THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 4 NUMBER 136

Washington, Tuesday, July 18, 1939

The President

EXECUTIVE ORDER

AUTHORIZING THE INITIAL APPOINTMENT OF THE ASSISTANT ADMINISTRATOR OF THE FEDERAL SECURITY AGENCY AND ONE PRIVATE SECRETARY TO THE ASSISTANT ADMINISTRATOR WITHOUT COMPLIANCE WITH THE CIVIL SERVICE RULES, AND AMENDING SCHEDULE A OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the provisions of paragraph Eighth of subdivision SECOND of Section 2 of the Civil Service Act (22 Stat. 403, 404), it is hereby ordered as follows:

1. Subject to the establishment before the Civil Service Commission of the requisite qualifications in each case, the initial appointment of the Assistant Administrator of the Federal Security Agency, and one private secretary or confidential assistant to the said Assistant Administrator, may be effected without compliance with the competitive requirements of the Civil Service Rules.

2. Schedule A of the Civil Service Rules is hereby amended by adding thereto the following subdivision:

XXXVII. FEDERAL SECURITY AGENCY

(1) Two private secretaries or confidential assistants to the Administrator of the Federal Security Agency.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 14, 1939.

[No. 8205]

[F. R. Doc. 39-2583; Filed, July 15, 1939; 10:39 a. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 6432 OF NOVEMBER 16, 1933, WITHDRAWING PUBLIC LANDS

WYOMING

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, Executive Order No. 6432 of November 16, 1933, withdrawing public lands in Wyoming pending a resurvey, is hereby revoked.

This order shall become effective upon the date of the official filing of the plats of the resurvey of the lands involved.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 14, 1939.

[No. 8206]

[F. R. Doc. 39-2582; Filed, July 15, 1939; 10:39 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[F. C. A. 139]

FEE ON APPLICATION FOR TRANSFER OF LOAN FROM ONE ASSOCIATION TO ANOTHER

JULY 14, 1938.

Part 19 of Title 6, Code of Federal Regulations, is amended by adding the following section:

§ 4009.1 *Fee on application for transfer of loan from one association to another.* In connection with each application for a transfer of a loan from another association to it, an association may:

(1) Absorb expenses incurred in connection with such application including the cost of its inspection; or

(2) Require the payment of a fee of not to exceed $5.00 to cover the cost of its inspection before it considers the application: *Provided, however,* That the total amount so collected shall not, in any case, exceed 1 percent of the unpaid balance of the indebtedness.

If the transfer is being made at the request of and for the convenience of the bank, the bank may pay the fee required by the association. If, however, the transfer is being made at the request of and for the convenience of the

CONTENTS

THE PRESIDENT

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1 per month or $10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

CONTENTS—Continued

NOTICES

borrower, he may be required to pay the association fee. No fee may be collected by the transferor association." (Revision No. 10, Manual for Federal Land Banks, July 14, 1938.)

[SEAL] A. S. Goss,
Land Bank Commissioner.

[F. R. Doc. 39-2563; Filed, July 14, 1939; 11:52 a. m.]

[F.C.A. 140]

THE FEDERAL LAND BANK OF WICHITA

LOAN APPLICATION FEES — PAYABLE WHEN APPLICATION IS FILED

Sec. 29.1 of Title 6, Code of Federal Regulations, is amended to read as follows:

"§ 29.1 *Loan application fees—Payable when application is filed.*

Application for $5,000 or less regardless of acreage	$10.00
Application for $5,100 to $10,000 on less than 1,000 acres	12.50
Application for $10,100 to $25,000 on less than 1,000 acres	15.00
Application for $5,100 to $25,000 on 1,000 acres or more	25.00
Application for $25,100 or more on less than 1,000 acres	30.00
Application for $25,100 or more on 1,000 to 2,500 acres	40.00
Application for $25,100 or more on 2,501 acres or more	50.00

"An additional charge of $5.00 if the application includes irrigated land or land in a drainage district, or both, and the amount applied for is $5,000 or less.

"An additional charge of $5.00 if the application includes irrigated land and the amount applied for is over $5,000.

"An additional charge of $5.00 if the application includes land in a drainage district and the amount applied for is over $5,000.

"An additional charge of $7.50 if the applicant lives outside the Ninth Farm Credit District.

"A minimum fee of $25.00 if the application is for an increased loan, when the amount applied for is $5,000 or more, but less than $25,000, and the amount applied for plus the amount of the loan in force exceeds $25,000.

"If, after an inspection and investigation has been made by a Land Bank appraiser, a loan is not granted, no refund of any portion of the above charges will be made.

"(Sec. 13 "Ninth", 39 Stat. 372, 12 U.S.C. 781 "Ninth"; Sec. 32, 48 Stat. 48, as amended, 12 U.S.C. 1016 (e); Sec. 33, 48 Stat. 49, as amended, 12 U.S.C. 1017; 6 CFR 19.4019.) [Res. Ex. Com., June 27, 1939]"

THE FEDERAL LAND BANK OF WICHITA,
[SEAL] By RAY S. JOHNSON,
President.

[F. R. Doc. 39-2564; Filed, July 14, 1939; 11:52 a. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Regulation 412-A-1]

FILING OF POOLING AND OTHER AGREEMENTS

At a session of the Civil Aeronautics Authority held at its office in the City of Washington, D. C., on the 14th day of July, 1939.

The Civil Aeronautics Authority, acting pursuant to the Civil Aeronautics Act of 1938, particularly section 205 (a)

thereof, and finding such action necessary to carry out the provisions of section 412 of said Act, hereby makes and promulgates the following regulation:

§ 1 *Number of copies.* (a) Unless express permission to file less copies is granted, there shall be filed with the Authority three (3) true and complete copies of all contracts and agreements which are required to be filed under the provisions of section 412 (a) of the Civil Aeronautics Act of 1938. Oral contracts and agreements required to be filed under the provisions of said section shall be evidenced by true and complete written memoranda and three (3) true and complete copies of such memoranda shall be filed with the Authority. Contracts or agreements embodied in correspondence between the parties shall be evidenced by true and complete memoranda and there shall be filed with the Authority three (3) true and complete copies of such memoranda together with three (3) true and complete copies of such correspondence.

(b) Additional copies of contracts or agreements shall be furnished to the Authority upon request.

§ 2 *Formal requirements.* All documents filed hereunder shall be on strong, durable white paper and, if possible, not larger than 8½" by 13" in size, except that tables, charts, maps, and other documents larger than that size may be folded to approximately the required measurements. The left margin should be at least 1½" wide and if the document is bound, it should be bound on the left side. One copy of each typewritten document should be carbon-backed.

§ 3 *Place and time of filing.* The required number of copies of written contracts or agreements shall be filed at the office of the Authority in Washington, D. C., addressed to the Economic Compliance Division, Civil Aeronautics Authority, within fifteen (15) days after the date of execution thereof. The required number of copies of memoranda or oral contracts or agreements and of contracts or agreements embodied in correspondence together with copies of such correspondence shall be filed in the same manner, within fifteen (15) days after such contracts or agreements have been entered into between the parties. The time of filing prescribed herein may be extended by the Authority in exceptional circumstances upon proper application therefor.

§ 4 *Who shall file.* (a) The filing of copies of contracts and agreements which are required to be filed under the provisions of Section 412 (a) of the Civil Aeronautics Act of 1938 shall be made by every air carrier who is a party thereto. However, if the required number of copies are filed by any air carrier who is a party to such contract or agreement, any other air carrier who is a party shall be deemed to have complied with this requirement if it transmits to the Authority, within the time prescribed by section 3 of this regulation, a signed statement to the effect that it concurs in such filing.

(b) The filing of copies of contracts or agreements evidenced by resolutions or other action of associations of air carriers may be effected in the following manner. The secretary or other authorized officer of the association may be designated as agent for the purpose of making such filing. Each air carrier who is a member of such association shall separately transmit to the Authority a written statement, signed by such air carrier, reciting that a designated person or persons holding the office of secretary or other office of the association, or that any person or persons holding a designated office or offices of the association is constituted the attorney in fact for the filing of copies of any future contracts or agreements evidenced by resolution or other action of the association to which such air carrier may become a party. Such authorizations may be revoked at any time by any air carrier by giving formal notice of revocation to the Authority.

§ 5 *Certification and verification.* (a) One copy of each written contract or agreement filed shall bear the certification of the secretary or other duly authorized officer of the filing party or parties to the effect that such copy is a true and complete copy of the original written instrument executed by the parties.

(b) One copy of each memorandum of oral contracts or agreements filed shall be verified by the secretary or other duly authorized officer of the filing party or parties to such oral contract or agreement. The person or persons verifying such memorandum shall set forth that they are fully familiar with all the terms and conditions of such oral contract or agreement and that the memorandum filed is a true and complete memorandum thereof.

(c) Copies of correspondence embodying contracts or agreements shall be accompanied by the certifications of the secretary or other duly authorized officer of the filing party or parties to the effect that such copies are true and complete copies of the originals of such correspondence.

(d) One copy of each contract or agreement evidenced by resolution or other action of associations of air carriers shall bear the certification of the secretary of the association to the effect that such copy is a true and complete copy of the resolution duly adopted by the association on a certain date. The secretary shall also specify in such certification the names of each air carrier who concurred in such resolution or other action and the name of each air carrier who did not so concur.

§ 6 *Modifications or cancellations.* This regulation shall be applicable to all modifications or cancellations of contracts or agreements required to be filed under the provisions of Section 412 (a) of the Civil Aeronautics Act of 1938.

§ 7 *Contracts or agreements previously filed.* Contracts or agreements which have been filed prior to the effective date hereof shall not be subject to the provisions of this regulation, except to the extent that the Authority may by appropriate request in particular cases require compliance with any specific provision or provisions hereof.

§ 8 *Effective date.* This regulation shall be effective from and after the 1st day of August 1939.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39-2608; Filed, July 17, 1939; 12:25 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2875]

IN THE MATTER OF ALBERTY'S FOOD PRODUCTS, ETC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent's Alberty's Food Regular and Alberty's Food Instant (new style), or any other similar preparations, render milk more readily digestible, constitute a competent remedy, cure or treatment for cancer or ulcer, or have any therapeutic or medicinal value, or that respondent's Alberty's Food Instant (old style), or any other similar preparation, has any therapeutic value in excess of the therapeutic value possessed by ordinary milk, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing, in conection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent's Alberty's Laxative Blend, or any other similar preparation, has any therapeutic value or affects the muscles of the intestines other than that the senna contained in the preparation is a cathartic, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (n) (2) *Advertising falsely or misleadingly — Nature — Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly — Results.* Representing, in connection with offer, etc., in interstate commerce, or in District of Columbia, of various baby foods and health preparations, that respondent's Alberty's Special

Formula Tablets, or any other similar preparation, is a tonic and will produce blood regeneration or increase sexual activity, or that it has any medicinal or therapeutic value, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent's Alberty's Phosphate Pellets and Alberty's No. 3 Tablets, or any other similar preparations, have any therapeutic value, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent's Cheno Combination Tablets, or any other similar preparation, contains any ingredient which would have an influence on fat metabolism or that use of said preparation will cause any weight reduction other than that due to laxative properties thereof, or that it has therapeutic value, or that respondent's Cheno Herb Tea, or any similar preparation, contains any ingredient which will cause or produce any weight reduction, or that use thereof will bring about reduction in weight, or that it has any effect on the metabolism of fat, or has any therapeutic value other than that of a mild laxative, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent's Diabetic is a competent remedy, cure or treatment for diabetes, or that it has any therapeutic or medicinal value, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent's Alberty's Phenix Pluri-Gland Tablets For Men and Alberty's Phenix Pluri-Gland Tablets For Women contain any ingredient which would increase or stimulate sex activity, or that said preparations have any medicinal or therapeutic value, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6. (n) (2) *Advertising falsely or misleadingly—Nature—Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (ff 10) *Advertising falsely or misleadingly—Unique nature or advantages.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent's Alberty's Food, or any other similar preparation, rebuilds the intestinal tract and is the only food which accomplishes this result; eliminates rickets and other calcium-starvation diseases in children, adults and animals; and modifies milk so that the calcium element is assimilated; and that by taking it more calcium and phosphorus are stored up in the body than would be by the use of three or four times the quantity of ordinary milk; and that it is the only food discovered that offsets acidosis and is the most powerful alkaline food known, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (y 1) *Advertising falsely or misleadingly—Scientific or other relevant facts.* Misrepresenting, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, the cause of and the effect of an excess of magnesium in the human body, or the character and properties of calcium, the effect on the system of a lack of calcium content, and the results and benefits accruing from the taking of calcium, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (a) (10.1) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—History:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (y 1) *Advertising falsely or misleadingly—Scientific or other relevant facts.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent was the first person in the United States to recognize the value of calcium; that calcium is a great rejuvenating agency; that the taking of respondent's Alberty's Food supplies the necessary calcium to the body in the proper quantities; and that stunted growth, tooth decay, acidosis, sickness, suffering, premature old age and death are due either to a lack of calcium or the inability to assimilate it; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (y 1) *Advertising falsely or misleadingly—Scientific or other relevant facts.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that the spleen controls the sex organism and that acid fruits or vinegar, being "foreign acids", have a detrimental effect on the spleen, destroying red blood corpusles, or that acidosis is one of the contributing causes of waning sex life, or that bismuth subnitrate has a soothing effect on the digestive tract and is a valuable, harmless remedy, or that the gall bladder should never be removed, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, that respondent's gland treatment will produce or bring about any beneficial results to the user, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (1) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (gg) *Advertising falsely or misleadingly—Value:* § 3.18 *Claiming indorsements or testimonials falsely.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, by citing purported case histories of users thereof, which said case histories are not true, and by the use of testimonials which are untrue in fact or which were not given by the person alleged to have given the testimonial, that the various products sold by respondent have a value and efficacy which they do not possess, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist

order, Alberty's Food Products, etc., Docket 2875, June 26, 1939]

§ 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Laboratory:* § 3.96 (b) (5) *Using misleading name—Vendor—Producer or laboratory status of dealer.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of various baby foods and health preparations, through the use of the word "laboratory", or any other term of similar meaning or like import, as a part of respondent's trade name, or in any other manner or through any other means or device, that respondent conducts, operates or maintains a laboratory for the purpose of manufacturing, testing or experimenting with the various preparations sold by her, until and unless she actually owns and operates, or directly and absolutely controls, a laboratory maintained for said purposes, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Modified cease and desist order, Alberty's Food Products, etc., Docket 2875, June 26, 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 26th day of June, A. D. 1939.

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

IN THE MATTER OF ADAH ALBERTY, TRADING AS ALBERTY'S FOOD PRODUCTS, ALBERTY'S FOOD LABORATORIES, THE ALBERTY'S FOOD LAB., ALBERTY'S FOOD LABORATORIES, THE ALBERTY'S FOOD LABORATORIES, CHENO LABORATORIES, CHENO PRODUCTS, AND U. S. OKEY

MODIFIED 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 Charles P. Vicini, an examiner of the Commission theretofore duly designated by it in support of the allegations of said complant, and in opposition thereto, and the briefs filed herein, the respondent not having requested oral argument and the Commission having made its findings as to the facts and its conclusion that said respondent, Adah Alberty, has violated the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission to define its powers and duties and for other purposes";

It is ordered that, Respondent Adah Alberty, an individual, individually and trading as Alberty's Food Products, Alberty's Food Lab., Alberty's Food Laboratories, The Alberty's Food Laboratories, Cheno Laboratories, Cheno Products, and U. S. Okey, or trading under any other name, her representatives, agents and employees in connection with the offering for sale, sale and distribution of various baby foods and health preparations, now sold by her under various and sundry names in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing that the preparations now designated as Alberty's Food Regular and Alberty's Food Instant (new style), or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, render milk more readily digestible, constitute a competent remedy, cure or treatment for cancer or ulcer, or have any therapeutic or medicinal value;

(2) Representing that the preparation Alberty's Food Instant (old style), or any other preparation composed of the same or similar ingredients and possessing similar properties, has any therapeutic value in excess of the therapeutic value possessed by ordinary milk;

(3) Representing that the preparations now designated as Alberty's Laxative Blend, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, has any therapeutic value or affects the muscles of the intestines other than that the senna contained in the preparation is a cathartic;

(4) Representing that the preparation now designated as Alberty's Special Formula Tablets, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, is a tonic and will produce blood regeneration or will increase sexual activity, or that it has any medicinal or therapeutic value;

(5) Representing that the preparations now designated as Alberty's Phosphate Pellets and Alberty's No. 3 Tablets, or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, have any therapeutic value;

(6) Representing that the preparation now designated as Cheno Combination Tablets, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, contains any ingredient which would have an influence on fat metabolism or that the use of said preparation will cause any weight reduction other than the reduction due to the laxative properties of said preparation, or that said preparation has a therapeutic value;

(7) Representing that the preparation now designated as Cheno Herb Tea, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, contains any ingredient which will cause or produce any weight reduction, or that by the use thereof the user will bring about a reduction in weight, or that said preparation has any affect on the metabolism of fat, or that it has any therapeutic value other than that of a mild laxative;

(8) Representing that the preparations now designated as Diabetic is a competent remedy, cure or treatment for diabetes, or that it has any therapeutic or medicinal value;

(9) Representing that the preparations now designated as Alberty's Phenix Pluri-Gland Tablets For Men and Alberty's Phenix Pluri-Gland Tablets For Women contain any ingredient which would increase or stimulate sex activity, or that said preparations have any medicinal or therapeutic value;

(10) Representing that the preparations now designated as Alberty's Food, or any other preparation composed of the same or similar ingredients and possessing similar properties under whatever name sold, rebuilds the intestinal tract and is the only food which accomplishes this result; that it eliminates rickets and other calcium-starvation diseases in children, adults and animals; that it modifies milk so that the calcium element is assimilated; that by taking it more calcium and phosphorus are stored up in the body than would be by the use of three or four times the quantity of ordinary milk; that it is the only food discovered that offsets acidosis and is the most powerful alkaline food known;

(11) Misrepresenting the cause of and the effect of an excess of magnesium in the human body;

(12) Misrepresenting the character and properties of calcium, the effect on the system of a lack of calcium content, and the results and benefits accruing from the taking of calcium;

(13) Representing that respondent was the first person in the United States to recognize the value of calcium; that calcium is a great rejuvenating agency; that the taking of Alberty's Food supplies the necessary calcium to the body in the proper quantities; and that stunted growth, tooth decay, acidosis, sickness, suffering, premature old age and death are due either to a lack of calcium or the inability to assimilate it;

(14) Representing that the spleen controls the sex organism and that acid fruits or vinegar, being 'foreign acids', have a detrimental effect on the spleen, destroying red blood corpuscles;

(15) Representing that acidosis is one of the contributing causes of waning sex life;

(16) Representing that respondent's gland treatment will produce or bring about any beneficial results to the user;

(17) Representing that bismuth subnitrate has a soothing effect on the digestive tract and is a valuable, harmless remedy;

[1] 2 F.R. 238.

(18) Representing that the gall bladder should never be removed;

(19) Representing by citing purported case histories of users thereof which said case histories are not true, and by the use of testimonials which are untrue in fact or which were not given by the person alleged to have given the testimonial that the various products sold by her have a value and efficacy which they do not possess;

(20) Representing through the use of the word "laboratory", or any other term of similar meaning or like import, as a part of her trade name, or in any other manner or through any other means or device, that she conducts, operates or maintains a laboratory for the purpose of manufacturing, testing or experimenting with the various preparations sold by her, until and unless she actually owns and operates, or directly and absolutely controls, a laboratory maintained for said purposes;

(21) And from making any other similar representations of like import or effect as to the therapeutic or medicinal value of said preparations or the benefits accruing from the use thereof.

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

By the Commission.

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

[F. R. Doc. 39-2581; Filed, July 15, 1939; 10:23 a. m.]

[Docket No. 3369]

IN THE MATTER OF AMERICAN MEMORIAL COMPANY

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing, in connection with offer, etc., in commerce among the various states and in the District of Columbia, of granite or marble monuments, tombstones or footstones, by the use of the words "everlasting" or "eternal", or any other word of similar import or meaning, or in any other manner, that respondent's monuments, tombstones, or footstones are everlasting, or that its said monuments or tombstones weigh 400 pounds or any other specified weight or weights, unless and until such is the fact, 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, American Memorial Company, Docket 3369, July 11, 1939]

§ 3.6 (a) (2a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Bonded business:* § 3.6 (h) *Advertising falsely or misleadingly—Fictitious guarantees:* § 3.72 (i) *Offering deceptive inducements to purchase—Money back guarantee.* Representing, in connection with offer, etc., in commerce among the various states and in the District of Columbia, of granite or marble monuments, tombstones or footstones, that the respondent has posted a bond guaranteeing the quality of its products, or has posted a bond which insures conformity by the respondent with the laws of the United States Government or the rules and regulations of any agency thereof, or has posted any other bond, unless and until such is the fact, 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, American Memorial Company, Docket 3369, July 11, 1939]

§ 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Manufacturer.* Representing, in connection with offer, etc., in commerce among the various states and in the District of Columbia, of granite or marble monuments, tombstones or footstones, by means of pictorial or other representations of a factory or manufacturing plant, or in any other manner, that respondent makes or manufactures its granite monuments or tombstones, unless and until it owns and operates, or directly and absolutely controls, the factory or plant wherein such monuments or tombstones are made or 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, American Memorial Company, Docket 3369, July 11, 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 11th day of July, 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 Edward E. Reardon, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein, 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, American Memorial Company, 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 granite or marble monuments, tombstones or footstones in commerce between and among the various states of the United States and in the District of Columbia, do forthwith cease and desist from:

(1) representing by the use of the words "everlasting" or "eternal", or any other word of similar import or meaning, or in any other manner, that respondent's monuments, tombstones, or footstones are everlasting;

(2) representing that respondent's monuments or tombstones weigh 400 pounds or any other specified weight or weights unless and until such is the fact;

(3) representing that the respondent has posted a bond guaranteeing the quality of its products, or has posted a bond which insures conformity by the respondent with the laws of the United States Government or with the rules and regulations of any agency thereof, or has posted any other bond, unless and until such is the fact;

(4) representing, by means of pictorial or other representations of a factory or manufacturing plant, or in any other manner, that respondent makes or manufactures its granite monuments or tombstones unless and until it owns and operates or directly and absolutely controls the factory or plant wherein such monuments or tombstones are made or manufactured by it.

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

By the Commission.

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

[F. R. Doc. 39-2602; Filed, July 17, 1939; 11:30 a. m.]

[Docket No. 3560]

IN THE MATTER OF HART, SCHAFFNER & MARX, ET AL.

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.66 (a) *Misbranding or mislabeling—Composition.* Using, in connection with offer, etc., in commerce, of men's clothing and other articles of merchandise, the unqualified word "Silk" or "Silkool", or any other word or words of similar import or meaning, to designate or describe fabrics which are not composed wholly of unweighted silk, the product of the cocoon of the silkworm, prohibited; subject to provision that, in case of a fabric or product composed in part of unweighted silk and in part of materials other than unweighted silk, such words may be used as descriptive of the silk content if there is used, in immediate connection or con-

[1] 3 F.R. 1801 DI.

junction therewith, in letters of equal size and conspicuousness, a word or words accurately describing and designating each constituent fiber or material thereof in the order of its predominance by weight, beginning with the largest single constituent. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Hart, Schaffner & Marx, et al., Docket 3560, July 10, 1939]

§ 3.6 (c) *Advertising falsely or misleadingsly—Composition of goods:* § 3.66 (a) *Misbranding or mislabeling—Composition.* Advertising, etc., in connection with offer, etc., in commerce, of men's clothing and other articles of merchandise, such clothing or any other similar products composed in whole or in part of rayon without clearly disclosing the fact that such men's clothing or similar products are composed of rayon, and without naming, when composed in part of rayon and in part of other fibers or materials, such fibers or materials, including the rayon, in the order of their predominance by weight, beginning with the largest single constituent, 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, Hart, Schaffner & Marx, et al., Docket 3560, July 10, 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 10th day of July, A. D. 1939.

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

IN THE MATTER OF HART, SCHAFFNER & MARX, AND WALLACH'S, INC., CORPORATIONS.

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 the respondents, and a stipulation as to the facts, in which stipulation respondents waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents Hart, Schaffner & Marx and Wallach's, Inc., corporations, their respective officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of men's clothing and other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

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

It is further ordered, That the respondents shall within sixty days after the 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. 39-2603; Filed, July 17, 1939; 11:30 a. m.]

[1] 3 F.R. 2584 DI.

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

COMMODITY EXCHANGE ADMINISTRATION

AMENDMENT TO RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED

By virtue of the authority vested in the Secretary of Agriculture by the Commodity Exchange Act, as amended (7 U.S.C. and Sup. IV, secs. 1-17a), I, M. L. Wilson, Acting Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following amendment to the rules and regulations of the Secretary of Agriculture under said act, as amended, said amendment to become effective on the first day of August 1939, and to continue in force and effect until amended or superseded under the authority of said act, as amended.

Section 317 [3.17] [1] of article III of said rules and regulations is amended to read as follows:

§ 317 [3.17] [1] *Information shown in reports on Form 304.* Reports made by any person on Form 304 shall be prepared in accordance with the instructions appearing on Form 304 and shall contain the following information:

(1) the make-up of such person's net fixed-price position in spot cotton;

(2) the make-up of such person's hedgeable interest in spot cotton and his market position;

(3) the make-up of such person's basis position in spot cotton;

(4) the amount of certificated cotton owned by such person;

(5) such person's fixed-price spot-cotton positions (both long and short) if such person holds or controls open contracts in any one cotton future on any contract market amounting to, or exceeding, 20,000 bales: *Provided,* That, upon call from the Commodity Exchange Administration, such person shall report his fixed-price spot-cotton positions (both long and short), irrespective of the amount of such open contracts held or controlled by him;

(6) the amount of open contracts held by such person for his own account in all cotton futures on all boards of trade (exchanges) in the United States and elsewhere, by markets and by futures; and

(7) the amount of "call cotton" bought and sold, or contracted for purchase or sale, on which the price has *not* been fixed, together with the respective futures on which based. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U.S.C., Sup. 6i).

Done at Washington, D. C., this 15th day of July 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON, *Acting Secretary of Agriculture.*

[F. R. Doc. 39-2600; Filed, July 17, 1939; 10:06 a. m.]

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AMENDMENT OF RULE U-9C-3

Acting pursuant to the authority conferred upon it by the Public Utility Holding Company Act of 1935, particularly Sections 3 (d), 9 (c) and 20 (a) thereof,[2]

[1] Section number of Part 3, Title 17, Code of Federal Regulations.

[2] C. 687, sec. 3, 49 Stat. 810; 15 U.S.C., Sup. III, 79c: C. 687, sec. 9, 49 Stat. 817; 15 U.S.C., Sup. III, 79i: C. 687, sec. 20, 49 Stat. 833; 15 U.S.C., Sup. III, 79t.

and finding it appropriate in the public interest and the interest of investors and consumers, the Securities and Exchange Commission hereby amends paragraph (13) of Rule U-9C-3 [Sec. 250.U-9C-3] so that it shall read as follows:

(13) Any such company that is primarily a public-utility company may acquire any security which is issued by an industrial or other non-utility enterprise located in the territory served by the acquiring company: *Provided*, That, upon completion of any such acquisition, the total cost of all such securities acquired during any calendar year does not exceed $5,000 or an amount equal to one-tenth of 1 percent of the total assets of the acquiring company, whichever is greater.

Effective upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2604; Filed, July 17, 1939; 11:46 a. m.]

TITLE 21—FOOD AND DRUGS

FOOD AND DRUG ADMINISTRATION

PROMULGATION OF REGULATIONS UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Under the authority of Section 701 (a) of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040; 21 U.S.C. 301), the following regulations for the enforcement of the Act are hereby promulgated. These regulations shall take effect on January 1, 1940.

These regulations are prescribed and promulgated in order to emphasize the applicability of sections 402 and 403 of the Act to food subject to regulations under section 401 of the Act, and in order to promote brevity in regulations under section 401 of the Act.

§ 10.000 *General regulation.* (a) The definitions and interpretations of terms contained in section 201 of the Act shall be applicable also to such terms when used in regulations promulgated under the Act.

(b) The name of a food for which a definition and standard of identity is fixed and established under section 401 of the Act shall have the meaning ascribed to such name by such definition and standard, wherever such name is used in regulations promulgated under the Act.

(c) Each definition and standard of identity, and each standard of quality, fixed and established for a food under section 401 of the Act, contemplates that such food and all articles used as components or ingredients thereof shall be clean, sound, and fit for food.

§ 10.010 *General methods for water capacity and fill of containers.* For the purposes of regulations promulgated under section 401 of the Act—

(a) The term "general method for water capacity of containers" means the following method:

(1) In the case of a container with lid attached by double seam, cut out the lid without removing or altering the height of the double seam.

(2) Wash, dry, and weigh the empty container.

(3) Fill the container with distilled water at 68° Fahrenheit to 3/16 inch vertical distance below the top level of the container, and weigh the container thus filled.

(4) Subtract the weight found in (2) from the weight found in (3). The difference shall be considered to be the weight of water required to fill the container.

In the case of a container with lid attached otherwise than by double seam, remove the lid and proceed as directed in clauses (2) to (4) inclusive, except that under clause (3) fill the container to the level of the top thereof.

(b) The term "general method for fill of containers" means the following method:

(1) In the case of a container with lid attached by double seam, cut out the lid without removing or altering the height of the double seam.

(2) Measure the vertical distance from the top level of the container to the top level of the food.

(3) Remove the food from the container; wash, dry, and weigh the container.

(4) Fill the container with water to 3/16 inch vertical distance below the top level of the container. Record the temperature of the water, weigh the container thus filled, and determine the weight of the water by subtracting the weight of the container found in (3).

(5) Maintaining the water at the temperature recorded in (4), draw off water from the container as filled in (4) to the level of the food found in (2), weigh the container with remaining water, and determine the weight of the remaining water by subtracting the weight of the container found in (3).

(6) Divide the weight of water found in (5) by the weight of water found in (4), and multiply by 100. The result shall be considered to be the percent of the total capacity of the container occupied by the food.

In the case of a container with lid attached otherwise than by double seam, remove the lid and proceed as directed in clauses (2) to (6) inclusive, except that under clause (4), fill the container to the level of the top thereof.

§ 10.020 *General Statements of substandard quality and substandard fill of container.* For the purposes of regulations promulgated under section 401 of the Act—

(a) The term "general statement of substandard quality" means the statement "BELOW STANDARD IN QUALITY GOOD FOOD—NOT HIGH GRADE" printed in two lines of Cheltenham bold condensed caps. The words "BELOW STANDARD IN QUALITY" constitute the first line, and the second immediately follows. If the quality of the contents of the container is less than 1 pound, the type of the first line is 12-point, and of the second, 8-point. If such quantity is 1 pound or more, the type of the first line is 14-point, and of the second, 10-point. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, is on a strongly contrasting, uniform background, and is so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easly seen under customary conditions of purchase.

(b) The term "general statement of substandard fill" means the statement "BELOW STANDARD IN FILL" printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement is in 12-point type; if such quantity is 1 pound or more, the statement is in 14-point type. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle; but if the statement specified in paragraph (a) is also used, both statements (one following the other) may be enclosed within the same rectangle. Such statement or statements, with enclosing lines, are on a strongly contrasting, uniform background, and are so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

In testimony whereof, I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed hereto on this 14th day of July 1939, in the City of Washington, District of Columbia.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2578; Filed, July 14, 1939; 4:22 p. m.]

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE UPON THE BASIS OF WHICH REGULATIONS MAY BE PROMULGATED (A) FIXING AND ESTABLISHING DEFINITION AND STANDARD OF IDENTITY, STANDARD OF QUALITY, AND STANDARD OF FILL OF CONTAINER, FOR CANNED TOMATOES; AND (B) SPECIFYING FORM AND MANNER OF LABEL STATEMENTS FOR SUCH CANNED TOMATOES WHICH FALL BELOW SUCH STANDARD OF QUALITY, AND SUCH STANDARD OF FILL OF CONTAINER

ORDER OF THE SECRETARY PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE STANDARD OF FILL OF CONTAINER FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS CANNED TOMATOES

Pursuant to, and under and by virtue of, the authority and direction of the Federal Food, Drugs, and Cosmetic Act (Sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046; 21 U.S.C. 341), and based upon substantial evidence of record at the hearing in the above-entitled matter,[1] detailed findings of fact are made, as follows:

Findings of Fact

1

Containers for tomatoes are of two types: (1) the usual "sanitary" tin can, and (2) glass and all other kinds of containers other than the ordinary "sanitary" tin can.

2

A. The fill of container for tin cans with lids of a double seam may be determined by the following method:

(1) Cut out the lid without removing or altering the height of the double seam.

(2) Measure the vertical distance from the top level of the container to the top level of the food by means of a depth gage.

(3) Remove the food from the container; then wash, dry, and weight the container.

(4) Fill the container with water which is at room temperature to three-sixteenths of an inch vertical distance from the top level of the container. Then weigh the container thus filled and determine the weight of the water by subtracting the weight of the container found as prescribed in (3).

(5) Draw off enough water from the container so that the level of the water corresponds to the level of the food as found in the measurement (2) above. Weigh the container with the remaining water and determine the weight of such remaining water by subtracting the weight of the container as determined by method (3) above.

(6) Divide the weight of water found by method (5) above by the weight of water found by method (4) above, and multiply by 100. The result should be the percentage of the total capacity of the container occupied by the food.

B. The fill of container for glass or other types of container, other than described in "A" above, may be determined by the same method as outlined above, except that process (1) is omitted and in lieu of process (4) the container is filled with water so that the water is level with the top of such container.

3

The method of measuring the fill of container as presented in finding number 2 A is reasonably accurate. The method as applied to tin cans with a double seam does not reach mathematical exactness, however, because an allowance of three-sixteenths of an inch is made for the height of such seams, whereas such seams may not be exactly three-sixteenths of an inch. Such variations from the allowance as may exist are, however, of no particular consequence as affecting either the consumer or the producer.

4

A standard of fill of container based upon the finding 2 is a necessity, in order to promote honesty and fair dealing in the interest of the consumer by insuring him a container which is practically full.

5

Under good commercial practice, a standard fill of container based upon the preceding findings could be easily met by good commercial practice.

6

In addition to the space in the cans as measured to the bottom of the lid, there are seams in each end of the can which allow some additional space in such containers.

7

The method of measuring head-space in order to determine the percentage of the container occupied by the food is not an accurate index to the proportion of the food to the space in the container. This is true because many containers for canned tomatoes are not cylindrical and only perfect cylinders can be measured accurately by the head-space method. Even the ordinary tin can in general commercial use is not a perfect cylinder, and the measuring of head-space is accurate for determining the proportion of the capacity of the container occupied by food only in the case of containers having a uniform cross-section area throughout the entire height.

8

Irregular containers now in use for canned tomatoes cannot be effectively measured by the head-space method.

9

The methods for measuring fill of container for canned tomatoes, set out in finding number 2, are simple and practical, and lend themselves most admirably to commercial practice.

10

That the standard practice of canners which has received consumer acceptance is that the fill of container of canned tomatoes is a fill of not less than 90 percent of the total capacity of the container.

Based upon the foregoing findings of fact, a conclusion in the form of a regulation is hereby made and promulgated, as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FOR FIXING AND ESTABLISHING A REASONABLE STANDARD OF FILL OF CONTAINER FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS CANNED TOMATOES

§ 53.042 *Canned tomatoes—Fill of container.* (a) The standard of fill of container for canned tomatoes is a fill of not less than 90 percent of the total capacity of the container, as determined by the general method for fill of containers prescribed in section 10.010 (b).

It is ordered that the regulation hereby prescribed and promulgated shall become effective on January 1, 1940.

Issued this the 14th day of July 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2572; Filed, July 14, 1939; 4:21 p. m.]

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE UPON THE BASIS OF WHICH REGULATIONS MAY BE PROMULGATED (A) FIXING AND ESTABLISHING DEFINITION AND STANDARD OF IDENTITY, STANDARD OF QUALITY, AND STANDARD OF FILL OF CONTAINER FOR CANNED TOMATOES; AND (B) SPECIFYING FORM AND MANNER OF LABEL STATEMENTS FOR SUCH CANNED TOMATOES WHICH FALL BELOW SUCH STANDARD OF QUALITY, AND SUCH STANDARD OF FILL OF CONTAINER

ORDER OF THE SECRETARY PROMULGATING REGULATIONS FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS CANNED TOMATOES

Pursuant to, and under and by virtue of, the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046; 21 U.S.C. 541), and based upon substantial evidence of record at the hearing in the above-entitled matter,[1] detailed findings of fact are made, as follows:

Findings of Fact

1

Tomatoes used in canning are mature tomatoes of red or reddish varieties.

[1] 4 F.R. 1091 DI.

[1] 4 F.R. 1091 DI.

2

There are three types of canned tomatoes:

(a) The most common of the three types of canned tomatoes is generally referred to simply as "tomatoes." In the canning process, tomatoes are washed, sorted, trimmed, scalded, peeled, and cored. The order of these processes varies somewhat according to the practice of the individual canner. When the liquid which drains from the tomatoes in the peeling and coring process is to be used in the finished products, sorting of the tomatoes is generally done before scalding. Tomatoes which are sorted out because of imperfections are trimmed in such a manner as to remove imperfections. Following this scalding process, tomatoes are peeled and cored. If they have not been sorted and trimmed before scalding, the liquid, cores, and trimmings obtained at this point in the process are discarded. If, however, there has been sorting and trimming before scalding so that no unsound tomatoes are received by the peelers, the peels, cores, and liquid are kept for use in canning tomatoes or other tomato products. The peeled and cored tomatoes may be packed in containers either by hand or by a machine. To the tomatoes in their containers is added sufficient liquid which has drained from tomatoes in the peeling and coring process to fill the cans completely. Some canners use the liquid obtained from strained tomatoes in lieu of, or in addition to, the liquid which has drained from tomatoes in the peeling and coring process to fill the cans completely. The air in the tomatoes in their containers is then removed by heat or by a vacuum process and the container sealed. Thereafter, the container is processed by heat, so as to prevent spoilage, and properly cooled, so as to prevent overcooking.

(b) In addition to the process of canning described above, some canners follow the practice of filling the container full of whole, mature tomatoes of red or reddish varieties, trimmed and cored as described in (a), without the addition of any liquid which may have drained from such tomatoes or from any other tomatoes. This type of canned tomatoes differs from the first type described only in that no additional tomato liquid is added.

(c) In this third method of canning tomatoes, whole tomatoes, trimmed, peeled, and cored as described in the first process, are placed in their containers so that their containers are about two-thirds to three-fourths full. To these partly filled containers is added a hot tomato liquid. This liquid is procured by placing the clean peels, cores, and liquid which has drained from tomatoes in the peeling and coring process into a machine known as a cyclone. To this tomato mixture may be added some whole tomatoes. The tomato mixture is then processed in the cyclone so as to strain the liquid and fleshy parts of the tomato from the skins, cores, and seeds. The resulting liquid is heated practically to boiling, but the heat is kept at such a point that there is no substantial concentration of the tomato material. The canned tomatoes, with the addition of this tomato material, have been sold under the name of "Tomatoes with Puree from Trimmings."

3

The use of the term "Tomatoes with Puree from Trimmings" to describe the third type of canned tomatoes is inaccurate, because the tomato material added to canned tomatoes is neither a puree, as that word is generally understood in connection with tomato products, nor is it prepared from trimmings.

4

Since residual tomato material from preparation for canning, in the form of tomato flesh and liquid obtained from skins, cores, and seeds cannot be accurately and truthfully described as tomatoes "with puree from trimmings," the product should be so labeled, as truthfully to reveal the source of the raw-material ingredients. Rot and decomposition attach first to the skins of the tomatoes and are concentrated, therefore, in a product made from skins, seeds, and cores. Canned tomatoes made from whole tomatoes have generally been found to have a lower mold count than canned tomatoes prepared in part from liquid extracted from the skins of tomatoes. The history of canned tomatoes with added material procured from skins, seeds, and cores reveals that this product has not merited the same degree of favor as tomatoes prepared from the whole fruit.

5

Zestful and harmless flavorings are used in the manufacture of canned tomatoes. Salt, spices, and basil leaves, either singly or in combination, are sometimes added to canned tomatoes.

Other findings suggested by the Presiding Officer are not found because they relate either to standards of quality or to matters governed by Section 402 of the act. [cf. Sec. 10.000 (c), General Rules and Regulations Promulgated 1939]

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated, as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FOR FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS CANNED TOMATOES

§ 53.040 *Canned tomatoes—Identity; label statement of optional ingredients.* (a) Canned tomatoes are mature tomatoes of red or reddish varieties which are peeled and cored and to which may be added one or more of the following optional ingredients:

(1) The liquid draining from such tomatoes during or after peeling and coring.

(2) The liquid strained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(3) The liquid strained from mature tomatoes of such varieties.

It may be seasoned with one or more of the optional ingredients:

(4) Salt.
(5) Spices.
(6) Flavoring.

It is sealed in a container and so processed by heat as to prevent spoilage.

(b) When optional ingredient (2) is present, the label shall bear the statement "With Added Strained Residual Tomato Material from Preparation for Canning." When optional ingredient (3) is present, the label shall bear the statement "With Added Strained Tomatoes." When optional ingredient (5) or (6) is present, the label shall bear the statement or statements "Spice Added" or "With Added Spice," "Flavoring Added" or "With Added Flavoring," as the case may be. If two or all of optional ingredients (2), (3), (5), and (6) are present, such statements may be combined, as for example, "With Added Strained Tomatoes, Residual Tomato Material from Preparation for Canning, Spice and Flavoring." In lieu of the word "Spice" or "Flavoring" in such statement or statements, the common or usual name of such spice or flavoring may be used. Wherever the name "Tomatoes" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements herein specified showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

It is ordered that the regulation hereby prescribed and promulgated shall become effective on January 1, 1940.

Issued this the 14th day of July 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2573; Filed, July 14, 1939; 4:21 p. m.]

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE UPON THE BASIS OF WHICH REGULATIONS MAY BE PROMULGATED (A) FIXING AND ESTABLISHING DEFINITION AND STANDARD OF IDENTITY, STANDARD OF QUALITY, AND STANDARD OF FILL OF CON-

TAINER FOR CANNED TOMATOES; AND (B) SPECIFYING FORM AND MANNER OF LABEL STATEMENTS FOR SUCH CANNED TOMATOES WHICH FALL BELOW SUCH STANDARD OF QUALITY, AND SUCH STANDARD OF FILL OF CONTAINER

ORDER OF THE SECRETARY PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF QUALITY FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS CANNED TOMATOES

Pursuant to, and under and by virtue of, the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046; 21 U.S.C. 341), and based upon substantial evidence of record at the hearing in the above-entitled matter,[1] detailed findings of fact are made, as follows:

Findings of Fact

1

A standard of quality for canned tomatoes based, as one of the factors to be considered, upon the weight of the tomatoes in the container that are retained, after proper draining for two minutes on a sieve (eight inches in diameter if the quantity of the contents of the container is less than three pounds and twelve inches in diameter if such quantity is three pounds or more) having two meshes to the linear inch and the bottom which is made of wire of a uniform diameter of 0.054 inch, woven into square meshes of a uniform inside diameter of 0.446 inch, equalling or exceeding one-half of the weight of water at 68° F. required to fill the container, is a reasonable one and would promote honesty and fair dealing in the interest of the consumers for the reasons that the sieve of the size described permits the liquid and very small pieces of tomato flesh to fall through the openings, retaining the larger tomato portions; one-half at least by volume of the can is tomato meats of sufficient size to serve the uses to which consumers make of the article; consumers can determine their needs and make budgetary allowances in purchasing the size can best suited to their needs knowing that not more than one-half is liquid and tomato fragments; and it can be precisely determined.

2

It is reasonable and will promote honesty and fair dealing in the interest of consumers to specify a drained weight requirement for canned tomatoes based on the water capacity of the container rather than a drained weight requirement based on the total contents in the container for the reason that the can, to the consumer's eye, is a measure of the quantity of drained tomato meats that ought to be received; recent examination of thousands of cans of tomatoes show that a requirement based on the water capacity of the container would be fairer and more equitable both to the canner and the consumer; it would give the consumer a better quality of tomatoes; it could be accurately determined; and it is in accord with good commercial canning practice.

3

It is reasonable and it will promote honesty and fair dealing in the interest of consumers to prescribe, in a reasonable standard of quality for canned tomatoes, a method for determining the weight of water required to fill a metal container with lid attached by double seam which will include

(1) opening the container without injuring the double seam, removing contents, washing, drying and weighing the empty container,

(2) filling such container with distilled water of a temperature of 68° F. to three-sixteenths of an inch below the top level and then weighing the container and the water; and

(3) the result, after subtracting the weight of the empty container described in (1) from the weight of the container and water described in (2), is the weight of water required to fill the container,

for the reason that the method is definite; that any method based on can dimensions would be approximate; that domestic and imported can construction differs; that calculations from dimensional measurements are not accurate; that three-sixteenths of an inch is the accepted and determined measure of the double seam; that the displacement method is not practicable or reasonable for a canner to use in his factory; and that the method here recommended is in accord with good commercial canning practice.

4

It is reasonable and will promote honesty and fair dealing in the interest of consumers to prescribe, in a reasonable standard of quality for canned tomatoes, a method of determining the weight of water required to fill containers other than those attached by double seam, which will include

(1) opening the container, removing contents, washing, drying and weighing the empty container,

(2) filling such container with distilled water of a temperature of 68° F. to the top and then weighing the container and the water; and

(3) the result, after subtracting the weight of the empty container described in (1) from the weight of the container and water described in (2), is the weight of water required to fill the container

for the reasons that the method is definite; that any method based on can or container dimensions would be approximate; that domestic and imported container construction differs; that calculations from dimensional measurements are not accurate; that when tomatoes are in containers with lids other than those attached by means of a double seam the lid is placed on the top of the container; that the displacement method is only practicable with good commercial canning practice.

5

A standard of quality for canned tomatoes based, as one of the factors to be considered, upon the redness or height of the color of the tomatoes in the container determined by taking and removing from the sieve the drained tomatoes obtained in determining the drained weight and cutting out and successively segregating those portions in which the red color is least developed until one-half by weight of such drained tomatoes have been so segregated; by reducing such segregated portions to a uniform mixture without removing or breaking the tomato seeds; by putting such mixture into a black container to a depth of at least one inch; by freezing such mixtures from air bubbles and skimming off or pressing below the surface all visible tomato seeds; by comparing the color of such mixture, in full diffused daylight or its equivalent, with the blended color of combinations of the following Munsell color discs, or the color equivalent of such discs:

Disc 1. Red—5R 2.6/13 (glossy finish)
Disc 2. Yellow—2.5 YR 5/12 (glossy finish)
Disc 3. Black—N 1/ (glossy finish)
Disc 4. Grey—N .4/ (mat finish);

and if the redness or height of the color of such mixture is not less than that of any combination of the above-described Munsell color discs in which one-third of the area of disc 1 and not more than one-third of the area of disc 2 (regardless of the exposed area of discs 3 and 4) is exposed, then the color factor requirement is met,

would be reasonable and would promote honesty and fair dealing in the interest of consumers in that the consumer would be assured of getting tomatoes with fairly well developed red color, and would be in accord with good commercial practice.

6

In a standard of quality for canned tomatoes, a maximum allowance of one square inch of tomato peel per pound of canned tomatoes in the container as one of the quality factors would be reasonable and would promote honesty and fair dealing in the interest of consumers in that, of the thousands of cans of tomatoes examined between July 1, 1937 and September 21, 1938 representing the output of 388 packers located in all of the principal tomato producing sections of the United States and being a very representative cross section of the industry, the great majority showed less than one inch of tomato peel per pound of canned tomatoes; the consumer expects to get a minimum amount

[1] 4 F.R. 1091 DI.

of peel in a can of tomatoes; and it is in accord with good commercial practice.

7

In a standard of quality for canned tomatoes, a maximum allowance of one-fourth square inch of tomato blemish per pound of canned tomatoes in the container, as one of the quality factors, would be reasonable and would promote honesty and fair dealing in the interest of consumers for the reason that this quality factor has been in force since 1931 without change; of the thousands of cans of tomatoes examined for this factor but few failed to meet the requirement and the great majority was well below the tolerance; and it is in accord with good commercial practice and consumer understanding of the article.

8

There are no yellow varieties of tomatoes canned and sold under the name of tomatoes unqualified.

Based upon the foregoing findings of fact, conclusions in the form of regulations which will promote honesty and fair dealing in the interest of consumers are hereby made and promulgated, as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FOR FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF QUALITY FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS CANNED TOMATOES

§ 53.041 *Canned tomatoes—Quality.* (a) The standard of quality for canned tomatoes is as follows:

(1) The drained weight, as determined by the method prescribed in subsection (b) (1), is not less than 50 percent of the weight of water required to fill the container, as determined by the general method for water capacity of containers prescribed in section 10.010 (a);

(2) the strength and redness of color, as determined by the method prescribed in subsection (b) (2), is not less than that of the blended color of any combination of the color discs described in such method, in which one-third the area of disc 1, and not more than one-third the area of disc 2, is exposed;

(3) peel, per pound of canned tomatoes in the container, covers an area of not more than 1 square inch; and

(4) blemishes, per pound of canned tomatoes in the container, cover an area of not more than one-fourth square inch.

(b) Canned tomatoes shall be tested by the following method to determine whether or not they meet the requirements of clauses (1) and (2) of subsection (a):

(1) Remove lid from container, but in the case of a container with lid attached by double seam, do not remove or alter the height of the double seam. Tilt the opened container so as to distribute the contents over the meshes of a circular sieve which has previously been weighed. The diameter of the sieve used is 8 inches if the quantity of the contents of the container is less than 3 pounds, or 12 inches if such quantity is 3 pounds or more. The meshes of such sieve are made by so weaving wire of 0.054 inch diameter as to form square openings 0.446 inch by 0.446 inch. Without shifting the tomatoes, so incline the sieve as to facilitate drainage of the liquid. Two minutes from the time drainage begins, weigh the sieve and drained tomatoes. The weight so found, less the weight of the sieve, shall be considered to be the drained weight.

(2) Remove from the sieve the drained tomatoes obtained in (1). Cut out and segregate successively those portions of least redness until 50 percent of the drained weight, as determined under (1), has been so segregated. Cominute the segregated portions to a uniform mixture without removing or breaking the seeds. Fill the mixture into a black container to a depth of at least 1 inch. Free the mixture from air bubbles, and skin off or press below the surface all visible seeds. Compare the color of the mixture, in full diffused daylight or its equivalent, with the blended color of combinations of the following concentric Munsell color discs of equal diameter, or the color equivalents of such discs:

1. Red—Munsell 5R 2.6/13 (glossy finish).
2. Yellow—Munsell 2.5 YR 5/12 (glossy finish).
3. Black—Munsell N 1/ (glossy finish).
4. Grey—Munsell N 4 (mat finish).

It is ordered that the regulation hereby prescribed and promulgated shall become effective on January 1, 1940.

Issued this the 14th day of July 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2575; Filed, July 14, 1939; 4:21 p. m.]

IN THE MATTER OF THE PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE UPON THE BASIS OF WHICH REGULATIONS MAY BE PROMULGATED (A) FIXING AND ESTABLISHING DEFINITION AND STANDARD OF IDENTITY, STANDARD OF QUALITY, AND STANDARD OF FILL OF CONTAINER, FOR CANNED TOMATOES; AND (B) SPECIFYING FORM AND MANNER OF LABEL STATEMENTS FOR SUCH CANNED TOMATOES WHICH FALL BELOW SUCH STANDARD OF QUALITY, AND SUCH STANDARD OF FILL OF CONTAINER

ORDER OF THE SECRETARY PROMULGATING REGULATIONS FIXING AND SPECIFYING FORM AND MANNER OF LABEL STATEMENTS FOR CANNED TOMATOES WHICH FALL BELOW STANDARD OF QUALITY AND STANDARD OF FILL OF CONTAINER

Pursuant to, and under and by virtue of, the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046; 21 U.S.C. 341), and based upon substantial evidence of record at the hearing in the above entitled matter,[1] detailed findings of fact are made, as follows:

Findings of Fact

1

In 1931, under the McNary-Mapes Amendment to the Food and Drugs Act of 1906 (21 U.S.C. Sec. 10, Par. 5, in the case of food) to promote honesty and fair dealing in the interest of the consumer, the Secretary of Agriculture, after public hearings, promulgated a regulation providing for the labeling of canned foods that fell below the applicable standard of quality or fill of container, which included canned tomatoes; that such regulation required the label statement to indicate plainly that the product was substandard; that the factors considered essential to indicate plainly that the product was substandard were (1) the relative prominence of the statement on the label; (2) such a position of the statement on the label with respect to the name or a pictorial representation of the product as would make the statement apparent or discernible under ordinary conditions of purchase and sale; (3) the kind and size of type used; and (4) a statement to be of such a nature that it would not convey a misleading impression; that such a regulation embodying these factors has been in force since 1931; and that essentially the same requirements are hereinafter recommended.

2

It will be reasonable and will promote honesty and fair dealing in the interest of consumers in promulgating regulations providing for the labeling of canned tomatoes that fall *below* the applicable standards of quality or fill of container, to require such a label statement as would plainly indicate the product was below standard; that such a label statement would include prominence, position, display, type, clarity and certainty; and that such a label statement would indicate clearly and concisely that the article failed to meet the standards of quality or fill of container applicable thereto.

3

Such a label statement will indicate plainly that the product is below standard if it appears in connection with the product name or pictorial representation thereof or both such name and pictorial representation so as to be clearly visible under ordinary conditions of purchase and sale.

4

It will be reasonable and will promote honesty and fair dealing in the interest of consumers to require, on below standard quality canned tomatoes, the state-

[1] 4 F.R. 1091 DI.

ment "Below Standard Quality" on one line and "Good Food—Not High Grade" on a line below; to be printed in type of 12-point Cheltenham bold condensed caps for the first line and for the second line 8-point type of the same style if the quantity of the contents of the container is less than one pound, and if such quantity is one pound or more in type of the same style, the first line to be 14-point, and the second line 10-point; such statement to be enclosed within a border, not less than 6 points in width, in the shape of a rectangle; and such statement, so enclosed, to be on a strongly contrasting, uniform background, so placed as to be clearly seen when the word "Tomatoes" or any pictorial representation of a tomato is viewed, wherever such word or representation appears so conspicuously as to be easily seen under customary conditions of purchase and sale.

5

It will be reasonable and will promote honesty and fair dealing in the interest of consumers to require, on below standard fill of container canned tomatoes, the statement "Below Standard Fill" to be printed in type of 12-point Cheltenham bold condensed caps for the first line and for the second line 8-point type of the same style if the quantity of the contents of the container is less than one pound, and if such quantity is one pound or more in type of the same style, the first line to be 14-point and the second line 10-point; such statement to be enclosed within a border, not less than 6 points in width, in the shape of a rectangle; and such statement, so enclosed, to be on a strongly contrasting, uniform background, so placed as to be clearly seen when the word "Tomatoes" or any pictorial representation of a tomato is viewed, wherever such word or representation appears so conspicuously as to be easily seen under customary conditions of purchase and sale.

6

It will be reasonable and will promote honesty and fair dealing in the interest of consumers to require, on canned tomatoes that fall below both the standard of quality and the standard of fill of container applicable thereto, both the statements described in paragraphs 4 and 5, the one following the other, and enclosed in a single rectangle.

7

The statement "Below U. S. Standard" on below standard quality or fill of container canned tomatoes is indefinite; is misleading; and conveys the impression to the consumer that the United States Government supervised the preparation of the article.

8

The statement "slack fill" on substandard quality or fill of container canned tomatoes is ambiguous; is indefinite; and the meaning that is intended to be conveyed to the consumer by the words "slack fill" is uncertain.

Based upon the foregoing findings of fact, a conclusion in the form of regulations which will promote honesty and fair dealing in the interest of consumers are hereby made and promulgated, as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FOR FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF LABELING OF SUBSTANDARD FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS CANNED TOMATOES

§ 53.041 *Canned tomatoes — Label statement of substandard quality.* (c) If the quality of canned tomatoes falls below the standard prescribed in subsection (a) of this section, the label shall bear the general statement of substandard quality specified in section 10.020 (a), in the manner and form therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement "Below Standard in Quality ———," the blank to be filled in with the words specified after the corresponding number of each clause of subsection (a) of this section which such canned tomatoes fail to meet, as follows: (1) "Excessively Broken Up"; (2) "Poor Color"; (3) "Excessive Peel"; (4) "Excessive Blemishes." If such canned tomatoes fail to meet both clauses (3) and (4), the words "Excessive Peel and Blemishes" may be used instead of the words specified after the corresponding numbers of such clauses. Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "Tomatoes" and any statements required or authorized to appear with such name by section 53.040 (b).

§ 53.042 *Canned tomatoes—Label statement of substandard fill.* (b) If canned tomatoes fall below the standard of fill of container prescribed in subsection (a) of this section, the label shall bear the general statement of substandard fill specified in section 10.020 (b), in the manner and form therein specified.

It is ordered that the regulations hereby prescribed and promulgated shall become effective on January 1, 1940.

Issued this the 14th day of July 1939.

[SEAL] HARRY L. BROWN;
Acting Secretary of Agriculture.

[F. R. Doc. 39–2576; Filed, July 14, 1939; 4:22 p. m.]

IN THE MATTER OF THE PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATION MAY BE PROMULGATED FIXING AND ESTABLISHING DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: TOMATO PUREE, TOMATO PASTE, TOMATO CATSUP, TOMATO JUICE

ORDER OF THE SECRETARY PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS TOMATO PUREE

Pursuant to, and under and by virtue of, the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046; 21 U.S.C. 341), and based upon substantial evidence of record at the hearing in the above-entitled matter,[1] detailed findings of fact are made, as follows:

Findings of Fact

1

The term "Tomato Puree" and the term "Tomato Pulp" are synonymous names for the same food.

2

Tomatoes used in the manufacture of tomato puree, tomato pulp, are mature tomatoes of red or reddish varieties.

3

The raw materials used are:

(1) Whole tomatoes;

(2) Residual tomato material from preparation for canning, consisting of pieces, cores, peelings, liquid, in whole or in part;

(3) Residual tomato material from partial extraction of juice;

(4) Tomato puree, tomato pulp, is made from any one of the above sources of raw material, or any combination thereof.

4

When tomato puree, tomato pulp, is manufactured in whole or in part from residual tomato material from preparation for canning or from partial extraction of juice, the label shall declare the raw-material ingredients used.

5

Tomato puree, tomato pulp is manufactured by crushing and straining whole tomatoes or residual tomato material from preparation for canning or from partial extraction of juice, so as to remove seeds, skins, cores, and other coarse or hard substances, concentrating to a definite point, and packing so as to prevent spoilage.

6

Tomato puree, tomato pulp, is a concentrated product.

7

(1) When total solids are to be determined for the purpose of the standard or for any legal purpose, a method employed is the method set forth by the "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 4th Edition, 1935, page 499, Section 16, "Total Solids—Tentative."

---

[1] 4 F.R. 957 DI.

(2) When salt-free solids are to be determined, sodium chloride may be determined by the method prescribed on page 500 of the book referred to in (1) above, under Section 22, "Sodium Chloride—Official." The amount of sodium chloride found is subtracted from the total solids found. The difference is considered to be the salt-free tomato solids of the product.

8

Salt frequently is used as a seasoning ingredient in tomato puree, tomato pulp.

9

The concentration of tomato puree, tomato pulp is such that the salt-free tomato solids content is not less than 8.37 percent but less than 25.00 percent.

Other findings suggested by the Presiding Officer are not found because they relate either to standards of quality or to matters governed by section 402 of the act. [cf. Sec. 10.000 (c), General Rules and Regulations Promulgated 1939]

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated, as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT FOR FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS TOMATO PUREE

§ 53.020 *Tomato puree, tomato pulp—Identity; labeling of optional ingredients.* (a) Tomato puree, tomato pulp, is the food prepared from one or any combination of two or all of the following optional ingredients:

(1) The liquid obtained from mature tomatoes of red or reddish varieties.

(2) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(3) The liquid obtained from the residue from partial extraction of juice from such tomatoes. Such liquid is obtained by so straining such tomatoes or residue, with or without heating, as to exclude skins, seeds, and other coarse or hard substances. It is concentrated, and may be seasoned with salt. When sealed in a container it is so processed by heat, before or after sealing, as to prevent spoilage. It contains not less than 8.37 percent, but less than 25.00 percent, of salt-free tomato solids, as determined by the following method:

Determine total solids by the method prescribed on page 499 under "Total Solids—Tentative", and sodium chloride by the method prescribed on page 500 under "Sodium Chloride—Official", of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fourth Edition, 1935. Subtract the percent of sodium chloride found from the percent of total solids found; the difference shall be considered to be the percent of salt-free tomato solids.

(b) When optional ingredient (2) is present, in whole or in part, the label shall bear the statement "Made from ———" (or "Made in Part From ———", as the case may be) "Residual Tomato Material from Canning." When optional ingredient (3) is present, in whole or in part, the label shall bear the statement "Made From ———" (or "Made in Part From ———", as the case may be) "Residual Tomato Material from Partial Extraction of Juice." If both such ingredients are present, such statements may be combined in the statement "Made From ———" (or "Made in Part From ———", as the case may be) "Residual Tomato Material from Canning and from Partial Extraction of Juice." Wherever the name "Tomato Puree" or "Tomato Pulp" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements herein specified showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

It is ordered that the regulation hereby prescribed and promulgated shall become effective on January 1, 1940.

Issued this 14th day of July 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2574; Filed, July 14, 1939; 4:21 p. m.]

IN THE MATTER OF THE PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATION MAY BE PROMULGATED FIXING AND ESTABLISHING DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: TOMATO PUREE, TOMATO PASTE, TOMATO CATSUP, TOMATO JUICE

ORDER OF THE SECRETARY PROMULGATING A REGULATION FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS TOMATO PASTE

Pursuant to, and under and by virtue of, the authority and direction of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055; 21 U.S.C. 371 (e); Sec. 401, 52 Stat. 1046; 21 U.S.C. 341), and based upon substantial evidence of record at the hearing in the above-entitled matter,[1] detailed findings of fact are made, as follows:

[1] 4 F.R. 957 DI.

Findings of Fact

1

Tomatoes used in the manufacture of tomato paste are mature tomatoes of red or reddish varieties.

2

The raw materials used are:

(1) Whole tomatoes;

(2) Residual tomato material from preparation for canning, consisting of pieces, cores, peelings, liquid, in whole or in part;

(3) Residual tomato material from partial extraction of juice;

(4) Tomato paste is made from any one of the above sources of raw material, or any combination thereof.

3

When tomato paste is manufactured in whole or in part from residual tomato material from preparation for canning or from partial extraction of juice, the label shall declare the raw-material ingredients, used.

4

Tomato paste is manufactured by crushing and straining whole tomatoes or residual tomato material from preparation for canning or from partial extraction of juice, so as to remove seeds, skins, cores, and other coarse or hard substances, concentrating to a definite point, and packing so as to prevent spoilage.

5

(1) When total solids are to be determined for the purpose of the standard or for any legal purposes, a method employed is the method set forth by the "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fourth Edition, 1935, page 499, Section 16, "Total Solids—Tentative."

(2) When salt-free solids are to be determined, a method employed by which sodium chloride is found is the method prescribed on page 500 of the book referred to in (1) above, under Section 22, "Sodium Chloride—Official." The amount of sodium chloride found is subtracted from the total solids found. The difference is considered to be the salt-free tomato solids of the product.

6

Sweet basil leaves, oil of sweet basil, and salt are sometimes used in tomato paste.

7

Tomato paste has a minimum salt-free tomato solids content of 25.00 percent.

8

Baking soda, as an acid-neutralizing agency, is sometimes used in the manufacture of tomato paste.

Other findings suggested by the Presiding Officer are not found because they

relate either to standards of quality or to matters governed by section 402 of the act. [cf. Sec. 10.000 (c), General Rules and Regulations Promulgated 1939]

Based upon the foregoing findings of fact, a conclusion in the form of a regulation which will promote honesty and fair dealing in the interest of consumers is hereby made and promulgated, as follows:

REGULATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETICS ACT FOR FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD KNOWN UNDER ITS COMMON OR USUAL NAME AS TOMATO PASTE

§ 53.030 *Tomato paste—Identity; labeling of optional ingredients.* (a) Tomato paste is the food prepared from one or any combination of two or all of the following optional ingredients:

(1) The liquid obtained from mature tomatoes of red or reddish varieties.

(2) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(3) The liquid obtained from the residue from partial extraction of juice from such tomatoes. Such liquid is obtained by so straining such tomatoes or residue, with or without heating, as to exclude skins, seeds, and other coarse or hard substances. It is concentrated, and may be seasoned with one or more of the optional ingredients:

(4) Salt.
(5) Spice.
(6) Flavoring.

It may contain, in such quantity as neutralizes a part of the tomato acids, the optional ingredient:

(7) Baking soda.

When sealed in a container it is so processed by heat, before or after sealing, as to prevent spoilage. It contains not less than 25.00 percent of salt-free tomato solids, as determined by the following method:

Determine total solids by the method prescribed on page 499 under "Total Solids—Tentative," and sodium chloride by the method prescribed on page 500 under "Sodium Chloride—Official," of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fourth Edition, 1935. Subtract the percent of sodium chloride found from the percent of total solids found; the difference shall be considered to be the percent of salt-free tomato solids.

(b) When optional ingredient (2) is present, in whole or in part, the label shall bear the statement "Made From ———" (or "Made in Part From ———", as the case may be) "Residual Tomato Material from Canning". When optional ingredient (3) is present, in whole or in part, the label shall bear the statement "Made From ———" (or "Made in Part From ———", as the case may be) "Residual Tomato Material from Partial Extraction of Juice". If both such ingredients are present, such statements may be combined in the statement "Made From ———" (or "Made in Part From ———", as the case may be) "Residual Tomato Material from Canning and from Partial Extraction of Juice". When optional ingredient (5) or (6) is present the label shall bear the statement or statements "Spice Added" or "With Added Spice," "Flavoring Added" or "With Added Flavoring," as the case may be. When optional ingredient (7) is present, the label shall bear the statement "Baking Soda Added." If two or all of the optional ingredients (5), (6), and (7) are present, such statements may be combined, as for example, "Spice, Flavoring, and Baking Soda Added." In lieu of the word "Spice" or "Flavoring" in such statement or statements, the common or usual name of such spice or flavoring may be used. Wherever the name "Tomato Paste" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements herein specified showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

It is ordered that the regulation hereby prescribed and promulgated shall become effective on January 1, 1940.

Issued this 14th day of July 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2577; Filed, July 14, 1939; 4:22 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

AMENDMENT OF REGULATIONS GOVERNING LEASES AND PERMITS ON RESTRICTED INDIAN LANDS

Section 171.12 of Title 25, Chapter I, Office of Indian Affairs, Department of the Interior, Sub-Chapter Q, Part 171, Leasing of Indian Allotted and Tribal Lands for Farming, Grazing and Business, which reads:

§ 171.12 *Tribal Lands, Approval of Permit or Lease.* The letting of tribal lands for farming, grazing, or business purposes shall be accomplished through leases for stated periods, or through permits revocable in the discretion of the Commissioner of Indian Affairs, after advertising as provided for in Section 171.9 of these regulations. Any permit covering the use of tribal lands for farming, grazing, or business purposes where the annual rental does not exceed $1,000 should be approved by the superintendent and need not be submitted to the Washington Office, except where the leasing laws expressly provide for approval by the Secretary. Permits calling for an annual rental in excess of $1,000, and all leases, regardless of the amount of rental involved, should be submitted to the Washington Office for consideration.

is amended to read:

§ 171.12 *Tribal Lands, Approval of Permit or Lease.* Tribal lands may be used for farming, farm-pasture, or business purposes under revocable permits or leases for stated periods, after advertising as provided in Section 171.9. In accordance with existing law and applicable provisions of the constitution and by-laws or charter of any Indian tribe, approval of permits and leases shall be handled in the following manner:

(a) *Permits.* Permits may be approved by the superintendent when the annual rental does not exceed $1,000, or by the Commissioner of Indian Affairs when the annual rental is more than $1,000 but does not exceed $5,000, but in the case of any permit in which the annual rental exceeds $5,000 or where the constitution and by-laws of the Indian tribe involved requires its approval by the Secretary of the Interior, such permit shall be submitted to the Secretary of the Interior for his approval.

(b) *Leases.* The approval of leases covering tribal lands of Indian tribes having corporate charters issued pursuant to the acts of June 18, 1934 (48 Stat. 984), May 1, 1936 (49 Stat. 1250), or June 26, 1936 (49 Stat. 1967) shall be handled in the same manner as the approval of permits as provided in subsection (a) hereof. All other leases regardless of the amount of annual rental shall be subject to the approval of the Secretary of the Interior.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.
JULY 6, 1939.

[F. R. Doc. 39-2595; Filed, July 17, 1939; 9:57 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4911]

CAPITAL STOCK TAX

EXTENSION OF TIME FOR FILING CAPITAL STOCK TAX RETURNS AND PAYING TAX

To Collectors of Internal Revenue and Others Concerned:

§ 137C.1 *General extension.* Forms 707 and 708 for the filing of returns of capital stock tax under Chapter 6 of the Internal Revenue Code (53 Stat., Part 1), as amended, for the year ended June 30, 1939, are required to be filed and the tax paid on or before July 31, 1939, unless the time for filing returns and paying the tax is extended under the provisions of sections 1203 and 1205 of the aforementioned chapter.

In accordance with the provisions of these sections, the period during which the returns of capital stock tax may be

filed, and the tax paid, is hereby extended; and collectors of internal revenue are authorized to accept returns without assertion of penalties for delinquency or of interest if the returns are filed and the tax paid on or before the dates indicated in the next two paragraphs below:

1. Returns of corporations having a principal place of business within the continental United States must be filed with collectors of internal revenue on or before August 31, 1939.

2. Returns of corporations having no principal place of business within the continental United States must be filed with collectors of internal revenue on or before September 29, 1939. (Secs. 1203, 1205, 3791, 53 Stat., Part 1.) [T.D. 4911, Bu. Int. Rev., July 14, 1939]

§ 137C.2 *Special extensions.* Corporations within the first of the classes indicated above may be granted further extensions by collectors of internal revenue to a date not later than September 29, 1939, under the provisions of Article 36 (b) of Regulations 64[1] (1938 Edition) (section 137.36 (b), Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code by Treasury Decision 4885,[2] approved February 11, 1939 (Part 465, Subpart B, of such Title 26), upon the condition that interest at the rate of 6 per cent per annum be paid from August 31, 1939, to the date of payment. (Secs. 1203, 1205, 3791, 53 Stat., Part 1.) [T.D. 4911, Bu. Int. Rev., July 14, 1939]

[SEAL] HAROLD N. GRAVES,
Acting Commissioner of Internal Revenue.

Approved July 14, 1939.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 39-2586; Filed, July 15, 1939; 11:04 a. m.]

TITLE 29—LABOR

CHILDREN'S BUREAU

[Regulation No. 1-D]

CHILD LABOR

EXTENSION OF TEMPORARY CERTIFICATES OF AGE REGULATION

JULY 13, 1939.

By virtue of and pursuant to the authority conferred by section 3 (1) and section 11 (b) of the Fair Labor Standards Act of 1938 (52 Stat. 1060) the following regulation is hereby issued for the purpose of extending the effective period of Child Labor Regulation No. 1-A, entitled "Temporary Certificates of Age," as the effective period thereof was extended by Child Labor Regulations No. 1-B and 1-C, for an additional period of 92 days until October 24, 1939.

Authority for Regulation

SEC. 3 (1) OF THE ACT

* * * oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Chief of the Children's Bureau certifying that such person is above the oppressive child-labor age.

SEC. 11 (b) OF THE ACT

With the consent and cooperation of State agencies charged with the administration of State labor laws the Administrator and the Chief of the Children's Bureau may, for the purpose of carrying out their respective functions and duties under this Act, utilize the service of State and local agencies and their employees and, notwithstanding any other provisions of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.

Temporary Certificates of Age

Child Labor Regulation No. 1-A, entitled "Temporary Certificates of Age," issued October 14, 1938[1] and effective until January 23, 1939, as amended by Child Labor Regulation No. 1-B, issued January 19, 1939,[2] and Child Labor Regulation No. 1-C, issued April 14, 1939,[3] extending the effective period for the acceptance of temporary certificates of age for 90 days, each, until July 24, 1939, is hereby amended by extending the effective period for the acceptance of temporary certificates of age, as provided in Child Labor Regulation No. 1-A, for an additional period of 92 days, that is until October 24, 1939.

[SEAL] KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 39-2566; Filed, July 14, 1939; 12:31 p. m.]

[Regulation No. 11]

CHILD LABOR

PART 402—ACCEPTANCE OF STATE CERTIFICATES

JULY 13, 1939.

§ 402.8 *Designation of States.* Pursuant to the provisions of section 401.5[4] I do hereby designate the following State as a State in which State age, employment, or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938: North Dakota.

This designation shall be effective from and after the date hereof until November 1, 1939.

[SEAL] KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 39-2567; Filed, July 14, 1939; 12:31 p. m.]

[1] 4 F.R. 525 DI.
[2] 4 F.R. 879 DI.
[1] Published in 3 F.R. 2531 DI, October 22, 1938.
[2] Published in 4 F.R. 402 DI, January 24, 1939.
[3] Published in 4 F.R. 1620 DI, April 15, 1939.
[4] Section 5, Child Labor Regulation No. 1, "Certificates of Age," issued October 14, 1938, pursuant to the authority conferred by sections 3 (1) and 11 (b) of the Fair Labor Standards Act of 1938, published in 3 F.R. 2487 DI, October 15, 1938; republished in 4 F.R. 1361 DI, March 29, 1939.

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

[Circular No. 1458]

TEMPORARY ONE-YEAR GRAZING LEASES OF REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS, OREGON

§ 115.86 *Statutory authority.* Section 4 of the act of August 28, 1937 (50 Stat., 875) authorizies the leasing for grazing purposes of any of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands which may be so used without interfering with the production of timber or other purposes of the act.*

§ 115.87 *Applications.* Applications for temporary one-year grazing leases should be filed in duplicate in the office of the Chief Forester, Oregon and California Revested Lands Administration, 407 Customhouse, Portland, Oregon. Application forms may be obtained upon request from the Chief Forester, and will be in substance as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR—GENERAL LAND OFFICE

OREGON AND CALIFORNIA REVESTED LANDS ADMINISTRATION, PORTLAND, OREGON

Application for Grazing Lease

Serial No. G. L. A._____
Date_____, 19--

(1) I, _____
(Name of applicant)
of _____ hereby
(Post Office address)
apply to lease under section 4 of the act of August 28, 1937 (50 Stat., 875), the _____ Section _____, Township _____, Range _____, _____ Meridian, containing _____ acres.

(2) Describe by legal subdivisions the lands you own or hold under control by lease or permit, and the dates initiated or acquired, and when the right will expire, if it is held for a period of years.

_____
Section _____, Township _____, Range _____, _____ Meridian.

(a) How many acres of your privately owned lands are under cultivation? _____ acres.

(b) How many acres are used for grazing purposes? _____ acres.

(3) State briefly your experience in the livestock industry and give two references.

_____

(4) State what interests, if any, you have in any other lease or pending application for lease under section 4 of the act approved August 28, 1937.

_____

(5) Are you a citizen of the United States? _____ By Birth? _____ By naturalization? _____.

(If by naturalization, evidence of such naturalization must be furnished.)

If not a citizen, have you filed the necessary declaration of intention to become such? _____. When? _____ Where? _____

(If the applicant is a corporation, a certified copy of the articles of incorporation, together with a copy, signed by proper official, of the minutes of the meeting authorizing the filing of the application and, if an association, a copy of the constitution and by-laws, and evidence of the citizenship of each member must be submitted.)

(6) Do the lands applied for contain any springs or water holes? _____ If so, describe them, giving the location by section, township, and range.

_____

(a) Are the lands applied for occupied or used for any purpose? _____ By whom? _____ for what purpose?

_____

(7) Do you own or control any source of water supply needed or used for livestock purposes? _____

Describe it _____

Where located _____ _____

(Subdivision) (section)

_____ _____

(township) (range)

(8) State the number and kind of stock to be grazed on the leased lands _____, seasons of contemplated use _____, the manner in which you plan to graze the lands applied for in connection with your general operations.

_____

(9) Have you previously used the lands covered by this application? _____ If so, for how many years and for what usual period each year? _____

(a) How many stock have you grazed thereon during the average year? _____.

(10) Have the lands been used for grazing purposes in the past by any other person? _____ If so, by whom? _____ To what extent? _____

(11) How many head of livestock do you own? _____ Cattle _____; Horses _____; Sheep _____; Goats _____.

_____

(Signature of applicant)

Subscribed and sworn to before me this _____ day of _____, 19__.

(The original application only need be sworn to.)

_____

(Official designation of officer)*

§ 115.88 *Filing fees.* No filing fees will be required on applications for the temporary one-year grazing leases.*

§ 115.89 *Action upon applications.* When an application is received in the Chief Forester's office, it will be identified by number in a manner similar to that used in timber sales, except that the symbol G.L.A. will identify it as a grazing lease application. In acting upon applications embracing lands subject to lease, the Chief Forester will, in each case, make a determination as to the lands which in his opinion the applicant is entitled to lease. In making such a determination, consideration will be given the information furnished in the application, together with other available information in his office. Where two or more persons apply for the same lands, consideration will be given to the statements in the applications as to ownership and control of base lands, the need for additional grazing lands, and to the grazing operations of the individuals involved. The rental charged will be based upon a comparison of rentals charged on State, Federal, and privately-owned lands of similar character in the same locality.*

§ 115.90 *Offer and form of lease.* When such a determination is made as to the lands to be awarded and the rental to be charged, the Chief Forester will prepare and forward to the applicant by registered mail a lease, in quadruplicate, advising the applicant that he will be allowed 10 days from receipt thereof within which to sign the four copies of the proposed lease and return the same to the Chief Forester, accompanied with the amount due as rental as set forth therein. Temporary one-year grazing lease will be substantially in the following form:

[To be executed by applicant in quadruplicate]

[Form of Lease]

UNITED STATES DEPARTMENT OF THE INTERIOR—GENERAL LAND OFFICE

OREGON AND CALIFORNIA REVESTED LANDS ADMINISTRATION

Lease of Lands for Grazing Livestock, Section 4 of the Act of August 28, 1937 (50 Stat., 875)

Serial _____

This indenture of lease, entered into by and between the United States of America, party of the first part, hereinafter called the lessor, acting in this behalf by the Chief Forester, Oregon and California Revested Lands Administration, and _____, party of the second part, hereinafter called the lessee, under, pursuant, and subject to the terms and provisions of the Act of Congress approved August 28, 1937 (50 Stat., 874), entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon," hereinafter referred to as "The Act," which is made a part hereof.

Witnesseth:

That the lessor, in consideration of the rents to be paid and the covenants to be observed as herein set forth, does hereby grant and lease to the lessee an exclusive right and privilege of using for grazing purposes the following described tract of land:

_____

containing approximately _____ acres, together with the right to construct and maintain thereon all buildings or other improvements necessary to the full enjoyment thereof, for a period of one year from date hereof.

I. In consideration of the foregoing, the lessee hereby agrees:

(a) To pay the lessor as rental the sum of _____.

(b) To observe the laws and regulations for the protection of game animals, game birds, and nongame birds, and not unnecessarily disturb such animals or birds.

(c) That neither he nor his employees will set fires that will result in damage to the timber, range, or to wildlife, and to extinguish all campfires started by him or any of his employees before leaving the vicinity thereof.

(d) That authorized representatives of the Department of the Interior at any time shall have the right to enter the leased premises for the purpose of inspection, and that Federal agents, including game wardens, shall at all times have the right to enter the leased area on official business.

(e) Not to remove any timber whatsoever growing on the leased land without specific authorization in advance by the Chief Forester. Such authority may be granted only for the erection and maintenance of improvements required in the operation of this lease.

(f) To take all reasonable precaution to prevent and suppress forest, brush, and grass fires.

(g) To comply with all Federal and local laws regarding sanitation.

(h) Not to enclose roads or trails commonly used for public travel so as to interfere with the traveling of persons who do not molest grazing animals.

(i) Not to overgraze the lands embraced in this lease or to allow grazing in such a manner as to cause any waste or damage to the forage thereon.

II. The lessor expressly reserves:

(a) The right to permit prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources, and to dispose of such resources under any laws applicable thereto; the right to permit the use and disposition of timber on the lands embraced in this lease, under existing laws and regulations; and nothing herein contained shall restrict the acquisition, granting, or use of permits or rights of way under existing law.

(b) The right to dispose of by homestead entry, sale, or any other manner provided by applicable laws, any of such leased land, which, in the judgment of the Secretary of the Interior, is more suitable for disposal than for afforestation, reforestation, streamflow protection, recreation, or other public purposes.

III. It is further understood and agreed:

(a) That this lease is granted subject to valid existing rights and to all rules and regulations issued under authority of the Secretary of the Interior.

(b) That the lessee may construct, or maintain and utilize, any fence, building, corral, reservoir, well, or other improvements needed for the exercise of the grazing privileges of this lease, but any such fence shall be so constructed as to permit ingress and egress for miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes.

(c) That upon the termination of this lease by expiration or forfeiture thereof pursuant to paragraph (d) hereof, in the absence of an agreement to the contrary, the lessee may, within a reasonable period, to be determined by the lessor, remove or make other disposition of all property belonging to him, together with any fence, building, or other removable range improvements of any kind owned or controlled by him, but if not removed within the period of time specified by the lessor, such property, buildings, and improvements shall become the property of the United States.

(d) If the lessee shall fail to comply with the provisions of the act, or make default in the performance or observance of any of the terms, covenants, and stipulations hereof and such default shall continue for 10 days after service of written notice thereof by the regional forester, then that officer may, in his discretion, terminate and cancel this lease.

IV. It is further covenanted and agreed that each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

V. It is also further agreed that no Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified, and during his continuance in office, and that no officer, agent or employee of the Department of the Interior, shall be admitted to any share or part in this lease, or derive any benefit that many arise therefrom, and the provisions of section 3741 of the Revised Statutes of the United States and sections 114, 115, and 116 of the Codification of the Penal Laws of the United States approved March 4, 1909 (35 Stat. 1109), relating to contracts enter into and

form a part of this lease so far as the same may be applicable.

In Witness Whereof, I, _____ party of the second part, have hereto affixed my signature this _____ day of _____, 19__.

_____

In Witness Whereof, and as representative of the United States of America, party of the first part, I have hereunto affixed my signature this _____ day of _____, 19__.

THE UNITED STATES OF AMERICA,
By _____
Chief Forester,
Oregon and California Revested Lands Administration.

If within the time allowed, the applicant returns the lease forms properly signed, together with the amount due as rental, the Chief Forester will date and sign the four copies and make appropriate notations on the records of his office as to the issuance of the lease.[1]

§ 115.91 *Disposition of papers and rental.* One copy of the lease will be forwarded to the applicant, one copy retained by the Chief Forester, and the original application, together with the original and remaining copy of the lease, will be forwarded to the Register of the appropriate United States District Land Office for notation on his records and transmittal to the General Land Office. The money received as rental will be disposed of in accordance with the provisions of section 4 of the act.[1]

§ 115.92 *Rights under application.* The filing of an application for a temporary one-year grazing lease will not in any way create any right in the applicant to use the lands for grazing purposes until the rental is paid and a lease duly executed by the Chief Forester.[1]

§ 115.93 *Failure of applicant to complete lease.* Upon failure of the applicant to sign and return to the Chief Forester the four copies of the proposed lease, together with the amount due as rental, within the specified time, the application will be finally rejected and the lands involved may be leased to other qualified applicants.[1]

Instructions superseded. The regulations in sections 115.86 to 115.93, inclusive, supersede instructions of May 20, 1939, addressed to the Chief Forester, which read as follows:

"Until grazing regulations can be drafted and promulgated, you are authorized to issue temporary one-year grazing leases for O and C lands in or out of national forests applying the principles of Circular 1401, revised, using forms similar to that provided for General Land Office grazing leases."

FRED W. JOHNSON,
Commissioner.

Approved, July 6, 1939.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 39-2579; Filed, July 15, 1939; 10:02 a. m.]

[1] Issued under authority of section 4 of the act of August 28, 1937, (50 Stat., 875).

STOCK DRIVEWAY WITHDRAWAL NO. 56, ARIZONA NO. 2, REDUCED

JULY 8, 1939.

Departmental orders of February 4, 1919, and June 19, 1928, creating and enlarging Stock Driveway Withdrawal No. 56, Arizona No. 2, under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, are hereby revoked so far as they affect the following-described lands:

Gila and Salt River Meridian

T. 6 N., R. 4 E.
secs. 3, 10, and 15, W½;
T. 12 N., R. 5 W.,
secs. 27 and 28;
aggregating 2,238.93 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 39-2594; Filed, July 17, 1939; 9:57 a. m.]

TITLE 44—PUBLIC PROPERTY AND WORKS

FEDERAL WORKS AGENCY—PUBLIC WORKS ADMINISTRATION

[Special Order No. PWA-2]

EXECUTION OF CERTAIN DOCUMENTS ON BEHALF OF THE GOVERNMENT IN CARRYING OUT THE FUNCTIONS OF THE PUBLIC WORKS ADMINISTRATION

JULY 13, 1939.

1. All allotment orders making allotments of loan and/or grant funds, all appointments of personnel and all orders separating personnel from the service of the Government shall be signed personally by the Federal Works Administrator.

2. In order to permit the more expeditious carrying out of the functions of the Public Works Administration and the execution of the allotment orders made by the Federal Works Administrator, I hereby authorize the Acting Commissioner of Public Works to execute all documents other than those referred to in Paragraph 1 above which affect the functions of the Public Works Administration and are required to be signed, on behalf of the United States of America, in the name of the Federal Works Administrator, including the following:

(a) Contracts, including Loan and/or Grant Agreements;
(b) Offers;
(c) Waivers relating to such agreements or offers;
(d) Summary reports on loan and/or grant applications;
(e) Public vouchers.

In executing such documents the signature of the Acting Commissioner of Public Works shall appear as follows:

FEDERAL WORKS ADMINISTRATOR,
By _____
Acting Commissioner of Public Works

3. Nothing herein is to be construed as rescinding the whole or any part of General Order No. 1, issued by the Acting Commissioner of Public Works with the approval of the Federal Works Administrator under date of July 1, 1939.[1]

4. This order shall be effective as of July 1, 1939.

5. This order is issued pursuant to the Reorganization Act of 1939 and Reorganization Plan No. 1[2] transmitted to the Congress by the President.

JOHN M. CARMODY,
Federal Works Administrator.

[F. R. Doc. 39-2587; Filed, July 15, 1939; 11:18 a. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

INTERNATIONAL BROADCAST STATIONS

REGULATION SUSPENDED

The Commission on July 14, 1939 suspended the operation of Section 42.03 (a)[3] of its Rules and Regulations until the further order of the Commission.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-2571; Filed, July 14, 1939; 3:00 p. m.]

TITLE 50—WILDLIFE

BUREAU OF FISHERIES

SUBCHAPTER A—ALASKA FISHERIES

PART 204—BRISTOL BAY AREA FISHERIES

Section 204.19 is hereby amended to increase by 24 hours the total weekly closed period for salmon fishing in the Kvichak-Naknek district of the Bristol Bay area, as follows:

§ 204.19 *Weekly closed periods, commercial salmon fishing.* The 36-hour weekly closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock antemeridian Wednesday to 6 o'clock antemeridian Thursday of each week, making a weekly closed period of 60 hours: *Provided,* That in the waters of the Kvichak-Naknek district, the 36-hour weekly closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 12 o'clock midnight Tuesday to 12 o'clock midnight Thursday of each week, making a weekly closed period of 84 hours: *Provided, further,* That in the waters of Kvichak Bay between the line extending across the

[1] 4 F.R. 2771 DI. General Order No. 1 should have appeared under Title 44.
[2] 4 F.R. 2727 DI.
[3] 4 F.R. 2189 DI.

bay from the marker on a high point on the east bank of Prosper Creek, about 700 yards above the Koggiung cannery of the Alaska Packers Association, to the marker on the opposite side, the course being about north, 44 degrees west, magnetic, and the line extending across the bay from a marker at Jensen Creek, the course being north, 54 degrees west, magnetic, to a marker on the opposite shore about 1½ miles west of Squaw Creek, the 36-hour weekly closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Saturday of each week to 6 o'clock antemeridian of the Tuesday following and the period from 12 o'clock midnight Tuesday to 12 o'clock midnight Thursday of each week, making a weekly closed period of 108 hours. (Sec. 1, 44 Stat. 752, 48 U.S.C. 221)

HAROLD L. ICKES,
Secretary of the Interior.

JULY 13, 1939.

[F. R. Doc. 39-2580; Filed, July 15, 1939; 10:02 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS: IN RE MINIMUM PRICES AS COORDINATED FOR DISTRICTS NOS. 1 TO 20, INCLUSIVE, 22 AND 23

AN ORDER PERTAINING TO PROCEDURE IN RESPECT TO THE FINAL HEARINGS IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES FOR COALS PRODUCED IN DISTRICTS NOS. 1 TO 8, INCLUSIVE, DISTRICTS NOS. 9 TO 15, INCLUSIVE, DISTRICTS NOS. 16 TO 20, INCLUSIVE, 22 AND 23

The National Bituminous Coal Commission, pursuant to its Order and public Notice dated May 1, 1939, having caused a final hearing in the matter of the establishment of minimum prices for coals produced in Districts Nos. 16, 17, 18, 19, 20, 22 and 23 to be commenced in Denver, Colorado, on May 19, 1939, and said hearing having commenced on that date and continued through June 1, 1939, at which time all interested parties were afforded an opportunity to be heard with respect to any evidence, data, or other material relating to those matters insofar as they pertain to shipments of said coals into Market Areas Nos. 213 to 243, inclusive, and said hearing having been adjourned on June 1, 1939, subject to renotice and the said Commission having thereafter, pursuant to its Order dated June 23, 1939,[1] directed that a final hearing be held on July 24, 1939, for the establishment of minimum prices for coals produced in Districts Nos. 1 to 8, inclusive, and having thereafter, pursuant to its Order of June 28, 1939,[2] directed that a final hearing be held for the establishment of minimum prices for coals produced in Districts Nos. 9 to 15, inclusive, commencing on August 7, 1939, and said Orders dated June 23, 1939, and June 28, 1939, having been ratified, continued in effect and supplemented by an Order dated July 8, 1939[3] of the Director of the Bituminous Coal Division, Department of the Interior.

Now, therefore, *It is ordered,* That:

1. Any interested person may hereafter appear at any appropriate stage of any of the aforesaid hearings and be heard with respect to any evidence, data or other material relating to the matters embraced by any or all of said hearings, that may be timely and appropriate: *Provided,* That, in the judgment of the official or officials presiding at such hearings, such person has duly asserted his desire to be heard and has indicated the subject matter upon which he wishes to be heard and the nature and scope of the hearing which he desires, by filing a protest or otherwise.

2. All of the aforesaid hearings (including the hearings upon adjournment of any of such hearings) comprise a single record and proceeding for the purpose of according to interested persons the privileges described in paragraph designated "1" hereof.

3. The aforesaid hearing heretofore commenced in Denver, Colorado, on May 19, 1939, relating to coordinated minimum prices for coals produced in Districts Nos. 16, 17, 18, 19, 20, 22 and 23, will be resumed upon appropriate notice.

4. At the hearing to commence on July 24, 1939, subject to such change by the presiding officers as may be desirable for the orderly and expeditious conduct of the hearing, the general procedure for receiving evidence will be first, to receive evidence relating to the coordinated minimum prices for coals shipped into Market Areas Nos. 1 to 14, inclusive; coals shipped to the Atlantic Seaboard via tidewater; coals shipped to destinations on the Atlantic Seaboard for bunker use; coals shipped to those destinations on the Great Lakes east of a line drawn between a point just west of Port Maitland, Ontario, on the north shore of Lake Erie, to a point on the south shore of Lake Erie at which the Pennsylvania and New York State lines meet; and coals shipped eastward via Lake Erie and Lake Ontario for destinations located on Lake Ontario, Welland Canal and the St. Lawrence River. Thereafter, evidence will be received with respect to coordinated minimum prices for coals shipped into market areas and destinations west and south of the aforesaid market areas.

Evidence relating to coordinated minimum prices for coals shipped into certain Market Areas other than Market Areas Nos. 213 to 243, inclusive, by Districts Nos. 16 to 20, inclusive, 22 and 23, in competition with the coals of other Districts, will be adduced when the phase of the hearing commenced at Denver, Colorado, on May 19, 1939, has been resumed pursuant to notice hereafter to be given as above provided and upon the resumption of said phase of the hearing the entire hearing pertaining to the final establishment of effective minimum prices for coals produced in Districts Nos. 1 to 20, inclusive, 22 and 23, will be closed for the purpose of receiving evidence.

It is further ordered, That the Acting Chief of the Record Section cause a copy of this Order to be published forthwith in the FEDERAL REGISTER; and cause a copy hereof to be mailed forthwith to Frederic L. Kirgis, Director, Consumers' Counsel Division, Office of the Solicitor, Department of the Interior, to the Secretary of each District Board, and to each code member within Districts Nos. 1 to 20, inclusive, 22 and 23.

Dated at Washington, D. C., this 15th day of July 1939.

H. A. GRAY,
Director.

[F. R. Doc. 39-2593; Filed, July 17, 1939; 9:08 a. m.]

[1] 4 F.R. 2520 DI.

[2] 4 F.R. 2957, 3142, 3251 DI.

[3] 4 F.R. 2926 DI.

DEPARTMENT OF AGRICULTURE.

Farm Credit Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MICHIGAN

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Michigan State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1939; and (2) the following additional counties: Alcona, Cass, Huron, Isabella, Kent, Lenawee, Livingston, and Shiawassee.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2588; Filed, July 15, 1939; 12:06 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MINNESOTA

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order

230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Minnesota State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1939; and (2) the following additional counties: Filimore, Kandiyohi, Lyon, Norman, Olmstead, Pipestone, Pope, Renville, Traverse, and Wilkin.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2589; Filed, July 15, 1939; 12:06 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

OKLAHOMA

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Oklahoma State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1939; and (2) the following additional counties: Adair, Alfalfa, Beckham, Blaine, Canadian, Carter, Coal, Comanche, Cotton, Custer, Dewey, Garvin, Grant, Greer, Harmon, Jackson, Jefferson, Kay, Kingfisher, Love, Marshall, McClain, McIntosh, Murray, Muskogee, Noble, Nowata, Pawnee, Payne, Pontotoc, Pushmataha, Seminole, Stephens, Tillman, Wagoner, Washington, and Woodward.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2590; Filed, July 15, 1939; 12:06 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

TEXAS

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Texas State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1939; and (2) the following additional counties: Anderson, Austin, Bastrop, Bee, Bosque, Brazos, Brown, Burleson, Burnet, Caldwell, Camp, Collin, Colorado, Comanche, Delta, Denton, Erath, Fannin, Fisher, Freestone, Goliad, Grayson, Grimes, Hardeman, Hays, Henderson, Jackson, Jasper, Jefferson, Karnes, Knox, Lavaca, Leon, Limestone, McCulloch, McLennan, Marion, Matagorda, Parker, Rains, Rockwall, Runnels, San Jacinto, San Saba, Shelby, Upshur, Victoria, Walker, Willacy, Wilson, and Wood.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2591; Filed, July 15, 1939; 12:06 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

WISCONSIN

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Wisconsin State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1939; and (2) the following additional counties: Barron, Chippewa, Fond du Lac, Green, Lafayette, Marathon, Pierce, Richland, Shawano, and Trempealeau.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2592; Filed, July 15, 1939; 12:07 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

DELAWARE

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Delaware State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1939.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2596; Filed, July 17, 1939; 10:06 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

ILLINOIS

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Illinois State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1939; and (2) the following additional counties: Cumberland, Douglas, Johnson, LaSalle, McDonough, Menard, Mercer, Montgomery, Morgan, Peoria, Pike, Vermillion, Will, and Winnebago.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2597; Filed, July 17, 1939; 10:05 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NEW JERSEY

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the New Jersey State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1939.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2598, Filed, July 17, 1939; 10:05 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

RHODE ISLAND

JULY 15, 1939.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act,

and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Rhode Island State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1940: (1) that county which was designated for the making of loans for the fiscal year ending June 30, 1939.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 39–2599; Filed, July 17, 1939; 10:05 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

IN THE MATTER OF APPLICATION FOR THE EXEMPTION OF THE MANUFACTURING OR PROCESSING OF CLAY PRODUCTS (OTHER THAN POTTERY) AND CONCRETE PRODUCTS FOM THE MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 AS AN INDUSTRY OF A SEASONAL NATURE

NOTICE OF HEARING

Whereas an application has been filed by the Committee for the brick manufacturers of Maine, New Hampshire and Vermont, the Vermont Concrete Pipe Corporation, and sundry other parties for exemption from the maximum hours provisions of the Fair Labor Standards Act of 1938, for the manufacturing or processing of clay products (other than pottery) and concrete products as industries of a seasonal nature pursuant to Section 7 (b) (3) of the Act and Part 526 of the regulations issued thereunder,[1] and

Whereas it is deemed advisable, in view of the fact that the above applications present related issues of fact and law, to hold a combined hearing under the provisions of Section 526.6 (a) of the Regulations, wherein separate opportunity will be given each of the said industries or subdivisions thereof to give testimony or to argue,

Now, therefore, notice is hereby given of a public hearing to be held at the Hearings and Exemptions Hearing Room, on the 3rd floor of 939 D Street NW., Washington, D. C., to commence at 10:00 o'clock a. m., on August 7, 1939, before Harold Stein hereby duly authorized to conduct said hearing, take testimony, hear argument and determine:

Whether the processing or manufacturing of clay products (other than pottery) or concrete products as defined herein or any subdivisions thereof are industries of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of Regulations issued thereunder.

As used in this notice: The processing or manufacturing of clay products (other than pottery) includes the removal of clay from the stock pile and the grinding, screening, granulating, crushing, blending, mixing, tempering, moulding, drying, transporting, setting, firing of clay or other operations resulting in common, face and vitrified brick; drain, hollow building and other tile; sewer pipe, stove lining, terra cotta, fire brick and other clay refractories.

The processing or manufacturing of concrete products includes the removal of materials from the stock pile and the measuring, mixing, moulding, curing of concrete or other operations resulting in building block and tile, brick, cast stone, pipe, posts, vaults and miscellaneous articles made of aggregates, including sand, gravel, crushed rock, cinders, slag and burned clay, bound together with cement.

Any person interested in supporting or opposing any application for exemption may appear on his own behalf or on the behalf of any other person provided that he shall file with the Administrator at his office in Washington, D. C., prior to 12 o'clock noon on August 3, 1939, a Notice of Intention to Appear which shall contain the following information:

(1) The name and address of the person appearing.

(2) If he is appearing in a representative capacity, the name and address of the person or persons whom he is representing.

(3) Whether he is appearing in support of or in opposition to any application for exemption.

(4) The approximate length of time which his presentation will consume.

(5) Scope of appearance, i. e., for what specific industry or subdivision thereof appearance will be made, and for which operations therein.

Signed at Washington, D. C., this 17th day of July 1939.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 39–2601; Filed, July 17, 1939; 10:39 a. m.]

[1] 3 F.R. 2534, 3127 DI.

FEDERAL TRADE COMMISSION.

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 13th day of July, A. D. 1939.

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

[Docket No. 3133]

IN THE MATTER OF ELIZABETH ARDEN, INC., ELIZABETH ARDEN SALES CORPORATION, AND FLORENCE N. LEWIS

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

It is further ordered, That the taking of testimony in this proceeding begin on Friday, July 21, 1939, at nine o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–2570; Filed, July 14, 1939; 2:30 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 12th day of July, A. D. 1939.

[File No. 56–28]

IN THE MATTERS OF INTERNATIONAL UTILITIES CORPORATION, GENERAL WATER GAS & ELECTRIC COMPANY, SECURITIES CORPORATION GENERAL, AMERICAN STATES UTILITIES CORPORATION AND RALPH ELSMAN, AS LIQUIDATING TRUSTEE

ORDERS APPROVING SALES AND ACQUISITIONS OF SECURITIES AND RETIREMENT OF PREFERRED STOCK

American States Utilities Corporation, a registered holding company, having filed applications pursuant to Sections 12 (d) and 12 (f) of the Public Utility Holding Company Act of 1935 for approval of the sale of notes and common stock of its subsidiaries, Kellogg Power & Water Company and Hermiston Light & Power Company, for $165,000 and $110,000, respectively, plus certain adjustments set forth in the applications, and having filed an application pursuant

to Section 12 (c) for approval of the application of the proceeds received by it from the sale of the aforementioned notes and stock to the purchase and retirement by tender of a maximum of 24,000 shares of its $25 par value 5½% cumulative preferred stock; General Water Gas & Electric Company, a subsidiary of International Utilities Corporation, a registered holding company, having filed an application pursuant to Section 10 for approval of the acquisition of the notes and common stock of Kellogg Power & Water Company; International Utilities Corporation, a registered holding company, and Ralph Elsman, Liquidating Trustee, having filed an application pursuant to Section 10 for approval of the acquisition of a note and the common stock of Hermiston Light & Power Company; and International Utilities Corporation, General Water Gas & Electric Company, and Securities Corporation General having filed applications, pursuant to Section 12 (f), for approval of the tender and sale to American States Utilities Corporation at not more than $15 a share of not less than a total of 23,000 shares of its preferred stock; the applications having been consolidated for the purpose of hearing; a public hearing having been held on said applications pursuant to appropriate notice; [1] and the Commission having considered the record in these matters and having made and filed its findings and opinion herein;

It is ordered, That, in accordance with and for the purposes represented by the said applications, the sales and acquisitions of securities and retirement of the preferred stock be, and the same hereby are, approved, subject to the following terms and conditions:

(a) That within ten days after the sale by American States Utilities Corporation of its interests in Kellogg Power & Water Company and Hermiston Light & Power Company, and its acquisition of its preferred stock, American States Utilities Corporation shall file with this Commission a certificate of notification showing that such sales and acquisitions have been effected in accordance with the terms and conditions of and for the purposes represented by the applications and containing a list of all tenders received and a list of all tenders accepted;

(b) That American States Utilities Corporation, or the transfer agent, Baltimore National Bank, shall mail to every known preferred stockholder a letter advising him of the privilege of tendering, enclosing a return addressed envelope marked "Tenders," and shall make or cause to be made to preferred stockholders prior to or simultaneously with the sending of such letters, such disclosures as may be necessary or desirable for the purpose of enabling preferred stockholders to determine whether or not to tender: *Provided, however,* That American States Utilities Corporation shall submit to the Commission at least five days prior to the inviting of tenders, true copies of the letter and disclosures inviting such tenders and within said period the Commission reserves the right to order American States Utilities Corporation to make such changes as it considers necessary in the public interest and in the interest of investors and consumers;

(c) That the acquisition of Hermiston Light & Power Company by International Utilities Corporation and Ralph Elsman, Liquidating Trustee, be subject to the stipulation entered into by International Utilities Corporation, the Liquidating Trustee, and American States Utilities Corporation, (1) that if the properties or securities of Hermiston Light & Power Company are not sold at the end of a two year period following the date of the Commission's order in this proceeding to a third person or company unaffiliated with International Utilities Corporation, the Liquidating Trustee, or American States Utilities Corporation, then the Liquidating Trustee, or his successor or successors, and International Utilities Corporation shall request the Commission to apply to a court, in accordance with the provisions of subsection (f) of section 18 of the Public Utility Holding Company Act of 1935, to enforce a sale or other disposition of the securities or assets of Hermiston Light & Power Company; and if the Commission determines to comply with such request the Commission may request the court to appoint a trustee or trustees to sell the aforesaid securities or assets; (2) that any application or plan filed under Section 11 (e) of the Public Utility Holding Company Act of 1935 by International Utilities Corporation shall provide for the sale or disposition of the securities or assets of Hermiston Light & Power Company to a third person or company unaffiliated with International Utilities Corporation, the Liquidating Trustee, or American States Utilities Corporation, not later than at the end of a two year period following the date of the Commission's order in this proceeding; (3) that if the Commission shall institute any proceeding pursuant to Section 11 (b) (1) to which International Utilities Corporation shall be a party, the Commission may require International Utilities Corporation to divest itself of any interest, direct or indirect, in said Hermiston Light & Power Company, provided that no such order shall require such sale or disposition prior to the end of a two year period following the date of the Commission's order in this proceeding; and,

(d) That the Commission reserve jurisdiction as to the reasonableness of the tender price by International Utilities Corporation, General Water Gas & Electric Company, and Securities Corporation General; and that International Utilities Corporation, General Water Gas & Electric Company, and Securities Corporation General notify the Commission of their tender price or prices five days prior to the closing date for tenders solicited by American States Utilities Corporation during which period the Commission reserves the right to issue an order to International Utilities Corporation, General Water Gas & Electric Company, and Securities Corporation General to show cause why their tender price or prices are not unreasonable.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2584; Filed, July 15, 1939; 10:51 a. m.]

[1] 4 F.R. 1722 DI.

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 13th day of July, A. D. 1939.

[File No. 43-221]

IN THE MATTER OF THE KANSAS POWER COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

The Kansas Power Company, a corporation organized in the state of Kansas and a direct subsidiary of Inland Power & Light Corporation, a registered holding company presently in reorganization proceedings under Section 77B of the Bankruptcy Act and an indirect subsidiary of The Commonwealth Light & Power Company, a registered holding company (also in reorganization under Section 77B) and of The Middle West Corporation, also a registered holding company, having filed a declaration, and amendments thereto, pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale of $5,000,000 principal amount of its First Mortgage Bonds, Series A, 4%, due July 1, 1964, and $600,000 principal amount 3½ unsecured serial notes;

A public hearing having been held after appropriate notice; [1] no member of the public having appeared or requested an opportunity to be heard; the declarant having waived the trial examiner's report, the right to have prepared and submitted to it proposed findings of fact or requests for findings of fact, the right to file a brief and the right to oral argument before the Commission; the Commission having examined the record in this matter and having made and filed its findings and opinion herein;

It is ordered, That such declaration be and become effective forthwith, subject, however, to the following conditions:

(1) That Fifteen Percent (15%) of the declarant's annual gross operating revenue, including revenues from plants leased to others, be expended for main-

[1] 4 F.R. 2473 DI.

tenance and/or credited to a depreciation reserve subject to any rule, regulation or order of any Federal or State regulatory commission or authority having jurisdiction in the premises;

(2) That all matters in connection with said declaration shall be performed in all respects as set forth in and for the purposes represented by said declaration, as amended; and

(3) That within ten days after the issue and sale of the aforesaid bonds and notes the declarant shall file with this commission a certificate of notification showing that the issuance and sale of the aforesaid bonds and notes have been effected in compliance with the terms and conditions of and for the purpose represented by said declaration, as amended, and in accordance with the terms of this order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2585; Filed, July 15, 1939; 10:51 a. m.]

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 14 day of July, A. D. 1939.

[File No. 32-163]

IN THE MATTER OF CENTRAL OHIO LIGHT & POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 1, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 27, 1939.

The matter concerned herewith is in regard to an application by Central Ohio Light & Power Company, a subsidiary of Crescent Public Service Company, a registered holding company, pursuant to Section 6 (b) of the Act, requesting an exemption from Section 6 (a) thereof, in regard to the proposed issue and sale by the applicant of (1) its First Mortgage 4% Bonds, Series C, due August 1, 1964, in the principal amount of $4,100,000, (2) its 3½% Serial Notes due August 1, 1940, to August 1, 1944, in the principal amount of $500,000, and (3) 2,200 shares of its $6 Preferred Shares (Cumulative), no par value. Applicant states that it proposes to use the net proceeds from the sale of the aforesaid securities (a) to pay off its presently outstanding First Mortgage Bonds and Secured Notes, aggregating $4,350,000, (b) to pay off certain miscellaneous indebtedness aggregating $304,450.77, (c) to reimburse its treasury for capital expenditures resulting from additions, improvements, or betterments to its plant and property heretofore made by it, and (d) to defray the expenses incurred by it in connection with the sale of the aforesaid securities. The applicant further states that while no firm commitment has been made, it is expected that E. H. Rollins & Sons, Incorporated, will head the selling group, will have the major participation in the issue of Bonds and will underwrite the entire issues of Serial Notes and Preferred Shares. It is also stated in the application that it is expected that Halsey Stuart & Company, Inc., Central Republic Company and possibly other investment houses will participate in the underwriting of the Bonds. The price to the public and the underwriting discount or commission are to be supplied by amendment.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2605; Filed, July 17, 1939; 11:47 a. m.]

United States of America—Before the Securities and Exchange Commission

[File No. 32-162]

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of July, A. D. 1939.

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 20, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 19th, 1939.

The matter concerned herewith is in regard to an application by New York State Electric & Gas Corporation, a subsidiary of NY PA NJ Utilities Company, a registered holding company, pursuant to section 6 (b) for exemption from the provisions of section 6 (a) of the issue and sale of its note in the principal amount of $325,000 bearing interest at the rate of 2.73% to Rural Electrification Administration. The note, to be secured by the pledge of applicant's First Mortgage Bonds, 4% Series due 1965 in an aggregate principal amount of not in excess of $425,000, is to be dated as of the date of issue thereof, and is to mature in thirty-nine equal installments. The first installment is to be payable one year after the date of the note and the remaining installments on each semi-annual interest payment date to maturity. It is stated that the New York State Public Service Commission by order dated June 20, 1939 authorized the issuance and sale by the applicant of said note and the issuance of said First Mortgage Bonds, 4% Series due 1965, to be pledged as collateral security therefor.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2606; Filed, July 17, 1939, 11:46 a. m.]

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 17 day of July, A. D. 1939.

[File No. 43-232-1]

IN THE MATTER OF IOWA PUBLIC SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 2, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue N.W., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 28, 1939.

The matter concerned herewith is in regard to a declaration filed pursuant to Section 7 of the Public Utility Holding Company Act of 1935 by Iowa Public Service Company, a public utility company, registered holding company, and subsidiary of Sioux City Gas and Electric Company, a registered holding company, regarding the issue and sale of $14,250,000 aggregate principal amount of First Mortgage Bonds, 3¾% Series, due 1969, and the issuance of a 3% Promissory Note in an aggregate principal amount not to exceed $800,000, maturing not more than nine months after date, to The Commercial National Bank and Trust Company, as evidence of a loan of such amount.

It is stated that the proceeds of such issue and sale, and loan will be applied to the redemption of the presently outstanding $11,916,000 principal amount of the declarant's First Mortgage Gold Bonds, 5% Series, due 1957; to the redemption of the presently outstanding $2,300,000 principal amount of the declarant's First Mortgage Gold Bonds, 5½% Series, due 1959; to the redemption of $18,500 principal amount, and the retirement at maturity of $17,500 principal amount of presently outstanding Clarion Municipal Light Company First Mortgage Gold Bonds, 6%, due serially from November 1, 1939, to November 1, 1940; to the payment of the premium on the Bonds redeemed; the expenses of the issuance and sale of the proposed new Bonds; and the payment of duplicate interest.

It is stated that the proposed new Bonds will be sold to a syndicate of underwriters which may be headed by A. C. Allyn & Company, Incorporated, but whose participation in the proposed issue will not exceed 5% of the total offering and that A. C. Allyn & Company, Incorporated, will not receive any commission or remuneration either as underwriter, syndicate manager or otherwise, other than an underwriting fee in the same amount as other underwriters in the proposed syndicate. It is stated that the price to be received by the declarant for such proposed Bonds, the underwriting spread and price to the public have not as yet been determined and will be supplied by amendment.

It is stated that no State commission nor State securities commission has jurisdiction over the declarant in connection with the security transaction proposed above.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2607; Filed, July 17, 1939; 11:47 a. m.]