetics and toilet preparations to the purchasing public without any corresponding benefit to said public in exchange. All

of said methods, acts and practices of respondents as hereinabove described are deceptive to the public, opposed to good morals in trade, and contrary to public policy.

As a result of the above described methods, acts and practices of the respondents, the public has been deceived and substantial injury has been done and is now being done by the said respondents to the public and to competition in the sale and distribution and the resale and distribution of cosmetics and toilet preparations in commerce between and among the various states of the United States and in the District of Columbia.

PAR. 7. The aforesaid methods, acts and practices of the respondents Charles of the Ritz, Incorporated, and Charles of the Ritz Distributors Corporation, as herein alleged, are all to the prejudice of the public, and of respondents' competitors and other sellers and distributors of cosmetics and toilet preparations engaged in the sale and distribution and the resale and distribution of the same as aforesaid and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

Wherefore, the premises considered, the Federal Trade Commission on this 8th day of May, A. D. 1939, issues its amended and supplemental complaint against said respondents.

NOTICE

Notice is hereby given you, Charles of the Ritz, Incorporated, and Charles of the Ritz Distributors Corporation, respondents herein, that the 16th day of June, A. D. 1939, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this amended and supplemental complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the amended and supplemental complaint.

You are notified and required, on or before the twentieth day after service upon you of this amended and supplemental complaint, to file with the Commission an answer to the amended and supplemental complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its amended and supplemental complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 8th day of May, A. D. 1939.

By the Commission.

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

[F. R. Doc. 39–1591; Filed, May 10, 1939; 2:57 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of May, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3654]

IN THE MATTER OF SILVER SERVICE CORPORATION, A CORPORATION, AND EDWIN I. GORDON, AN INDIVIDUAL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

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 Robert S. Hall, 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, May 17, 1939, at one o'clock in the afternoon 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] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39–1587; Filed, May 10, 1939; 2:56 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of May 1939.

[File No. 1–1052]

IN THE MATTER OF GREENE CANANEA COPPER COMPANY CAPITAL STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the Capital Stock, $100 Par Value, of Greene Cananea Copper Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which

all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 2 P. M. on Friday, May 26, 1939, at the office of the Securities and Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That, Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–1617; Filed, May 11, 1939; 10:59 a. m.]