# FEDERAL REGISTER

VOLUME 4 NUMBER 128

*Washington, Thursday, July 6, 1939*


## *The President*

EXCLUDING CERTAIN LANDS FROM THE BEAVERHEAD NATIONAL FOREST AND ADDING THEM AND OTHER LANDS TO THE BIG HOLE BATTLEFIELD NATIONAL MONUMENT—MONTANA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

### A PROCLAMATION

WHEREAS the unsurveyed E½NE¼-SE¼NW¼ sec. 24, T. 2 S., R. 17 W., P. M., Montana, was reserved by Executive Order No. 1216 of June 23, 1910, as the Big Hole Battlefield Monument;

WHEREAS upon survey it has been found that the area intended to be reserved by that Executive order is the five-acre tract designated as the "Big Hole Battlefield Monument" on General Land Office supplemental plat of the survey of sec. 24, approved July 19, 1917, and described by metes and bounds as follows:

Beginning at a point S. 0°1′ W., 5.00 chs. and N. 89°42′ E., 3.00 chs. from the northwest sixteenth-section corner of Sec. 24, T. 2 S., R. 17 W., M. P. M.; thence S. 0°2′ W., 10.00 chs.; S. 89°42′ W., 5.00 chs.; N. 10 chs.; N. 89°42′ E., 5.00 chs; to point of beginning;

WHEREAS it appears that certain public lands within the Beaverhead National Forest, adjacent to the Big Hole Battlefield Monument, are historic landmarks, forming a part of the battle grounds where Chief Joseph and a band of Nez Perce Indians were defeated by a detachment of United States Soldiers;

WHEREAS certain other public lands within the aforesaid national forest are contiguous to the said national monument and are necessary for the proper care, management, and protection of the historic landmarks included within the monument; and

WHEREAS it appears that it would be in the public interest to reserve all of the aforesaid public lands as a part of the said national monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 36 (U.S.C., title 16, sec. 473), and the act of June 8, 1906, c. 3060, 34 Stat. 225 (U.S.C., title 16, sec. 431), do proclaim that the above-mentioned Executive Order of June 23, 1910, is hereby construed in conformity with the supplemental plat of survey approved July 19, 1917, to embrace the tract described above by metes and bounds, as well as the area erroneously reserved thereby; and that the hereinafter-described lands are hereby excluded from the Beaverhead National Forest and, subject to valid existing rights, added to and made a part of the said monument, which is hereby designated as the Big Hole Battlefield National Monument:

*Montana Principal Meridian*

T. 2 S., R. 17 W.,
sec. 24, lots 1 and 2, N½NW¼;
sec. 23, E½NE¼NE¼, E½SE¼NE¼;
comprising 195 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service under the direction of the Secretary of the Interior, shall have the supervision, management, and control of the monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39 Stat. 535, U.S.C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

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

DONE at the City of Washington this 29th day of June in the year of [SEAL] our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
*The Secretary of State.*

[No. 2339]

[F. R. Doc. 39-2307; Filed, July 1, 1939; 10:59 a. m.]

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THE PRESIDENT



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FEDERAL REGISTER

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## MODIFICATION OF POSTAGE RATES

### BY THE PRESIDENT OF THE UNITED STATES

### A PROCLAMATION

WHEREAS the interests of the public and the promotion of the cultural growth, education, and development of the American people require the continuation of the postage rates on books as prescribed by Proclamation No. 2309 of October 31, 1938: [1]

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States, under and by virtue of the authority vested in me by section 2 of the act of June 16, 1933, 48 Stat. 254, as amended by section 515 of title III of the act of May 10, 1934, 48 Stat. 760, Public Resolution 36, approved June 28, 1935, 49 Stat. 431, Public Resolution 48, approved June 29, 1937, 50 Stat. 358, and section 1 of title I of the Revenue Act of 1939, approved June 29, 1939, (Public No. 155, 76th Congress, 1st Session), do proclaim that the postage rate on books consisting wholly of reading matter and containing no advertising matter other than incidental announcements of books, when mailed under such regulations as the Postmaster General shall prescribe, shall, for the period commencing July 1, 1939, and ending June 30, 1941, continue to be one and one-half cents a pound or fraction thereof, irrespective of the zone of destination.

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

[1] 3 F.R. 2588 DI.

DONE at the City of Washington this 30" day of June in the year of our Lord nineteen hundred and thirty-
[SEAL] nine and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
*Secretary of State.*

[No. 2340]

[F. R. Doc. 39—2308; Filed, July 1, 1939; 10:59 a. m.]

## EXECUTIVE ORDER

### ADMINISTRATION OF THE FOREIGN SERVICE UNDER REORGANIZATION PLAN NO. II

Under the authority vested in me by the act of May 24, 1924, 43 Stat. 140, 144, the act of February 23, 1931, 46 Stat. 1207, 1211, and Reorganization Plan No. II, transmitted by the President to the Congress (H. Doc. 288) on May 9, 1939, and by Public Resolution No. 20, 76th Congress, 1st Session, approved June 7, 1939, I hereby prescribe the following regulations pertaining to the membership of the Board of Foreign Service Personnel:

1. The officer of the Department of Commerce who shall be added to the membership of the Board of Foreign Service Personnel in accordance with the provisions of subsection (b) (5) of section 1 of Reorganization Plan No. II shall sit as a member of the Board only when nominations and assignments of commercial attaches, the selection or assignment of Foreign Service officers for specialized training in commercial work, or other matters of interest to the Department of Commerce are under consideration;

2. The officer of the Department of Agriculture who shall be added to the membership of the Board of Foreign Service Personnel in accordance with the provisions of subsection (b) (5) of section 1 of Reorganization Plan No. II shall sit as a member of the Board only when nominations and assignments of agricultural attaches, the selection or assignment of Foreign Service officers for specialized training in agricultural work, or other matters of interest to the Department of Agriculture are under consideration.

3. The officers of the Department of Commerce and the Department of Agriculture who shall be designated as members of the Board of Foreign Service Personnel shall also be members of the School Board directing the Foreign Service Officers' Training School, as established and provided for by section 8 of Executive Order No. 5642 of June 8, 1931, which is hereby amended accordingly, and each shall sit as a member of the School Board when matters of interest to his respective Department shall be under consideration.

4. With reference to the Board of Examiners for the Foreign Service, the first paragraph of section 3 of the said Executive Order No. 5642 of June 8, 1931, is hereby amended to read as follows:

"3. *Examination for the Foreign Service.* There is hereby constituted a Board of Examiners, which shall conduct examinations to determine the eligibility of candidates for the Foreign Service, composed as follows: Three Assistant Secretaries of State designated by the Secretary of State, an officer of the Department of Commerce designated by the Secretary of Commerce and acceptable to the Secretary of State, an officer of the Department of Agriculture designated by the Secretary of Agriculture and acceptable to the Secretary of State, the Chief of the Division of Foreign Service Personnel, and the Chief Examiner of the Civil Service Commission.

"Any member of the Board may, when he deems it necessary, designate another officer of his Department to serve for him on the Board, provided such officer as may be designated to represent a member of the Board shall be acceptable to the Secretary of State and approved by him.

"The rules for the conduct of examinations as established in subsections (a) to (k), inclusive, of section 3 of the said Executive Order No. 5642 of June 8, 1931, shall remain in full force and effect."

This order shall become effective on July 1, 1939.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
*June 29, 1939.*

[No. 8185]

[F. R. Doc. 39–2289; Filed, June 30, 1939; 2:19 p. m.]

## EXECUTIVE ORDER

### TRANSFERRING TO THE FEDERAL WORKS ADMINISTRATOR THE FUNCTIONS TRANSFERRED TO THE SECRETARY OF THE TREASURY BY EXECUTIVE ORDER NO. 7641 OF JUNE 22, 1937

By virtue of and pursuant to the authority vested in me by the act entitled "An Act to authorize the President to provide housing for war needs", approved May 16, 1918 (40 Stat. 550), as amended and supplemented, it is ordered that all powers, rights, privileges, and duties (including the power to execute deeds, contracts, or other instruments of conveyance) delegated to the Secretary of Labor by Executive Order No. 2889 of June 18, 1918, and transferred to the Secretary of the Treasury by Executive Order No. 7641 of June 22, 1937,[1] be, and they are hereby, transferred to the Federal Works Administrator to be exercised and performed by the said Administrator through the Commissioner of Public Buildings; and the Secretary of the Treasury shall take such action as may be necessary to carry out the purposes of this order, including the transfer of all the stock of the United States Housing Corporation, now held by the Secretary of the Treasury as Trustee, to the Federal Works Administrator as Trustee for the United States.

This order shall supersede Executive Order No. 7641 of June 22, 1937, and shall become effective July 1, 1939.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
*June 29, 1939.*

[No. 8186]

[F. R. Doc. 39–2290; Filed, June 30, 1939; 2:19 p. m.]

[1] 2 F.R. 1083.

## EXECUTIVE ORDER

### AMENDMENT OF SUBDIVISION VI, SCHEDULE A, OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by paragraph EIGHTH, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 403, 404), Subdivision VI of Schedule A of the Civil Service Rules is hereby amended by adding thereto the following paragraph:

"6. During the period beginning July 1, 1939 and ending June 30, 1940, all positions in the Federal Bureau of Investigation, except fingerprint classifiers."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
*June 29, 1939.*

[No. 8187]

[F. R. Doc. 39–2287; Filed, June 30, 1939; 2:19 p. m.]

## EXECUTIVE ORDER

### REVOCATION OF EXECUTIVE ORDER NO. 4539 OF NOVEMBER 6, 1926, WITHDRAWING PUBLIC LANDS

#### UTAH

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. 4539 of November 6, 1926, withdrawing public lands in Utah pending a resurvey, and heretofore partially revoked, is hereby revoked as to the remainder of the lands affected thereby.

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

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
*June 29, 1939.*

[No. 8188]

[F. R. Doc. 39–2288; Filed, June 30, 1939; 2:19 p. m.]

## *Rules, Regulations, Orders*

### TITLE 7—AGRICULTURE

### FEDERAL CROP INSURANCE CORPORATION

[FCIR, Series 1, No. 1, Supp. 7]

### PART 401—WHEAT CROP INSURANCE REGULATIONS

#### AMENDMENTS

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, approved February 16, 1938, as amended by Public Law No. 691 of the 75th Congress, approved June 22, 1938, Section 140[1] of the Regulations Relating to Wheat Crop Insurance, as amended, is hereby amended to read, as follows:

#### PART 14—POLICY PERIOD

§ 140 Notwithstanding any of the foregoing provisions of these Regulations, the application for wheat crop insurance and the wheat crop insurance policy, insurance under any policy duly countersigned and issued by the Corporation shall attach at 12 o'clock noon on the date of signature of the Application for Wheat Crop Insurance, Form FCI–1, by the insured, but not before the wheat crop is seeded.

Adopted by the Board of Directors on June 12, 1939.

[SEAL] M. L. WILSON,
*Chairman.*

Approved, June 30, 1939.

H. A. WALLACE,
*Secretary of Agriculture.*

[F. R. Doc. 39–2297; Filed, July 1, 1939; 9:31 a. m.]

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[FCI–Regulations–1, Wheat–1940]

### PART 402—1940 WHEAT CROP INSURANCE REGULATIONS

The Federal Crop Insurance Program for wheat is part of the general program of the United States Department of Agriculture administered for the benefit of agriculture.

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, approved February 16, 1938, as amended, these regulations are hereby published and prescribed to be in force and effect, with respect to the 1940 Wheat Crop Insurance Program, until amended or superseded by regulations hereafter made.

#### PART I—DEFINITIONS

§ 1 *Meaning of terms.* For the purposes of the 1940 Wheat Crop Insurance Program, the term—

*Department* means the United States Department of Agriculture.

*Secretary* means the Secretary of Agriculture of the United States.

*Corporation* means the Federal Crop Insurance Corporation.

*Board* means the Board of Directors of the Corporation.

*Manager* means the Manager of the Corporation.

*Branch manager* means the representative of the Corporation in charge of a branch office of the Corporation.

*Insurance contract* means the contract of insurance entered into between the applicant and the Corporation by virtue of the application for insurance, Form FCI–12, Wheat—1940, the acceptance in writing by the Corporation of the application for insurance, Form FCI–18, Wheat—1940, and these regulations, FCI–Regulations–1, Wheat—140, and amendments thereto.

*Application* means a properly executed form prescribed by the Corporation for the purpose of applying for insurance.

*Base period* means the crop years 1930–38, inclusive.

*Adjusted average* yield means the average of the recorded and appraised annual yields of wheat per seeded acre on the farm for the base period as adjusted by the Corporation, or the yield appraised on the basis of the adjusted average yield for a key farm, whichever is applicable.

*Insured percentage* means the percentage of the adjusted average yield for the farm covered, or to be covered, by insurance, and shall be either 50 or 75 percent.

*Total insured production* means the maximum number of bushels for which the insured may be indemnified under the insurance contract.

*Wheat crop* means all seeded winter wheat and spring wheat on the farm in any crop year which is normally harvested in that crop year.

*Crop year* means the period within which a wheat crop is normally seeded and harvested. A crop year shall be designated by reference to the calendar year in which the wheat crop is normally harvested.

*Person* means an individual, partnership, association, corporation, estate, or trust, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

*Landlord or owner* means a person who owns land and rents such land to another person or operates such land.

*Tenant* means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

*Sharecropper* means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of the proceeds of the crop produced thereon.

*Harvesting* means any severance of mature wheat.

*Harvesting as grain* means any severance of mature wheat for the purpose of using the same for grain, whether threshed or not.

*County* means a political or civil division of a State.

*County committee* means the group of persons elected within any county to administer the agricultural conservation program in such county.

*State committee* means the group of persons designated within any State to administer the agricultural conservation program in such State.

*Seeded wheat* means wheat seeded either by drilling and covering after proper preparation of the seedbed or by broadcasting and covering after preparation of the seedbed, but does not include succotash, volunteer wheat, or self-seeded wheat.

*Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops: *Provided, however*, That where any tract or tracts of such farm land vary widely from the remainder of such farm land in productivity, topography, farming practices, or risk of loss, such tract or tracts, in accordance with instructions issued by the Manager, may be considered a separate farm.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or, if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

*Price differentials* means the amount per bushel fixed by the Corporation representing (1) transportation charges between the local delivery point specified for the farm and the designated basic market, wherever, in the determination of the Corporation, such charges are applicable, and (2) other usual charges in connection with the handling of grain.

*Basic market* means the market designated by the Corporation, for the computation of the cash equivalent of premiums, deposits, refunds, or indemnities, for the area in which the farm is located.

#### PART II—CONDITIONS GOVERNING APPLICATION FOR INSURANCE, THE INSURANCE CONTRACT, AND THE INSURANCE PERIOD

§ 20 *Application for insurance.* (a) Application for insurance shall be made upon a form prescribed for such purpose by the Corporation. Any person who has an interest as landlord, owner, tenant, or sharecropper in a wheat crop to be seeded on a farm may apply for insurance to cover his interest in such crop.

[1] 4 F.R. 1947 DI.

(b) An application shall cover the applicant's interest in the wheat to be seeded on a farm (except as provided in subsection (c) of this section) if his interest is the same in the wheat to be seeded on all tracts constituting the farm, and if the persons other than the applicant having an interest in the wheat to be seeded are the same with respect to all tracts. The applicant shall file a separate application for each tract or tracts with respect to which the applicant's interest in the wheat to be seeded differs from his interest in the wheat to be seeded on another tract or tracts within the farm. The applicant shall also file a separate application for each tract with respect to which the other person or persons having an interest in the wheat to be seeded on such tract are different from the person or persons having an interest in the wheat to be seeded on the other tract or tracts within the farm.

(c) An application may be submitted covering only spring wheat even though both winter and spring wheat are seeded on the farm, but, as provided in Part VI of these regulations, the total production of wheat for the purpose of determining the amount of loss under the insurance contract shall include the production from both winter and spring wheat.

(d) An application must be submitted at the office of the county committee, together with the premium, before the beginning of the seeding of the wheat crop (or the seeding of the spring wheat where an application is submitted, in accordance with the provisions of subsection (c) of this section, covering only spring wheat even though both winter and spring wheat are being seeded on the farm) or the final date established by the Corporation for the submission of applications in the area in which the farm is located, whichever occurs first.

§ 21 *Acceptance of application by the Corporation.* Acceptance of applications shall be made by the issuance to the applicant of a notice of acceptance signed by the Manager and countersigned by a duly authorized officer or representative of the Corporation. Applications shall not be accepted by the Corporation until the premium has been paid. Applications shall be accepted only with respect to farms upon which soil conservation and other good farming practices are being followed. The Corporation may reject any application for insurance, or may limit the insured percentage to 50 percent of the adjusted average yield for the farm, in any case where it determines that the risks to be incurred under the insurance contract warrant either such action.

§ 22 *Period of insurance.* Insurance under the insurance contract shall attach at the time the wheat crop is seeded if the premium has been paid and the application is accepted by the Corporation.

The insurance shall cease with respect to any portion of the insured crop upon threshing (unless combined, field-sacked, and remaining in the field, in which event the insurance shall not cease for 120 hours thereafter) or removal from the farm, but in no event later than midnight of the 30th day of September, 1940, unless such time is extended in writing by the Corporation. Midnight means midnight of standard time at the place where the farm is located.

§ 23 *Fraud, misrepresentation, etc.* The entire insurance contract shall be voidable, and the premium paid thereon shall be forfeited at the election of the Corporation, if the insured has concealed or misrepresented, or conceals or misrepresents, any material fact or circumstance concerning the insurance contract or the subject thereof, or if the interest of the insured in the crop covered hereunder be not truly stated in the application, or if the insured is guilty of any fraud or makes any false statements relating to the insurance contract or the subject thereof, whether before or after a loss, or if the insured shall neglect to use all reasonable means to develop, care for, and save the entire crop covered by the insurance contract, whether before or after damage has occurred.

§ 24 *Modification of insurance contract.* No notice to any representative of the Corporation or knowledge possessed by any such representative or by any other person shall be held to effect a waiver or change in any part of the insurance contract or estop the Corporation from asserting any right or power under such contract; nor shall the terms of such contract be waived or changed except by a form prescribed by the Corporation, signed by the Manager and countersigned by a duly authorized officer or representative of the Corporation; nor shall any provision or condition of this insurance contract or any forfeiture be held to be waived by any delay or omission by the Corporation in exercising its rights and powers hereunder or by any requirement, act, or proceeding, on the part of the Corporation or of its representatives relating to appraisal or to any examination herein provided for.

§ 25 *Insurance contract voidable unless full compliance.* Failure to give any notice to the Corporation or to furnish proof of loss within the time and in the manner prescribed herein, or failure to comply with any of the terms, conditions, or covenants of the insurance contract, shall render the insurance contract voidable and, at the election of the Corporation, shall constitute a forfeiture of the premium paid.

### PART III—TIME AND MANNER OF PAYMENT OF PREMIUMS AND TENDER OF DEPOSITS

§ 30 *Time and place of payment of premiums.* Premiums shall be payable at the office of the county committee for the county in which the farm is located. Premiums may be paid either in wheat or the cash equivalent thereof, at the option of the insured. Premiums shall be payable at the time the application is taken, and in no event shall a premium (except an additional payment supplementing a premium payment) be paid after the beginning of the seeding of the wheat crop, except as provided in subsection (c) of section 20, or after the date specified by the Corporation as the closing date for the receipt of applications, whichever occurs first.

§ 31 *Deposits to be applied toward future premiums.* Any person who submits an application for insurance may tender, at such time, with his premium payment toward the payment of future premiums a deposit of wheat or cash in an amount not in excess of the premium for the crop year during which the deposit is made. The Corporation reserves the right to reject the tender of any deposit. A tender of deposit shall be made at the office of the county committee for the county in which the farm is located.

The receiving of any deposit by the Corporation shall not obligate the Corporation to insure the interest of the depositor, and any insurance contract for which such deposit is made will be subject to the provisions of the regulations applicable to the insurance program for which the deposit is made.

A depositor shall have no title or interest in any wheat (including any wheat deposited) held by the Corporation. The Corporation shall be liable to the depositor only for the cash equivalent of the quantity of wheat credited or to be credited to the depositor's account, such cash equivalent to be determined in accordance with the provisions of section 32 of these regulations.

§ 32 *Payment of premium or tender of deposits in cash equivalent.* The payment of premiums in the cash equivalent shall be made in cash, check, money order, or bank draft payable to the Treasurer of the United States, or by means of an advance from the Secretary of Agriculture. The tender of dedeposits in the cash equivalent shall be made in cash, check, money order, or bank draft payable to the Treasurer of the United States. All checks and drafts will be accepted subject to collection and premiums or deposits shall not be regarded as paid unless collection is made.

The cash equivalent of any premium or deposit shall be determined by multiplying the number of bushels of wheat of the applicable class and grade constituting the premium or deposit by the price of such wheat at the current basic market designated by the Corporation, less price differentials. The price of such wheat at the current basic market shall be the price, as determined by the Corporation, for the day when the premium is paid or the deposit is made.

The cash equivalent of any additional payment supplementing a premium payment shall be determined by multiplying the number of bushels of wheat of the applicable class and grade constituting such additional payment, by the price of such wheat used for the com-

putation of the original premium payment.

§ 33 *Payment of premium or tender of deposits in wheat.* (a) When premiums are paid in wheat, such payments shall be made by the delivery of a negotiable warehouse receipt, or some other instrument acceptable to the Corporation (both hereinafter referred to as "warehouse receipt"), representing the number of bushels of wheat of merchantable quality constituting the current year's premium and representing wheat of the class specified in the application and the grade specified for such class by the Corporation for the current year's premium. Tender of deposits in wheat shall be made in a similar manner. Warehouse receipts shall be accepted only when issued by a warehouse designated by the Corporation. No warehouse receipt will be accepted as a payment of premium or tender of deposit unless it is received at the office of the county committee within the time fixed by the Corporation and unless there are no warehouse charges or other liens outstanding against the wheat represented by the warehouse receipt other than the usual charges for receiving and storage, if any, for a period not in excess of ten days prior to the date the payment or tender was made. Premiums or deposits shall not be regarded as paid unless the warehouse receipts representing wheat tendered in payment of the premium or the deposit are accepted by the Corporation. One warehouse receipt representing wheat may be tendered to cover both the premium and the deposit.

(b) If, for any reason whatsoever, it appears at any time that the transfer of a warehouse receipt, whether received by the Corporation or its agent as payment of premium or deposit, did not convey to the Corporation complete and unencumbered title to the receipt and the wheat represented thereby, except for the usual charges for receiving and storage not in excess of ten days, or if at any time the Corporation's title to such receipt or the wheat represented thereby is questioned by any person, then, unless the question of title to or charges against such wheat is immediately settled without cost to the Corporation, the Corporation shall not be liable for the payment of any indemnity under the insurance contract for which such receipt was tendered as premium and shall not be liable for a deposit or refund because of the tendering of such receipt. Any payment of indemnity or refund of premium made under the insurance contract for which any such receipt was tendered as premium, and any refund of deposit, shall be returned to the Corporation without limiting any other right or remedy of the Corporation. Any charges or cost to the Corporation in connection with such warehouse receipt, or the wheat represented thereby, may be set off against any indemnity which may be or become due under any insurance contract entered into with the applicant or in which he may have an interest. Settlement necessitated by the transfer of receipts failing to convey complete and unencumbered title to the receipt and the wheat represented thereby shall be on the basis of the cash equivalent applicable on the date when such receipt was tendered to the Corporation.

§ 34 *Disposition of 1939 crop-year deposits.* Any amount which is on deposit with the Corporation pursuant to the Regulations Relating to Wheat Crop Insurance, as amended, F.C.I.R.–Series 1, No. 1, as amended, at the election of the depositor (1) shall be applied in payment of the premium for any insurance for which his application is accepted, (2) shall be re-deposited and shall become a deposit subject to the provisions of these regulations, or, (3) shall be refunded in accordance with the Regulations Relating to Wheat Crop Insurance, as amended, F.C.I.R.–Series 1, No. 1, as amended.

At the time the depositor makes application for insurance with respect to the 1940 crop he shall specify one or more of the foregoing methods of disposition of his deposit: *Provided, however,* That any such deposit or any portion thereof which, at the direction of the depositor, is not applied in payment of premium or re-deposited will be refunded as soon as practicable by the Corporation in accordance with the Regulations Relating to Wheat Crop Insurance, as amended, F.C.I.R.–Series 1, No. 1, as amended: *And provided, further,* That any excess of the amount applied in payment of the premium will become a deposit, or will be refunded at the election of the depositor, in accordance with the provisions of section 40 of these regulations.

§ 35 *Conversion of cash into deposits of wheat.* Any tender of deposit made in cash will be credited to the depositor's account in terms of the wheat equivalent of such cash at the time the tender of deposit is made and will be deposited on the basis of the class and grade of wheat specified for the payment of the current year's premium. The wheat equivalent of any cash tendered for deposit will be determined on the same basis as that provided in section 32 of these regulations for the determination of the cash equivalent of a deposit.

§ 36 *Application of wheat deposits toward premiums.* A deposit, at the direction of the depositor, will be applied by the Corporation toward the payment of the premium for any insurance for which the depositor's application is accepted. Where the deposit is to be applied toward a premium for an insurance contract covering a farm for which different price differentials are applicable, the depositor will be charged or credited with an amount of wheat, as determined by the Corporation, reflecting the difference between the price differentials applicable at the place where the deposit was made and the price differentials at the local delivery point for the farm for which the application for insurance was made.

§ 37 *Premium earned upon seeding.* Premiums shall be regarded as earned upon the seeding of the wheat crop.

PART IV—REFUND OF PREMIUMS AND DEPOSITS

§ 40 *Computation of refunds; claim for refunds.* (a) Any refund of premiums, excess payments, or deposits shall be made only in the cash equivalent of the quantity of wheat to be refunded, less an amount, fixed by the Corporation, to cover storage and handling expenses. In no case shall such deduction exceed one-twentieth of one cent per day per bushel. The period for which such deductions shall be computed shall commence with and include the day following the day on which the premium was paid or the deposit was delivered. Such period shall end with and include the day on which payment of the refund is approved by the Corporation.

(b) Claims for refunds shall be made on forms prescribed by the Corporation. Claims for refunds of premiums or deposits shall be submitted to the Corporation at the office of the county committee where the premium was paid or the deposit was delivered. No claim for refund of premium shall be acted upon by the Corporation until the acreage seeded to wheat on the farm covered by the insurance contract has been determined. Except as may otherwise be provided by the Corporation, no claim for refund of a deposit shall be considered prior to the final date fixed by the Corporation for the receipt of applications for the 1941 Wheat Crop Insurance Program in the county where the farm in connection with which the deposit was made is located. Nothing in this subsection shall be construed to restrict the Corporation's right to refund any deposit or premium at such earlier date as it may determine.

(c) The cash equivalent of any refund of a deposit shall be determined by multiplying the amount to be refunded in terms of bushels of wheat of the class and grade specified for the payment of the premium for the insurance contract with respect to which the deposit was made by the price of such wheat, at the local delivery point, applicable for the day the deposit was tendered to the Corporation, whether or not such deposit was made in wheat or in the cash equivalent thereof.

(d) The cash equivalent of any refund, other than a refund of a deposit, shall be determined by multiplying the amount to be refunded in terms of bushels of wheat of the class and grade specified for the payment of the premium for the insurance contract by the price of such wheat, at the local delivery point, applicable for the day the premium was paid, whether or not such premium was paid in wheat or in the cash equivalent thereof.

(e) No refund shall be made if the amount thereof is less than one bushel.

§ 41 *Refund or deposit of excess payment.* In any case where an excess payment results from an adjustment in the total insured production, or the computing of the total insured production on the basis of the wheat acreage allotment, or the permitted acreage, whichever is applicable, as set forth in section 50 of these regulations, or from any other reason, such excess payment, other than payment by an advance by the Secretary, shall be credited to the insured's account as a deposit to be applied toward the payment of the premium on any application which is accepted by the Corporation, unless the insured has indicated in his application that he elects to have such excess payment refunded. Any amount credited to the insured's account pursuant to this section shall be deemed to have been deposited on the date of payment of the premium.

§ 42 *Death, incompetency, or disappearance of person entitled to refund; change of fiduciaries.* In any case where a person who is entitled to a refund of premium or deposit has died, has become incompetent, has disappeared leaving his whereabouts unknown for a period of 150 days from the date the Corporation determines that a refund is due, or has ceased to act as a fiduciary, such refund will be made to his legal representative or successor. If no such legal representative or successor has been appointed, or is otherwise legally qualified, and the quantity of wheat to be refunded before deduction of storage and handling expenses is less than 500 bushels, such refund may be made to any one or more of the persons beneficially entitled to share in such refund on behalf of all the persons so entitled upon proof of the facts satisfactory to the Corporation. The determination of the Corporation as to the existence or non-existence of a circumstance in the event of which payment of a refund may be made to a person other than the person who paid the premium or made the deposit, as the case may be, shall be final and conclusive and payment in accordance with such determination shall constitute a complete discharge of the Corporation's obligation with respect to the refund.

§ 43 *Assignment of claims for refunds; creditors.* (a) No claim solely for a refund, or any part or share thereof, or any interest therein, shall be transferable except where the Corporation has recognized an assignment of the insurance contract pursuant to the provisions of section 86 of these regulations. Notwithstanding any assignment for receiving payment of any such refunds, the Corporation reserves the right to make payment of the refund jointly to the assignor and assignee, and payment in such manner shall constitute a complete discharge of the Corporation's obligation with respect to such refund.

(b) The provisions of section 87 of these regulations shall be applicable to the payment of refunds.

PART V—TOTAL INSURED PRODUCTION

§ 50 *Total insured production.* (a) The total insured production for the insurance contract shall be the product of the adjusted average yield, the insured percentage, the insured's interest in the crop, and the acreage used for the computation of the premium: *Provided, however,* That if special practices are accepted as the basis for insurance, the total insured production for the insurance contract shall be the sum of the products of the adjusted average yield, the insured percentage, the insured's interest in the crop, and the acreage used for the computation of the premium computed separately for the acreage under each special practice.

(b) If the acreage of wheat seeded for harvest as grain is in excess of the wheat acreage allotment for the farm under the 1940 Agricultural Conservation Program or the acreage permitted to be planted to wheat under such program without deduction from payment, the wheat acreage allotment or such permitted acreage shall be used in lieu of the acreage of wheat seeded for harvest as grain for the purpose of computing the total insured production.

In the event that the farm covered by the insurance contract is grouped with other farms to constitute one farm under the 1940 Agricultural Conservation Program, the acreage of wheat used in computing the total insured production for the farm covered by the insurance contract may exceed the wheat acreage allotment, or the permitted acreage for such farm, whichever is applicable, if the acreage seeded on all such farms constituting one farm under the 1940 Agricultural Conservation Program is not in excess of the total wheat acreage allotment or the permitted acreage for the farm as constituted under the 1940 Agricultural Conservation Program. If the acreage of wheat seeded on all such farms constituting one farm under the 1940 Agricultural Conservation Program is in excess of the total acreage allotment for all such farms, or the permitted acreage, the acreage used in computing the total insured production for each such farm covered by an insurance contract shall be the same percentage of the acreage seeded to wheat for harvest as grain on the farm that the total acreage allotment for all such farms is of the acreage seeded on all such farms.

If the total acreage used for the computation of the premium under one or more practices is in excess of the wheat acreage allotment for the farm or the permitted acreage, whichever is applicable, the insured production as computed for each practice shall be reduced in the proportion that the total acreage allotment is to the total acreage seeded.

§ 51 *Adjustment of total insured production.* (a) If the acreage seeded for harvest as grain is less than the acreage used for the computation of the premium as specified in the application, the total insured production shall be adjusted, subject to the provisions of section 50 (b), to the basis of the acreage seeded. If the acreage seeded for harvest as grain is greater than the acreage used for computation of the premium as specified in the application, the total insured production shall not be adjusted except upon proper application and approval of such application by the Corporation and upon payment of an additional premium to the Corporation, prior to the date specified by the Corporation for receiving such payments.

(b) If the acreage seeded for harvest as grain under any one or more special practices differs from the respective acreages used for the computation of the premium as specified for each of such practices in the application, the total insured production shall be subject to adjustment by the Corporation, subject to the provisions of section 50 (b), on the basis of the acreage seeded for each such practice. If the adjustment would result in a smaller total insured production, the Corporation shall make such adjustment and reduce the total insured production. If the adjustment would result in a larger total insured production, the Corporation shall make such adjustment and increase the total insured production: *Provided, however,* That if an additional premium is required, the total insured production shall not be increased except upon payment of such additional premium to the Corporation prior to the date specified by the Corporation for receiving such payments.

(c) The total insured production shall be adjusted if the Corporation finds that the insured seeded the wheat crop on land of poorer average quality for the production of wheat than the average quality of the land seeded to wheat on the farm during the base period and such seeding is not the result of a regularly established rotation. Such adjusted total insured production shall be computed by substituting for the adjusted average yield for the farm a yield per acre appraised on the basis of the quality of the land on which the wheat crop is seeded.

(d) The total insured production shall be adjusted if the Corporation's risk has been increased by (1) the seeding of a different class of wheat than the class of wheat considered in determining or appraising the adjusted average yield or (2) the following of a different fertilizer or other farming practice than the practice considered in determining or appraising such adjusted average yield. Such adjusted total insured production shall be computed by substituting for the adjusted average yield a yield for the land seeded to the wheat crop appraised

on the basis of the practice followed for the 1940 wheat crop.

(e) Any adjustment in the total insured production made pursuant to subsections (c) and (d) of this section may be made at the time of the determination of loss under the insurance contract.

(f) Notwithstanding any previous adjustments of the total insured production, the Corporation reserves the right to further adjust such total insured production on the basis of the acreage seeded, if at the time of determination of loss under the insurance contract it is determined that the acreage seeded to wheat for harvest as grain is less than the acreage indicated in the notice provided for in section 52 of these regulations or the acreage and practices are different from those indicated in such notice.

§ 52 *Notice of seeding of wheat crop.* The insured, on a form prescribed by the Corporation, and on or before the date prescribed by the Corporation, shall indicate the acreage seeded to wheat on the farm and any change from the acreage and practices specified in the application. The adjustement of the total insured production under the insurance contract will be made on the basis of such notice.

PART VI—DETERMINATION OF LOSS

§ 60 *Notice of damage during growing season.* (a) Immediately after material damage to the insured crop by reason of any cause, whether or not such cause is insured against by the insurance contract, notice in writing thereof shall be given, on a form provided for that purpose, to the Corporation at the office of the county committee for the county in which the farm is located, containing such information as may reasonably be required regarding the damaged crop.

(b) The Corporation may make an investigation of the insured crop where it appears that the reported damage may be of such a nature as to result in a loss under the insurance contract. The Corporation shall have a reasonable period after receipt of such notice in which to investigate the condition of the insured crop and appraise the yield of such crop, or portion thereof.

(c) Proper measures shall be taken to protect the crop from further damage until threshing, unless the Corporation gives its permission to devote the acreage seeded to wheat to some other use. No acreage seeded to wheat shall be considered as put to another use as long as there is any wheat on such acreage remaining for harvest. In no event shall there be any abandonment of any crop or portion thereof to the Corporation.

§ 61 *Notice before harvest, removal, transfer, or other use.* Notwithstanding any other notice given as required by the insurance contract, if it is probable that there will be a loss under such insurance contract, notice in writing of the intention to harvest, remove, transfer, or make other use of the insured crop, or any portion thereof, shall be given to the Corporation, at the office of the county committee for the county in which the farm is located, in time to give the Corporation reasonable opportunity to inspect the insured crop before such harvest, removal, transfer, or other use.

§ 62 *Time of loss.* Loss shall be deemed to have occurred at the time of the completion of threshing of the insured crop (unless combined, field-sacked, and remaining in the field, in which event the loss shall be deemed to have occurred upon the expiration of the insurance period) or noon of the 30th day of September, 1940, whichever occurs first, unless there is a total or substantially total destruction of the entire crop at an earlier time, in which event the loss shall be deemed to have occurred at the time of such total or substantially total destruction. The wheat crop shall be deemed to have been substantially totally destroyed if the Corporation finds that it has been so badly damaged that the farmers generally in the area where the farm is located would not further care for the crop for wheat production.

§ 63 *Proof of loss.* If a loss is claimed, the insured shall submit to the Corporation at the office of the county committee for the county in which the farm is located, on a form provided for that purpose, a statement in proof of loss containing such information as may reasonably be required regarding the insured crop. Such statement in proof of loss shall be submitted not later than 30 days after threshing, but in no event later than October 15, 1940, unless such time is extended in writing by the Corporation. It shall be a condition precedent to any liability under the insurance contract that the insured establish that any loss for which claim is made has been directly caused by a hazard insured against by the insurance contract during the term of the contract, and that the insured further establish that such loss has not arisen from or been caused by, either directly or indirectly, any of the hazards not insured against by the insurance contract.

§ 64 *Amount of loss.* The amount of loss for which indemnity will be paid under this insurance contract shall be the amount by which the total production of wheat on the farm, multiplied by the percentage representing the insured's interest in the insured crop, is less than the total insured production for the insurance contract. The total production for the farm, for the purpose of determining the amount of loss, shall include:

1. Wheat produced from any acreage, except succotash and volunteer or self-seeded wheat, which was threshed;

2. Wheat production appraised from any acreage, except succotash and volunteer or self-seeded wheat, which was not threshed, but which was otherwise harvested as grain;

3. Wheat production appraised from any acreage seeded with the intention of harvesting as grain, which was not harvested as grain, was not threshed, but which, after maturity, was left standing in the field;

4. Wheat production appraised from any acreage, seeded with the intention of harvesting as grain, which was substantially totally destroyed and put to another use with the consent of the Corporation;

5. For acreage seeded with the intention of harvesting as grain which before maturity was pastured off, cut for hay, or used for soil conservation, a number of bushels equal to the product of (1) the adjusted average yield, (2) the insured percentage, and (3) such acreage;

6. For acreage seeded with the intention of harvesting as grain which was not reseeded in areas and under circumstances where it is customary to reseed, a number of bushels equal to the quantity of wheat by which the actual production per acre is less than the product of (1) the adjusted average yield, (2) the insured percentage and (3) such acreage;

7. For acreage seeded with the intention of harvesting as grain with a complete failure in yield due to causes not insured against, a number of bushels equal to the product of such acreage and the adjusted average yield;

8. For acreage seeded with the intention of harvesting as grain which has been damaged by reason of causes not insured against, or which has been damaged or destroyed by reasons of causes insured against and causes not insured against, a number of bushels equal to the appraised reduction in production due to causes not insured against;

9. For acreage seeded with the intention of harvesting as grain with respect to which the insured's interest is terminated by voluntary transfer or process of law before the crop is harvested, except as otherwise provided in section 81 of these regulations, a number of bushels equal to (1) the product of the adjusted average yield, the insured percentage, and such acreage, or (2) the actual production from such acreage, whichever is higher.

§ 65 *Records, access to farm.* For the purpose of enabling the Corporation to determine the loss under the insurance contract the insured shall keep, or cause to be kept, records of the harvesting, threshing, storage, shipment, sale, or other disposition, of all wheat produced on the farm, which will be made available for examination by the Corporation, and as often as may reasonably be required, any person or persons designated by the Corporation will have access to the farm.

PART VII—TIME AND MANNER OF PAYMENT OF INDEMNITY

§ 70 *When indemnity payable.* The amount of loss for which the Corporation may be liable under any insurance

contract shall be payable within 30 days after satisfactory proof of loss is approved by the Corporation. Notwithstanding the fact that payment of any indemnity is delayed for any reason beyond the time specified, the Corporation shall not be liable for interest or damages on account of such delay.

§ 71 *Manner of payment of indemnity.* The indemnity under any insurance contract for which the Corporation may be liable shall be paid in wheat or the cash equivalent thereof. The insured may indicate in his statement in proof of loss whether he wishes the indemnity to be paid in wheat or in cash, but the Corporation reserves the right to make payment in a form other than that indicated by the insured.

§ 72 *Payment of indemnity in cash.* Where an indemnity is paid in cash, the amount thereof shall be computed by multiplying the amount of loss, in terms of bushels of wheat, of the class and grade specified for the payment of the premium for the insurance contract, by the price of such wheat at the current basic market, as determined by the Corporation, less the amount per bushel fixed by the Corporation representing price differentials. The current basic market price for any class or grade of wheat at such basic market shall be the basic market price, determined by the Corporation, for the day when the claim for indemnity is approved for payment by the Corporation.

§ 73 *Payment of indemnity in wheat.* (a) Where an indemnity is paid in wheat, payment shall be in the form of a warehouse receipt representing wheat of the basic class and grade specified for the payment of the premium for the insurance contract, or its current equivalent in wheat of any other class and grade, as determined by the Corporation.

(b) If the warehouse receipt represents wheat (other than "flat wheat") stored at the basic market, it shall be for a number of bushels computed by dividing the amount of indemnity which would have been paid in cash by the current market price for such wheat at the basic market. When a warehouse receipt is delivered as provided in this subsection, it shall be accompanied by evidence of the payment of sufficient inbound freight bills or tonnage credit slips to assure the customary transit privileges.

(c) If the warehouse receipt represents wheat (other than "flat wheat") stored at any point or market other than the basic market, it shall be for a number of bushels computed by dividing the amount of the indemnity which would have been paid had the indemnity been paid in cash by the current market price for such wheat at such other point or market. The current market price at such other point or market shall be determined by deducting from the current basic market price at the designated basic market, an amount per bushel, fixed by the Corporation, to cover freight, from the point at which the wheat originated to the basic market, and adding thereto an amount per bushel representing the freight necessary to move such wheat from such point of origin to the point or market at which the wheat is stored. When the warehouse receipt is delivered as provided in this subsection, it shall be accompanied by evidence of the payment of the freight from the point of origin on such wheat to the point of storage.

(d) If the warehouse receipt represents "flat wheat" stored at any point, it shall be for a number of bushels computed by dividing the amount of indemnity which would have been paid in cash by the current market price for such "flat wheat" at such point. The current market price at such point shall be determined by deducting from the current basic market price at the designated basic market an amount per bushel fixed by the Corporation to cover price differentials.

(e) "Flat wheat," as used herein, means wheat represented by warehouse receipts not accompanied by paid freight bills showing previous movement of such wheat.

(f) The current market prices to be applied under this section shall be such prices for the day when the proof of loss is approved for payment by the Corporation.

§ 74 *Adjustments in connection with indemnity payments.* Where an indemnity has been paid under the insurance contract and an adjustment of such indemnity is made, such adjustment shall be made on the basis of the cash equivalent applicable to the indemnity paid, whether or not such indemnity was paid in wheat or the cash equivalent thereof.

PART VIII—CHANGE OF INSURED'S INTEREST

§ 80 *Termination of interest.* Except as is otherwise provided in these regulations, if at the time of loss the insured's interest in the crop has been terminated, whether by death, voluntary action, or process of law, no indemnity shall be payable. The insured's interest shall not be deemed to have been terminated by virtue of the imposition of a lien, whether by voluntary action or process of law, upon the insured crop, or by the appointment of a receiver or moratorium officer with respect to such crop, the commencement of bankruptcy proceedings, or proceedings for the foreclosure of a lien. The insured shall be deemed to have an interest in the crop so long as he has any right of redemption therein or so long as the continued existence of the crop will be of direct financial benefit to him.

§ 81 *Diverse interest.* Subject to the provisions of sections 80 and 87 of these regulations, if at the time of loss it appears that one or more persons have an interest with the insured in the percentage of the crop covered by the insurance contract, or that the insured has contracted to sell his interest in the insured crop or any portion thereof to another person or persons, or has contracted to sell the farm covered by the insurance contract, or any portion thereof, to such other person or persons, but the sale has not been completed, such other person or persons, if and insofar as their interests in the crop are not otherwise insured by them or on their behalf against such loss, shall be entitled to the benefit of the insurance contract as their interests may appear. However, the loss may be adjusted with the insured, and payment of any indemnity may be made to the insured in behalf of all persons interested in such crop, whether or not the insured has been authorized to receive such payment by such other persons, and such payment shall constitute a complete discharge of the Corporation's obligation with respect to such loss under the insurance contract.

In the event that the insured makes a voluntary transfer of his entire interest in a portion of the wheat acreage to another person or persons, and such other person or persons comply with the provisions of the insurance contract as applied to such portion of the crop, the amount of loss shall be determined as if such transfer did not take place and the Corporation may pay the indemnity to the insured on behalf of the insured and such other person or persons having an interest in the crop, or may issue a joint check to the insured and such other person or persons.

§ 82 *Death, incompetency, or disappearance of the insured*—(a) *Death.* (1) Before loss with administration: If the insured dies before the time of loss, and his interest in the crop forms part of his estate, payment of any indemnity will be made to the duly appointed representative of his estate.

(2) After loss with administration: If the insured dies after the time of loss, payment of any indemnity on account of such loss will be made to the duly appointed representative of his estate.

(3) Before loss without administration: If the insured dies before the time of loss and no legal representative of his estate is appointed or is otherwise legally qualified, payment of any indemnity may be made after the expiration of 30 days from the date of death to any one or more of the persons beneficially entitled to share in the insured's interest in the crop in behalf of all the persons so entitled. Payment will be made under the provisions of this subsection only if the amount of the indemnity is less than 500 bushels and upon the submission of proof satisfactory to the Corporation that the insured's interest in the crop is part of his estate.

(4) After loss without administration: If the insured dies after the time of loss and no legal representative of his es-

tate is appointed or is otherwise legally qualified, then, subject to the conditions outlined in subsection (a) (3) of this section 82, payment of any indemnity on account of such loss may be made after expiration of 30 days from the date of death to any one or more of the persons beneficially entitled to share in the insured's interest in the crop in behalf of all the persons so entitled.

(b) *Incompetency.* (1) Before loss: If, before the time of loss, the insured is judicially declared incompetent to manage his affairs, or his incompetency is otherwise established to the satisfaction of the Corporation, and his interest in the crop remains part of his estate, payment of any indemnity will be made to the guardian, or other legally constituted representative of his estate appointed by a court of competent jurisdiction, or who is otherwise legally qualified. In such case if no guardian or other legal representative of the insured's estate is appointed, or is otherwise legally qualified and the amount of the indemnity is less than 500 bushels, payment of any indemnity may be made to a member of his family standing in the position of a voluntary guardian upon presentation of proof satisfactory to the Corporation that the indemnity is needed and is to be used for the purchase of necessities for the incompetent, or for his wife or minor children or other persons dependent upon him for support. If the insured's interest in the crop is terminated by reason of his incompetency, any relative by blood or connection by marriage of the insured who succeeds to such interest, but no other person, shall be entitled to the benefit of the insurance contract.

(2) After loss: If, after the time of loss, the insured is judicially declared incompetent to manage his affairs, or his incompetency is otherwise established to the satisfaction of the Corporation, payment of any indemnity will be made to the guardian or other legally constituted representative of his estate appointed by a court of competent jurisdiction or who is otherwise legally qualified. If there be no such guardian or other legal representative, and the amount of the indemnity is less than 500 bushels, payment of any indemnity may be made to a member of the insured's family standing in a position of voluntary guardian upon presentation of proof satisfactory to the Corporation that the indemnity is needed and is to be used for the purchase of necessities for the incompetent, or for his wife or minor children or other persons dependent upon him for support.

(c) *Disappearance.* (1) Before loss: If, before the time of loss, the insured disappears and such insured's interest in the crop covered by the insurance contract is not terminated thereby, any indemnity payable will be paid to the conservator or other legally qualified representative of his estate. If there be no such conservator or other legal representative, and the amount of the indemnity is less than 500 bushels, payment of the indemnity may be made to any member of the insured's family upon the presentation of proof satisfactory to the Corporation that the proceeds of such indemnity are needed and are to be used for the purchase of necessities for the insured's wife or minor children or other persons dependent upon him for support. If the insured's interest in the crop is terminated by reason of his disappearance, any relative by blood or connection by marriage of the insured who succeeds to his interest in the crop, but no other person, shall be entitled to the benefit of the insurance contract.

(2) After loss: If, after the time of loss, the insured disappears, payment of any indemnity will be made to the conservator or other legally qualified representative of his estate, but if there be no such conservator or other legal representative and the amount of the indemnity is less than 500 bushels, payment of the indemnity may be made to a member of the insured's family upon presentation of proof satisfactory to the Corporation that the proceeds of such indemnity are needed and are to be used for the purchase of necessities for the insured's wife or minor children or other persons dependent upon him for support.

(3) Definition of disappearance: An insured shall be deemed to have disappeared within the meaning of this section if he leaves the farm covered by the insurance contract and his whereabouts have been unknown for a period of 150 days after the time of loss under such contract.

§ 83 *Fiduciaries.* Any indemnity payable under an insurance contract entered into in the name of a fiduciary who is no longer acting in such capacity at the time for the payment of indemnity will be paid to the succeeding fiduciary upon appropriate application and proof satisfactory to the Corporation of his incumbency. In the event that there is no succeeding fiduciary, payment of indemnity shall be made to the persons beneficially entitled to the interest in the insured crop to the extent of their respective interests upon proper application and proof of the facts: *Provided, however,* That the loss may be adjusted with any one or more of the persons so entitled, and payment may be made to such person or persons in behalf of all the persons so entitled, whether or not the person to whom payment is made has been authorized to receive such payment by the other persons so entitled, and such payment shall constitute a complete discharge of the obligation of the Corporation with respect to the loss for which the indemnity is paid.

§ 84 *Determination of person to whom indemnity shall be paid.* In any case where the insured has died, has become incompetent, has disappeared, or has ceased to act as a fiduciary, payment in accordance with the provisions of these regulations will be made only after the facts have been established to the satisfaction of the Corporation. The determination of the Corporation as to the existence or nonexistence of a circumstance in the event of which payment may be made to a person other than the named insured and of the person to whom such payment shall be made shall be final and conclusive. Payment of any indemnity in accordance with an adjustment made with such person shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid and shall be a bar to recovery by any other person.

§ 85 *Payment conditioned upon compliance with provisions of the insurance contract.* Payment of any indemnity, whether to the applicant or any other person determined by the Corporation to be entitled to such indemnity in accordance with the provisions of these regulations, will be made only upon full compliance with all the provisions of the contract, including the warranties and provisions relating to notice and proof of loss.

§ 86 *Limitation on transfer*—(a) *General.* Except as is otherwise provided in these regulations, neither the insurance contract nor any claim for indemnity thereunder, or any part or share thereof, or any interest therein, shall be transferable, nor shall any pledge of the contract be recognized. Notwithstanding any assignment, power of attorney, order, or other authority for receiving payment of any claim for indemnity under the insurance contract, any indemnity payable shall be made only to persons entitled to the benefit of the insurance contract as provided in the application and these regulations. The Corporation shall in no case be bound to accept notice of any assignment of the insurance contract, and nothing therein contained shall give any right against the Corporation to any person other than the insured except to an assignee approved by the Corporation.

(b) Assignment to secure loans and amounts due under lease, purchase, mortgage, or trust agreement: An insurance contract may be assigned as collateral security for a loan, the amount of the current year's rental due under a leasing agreement with respect to the farm upon which the insured crop is or will be seeded, or the amount of the current annual installment due under a purchase, mortgage, or trust agreement with respect to the farm upon which the insured crop is or will be seeded and an additional amount of any delinquency which may be due under the purchase, mortgage, or trust agreement of not to exceed the amount of the current annual installment including interest and taxes. Such assignment shall be made by the execution of a form prescribed by the Corporation, and, upon approval thereof by the Corporation as evidenced by the signature of the Manager and the countersignature of a duly

authorized representative of the Corporation, the interests of the assignee will be recognized in the event of the payment of indemnity under the insurance contract to the extent of the unpaid balance of the amount (including interest and other charges) for which such assignment was made as collateral security: *Provided, however,* That (1) where any person has paid the premium for any insurance contract by an advance from the Secretary, any indemnity payable under any insurance contract of such person shall be subject to deduction for payment to the Secretary for the amount advanced which is owing at the time the indemnity is payable under any such contract; (2) the Corporation, in payment of the indemnity, may issue a check payable jointly to all persons entitled thereto and that such payment shall constitute a complete discharge of the Corporation's obligation with respect to such loss under the insurance contract; and (3) payment of any indemnity will be subject to all conditions and provisions of the insurance contract. The Corporation's approval of an assignment shall not create in the assignee any right other than that derived from the assignor. Only one such assignment will be recognized in connection with the insurance contract.

(c) Assignment of the insurance contract with transfer of the crop: An insurance contract may be assigned before the time of loss with the approval of the Corporation only in connection with the voluntary transfer by the insured of all or part of his interest in the entire insured crop before the crop is harvested. Such assignment shall be made by the execution of a form prescribed by the Corporation. The approval of such assignment by the Corporation shall be evidenced by the signature of the Manager and the countersignature of a duly authorized representative of the Corporation upon such form. The Corporation shall in no case be bound to accept notice of any assignment of the insurance contract, and nothing herein contained shall give any right against the Corporation to any person other than the insured, except to an assignee approved by the Corporation. A transfer made in order to forestall loss of the property covered by the insurance contract by operation of law shall not be regarded as a voluntary transfer within the meaning of these regulations.

§ 87 *Creditors.* An interest existing by virtue of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or any other legal process shall not be considered an interest in an insured crop within the meaning of these regulations.

Any indemnity payable under an insurance contract shall be paid to the insured, or to such other person as may be entitled to the benefits of the insurance contract under the provisions of these regulations, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, execution, lien, mortgage, foreclosure, order, decree, or similar process of law, equity, or bankruptcy directed against the insured or such other person, or against any indemnity alleged to be due to such person, nor shall the Corporation or any officer, employee, or representative thereof be a proper party to any suit or action with reference to such indemnity or the proceeds thereof nor be bound by any judgment, order, or decree rendered or entered therein. No officer, agent, or employee of the Corporation shall pay, or cause to be paid, to any person other than the insured or other person entitled to the benefits of the insurance contract, any indemnity payable in accordance with the provisions of the insurance contract because of any such process, order, or decree. Nothing herein contained shall excuse any person entitled to the benefits of the insurance contract from full compliance with, or performance of, any lawful judgment, order, or decree with respect to the disposition of any sums paid thereunder as an indemnity.

PART IX—ADVANCES BY THE SECRETARY

§ 90. *Payment of premium by means of advances.* Premiums may be paid by means of advances from the Secretary under the provisions of "An Act to amend section 12 of the Soil Conservation and Domestic Allotment Act, as amended, by authorizing advances for crop insurance," approved March 25, 1939. The cash equivalent of any such premium shall be determined in the manner provided for in Part III of these regulations and the date for the determination of such cash equivalent shall be the date upon which the request for such advance is made. Requests for advances from the Secretary for the payment of premiums on behalf of applicants participating or agreeing to participate in the 1940 Agricultural Conservation Program shall be made at the time the application is submitted to the Corporation.

§ 91 *Refund of payments made by means of advances.* Refund of any payment made to the Corporation by means of an advance by the Secretary shall be made to the Secretary, unless, (1) the Secretary has recovered the entire amount advanced, in which case the refund will be made to the insured, or (2) the Secretary has recovered a portion of the advance, in which case the amount of the refund necessary to reimburse the Secretary for the unrecovered amount advanced will be made to the Secretary and the remainder to the insured. The amount of any such refund shall be determined in the manner provided in Part IV of these regulations.

§ 92 *Deductions from indemnities to reimburse Secretary.* The Corporation may deduct and pay to the Secretary, from the indemnity payable under any insurance contract to a person who has secured an advance from the Secretary for payment of the premium on any such contract, the amount necessary in order that the Secretary may be reimbursed for the entire amount advanced.

PART X—MISCELLANEOUS

§ 100 *Gender and plural meaning of terms.* Any term used in the masculine or in the singular shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

§ 101 *Fractional units in acres and yields.* Fractions of yields per acre, loss costs, and premium rates shall be rounded to the nearest tenth of a bushel. Fractions of bushels, other than yields per acre, loss costs and premium rates, shall be rounded to the nearest bushel. Fractions of acres representing total acres of wheat shall be rounded to the nearest tenth of an acre. Fractions representing five one-hundredths or less shall be dropped, and fractions representing more than five one-hundredths shall be considered as a whole tenth.

§ 102 *Other insurance.* If the insured has or acquires any other "all-risk" insurance against substantially all the risks that are insured against under the insurance contract on the crop or portion thereof covered in whole or in part by such insurance contract, whether valid or not, or whether collectible or not, the liability of the Corporation shall not be greater than its share would be if the amount of its obligation were divided equally between the Corporation and such other insurer or insurers.

§ 103 *Subrogation.* The Corporation may require from the insured an assignment of all rights of recovery against any party for loss or damage to the extent that payment therefor is made by the Corporation, and the insured shall execute all papers required and shall do everything that may be necessary to secure such rights.

§ 104 *Suit.* No suit or action shall be brought to enforce any claim for loss under the insurance contract unless all the requirements of such contract shall have been complied with.

§ 105 *Restriction on purchase and sale of wheat.* Insofar as practicable, the Corporation shall purchase wheat only at the rate and to a total amount equal to the payment of premiums in cash by farmers or to replace promptly wheat sold to prevent deterioration; and shall sell wheat only to the extent necessary to cover payments of indemnities and to prevent deterioration: *Provided, however,* That nothing in this section shall prevent prompt offset purchases and sales of wheat for convenience in handling.

§ 106 *Review of determinations of county committees.* All determinations by county committees shall be subject to review and approval or revision by

duly authorized representatives of the Corporation.

Adopted by the Board of Directors on June 2, 1939.

[SEAL] M. L. WILSON,
*Chairman.*

Approved, June 30, 1939.

H. A. WALLACE,
*Secretary of Agriculture.*

[F. R. Doc. 39-2298; Filed, July 1, 1939; 9:32 a. m.]

## TITLE 9—ANIMALS AND ANIMAL PRODUCTS

### BUREAU OF ANIMAL INDUSTRY

[Amendment 2 to BAI Order 370[1]]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 94—RINDERPEST AND FOOT-AND-MOUTH DISEASE; PROHIBITED AND RESTRICTED IMPORTATIONS

JUNE 30, 1939.

§ 94.1 *Existence of rinderpest or foot-and-mouth disease; importations prohibited*—(a) *Domestic ruminants and swine and fresh meats derived therefrom.* Under authority conferred upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930, the order to prevent the introduction into the United States of rinderpest or foot-and-mouth disease (BAI Order 370[2]), dated May 31, 1939, and effective June 16, 1939, as amended, is hereby further amended by striking out the name "Lithuania" from the list of countries in Section 94.1 (a) of said order, inasmuch as I have determined that neither foot-and-mouth disease nor rinderpest now exists in said foreign country of Lithuania, and I have so officially notified the Secretary of the Treasury.

The effect of this amendment is to render commodities specified in BAI Order 370, originating in Lithuania, no longer subject to the provisions of that order.

This amendment, which for purpose of identification is designated Amendment 2 to BAI Order 370 (9 CFR 94.1 (a)), shall be effective on and after July 5, 1939. (Sec. 306, 46 Stat., 689, Sec. 2, 32 Stat. 792, 45 Stat. 59; 19 U.S.C. 1306 (a), (b), and (c), 21 U.S.C. 111) [BAI Order 370, Section 94.1, paragraph (a), as amended by Amendment 1, June 13, 1939 and Amendment 2, June 30, 1939]

Done at Washington this 30th day of June 1939.

Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 39-2295; Filed, July 1, 1939; 9:31 a. m.]

[1] Amending 9 CFR 94.1 (a).
[2] 4 F.R. 2411 DI.

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

JULY 1, 1939.

TO MILAN LIVESTOCK SALES CORPORATION, *Spokane, Wash.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as the Milan Livestock Sales Corporation, at Spokane, State of Washington, is subject to the provisions of said Act.

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

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

[F. R. Doc. 39-2316; Filed, July 5, 1939; 9:22 a. m.]

## TITLE 10—ARMY: WAR DEPARTMENT

### CHAPTER VII—PERSONNEL

PART 73—APPOINTMENT OF COMMISSIONED OFFICERS AND CHAPLAINS[1]

*Appointment of Second Lieutenants, Regular Army, From Honor Graduates of Senior Reserve Officers' Training Corps Units*

§ 73.52 *Authority.* Under the provisions of Section 24e, National Defense Act, as amended by Section 7 of the Act approved April 3, 1939, selection of members of Group 3 (honor graduates) for appointment as second lieutenant in the Regular Army will be made as indicated herein. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, Act April 3, 1939) [Par. 1*b*, AR 605-7, April 26, 1939]

§ 73.53 *Apportionment of appointments.* The number of second lieutenants to be appointed in the Regular Army annually from Group 3 will be determined by the Secretary of War. These appointments will be divided among corps areas in proportion to the number of second year advanced senior Reserve Officers' Training Corps students of institutions, other than medical, within the continental United States which offer a college degree upon satisfactory completion of four years' college work. Appointments from Group 3 will be made only in the arms other than the Air Corps. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, Act April 3, 1939) [Par. 2, AR 605-7, April 26, 1939]

§ 73.54 *Eligibility for appointment.* (a) In order to be eligible for appointment a candidate must be at the time of appointment—

(1) A male citizen of the United States;

(2) Between the ages of 21 and 30 years;

(3) Single, and never previously married.

(b) Appointments will be confined to honor graduates in the senior Reserve Officers' Training Corps division of institutions, other than medical, within the continental United States which offer a college degree upon satisfactory completion of four years' college work except as indicated in (c) below. The term "honor graduate" will apply to graduates of the institution in the current academic year (except as indicated in (d) below) who are graduates of the Reserve Officers' Training Corps, citizens of the United States, who have been selected by the president of the institution for scholastic excellence and who have been designated as honor graduates by the professors of military science and tactics as possessing outstanding qualities of leadership, character, and aptitude for military service.

(c) Appointments from Group 3 also may be made from honor Reserve Officers' Training Corps graduates of Class MI institutions (see Sec. 62.05, par. (a)), provided:

(1) That in this case the term "honor graduate" will apply to graduates of such institutions who hold either a commission or a certificate of appointment in the Officers' Reserve Corps, citizens of the United States, who have been selected by the president for scholastic excellence, and who have been designated as honor graduates by the professors of military science and tactics as possessing outstanding qualities of leadership, character, and aptitude for military service.

(2) Further, that they will graduate in the current academic year (except as indicated in (d) below) from an institution which offers a college degree upon satisfactory completion of four years' college work, and that they have been selected by the president of the institution as honor graduates for scholastic excellence.

(d) In order to be eligible for consideration for selection for appointment in the Regular Army, honor graduates must attain the age of 21 years on or before the date designated by the War Department for appointments to be made in the Regular Army. Honor graduates who are ineligible for appointment in the Regular Army in the year in which they graduate in honor status because they were under the prescribed age will be permitted to compete for appointments in the Regular Army with honor graduates in the first year subsequent thereto in which they attain the prescribed age. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, Act April 3,

[1] Modifies list posted stockyards 9 CFR 204.1.

[1] These regulations are supplementary to Title 10, Chapter VII, Part 73 of the Code of Federal Regulations.

1939) [Par. 3, AR 605–7, April 26, 1939, amended by C 1, June 16, 1939]

§ 73.55 *Application.* (a) Candidates will make application on WD, AGO Form No. 62 at the earliest practicable date for the examinations to be held in the fiscal year 1939 and not later than December 1 for examinations to be held annually thereafter.

(b) Candidates who are students in institutions which have senior Reserve Officers' Training Corps units will submit their applications with a photograph not less than 3 by 5 inches in size to the professors of military science and tactics.

(c) Candidates who are students in institutions which do not have senior Reserve Officers' Training Corps units will submit their application to the commander of the corps area in which their institution is located, inclosing a photograph not less than 3 by 5 inches in size and conclusive evidence that they are honor Reserve Officers' Training Corps graduates of a class MI institution, or were so designated under regulations pertinent at the time of graduation from the class MI institution, and that they have been designated as probable honor graduates of an institution which offers a college degree upon satisfactory completion of four years' college work by the president thereof. The corps area commander will notify the applicant whether or not he is authorized to appear before the board and if so authorized, where and when he will report, at his own expense, for examination by the board. The corps area commander's decision in this matter will be final. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, Act April 3, 1939) [Par. 4, AR 605–7, April 26, 1939]

§ 73.56 *Method of selection.* (a) A board of Regular Army officers consisting of not less than two line officers and one medical officer will be appointed annually by each corps area commander to examine the candidates and recommend selections for appointment therefrom to fill the corps area allotment. These boards will visit each institution which has eligible candidates in their respective corps areas without delay during the fiscal year 1939, and during the month of February annually thereafter, for the purpose of examining all eligible applicants.

(b) The professors of military science and tactics of each institution concerned, after consultation with the president of the institution, will designate annually the probable honor graduates in the senior Reserve Officers' Training Corps unit for the current school year, and will submit to their respective corps area commanders without delay for the fiscal year 1939, and not later than January 1 annually thereafter, the written applications of the candidates (see sec. 73.55), photographs and fitness reports.

(c) Members of the Reserve Officers' Training Corps who attend a summer training camp just prior to the beginning of their senior year will be given a thorough physical examination during the summer camp period. Professors of military science and tactics will obtain a copy of these reports of physical examination of honor graduates and will forward these reports to corps area commanders.

(d) Upon arrival of the board at each school, all candidates authorized to appear before the board who desire to apply for appointment in the Regular Army will be requested to report to the board for examination. The examination will consist of study of the records submitted to the board by the professors of military science and tactics of the institution and of any other records necessary to determine whether or not the applicants comply with all legal requirements for appointment as commissioned officers in the Regular Army and a physical and oral examination of each candidate. The candidates will be given an opportunity to express to the board their preference as to the arm, other than the Air Corps, in which they desire to be assigned but will be informed by the board that final assignment to arms will be determined by the War Department. They also will be informed by the board that actual appointment is subject to appropriations of the necessary funds by Congress, and to meeting the requirements of a final physical examination prior to appointment.

(e) The War Department board will recommend a number of alternates in order of priority for each corps area similar to the number to be appointed therefrom.

(f) (1) Corps area commanders will be notified by The Adjutant General of the candidates selected for appointment and will arrange for the final physical examinations. Corps area commanders will notify the candidates concerned that they have been selected for appointment in the Regular Army, subject to passing satisfactorily a final physical examination, and the place and time to report, at their own expense, for this physical examination.

(2) In case any of the candidates decline to take the final physical examination, or fail to pass it satisfactorily, additional candidates will be designated by the War Department from alternates from the corps area concerned in order of priority indicated in paragraph (e) above, and their examination will be carried out in the same manner as described above.

(g) Candidates selected by the War Department who pass satisfactorily the final physical examination will be tendered appointments as second lieutenants, Regular Army, in the arms designated by the War Department. In case any of these decline appointment, the appointment will be tendered to the next qualified alternate in order of priority indicated in paragraph (e) above, from the corps area in which the original appointee was selected. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, Act April 3, 1939) [Par. 5, AR 605–7, April 26, 1939]

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

[F. R. Doc. 39–2292; Filed, July 1, 1939; 9:19 a. m.]

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## TITLE 16—COMMERCIAL PRACTICES

### FEDERAL TRADE COMMISSION

[Docket No. 3228]

IN THE MATTER OF PATTERSON SCHOOL

§ 3.6 (a) (9a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Government connection:* § 3.6 (j) (1) *Advertising falsely or misleadingly—Government approval or connection—Civil Service Commission connections:* § 3.6 (m) *Advertising falsely or misleadingly—Jobs and employment service.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of correspondence courses of study and instruction for Civil Service positions, that such positions are at the disposal of respondents, or that respondents can in any manner control appointments to such positions, or can assist applicants for such positions in any manner other than by preparing them to take Civil Service examinations, or that respondents have any information pertaining to examinations for such positions other than, or in advance of, regular official notices, 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, Patterson School, Docket 3228, June 23, 1939]

§ 3.6 (a) (9a) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Government connection:* § 3.6 (m) *Advertising falsely or misleadingly—Jobs and employment service.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of correspondence courses of study and instruction for Civil Service positions, that jobs are available at all times, or, through use of "Help Wanted" columns in newspapers and similar devices, that United States Government jobs are open and that men and women may secure such jobs through respondents' school, 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, Patterson School, Docket 3228, June 23, 1939]

§ 3.6 (w) *Advertising falsely or misleadingly—Refunds:* § 3.72 (i) *Offering deceptive inducements to purchase—Money back guarantee.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of correspondence courses of study and instruction for Civil Service positions, that,

under the money-back agreement, the purchase price for the course of instruction will be refunded, unless and until all of the conditions under which said refunds are made are clearly and fully set forth, 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, Patterson School, Docket 3228, June 23, 1939]

§ 3.6 (a) (20) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Personnel.* Representing, in connection with offer, etc., in interstate commerce or in District of Columbia, of correspondence courses of study and instruction for Civil Service positions, that respondent Patterson is a Civil Service expert or has 33 years' Civil Service experience, or has any special knowledge qualifying him as an expert in preparing students for Civil Service examinations, or has acquired any special knowledge with respect to such examinations because of his former employment on a local board of the United States Civil Service Commission, 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, Patterson School, Docket 3228, June 23, 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 23rd 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 ARTHUR R. PATTERSON, ALBERT C. KEHR, ARTHUR W. EDSON, EVA O. BROWN, AND MINNETHA COE, INDIVIDUALLY, AND DOING BUSINESS UNDER THE NAME AND STYLE OF PATTERSON SCHOOL

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 respondents, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by William L. Pencke, counsel for the Commission, and by Nelson E. Spencer, counsel for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

*It is ordered,* That the respondents, Arthur R. Patterson, Albert C. Kehr, Arthur W. Edson, Eva O. Brown, and Minnetha Coe, individually, and doing business under the name and style of Patterson School, their representatives, agents, and employees, directly, or through any corporate or other device, in connection with the offering for sale, sale and distribution of correspondence courses of study and instruction for Civil Service positions in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing that:

(1) Civil Service positions are at the disposal of respondents; or that they can in any manner control appointments to Civil Service positions;

(2) Respondents can assist applicants for Civil Service positions in any manner other than by preparing them to take Civil Service examinations;

(3) Respondents have any information pertaining to examinations for Civil Service positions other than, or in advance of, regular official notices;

(4) Jobs are available at all times; or, through the use of "Help Wanted" columns in newspapers and similar devices, that United States Government jobs are open and that men and women may secure such jobs through respondents' school;

(5) Under the money-back agreement the purchase price for the course of instruction will be refunded, unless and until all of the conditions under which said refunds are made are clearly and fully set forth;

(6) Respondent Patterson is a Civil Service expert or has 33 years' Civil Service experience, or has any special knowledge qualifying him as an expert in preparing students for Civil Service examinations;

(7) Respondent Patterson has acquired any special knowledge with respect to Civil Service examinations because of his former employment on a local board of the United States Civil Service Commission.

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

By the Commission.

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

[F. R. Doc. 39-2302; Filed, July 1, 1939; 9:42 a. m.]

[Docket No. 3437]

IN THE MATTER OF KING CANDY COMPANY

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy or any other merchandise, candy or any other merchandise so packed and assembled that sales of such candy or other merchandise to the general public are to be made or may be made by means of a lottery, etc., 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, King Candy Company, Docket 3437, June 26, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy or any other merchandise, others with assortments of candy or other merchandise together with push or pull cards, punch boards or other lottery devices, which said push or pull cards, etc., are to be used or may be used in selling or distributing such candy or other merchandise to the general public, 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, King Candy Company, Docket 3437, June 26, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy or any other merchandise, others with push or pull cards, punch boards or any other lottery devices, either with assortments of candy or other merchandise or separately, which said push or pull cards, etc., are to be used or may be used in selling or distributing such candy or other merchandise to the general public, 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, King Candy Company, Docket 3437, June 26, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling etc., in connection with offer, etc., in commerce, of candy or any other merchandise, any merchandise by means of a game of chance, gift enterprise or lottery scheme, 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, King Candy Company, Docket 3437, 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.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission (respondent having filed no answer), testimony and other evidence taken before Arthur F. Thomas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, brief filed herein by counsel for the Commission (respondent having offered no proof, filed no brief, and oral argument not having been requested), and the Commission having made its findings as to the facts and its

[1] 3 F.R. 545 DI.

[1] 3 F.R. 2572 DI.

conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

*It is ordered,* That the respondent King Candy Company, a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of candy or any other merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Selling or distributing candy or any other merchandise so packed and assembled that sales of such candy or other merchandise to the general public are to be made or may be made by means of a lottery, gaming device, or gift enterprise;

(2) Supplying to or placing in the hands of others assortments of candy or other merchandise together with push or pull cards, punch boards, or other lottery devices, which said push or pull cards, punch boards, or other lottery devices are to be used or may be used in selling or distributing such candy or other merchandise to the general public;

(3) Supplying to or placing in the hands of others push or pull cards, punch boards or any other lottery devices, either with assortments of candy or other merchandise or separately, which said push or pull cards, punch boards or other lottery devices are to be used or may be used in selling or distributing such candy or other merchandise to the general public;

(4) Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme.

*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. 39-2301; Filed, July 1, 1939; 9:41 a. m.]

## TITLE 19—CUSTOMS DUTIES

### BUREAU OF CUSTOMS

[T. D. 49901]

NOTICE OF ADDITIONAL INFORMATION REQUIRED ON INVOICES OF CERTAIN ARTICLES COMPOSED WHOLLY OR IN CHIEF VALUE OF METAL [1]

*To Collectors of Customs and Others Concerned:*

With reference to article 274 (e) (2) of the Customs Regulations of 1937, as amended by (1938) T.D. 49426, [Sec. 6.1 (c)], invoices of articles composed wholly or in chief value of metal and provided for under items 339 and 397 of the trade agreement with the United Kingdom, (1938) T.D. 49753, are hereby required to set forth in addition to all other information required by law or regulation the following:

(1) The name of the metal which is in chief value;

(2) Whether or not the article is plated;

(3) If the article is plated the name of the metal or metals with which the article is plated and the name of the metal or metals upon which the plating is plated.

This requirement will be effective as to invoices certified after sixty days after publication of this document in the weekly Treasury Decisions. (Sec. 481 (a) (10), 46 Stat. 719; 19 U.S.C. 1481 (a) (10))

[SEAL] J. H. MOYLE,
*Commissioner of Customs.*

Approved, June 24, 1939,

STEPHEN B. GIBBONS,
*Acting Secretary of the Treasury.*

[F. R. Doc. 39-2291; Filed, June 30, 1939; 3:28 p. m.]

[1] This document affects 19 CFR 6.1 (c).

## TITLE 21—FOOD AND DRUGS

### BUREAU OF NARCOTICS

[T. D. 30]

AMENDMENT TO REGULATIONS RELATING TO THE APPEAL TO THE SECRETARY OF THE TREASURY FROM ANY ORDER, RULE OR DECISION OF THE COMMISSIONER OF NARCOTICS; AND THE COOPERATION WITH THE SEVERAL STATES IN THE INSTITUTION AND PROSECUTION OF CASES IN THE COURTS OF THE UNITED STATES AND BEFORE THE LICENSING BOARDS AND COURTS OF THE SEVERAL STATES

JUNE 30, 1939.

Pursuant to the authority contained in Section 5 of the Act of June 14, 1930, as amended, Articles 1 to 7, inclusive, of Narcotic Regulations No. 4 [1] (Sections 930.1 to 930.7, inclusive, of Title 21, Code of Federal Regulations) are hereby amended to read as follows:

ARTICLE 1. *Appeals*—(a) *From decision of Commissioner.* The appeal to the Secretary of the Treasury (hereinafter referred to as the Secretary) from an order, rule, or decision of the Commissioner of Narcotics (hereinafter referred to as the Commissioner) may be initiated by the aggrieved party in the following manner only:

1. He shall file with the Secretary, within 15 days from the date of the order, rule, or decision, a notice in writing of his intention to appeal. At the time of the filing of such notice he shall serve a copy thereof upon the Commissioner.

2. He shall file with the Secretary, within 30 days from the date of such order, rule, or decision, a written petition in the form of a brief as hereinafter provided.

(b) *From failure of Commissioner to rule upon or decide matter.* The appeal to the Secretary from the failure of the Commissioner to rule upon or decide any matter presented to him by proper application may be initiated by the aggrieved party in the following manner only:

1. He shall file with the Secretary, after the lapse of a reasonable time from the date of the presentation of such matter, a notice in writing of his intention to appeal. At the time of the filing of such notice he shall serve a copy thereof upon the Commissioner.

2. He shall file with the Secretary, within 30 days from the date of the filing of such notice, a written petition in the form of a brief as hereinafter provided.

ART. 2. *Suspension of orders.* Pending the presentation of the appeal to the Secretary and his decision thereon, the Secretary may, upon application and for cause shown, suspend the operation of any order, rule, or decision after his receipt of a timely notice of the intention to appeal.

ART. 3. *Briefs*—(a) *Brief of appellant.* The brief filed with the Secretary shall be printed or typewritten and shall set forth clearly the complaint and shall contain numbered statements of the facts and arguments upon which the appellant relies in support thereof. At the time of filing his brief the appellant shall serve a copy thereof upon the Commissioner.

(b) *Brief of the Commissioner.* The Commissioner shall, within 20 days from the date of the filing of the brief of the appellant, file with the Secretary a brief for his side of the case. The brief of the Commissioner shall be so drawn as fully and completely to advise the appellant and the Secretary of the nature of the defense. There shall be included therein, in addition to the arguments of the Commissioner, a specific admission or denial of each material allegation of fact contained in the brief of the appellant, and clear and concise numbered statements of the facts upon which the Commissioner relies in his defense. At the time of filing his brief the Commissioner shall serve a copy thereof upon the appellant.

(c) *Reply.* The appellant may file with the Secretary, within 10 days from the date of the filing of the brief of the Commissioner, a reply brief, a copy of which shall be served upon the Commissioner.

(d) *Further pleadings.* The Secretary, upon motion of either party in which good cause is shown, or upon his own motion, may order a further and better

[1] 3 F.R. 1231 DI.

statement of the nature of the claim or defense, or of any matter stated in any of the briefs. Such a motion filed by a party shall point out the defects complained of and the details desired. If the order of the Secretary is not obeyed within 10 days or within such other time as the Secretary may fix, the Secretary may make such order in view thereof as shall be equitable and just. A copy of any further statement of the nature of the claim or defense filed pursuant to this Article shall be served upon the appellant or Commissioner as the case may be.

ART. 4. *Hearing*—(a) *Before Secretary.* The Secretary will notify the appellant and Commissioner of the time and place where he will conduct the hearing to afford interested parties, their representatives, and witnesses an opportunity to present evidence and argument on the controverted issues. The notification thus served will also advise the parties of the manner in which the hearing before the Secretary shall be conducted.

(b) *Before Examining Board.* If, however, the Secretary deems it essential to a judicious determination of the controverted issues, he may appoint an Examining Board (hereinafter referred to as the Board), which will consist of one or more persons in the employ of the Treasury Department who have not previously considered the subject matter of the appeal, to conduct a hearing to afford interested parties, their representatives, and their witnesses an opportunity to appear and present evidence and arguments. Each member of the Board, within 2 days after his appointment, shall file with the Secretary a statement made under oath that he has not previously considered the subject matter of the appeal. Thereafter the Secretary will notify the respective parties of the appointment of the member or members to the Board.

The hearing before the Board will be conducted in the following manner:

1. The Board shall determine the time and place of the hearing, giving due regard to any request filed by either party within 5 days from the date of his notification of the appointment of the member or members to the Board.

2. A reporter shall be appointed by the Board and shall be present at all sessions of the Board at which a reporter may be necessary. With the exception of oral arguments on questions of law, he shall record, verbatim, the proceedings before the Board and the testimony, if any, taken before it. He may set down the proceedings and testimony, in the first instance, in shorthand.

3. Witnesses shall be sworn or affirmed by a member of the Board.

4. Evidence submitted at the hearing may include testimony of witnesses, real evidence, affidavits, depositions, and documents and records or duly authenticated copies thereof.

5. Either party may object to the introduction of any evidence, and the Board shall rule on such objection, but may, in its discretion, relax the ordinary rules of evidence. If the ruling of the Board is adverse to the objecting party, an exception may be taken thereto. Any exception taken by either party to the ruling of the Board shall be noted in the record at the time it is taken and shall briefly specify the grounds upon which it is made.

6. Depositions may be arranged by either party with the consent of the Board and shall be taken in the manner prescribed by it. Due regard shall be given by the Board to the convenience of the parties and the testimony to be elicited.

7. The Board, for cause shown, may, in its discretion, permit other interested parties to intervene and present additional evidence and argument. However, any written argument shall be received and considered only upon a proper showing that a copy thereof has been served upon the Commissioner and the appellant.

8. Other questions of procedure shall be determined by the Board.

ART. 5. *Findings of law and facts*—(a) *Proposed findings of law and facts by opposing parties.* Before the closing of proof in any appeal referred to a Board, the parties shall have 15 days within which to file with the Board proposed findings of law and facts and arguments in support thereof. At the time of such filing, the respective parties shall serve a copy thereof upon the opposite party. Such proposed findings and arguments shall, upon the filing of the Board's report with the Secretary, be filed with the original record in the case for consideration of the Secretary in connection with any exception by either party and may be referred to by either party in support of any exception to the findings of the Board.

(b) *Oral argument before Board.* The Board shall hear oral arguments on the issues in controversy upon the request of either party and shall notify the parties of the time and place thereof.

(c) *Findings of law and facts by Board.* The Board shall prepare and file with the Secretary its findings of law and facts, recommendations, and a summary of all evidence and argument presented at the hearing. At the same time the Board shall serve a copy thereof upon the respective parties. The Board shall also file with the Secretary the original record, including all evidence presented at the hearing.

(d) *Exceptions.* Each party shall have 10 days from the date of the filing of the Board's findings of law and facts, recommendations, and summary of evidence and argument to file with the Secretary exceptions thereto.

ART. 6. *Decision of Secretary.* The Secretary will consider all matters presented to or filed with him pursuant to the foregoing provisions, and on the basis thereof he will affirm, reverse, or modify the action of the Commissioner, or direct such action to be taken as the Secretary shall deem equitable and just.

ART. 7. *Time*—(a) *Extension or restriction of time.* The Secretary may, in his discretion, for cause shown, extend the foregoing time limits in any case. If the Secretary considers that the public interest so requires, he may, in his discretion, further restrict the time limits upon giving reasonable notice to such parties as he considers to be interested.

(b) *Computation of time.* Whenever these regulations prescribe a time for the performance of any act, Sundays and legal holidays shall count just as any other days, except that when the time prescribed for the performance of an act expires on a Sunday or a legal holiday, such time shall extend to and include the next succeeding day that is not a Sunday or legal holiday.

[SEAL] STEPHEN B. GIBBONS,
*Acting Secretary of the Treasury.*

[F. R. Doc. 39-2326; Filed, July 5, 1939; 11:32 a. m.]

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## TITLE 23—HIGHWAYS

### BUREAU OF PUBLIC ROADS

ORDER AMENDING REGULATIONS FOR ADMINISTERING FOREST ROADS AND TRAILS

The Regulations for Administering Forest Roads and Trails approved March 11, 1922, as amended (Title 23, CFR, Chapter I, Part 15), are amended as follows:

1. Revise subsection (b) of Section 15.1 of the Regulations (designated as Regulation 1, Section 2, prior to the Codification) so that, as revised, the subsection will read as follows:

"(b) (1) *Administration.* Public Roads Administration of the Federal Works Agency.

"(2) *Commissioner.* Commissioner of Public Roads."

2. Revise subsection (a) of Section 15.7 of the Regulations (designated as Regulation 7, Section 1, prior to the Codification) by striking out the following clause, "a lump sum allotment shall be set up by the Forest Service with the district fiscal agent of the Forest Service for disbursement on vouchers approved by authorized officers of the bureau covering," and by inserting in lieu thereof the following clause, "the Secretary shall allot, transfer or otherwise make available for disbursement by the Administration such amounts as may be necessary from time to time to carry out the approved program, covering."

3. Revise subsection (f) of Section 15.7 of the Regulations (designated as Regulation 7, Section 6, prior to the Codifica-

tion) so that, as revised, the subsection will read as follows:

"(f) Cooperative funds contributed by cooperators shall be deposited in the United States Treasury to the credit of the 'Forest Service Cooperative Fund', authorized by the Act of June 30, 1914 (16 U.S.C., Sec. 498), which deposits will be made available for expenditure by the agency concerned from the appropriation 'Cooperative Work, Forest Service, Trust Fund' (Act of June 26, 1934, 31 U.S.C., Sec. 725s), and shall be audited, disbursed, and recorded in the same manner as funds under the Federal Highway Act. Cooperative expenditures made by cooperators shall be audited and disbursed as provided in the cooperative agreement."

4. Strike out the word "Bureau" and the words "Bureau of Public Roads" wherever they appear in the Regulations and insert in lieu thereof the word "Administration".

5. Strike out the words "Chief of Bureau", "Chief of the Bureau", and "Chief of the Bureau of Public Roads" wherever they appear in the Regulations and insert in lieu thereof the word "Commissioner".

6. Strike out the word "Forester" wherever it appears in the Regulations and insert in lieu thereof the words "Chief of the Forest Service".

7. Strike out the words "district forester" wherever they appear in the Regulations and insert in lieu thereof the words "Regional Forester".

These amendments shall become effective on June 30, 1939.

Done at Washington, D. C., this 30th day of June 1939. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 39-2318; Filed, July 5, 1939; 9:22 a. m.]

## TITLE 24—HOUSING CREDIT

## FEDERAL HOME LOAN BANK BOARD

### AMENDMENT TO RULES AND REGULATIONS FOR THE FEDERAL HOME LOAN BANK SYSTEM

#### PERMITTING UNAMORTIZED SHORT-TERM ADVANCES TO MEMBERS

*Be it resolved,* That the first sentence of paragraph a of Section 5.2 and the first sentence of Section 5.3 of the Rules and Regulations for the Federal Home Loan Bank System are hereby amended, effective July 1, 1939, by striking the period at the end thereof and adding a comma and the following:

"except that advances for periods not exceeding one year need not be amortized."

(Sec. 10 (a) of F.H.L.B.A., 47 Stat. 731, as amended by Sec. 501, 48 Stat. 1261, as amended by Sec. 5, 49 Stat. 294; 12 U.S.C. 1430 (a) and Sup.; Sec. 10 (c) of F.H.L.B.A., 47 Stat. 732; 12 U.S.C. 1430 (c); Sec. 10 (d) of F.H.L.B.A., 47 Stat. 732; 12 U.S.C. 1430 (d); Sec. 17 of F.H.L.B.A., 47 Stat. 736; 12 U.S.C. 1437)

Adopted by the Federal Home Loan Bank Board on June 30, 1939.

[SEAL] R. L. NAGLE,
*Secretary.*

[F. R. Doc. 39-2285; Filed, June 30, 1939; 1:09 p. m.]

## HOME OWNERS' LOAN CORPORATION

[Administrative Order No. 298]

### PART 402—LOAN SERVICE

#### PAYMENT OF TAXES UNDER SPECIAL DEPOSITS AGREEMENTS

Amending Part 402 of Chapter IV, Title 24 of the Code of Federal Regulations.

The paragraph identified as paragraph (c) and the two paragraphs following immediately thereafter of Section 402.03-65, are amended to read as follows:

(c) All such items becoming payable on properties securing obligations held by the Corporation or sold under sales instruments by the Corporation where the home owner has Special Deposits Agreement Form 533 in effect, and the tax statements or other information for the items to be paid have been received by the Corporation.

The Regional Manager with the advice of the Regional Counsel and the Assistant Regional Manager in Charge of Loan Service shall determine whether a form letter shall be sent requesting the home owner to obtain tax statements or other information and forward to the Corporation for payment, or, the Corporation should request taxing authorities to forward the tax statements or other information direct to the Corporation for payment. Consideration should be given to local usage and the necessity, if any, of having tax statements reviewed by the home owner before payment. When such form letters are used, they should be prepared by the Tax Section and forwarded to the home owner through the Control Section.

At the time of payment of such items, in the event the balance in the Special Deposits Account for any home owner with the agreement of Special Deposits, Form 533, in effect, is insufficient to provide for the payment of all items, then payable, the Regional Manager shall direct the payment of such items and an advance for the account of the home owner to the extent that the balance in the Special Deposits Account may be deficient.

(Effective July 1, 1939)

(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a) (k)).

Promulgated by the General Manager and General Counsel of Home Owners' Loan Corporation.

[SEAL] R. L. NAGLE,
*Secretary.*

[F. R. Doc. 39-2286; Filed, June 30, 1939; 1:09 p. m.]

### PART 410—PURCHASE AND SUPPLY

#### PAYMENT OF PHOTOGRAPHIC EXPENSE

Amending Part 410 of Chapter IV, Title 24 of the Code of Federal Regulations.

Section 410.04 is amended to read as follows:

§ 410.04 Expense incurred by salaried employees in obtaining photographs of property for the Corporation may be paid and charged to the proper account.

(Effective July 15, 1939.)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132 as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647; 12 U.S.C. 1463 (a), (k).)

Adopted by the Federal Home Loan Bank Board on June 26, 1939.

[SEAL] R. L. NAGLE,
*Secretary.*

[F. R. Doc. 39-2284; Filed, June 30, 1939; 1:09 p. m.]

## FEDERAL HOUSING ADMINISTRATION

### SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE

### PART 521—ADMINISTRATIVE RULES FOR MUTUAL MORTGAGE INSURANCE UNDER SECTION 203 OF THE NATIONAL HOUSING ACT*†

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*§§ 521.1 to 521.39, inclusive, issued under the authority contained in the National Housing Act, as amended June 3, 1939, Pub. No. 111, 76th Cong., 1st Sess.

†The source of §§ 521.1 to 521.39, inclusive, is Administrative Rules of the Federal Housing Administrator for Mutual Mortgage Insurance under section 203 of the National Housing Act, as amended, revised July 1, 1939.

APPROVAL OF MORTGAGEES

§ 521.1 *Governmental institutions approved as mortgagees.* The following institutions are hereby approved as mortgagees under section 203 (b) of the National Housing Act:

(a) National Mortgage Associations,
(b) Federal Reserve Banks,
(c) Federal Home Loan Banks,
(d) Reconstruction Finance Corporation,
(e) RFC Mortgage Company, and
(f) any other Federal, State, or municipal governmental agency that is or may hereafter be empowered to hold mortgages insured under Title II of the National Housing Act as security or as collateral or for any other purpose.*†

§ 521.2 *Federal Reserve members, etc.* Members of the Federal Reserve System, institutions whose accounts are insured by the Federal Savings & Loan Insurance Corporation and institutions whose deposits are insured by the Federal Deposit Insurance Corporation may be approved as mortgagees upon application.*†

§ 521.3 *Charitable or nonprofit organizations.* Any charitable or nonprofit organization which presents evidence that it is responsible, has permanent funds of not less than one hundred thousand dollars ($100,000), and has experience in mortgage investment, may be approved upon application.*†

§ 521.4 *Approval of other institutions.* Any other institution not hereinbefore mentioned may be approved as a mortgagee upon application if it has the following qualifications and meets the following conditions to the satisfaction of the Administrator:

(a) it is a chartered institution or other permanent organization having succession;

(b) it is subject to the inspection and supervision of a governmental agency which is required by law to make periodic examinations of its books and accounts and it submits satisfactory evidence that it has sound capital funds of a value of not less than $25,000 (or if a mutual company or association without capital funds, it has a net worth of not less than $25,000); or

if not subject to such inspection and supervision of a governmental agency, it shall submit an independent detailed audit of its books made by an accountant satisfactory to the Administrator and reflecting a condition satisfactory to him, and also, so long as its approval as mortgagee continues, shall file with the Administrator similar audits at least once in each calendar year and submit at any time to such examination of its books and affairs as the Administrator may require, and comply with any other conditions that the Administrator may impose;

(c) its principal activity is lending on or investing in mortgages, funds which are under its own control; and it has sound capital funds properly proportioned to its liabilities and to the character and extent of its operations. Such funds shall be of a value of not less than $100,000. It is provided that the qualification and condition contained in the preceding sentence shall not apply—

(1) to an institution or other permanent organization of the character described in the first division of paragraph (b) above; or

(2) to an institution or other permanent organization that establishes to the satisfaction of the Administrator that it is a duly authorized loan correspondent of, and whose approval is requested by, an approved mortgagee or assignee which lends on, or invests in, mortgages on a national scale and is subject to the inspection and supervision of a governmental agency, on the condition that the termination of its relationship as such correspondent will be cause (subject to the provisions of section 521.6) for withdrawal of its approval as an approved mortgagee and on the further condition that the correspondent institution and the institution for which it is authorized to act shall agree to notify promptly the Administrator of the termination of such relationship, and on the further condition that the correspondent institution shall agree to originate insured mortgage loans for the purpose of sale only to the institution or institutions which requested its approval or to some other institution for which it regularly acts as mortgage loan correspondent under written agreement which has been submitted to and approved by the Administrator; and

(d) if it is not an institution or other permanent organization of the character described in the first division of paragraph (b) above, it shall submit an agreement in writing: (1) that so long as it continues to be approved as a mortgagee, it will not issue any mortgage participating certificates on which it assumes personal liability, or issue any guaranty with respect to principal or interest of any mortgage, except that any such obligations outstanding on the date of the application of such institution may thereafter be renewed; and (2) that it will segregate all monthly payments under mortgages insured by the Administrator, received by it on account of ground rents, taxes, assessments, and insurance premiums, and will deposit such funds in a special account, or accounts, with some banking institution whose accounts are insured by the Federal Deposit Insurance Corporation and shall use such funds for no purpose other than that for which they were received.*†

§ 521.5 *Approval of fiduciary investments.* Approval as a mortgagee under sections 521.1–521.8, of a banking institution or trust company which is subject to the inspection and supervision of a governmental agency, shall be deemed to constitute approval of such institution or company when lawfully acting in a fiduciary capacity in investing fiduciary funds which are under its individual or joint control. Upon termination of such fiduciary relationship, whether by revocation or otherwise, any insured mortgages held in the fiduciary estate shall be transferred to a mortgagee approved under this or the succeeding section and the fiduciary relationship must be such as to permit such transfer.

Nothing in sections 521.1–521.8 shall be construed to permit the sale to the general public of instruments representing the beneficial interest in all or part of one or more insured mortgages.*†

§ 521.6 *Approval may be withdrawn.* Approval of an institution as a mortgagee may be withdrawn at any time by notice from the Administrator. In the discretion of the Administrator, the transfer of an insured mortgage to a mortgagee not approved to act under sections 521.1–521.11, or the failure of a mortgagee not subject to the inspection and supervision of a governmental agency, to segregate all funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, and to deposit such funds in a special account, or accounts, with some banking institution whose accounts are insured by the Federal Deposit Insurance Corporation, or the use of such funds for any purpose other than that for which they were received, or the failure of a mortgagee to conduct its business on the plan indicated by its application for approval, or the termination of its supervision by a governmental agency will be cause for withdrawal of approval. Withdrawal of approval will in no case affect the insurance on mortgages theretofore accepted for insurance.*†

§ 521.7 *Financial statements to be furnished.* All approved mortgagees shall at any time upon request furnish the Administrator with a copy of their latest periodic financial statement or report.*†

§ 521.8 *Proper servicing of mortgages.*—All approved mortgagees are required to service insured loans in accordance with acceptable mortgage practices of prudent lending institutions. In the event of default, the mortgagee should be able to contact the mortgagor and otherwise exercise diligence in collecting the amounts due. The holder of the mortgage is responsible to the Administrator for proper servicing, even though the actual servicing may be performed by an agent of such holder.*†

APPROVAL OF ACCEPTABLE ASSIGNEES

§ 521.9 *Requisites for approval as assignee.* The Administrator will upon application approve a chartered institution or other permanent organization as an acceptable assignee if such institution or organization meets the following conditions to the satisfaction of the Administrator:

(a) It is a corporation or other permanent organization having succession;

(b) It has sound capital funds of not less than $100,000;

(c) It is subject to the inspection and supervision of a governmental agency;

(d) Its investments in mortgage loans are intended for its own portfolio; and

(e) Its facilities are such that it will be able properly to service mortgages held by it.*†

§ 521.10 *Acquisition of insured mortgages.* Such an acceptable assignee shall be entitled to acquire insured mortgages from approved mortgagees by assignment after the execution and insurance of such mortgages, and to hold such mortgages without invalidating the insurance thereof, and to service them while so held. An acceptable assignee is not authorized to initiate insured mortgage loans originally or to apply for the insurance of mortgages under Section 203 (a) of the National Housing Act; but shall in all other respects be considered as included in the term "mortgagee" as used in these Administrative rules in this part and the regulations of the Federal Housing Administrator in part 522.*†

§ 521.11 *Withdrawal of approval.* Approval of an institution as an acceptable assignee may be withdrawn at any time by notice from the Administrator. Except in individual cases, approved by the Administrator, transfer of an insured mortgage to a mortgagee not approved to act under sections 521.1–521.11 will be cause for withdrawal of approval. Withdrawal of approval will in no case affect the insurance on mortgages theretofore accepted for insurance.*†

APPLICATION AND COMMITTMENT

§ 521.12 *Submission of application.* Any approved mortgagee may submit an application for insurance of a mortgage about to be executed, or of a mortgage already executed.*†

§ 521.13 *Form of application.* The application must be made upon a standard form prescribed by the Administrator.*†

§ 521.14 *Fee to accompany application.* The application must be accompanied by the mortgagee's check for a sum computed at a rate of three dollars ($3) per thousand dollars ($1,000) of the original principal amount of the mortgage loan applied for, to cover the costs of appraisal by the Administrator, but in no case shall such sum be less than ten dollars ($10). If an application is refused without an appraisal being made by the Administrator, the fee will be returned to the applicant but no portion of the fee will be returned after appraisal or on account of any difference between the amount applied for and the amount approved for insurance.

If, after insurance, the outstanding principal amount of an insured mortgage is increased either by amendment or by the substitution of a new insured mortgage, the fee herein provided for shall be based upon the amount of such increase but in no case shall be less than ten dollars ($10).*†

§ 521.15 *Approval of application.* Upon approval of an application, acceptance of the mortgage for insurance will be evidenced by the issuance of a commitment setting forth, upon a form prescribed by the Administrator, the terms and conditions upon which the mortgage will be insured.*†

§ 521.16 *Refinancing existing mortgage.* If on the date of the application for a firm commitment there is a then existing mortgage on the property, whether insured or uninsured, held by a mortgagee other than the applicant, which mortgage is to be refinanced in whole or in part by the mortgage offered for insurance, such application must be accompanied by a certificate executed by the proposed mortgagor certifying that he has applied to the holder of such existing mortgage for refinancing and that after reasonable opportunity, such holder has failed or refused to make a loan of a like amount and on as favorable terms as those of the loan offered for insurance as described in the application submitted therewith after taking into account amortization provisions, commission, interest rate, mortgage insurance premium, and costs to the mortgagor for legal services, appraisal fees, title expenses, and similar charges.*†

ELIGIBLE MORTGAGES

To be eligible for insurance—

§ 521.17 *Form, lien, etc.* The mortgage must be executed upon a form approved by the Administrator for use in the jurisdiction in which the property covered by the mortgage is situated, by a mortgagor with the qualifications hereinafter set forth in sections 521.31–521.34, must be a first lien upon property that conforms with the property standards prescribed by the Administrator, and the entire principal amount of the mortgage must have been disbursed to the mortgagor, or to his creditors for his account and with his consent.*†

§ 521.18 *Maximum amount of mortgage and appraisal value of property.* The mortgage should involve a principal obligation in an amount of one hundred dollars ($100) or multiples thereof but must not exceed sixteen thousand dollars ($16,000) and must not exceed eighty per centum (80%) of the appraised value of the property as of the date the mortgage is accepted for insurance except under the following circumstances:

(a) If the amount of the mortgage does not exceed $5400 and there is located upon the property a dwelling designed principally for a single family residence, the construction of which

(1) is begun after February 3, 1938, and which is approved for mortgage insurance prior to the beginning of construction, or

(2) the construction of which was begun after January 1, 1937, and before February 3, 1938, and which at the time the mortgage is accepted for insurance has not been sold or occupied since completion.

Such mortgage may exceed 80%, provided at the time the mortgage is insured the mortgagor is the owner and occupant and has paid on account of the property at least 10% of its appraised value, in cash or its equivalent, but must not exceed 90% of the appraised value of the property as of the date the mortgage is accepted for insurance.

(b) If the amount of the mortgage does not exceed $8600 and the property complies with all of the conditions set forth in paragraph (a) above, except as to the amount of the mortgage, and has an appraised value (as of the date the mortgage is accepted for insurance) in excess of $6000, the amount of such mortgage must not exceed 90% of $6000 of such value, plus 80% of the balance of such value.*†

§ 521.19 *Payments and maturity dates.* The mortgage should come due on the first of a month and must have a maturity satisfactory to the Administrator, not to be less than four nor more than twenty years from the date of insurance, except that a mortgage of the character described in section 521.18 (a) may have a maturity satisfactory to the Administrator, not more than twenty-five years from the date of insurance. The amortization period should be either 5, 8, 10, 12, 15, 17, 19 or 20 years by providing for either 60, 96, 120, 144, 180, 204, 228 or 240 monthly amortization payments except that as to mortgages of the character described in section 521.18 (a) such period may also be either 24 or 25 years by providing for 288 or 300 monthly amortization payments.*†

§ 521.20 *Rate of interest.* The mortgage may bear interest at such rate as may be agreed upon between the mortgagee and the mortgagor, but in no case

shall such interest rate be in excess of five per centum (5%) per annum. Interest shall be payable in monthly installments on the principal then outstanding.*†

§ 521.21 *Amortization provisions.* The mortgage must contain complete amortization provisions satisfactory to the Administrator, requiring monthly payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Administrator. The sum of the principal and interest payments in each month shall be substantially the same.*†

§ 521.22 *Payment of insurance premiums.* The mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth ($\frac{1}{12}$) of the annual mortgage insurance premium payable by the mortgagee to the Administrator. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage should provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the adjusted premium charge referred to in section 522.3 (b) of the regulations in Part 522, but shall not provide for the payment of any further charge on account of such prepayment.*†

§ 521.23 *Mortgagor's payments to include other charges.* The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize the ground rents, if, any, and the estimated amount of all taxes, special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Administrator, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums, before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.*†

§ 521.24 *Mortgagee's application of payments.* All monthly payments to be made by the mortgagor to the mortgagee as hereinabove provided, in sections 521.20–521.23, inclusive, shall be added together and the aggregate amount thereof shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

(a) premium charges under the contract of insurance;

(b) ground rents, taxes, special assessments, and fire and other hazard insurance premiums;

(c) interest on the mortgage; and

(d) amortization of the principal of the mortgage.

Any deficiency in the amount of any such aggregate monthly payment shall, unless made good by the mortgagor prior to, or on, the due date of the next such payment, constitute an event of default under the mortgage.*†

§ 521.25 *Late charge.* The mortgage may provide for a charge by the mortgagee of a "late charge", not to exceed two (2) cents for each dollar of each payment more than fifteen (15) days in arrears, to cover the extra expense involved in handling delinquent payments.*†

§ 521.26 *Mortgagor's payments when mortgage is executed.* The mortgagor must pay to the mortgagee, upon the execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage and may be required to pay a further sum equal to the first annual mortgage insurance premium, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.*†

§ 521.27 *Service charge.* The mortgagee may charge the mortgagor the amount of the appraisal fee provided for in section 521.14 and an initial service charge to reimburse itself for the cost of closing the transaction. Such service charge shall not exceed one per centum (1%) of the original principal amount of the mortgage or a charge of twenty dollars ($20), whichever is the greater, except that in cases of property under construction or to be constructed where the mortgagee makes partial disbursements and inspections of the property during the progress of construction, such initial service charge may be in an amount not in excess of two and one-half per centum (2½%) of the original principal amount of the mortgage or a charge of fifty dollars ($50), whichever is the greater.*†

§ 521.28 *Approval of other charges.* In addition to the charges hereinbefore mentioned, the mortgagee may collect from the mortgagor only recording fees and such appraisal fees and cost of title search as are approved by the Administrator. Nothing in this and section 521.27 shall be construed as prohibiting the mortgagor from dealing through a broker, who does not represent the mortgagee, if he prefers to do so, and paying the broker such compensation as is satisfactory to the mortgagor.*†

§ 521.29 *Project must be economically sound.* The mortgage must be executed with respect to a project which, in the opinion of the Administrator, is economically sound.*†

§ 521.30 *Properties insured on or after July 1, 1941.* On and after July 1, 1941, no mortgages will be insured except mortgages

(a) That cover property which is approved for mortgage insurance prior to the completion of the construction of such property, or

(b) That cover property which had been previously covered by a mortgage insured by the Administrator.*†

ELIGIBLE MORTGAGORS

§ 521.31 *Mortgage must be only lien upon property.* A mortgagor must establish that after the mortgage offered for insurance has been recorded, the mortgaged property will be free and clear of all liens other than such mortgage and that there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.*†

§ 521.32 *Relationship of income to mortgage payments.* A mortgagor must establish that the periodic payments required in the mortgage submitted for insurance bear a proper relation to his present and anticipated income and expenses.*†

§ 521.33 *Credit standing of mortgagor.* A mortgagor must have a general credit standing satisfactory to the Administrator*†

§ 521.34 *Residence of mortgagor.* A mortgagtor is not restricted as to place of residence and need not be the occupant of the property covered by the mortgage, except where the principal obligation of the mortgage exceeds 80% of the appraised value under the conditions set forth in section 521.18 (a), (b).*†

ELIGIBLE PROPERTIES

§ 521.35 *Nature of title to the realty.* A mortgage to be eligible for insurance must be on real estate held in fee simple, or on leasehold under a lease for not less than ninety-nine (99) years which is renewable, or under a lease with a period of not less than fifty (50) years to run from the date the mortgage is executed.*†

§ 521.36 *Dwelling unit located on property.* At the time a mortgage is insured there must be located on the mortgaged property a dwelling unit designed principally for residential use for not more than four families. Such unit may be connected with other dwellings by a party wall or otherwise.*†

§ 521.37 *Standards for buildings.* The buildings on the mortgaged property must conform with the standards prescribed by the Administrator.*†

§ 521.38 *Location of property.* The mortgaged property, if otherwise acceptable to the Administrator, may be located in any community where the housing standards meet the requirements of the Administrator.*†

§ 521.39 *Effective date.* These Administrative Rules are effective as to all

mortgages on which a commitment to insure is issued to an approved mortgagee on or after July 1, 1939.*†

Issued at Washington, D. C., June 15, 1939.

[SEAL] STEWART McDONALD,
*Federal Housing Administrator.*

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PART 522—REGULATIONS FOR MUTUAL MORTGAGE INSURANCE UNDER SECTION 203 OF THE NATIONAL HOUSING ACT.*†

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§ 522.1 *Citation.* The regulations in this part may be cited and referred to as "Part 522—Regulations of the Federal Housing Administrator for Mutual Mortgage Insurance under Section 203 of the National Housing Act, as amended, revised July 1, 1939."*†

§ 522.2 *Definitions.* As used in the regulations in this part:

(a) The term "Administrator" means the Federal Housing Administrator.

(b) The term "Act" means the National Housing Act.

(c) The term "mortgage" means such a first lien upon real estate as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the real estate is situated, together with the credit instruments, if any, secured thereby.

(d) The term "insured mortgage" means a mortgage which has been insured by the endorsement of the Administrator.

(e) The term "mortgagor" means the original borrower under a mortgage and his heirs, executors, administrators, and assigns.

(f) The term "mortgagee" means the original lender under a mortgage and its successors and such of its assigns as are approved by the Administrator.

(g) The term "contract of insurance" means the endorsement of the Administrator upon the credit instrument given in connection with an insured mortgage, incorporating by reference these regulations.*†

§ 522.3 *Premiums.* (a) The mortgagee shall pay to the Administrator an annual mortgage insurance premium equal to one-half of one per centum (½%) of the average outstanding principal obligation for the twelve-month period following the date on which such premium becomes payable, and calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments.

The first such premium is to be paid on the date on which such insurance becomes effective by endorsement and shall be calculated on the average outstanding principal balance for the year beginning with a day thirty (30) days prior to the date of the first monthly payment. Until the mortgage is paid in full or the mortgaged property is acquired by the Administrator as hereinafter set forth, or until the contract of insurance is otherwise terminated as hereinafter provided, the next and each succeeding premium shall be paid annually thereafter on the anniversary of such day, and the amount of the second premium payment will be adjusted accordingly. Such premiums shall be paid either in cash or debentures issued under Title II of the National Housing Act at par plus accrued interest.

The provisions of this section with reference to the amount of principal on which the premium charge is calculated shall also apply to mortgages insured prior to the date of these regulations but only in respect to premiums payable after February 3, 1938.

(b) In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity, the mortgagee shall within thirty (30) days thereafter notify the Administrator of the date of prepayment and shall pay to the Administrator an adjusted premium charge of one per centum (1%) of the original principal amount of the prepaid mortgage, except that if at the time of such prepayment there is placed on the mortgaged property a new insured mortgage in an amount less than the original amount of the prepaid mortgage, such adjusted premium shall be one per centum (1%) of the difference in such amounts.

In no event shall the adjusted premium exceed the aggregate amount of premium charges which would have been payable if the mortgage had continued to be insured until maturity.

No adjusted premium shall be due or payable in the following cases:

(1) Where at the time of such prepayment there is placed on the mortgaged property a new insured mortgage for an amount equal to or greater than the original principal amount of the prepaid mortgage; or

(2) Where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments made by the mortgagor which do not exceed in any one calendar year fifteen per centum (15%) of the original face amount of the mortgage; or

(3) Where the final maturity specified in the mortgage is accelerated solely by reason of payments to principal to compensate for (i) damage to the mortgaged property, or (ii) a release of a part of such property if approved by the Administrator; or

(4) Where payment in full is made of a delinquent mortgage on which foreclosure proceedings have been commenced, or for the purpose of avoiding foreclosure, if the transaction is approved by the Administrator.

Upon such prepayment the contract of insurance shall terminate.

(c) If at the time of prepayment a new insured mortgage is placed on the same property, the Administrator will refund to the mortgagee for the account of the mortgagor an amount equal to the pro rata portion of the current annual mortgage insurance premium theretofore paid, which is applicable to the portion of the year subsequent to such prepayment.*†

§ 522.4 *Insurance endorsement.* Upon compliance, satisfactory to the Administrator, with the terms of his commitment to insure, the Administrator will endorse the original credit instrument in form as follows:

No. ------
Insured under the
National Housing Act
And Regulations of the
Federal Housing Administrator
For Mutual Mortgage Insurance
Dated November 1, 1934
as amended ----------
FEDERAL HOUSING ADMINISTRATOR
By ----------
Authorized agent
Date ----------

The mortgage shall be an insured mortgage from the date of such endorsement. The Administrator and the mortgagee shall thereafter be bound by these regulations with the same force and to the same extent as if a separate contract had been executed relating to the insured mortgage, including the provisions of these regulations and of the National Housing Act.*†

§522.5 *Classification of mortgages.* Insured mortgages shall be so classified in groups that the mortgages in any group shall involve substantially similar risk characteristics.*†

§ 522.6 *Premium charges and other fees credited to group account.* Premium charges received for the insurance of any mortgage, appraisal and other fees, the receipts derived from the property covered by the mortgage and claims assigned to the Administrator in connection therewith, and all earnings on the assets of the group account shall

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*§§ 522.1 to 522.19, inclusive, issued under the authority contained in the National Housing Act, as amended June 3, 1939, Pub. No. 111, 76th Cong., 1st Sess.

†The source of §§ 522.1 to 522.19, inclusive, is Regulations of the Federal Housing Administrator for Mutual Mortgage Insurance under section 203 of the National Housing Act, as amended, revised July 1, 1939.

be credited to the account of the group to which the mortgage is assigned.*†

§ 522.7 *Charges against group account.* The principal of, and interest paid or to be paid on, debentures issued in exchange for any property, payments made or to be made to the mortgagee and mortgagor, and expenses incurred in the handling of the property covered by the mortgage and in collection of claims assigned to the Administrator in connection therewith, shall be charged to the account of the group to which such mortgage is assigned.*†

§ 522.8 *Termination of group account.* The Administrator shall terminate the insurance as to any group of mortgages

(a) When he shall determine that the amounts to be distributed as hereinafter set forth to each mortgagee under an outstanding mortgage assigned to such group are sufficient to pay off the unpaid principal of each such mortgage; or

(b) When all the outstanding mortgages in any group have been paid.

Upon such termination, the Administrator shall charge the group account with the estimated losses arising from transactions relating to that group, shall transfer to the General Reinsurance Account an amount equal to 10 per centum of the total premium charges theretofore credited to such group account, and shall distribute to the mortgagees, for the benefit and account of the mortgagors of the mortgages assigned to such group, the balance remaining in such group in such proportions as may be equitable as among such mortgages and in accordance with sound actuarial and accounting practice.*†

§ 522.9 *Application of funds by mortgagee.* The mortgagee shall accept such payment and apply it on account of the obligation, if any, of the mortgagor under the insured mortgage and distribute the balance, if any, to the mortgagor. If such payment is sufficient to satisfy the obligation of the mortgagor in full, the mortgagee shall thereupon deliver to the mortgagor any instrument or instruments necessary or proper to discharge such mortgage.*†

§ 522.10 *Amount of payment determined by Administrator.* No mortgagor or mortgagee shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Mutual Mortgage Insurance Fund, and the determination of the Administrator as to the amount to be paid by him to any mortgagee or mortgagor shall be final and conclusive.*†

§ 522.11 *Rights of parties on termination of insurance.* In the event the mortgagee forecloses on the mortgaged property, but does not convey it to the Administrator in accordance with section 522.14 of the regulations in this part, and the Administrator is given written notice thereof, or in the event the mortgagor pays the obligation under the mortgage in full, prior to the maturity thereof, and the mortgagee pays any adjusted premium required under section 522.3 (b) of the regulations in this part, and the Administrator is given written notice by the mortgagee of such payment by the mortgagor, the obligation to pay any subsequent premium charge for insurance shall cease and all rights of the mortgagee and mortgagor, under section 522.14, shall terminate as of the date of such notice. Upon such termination, the mortgagor shall be entitled to receive a share of the credit balance of the group account to which the mortgage has been assigned in such amount as the Administrator shall determine to be equitable and not inconsistent with the solvency of the group account and of the Fund.*†

§ 522.12 *Time of default.* If the mortgagor fails to make any payment, or to perform any other covenant or obligation under the mortgage, and such failure continues for a period of thirty (30) days, the mortgage shall be considered in default, and the mortgagee shall, within sixty (60) days thereafter, give notice in writing to the Administrator of such default, unless such default has been cured or unless the Administrator has been notified of a previous default which remains uncured.*†

§ 522.13 *Transfer of property to the Administrator; conditions of default in mortgage.* At any time within one year from the date of default the mortgagee, at its election, shall either—

(a) With, and subject to, the consent of the Administrator, acquire by means other than foreclosure of the mortgage, possession of, and title to, the mortgaged property; or

(b) Commence foreclosure of the mortgage: *Provided,* That if the laws of the State in which the mortgaged property is situated do not permit the commencement of such foreclosure within such period of time, the mortgagee shall commence such foreclosure within sixty (60) days after the expiration of the time during which such foreclosure is prohibited by such laws.

The mortgagee shall promptly give notice in writing to the Administrator of the institution of foreclosure proceedings and shall exercise reasonable diligence in prosecuting such proceedings to completion.

For the purposes of this section, the date of default shall be considered as thirty (30) days after (a) the first uncorrected failure to perform a covenant or obligation, or (b) the first failure to make a monthly payment which subsequent payments by the mortgagor are insufficient to cover when applied to the overdue monthly payments in the order in which they became due.

If after default and prior to the completion of foreclosure proceedings, the mortgagor shall pay to the mortgagee all monthly payments in default and such expenses as the mortgagee shall have incurred in connection with the foreclosure proceedings, notice shall be given to the Administrator, and the insurance shall continue as if such default had not occurred.

Nothing contained in this section shall be construed so as to prevent the mortgagee, with the written consent of the Administrator, from taking action at a later date than herein specified.*†

§ 522.14 *Condition of property when transferred; delivery of debentures; certificate of claim and definition of the term "waste".* If the default is not cured as aforesaid, and if the mortgagee has otherwise complied with the provisions of section 522.13, and at any time within thirty (30) days (or such further time as may be necessary to complete the title examination and perfect such title) after acquiring possession of the mortgaged property by foreclosure, or by other means in accordance with paragraph (a) of section 522.13, tenders to the Administrator possession of, and a deed containing a covenant which warrants against the acts of the mortgagee and all claiming by, through, or under it, conveying good merchantable title (evidenced as hereinafter provided in section 522.15) to, such property undamaged by fire, earthquake, flood, or tornado, and undamaged by waste, except as hereinafter in this section provided, and assigns (without recourse or warranty) any and all claims which it has acquired in connection with the mortgage transaction, and as a result of the foreclosure proceedings or other means by which it acquired such property, except such claims as may have been released with the approval of the Administrator, the Administrator shall promptly accept conveyance of such property and such assignment and shall deliver to the mortgagee:

(a) Debentures of the Mutual Mortgage Insurance Fund as set forth in Section 204 of the Act, issued as of the date foreclosure proceedings were instituted or the property was otherwise acquired by the mortgagee after default, bearing interest at the rate of two and three-quarters per centum (2¾%) per annum payable semi-annually on the first day of January and the first day of July of each year, and having a total face value equal to the value of the mortgage as defined in Section 204 (a) of the Act. Such value shall be determined by adding to original principal of the mortgage, which was unpaid on the date of the institution of foreclosure proceedings or the acquisition of the property otherwise after default, the amount of all payments, which have been made by the mortgagee for taxes, ground rent and water rates, which are liens prior to the mortgage, special assessments, which are noted on the application for insurance or which become liens after the insurance of the mortgage, insurance on the property mortgaged and any mortgage insurance premium paid after the institution of foreclosure proceedings or the acquisi-

tion of the property otherwise after default, and by deducting from such total any amount received on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property otherwise after default and from any source relating to the property on account of rent or other income after deducting reasonable expenses incurred in handling the property: *Provided, however,* That with respect to mortgages which are accepted for insurance prior to July 1, 1941, under Section 203 (b) (2) (B), on which the unpaid principal obligation at the time of the institution of foreclosure proceedings exceeds 80% of the appraised value of the property as of the date the mortgage was accepted for insurance, there will be included in the debentures issued by the Administrator, on account of foreclosure costs actually paid by the mortgagee and approved by the Administrator an amount not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings, but in no event in excess of $75.

Such debentures shall be registered as to principal and interest and all or any such debentures may be redeemed, at the option of the Administrator with the approval of the Secretary of the Treasury, at par and accrued interest on any interest payment day on three (3) months' notice of redemption given in such manner as the Administrator shall prescribe.

(b) A Certificate of Claim in accordance with Section 204 (e) of the Act, which shall become payable, if at all, upon the sale and final liquidation of the interest of the Administrator in such property in accordance with Section 204 (f) of the Act. This certificate shall be for an amount which the Administrator shall determine to be sufficient to pay all amounts due under the mortgage and not covered by the amount of debentures and shall include a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings or the acquisition of the mortgaged property otherwise and the conveyance thereof to the Administrator, including reasonable attorney's fees, unpaid interest and cost of repairs to the property made by the mortgagee after default to remedy the waste mentioned in this section. Each such Certificate of Claim shall provide that there shall accrue to the holder thereof with respect to the face amount of such certificate, an increment at the rate of three per centum (3%) per annum.

The term "waste" as used in this section means permanent or substantial injury caused by unreasonable use, or abuse, and is not intended to include damage caused by ordinary wear and tear.

The provisions of this section concerning waste, shall not apply to mortgages on which the unpaid principal obligation at the time of the institution of foreclosure proceedings exceeds 75% of the appraised value of the property as of the date the mortgage was accepted for insurance.*†

§ 522.15 *Satisfactory title evidence.* Evidence of title of the following types will be satisfactory to the Administrator:

(a) A fee or owner's policy of title insurance, a guaranty or guarantee of title, or a certificate of title, issued by a title company, duly authorized by law and qualified by experience to issue such; or

(b) An abstract of title prepared by an abstract company or individual engaged in the business of preparing abstracts of title and accompanied by the legal opinion as to the quality of such title signed by an attorney at law experienced in examination of titles; or

(c) A Torrens or similar title certificate; or

(d) Evidence of title conforming to the standards of a supervising branch of the Government of the United States or of any State or Territory thereof.

Such evidence of title shall be furnished without cost to the Administrator and shall be executed as of a date to include the recordation of the deed to the Administrator, and shall show that, according to the public records, there are not, at such date, any outstanding prior liens, including any past due and unpaid ground rents, general taxes, or special assessments.

If the title and title evidence are such as to be acceptable to prudent lending institutions and leading attorneys generally in the community in which the property is situated, such title and title evidence will be satisfactory to the Administrator and will be considered by him as good and merchantable.

The Administrator will not object to the title by reason of the following matters, provided they are not such as to impair the value of the property for residence purposes, or provided they have been brought to the attention of the insuring office for consideration in fixing the valuation:

(1) customary easements for public utilities, party walls, driveways, and other purposes; customary building or use restrictions for breach of which there is no reversion and which have not been violated to a material extent;

(2) such restrictions when coupled with a reversionary clause, provided there has been no violation prior to the date of the deed to the Administrator;

(3) slight encroachments by adjoining improvements;

(4) outstanding oil, water, or mineral rights which, in the opinion of the Administrator, do not impair the value of the property for residence purposes, or which are customarily waived by prudent lending institutions and leading attorneys generally in the community.*†

§ 522.16 *Assignment of mortgages.* When the insured mortgage is transferred to another approved mortgagee, such transferor and transferee shall both notify the Administrator of such transfer within thirty (30) days thereof, and the transferee shall thereupon succeed to all the rights and become bound by all the obligations of the transferor under the contract of insurance; and the transferor shall thereupon be released from its obligations under the contract of insurance.

Whenever the insured mortgage is transferred to another approved mortgagee for the purposes of collateral only, no notice need be given to the Administrator until such collateral is foreclosed, but the transferor shall remain subject to all the obligations of the contract of insurance.*†

§ 522.17 *Termination of contract of insurance.* The contract of insurance shall terminate upon the happening of either of the following events:

(a) the acquisition of the insured mortgage by, or the pledge thereof to, any person, firm, or corporation, public or private, other than an approved mortgagee, whether individually or in trust for another; provided, that this paragraph (a) shall not be applicable to a mortgage acquired or held by an approved mortgagee, which is a banking institution or trust company inspected and supervised by some governmental agency, for a trust held or administered by it in a fiduciary capacity, as long as such fiduciary relationship shall remain in effect;

(b) the disposal by an approved mortgagee of any partial interest in an insured mortgage or group of insured mortgages (whether to another approved mortgagee or otherwise) by means of a declaration of trust, or by a participation or trust certificate, or by any other device; provided that this paragraph (b) shall not be applicable to any mortgage so long as it is held in a common trust fund maintained by a bank or trust company (1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank or trust company in its capacity as a trustee, executor or administrator; and (2) in conformity with the rules and regulations prevailing from time to time of the Board of Governors of the Federal Reserve System, pertaining to the collective investment of trust funds.

Upon the termination of the insurance under this section, the mortgagor shall be entitled to receive a share of the credit balance of the account of the group to which the insured mortgage has been assigned, in such amount as the Administrator shall determine to be equitable and not inconsistent with the preservation of the solvency of such account and of the Mutual Mortgage Insurance Fund.*†

§ 522.18 *Amendments.* The regulations in this part may be amended by the Administrator at any time and from time to time, in whole or in part, but

such amendment shall not affect the contract of insurance on any mortgage already insured, or any mortgage or prospective mortgage on which the Administrator has made a commitment to insure.*†

§ 522.19 *Effective date.* The regulations in this part are effective as to all mortgages on which a commitment to insure is issued to an approved mortgagee on or after July 1, 1939. Wherever a mortgagee so desires, the provisions of these regulations shall become a part of any contract of insurance heretofore made.*†

Issued at Washington, D. C., June 15, 1939.

[SEAL] STEWART MCDONALD,
*Federal Housing Administrator.*

[F. R. Doc. 39-2274; Filed, June 30, 1939; 11:00 a. m.]

## TITLE 30—MINERAL RESOURCES

### NATIONAL BITUMINOUS COAL COMMISSION

[Docket No. 51-FD]

ORDER IN THE MATTER OF HEARING TO DETERMINE WHETHER OR NOT THE COALS AND PRODUCERS THEREOF IN STATES OF NORTH DAKOTA AND SOUTH DAKOTA ARE SUBJECT TO THE PROVISIONS OF THE BITUMINOUS COAL ACT OF 1937, ETC.

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 28th day of June 1939.

The Commission, having on the 11th day of August, 1937, promulgated its Order No. 35[1] providing for a public hearing for the purpose of receiving evidence to enable the Commission to determine whether or not the coals, and the producers thereof, in the States of North Dakota and South Dakota are subject to the provisions of the Bituminous Coal Act of 1937, and to determine whether a change in the territorial boundaries or limits of District No. 21 and Minimum Price Area No. 8, as defined in said Act, or a consolidation of such district and price area with other districts and price areas is necessary, and the matter being assigned to Examiner Carman A. Newcomb for hearing, and, proper notice having been given, said hearing was commenced on the 13th day of September, 1937 at the Prince Hotel, Bismarck, North Dakota, where evidence relating to the character of the coals produced in North Dakota was received, and, thereafter, upon proper notice, said hearing was adjourned to the State Capitol Building, Pierre, South Dakota where evidence was received relating to the character of the coals produced in the State of South Dakota commencing on the 16th day of September 1937, and

Thereafter, on the 14th day of October, 1937, the Examiner having filed his Report, Proposed Findings of Fact, Conclusion and Recommendation with the Commission, which were thereafter duly served upon all parties to the proceeding, and within fifteen days of the date of said service, to wit, on June 20, 1938 Exceptions to said Report, Proposed Findings of Fact, Conclusion and Recommendation of the Examiner, in re North Dakota, being filed by Stanley B. Houck, Attorney for North Dakota Lignite Operators, excepting to the Findings and Conclusion of the Examiner that the Counties of Burke, Divide, Ward and Williams in North Dakota should be excepted from the general conclusion that all coal producing counties in the State of North Dakota produced only lignite as defined by the Bituminous Coal Act of 1937, and

The Commission having considered said Report, Proposed Findings of Fact, Conclusion and Recommendation of the Examiner, and the Exceptions filed thereto by the North Dakota Lignite Operators, and being fully advised of the evidence, as the same is contained in the official transcript of the aforesaid hearings, finds that the Findings of Fact as proposed by the Examiner, and his Conclusion stated in said Report, are true and correct except as to his Findings and Conclusion relating to the coals produced in Burke, Divide, Ward, and Williams Counties in North Dakota, and with such exceptions are hereby adopted as the Findings of the Commission, and

With respect to the Counties of Burke, Divide, Ward and Williams in the State of North Dakota, the Commission finds:

That the analyses of samples of lignite taken from the mines in Burke, Divide, Ward, and Williams Counties, showing a moisture content of slightly less than 30%, but showing a B. T. U. of less than 7600, are not truly representative analyses of the coals produced in said counties, but that average analyses of lignite produced in said counties reveal that the coals produced therein are lignite within the meaning of the Bituminous Coal Act of 1937, and, therefore, not subject to the provisions of said Act.

Now, therefore, It is by order determined:

1. That all of the underlying coal in the States of North Dakota and South Dakota is a lignitic coal having a calorific value in British thermal units of less than 7600 per pound and having a natural moisture content in place in the mine of 30 per centum or more.

2. That the geographical area designated in the Act as District No. 21, and Minimum Price Area No. 8, embracing the States of North Dakota and South Dakota, produces no coal subject to the provisions of the Bituminous Coal Act of 1937.

3. There being no bituminous coal produced within District No. 21 or Minimum Price Area No. 8, as defined in the Bituminous Coal Act of 1937, no change or changes in the boundaries thereof are necessary to carry out the provisions of said Act, and the descriptions set forth in the Act shall remain unchanged, but no minimum prices or marketing rules and regulations will be established for any coals produced therein.

4. That this Order shall be effective from and after the 29th day of July, 1939, subject, however, to any subsequent determination made by the Commission, pursuant to notice and hearing, instituted either upon its own motion or upon complaint of any interested party.

5. That the Secretary be and he is hereby directed to cause a copy of this Order to be published in the FEDERAL REGISTER, and a copy mailed to the Consumers' Counsel, and the Secretary of each District Board, to each party to the proceeding herein, and to cause copies hereof to be made available for inspection at the Office of the Secretary, Washington, D. C. and at the office of each Statistical Bureau of the Commission.

By order of the Commission.
Dated this 28th day of June 1939.

[SEAL] F. WITCHER MCCULLOUGH,
*Secretary.*

[F. R. Doc. 39-2306; Filed, July 1, 1939; 10:52 a. m.]

## TITLE 33—NAVIGATION AND NAVIGABLE WATERS

### WAR DEPARTMENT

CHAPTER II—RULES RELATING TO NAVIGABLE WATERS

PART 203—BRIDGE REGULATIONS

§ 203.675 *Little Calumet River, Illinois; Michigan Central Railroad Bridge 8.11 miles from Lake Michigan.*[1] (a) (1) The railroad company shall provide and maintain suitable signals for signaling vessels. The signal for use in the daytime shall be a red ball not less than two feet in diameter; for use at night it shall be a red lantern; arranged in both cases so as to be visible on the river for a distance of at least 600 feet in each direction from the bridge.

(2) A vessel approaching the bridge and desiring to pass shall give a signal consisting of three short sounds of the whistle or horn given in rapid succession.

(3) When a vessel gives the above signal, the bridge shall be immediately opened, unless a train be on the bridge or approaching it so closely as to be unable to stop; and in that case the bridge may be kept closed long enough for the passage of one train and no more.

[1] 2 F.R. 1399, 1560.

[1] These regulations supersede section 203.675, Title 33, Code of Federal Regulations, paragraph (a) of that section having been previously revoked by 4 F.R. 2005.

(4) When the bridge cannot be opened immediately after the signal from the vessel, the bridge tender shall hoist the signal specified in paragraph (1) and shall keep it elevated until the bridge can be opened, when he shall lower it.

(5) Vessels shall not attempt to pass the bridge while the bridge signal is up, or while the bridge is in course of opening or closing.

(6) The bridge shall not be used for switching purposes.

(7) The locking devices for securing the bridge when closed must be such as can be promptly opened. The use of splices bolted to the rail, which involve the screwing or unscrewing of nuts whenever the bridge is closed or opened, is forbidden.

(b) The special regulations of January 4, 1933, governing the operation of this bridge are hereby revoked. (Sec. 5, River and Harbor Act, Aug. 18, 1894, 28 Stat. 362; 33 U.S.C. 499) [Special regs., June 22, 1939 (E.D. 6371 (Michigan Central R. R., Little Calumet River, Kensington, Ill.), 3/1)]

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

[F. R. Doc. 39-2319; Filed, July 5, 1939; 9:47 a. m.]

## TITLE 43—PUBLIC LANDS

### GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL NO. 255, WYOMING NO. 46

JUNE 21, 1939.

It appearing that the following-described public lands in Wyoming are necessary for the purpose, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for use by the general public for stock driveway purposes, subject to valid existing rights:

*Sixth Principal Meridian*

T. 23 N., R. 73 W.,
sec. 20, all;
T. 22 N., R. 74 W.,
sec. 4, SE¼,
sec. 8, SE¼,
sec. 18, all;
T. 24 N., R. 74 W.,
sec. 6, W½,
sec. 14, N½, NE¼SE¼,
sec. 20, SE¼;
T. 25 N., R. 74 W.,
sec. 30, all;
T. 22 N., R. 75 W.,
sec. 28, all;
T. 23 N., R. 75 W.,
sec. 2, all,
sec. 28, N½, N½SE¼;
T. 24 N., R. 75 W.,
sec. 12, E½;
T. 21 N., R. 76 W.,
sec. 12, E½E½;
aggregating 5,288.18 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

HARRY SLATTERY,
*Under Secretary of the Interior.*

[F. R. Doc. 39-2320; Filed, July 5, 1939; 9:47 a. m.]

### BUREAU OF RECLAMATION

TUCUMCARI PROJECT, NEW MEXICO

FIRST FORM RECLAMATION WITHDRAWAL

JUNE 16, 1939.

THE SECRETARY OF THE INTERIOR.

Sir: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat., 1976), it is recommended that the following described lands be withdrawn from public entry under the first form withdrawal as provided in Section 3, Act of June 17, 1902 (32 Stat., 388).

TUCUMCARI PROJECT

*New Mexico Principal Meridian*

Township 11 North, Range 30 East,
Section 5, lot 4, SW¼NW¼ and NW¼SW¼;
Township 12 North, Range 30 East,
Section 27, lot 1 and NE¼SE¼;
Section 28, lot 2;
Section 32, W½SE¼ and E½SW¼;
Township 10 North, Range 32 East,
Section 2, NE¼SW¼;
Township 12 North, Range 33 East,
Section 29, E½NW¼.

Respectfully,

JOHN C. PAGE,
*Commissioner.*

The foregoing recommendation is hereby approved, as recommended, and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

HARRY SLATTERY,
*Under Secretary of the Interior.*

JUNE 21, 1939.

[F. R. Doc. 39-2294; Filed, July 1, 1939; 9:19 a. m.]

KLAMATH PROJECT, OREGON-CALIFORNIA

FIRST FORM RECLAMATION WITHDRAWAL

JUNE 19, 1939.

THE SECRETARY OF THE INTERIOR.

Sir: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat. 1976) it is recommended that the following described land be withdrawn from public entry under the first form withdrawal as provided in Sec. 3, Act of June 17, 1902 (32 Stat. 388).

KLAMATH PROJECT, OREGON-CALIFORNIA

*Willamette Meridian, Oregon*

T. 40 S., R. 14 E., Sec. 19, SE½NE¼, NE¼SW¼, and NE¼SE¼.

Respectfully,

JOHN C. PAGE,
*Commissioner.*

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

HARRY SLATTERY,
*Under Secretary of the Interior.*

JUNE 22, 1939.

[F. R. Doc. 39-2293; Filed, July 1, 1939; 9:19 a. m.]

## TITLE 45—PUBLIC WELFARE

### FEDERAL WORKS AGENCY—PUBLIC WORKS ADMINISTRATION

[General Order No. 1]

ADOPTION BY PUBLIC WORKS ADMINISTRATION IN FEDERAL WORKS AGENCY, OF RULES, REGULATIONS, ORDERS, BULLETINS, CIRCULARS, FORMS, MANUALS AND SIMILAR DOCUMENTS OF FEDERAL EMERGENCY ADMINISTRATION OF PUBLIC WORKS

JULY 1, 1939.

1. All rules, regulations, orders, bulletins, circulars, forms, manuals and similar documents heretofore duly issued by the Federal Emergency Administration of Public Works or by any official thereof, in force and effect as of June 30, 1939 (hereinafter referred to as the "Documents"), are hereby adopted by and, insofar as appropriate, made applicable to the Public Works Administration in the Federal Works Agency.

2. All references in the Documents to the Administrator or to the Assistant Administrator of the Federal Emergency Administration of Public Works shall hereafter be deemed to refer to the Commissioner of Public Works.

3. All references in the Documents to the Federal Emergency Administration of Public Works shall hereafter be deemed to refer to the Public Works Administration in the Federal Works Agency.

4. Any rights, privileges or obligations of the Administrator or of the Assistant Administrator of the Federal Emergency Administration of Public Works under any Offers, contracts or agreements shall be the rights, privileges and obligations of the Commissioner of Public Works.

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

E. W. CLARK,
*Acting Commissioner of Public Works.*

Approved:

JOHN M. CARMODY,
*Federal Works Administrator.*

[F. R. Doc. 39-2315; Filed, July 1, 1939; 12:32 p. m.]

## TITLE 49—TRANSPORTATION AND RAILROADS

### INTERSTATE COMMERCE COMMISSION

[No. M–17310]

WAIVE TARIFF RULES

AUTOMATIC POSTPONEMENT

JUNE 29, 1939.

Present: John L. Rogers, Commissioner, to whom the above entitled matter has been assigned for action thereon.

*Ordered:* That all carriers by motor vehicle, subject to the Motor Carrier Act, 1935, and their duly appointed agents are hereby authorized to publish the following provisions in supplements announcing resuspension of the rates and other tariff provisions:

"If this supplement is not cancelled on or before (here insert date to which resuspended) the effective date of the above-described suspended schedules remaining under suspension on that date is hereby postponed to the date upon which this supplement is cancelled. The rates, charges, classifications, rules, regulations, practices, and other provisions, continued in force by the above-mentioned order of suspension, will apply during the period of this postponement unless changed under authority of special permission or order of the Interstate Commerce Commission."

*Provided,* That any supplement filed under this authority shall not include the announcement of suspension in more than one I. and S. Docket,

*Provided further,* That the authority granted hereby may be used only to postpone the effective date of suspended matter beyond the date of expiration of the second period of suspension,

*And provided further,* That the continuance of this authorization is made subject to the condition, that subject to the decision of the Commission in I. and S. Docket proceedings involved, carriers or their agents shall, with reasonable promptness, file schedules making final disposition of the matter under suspension or postponement.

Dated at Washington, D. C., this 29th day of June 1939.

By the Commission, Commissioner Rogers.

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

[F. R. Doc. 39–2333; Filed, July 5, 1939; 12:25 p. m.]

## *Notices*

### DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[NCR–301B, Supp. 1]

1939 AGRICULTURAL CONSERVATION PROGRAM

BOONE COUNTY, INDIANA

Pursuant to the authority vested in the Secretary of Agriculture under section 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, NCR–301B, 1939 Agricultural Conservation Program, Boone County, Indiana,[1] is hereby amended as follows:

1. Section 1, subsection c, is amended by adding at the end thereof the following new paragraph:

For all purposes relating to the 1939 Boone County program, farming operations and practices carried out during the program year, November 1, 1938 to September 30, 1939, will be deemed to have been carried out in 1939, but any acreage of land seeded in the fall of 1939 to a small grain crop will not for that reason be regarded as having been devoted to that crop in 1939.

2. Section 2, d, Item (2), is amended to read as follows:

(2) *Acreage planted to wheat* means (a) any acreage of land devoted to seeded wheat (except when such crop is seeded in a mixture containing less than 50 percent by weight of wheat, or containing 25 percent or more by weight of rye, barley, vetch or Austrian winter peas, and the seeding mixture may reasonably be expected to produce a crop containing such proportions of plants other than wheat that the crop could not be harvested as wheat for grain or seed) which is on the farm on or after December 15, 1938; (b) any acreage of land devoted to volunteer wheat which remains on the land until May 1, 1939; and (c) any acreage of land which is seeded to a mixture containing wheat but the crops other than wheat fail to reach maturity and the wheat matures as grain or is harvested for hay.

However, there shall be excluded from the acreage regarded as planted to wheat any acreage of wheat in excess of the wheat allotment which is designated on NCR–303 at the time this form is completed and which is disposed of prior to May 20, 1939, in such a manner as to leave no wheat available to mature as grain or for harvest as hay. In no event shall the acreage regarded as planted to wheat on any farm be less than the acreage used in computing the final total insured production for adjusting losses with respect to crop insurance.

3. Section 2, d, (3), Item (m), is amended to read as follows:

(m) Wheat matured as grain on a non-wheat-allotment farm, except when credit is earned by the use of such crop for soil-building practice (3) Section 6, a. Wheat harvested for hay on a non-wheat-allotment farm, except (1) when grown in a mixture containing at least 25 percent by weight of winter legumes, or (2) when cut green for hay and used as a nurse crop for legumes or perennial grasses of which a good stand is established in 1939.

(i) In cases where a good stand of approved legumes or grasses is not on the farm at the time of checking the performance, a good stand will be considered as having been established if the county committee finds that such legumes or grasses were seeded in a workmanlike manner, and

(aa) failure to secure and maintain a good stand was due to flood or drought conditions which prevented the establishment of a good stand on farms generally in the community, or

(bb) failure to have a good stand was due to grasshoppers or other insects and the farm operator has made every reasonable effort to prevent damage by such insects, including in any event cooperation in the insect control program of the Bureau of Entomology and Plant Quarantine in any area in which such programs are in effect.

(ii) In cases where a good stand of legumes or perennial grasses is actually established in 1939 but the legume or grass is plowed under before October 1, 1939, a good stand will not be considered as having been established and the acreage will be classified as soil-depleting. If a good stand of such legumes or grasses is not actually established and the acreage is plowed before October 1, 1939, the acreage will be classified as soil-depleting unless the county committee determines that under (i) a good stand should be considered as having been established and that plowing the acreage was a good farming practice.

4. Section 2, d, (3), Item (n), is amended to read as follows:

(n) Oats, barley, rye, emmer, speltz, mixtures of these crops or wheat mixtures matured as grain, except when credit is earned by the use of such crop for soil-building practice (3) Section 6, a. Oats, barley, rye, emmer, speltz, mixtures of these crops or wheat mixtures harvested for hay except (1) when grown in mixtures containing at least 25 percent by weight of winter legumes or (2) when cut green for hay and used as a nurse crop for legumes or perennial grasses of which a good stand is established in 1939.

(i) In cases where a good stand of approved legumes or grasses is not on the farm at the time of checking the performance, a good stand will be considered as having been established if the county committee finds that such legumes or grasses were seeded in a workmanlike manner, and

(aa) failure to secure and maintain a good stand was due to flood or drought conditions which prevented the establishment of a good stand on farms generally in the community, or

(bb) failure to have a good stand was due to grasshoppers or other insects and the farm operator has made every reasonable effort to prevent damage by such insects, including in any event cooperation in the insect control program of the Bureau of Entomology and Plant Quar-

[1] 4 F.R. 1213 DI.

antine in any area in which such programs are in effect.

(ii) In cases where a good stand of legumes or perennial grasses is actually established in 1939 but the legume or grass is plowed under before October 1, 1939, a good stand will not be considered as having been established and the acreage will be classified as soil-depleting. If a good stand of such legumes or grasses is not actually established and the acreage is plowed before October 1, 1939, the acreage will be classified as soil-depleting unless the county committee determines that under (i) a good stand should be considered as having been established and that plowing the acreage was a good farming practice.

5. Section 2, c, is amended by adding the following new item:

(8) Idle farm means any farm which the county committee determines to be idle in 1939 in accordance with the usual meaning of the term in the community. The county committee shall regard as idle any farm on which normal cropping operations are not carried out during the 1939 crop year. Normal cropping operations will not be deemed to be carried out on a farm in 1939 if the sum of the following acreages is less than one-half of the acreage in the total soil-depleting acreage allotment; (1) the acreage upon which a crop is seeded for harvest in 1939; (2) the acreage of volunteer crops harvested in 1939; (3) the acreage summer fallowed in 1939; (4) the acreage seeded or devoted to tame grasses or legumes in 1939, excluding seedings in the fall of 1939; and (5) the acreage seeded to small grains to be pastured in 1939 (other than small grains seeded in the fall of 1939). However, a farm upon which normal cropping operations were not carried out will not be regarded as idle if the State committee determines that the failure to carry out normal cropping operations was beyond the control of the farmer.

6. Section 6, a, Item (7), is amended by deleting the words "2½ tons blast furnace slag" in the second from the last line and inserting in their place the words, "2,750 pounds blast furnace slag."

7. Section 6, b, Item (3) is amended by deleting the phrase "November 1, 1939" in both places where it occurs and inserting in lieu thereof the phrase "October 1, 1939."

8. Section 7, a, Item (2), is amended to read as follows:

(2) 3 cents per bushel of the normal yield per acre of corn for the farm for each acre in the corn allotment.

9. Section 7, b, Item (2), is amended to read as follows:

(2) 6 cents per bushel of the normal yield per acre of wheat for the farm for each acre in the wheat allotment.

10. Section 8, c, Item (2), is amended to read as follows:

(2) *Non-general-allotment farms.* (a) $8.00 per acre adjusted for productivity for each acre classified as soil-depleting in excess of the sum of (1) twenty acres, and (2) the acreage on which corn and wheat deductions are computed.

11. Section 9, Paragraph a, is amended to read as follows:

a. *Payments and deductions on acreage allotments.* The net payment or net deduction computed for any farm in connection with general crops or any crop for which a special allotment is established will be divided among the landlords and tenants in the proportion that they are entitled as of the time of harvest to share in such crops on the farm in 1939. Any person who receives a portion of a crop as a fixed commodity payment will not be regarded as receiving a share of the crop.

If any crop for which payment is computed is not grown on the farm in 1939 or the acreage of the crop is substantially reduced by flood, hail, drought, insects or plant bed diseases, the net payment or net deduction for the crop will be divided among the landlords and tenants if the county committee determines that such persons would have shared in the crop if the entire allotment had been planted and harvested in 1939. In cases where two or more separately owned tracts of land comprise a farm and Section II of the Combination Farm Share Agreement, Form ACP–95, is executed and the form is signed by all persons who are entitled to receive a share of the crops, the share of each person in the net payment or net deduction for the crops will be that indicated on Form ACP–95.

12. Section 15 is amended by adding at the end thereof the following new subsection d:

d. *Time within which to file form NCR–303 and similar forms.* No inspection of any farm will be made for the purpose of determining the extent of performance under the 1939 Boone County Agricultural Conservation Program unless there is received on or before May 1, 1939, by the Boone County Committee, either (1) a Farm Plan for Participation, NCR–303 for the farm, duly executed by a person eligible to make application for payment with respect to such farm; or (2) a letter from the landlord or operator of such farm indicating that he is participating in the 1939 Boone County Agricultural Conservation Program and requesting an inspection of his farms in the county.

Done at Washington, D. C., this 30th day of June, 1939. Witness my hand and seal of the Department of Agriculture.

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

[F. R. Doc. 39–2296; Filed, July 1, 1939; 9:31 a. m.]

[Docket No. A–104—O–104]

## NOTICE OF HEARING, PROPOSED AMENDMENTS TO MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF HOPS GROWN IN STATES OF OREGON, CALIFORNIA, AND WASHINGTON; AND NOTICE OF MEETING RELATIVE TO DETERMINATION OF THE SALEABLE QUANTITY OF 1939 HOPS

Whereas, pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), notice of hearing is required in connection with a proposed marketing agreement, a proposed order, or proposed amendments thereto, and the General Regulations, Series A, No. 1, as amended,[1] of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") executed a marketing agreement and issued an order, on August 11, 1938,[2] effective on and after August 15, 1938, regulating the handling of hops grown in the States of Oregon, California, and Washington; and

Whereas, the Secretary has reason to believe that the execution of certain amendments to the marketing agreement and the issuance of certain amendments to the order will tend to effectuate the declared policy of the act with respect to the handling of hops grown in the States of Oregon, California, and Washington; and

Whereas, it is provided, among other things, in paragraph numbered 2, section 1, article IV of said marketing agreement and order, that, for the purpose of obtaining additional information pertinent to the determination of the saleable quantity of 1939 crop hops, the Secretary shall hold a meeting or meetings, within the production area covered by said marketing agreement and order, subsequent to such notice as the Secretary may deem proper;

Now, therefore, pursuant to the said act and the aforesaid regulations, notice is hereby given of a hearing to be held on certain proposed amendments to the marketing agreement and certain proposed amendments to the order regulating the handling of hops grown in the States of Oregon, California, and Washington; and said hearing is to be held in the Auditorium, Chamber of Commerce, 27½ North Third Street, in Yakima, Washington, on July 11, 1939, at 9:30 a. m., Pacific standard time; in the Marion Hotel, Salem, Oregon, on July 14, 1939, at 9:30 a. m., Pacific standard time; and in the Elks Club Building, 521 Third Street, Santa Rosa,

[1] 1 F.R. 155.
[2] 3 F.R. 1979 DI.

California, on July 17, 1939, at 9:30 a. m., Pacific standard time.

This hearing is for the purpose of receiving evidence as to the general economic conditions which may, in order to effectuate the declared policy of the act, necessitate said amendments to the aforesaid marketing agreement and order, and as to the specific provisions which said proposed amendments to the marketing agreement and order should contain. The aforesaid public hearing is also for the purpose of receiving evidence and obtaining additional information, pursuant to the provisions of article IV, section 1, paragraph numbered 2 of the aforesaid marketing agreement and order, relative to the determination of the saleable quantity of 1939 crop hops.

The proposed amendments to the marketing agreement and the proposed amendments to the order provide, in similar terms, that the provisions of article I, section 1, paragraph numbered 9; article IV, section 3, paragraph numbered 1; article IV, section 4; article IV, section 6; article IV, section 7, article V, section 1, paragraph numbered 2, of the aforesaid marketing agreement and order, be amended in the respects stated in said proposed amendments, and by inserting an additional section after section 4 of article IV, and, accordingly renumbering section 5 and subsequent sections of said article IV; and such proposed amendments are summarized, omitting some of the details and provisions thereof, as follows: (a) restrict the definition of "grower-dealer," in article I, section 1, paragraph numbered 9; (b) permit the Growers Allocation Committee to reduce, under certain conditions, the saleable quantity of any grower, pursuant to article IV, section 3, paragraph numbered 1; (c) authorize the Control Board to issue in the name of any grower, who by reason of a written contract executed prior to June 14, 1938, is legally obligated to deliver at a definite and stated price, a definite and stated quantity of hops produced by the respective grower during 1939, an additional allotment certificate covering or relating to the excess quantity, if any, of the quantity of hops specified in such contract over and above the quantity represented by the respective grower's saleable allotment for 1939; (d) authorize cancellation of allotment certificates, under certain conditions, and issuance of new allotment certificates; (e) permit the allotment certificates applicable to 1939 hops to be used, under certain conditions, by growers to market hops produced in 1938 in excess of the respective grower's allotment for 1938; (f) permit a grower to purchase from another grower uncertificated hops, under certain conditions; (g) authorize the issuance, under certain conditions, of emergency allotment certificates; (h) provide that, among other things, in the event any grower who handles hops is not within the definition of "first handler," the person who handles said hops next following the aforesaid handling thereof by said grower shall constitute the first handler of said hops within the provisions of article V.

Copies of said proposed amendments to the marketing agreement and proposed amendments to the order may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, in Room 0310 South Building, or may be there inspected.

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

Dated June 30, 1939.

[F. R. Doc. 39-2314; Filed, July 1, 1939; 11:54 a. m.]

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## Office of the Secretary.

[Memorandum No. 826]

### MAKING APPLICABLE TO THE EMERGENCY RELIEF APPROPRIATION ACT OF 1939 CERTAIN ORDERS, RULES, REGULATIONS AND DELEGATIONS OF AUTHORITY ISSUED UNDER AUTHORITY OF THE EMERGENCY RELIEF APPROPRIATION ACT OF 1938

JUNE 30, 1939.

By virtue of and pursuant to the authority vested in me by the Emergency Relief Appropriation Act of 1939, approved June 30, 1939, particularly Sections 3 and 14 thereof, I hereby order and direct that the expenditure of funds appropriated to this Department by the said Act, and the administration of all activities conducted with such funds, shall be in accordance with the orders, rules, regulations and delegations of authority heretofore issued and in effect on this date relating to the expenditure of funds appropriated to this Department by the Emergency Relief Appropriation Act of 1938, to the extent such orders, rules, regulations and delegations of authority are consistent with the provisions of the Emergency Relief Appropriation Act of 1939. Whenever any authority heretofore granted limited the amount of money which might be expended thereunder, such limit shall be deemed applicabie to the total amount to be expended under such authorization out of funds appropriated by prior acts and the Emergency Relief Appropriation Act of 1939. Any redelegations of authority in effect on the date of this order shall continue in effect subject to any powers heretofore granted to revoke such redelegations. The foregoing rules and regulations shall remain in effect until my further order.

[SEAL] HARRY L. BROWN,
*Acting Secretary.*

[F. R. Doc. 39-2317; Filed, July 5, 1939; 9:22 a. m.]

## CIVIL AERONAUTICS AUTHORITY.

[Docket No. 238]

### IN THE MATTER OF THE APPLICATION OF AMERICAN EXPORT AIRLINES, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (D) OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF HEARING

The above-entitled proceeding is assigned for public hearing on September 7, 1939, 10 o'clock a. m. (Eastern Standard Time) in Conference Room B of the Departmental Auditorium, Washington, D. C., before an Examiner.

Dated Washington, D. C., June 30, 1939.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
*Secretary.*

[F. R. Doc. 39-2330; Filed, July 5, 1939; 12:20 p. m.]

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[Docket No. 247]

### IN THE MATTER OF THE APPLICATION OF PENNSYLVANIA-CENTRAL AIRLINES CORP. FOR AMENDMENTS TO ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (H) OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF HEARING

The above-entitled proceeding is assigned for public hearing on July 24, 1939, 10 o'clock a. m. (Eastern Standard Time) in Room 1851, Department of Commerce Building, Washington, D. C. before an Examiner.

Dated Washington, D. C., June 30, 1939

By the Authority.

[SEAL] PAUL J. FRIZZELL,
*Secretary.*

[F. R. Doc. 39-2329; Filed, July 5, 1939; 12:20 p. m.]

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[Docket No. 19-401 (E)-1]

### IN THE MATTER OF THE APPLICATION OF RAILWAY EXPRESS AGENCY, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (E) OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF HEARING

The above-entitled proceeding is assigned for public hearing on July 17, 1939, 10 o'clock a. m. (Eastern Standard Time) at the Carlton Hotel, Washington, D. C., before an Examiner.

Dated Washington, D. C., June 30, 1939.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
*Secretary.*

[F. R. Doc. 39-2331; Filed, July 5, 1939; 12:20 p. m.]

[Docket No. 46-401 (E)-1]

IN THE MATTER OF THE APPLICATION OF MAYFLOWER AIRLINES, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (E) OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF HEARING

The above-entitled proceeding is assigned for public hearing on July 26, 1939, 10 o'clock a. m. (Eastern Standard Time) in Room 1851, Department of Commerce Building, Washington, D. C. before an Examiner.

Dated Washington, D. C., June 30, 1939.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 39-2332; Filed, July 5, 1939; 12:21 p. m.]

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## FEDERAL TRADE COMMISSION

*United States of America—Before Federal Trade Commission*

[Docket No. 3834]

IN THE MATTER OF C. R. ANTHONY COMPANY, A CORPORATION, BURRELL-BERGER, INC., A CORPORATION, MISS PLAZA, INC., A CORPORATION, SAMUEL R. PARNES, INC., A CORPORATION, GORGEOUS FROCKS, INC., A CORPORATION

COMPLAINT

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

PARAGRAPH 1. Respondent C. R. Anthony Company is a corporation organized and existing under and by virtue of the laws of the State of Oklahoma with its principal office and place of business at 540 First National Bank Building, Oklahoma City, Oklahoma. Said C. R. Anthony Co. owns and operates 57 retail department stores located in the States of Oklahoma, Kansas, Texas and New Mexico.

PAR. 2. Respondent C. R. Anthony Company also maintains an office in Room 1409 at 1450 Broadway, New York City, New York, under the name of The Anco Co. All maintenance expenses of said office, including salaries, are paid by the respondent C. R. Anthony Company and the functions of the said New York City office are wholly performed by employees of said respondent C. R. Anthony Company on a flat salary basis paid solely by said respondent, which employees act for and in behalf of, and are subject to and under the direct and exclusive control of said respondent, C. R. Anthony Company.

Said employees purchase for and in the name of respondent, C. R. Anthony Company, the requirements of its retail department stores consisting of women's apparel, allied and other merchandise from various sellers and manufacturers located in New York City, among whom are the seller respondents hereinafter named. The merchandise so purchased is then shipped by said sellers from New York City into and through the various states of the United States to the various retail department stores of the respondent C. R. Anthony Company, invoices therefor being sent to and paid by said respondent C. R. Anthony Company.

PAR. 3. Respondent Burrell-Berger, Inc. is a corporation organized and existing under the laws of the State of New York with its principal office and place of business at 1375 Broadway, New York City, New York.

Respondent Miss Plaza, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York with its principal office and place of business at 1400 Broadway, New York City, New York.

Respondent Samuel R. Parnes, Inc. is a corporation organized and existing under and by virtue of the laws of the State of New York with its principal office and place of business at 1400 Broadway, New York City, New York.

Respondent Gorgeous Frocks, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York with its principal office and place of business at 1400 Broadway, New York City, New York.

The respondents named in this paragraph will hereinafter be referred to as "seller-respondents."

PAR. 4. Each of said seller respondents is engaged in the sale of merchandise to respondent C. R. Anthony Company and to other customers in states other than the State of New York, pursuant to which sales merchandise is shipped and caused to be transported by each of said seller respondents into and through various states of the United States to their respective customers. Said seller respondents are fairly typical and representative members of a large group or class of manufacturers and sellers engaged in selling their merchandise in interstate commerce to respondent C. R. Anthony Company and to its competitors but the sellers comprising said group are too numerous to be specifically named herein or to be brought before the Commission in this proceeding without manifest inconvenience and delay.

PAR. 5. In the course of the purchasing transactions by the respondent C. R. Anthony Company, under the name of The Anco Co., as set forth in Paragraph Two hereof, said seller respondents and other sellers have since June 19, 1936 transmitted, paid and delivered and do transmit, pay and deliver to said respondent C. R. Anthony Company, under the name The Anco Co. so called brokerage fees and commissions, the same being a certain percentage on quoted sales prices agreed upon between each of the said sellers and the respondent C. R. Anthony Company, and said respondent C. R. Anthony Company since June 19, 1936 has received and accepted and is receiving and accepting such so-called brokerage fees or commissions paid to it under the name of The Anco Co., upon merchandise purchased by said respondent C. R. Anthony Company under the name of The Anco Co., while said respondent C. R. Anthony Company is the sole party in interest in and is the actual purchaser in said transaction.

In all of the purchasing transactions hereinabove referred to, in connection with which the so-called brokerage fees or commissions have been and are paid and transmitted by said seller respondents and other sellers and have been and are accepted and received by said respondent C. R. Anthony Company, no services whatsoever in connection with said purchases have been rendered or are now being rendered to, for, or on behalf of said seller respondent or any other sellers by said respondent C. R. Anthony Company under its own name or under the name of The Anco Co.

PAR. 6. The transmission and payment of said so-called brokerage fees or commissions by the seller respondents and other sellers to and the receipt and acceptance thereof by the respondent C. R. Anthony Company under the name of The Anco Co. in the manner and under the circumstances hereinabove set forth, is in violation of the provisions of Section 2 (c) of the above mentioned Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes", approved October 15, 1914 (The Clayton Act) as amended by the Act of Congress entitled "An Act to amend Section 2 of an act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes', approved October 15, 1914, as amended (U.S.C. Title 15, Section 13) and for other purposes", approved June 19, 1936 (The Robinson-Patman Act).

Wherefore, the premises considered, the Federal Trade Commission on this 27th day of June, A. D., 1939, issues its complaint against said respondents.

NOTICE

Notice is hereby given you, C. R. Anthony Company, Burrell-Berger, Inc., Miss Plaza, Inc., Samuel R. Parnes, Inc. and Gorgeous Frocks, Inc., respondents herein, that the 4th day of August, A. D.,

1939, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

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

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

* * * * *

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

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

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 27th day of June, A. D. 1939.

By the Commission.

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

[F. R. Doc. 39-2299; Filed, July 1, 1939; 9:41 a. m.]

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*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 30th day of June, A. D. 1939.

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

[Docket No. 3671]

IN THE MATTER OF JAMES S. SUTTON, INC., A CORPORATION, AND JAMES S. SUTTON, AN INDIVIDUAL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

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

*It is ordered*, That 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 Wednesday, July 12, 1939, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, 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. 39-2300; Filed, July 1, 1939; 9:41 a. m.]

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## 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 28th day of June, A. D. 1939.

[File No. 32-145]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER RELATIVE TO ISSUE AND SALE OF NOTE AND PLEDGE

New York State Electric & Gas Corporation, a subsidiary of NY PA NJ Utilities Company, Associated Gas and Electric Corporation, and Associated Gas and Electric Company, registered holding companies, having duly filed with this Commission an application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of section 6 (a) of said Act, of the issue and sale by the applicant to the Rural Electrification Administration of the United States of America, for cash, at its face value, of a 2.73% serial note for $300,000 to be secured by applicant's First Mortgage bonds, 4% Series, due 1965, in a principal amount not to exceed $400,000 (exemption also being sought for the pledge of such bonds for collateral security);

A hearing on said application as amended having been duly held[1] after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

*It is ordered*, That the issue and sale of such note and the pledge as collateral security of such bonds be and the same hereby are exempted from the provisions of section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions:

1. That such issue and sale of such note and pledge of the bonds shall be in compliance with the terms and conditions of and for the purposes represented by said application as amended, and in compliance with the terms and conditions imposed by the order of the Public Service Commission of New York; and

2. That such exemption shall immediately terminate without further order of this Commission if at any time the authorization of the issue and sale of the note and pledge of the bonds by the Public Service Commission of New York shall be revoked or shall otherwise terminate; and

3. That such bonds shall not be sold except at a bona fide sale by or on behalf of the pledgee or its successors or assigns, to satisfy said note, or by the purchaser at such sale, or by his or its successors or assigns; and

4. That within ten days after the issue and sale of such note and the pledge of the bonds the applicant shall file with this Commission its Certificate of Notification showing that the issue and sale of the note and the pledge of the bonds have been effected in accordance with the terms and conditions of, and

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[1] 4 F.R. 2251 DI.

for the purposes represented by, said application as amended; and

5. That copies of all reports submitted to the New York State Public Service Commission in connection with the fulfillment of the terms of its order be supplied at the same time to this Commission; and

6. That when all expenses incurred in connection with the issue and sale of such note and the pledge of the bonds shall be actually paid, the applicant shall file a detailed statement of such expenses showing the names of persons or entities to whom such payments were made, the amounts of such payments, and a detailed description of the services rendered in connection with the issue and sale of said note and the pledge of the bonds.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-2313; Filed, July 1, 1939; 11:00 a. m.]

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*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 28th day of June, A. D. 1939.

[File No. 43-210]

IN THE MATTER OF BRADFORD ELECTRIC COMPANY

ORDER RELATIVE TO EFFECTIVENESS OF DECLARATION

Bradford Electric Company, a direct subsidiary of NY PA NJ Utilities Company and an indirect subsidiary of Associated Gas and Electric Corporation and Associated Gas and Electric Company, the latter three named companies being registered holding companies, having filed a declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by it to The Chase National Bank of the City of New York of its $395,000 3% unsecured promissory note to be dated June 29, 1939 and to mature eleven months from the date of issue, partial liquidation of the principal amount thereof to be made periodically by the payment of $5,000 on July 29, 1939 and by similar monthly payments thereafter to and including April 29, 1940, with the balance of the principal amount thereof, together with all interest accrued and unpaid thereon, to be paid at maturity;

A hearing on such declaration, as amended, having been held[1] after appropriate notice; the record in this matter having been duly considered; and the Commission having filed its findings herein;

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

1. That such issue and sale of such note shall be in compliance with the terms and conditions of, and for the purposes represented by, said declaration as amended; and

2. That within ten days after the issue and sale of such note, the declarant shall file with this Commission its Certificate of Notification showing that the issue and sale of the note has been effected in accordance with the terms and conditions of, and for the purposes represented by, said declaration as amended; and

3. That when all expenses incurred in connection with the issue and sale of such note shall have been actually paid, the declarant shall file a detailed statement of such expenses showing the names of persons or entities to whom such payments were made, the amounts of such payments and a detailed description of the services rendered in connection with the issue.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-2311; Filed, July 1, 1939; 11:00 a. m.]

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*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 28th day of June 1939.

[File No. 43-214]

IN THE MATTER OF SUBURBAN GAS AND ELECTRIC CO., GLOUCESTER ELECTRIC CO., HAVERHILL ELECTRIC CO., BEVERLY GAS AND ELECTRIC CO., SALEM GAS LIGHT CO., NORTH BOSTON LIGHTING PROPERTIES, NEW ENGLAND POWER ASSOCIATION

ORDER RELATIVE TO EFFECTIVENESS OF DECLARATIONS

Declarations pursuant to Section 7 of the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by Suburban Gas and Electric Company, Gloucester Electric Company, Haverhill Electric Company, Beverly Gas and Electric Company, Salem Gas Light Company, which are all subsidiary companies of North Boston Lighting Properties, an indirect subsidiary of New England Power Association, a registered holding company, regarding the issue and sale of unsecured 3% promissory notes to be dated July 1, 1939 and to mature 10 months after date in an aggregate principal amount as follows:

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|---|---|
| Suburban Gas and Electric Company | $785,000 |
| Gloucester Electric Company | 235,000 |
| Haverhill Electric Company | 1,014,375 |
| Beverly Gas and Electric Company | 650,000 |
| Salem Gas Light Company | 425,000 |

North Boston Lighting Properties and New England Power Association having filed applications in connection with such declarations requesting approval of the pledge by North Boston Lighting Properties of the notes proposed to be issued with State Street Trust Co., Trustee, as part of the collateral securing North Boston's outstanding Secured Notes, 3½% Series, due 1947.

A hearing upon said declarations and applications having been held[1] after appropriate notice; the record in this matter having been examined; the Commission having made and filed its findings herein;

*It is ordered,* That each of said declarations be, and become effective forthwith and that each of the said applications by North Boston Lighting Properties and New England Power Association be, and the same hereby is approved, subject, however, to the following conditions:

(1) That all acts in connection with said declarations and applications shall be performed in all respects as set forth in, and for the purposes represented by, said declarations and applications; and

(2) That within ten days after the issuance of the securities referred to herein and the acquisition and pledge of such notes the declarants and applicants shall respectively file with this Commission certificates of notification showing that such issuances and sales and acquisitions and pledges have been effected in accordance with the terms and conditions of, and for the purposes represented by, said declarations and applications.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-2310; Filed, July 1, 1939; 11:00 a. m.]

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*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 29th day of June, A. D. 1939.

[File No. 32-149]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER RELATIVE TO ISSUE AND SALE OF BONDS AND PREFERRED STOCK

New York State Electric & Gas Corporation, a direct subsidiary company of NY PA NJ Utilities Company, and an indirect subsidiary company of Associated Gas and Electric Corporation and Associated Gas and Electric Company, the latter three named companies being registered holding companies, having filed an Application, pursuant to

[1] 4 F.R. 2283 DI.

[1] 4 F.R. 2374 DI.

Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of that Act of the issue and sale to underwriters at 100, for sale to the public at 102, of $13,000,000 principal amount of First Mortgage Bonds, 3¾% Series, due May 1, 1964, and of the issue and sale of 60,000 shares of 5½% Cumulative Preferred Stock with a par value of $100 per share, 29,276 shares of such Stock to be issued to underwriters and 30,724 shares thereof to be issued to certain associate companies of Applicant (18,073 shares to Associated Power Corporation, and 12,651 shares to General Utility Investors Corporation) in exchange for 5% Cumulative Preferred Stock of Applicant now held by such associate companies, and by such associate companies to be sold to the same group of underwriters, such underwriters to pay 96 for all such 5½% Preferred and to sell the same to the public at 100; a hearing on said Application having been held[1] after appropriate notice; the record in this matter having been examined, and the Commission having made its Findings herein;

*It is ordered*, That the issuance and sale of such Bonds and Preferred Stock be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions:

(1) That such issue and sale of such Bonds and Preferred Stock shall be in compliance with the terms and conditions of, and for the purposes represented by, such Application, and in compliance with the terms and conditions imposed by the Order of the Public Service Commission of New York;

(2) That such exemption shall immediately terminate without further order of this Commission if at any time the authorization of the issue and sale of such Bonds and Preferred Stock by the Public Service Commission of New York shall be revoked or shall otherwise terminate;

(3) That within ten days after the issue and sale of such Bonds and Preferred Stock the Applicant shall file with this Commission its Certificate of Notification showing that the issue and sale of such securities have been effected in accordance with the terms and conditions of, and for the purposes represented by, said Application; and

(4) That within thirty days after the payment of all expenses incurred in connection with the issue and sale of such Bonds and Preferred Stock the Applicant shall file a detailed statement of such expenses showing the names of all persons or entities to whom such payments were made, the amount of such payments, and a detailed description of the services rendered in connection with the issue and sale of said Bonds and Preferred Stock.

By the Commission, Frank, C., not participating.

[SEAL] FRANCIS P. BRASSOR,
*Secretary.*

[F. R. Doc. 39-2309; Filed, July 1, 1939; 11:00 a. m.]

[1] 4 F.R. 2350 DI.

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*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 29th day of June, A. D. 1939.

[File No. 46-150]

IN THE MATTER OF TRUSTEES UNDER PENSION TRUST AGREEMENT, GENERAL UTILITY INVESTORS CORPORATION, ASSOCIATED POWER CORPORATION, NY PA NJ UTILITIES COMPANY, ASSOCIATED GAS AND ELECTRIC CORPORATION, ASSOCIATED GAS AND ELECTRIC COMPANY

ORDER RELATIVE TO SALE OF PREFERRED STOCK

Trustees Under Pension Trust Agreement Dated December 14, 1937, a subsidiary company of Associated Gas and Electric Company, a registered holding company, having filed an Application, pursuant to Section 12 (d) of the Public Utility Holding Company Act of 1935, to sell 2500 shares of 5% Cumulative Preferred Stock, $100 par, of New York State Electric & Gas Corporation, an associate company, to Associated Power Corporation, an associate company; and Associated Power Corporation having filed an Application, pursuant to Section 10 (a) (1) of said Act, to acquire such shares; and Associated Power Corporation and General Utility Investors Corporation having filed an Application to acquire 30,724 shares of 5½% Cumulative Preferred Stock, $100 par, of New York State Electric & Gas Corporation, such shares to be issued by that corporation in exchange for 33,796 shares of its 5% Cumulative Preferred Stock, $100 par, now outstanding;

It appearing that Associated Power Corporation and General Utility Investors Corporation intend to sell such 5½% Preferred Stock to underwriters to be sold to the public, and to pay the proceeds of such sale, together with a small balance aggregating in all $3,000,000, in settlement of alleged debts to their parent company, NY PA NJ Utilities Company, a registered holding company, which intends to pay such sum in settlement of alleged debts to its parent company, Associated Gas and Electric Corporation, a registered holding company, which intends to use such funds in making a down payment to the Treasury Department of the United States in settlement of claims for income taxes for the years 1927 to 1933, inclusive, against Associated Gas and Electric Company, a registered holding company, which is the parent of Associated Gas and Electric Corporation, and against various companies in the Associated Gas and Electric Company holding-company system, and that Associated Gas and Electric Corporation intends to make the remaining payments on such tax settlement, which aggregate $5,700,000;

It appearing that the state of accounts between New York State Electric & Gas Corporation and Associated Power Corporation is doubtful, and that the validity of the alleged debts from General Utility Investors Corporation and Associated Power Corporation to NY PA NJ Utilities Company, and from NY PA NJ Utilities Company to Associated Gas and Electric Corporation is subject to serious questions both of law and of fact, and that the validity of other alleged debts from NY PA NJ Utilities Company to Associated Utilities Corporation, a subsidiary company of Associated Gas and Electric Corporation, against which other payments may be made which may eventually reach Associated Gas and Electric Corporation, is subject to similar questions of law and fact.

The Commission having instituted a proceeding, pursuant to Sections 12 (b), 12 (c) and 12 (f) of said Act, to determine whether the movement of funds between such companies respecting such tax payments and otherwise, and the failure of Associated Gas and Electric Company to contribute to such tax settlement involves the lending of credit by a registered holding company or subsidiary company thereof to other companies in the same holding-company system, or the payment of dividends not out of earned surplus on a security of one or more of such companies, or the partial retirement or redemption of a security of one or more of such companies, and whether such activities have detrimental results which necessitate the issuance by the Commission of an order pursuant to said Sections to prevent, condition, or circumscribe the payment of funds between such companies; and the Commission having ordered all proceedings herein mentioned to be joined for purposes of hearing;

A hearing on said proceedings having been held[1] after appropriate notice, the record in these matters having been examined, and the Commission having made its Findings herein;

*It is ordered*, That the sale of 2500 shares of 5% Cumulative Preferred Stock, $100 par, of New York State Electric & Gas Corporation, by Trustees Under Pension Trust Agreement, to Associated Power Corporation, and the acquisition of such shares by such corporation be, and the same hereby are, approved in accordance with the terms and conditions and for the purposes represented by said Applications.

[1] 4 F.R. 2412 DI.

*It is further ordered*, That the acquisition by Associated Power Corporation and General Utility Investors Corporation of 30,724 shares of 5½% Cumulative Preferred Stock of New York State Electric & Gas Corporation be, and the same hereby is, approved in accordance with the terms and conditions and for the purposes represented by said Applications.

*It is further ordered*, Pursuant to Sections 12 (b), 12 (c) and 12 (f) of the Public Utility Holding Company Act of 1935, and as a condition to the issuance under Sections 10 (a) (1) and 12 (d) of said Act of the permissive orders herein contained, that subsequent to the payment of $3,000,000 by Associated Power Corporation and General Utility Investors Corporation to NY PA NJ, and by NY PA NJ to Associated Gas and Electric Corporation, and by Associated Gas and Electric Corporation to the Treasury Department (which payments are not forbidden by this order), such companies and Associated Gas and Electric Company make adjustments of accounts, limit payments on such accounts, and furnish to the Commission reports and information as hereinafter specified:

(1) Associated Power Corporation, or the then owner of said open account indebtedness, shall cancel $4,410,000 of open account indebtedness due from New York State Electric & Gas Corporation.

(2) NY PA NJ Utilities Company is to cancel $4,410,000 of convertible obligations due from Associated Power Corporation.

(3) General Utility Investors Corporation shall make no payments which will reduce the principal of its convertible obligations held by NY PA NJ Utilities Company to less than $21,150,000, and shall not increase the rate of interest thereon, and shall make no payments which will reduce its open account indebtedness to NY PA NJ Utilities Company below $1,000,000.

(4) Associated Power Corporation shall make no payments which will reduce the principal of its convertible obligations held by NY PA NJ Utilities Company to less than $340,000 (which is the remaining amount due thereon after the cancellation mentioned in paragraph two above), and shall not reduce its open account indebtedness to NY PA NJ Utilities Company below $300,000.

(5) NY PA NJ Utilities Company shall make no payments which will reduce the principal of its convertible obligations held by Associated Gas and Electric Corporation to less than $202,000,000, shall not increase the rate of interest due on said convertible obligations, and shall not reduce its open account indebtedness with Associated Utilities Corporation below $24,000,000.

(6) The following information shall be furnished promptly:

(a) Transcript of open accounts between New York State Electric & Gas Corporation and constituent companies, and Associated Power Corporation and predecessors.

(b) Transcript of open account between General Utility Investors Corporation and NY PA NJ Utilities Company, and detail of all transactions which resulted in the creation of the convertible obligation between such companies.

(c) Transcript of open account between Associated Power Corporation and NY PA NJ Utilities Company and predecessors, and detail of all transactions which resulted in the creation of the convertible obligation between such companies.

(d) Transcript of open account between NY PA NJ Utilities Company and predecessors, and between Associated Utilities Corporation and predecessors, and detail of all transactions which resulted in the creation of the convertible obligation between NY PA NJ Utilities Company and Associated Gas and Electric Corporation.

(7) The disposition of the accounting entries and the adjustment thereof, and the final settlement of intercorporate accounts between the companies herein mentioned, all arising from the tax settlement, intercorporate payments in connection therewith, and prior intercorporate credits or payments on account of the estimated tax liabilities of individual companies, shall be subject to the order of the Commission to be entered in this cause pursuant to jurisdiction retained herein after notice to the abovementioned companies and opportunity for hearing.

(8) The various companies herein mentioned have leave to apply to this Commission for modification, in particular instances, after notice and hearing, of the order herein.

Jurisdiction is retained for the issuance pursuant to the Public Utility Holding Company Act of 1935 of further orders modifying or supplementing this order, but not affecting the validity of the issuance or sale of such 5½% preferred stock.

*It is further ordered*, That, within ten days of the doing and performing of any of the acts permitted or required by this order, the companies file a report with this Commission of the details of such transactions, and showing that such transactions have been effected in accordance with the terms and conditions of this order.

By the Commission, Frank, C., not participating.

[SEAL] FRANCIS P. BRASSOR,
*Secretary.*

[F. R. Doc. 39-2312; Filed, July 1, 1939; 11:00 a. m.]

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*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 1st day of July, A. D. 1939.

[File 1-2431]

IN THE MATTER OF THE REGISTRATION OF ALLGEMEINE ELEKTRICITÄTS GESELLSCHAFT 20-YEAR 7% SINKING FUND GOLD DEBENTURES DUE 1945, 15-YEAR 6½% SINKING FUND GOLD DEBENTURES DUE 1940, AND 20-YEAR 6% SINKING FUND GOLD DEBENTURES DUE 1948

I

It appearing to the Commission,

That the Allgemeine Elektricitäts Gesellschaft, a corporation organized under the laws of Germany, is the issuer of 20-year 7% Sinking Fund Gold Debentures due 1945, 15-year 6½% Sinking Fund Gold Debentures due 1940, and 20-year 6% Sinking Fund Gold Debentures due 1948, and

That said Allgemeine Elektricitäts Gesellschaft registered such securities on the New York Stock Exchange, a national securities exchange, by filing on or about February 11, 1936, an application on Form 21 with the said exchange and with the Commission, pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, formerly designated as Rule JB-1, promulgated by the Commission thereunder; and

That pursuant to Section 13 (a) of the said Securities Exchange Act of 1934, as amended, and Rules X-13A-1 and X-13A-2, formerly designated Rules KA-1 and KA-2 respectively, promulgated by the Commission thereunder, said Allgemeine Elektricitäts Gesellschaft filed on or about September 7, 1937, its annual report on Form 21-K for the fiscal year ended September 30, 1936, and on or about April 29, 1938, its annual report on Form 21-K for the fiscal year ended September 30, 1937; and

That said Rule X-13A-1 did and does require that an annual report for each issuer of a security registered on a national securities exchange, shall be filed on the appropriate form prescribed therefor; and

That said Rule X-13A-2 did and does prescribe Form 21-K as the annual report form to be used for the annual reports of nationals of a foreign country, other than a North American country or Cuba, with respect to bonds or other evidences of indebtedness.

II

The Commission having reason to believe that,

(a) The Allgemeine Elektricitäts Gesellschaft has failed to comply with said Section 13 (a) and the Rules and Regulations promulgated thereunder in that the annual reports filed by it for the years ended September 30, 1936, and September 30, 1937,

(1) Fail to furnish the information required by Item 4 of Form 21–K with respect to each issue of funded debt of the registrant and its subsidiaries, and

(2) Do not contain a signature paragraph or signature as required by Form 21–K, and

(b) The said Allgemeine Elektricitäts Gesellschaft has also failed to file the information and documents required by said Rule X–13A–1 in that it has failed to file its annual report for the year ended September 30, 1938, on Form 21–K as prescribed by said Rule X–13A–2.

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of the said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Allgemeine Elektricitäts Gesellschaft has so failed to comply with said Section 13 (a) of said Rules and Regulations promulgated by the Commission thereunder, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said 20–year 7% Sinking Fund Gold Debentures due 1945, 15–year 6½% Sinking Fund Gold Debentures due 1940, and 20–year 6% Sinking Fund Gold Debentures due 1948, on the said New York Stock Exchange;

*It is ordered*, That a public hearing be held for such purpose before the officer of the Commission herein designated, beginning on the 16th day of August, 1939, at 10 o'clock, A. M. in Room 1102 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., and to continue thereafter at such times and places as said officer may determine; and

*It is further ordered*, That for the purpose of such proceedings James G. Ewell, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
*Secretary.*

[F. R. Doc. 39–2322; Filed, July 5, 1939; 11:16 a. m.]

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*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 1st day of July, A. D. 1939

[File 1–2509]

IN THE MATTER OF THE REGISTRATION OF SIEMENS & HALSKE AKTIENGESELLSCHAFT, SIEMENS SCHUCKERTWERKE AKTIENGESELLSCHAFT TWENTY-FIVE YEAR 6½% SINKING FUND GOLD DEBENTURES DUE SEPTEMBER 1, 1951

I

It appearing to the Commission,

That Siemens & Halske Aktiengesellschaft and Siemens Schuckertwerke Aktiengesellschaft, corporations organized under the laws of Germany, are the issuers of Twenty-five year 6½% Sinking Fund Gold Debentures due September 1, 1951; and

That said Siemens & Halske Aktiengesellschaft and Siemens Schuckertwerke Aktiengesellschaft registered such security on the Boston Stock Exchange and the New York Stock Exchange, national securities exchanges, by filing on or about March 17, 1936, an application on Form 21 with the said exchanges and with the Commission, pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X–12B–1, as amended, formerly designated as Rule JB1, promulgated by the Commission thereunder; and

That pursuant to Section 13 (a) of the said Securities Exchange Act of 1934, as amended, and Rules X–13A–1 and X–13A–2, formerly designated Rules KA1 and KA2, respectively, promulgated by the Commission thereunder, said Siemens & Halske Aktiengesellschaft and Siemens Schuckertwerke Aktiengesellschaft filed on or about December 15, 1937, their annual report on Form 21–K for the fiscal year ended September 30, 1936, and on or about October 29, 1938, their annual report on Form 21–K for the fiscal year ended September 30, 1937; and

That said Rule X–13A–1, promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That said Rule X–13A–2, promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 21–K as the annual report form to be used for the annual reports of nationals of a foreign country, other than a North American country or Cuba, with respect to bonds or other evidences of indebtedness; and

II

That Siemens & Halske Aktiengesellschaft and Siemens Schuckertwerke Aktiengesellschaft have failed to comply with said Section 13 (a) and the rules and regulations promulgated thereunder, in that they have failed to file an annual report containing the information and documents required by said Rule X–13A–1, for the fiscal year ended September 30, 1938, on Form 21–K as prescribed by said Rule X–13A–2; and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of the said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Siemens & Halske Aktiengesellschaft and Siemens Schuckertwerke Aktiengesellschaft have so failed to comply with said Section 13 (a) and said rules and regulations promulgated by the Commission thereunder, and if so whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said 25-year 6½% Sinking Fund Gold Debentures due September 1, 1951, on the Boston Stock Exchange and the New York Stock Exchange;

*It is ordered*, That a hearing be held for such purpose before the officer of the Commission herein designated, beginning on the 15th day of August, 1939, at 10:00 o'clock A. M. in Room 1102, at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continuing thereafter at such times and places as said officer may determine; and

*It is further ordered*, That for the purpose of such proceeding James G. Ewell, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
*Secretary.*

[F. R. Doc. 39–2324; Filed, July 5, 1939; 11:17 a. m.]

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*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 1st day of July, A. D. 1939.

[File 1–2510]

IN THE MATTER OF THE REGISTRATION OF SIEMENS & HALSKE AKTIENGESELLSCHAFT PARTICIPATING DEBENTURES, SERIES A

It appearing to the Commission,

That Siemens & Halske Aktiengesellschaft, a corporation organized under the laws of Germany, is the issuer of Participating Debentures, Series A; and

That said Siemens & Halske Aktiengesellschaft registered such security on the Boston Stock Exchange, a national securities exchange, by filing on or about

March 17, 1936, an application on Form 21 with the said exchange and with the Commission, pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, formerly designated as Rule JB1, promulgated by the Commission thereunder; and

That pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, and Rules X-13A-1 and X-13A-2, formerly designated as Rules KA1 and KA2, respectively, promulgated by the Commission thereunder, said Siemens & Halske Aktiengesellschaft filed on or about December 15, 1937, its annual report on Form 21-K for the fiscal year ended September 30, 1936, and on or about October 29, 1938, its annual report on Form 21-K for the fiscal year ended September 30, 1937; and

That said Rule X-13A-1 did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That said Rule X-13A-2 did and does prescribe Form 21-K as the annual report form to be used for the annual reports of nationals of a foreign country, other than a North American country or Cuba, with respect to bonds or other evidences of indebtedness; and

II

The Commission having reason to believe,

That Siemens & Halske Aktiengesellschaft has failed to comply with said Section 13 (a) and the rules and regulations promulgated thereunder in that it has failed to file an annual report containing the information and documents required by said Rule X-13A-1, for the year ended September 30, 1938, on Form 21-K, as prescribed by Rule X-13A-2; and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of the said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Siemens & Halske Aktiengesellschaft has so failed to comply with said Section 13 (a) and said rules and regulations promulgated by the Commission thereunder, and if so whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Participating Debentures, Series A, on the said Boston Stock Exchange;

*It is ordered,* That a hearing be held for such purpose before the officer of the Commission herein designated, beginning on the 14th day of August, 1939, at 10:00 A. M. in Room 1102, at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., and continuing thereafter at such times and places as said officer may determine; and

*It is further ordered,* That for the purpose of such proceeding, James G. Ewell, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-2323; Filed, July 5, 1939; 11:16 a. m.]

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*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 1st day of July, A. D. 1939.

[File No. 43-228]

IN THE MATTER OF SECURITIES CORPORATION GENERAL

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 July 11, 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 hearing 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 10, 1939.

The matter concerned herewith is in regard to a declaration filed by Securities Corporation General, a subsidiary of a registered holding company, in regard to the extension on a demand basis of two promissory notes, one in the face amount of $50,000 which is due on July 11, 1939, and the other in the face amount of $35,000 which is due on August 23, 1939, both of which are held by the Guaranty Trust Company, New York, and bear interest at the rate of 1¾% per annum.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-2325; Filed, July 5, 1939; 11:17 a. m.]

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*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 5th day of July, A. D. 1939.

[File No. 43-226]

IN THE MATTER OF THE DAKOTA POWER COMPANY, GENERAL PUBLIC ULILITIES, INC.

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 Dakota Power Company, an application pursuant to Section 10 of the Public Utility Holding Company Act of 1935 having been filed with this Commission by General Public Utilities, Inc., and an application pursuant to Rule U-12D-1 having been duly filed with this Commission by General Public Utilities, Inc.;

*It is ordered,* That a hearing on such matters be held on July 19, 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 Charles S. Moore 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 15, 1939.

The matter concerned herewith is in regard to a declaration by The Dakota Power Company, a subsidiary of a registered holding company, pursuant to Section 7 regarding the issue and sale of $675,000 First Mortgage 4¼% serial bonds of which $658,000 are to be sold at par to the Equitable Life Assurance Society of United States and $17,000 to be sold at par to General Public Utilities, Inc., and the issue and sale to General Public Utilities, Inc., at par, $337,000 of 4% Unsecured Notes, due April 1, 1960; and

An application filed by General Public Utilities, Inc., pursuant to the provisions of Section 10 of the Public Utility Holding Company Act of 1935 for the acquisition of $17,000 of the First Mortgage 4¼% serial bonds proposed to be issued by its subsidiary The Dakota Power Company, and acquisition of $337,000 of 4% Unsecured Serial Notes, due April 1, 1960, proposed to be issued by its subsidiary, The Dakota Power Company; and

An application by General Public Utilities, Inc., pursuant to Rule U–12D–1 for the approval of the sale by General Public Utilities, Inc., to The Dakota Power Company of $266,500 of First Mortgage 7% bonds, due September 1, 1943, and $337,000 of 4% Unsecured Notes due April 1, 1956.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
*Secretary.*

[F. R. Doc. 39–2327; Filed, July 5, 1939; 11:49 a. m.]

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## UNITED STATES CIVIL SERVICE COMMISSION.

### CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS FRIDAY, JUNE 30, 1939

*Important.* Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

| State | Number of positions to which entitled | Number of positions occupied |
|---|---|---|
| **IN ARREARS** | | |
| 1. Puerto Rico | 617 | 41 |
| 2. Hawaii | 147 | 17 |
| 3. California | 2,268 | 795 |
| 4. Alaska | 24 | 9 |
| 5. Texas | 2,327 | 919 |
| 6. Louisiana | 840 | 397 |
| 7. Michigan | 1,935 | 916 |
| 8. Arizona | 174 | 88 |
| 9. New Jersey | 1,615 | 863 |
| 10. South Carolina | 695 | 391 |
| 11. Ohio | 2,655 | 1,596 |
| 12. Mississippi | 803 | 487 |
| 13. Oklahoma | 957 | 584 |
| 14. Alabama | 1,057 | 659 |
| 15. New Mexico | 169 | 106 |
| 16. Arkansas | 741 | 469 |
| 17. Georgia | 1,162 | 769 |
| 18. Kentucky | 1,045 | 702 |
| 19. North Carolina | 1,266 | 883 |
| 20. Tennessee | 1,045 | 802 |
| 21. Illinois | 3,049 | 2,352 |
| 22. Wisconsin | 1,174 | 909 |
| 23. Connecticut | 642 | 503 |
| 24. Indiana | 1,294 | 1,132 |
| 25. Delaware | 95 | 84 |
| 26. Oregon | 381 | 341 |
| 27. Nevada | 36 | 33 |
| 28. Florida | 586 | 542 |
| 29. Idaho | 178 | 167 |
| 30. New Hampshire | 186 | 175 |
| 31. Pennsylvania | 3,848 | 3,701 |
| 32. New York | 5,029 | 4,854 |
| 33. Maine | 319 | 313 |
| 34. Massachusetts | 1,698 | 1,688 |
| 35. Utah | 203 | 202 |
| 36. West Virginia | 691 | 690 |
| **QUOTA FILLED** | | |

| State | Number of positions to which entitled | Number of positions occupied | Net gain or loss since July 1, 1938 |
|---|---|---|---|
| **IN EXCESS** | | | |
| 37. Colorado | 414 | 418 | +6 |
| 38. Wyoming | 90 | 91 | +8 |
| 39. Missouri | 1,450 | 1,467 | −55 |
| 40. Vermont | 144 | 146 | −4 |
| 41. Washington | 625 | 635 | +37 |
| 42. Montana | 215 | 231 | −11 |
| 43. Kansas | 751 | 813 | +42 |
| 44. Rhode Island | 275 | 304 | +28 |
| 45. South Dakota | 277 | 310 | +5 |
| 46. North Dakota | 272 | 308 | +40 |
| 47. Minnesota | 1,024 | 1,169 | +52 |
| 48. Iowa | 987 | 1,130 | −13 |
| 49. Nebraska | 550 | 680 | +16 |
| 50. Virginia | 968 | 2,032 | +26 |
| 51. Maryland | 652 | 2,043 | +151 |
| 52. District of Columbia | 194 | 8,883 | +113 |

| | |
|---|---|
| **GAINS** | |
| By appointment | 237 |
| By reinstatement | 6 |
| By transfer | 49 |
| Total | 292 |
| **LOSSES** | |
| By separation | 69 |
| By transfer | 61 |
| By correction | 1 |
| Total | 131 |
| Total Appointments | 49,839 |

NOTE: Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 15,147.

By direction of the Commission:

[SEAL] L. A. MOYER,
*Executive Director and Chief Examiner.*

[F. R. Doc. 39–2321; Filed, July 5, 1939; 10:09 a. m.]