FEDERAL REGISTER

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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[40–Tob–8]

PART 727—PROCEDURE FOR THE DETERMINATION OF FLUE-CURED TOBACCO ACREAGE ALLOTMENTS FOR 1940

CONTENTS

GENERAL

GENERAL

§ 727.211 *Definitions.* As used in this procedure and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject-matter otherwise requires:

(a) *Flue-cured allotment procedure for 1940* means this 40–Tob–1.

(b) *Local committee* means the county and community committee utilized under the Act. "County Committee" or "Community Committee" shall have corresponding meanings in the connection in which they are used.

(c) *New farm* means a farm on which tobacco was not produced in any of the five years 1935 to 1939 but on which tobacco will be produced in 1940.

(d) *Old farm* means a farm on which tobacco was produced in one or more of the five years 1935 to 1939 and on which tobacco will be produced in 1940.

(e) *Operator* means the person who, as owner, landlord, or tenant, is in charge of the supervision and the conduct of the farming operations on the entire farm.

(f) *State committee* means the group of persons so designated within any State to assist in the administration in the State of the Act.

(g) *Tobacco* means tobacco classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as types 11, 12, 13 and 14 and collectively known as flue-cured tobacco.

§ 727.212 *Extent of calculations and rule of fractions.* (a) All percentages shall be calculated to the nearest whole percent. Fractions of more than fifty-one hundredths of one percent shall be rounded upward, and fractions of five-tenths of one percent or less shall be dropped. For example, 87.51% would become 88% and 87.50% would become 87%. (b) All acreages shall be calculated to the nearest one-tenth of an acre. Fractions of more than fifty-one thousandths of an acre shall be rounded upward, and fractions of five-hundredths of an acre or less shall be dropped. For example, 1.051 would become 1.1 and 1.050 would become 1.00.

§ 727.213 *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture shall cause to be prepared and issued with his approval such instructions and such forms as may be necessary or expedient for carrying out this procedure.

§ 727.214 *Applicability of procedure.* This flue-cured allotment procedure for 1940 shall govern the establishment

CONTENTS

RULES, REGULATIONS, ORDERS

NOTICES

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

of farm acreage allotments for flue-cured tobacco for use in connection with the 1940 Agricultural Conservation Program and in connection with farm marketing quotas for flue-cured tobacco for the marketing year therefor beginning July 1, 1940 in the event a national marketing quota is effective for such marketing year.

ESTABLISHMENT OF ALLOTMENTS FOR OLD FARMS

§ 727.215 *Acreage allotments for old farms.* The farm acreage allotment for an old farm shall be that percentage of the normal acreage for the farm which the normal acreages for all old farms in the State is of the State acreage allotment: *Provided,* That if the acreage allotment so determined for any farm (except a farm operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced) is less than the acreage which, with the normal yield for the farm, would produce 3,200 pounds of tobacco, then such acreage allotment shall be increased to the smaller of (a) 120 percent thereof, or (b) that acreage which, with the normal yield for the farm, would produce 3,200 pounds of tobacco.

§ 727.216 *Determination of normal tobacco acreage.* The normal acreage for an old farm shall be the past acreage determined pursuant to section 217 adjusted, if necessary, for land, labor and equipment; crop rotation practices; and the soil and other physical factors affecting the production of tobacco, pursuant to sections 218 and 219.

§ 727.217 *Determination of past tobacco acreage.* The past tobacco acreage for a farm shall be the average acreage of tobacco (harvested and diverted) in the five years 1935 to 1939. The harvested and diverted acreage for a farm shall be determined as follows:

(a) *Harvested acreage.* The harvested acreage for any year shall be the number of acres actually harvested on the farm; except, that if such number of acres was less than 60 percent of the base or usual acreage determined for the farm in connection with the agricultural adjustment or conservation program for such year because of flood, drought, hail or blue mold, or other tobacco plant diseases, the harvested acreage for such year shall be adjusted upward to 70 percent of the base or usual acreage for the farm for such year.

(b) *Diverted acreage.* The diverted acreage for any year shall be the base or usual acreage determined for the farm in connection with the agricultural adjustment or conservation program for such year minus the harvested acreage for such year (as adjusted for abnormal conditions): *Provided,* That the diverted acreage for any year shall not exceed 30 percent of the base or usual acreage.

In cases where the 1939 acreage allotment was the same as the 1938 acreage allotment, the base or usual acreage for 1939 will be the same as for 1938. In cases where the 1939 acreage allotment was determined by adjustment of the 1938 acreage allotment but no determination was made of the accompanying base or usual acreage for 1939, the base or usual acreage for 1939 shall be as shown in the table below:

Size of 1939 allotment	*1939 base or usual acreage*
3.6 acres or more	= acreage obtained by dividing allotment by 70%.
3.5 acres	= 4.9 acres.
3.4 acres	= 4.6 acres.
3.3 acres	= 4.2 acres.
3.2 acres	= 3.8 acres.
3.1 acres	= 3.5 acres.
3.0 acres or less	= acreage obtained by dividing allotment by 90%.

(c) *Subdivided farm.* If land operated as a single farm in any of the five years 1935 to 1939 has since been subdivided into two or more tracts, the base acreage, harvested acreage, and diverted acreage of tobacco for the farm for the respective years in which the land was operated as a single farm shall be apportioned among the tracts in the proportion which the acres of cropland suitable for the production of tobacco on each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year; *Provided,* That if the local committee finds that such apportionment would not be equitable in view of the subsequent production on the farms which include such tracts, it shall make such other apportionment as it determines to be fair and equitable.

§ 727.218 *Adjustment for land, labor, and equipment.* If the past acreage for a farm is higher or lower than the average of the acreages indicated for the farm by land and labor, the local committee shall make such adjustment in the past acreage as it determines will result in a normal acreage for the farm which is reasonable in relation to the acreages indicated for the farm by land, labor and equipment. Such adjustments shall be subject to the following limitations:

(a) The past acreage for any farm shall not be adjusted downward to less than 80 percent of the past acreage unless further adjustment is made pursuant to section 219 or can be made without reducing the acreage below the acreage indicated for the farm by land or by labor.

(b) The past acreage for any farm shall not be adjusted upward to an acreage larger than twice the past acreage for the farm or 4 acres if the past acreage for the farm is less than 2 acres.

(c) The total upward adjustments pursuant to this section shall not exceed the total downward adjustments pursuant to this section and section 219, except as otherwise approved by the State committee.

(d) All adjustments pursuant to this section shall be subject to approval by the State committee.

§ 727.219 *Adjustment for crop rotation practices.* The normal acreage determined pursuant to section 218 shall be adjusted downward, if necessary, so as not to exceed the maximum normal acreage for the farm as shown in the table below:

Acres of cropland in farm	*Maximum normal acreage*
25 acres or more	40 percent of cropland.
20 to 24.9 acres	44 percent of cropland but not over 10 acres.
15 to 19.9 acres	48 percent of cropland but not over 8.8 acres.
10 to 14.9 acres	52 percent of cropland but not over 7.2 acres.
9.9 acres or less	60 percent of cropland but not over 5.2 acres.

In addition to the downward adjustments authorized above, if the harvested acreage of tobacco on any farm in any year of the five years 1935 to 1939 was more than 50 percent above the average acre-

age in the other four years, thus indicating that the acreage for such year was abnormal in view of customary crop rotation practices for the farm, then the local committee, subject to approval of the State committee, shall make such further downward adjustment as is necessary to obtain a fair and reasonable normal acreage for the farm, taking into consideration the customary crop rotation practices for the farm, but in no case shall such adjustment result in a normal acreage which is less than the average acreage in such other four years.

§ 727.220 *Determination of acreages indicated for a farm by land, labor and equipment*—(a) *Acreage indicated by land.* The acreage indicated for a farm by land shall be the number of acres which result from multiplying the land available for the production of tobacco on the farm by the county average percent for land. The land available for the production of tobacco on a farm shall be the number of acres obtained by subtracting from the total acres of cropland in the farm the 1939 commercial crop (other than flue-cured tobacco) acreage for the farm. Such 1939 commercial crop acreage for any farm shall be the sum of (1) the acreage allotments of cash crops (other than flue-cured tobacco) determined for the farm under the 1939 agricultural conservation program (2) the 1939 acreages for the farm of cash crops for which acreage allotments were not determined under such program, and (3) the 1939 acreages of feed crops and the 1939 acreage of cropland devoted to pasture for commercial livestock. The county average percent for land shall be the percent obtained by dividing the land available for the production of tobacco on all tobacco farms in the county into the past tobacco acreage of all such farms.

(b) *Acreage indicated by labor.* (1) The acreage indicated for a farm by labor shall be the number of acres which result from multiplying the labor available for the production of tobacco on the farm by the county average acreage for labor. The labor available for the production of tobacco on a farm shall be the number of families obtained by multiplying the total number of families engaged in the operation of the farm (not exceeding one family for each 15 acres of cropland in the farm) by that percent which the land available for the production of tobacco on the farm is of the total acres of cropland in the farm. The county average acreage for labor shall be the number of acres obtained by dividing the labor available for the production of tobacco on all tobacco farms in the county into the past tobacco acreage for all such farms.

(2) A family means a body of two or more persons who live in one house and under one head. A family shall be considered as engaged in the operation of a farm if the head, and other members of the family who ordinarily take part in farm work are employed full-time in work on the farm. If the head and other members of the family who ordinarily take part in farm work devote their full time to farm work but do so by working part time on two or more farms rather than full time on one farm, such family shall be considered as engaged in the operation of the farm on which more than half of its time is spent in work.

(c) *Acreage indicated by equipment.* (1) The acreage indicated for a farm by equipment shall be the number of acres which result from multiplying the equipment available for the production of tobacco on the farm by the county average percent for equipment. The equipment available for the production of tobacco on any farm shall be the total acreage capacity of the flue-cured tobacco curing barns for the farm which are in suitable condition for the curing of tobacco, except that such acreage capacity shall in no event exceed the largest acreage of tobacco (harvested and diverted) for the farm in any of the five years 1935–1939. The county average percent for equipment shall be that percent obtained by dividing the equipment available for the production of tobacco on all tobacco farms in the county into the past tobacco acreage of all such farms.

(2) The acreage capacity of curing barns of the sizes listed in the table below shall be as shown in such table:

Size of barns	*Average capacity*
16 feet by 16 feet	4
16 feet by 18 feet	5
16 feet by 20 feet	6
20 feet by 20 feet	7

If the barn does not fall within any of the sizes listed in the table above, the local committee shall establish an acreage capacity for such barn, which it determines is reasonable in relation to the acreage capacities of the barns listed in the table. If a curing barn customarily is used for curing tobacco grown on more than one farm, the acreage capacity allowance for the respective farms shall not exceed the proportion of the acreage capacity of the barn which the local committee determines is reasonable in relation to the use of the barn by the farm.

§ 727.221 *Determination of normal yields.* The normal yield for any farm shall be that yield which the local committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during the years 1935 to 1939; (b) the soil and other physical factors affecting production of tobacco on the farm; and (c) the yields obtained on other farms in the locality which are similar with respect to such factors. The weighted average of the normal yields for all farms in each county shall not exceed the yield established for the county by the Secretary on the basis of county yields during the years 1935 to 1939, adjusted for abnormal conditions.

ESTABLISHMENT OF ALLOTMENTS FOR NEW FARMS

§ 727.222 *Determination of farm acreage allotment.* The acreage allotment for a new farm shall be that percentage of the normal acreage for the farm which the normal acreages for all such farms is of the acreage available for allotment to all such farms in the United States.

§ 727.223 *Determination of normal acreages.* (a) The normal acreage for a new farm shall be that acreage which the local committee determines is fair and reasonable for the farm taking into consideration the acreage indicated by the past tobacco experience of the farm operator and by land, labor and equipment: *Provided,* That the normal acreage for any farm shall not exceed whichever of the following acreages is the smallest for the farm:

(1) The acreage capacity of the curing barns on the farm;

(2) The average of (i) the acreage indicated by the past experience of the farm operator and (ii) the smallest of the respective acreages indicated for the farm by land, labor and equipment;

(3) Four acres, if the past tobacco experience of the farm operator is less than two acres

(b) The acreage indicated for a new farm by the past tobacco experience of the farm operator shall be the average acreage of tobacco grown by or for the farm operator in the five years 1935 to 1939.

(c) The acreage indicated for a new farm by land, labor and equipment shall be determined pursuant to section 220.

(d) The normal acreages determined for farms as provided above shall be subject to approval by the State committee.

§ 727.224 *Determination of normal yields.* The normal yield for a new farm shall be that yield per acre which the local committee determines is reasonable for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

§ 727.225 *Time for filing application.* In order to obtain an allotment for a new tobacco farm the operator of the farm shall file an application therefor on 40–Tob–11 "Application for 1940 Allotment—New Flue-cured Tobacco Farm", prior to January 15, 1940.

Done at Washington, D. C., this 31st day of August 1939. Witness my hand and seal of the Department of Agriculture.

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

[F. R. Doc. 39–3213; Filed, September 1, 1939; 10:15 a. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3840]

IN THE MATTER OF SIMMONS COMPANY

§ 3.45 (e) (2) *Discriminating in price—Indirect discrimination—Cumulative discounts.* Discriminating in price, directly or indirectly, in connection with distribution and sale of respondent's products in commerce among the states and in the District of Columbia, between different retailer-purchasers of its products of like grade and quality, by granting, allowing or paying the cumulative discounts of the Simmons Plan, as set forth in Paragraph Four of the findings as to the facts, heretofore granted, allowed and paid by respondent Simmons, or continuing to practice the discriminations in prices adjudged to be unlawful in the aforesaid findings and conclusions [and involving, among other things, as there set forth and found, (a) retroactive payment of discounts, on basis of aggregate annual purchases beginning with $50,000, in amounts ranging from 3 per cent to 5 per cent, contingent upon various discount zones set up, but applicable, where earned, to entire aggregate, and payable both to few single store customers qualifying and to so-called "syndicate heads", purchasing for numbers of concerns or so-called "central organizations" and their plural stores or units, on basis of aggregate purchases of or for such stores or units, which purchases, separately, frequently do not exceed or equal non-eligible purchases of similarly served, competitively operated stores or units of its non-member or non-affiliate customers, and (b) plan under which price differentials entailed do not make only due allowance for differences in cost of manufacture, sale or delivery resulting from differing methods or quantities in which respondent's products are sold or delivered by it to competitively engaged customers, but one under which two individual customer-competitors may buy exactly same quantity of products of like grade and quality during year and pay aggregate prices therefor varying almost as much as $2,500, and under which discrimination is not only between customers of respondent who qualify and those who do not, and between its customers and those of others, but between customers favored in various degrees by aforesaid plan, and result of which may lessen competition between it and its competitors, between its favored customers and others, and between customers of competitors who do not grant such discriminatory prices and its own thus favored customers, and with tendency to create monopoly in it in line of commerce involved, and injure, destroy or prevent competition with it, and competition with its thus favored retailer customers]; and discriminating in price, directly or indirectly, by granting, allowing or paying, directly or indirectly, to any of respondent's customers, whether individual customers, central organizations or syndicate heads, as said customers are defined in the aforesaid findings, any cumulative or retroactive quantity discounts either under the aforesaid Simmons Plan or any plan or method like or similar thereto making provision for the granting, allowing or paying of cumulative or retroactive quantity discounts; prohibited. (Sec. 2 (a), 49 Stat. 1526; 15 U.S.C., Supp. IV, sec. 13 (a)) [Cease and desist order, Simmons Company, Docket 3840, August 25, 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 25th day of August, 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 by the Federal Trade Commission upon the complaint of the Commission, and the answer of the respondent Simmons Company (hereinafter referred to as "Simmons") by which Simmons admits all the material allegations of fact set forth in said complaint and waives the taking of testimony and all other intervening procedure herein and further hearing as to said facts, and the Commission being of the opinion upon the facts so admitted that Simmons has violated and is violating the provisions of subsection (a) of Section 2 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes (the Clayton Act) as amended, and having made its report stating its findings as to the facts,

It is ordered, That Simmons, its officers, representatives, agents and employees, in connection with the distribution and sale of its products in commerce between the several states of the United States and in the District of Columbia, do forthwith cease and desist from:

(a) Discriminating in price, directly or indirectly, between different retailer purchasers of its products of like grade and quality by granting, allowing or paying the cumulative discounts of the Simmons Plan, as set forth in Paragraph Four of said findings as to the facts, heretofore granted, allowed and paid by Simmons;

(b) Continuing to practice the discriminations in prices adjudged to be unlawful in the aforesaid findings and conclusions; and

(c) Discriminating in price, directly or indirectly, by granting, allowing or paying, directly or indirectly, to any of its customers, whether individual customers, central organizations or syndicate heads, as said customers are defined in the aforesaid findings, any cumulative or retroactive quantity discounts either under the aforesaid Simmons Plan or any plan or method like or similar thereto making provision for the granting, allowing or paying of cumulative or retroactive quantity discounts.

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

By the Commission.

[SEAL] A. N. ROSS,
Acting Secretary.

[F. R. Doc. 39-3219; Filed, September 1, 1939; 12:34 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4932]

ESTATE TAX

CREDIT FOR ESTATE, INHERITANCE, LEGACY, OR SUCCESSION TAXES

To Collectors of Internal Revenue and Others Concerned:

In order to conform Regulations 80[1] (Part 80, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code (53 Stat., Part 1) by Treasury Decision 4885, approved February 11, 1939 (Part 465, Subpart B, Title 26, Code of Federal Regulations) to the Revenue Act of 1939 (53 Stat. 862), such regulations are amended as follows:

1. Insert immediately preceding article 9 (a) (section 80.9 (a) of such Title 26):

SEC. 403. REVENUE ACT OF 1939.

(a) Section 813 (b) of the Internal Revenue Code (relating to the 80 per centum credit for estate, legacy, succession, and inheritance taxes paid) is amended by inserting after "District of Columbia," the following: "or any possession of the United States,".

(b) The amendment made by subsection (a) shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

2. (a) Insert immediately following the first sentence of article 9 (b) (section 80.9 (b), Title 26, Code of Federal Regulations):

"If the decedent died after June 29, 1939, the credit against the basic Federal estate tax, is, under the same conditions, authorized by section 813 (b) of the Internal Revenue Code, as amended by section 403 of the Revenue Act of 1939, for estate, inheritance, legacy, or succession taxes paid to any State or Territory, the

[1] 2 F.R. 2324.

District of Columbia, or any possession of the United States."

(b) Insert immediately after the comma following the word "Territory" in the first and fourth paragraphs of article 9 (b), the words "possession of the United States" followed by a comma.

(c) Insert immediately after "District of Columbia" in the second paragraph of article 9 (b):

"(or, if the decedent died after June 29, 1939, to any possession of the United States)."

(d) Insert immediately after the word "Territory" in the sixth paragraph of article 9 (b) the words "or possesion of the United States."

3. Insert in the seventh paragraph of article 82 (b) (section 80.82, Title 26, Code of Federal Regulations) after the comma following the word "Territories" the words "or possessions of the United States" followed by a comma.

(This Treasury decision is prescribed pursuant to section 813 (b) of the Internal Revenue Code (53 Stat., Part 1), as amended by section 403 of the Revenue Act of 1939 (53 Stat. 862), and section 3791 (a) of the Internal Revenue Code.)

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

Approved, August 30, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-3210; Filed, August 31, 1939; 3:40 p. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

AMENDMENT OF HOSIERY MINIMUM WAGE ORDER UNDER THE FAIR LABOR STANDARDS ACT OF 1938

For the purpose of clarifying the hosiery minimum wage order, issued by this Division on August 18, 1939,[1] it is hereby ordered that paragraph (1) of said minimum wage order be amended by adding new sub-paragraphs (c) and (e) and designating the former sub-paragraphs (c) and (d), sub-paragraphs (d) and (f) respectively, so that the amended paragraph (1) of the order shall read as follows:

(1) The Committee's recommendation is hereby approved and, in accordance with such recommendation,

(a) Wages at a rate not less than 32½ cents an hour shall be paid under Section 6 of the Act by every employer to each of his employees in the seamless branch of the hosiery industry who is engaged in commerce or in the production of goods for commerce; and

(b) Wages at a rate not less than 40 cents an hour shall be paid under Section 6 of the Act by every employer to each of his employees in the full-fashioned branch of the hosiery industry who is engaged in commerce or in the production of goods for commerce; and

(c) An employee covered by the terms of both paragraphs (a) and (b) above shall be paid wages at a rate not less than 32½ cents an hour in any plant in which 50 percent or more of the volume of hosiery produced is seamless hosiery if a reasonable employer could not by managerial methods limit the employee's work to the full-fashioned branch of the hosiery industry; otherwise such employee shall be paid wages at a rate not less than 40 cents an hour; and

(d) Every plant employing any employees engaged in commerce or in the production of goods for commerce in the seamless or full-fashioned branches of the hosiery industry shall post and keep posted in a conspicuous place in every department of such plant where such employees are working such notices of this order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor; and

(e) This order shall not apply to employees engaged exclusively in the manufacture of boxes, provided that the plant completely manufactures its boxes and does not merely assemble prefabricated boxes; and

(f) This order shall become effective on September 18, 1939.

The full text of the amended hosiery minimum wage order may be had upon request addressed to the Wage and Hour Division, Washington, D. C.

Signed at Washington, D. C., the 1st day of September 1939.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 39-3220; Filed, September 1, 1939; 1:10 p. m.]

TITLE 34—NAVY

DEPARTMENT OF THE NAVY

MARINE CORPS MANUAL AMENDMENT

APPOINTMENTS FROM CIVIL LIFE

§ 7.11 * * *[1]

(b) The number of appointments from civil life is limited by the vacancies remaining after appointments are made from the Naval Academy and ranks. Appointees from civil life must be more than 20 but less than 25 years of age on appointment. They are selected from: (a) Honor graduates of the Platoon Leaders' Class, Marine Corps Reserve; (b) commissioned officers of the Marine Corps Reserve; (c) aviation cadets who are student aviators, such cadets to be commissioned when and if designated naval aviators, and (d) graduates of approved colleges and universities having Navy or Army ROTC courses. Persons in the Reserve will be separated therefrom prior to appointment.

[SEAL] W. B. WOODSON,
Judge Advocate General of the Navy.

[F. R. Doc. 39-3211; Filed, September 1, 1939; 9:37 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

REVISION OF REGULATIONS

REINSTATEMENT OF UNITED STATES GOVERNMENT LIFE INSURANCE

Health Requirements

§ 3.3079 United States Government life insurance may be reinstated:

(A) Within three calendar months including the calendar month for which the unpaid premium was due, provided the applicant is in as good health as he was at the due date of the premium in default, and the application and tender of premiums are made within the said three months.

(B) After the expiration of the three calendar months mentioned in clause (a) provided the applicant is in good health. (September 11, 1939) (43 Stat. 624; 38 U.S.C. 512)

Application and Medical Evidence

§ 3.3080 The applicant for reinstatement of United States Government life insurance must furnish during his lifetime, and before becoming totally and permanently disabled, and within the three calendar months including the calendar month for which the unpaid premium was due, a written application signed by him which shall state that he is in as good health as at date of lapse, or after the expiration of the three calendar months, a written application signed by him that he is in good health, in accordance with the requirements of the particular case; and in addition the applicant shall furnish such evidence relative to his physical condition as may be required by the Administrator of Veterans Affairs, and on such forms as may be prescribed: *Provided*, That if the insurance becomes a claim after tender of the amount of the premiums required but before full compliance with the requirements of this section, and the applicant was in the required state of health at the date that he made the tender of the amount of premiums, and

[1] 4 F.R. 3680 DI.

[1] This article, which became effective December 20, 1938, was promulgated by the Major General Commandant, United States Marine Corps, and approved by the Secretary of the Navy, acting under the authority conferred upon them by Article 74 (9), U. S. Navy Regulations, 1920, which regulations were promulgated by the Secretary of the Navy, and approved by the President, acting under the authority conferred upon them by Section 1547 of the Revised Statutes (34 U.S.C. 591). This article supersedes that bearing a like number (old number 6.21), Title 34, CFR.

that there is a satisfactory reason for his noncompliance, the Administrator may, if the applicant be dead, waive any or all of the requirements of this section, or, if the applicant be living, allow compliance with this section as of the date the required amount of premiums was received by the Veterans Administration. (September 11, 1939) (43 Stat. 624; 38 U.S.C. 512)

LOANS

Rate of Interest on Policy Loans on and After July 19, 1939

§ 3.3102 Section 7 of Public No. 198, 76th Congress, 1st Session, Approved July 19, 1939, is quoted as follows:

"On and after the date of enactment of this Act, the rate of interest charged on any loan secured by a lien on United States Government life (converted) insurance shall not exceed 5 per centum per annum."

On and after July 19, 1939, the interest on all policy loans then outstanding or thereafter granted will be at the rate of 5 per centum per annum. (July 19, 1939)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 39-3209; Filed, August 31, 1939; 3:23 p. m.]

TITLE 41—PUBLIC CONTRACTS

DIVISION OF PUBLIC CONTRACTS

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE FERTILIZER INDUSTRY

This matter is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. Sup. III 35), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", (hereinafter called the Act). The Public Contracts Board, created in accordance with Section 4 of the Act by Administrative Order dated October 6, 1936, held a hearing on January 26, 1939, in the above entitled matter.

Notice of this hearing was sent to all known members of the industry, to trade unions, to trade publications, and to trade associations in the field. Invitation to attend the hearing was extended through the national press to all other interested parties.

Appearances were entered and testimony was presented at the hearing by both representatives of industry and labor. A survey of the average hourly earnings in the fertilizer industry in 1938, prepared by the Division of Wage and Hour Statistics, Bureau of Labor Statistics, was received in evidence.

On the basis of the record, the Board made its findings and recommended that the Secretary find the prevailing minimum wage in the industry to be 40 cents an hour, or $16.00 per week of forty hours, for the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Ohio, Indiana, Michigan, Wisconsin, Illinois, Missouri, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, and the District of Columbia; 50 cents an hour, or $20.00 per week of forty hours, for the States of New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington; 30 cents an hour, or $12.00 per week of forty hours, for the States of Virginia, Tennessee, and Kentucky; and 25 cents an hour, or $10.00 per week of forty hours, for the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma and Texas.

On May 29, 1939, the Administrator, Division of Public Contracts, circularized the Board's findings and recommendations in order that all parties might have full opportunity to register their objection or approval before a decision in this matter was made by the Secretary of Labor.

Several protests were received from companies and individuals operating factories in Southern Delaware and the Eastern Shore of Maryland, objecting to the Board's recommendations that these localities be included with the Northern States. These objections alleged that the Eastern Shore of Maryland and Southern Delaware have a lower prevailing wage structure than western Maryland and northern Delaware, and that the wage structure was more similar to that of the States of Virginia, Tennessee, and Kentucky.

A brief protesting against the Board's recommendations was also received from District 50, United Mine Workers of America. This brief alleged in part that the Board had failed to give adequate weight to the fact that the companies primarily doing business with the Government are the larger companies in the industry and have a substantially higher wage scale than the small companies; that the wage differentials recommended for the various groups of States were not warranted; that the methods used in finding the prevailing minimum wage for the individual groups of States were not consistent; that the Board had failed to consider adequately the wages paid to the skilled and semi-skilled workers in the industry in making its findings and recommendations; and that the findings and recommendations of the Board do not constitute findings and recommendations of the prevailing minimum wage in the industry.

In determining the prevailing minimum wage for an industry, the wages paid by both large and small companies must be considered; it was therefore proper for the Board to give appropriate weight to the wages paid by the small companies. The allegation that one minimum wage rate prevails throughout the industry is not supported by the evidence of record.

The Census of Manufactures for 1937 shows that the fertilizer industry had in that year an average of 20,893 wage earners. The evidence of record shows that at the peak of seasonal production the industry provides employment for considerably more workers.

The survey made by the Bureau of Labor Statistics covered 283 establishments employing 15,657 wage earners and appears to show adequately the wage structure prevailing in the industry. This survey shows that throughout the Northern States the same general wage structure is prevailing. The wage structure midway between the North and South is lower than in the Northern States, but higher than in the States further south. In the Southern States the wages are uniformly lower than in the Northern States or in the upper South. In the West the wage level is higher than it is in the East.

Approximately four-fifths of the workers included in the survey were classified as unskilled, and in this classification are found the workers receiving the minimum wage in the industry.

In the North the evidence shows that at the single wage rate of 40 cents an hour there occurs a pronounced concentration of unskilled workers to whom this rate is paid. Of the unskilled workers in this locality, 429 or 16.8 percent receive the 40-cent rate. Employees receiving less than 40 cents an hour are scattered at intervals without any marked concentration. There are larger concentrations of workers in higher 5-cent intervals, but these do not show the prevailing minimum wage. The United Mine Workers of America alleged that the 40-cent minimum wage as recommended does not constitute the prevailing minimum wage for the group of States in the North. The fact that there is such a marked concentration of minimum wage employees at the single rate of 40 cents an hour justifies the Board's findings and recommendations of the prevailing minimum wage for the Northern States.

In the upper South there are substantial concentrations occurring at the single wage rates of 25, 30, 35, and 40 cents an hour. In this locality, 12.7 percent of the workers receive 25 cents an hour, 13.7 percent receive 30 cents an hour, 11 percent receive 35 cents an hour, and 40.5 percent receive 40 cents an hour. It is apparent that the lower rates are more expressive of the general minimum wage practice in these States. The 30-cent rate is paid to a somewhat larger number of workers than the 25-cent or 35-cent rates, and

a weighted average of the three rates shows 29.8 cents an hour. The Board's recommendation that I find 30 cents an hour to be the prevailing minimum wage for these States appears to be proper. I have considered the evidence of record and the objections filed regarding the recommendations of the Board concerning Southern Delaware and the Eastern Shore of Maryland, and I find that the prevailing minimum wage is the same as that for the States of Virginia, Tennessee, and Kentucky.

The United Mine Workers of America alleged that the recommendation of the Board that I find 30 cents an hour to be the prevailing minimum wage for the upper South disregards the wages paid to the largest number of unskilled workers in the upper South. It is true that the Board did select the 30-cent minimum on the basis of its being the weighted average of the unskilled workers receiving 25, 30, and 35 cents an hour, although a large number of employees receive 40 cents an hour in these States. The large number of employees receiving less than 40 cents an hour prevents the conclusion that 40 cents is the prevailing minimum wage. In view of the number of workers receiving 25 cents an hour and since 26.4 percent of the workers receive 30 cents an hour or less, I cannot find that the Board's recommendation of 30 cents an hour is improper.

In the Southern States, the single rate of 25 cents an hour predominates. At this point approximately 40 percent of all unskilled workers are found. Although the survey shows that a substantial number of the unskilled workers in this locality received less than 25 cents an hour at the time the survey was made, it is recognized that this survey was made prior to the time the Fair Labor Standards Act became effective, and it appears that the 25-cent rate for the South constitutes the prevailing minimum wage in this locality.

In view of the fact that the minimum wage required to be paid by employers subject to Section 6 of the Fair Labor Standards Act of 1938, on and after October 24, 1939, will be 30 cents an hour or $12.00 per week of forty hours, opportunity will then be given to members of the industry to show why this determination should not be modified to conform to the rate required by the Fair Labor Standards Act for the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas.

The record does not show any marked concentration of workers at any single wage rate in the Western States. At the wage interval of 47.5 and under 52.5 cents an hour are found 20.6 percent of the workers covered by the survey. The Board has recommended that I find the prevailing minimum wage for this locality to be the midpoint of this wage interval, or 50 cents an hour. It appears that this recommendation is supported by the record.

The United Mine Workers of America have objected to the Board's recommendation of a 50-cent minimum for the Western States because only 20.6 percent of the workers fall in the wage bracket between 47.5 to 52.5 cents, while 70 percent of the employees receive 50 cents an hour or more. The union contends that under these circumstances the prevailing minimum must be higher than 50 cents an hour. In view of the substantial percentage of workers earning 50 cents or less, the Board appears to be justified in its recommendation of a 50-cent minimum.

I have considered the findings and recommendations of the Board, together with the briefs and objections filed, and in the light of these facts

I hereby determine the prevailing minimum wage for employees engaged in the performance of contracts with agencies of the United States Government, subject to the provisions of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. Sup. III 35), for the manufacture or supply of superphosphates and concentrated superphosphates; and for the manufacture or mixing of concentrated fertilizer from superphosphates, potash and ammoniates, to be the amount indicated for each of the following groups of States, whether arrived at upon a time or piece work basis:

For the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware (except Kent and Sussex Counties), Maryland (except the Eastern Shore), West Virginia, Ohio, Indiana, Michigan, Wisconsin, Illinois, Missouri, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, and the District of Columbia, 40 cents an hour or $16.00 per week of forty hours.

For the States of New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington, 50 cents an hour, or $20.00 per week of forty hours.

For Kent and Sussex Counties of Delaware, the Eastern Shore of Maryland, Virginia, Tennessee, and Kentucky, 30 cents an hour, or $12.00 per week of forty hours.

For the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas, 25 cents an hour, or $10.00 per week of forty hours.

This determination shall be effective and the minimum wages hereby established shall apply to all such contracts, bids for which are solicited on or after September 12, 1939.

[SEAL] FRANCES PERKINS,
Secretary of Labor.

Dated, August 15, 1939.

[F. R. Doc. 39-3218; Filed, September 1, 1939; 12:17 p. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

PARALLEL REFERENCE TABLE TO RULES OF THE FEDERAL COMMUNICATIONS COMMISSION

Correction

Attention is directed to errors in Parallel Reference Table appearing in the August 4, 1939 issue of the FEDERAL REGISTER, [1] which have been corrected to read as follows:

PART 10—RULES GOVERNING EMERGENCY RADIO SERVICES

Part 10 *New Sec. Nos.*	*Chapter X* *Old Sec. Nos.*
10.21–10.24	111.01–111.04
10.121–10.126	112.01–112.06

PART 71—MISCELLANEOUS RULES AND REGULATIONS

Part 71 *New Sec. Nos.*	*Chapter XXVIII* *Old Sec. Nos.*
71.51–71.52	500.50–500.51

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-3212; Filed, September 1, 1939; 9:54 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Division of Marketing and Marketing Agreements.

[Docket No. A-108 O-108]

NOTICE OF HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

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,[2] 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 October 11, 1935, effective on and after October 15, 1935, regulating the handling of walnuts grown in California, Oregon, and Washington; and

[1] 4 F.R. 3525 DI.
[2] 1 F.R. 155.

Whereas, certain agreements amending the aforesaid marketing agreement have been executed by the Secretary, and the Secretary has issued certain amendments to the aforesaid order; and

Whereas, the Secretary has reason to believe that the execution of certain additional amendments to the aforesaid marketing agreement, as amended, and the issuance of certain additional amendments to the aforesaid order, as amended, will tend to effectuate the declared policy of the act with respect to the handling of walnuts grown in California, Oregon, and Washington:

Now, therefore, pursuant to the said act and the said General Regulations, notice is hereby given of a hearing to be held on certain proposed amendments to the marketing agreement, as amended, and certain proposed amendments to the order, as amended, regulating the handling of walnuts grown in California, Oregon, and Washington; and said hearing is to be held in the Comstock Room, Palace Hotel, San Francisco, California, on September 6, 1939, at 9:30 a. m., P. s. t.

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, as amended, and order, as amended, and as to the specific provisions which said proposed amendments to the marketing agreement, as amended, and order, as amended, should contain.

The proposed amendments to the marketing agreement, as amended, and the proposed amendments to the order, as amended, provide, in similar terms, that: (a) the salable percentage for the crop year September 1, 1939, to August 31, 1940, shall be sixty (60) percent; (b) the surplus percentage for the crop year ending August 31, 1940, shall be forty (40) percent; and (c) "Exhibit A" of the aforesaid marketing agreement, as amended, and order, as amended, shall be further amended in the respects stated in said proposed amendments.

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

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

Dated, September 1, 1939.

[F. R. Doc. 39-3216; Filed, September 1, 1939; 11:57 a. m.]

DEPARTMENT OF LABOR.

Division of Public Contracts.

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE SURGICAL DRESSINGS INDUSTRY

NOTICE OF HEARING

The Public Contracts Board will hold a hearing in Room 3229, Department of Labor Building, Washington, D. C., at 10 a. m. on Wednesday, September 13, 1939, to take testimony upon which findings of fact will be made to assist the Secretary of Labor in determining, pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036; 41 U.S.C. Sup. III 35) the prevailing minimum wages in the Surgical Dressings Industry. The Surgical Dressings Industry shall be understood to be that industry engaged in the manufacture of surgical cotton, adhesive and medicated plasters, and the conversion of bleached (and tentered) gauze to absorbent surgical gauze, gauze bandages, gauze sponges and pads, and related gauze or gauze and cotton dressings. It shall also include the manufacture as well as the assembling of first-aid kits and packets.

At the hearing an opportunity to be heard, either in person or by duly appointed representatives, will be given to persons engaged in the above-named industry, either as employers or as employees, to groups of such persons, and to others within the discretion of the Board. Briefs or telegraphic communications may be filed, but they should be received by the Board on or before the hearing date. Employers appearing in person, or by representatives, or presenting briefs, should furnish the Board with the following essential data:

(1) Name of firm.
(2) Plant address.
(3) Total number of employees in plant.
(4) Number of male employees.
(5) Number of female employees.
(6) Classification of employees by occupations, including number engaged in each operation.
(7) Hourly wages in each operation with designation of applicable time period.
(8) If paid on piece work basis, weekly earnings in each class of employees.
(9) Hours worked per week.

This outline of suggested data is not meant to exclude the submission of any other pertinent information which an employer may desire to submit.

Employees appearing at the hearing, either in person or by their representatives, or submitting briefs, should acquaint the Board with facts as to the wages now being paid in the industry.

[SEAL] WM. R. MCCOMB,
Acting Administrator.

Dated August 30, 1939.

[F. R. Doc. 39-3217; Filed, September 1, 1939; 12:17 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of August, A. D. 1939.

[File No. 44-30]

IN THE MATTER OF CHARLES TRUE ADAMS, TRUSTEE OF THE ESTATE OF UTILITIES POWER & LIGHT CORPORATION, DEBTOR AND CENTRAL STATES POWER & LIGHT CORPORATION

ORDER APPROVING ACQUISITION OF BONDS

Charles True Adams, Trustee of the Estate of Utilities Power & Light Corporation, Debtor, a registered holding company, and its subsidiary, Central States Power & Light Corporation, also a registered holding company, having filed a joint application pursuant to Rule U-12C-1 for approval of the acquisition by Central States Power & Light Corporation of $1,264,000 principal amount of its outstanding First Mortgage and First Lien Gold Bonds, 5½% Series due 1953, from F. B. McCurdy of Halifax, Nova Scotia, Canada. Such bonds are to be acquired under an agreement dated as of January 31, 1939, in connection with the sale to McCurdy of the securities in their Canadian subsidiaries held by Central States Power & Light Corporation and by the estate of Utilities Power & Light Corporation and its subsidiary, Utilities Power & Light Corporation Limited.

The application, as amended, having also requested this Commission to retain jurisdiction over the present matter for the purpose of passing upon the acquisition of such additional bonds of Central States Power & Light Corporation as may be acquired by use of the net proceeds of the sale to be on deposit with the indenture trustee;

A public hearing having been held on the application, as amended, after appropriate notice;[1] prior to the entry of the Commission's findings and opinion, and order herein, the applicants and

[1] 4 F.R. 3363 DI.

intervener having waived a Trial Examiner's report, the right to submit findings of fact to the Commission and to have submitted to them proposed findings of fact, the right to oral argument before the Commission, and the right to file briefs; the Commission having considered the record in this matter and having made and filed its findings and opinion herein;

It is ordered, That said application pursuant to Rule U–12C–1 be granted, subject, however, to the following terms and conditions:

(1) That the proposed transaction be executed for the purposes and in the manner represented by the application and amendments thereto; and

(2) That the applicants file with this Commission a Certificate of Notification, within ten days after the closing of the agreement, as defined therein, stating that the transaction has been consummated in accordance with the terms and conditions of the order of this Commission.

It is further ordered, That the record and hearing in this matter remain open and leave is granted to applicants to file such amendments to the application herein as may be necessary to enable this Commission to pass upon the acquisition by Central States Power & Light Corporation of its outstanding bonds with the net proceeds of the sale to be on deposit with the indenture trustee.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–3214; Filed, September 1, 1939; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of August, A. D. 1939.

[File No. 56–50]

IN THE MATTER OF AMERICAN UTILITIES SERVICE CORPORATION

ORDER APPROVING APPLICATIONS

American Utilities Service Corporation, a registered holding company, having filed an application pursuant to Section 12 (d) of the Public Utility Holding Company Act of 1935 regarding the sale to Edwin H. Hansen of all of the securities of Peninsular Utilities Company, consisting of 2,000 shares of no-par value common stock and an unsecured 6% promissory note dated November 1, 1935, due November 1, 1965, in the original principal amount of $177,000 of which $174,023.44 remains unpaid, and having filed an application pursuant to Section 10 (a) of the Act regarding the acquisition of notes in the total amount of $16,625 as part payment for said securities;

A public hearing having been held on said applications after appropriate notice; [1] the record in this matter having been duly considered; and the Commission having made and filed its findings herein;

It is ordered, That said applications be approved subject to the conditions that

(1) the sale of the securities and the acquisition of the notes will be effected in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended, and

(2) within 10 days after the sale of such securities and acquisition of such notes the applicant shall file with this Commission a certificate of notification that such sale and acquisition have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–3215; Filed, September 1, 1939; 10:51 a. m.]

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[1] 4 F.R. 3435 DI.