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Washington, Saturday, April 13, 1940

The President

EXECUTIVE ORDER

AMENDING THE EXECUTIVE ORDER OF JANUARY 17, 1873, TO PERMIT EMPLOYEES OF THE FEDERAL GOVERNMENT TO HOLD CERTAIN POSITIONS IN THE SCHOOLS AND UNIVERSITIES OF ANY STATE, TERRITORY, OR MUNICIPALITY

By virtue of the authority vested in me by section 1753 of the Revised Statutes of the United States (U.S.C., title 5, sec. 631), and as President of the United States, the Executive order of January 17, 1873, as amended, prohibiting, with certain exceptions, Federal officers and employees from holding state, territorial, and municipal offices, is hereby further amended so as to permit officers and employees of the Federal Government to hold positions as teachers or instructors in any state, territorial, or municipal school or university: *Provided*, that their holding of such positions shall not in any manner interfere or conflict with the performance of their duties during their regular hours of duty as officers or employees of the Federal Government.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 11, 1940.

[No. 8390]

[F. R. Doc. 40-1483; Filed, April 12, 1940; 11:03 a. m.]

Rules, Regulations, Orders

TITLE 24—HOUSING CREDIT

CHAPTER VI—UNITED STATES HOUSING AUTHORITY

PART 644—SELECTING A METHOD OF HEATING

Sec.
644.0 Scope and content.
644.1 Determining a heating method.
644.2 Factors affecting choice.
644.3 Types of systems.

§ 644.0 *Scope and content.* Heating systems for low-rent housing involve a variety of considerations, with one basic purpose—*the provision of suitable heating at the least possible cost.* The USHA cannot, under the Act, make loans or annual contributions on any USHA-aided project which is not undertaken in such a manner that (a) the project "will not be of elaborate or expensive design or materials" and (b) "economy will be promoted both in construction and administration" thereof. The Act further requires that rents (including the cost of heating) shall be within the financial reach of families of low income. Since the heating expense may represent a very material portion of the total rent, or total expenditure for rent and household operation, economy in operating expense of the heating system is essential. This Part sets forth determination of a heating method, factors affecting choice, and types of systems.*† [Introduction]

§ 644.1 *Determining a heating method.* The individual tenant-operated heating unit should always be given consideration and, under conditions favorable to its use, this type should be the first tentative selection. As compared with the project-operated group or central plant, the individual tenant-operated unit has the following definite advantages:

(a) The responsibility for fuel consumption is placed squarely on the tenant. It is obvious that when he pays directly for the fuel consumed, he will not be wasteful in his use of heat and will adjust it to his actual needs.

(b) Tenant operation is substituted for the paid labor of others.

(c) Simple, small individual plants are likely to be lower in first cost than large, frequently complex, project-operated plants. Under favorable climatic and fuel conditions the small heating units are likely to cost the tenant less in operating and maintenance expenses.

*§§ 644.0 to 644.3, inclusive, issued under the authority contained in sec. 8, 50 Stat. 891, 42 U.S.C., Sup. IV, 1408.

†The source of §§ 644.0 to 644.3, inclusive, is Bulletin No. 20, as revised, July, 1939.

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FEDERAL REGISTER

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There are conditions, however, under which consideration must be given to the project-operated plant. In such cases, its capital cost and annual expense should be estimated and compared with the individual plant costs, and the advantages and disadvantages of the two types should be compared and weighed before a definite decision is made. For example, flats and apartments do not lend themselves readily to individual tenant-operated plants except when gas is available at a low rate. In very cold climates with a long heating season the more efficient performance of the larger project-operated plant may result in definitely lower operating expense. The project-operated plant or plants may have a distinct advantage in the anthracite regions since such plants may often be operated with the smaller sizes of anthracite coal available locally in large quantities, whereas individual units may require the larger, more expensive sizes. The types of fuel available, possible methods of fuel purchase and distribution, the cost of project labor contingent upon different types of fuel, and other factors must be analyzed before making a final decision. For purposes of general consideration the country may be roughly divided into three heating zones. In the warmest of these, Zone 1, no heat other than that produced by the cooking stove should be needed. A water-heater may be provided in conjunction with the stove, or a separate water tank may be provided in the bathroom. In the next cooler area, Zone 2, a space heater in the living room should usually be sufficient and, except under unusual conditions, no consideration need be given to the project-operated plant. For two-story row houses, the space heater may be supplemented by a simple duct arrangement to direct the flow of heated air to the second floor. In Zone 3, the most northerly, where a living room space heater may not be sufficient, various methods of heating may be considered and carefully compared. Preference, however, can generally be given to tenant-operated heating units except when analysis shows that costs strongly favor the project-operated plant. Because of the technical considerations involved it is usually important to have the services of a qualified heating engineer in the preparation of this analysis, and in the final choice and the design of the heating system. An initial investment in qualified technical advice may pay for itself many times over in more accurate and dependable operating and maintenance estimates, greater speed in the preparation of working drawings, and greater operating economy and efficiency.*† [Par. I]

§ 644.2 *Factors affecting choice.* In selecting the heating system, the following factors are to be considered by the local authority:

(a) Desirability of tenant responsibility.

(b) Initial cost and its effect on annual expense: The comparative initial costs of providing space and chimneys for the individual dwelling heating unit or the project boiler plant or plants must not be forgotten.

(c) Annual expense, including maintenance repairs and replacements: The choice of fuel used for domestic water-heating and the use of the same fuel for other purposes may affect this item.

(d) Effect on site and building plan: The choice of tenant-operated heating units requiring delivery of fuel to the individual dwellings may control the lay-out of service drives, and consequently influence the cost of utilities. Similarly, the requirements of economical distribution for the project-operated plant may influence the layout of buildings.

(e) Continued availability of fuel and probable trend of its price.

(f) Local practice, acceptability, and availability.

(g) Climate.

(h) Labor rates and related factors.

(i) Safety and cleanliness of operation.

(j) Rate of obsolescence.

(k) Effect on insurance rate.

Some of these factors relate to the type of system, some to the fuel, some to both. There may be other factors in particular cases.*† [Par. II]

§ 644.3 *Types of systems.* In the selection and design of the heating system consideration should be given to the fact that a continuous temperature of 70° F. in all rooms is not considered an absolute essential for health and comfort. Since outside design temperatures are reached for comparatively short periods of time during the average heating season, a temperature range (inside room temperature minus outside design temperature) 5° to 10° F. lower than that generally accepted for the locality may be used in calculating heat losses. For example, in cities where there is a generally accepted design temperature of 0° F., the project design range can be reduced (from 0° to 70° F.) to + 5° to 65° F. Local conditions must be considered carefully before reductions in the accepted range are established. Consideration should also be given to the characteristics of fuels which affect the feasibility of a particular method of heating. Among these are:

Coal requires storage space and means for ash disposal, and this may restrict its use for individual dwelling unit plants above the first floor.

Gas involves no storage or handling difficulties and, when low enough in price, makes the individual unit available for any type of dwelling. One hundred percent check metering may be necessary, however, to insure economical operation and the initial costs and operating expense of individual gas-fired units with check metering should be weighed against the costs of an automatic project-operated gas-fired system.

Oil requires storage space. For the individual plant, a 50-gallon drum which is set on a stand outside the kitchen door, may be provided.

(a) *Individual tenant-operated unit.* In Zone 2 and frequently in Zone 3, this should be the favored type. In climates

more favorable to the project-operated plant, the comparative economy of total fuel expense and the difficulties of fuel storage and handling must be considered. The common types of individual units and characteristics which affect their use are:

(1) *Fireplace or circulator.* When cold weather is occasional and not severe this is the only method of heating which is justified. Fireplaces may be the ordinary masonry type or may have a metal chamber to permit the warming and circulating of air, and may have ducts to other rooms. Circulators may burn any fuel depending upon local practice, availability, cost, and storage and handling facilities.

(2) *Stove.* This type does not permit uniform heat distribution or temperature control but may be considered generally suitable in Zone 1, and wherever very low cost and very low rent are the aims.

(3) *Gravity warm air.* This type is low in first cost, and requires a minimum of maintenance and adjustment. Basement space is required. The pipeless variety is very low in first cost, but only partially effective in distribution. More effective distribution may be obtained by the use of ducts.

(4) *Forced warm air.* Distribution is very effective in this type. No basement is required, and when it is gas or oil fired, very little space is necessary.

(5) *One pipe steam with radiators.* This type is slightly higher in cost than gravity warm air and requires basement space.

(6) *Hot water.* This type is slightly higher in first cost than one pipe steam and is very satisfactory in operation, particularly when a steady, moderate supply of heat is wanted.

(b) *Central or group project-operated plants.* These types may be justified usually only under the following conditions;

(1) Concentration of dwelling units in flats and apartments and, to a lesser extent, in row houses.

(2) Climate requiring nearly continuous heating for four or more months.

The decision between a single central plant and two or more plants, each serving a group of buildings, will be affected by:

(1) The size, arrangement and topography of the project.

(2) The types of fuel available at low prices.

(3) Labor rates and related factors.

Group plants are usually more desirable than a large central plant. They can ordinarily be located in basements with chimneys related to the buildings, thereby eliminating the high initial cost of a separate building and high chimney. Fuels such as oil or gas may be readily handled, regardless of the number, size and location of the plants. Group plants should be interconnected, wherever feasible, to permit more flexible operation which will result in greater economy in the low-demand months. This is particularly important where coal is the fuel used. The site plan should therefore be arranged to permit nearly uniform sizing of the group plants and their location for economical interconnection. A large central plant will usually require a separate building and high chimney. This may be undesirable from a site planning point of view or for architectural reasons. The delivery, storage, and handling of coal and the disposal of ashes, however, may be efficiently handled in such a plant.*† [Par. III]

NATHAN STRAUS,
Administrator.

[F. R. Doc. 40-1479; Filed, April 12, 1940; 9:35 a. m.]

TITLE 29—LABOR

CHAPTER V—WAGE AND HOUR DIVISION

PART 555—MINIMUM WAGE RATES IN THE KNITTED UNDERWEAR AND COMMERCIAL KNITTING INDUSTRY

Whereas, pursuant to Sections 5 and 8 of the Fair Labor Standards Act of 1938, the Administrator of the Wage and Hour Division of the United States Department of Labor, by Administrative Order No. 30 dated September 18, 1939 and Administrative Order No. 33 dated October 16, 1939,[1] appointed Industry Committee No. 8 for the Knitted Underwear and Commercial Knitting Industry, and directed said Committee to recommend minimum wage rates for said Industry in accordance with the provisions of the Act and rules and regulations promulgated thereunder; and

Whereas, the Committee included eight disinterested persons representing the public, and a like number of persons representing employees in the Industry, and a like number representing employers in the Industry, and the members of each group were appointed with due regard to the geographical regions in which the Industry is carried on; and

Whereas, on November 2, 1939, after an extensive investigation of economic and competitive conditions in the Industry including consideration of the testimony of numerous witnesses and other evidence received at its meetings from October 30 through November 1, 1939, the Committee filed a report containing its recommendation for a minimum wage rate of 33½ cents an hour in the Industry; and

Whereas, pursuant to notices which the Administrator caused to be published in the FEDERAL REGISTER on December 27, 1939, and January 12, 1940, respectively setting a date for hearing and designating Thomas Holland, Esquire, as presiding officer thereat, a public hearing on the Committee's recommendation was held in Washington, D. C., on January 16, 1940, at which all interested persons were given an opportunity to be heard; and

Whereas, by publication in the FEDERAL REGISTER on January 20, 1940, notice was given that inasmuch as no person had appeared at the public hearing in opposition to the Committee's recommendation, oral argument would be dispensed with unless the same should be requested on or before February 15, 1940, and no such request was received; and

Whereas, all persons who appeared at said hearing were given leave to file briefs on or before February 15, 1940, and the complete record of the hearing before Mr. Holland was transmitted to the Administrator on February 13, 1940; and

Whereas, the Administrator, after consideration of all of the evidence and arguments presented in this proceeding and of the provisions of the Act, particularly Sections 5 and 8 thereof, has concluded that the Committee's recommendation of a minimum wage rate of 33½ cents an hour for the Industry, as defined in Administrative Order No. 30, is made in accordance with law, is supported by the evidence adduced at the hearing, and, taking into consideration the same factors as are required to be considered by the Committee, will carry out the purposes of Section 8 of the Act; and

Whereas, the Administrator has set forth his decision in "Findings and Opinion of the Administrator, In the Matter of the Recommendation of Industry Committee No. 8 for a Minimum Wage Rate in the Knitted Underwear and Commercial Knitting Industry," dated April 11, 1940, a copy of which may be had upon request addressed to the Wage and Hour Division, Washington, D. C.;

Now, therefore, it is ordered that

§ 555.1 *Approval of recommendation of Industry Committee.* The Committee's recommendation is hereby approved; and, in accordance with such recommendation.

§ 555.2 *Wage rates.* Wages at a rate not less than 33½ cents an hour shall be paid under Section 6 of the Act by every employer to each of his employees in the Industry who is engaged in commerce or in the production of goods for commerce.

§ 555.3 *Posting of notices.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the Industry shall post and keep posted, in a conspicuous place in each department of his establishment where such employees are working, such notices of this order as shall from time to time be prescribed by the Wage and Hour Division of the United States Department of Labor.

[1] 4 F.R. 4018, 4267.

§ 555.4 *Definition of industry.* The Industry to which this order shall apply is hereby defined as follows:

(a) The manufacturing, dyeing or other finishing of any knitted fabric made from any yarn or mixture of yarns, except:

1. The knitting from any yarn or mixture of yarns and the further manufacturing, dyeing or other finishing of knitted garments, knitted garment sections or knitted garment accessories for use as external apparel or covering which are partially or completely manufactured in the same establishment as that where the knitting process is performed; provided that this exception shall not be construed to apply to the garments or garment accessories designated in clause (b) of this definition.

2. Fulled suitings, coatings, topcoatings, or overcoatings containing more than 25 percent, by weight, of wool or animal fiber other than silk.

3. Hosiery.

(b) The manufacturing, dyeing or other finishing, from any yarn or mixture of yarns, or from purchased knitted fabric, of any of the following products:

1. Knitted garments or garment accessories for use as underwear, sleeping wear, or negligees.

2. Fleece-lined garments made from knitted fabric containing cotton only or containing any mixture of cotton and not more than 25 percent, by weight, of wool or animal fiber other than silk.

3. Knitted shirts of cotton or any synthetic fiber or any mixture of such fibers which have been knit on machinery of 10-cut or finer in the same establishment as that where the knitting process is performed.

4. Knitted towels or cloths.

§ 555.5 *Effective date.* This order shall become effective on the 6th day of May, 1940.

Signed at Washington, D. C., this 11th day of April, 1940. §§ 555.1 to 555.5, inclusive, issued under the authority contained in Sec. 8, 52 Stat. 1064; 29 U.S.C. Sup. IV, 208.

PHILIP B. FLEMING,
Colonel, Corps of Engineers.
Administrator.

[F. R. Doc. 40-1496; Filed, April 12, 1940; 11:53 a. m.]

TITLE 36—PARKS AND FORESTS

CHAPTER I—NATIONAL PARK SERVICE

YOSEMITE NATIONAL PARK

AMENDMENT TO SUBSIDIARY REGULATIONS

Pursuant to the authority granted to the Secretary of the Interior by the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), and pursuant to the authority granted to the Director of the National Park Service by the Rules and Regulations issued thereunder (1 F.R. 672, 36 CFR, Chapter I, Part 2), sub-paragraph (1) of paragraph (a) of the subsidiary regulations for Yosemite National Park, approved January 5, 1940 (5 F.R. 197 (DI)), is hereby amended to read as follows:

§ 20.16 *Yosemite National Park*—(a) *Fishing.* (1) Open season: May 30 to October 15, inclusive.

Approved, April 5, 1940.

[SEAL] ARNO B. CAMMERER,
Director.

[F. R. Doc. 40-1473; Filed, April 12, 1940; 9:25 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 588-FD]

IN THE MATTER OF THE APPLICATION OF BIBBY COAL, SHALE & CLAY COMPANY FOR EXEMPTION

ORDER GRANTING RENEWAL OF EXEMPTION

The Bibby Coal, Shale & Clay Company, of Littleton, Alabama, applicant herein, having on December 5, 1938, filed with the National Bituminous Coal Commission a verified application for exemption with respect to certain bituminous coal produced by the applicant at its mine located in Jefferson County, Alabama, and transported by the applicant to itself for consumption by it in the manufacture of fire brick and clay products in its plant located at Littleton, Alabama;

The Commission having on March 8, 1939, entered an order pursuant to such application, in Docket No. 588-FD, ordering that the provisions of section 4 II (1) of the Bituminous Coal Act of 1937 apply to the bituminous coal produced by the applicant at its mine located near Littleton, Jefferson County, Alabama, which is consumed by the applicant in the manufacture of fire brick and clay products, and that such coal shall not be deemed subject to the provisions of section 4 of the Bituminous Coal Act of 1937, and further ordering the applicant to apply annually thereafter and at such other times as the Commission may require for renewal of said order, and to file such accompanying reports as will enable the Commission to determine whether the facts as found in said order continue to exist;

Applicant having, on March 28, 1940, filed with the Director of the Bituminous Coal Division a verified application for renewal of said order, which application contains a statement of the quantity of coal produced by the applicant during the year preceding the filing of the application for renewal, at its mine located in Jefferson County, Alabama, and the portion thereof which was consumed by applicant in the manufacture of fire brick and clay products, and which application also contains a statement that the facts as set forth in the application of December 5, 1938, remain unchanged;

The Director having determined that the conditions supporting the exemption granted by the order of March 8, 1939, continue to exist:

It is ordered, That the application filed by the applicant for renewal of said order dated March 8, 1939, be and the same is hereby granted;

Provided, however, That the said order dated March 8, 1939, and the exemption granted thereby, and this renewal of said order, shall automatically terminate and expire:

(1) Unless the applicant, on or before March 11, 1941, files an application for renewal of said order;

(2) Unless the applicant, on or before November 11, 1940, files with the Director a verified report for the six month period ending October 11, 1940, containing the following information, which the Director hereby finds to be necessary and appropriate to enable him to determine whether the conditions supporting the exemption granted to the applicant continue to exist:

(a) The full name and business address of the applicant, and the name and location of the mine covered by this application;

(b) The total tonnage of bituminous coal produced by the applicant, during the preceding six months at such mine;

(c) The total tonnage of such production which was consumed by applicant, and the nature and purpose of such consumption;

(d) A statement that all of the facts set forth in the application of December 5, 1938, remain true and correct.

(3) Unless the applicant shall immediately notify the Director upon:

(a) Any change in the ownership of the mine from which the coal in question was produced, or in the ownership of the plant or factory or other facility at which the coal is consumed;

(b) Any change in the agency or instrumentality through which the coal is being produced on the date of this order.

It is further ordered, That the Director at any time, upon his own motion or upon the petition of any interested person, may direct the applicant to show cause why the exemption granted by the order of March 8, 1939, should not be terminated. Any person filing such a petition shall serve a copy thereof upon the applicant herein.

[SEAL] H. A. GRAY,
Director.

APRIL 11, 1940.

[F. R. Doc. 40-1484; Filed, April 12, 1940; 11:19 a. m.]

[Order No. 292]

AN ORDER DIRECTING DISTRICT BOARDS FOR DISTRICTS NOS. 1 TO 20, INCLUSIVE, 22 AND 23 TO PROPOSE AND SUBMIT TO THE DIRECTOR PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS PRODUCED BY CODE MEMBERS WITHIN THE DISTRICTS AND NOT HERETOFORE CLASSIFIED

Pursuant to the Bituminous Coal Act of 1937 (particularly section 4, Part II thereof), *It is hereby ordered*, That:

1. Each district board for Districts Nos. 1 to 20, inclusive, 22 and 23 shall proceed to consider and propose, and shall submit to the Director of the Bituminous Coal Division, United States Department of the Interior, in accordance with the rules and regulations prescribed herein, price classifications and minimum prices for each kind, quality, and size of coal, for which no price classification has heretofore been proposed and submitted by the district board, and which is produced within the respective districts by code members of whose acceptance of the Code the district board has been notified prior to April 12, 1940. Each district board may, in its discretion, also propose and submit price classifications and minimum prices as aforesaid for the coals of code members of whose acceptance of the Code the district board is notified after April 12, 1940.

2. If price classifications or minimum prices have been proposed by a district board pursuant to any prior order of the Commission or the Division, or upon its own motion, for coal produced at a particular mine, no further price classifications or minimum prices need be proposed by the district board for such coal at such mine pursuant to this order, notwithstanding that the owner or operator of such mine has changed after the classifications and minimum prices were proposed therefor by the district board: *Provided, however*, That the district board may, if it so desires, propose and submit modifications or additions to such price classifications or minimum prices, together with the reasons for and the data supporting such modifications or additions, and the name of the former operator, if any.

3. The following rules and regulations shall govern the proposal and submission of the price classifications and minimum prices pursuant to this order:

RULES AND REGULATIONS FOR THE PROPOSAL OF PRICE CLASSIFICATIONS AND MINIMUM PRICES

(a) The price classifications and minimum prices proposed for coals in a particular district shall be expressed as nearly as possible in the terms of the symbols and minimum prices contained in the "Schedule of Recommended Minimum Prices" for such district, as recommended to the Director of the Division by the Examiners appointed for such purposes in General Docket No. 15, and said proposed price classifications and minimum prices shall conform to the standards prescribed by section 4, Part II (a) of the Bituminous Coal Act of 1937.

(b) Each district board may, in its discretion, provide for conducting investigations, holding conferences or hearings, and receiving protests from interested persons; and may for this purpose adopt such procedure as it deems advisable or proper.

(c) Such proposed price classifications and minimum prices for coals in a particular district shall be incorporated in a schedule to be prepared by the district board and to be submitted to the Director. Together with such schedule, there shall also be furnished the following information, to the extent available: The name of the mine, the state, county, and township in which the mine is located, the seams mined, the modes of transportation involved in transporting coal from the mine, the names of the railroads, if any, which are available for the shipment of coal from the mine, the approximate tonnage moved by each mode of transportation for the years 1937 and 1938, the geographic areas into which the mine ships or is expected to ship coal, the names of adjacent mines producing coal of similar quality, and any special and unusual features in the quality, preparation or distribution of coal from such mine.

(d) Twenty-five (25) copies of the schedules of proposed price classifications and minimum prices and of such information as is furnished under paragraph (c) hereof, shall be submitted to the Director not later than April 29, 1940.

(e) Prior to the submission of the aforesaid schedule to the Director, the district board shall mail five (5) copies thereof to each of the other districts referred to in paragraph one (1) hereof, and one (1) copy thereof to each code member in the district.

(f) Each schedule shall include the following clause:

"NOTE: The minimum prices in this schedule have been proposed by the District Board pursuant to the provisions of Order No. 292 issued by the Bituminous Coal Division on April 12, 1940, and are not final or effective price classifications or minimum prices for the coals of the code members mentioned therein. Any code member dissatisfied with any price classification or minimum price proposed in this schedule may file with the Director of the Bituminous Coal Division, Washington, D. C., within seven (7) days after receiving a copy of such schedule, a written protest setting forth the reason for dissatisfaction together with the supporting data; and a copy of such protest shall be sent by such code member to the District Board."

5. Any code member or district board dissatisfied with any proposed price classification or minimum price submitted pursuant to this order may file with the Director, at his office in Washington, D. C., not later than seven (7) days after receiving a copy of the schedule of proposed price classifications and minimum prices, a written protest setting forth the reasons for dissatisfaction, together with the supporting data, and a copy of such protest shall be mailed by the code member to the district board for the district in which the mine in question is situated.

6. The further procedure before the Division in connection with establishing minimum prices for such coals will be prescribed hereafter.

[SEAL] H. A. GRAY,
Director.

APRIL 12, 1940.

[F. R. Doc. 40–1485; Filed, April 12, 1940; 11:19 a. m.]

General Land Office.

AIR NAVIGATION SITE WITHDRAWAL NO. 138, ALASKA

MARCH 28, 1940.

It is ordered, under and pursuant to the provisions of section 4 of the act of May 24, 1928, 45 Stat. 728, that the following described public land in Alaska be, and it is hereby withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for the use of the Alaska Road Commission in the maintenance of air navigation facilities:

SEWARD MERIDIAN

T. 1 S., R. 14 W.,
sec. 34, lots 2 and 4, E½SW¼;
aggregating 141.71 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 40–1474; Filed, April 12, 1940; 9:25 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 8 REDUCED; STOCK DRIVEWAY WITHDRAWAL NO. 50 REVOKED

COLORADO

MARCH 28, 1940.

Departmental orders of January 29, and December 9, 1918, creating Stock Driveway Withdrawals Nos. 8 and 50, Colorado Nos. 5 and 9, under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), are hereby revoked so far as they affect the following-described lands, which are within Colorado Grazing District No. 4, established April 8, 1935:

NEW MEXICO PRINCIPAL MERIDIAN

T. 47 N., R. 14 W.,
S½SE¼ sec. 28, SE¼NE¼ sec. 31, S½N½ sec. 32, NW¼NE¼, NE¼NW¼, S½NW¼ sec. 33;
T. 39 N., R. 15 W.,
N½ sec. 3, SE¼NE¼, S½ sec. 4;
T. 40 N., R. 15 W.,
all sec. 35;
T. 47 N., R. 15 W.,
S½SE¼ sec. 4, S½SE¼ sec. 7, NE¼SE¼, S½S½ sec. 8, NW¼NE¼, NE¼NW¼, S½NW¼, NW¼SW¼ sec. 9, W½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼ sec. 18, NW¼NW¼ sec. 19;
T. 47 N., R. 16 W.,
E½NE¼, NE¼SE¼ sec. 24;
T. 48 N., R. 16 W.,
Lots 4, 5, 12, and 13 sec. 3, lots 1, 8, 9, 10, 11, 12, 13, and 16, W½SW¼ sec. 4, lots 9, 10, 11, and 12 sec. 5, lots 9, 10, 11, and 12 sec. 6, E½SE¼ sec. 8, W½NW¼, NW¼SW¼ sec. 9, E½NE¼, SE¼SW¼,

N½SE¼, SW¼SE¼ sec. 17, NE¼NW¼, S½NW¼, W½SW¼ sec. 20, NW¼NW¼ sec. 29, E½NE¼, SE¼SW¼, N½SE¼, SW¼SE¼ sec. 30, N½NW¼, SW¼NW¼ sec. 31;
T. 49 N., R. 16 W.,
S½S½ sec. 17, S½S½ sec. 18;
T. 47 N., R. 17 W.,
NW¼NE¼, N½NW¼ sec. 1, NE¼NE¼ sec. 2;
T. 48 N., R. 17 W.,
lots 9, 10, and 15, N½SW¼, SW¼SW¼, NW¼SE¼ sec. 1, SE¼SW¼, S½SE¼ sec. 2, SE¼SE¼ sec. 10, NE¼NW¼, W½W½ sec. 11, NE¼NE¼, S½NE¼, SE¼SW¼, W½SE¼ sec. 15, NE¼NE¼, S½NE¼, SE¼NW¼, W½SW¼ sec. 21, N½NW¼ sec. 22, NW¼NW¼ sec. 28, SE¼NE¼, N½SE¼, SW¼SE¼ sec. 36;
T. 49 N., R. 17 W.,
S½S½ sec. 13, S½SE¼ sec. 14, SE¼NE¼, SE¼SW¼, NE¼SE¼, S½SE¼ sec. 22, NW¼NE¼, N½NW¼, SW¼NW¼ sec. 23, N½NW¼ sec. 27, E½NE¼, N½SE¼, SW¼SE¼ sec. 28, S½SE¼ sec. 31, S½S½ sec. 32, NW¼NE¼, E½NW¼, N½SW¼, SW¼SW¼ sec. 33;

SIXTH PRINCIPAL MERIDIAN

T. 15 S., R. 103 W.,
SW¼SW¼ sec. 25, S½S½ sec. 26, NW¼, N½SW¼, SE¼SW¼, NW¼SE¼, S½SE¼ sec. 27, NE¼ sec. 28, N½NE¼ sec. 34, N½N½ sec. 35, N½ sec. 36;
aggregating 9,239.99 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 40–1475; Filed, April 12, 1940; 9:25 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 144, WYOMING NO. 18, ENLARGED

MARCH 28, 1940.

It appearing that the following-described public lands should be added to and made a part of Stock Driveway Withdrawal No. 144, Wyoming No. 18, 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 the use of the general public as an addition to such driveway reservation, subjct to valid existing rights:

SIXTH PRINCIPAL MERIDIAN

T. 29 N., R. 77 W.,
lot 2, S½NE¼, SE¼NW¼ sec. 31, SE¼NE¼ sec. 33, SE¼NE¼, S½NW¼ sec. 34, S½NW¼ sec. 35;
T. 29 N., R. 78 W.,
S½S½ sec. 34, S½NE¼, S½SW¼, N½SE¼, SW¼SE¼, sec. 35;
aggregating 839.58 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 acordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 40–1476; Filed, April 12, 1940; 9:26 a. m.]

AIR NAVIGATION SITE WITHDRAWAL NO. 139, ALASKA

MARCH 29, 1940.

It is ordered, under and pursuant to the provisions of section 4 of the act of May 24, 1928, 45 Stat. 728, 49 U. S. C., sec. 214, that the public lands in Alaska lying within the following-described boundaries be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for the use of the Alaska Road Commission in the maintenance of air navigation facilities:

Beginning at Corner No. 1, which bears S. 29°07′ E. 1,917 feet from the N. E. corner of Jim Brown's cabin (located along the Chisana winter trail approximately 6 miles east of its junction with the Gulkana-Nabesna road in the Chitina recording precinct), approximate latitude 62°24′ N., longitude 142°52′ W.; thence N. 9°40′ W. 4,000 feet to Corner No. 2; thence S. 63°55′ E. 3,080.4 feet to Corner No. 3; thence S. 38°59′ W. 3,330 feet to the place of beginning, containing 114.8 acres more or less;

Beginning at Corner No. 1, which is identical with Corner No. 4 of U. S. Survey No. 397 at Tanana, in approximate latitude 65°10′ N., longitude 152°04′ W.; thence from said Corner No. 1, by metes and bounds, S. 39°37′ E. 1,300 feet to Corner No. 2; N. 82°18′ E. 4,491.6 feet to Corner No. 3; North 4,679 feet to Corner No. 4; West 5,280 feet to Corner No. 5 on line 4–5 of U. S. Survey No. 397; South 4,279.4 feet along line 4–5 of Survey No. 397 to Corner No. 1, the place of beginning, containing 599.8 acres more or less.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 40–1477; Filed, April 12, 1940; 9:26 a. m.]

RECREATIONAL WITHDRAWAL NO. 28 REVOKED

NEW MEXICO

APRIL 1, 1940.

The departmental orders of September 3, 1929, and February 26, 1930, withdrawing the following-described lands, now within New Mexico Grazing District No. 3, upon the petition of the Board of County Commissioners of Dona Ana County, New Mexico, for recreational classification under the act of June 14, 1926, 44 Stat. 741, are hereby revoked:

NEW MEXICO PRINCIPAL MERIDIAN

T. 23 S., R. 1 E.,
sec. 20, NE¼;
sec. 21, lot 2;
aggregating 170.93 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 40–1478; Filed, April 12, 1940; 9:26 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1940 AGRICULTURAL CONSERVATION PROGRAM FOR NASSAU AND SUFFOLK COUNTIES, NEW YORK

CONTENTS

Payments and grants of aid will be made for participation in the 1940 Agricultural Conservation Program for Nassau and Suffolk Counties, New York (hereinafter referred to as the 1940 program) in accordance with the provisions of this bulletin and such modifications thereof as may hereafter be made.

SECTION I—ALLOTMENTS, USUAL ACREAGES, YIELDS, PAYMENTS, AND DEDUCTIONS

A. *Corn*—1. *Usual acreage of corn for grain.* Usual acreages of corn for grain shall be determined for all farms for which a payment is computed with respect to a potato or wheat acreage allotment and on which the usual acreage of corn for grain is more than 10 acres.

The usual acreage of corn for grain shall be determined on the basis of the average annual acreage of corn harvested for grain and diverted therefrom during the years 1937, 1938, and 1939, with appropriate adjustments for crop rotation practices.

The sum of the usual acreages of corn for grain determined for such farms in a county shall not exceed the sum of the average annual acreages of corn harvested for grain and diverted therefrom on such farms during the years 1937, 1938, and 1939.

2. *Deduction.* (Any farm for which a potato or wheat allotment is determined.) $10 per acre of corn harvested for grain in excess of the larger of the usual acreage of corn for grain determined for the farm or 10 acres.

B. *Potatoes* — 1. *National goal.* The 1940 national goal for potatoes is 3,100,000 to 3,300,000 acres.

2. *National and State acreage allotments.* The national and State potato acreage allotments will be established by the Secretary.

3. *County acreage allotments.* County acreage allotments of potatoes shall be determined by the Agricultural Adjustment Administration with the assistance of the State committee by distributing the State acreage allotment of potatoes among the counties in the State on the basis of the acreage allotments determined under the 1939 program, taking

into consideration trends in acreage on commercial potato farms and the acreage of potatoes on noncommercial farms.

4. *Farm acreage allotments.* A potato acreage allotment shall be determined by the county committee with the assistance of other local committees in the county in accordance with instructions contained in NER–417–P for each farm for which the normal acreage of potatoes is determined to be three acres or more. No potato acreage allotment shall be less than 3 acres unless it is reduced because there was planted on the farm in 1940 less than 90 percent of the farm's potato allotment.

Potato acreage allotments shall be determined on the basis of good soil management, tillable acreage on the farm, type of soil, topography, production facilities, and the acreage of potatoes customarily grown on the farm. The potato acreage allotment for any farm shall compare with the potato acreage allotments for other farms in the same community which are similar with respect to such factors.

If less than 90 percent of the farm's potato allotment is planted, the potato allotment will be reduced to 110 percent of the acreage planted.

The sum of the potato acreage allotments determined for all farms (including those not participating in the program) in a county shall not exceed the county potato acreage allotment. The sum of the potato acreage allotments determined for *farms participating in the 1940 program* shall not exceed their proportionate share of the county potato acreage allotment.

5. *Normal yields.* The county committee, with the assistance of other local committees in the county, shall determine for each farm for which a potato acreage allotment is determined or a deduction is computed a normal yield for potatoes in accordance with the instructions contained in NER–417–P and the following provisions:

a. The normal yield of potatoes for any farm shall be determined on the basis of the yields of potatoes made on the farm with due consideration for type of soil, production practices, and the general fertility of the land.

b. The average yield for all farms in any county shall not exceed the county yield established by the Secretary.

6. *Payment.* 3 cents per bushel of the normal yield of potatoes for the farm for each acre in its potato allotment.

7. *Deduction.* a. 30 cents per bushel of the normal yield for the farm for each acre planted to potatoes in excess of the larger of the potato allotment or 3 acres.

b. $30.00 for each acre by which the acreage used in 1940 for the production of grasses or legumes sown in 1938, 1939, or 1940 or used for green manure crops throughout the 1940 crop year is less than 6.4 percent of the potato allotment for the farm.

C. *Commercial vegetables*—1. *Farm acreage allotments.* A commercial vegetable acreage allotment shall be determined for each farm on which 3 or more acres of commercial vegetables are normally planted on land on which potatoes are not planted in the same crop year. No commercial vegetable acreage allotment shall be less than 3 acres unless it is reduced because there is planted on the farm in 1940 less than 90 percent of the farm's vegetable allotment. The allotments shall be determined by the county committee with the assistance of other local committees in the county in accordance with instructions contained in NER–417–V.

The commercial vegetable acreage allotment shall be determined on the basis of the average acreage for 1936 and 1937 or the average of a later period adjusted to the 1936–1937 level. In determining the allotments, adjustments shall be made for abnormal weather conditions. The tillable acreage on the farm, type of soil, production facilities, crop rotation practices, and changes in farming practices shall also be taken into consideration.

If less than 90 percent of the farm's vegetable allotment is planted in 1940, the vegetable allotment will be reduced to 110 percent of the acreage planted.

The sum of the commercial vegetable acreage allotments determined for such farms in the county shall not exceed the sum of the average annual acreages of land planted in 1936 and 1937 to commercial vegetables and not planted to potatoes in the same crop year on all such farms in the county and on farms in the county for which no commercial vegetable allotment is established but on which the average acreage of commercial vegetables planted in 1936 and 1937 and not planted to potatoes in the same crop year was 3 acres or more except that fair and reasonable adjustment in such acreage may be made by the State committee, in accordance with instructions contained in NER–418, among commercial vegetable counties in the State on the basis of shifts in commercial vegetable production.

2. *A usual acreage of commercial vegetables with potatoes* will also be determined for each farm for which a potato allotment is determined or on which potatoes are planted in 1940. This usual acreage of commercial vegetables with potatoes may be zero.

The usual acreage of commercial vegetables with potatoes shall be determined on the basis of the average acreage of commercial vegetables planted on land on which potatoes are also planted in the same crop year for 1936 and 1937 or the average of a later period adjusted to the 1936–1937 level. In determining these usual acreages, adjustment shall be made for abnormal weather conditions. The tillable acreage on the farm, type of soil, production facilities, crop rotation practices, and changes in farming practices shall also be taken into consideration.

The sum of the usual acreages of commercial vegetables with potatoes determined for such farms in the county shall not exceed the sum of the average annual acreages of land planted in 1936 and 1937 to commercial vegetables and also planted to potatoes in the same crop year.

3. *Commercial vegetables* means the acreage of vegetables and truck crops of which the principal part of the production is sold to persons not living on the farm. This definition includes, among others, sweetpotatoes, tomatoes, sweet corn, cantaloups, commercial bulbs and flowers, and strawberries, but excludes Irish potatoes, peas for canning or freezing, sweet corn for canning, and watermelons.

4. *Acreage planted to commercial vegetables* means the acreage of land planted in 1940 to annual commercial vegetables and also the acreage of land from which perennial commercial vegetables are harvested in 1940.

5. *Payment.* $1.70 for each acre in the commercial vegetable acreage allotment.

6. *Deductions.* a. $20.00 per acre of land planted to commercial vegetables and not planted to potatoes in the 1940 crop year in excess of the larger of the commercial vegetable allotment or 3 acres.

b. $20.00 per acre of land planted to commercial vegetables and also planted to potatoes in the 1940 crop year in excess of the usual acreage of commercial vegetables with potatoes.

D. *Wheat*—1. *National goal.* The 1940 national goal for wheat is 60,000,000 to 65,000,000 acres.

2. *National and State acreage allotments.* The National and State wheat acreage allotments will be established by the Secretary.

3. *County acreage allotments.* County acreage allotments of wheat shall be determined by the Agricultural Adjustment Administration with the assistance of the State committee by distributing the State acreage allotment of wheat among the counties in such State pro rata on the basis of the acreage seeded for the production of wheat plus the acreage diverted under agricultural adjustment or conservation programs in such counties during the ten years, 1929 to 1938, inclusive, with appropriate adjustments for abnormal weather conditions and trends in acreage.

4. *Farm acreage allotments.* Acreage allotments of wheat shall be determined by the county committee with the assistance of other local committees in the county in accordance with instructions contained in NER–401. They shall be determined for farms on which wheat has been planted for harvest in one or more of the years 1937, 1938, and 1939. The basis for their determination shall

be (a) the tillable acreage and crop rotation practices as reflected in the usual acreage of wheat on the farm or the ratio of wheat acreage to cropland in the community or in the county, (b) type of soil, and (c) topography.

Not more than 3 percent of the county wheat acreage allotment shall be apportioned to farms in the county on which wheat will be planted for harvest in 1940 but on which wheat was not planted for harvest in any one of the three years 1937, 1938, and 1939. Allotments for these farms shall be determined on the basis of tillable acreage, crop rotation practices, type of soil, and topography.

The wheat acreage allotment for any farm shall compare with the wheat allotments determined for other farms in the same community which are similar with respect to such factors.

Any farm for which a wheat acreage allotment is determined shall be considered as a non-wheat-allotment farm for the purposes of the 1940 program if the persons having an interest in the wheat planted on the farm so choose.

The sum of the wheat acreage allotments determined for *all farms* (including those not participating in the program) in a county shall not exceed the county wheat acreage allotment. The sum of the wheat acreage allotments determined for *farms participating in the 1940 program* shall not exceed their proportionate share of the county wheat acreage allotment.

5. *Usual acreage of wheat.* Usual acreages of wheat shall be established for all non-wheat-allotment farms on which the normal acreage of wheat harvested as grain, or for any other purpose after reaching maturity, is more than 10 acres. The usual acreage of wheat shall be determined on the basis of the past acreage with due allowance for the effects of abnormal weather conditions, tillable acreage, crop rotation practices, type of soil, and topography.

The sum of the usual wheat acreages determined for such farms in a county shall not exceed the sum of the 1937–1938 average acreages of wheat harvested for grain, or for any other purpose after reaching maturity, on such farms, except upon approval by the Agricultural Adjustment Administration where it is found that the 1937–1938 average acreage was not representative because of abnormal weather conditions or marked shifts in cropping practices in the county.

6. *Normal yields.* The county committee, with the assistance of other local committees in the county, shall determine for each farm for which a wheat acreage allotment is determined or a deduction is computed a normal yield for wheat in accordance with the instructions contained in NER–401 and the following provisions:

a. Where reliable records of the actual average yields per acre of wheat for the 10 years 1929 to 1938, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and abnormal weather conditions.

b. If for any year of the 10-year period, 1929 to 1938, inclusive, reliable records of the actual average yield are not available or there was no actual yield because wheat was not produced on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts, including the yield customarily made on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such 10-year period.

c. The yields determined under subparagraph b of this paragraph 6 shall be adjusted so that the average of the normal yields for all farms in the county (weighted by the wheat acreage allotments determined for such farms) shall not exceed the county yield established by the Secretary.

7. *Non-wheat-allotment farm* means (a) a farm for which no wheat acreage allotment is determined and (b) a farm for which a wheat acreage allotment is determined and the persons having an interest in the wheat planted on the farm choose, in accordance with instructions contained in NER–401, to have the farm considered for the purposes of the 1940 program as a non-wheat-allotment farm.

8. *Acreage planted to wheat* means (a) any acreage of land devoted to seeded wheat (except when the wheat is seeded in a mixture containing 25 percent or more by weight of rye, winter barley, or vetch) and (b) any acreage of land which is seeded to a mixture containing wheat and 25 percent or more by weight of rye, winter barley, or vetch, but the other crop fails to reach maturity and the wheat is harvested for grain or reaches maturity.

9. *Payment.* (Wheat allotment farms.) 9 cents per bushel of the normal yield of the wheat allotment.

10. *Deduction.* a. (Wheat allotment farms.) 50 cents per bushel of the normal yield for each acre planted to wheat in excess of the wheat allotment.

b. (Non-wheat-allotment farms.) 50 cents per bushel of the normal yield for each acre of wheat harvested for grain or for any other purpose after reaching maturity in excess of the usual acreage of wheat for the farm, or 10 acres, whichever is larger.

SECTION II—SOIL-BUILDING GOALS, SOIL-BUILDING ALLOWANCE, AND PRACTICES

A. *National goal.* The national goal is the conservation of the cropland not required in 1940 for the growing of soil-depleting crops, the restoration, insofar as is practicable, of a permanent vegetative cover on land unsuited to the continued production of cultivated crops; and the carrying-out of soil-building practices that will conserve and improve soil fertility and prevent wind and water erosion.

B. *County goals.* Insofar as practicable, county goals shall be determined for particular soil-building practices which are not routine farming practices in the county and which are most needed in the county in order to conserve and improve soil fertility and to prevent wind and water erosion.

C. *Farm goals.* Insofar as practicable, the county committee shall determine for individual farms practices to be followed which are not routine farming practices on the farm, but which are needed on the farm in order to conserve and improve soil fertility and prevent wind and water erosion and which will tend to accomplish the goals, if any, determined for the county with respect to particular soil-building practices.

D. *Woodland rehabilitation allowance.* Each farm shall have a woodland rehabilitation allowance of $60 which may be earned for the elimination of fire hazards, improving the remaining stand of trees, and providing for the restoration of a full stand of trees on woodland which constitutes a serious fire hazard as a result of hurricane damage, provided such work is done with the prior approval of the county committee and in accordance with such approved system of farm woodland management as is specified by the Agricultural Adjustment Administration. Payment at the rate of $4 for each acre on which this work is correctly done will be allowed toward earning the woodland rehabilitation allowance. The area on which the woodland rehabilitation allowance is earned shall not be eligible for practice No. 15.

This allowance is not included in the soil-building allowance.

E. *Reforestation allowance.* Each farm will have a reforestation allowance of $30 in addition to the soil-building allowance. Payment will be allowed for the planting of nursery-grown forest-tree transplants or seedlings or lifted wild stock, at the rate of at least 1,000 trees per acre, spaced about 6 by 6 feet on open farm land. One thousand trees planted on two or more small tracts of less than 1 acre each shall be considered as an acre, even though the total area may be larger. Shrubs helpful to wildlife may be included in the planting. Areas planted must be given reasonable protection against fire and damage by livestock-grazing and must be cared for in accordance with good tree culture and wildlife-management practice.

Payment will not be allowed for planting white pine unless currant and gooseberry bushes within 1,000 feet of the planting site are removed.

The following varieties of forest trees are recommended for planting: White cedar, balsam fir, European larch, Japanese larch, black locust, red pine, Scotch pine, white pine, Jack pine, white spruce, Norway spruce, white ash, basswood,

black cherry, sugar maple, red oak, and bitternut hickory.

Payment may be allowed for planting other varieties if the county committee, upon advice of the Extension Service of the New York State College of Agriculture, approves the selection.

Payment at the rate of $7.50 per acre will be allowed toward earning the reforestation allowance.

F. *Soil-building allowance.* A soil-building allowance will be computed for each farm and will represent the largest amount which can be earned on any farm by carrying out soil-building practices.

1. The soil-building allowance for any farm on which the sum of the following items is $20 or more shall be equal to that sum:

a. 70 cents per acre of cropland in excess of the sum of the wheat and potato allotments.

Cropland means farm land which in 1939 was tilled or was in regular rotation excluding any land in commercial orchards.

b. $2 per acre of commercial orchards on the farm January 1, 1940.

Commercial orchards means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits on the farm on January 1, 1940, from which the principal part of the production is normally sold. This definition does not include non-bearing orchards and non-bearing vineyards.

c. 40 cents per acre of fenced noncrop open pasture land in excess of one-half of the number of acres of cropland.

Fenced noncrop open pasture land means pasture land (other than rotation pasture land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland and which is capable of maintaining during the normal pasture season at least one animal unit for each five acres.

Animal unit means one cow, one horse, five sheep, five goats, two calves, or two colts, or the equivalent thereof.

2. The soil-building allowance for any farm on which the total of the cropland, orchard, and pasture items is less than $20, shall be the *larger* of:

a. The sum of items 1a, 1b, and 1c listed in subsection F above, or

b. The amount obtained by subtracting the sum of the maximum allotment payments computed from $20.

G. *Soil-building practices.* The soil-building practices listed in the following schedule shall count toward earning the soil-building allowance to the extent indicated therein when such practices are not disapproved for the farm by the county committee and are carried out under the provisions of the 1940 program during a period November 1, 1939, to October 31, 1940, inclusive, in accordance with the specifications contained in NER–410 for the State.

If one-half or more of the total cost of carrying out any practice is represented by labor, seed, trees, or materials furnished by a State or Federal agency other than the Agricultural Adjustment Administration, the practice shall not be counted toward earning the soil-building allowance. If less than one-half of the total cost of carrying out any practice is represented by labor, seed, trees, or materials furnish by a State or Federal agency other than the Agricultural Adjustment Administration, one-half of the practice shall be counted toward earning the soil-building allowance. Labor, seed, trees, and materials furnished to a State, a political subdivision of a State, or an agency thereof by any agency of the same State shall not be deemed to have been furnished by "a State * * * agency" within the meaning of this paragraph.

Trees purchased from a Clark-McNary Cooperative State Nursery shall not be deemed to have been paid for in whole or in part by a State or Federal agency.

The rates of payment listed below are the maximum rates allowable, and the rates of payment for any practice included may be adjusted downward by the State committee with the approval of the Agricultural Adjustment Administration in order to reflect relatively lower costs or relative desirability of the practice.

Schedule of Soil-Building Practices

Payment will be allowed for any of the following seeding practices, Nos. 1 to 6, inclusive, provided at least 300 pounds per acre of 20 percent superphosphate or its equivalent are applied to the same land in 1940 at or before the time of seeding, or satisfactory evidence is presented to the county committee that this amount of material was applied to the same land after July 15, 1939, in preparation for the seeding, and provided the seeding is not plowed or disked under for a green manure crop in 1940.

The equivalents of 300 pounds of 20 percent superphosphate are:

187.5 pounds of 32 percent superphosphate, or

375 pounds of 16 percent superphosphate, or

375 pounds of 4–16–4 mixed fertilizer, or

500 pounds of 4–12–4 mixed fertilizer, or

600 pounds of 5–10–5 mixed fertilizer, or

750 pounds of 4–8–7 mixed fertilizer.

Applying the amount shown in any one of the above materials or its equivalent per acre will meet the requirements.

By red clover or alfalfa seed, as mentioned in practices Nos. 1 to 6, inclusive, is meant any such seed grown in New York, any New England State, Idaho, Illinois, Indiana, Iowa, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Wisconsin, Wyoming, or Canada, or genuine Grimm alfalfa seed from any source.

Practice No. 1—Seeding legumes and grasses rate of payment: $0.75 per acre. The seeding of alsike clover, red clover, or alfalfa in mixtures. At least 15 pounds per acre of a mixture of these legumes and timothy or other grasses shall be used, and the mixture shall contain at least 6 pounds per acre of any one, or a combination of alsike clover, red clover, or alfalfa seed. The timothy or other grasses may have been seeded in the fall of 1939.

Practice No. 2—Seeding legumes rate of payment: $0.75 per acre. The seeding of at least 8 pounds per acre of alsike clover, or of at least 10 pounds of red clover, or a mixture of 10 pounds of these. Alfalfa may be substituted in a mixture for either of these clovers, but may not be seeded alone under this practice. Timothy and other grasses may be used in addition to the legumes.

Practice No. 3—Seeding sweet clover rate of payment: $0.75 per acre. The seeding of at least 12 pounds per acre of hulled sweet clover seed alone or in mixtures.

Practice No. 4—Seeding alfalfa rate of payment: $1.50 per acre. The seeding of at least 12 pounds per acre of alfalfa seed alone or in mixtures.

Practice No. 5—Seeding pastures rate of payment: $3 per acre. The seeding of one of the following permanent pasture mixtures on land prepared by harrowing or plowing:

At least 25 pounds per acre of Cornell Pasture Mixture, or

At least 20 pounds per acre of Cornell Hay Pasture Mixture, or

An equivalent amount of any other mixture recommended by the State committee with the approval of the Regional Director.

Practice No. 6—Seeding wild white clover or ladino clover rate of payment: $0.75 per acre. The seeding on established pastures of at least 1 pound of wild white clover seed per acre having a certificate of origin approved by the Extension Service of the New York State College of Agriculture, or the seeding of at least 1 pound of ladino clover seed per acre.

Practice No. 7—Applying superphosphate rate of payment: $12.50 per ton of 20 percent superphosphate or equivalent. The application of at least 300 pounds per acre of 20 percent superphosphate or its equivalent (1) in connection with the seeding of clover, alfalfa, or pasture mixtures, or (2) to established pastures, hay lands, or orchard sods, or to green manure or cover crops in commercial orchards, or (3) in connection with the seeding of winter vetch to be used as a winter cover crop or of green manure or cover crops in commercial orchards.

When superphosphate is used on a nurse crop which is harvested for grain, payment will be allowed only for the amount per acre over 160 pounds of 20 percent superphosphate or the equivalent.

Practice No. 8—Applying muriate of potash rate of payment: $1 for each 100 pounds of 50 percent muriate of potash or its equivalent. The application of at least 60 pounds per acre of 50 percent muriate of potash or its equivalent (1) in connection with the seeding of clover, alfalfa, or pasture mixtures, or (2) for improving established hay lands or pastures, or (3) in connection with the seeding of vetch to be used as a winter cover crop. However, payment will not be allowed for the potash unless at least 300 pounds per acre of 20 percent superphosphate or its equivalent are applied to the same land. These equivalents are listed on page 16.

Practice No. 9—Liming cropland, pasture land, or orchards rate of payment: $4.00 for each—

2,000 pounds of standard pulverized limestone.

1,000 pounds of total calcium and magnesium oxides in ground limestone other than standard, which will pass through a 20-mesh sieve and which contains all of the fine material produced in grinding.

1,500 pounds of hydrated lime.

1,000 pounds of ground burned lime.

The application to cropland, pasture land, or orchards of at least 2,000 pounds of standard pulverized limestone, or 1,500 pounds of hydrated lime, or 1,000 pounds of ground burned lime, or

The application to land used for the production of potatoes or vegetables of at least one-half of the above amounts, or

Upon approval of the county committee, the application to land used for the production of vegetables of at least one-fifth the above amounts.

Standard pulverized limestone is limestone which will analyze at least 50 percent total calcium and magnesium oxides, 100 percent of which will pass through a 20-mesh sieve and which contains all of the fine material produced in the grinding.

Equivalent quantities of other liming material approved by the State committee may be used and payment will be allowed for its use on the basis of the total calcium and magnesium oxide content and fineness.

Practice No. 10—Green manure crops rate of payment: $1.50 per acre. The plowing or disking under of a good stand and a good growth of: (1) Biennial or perennial legumes or grasses for which no payment for seeding is allowed in 1940, and, except in orchards, from which no crop of such legumes or grasses has ever been harvested; (2) annual legumes; or (3) annual grasses or small grains used as summer green manure crops on orchard, potato land or vegetable land, or used as winter cover crops on any land. If the crop is one which is normally winter-killed, payment will be allowed for leaving a good stand and a good growth on the land as a cover crop to protect the land from erosion.

In orchards where there is a good established sod and where at least 200 pounds of 16 percent nitrate of soda or its equivalent have been evenly distributed over each acre under the 1940 program, payment will be allowed for cutting and leaving all the grass and legumes on the land even though a crop of hay may have been harvested in previous years.

Practice No. 11—Summer green manure crops rate of payment: $0.75 per acre. The plowing or disking under of a good stand and a good growth of grasses or small grains used as summer green manure crops on land other than vegetable land, potato land or orchards.

Practice No. 12—Seeding winter vetch rate of payment: $1.50 per acre. Seeding inoculated winter vetch not later than October 1, 1940, and leaving the resulting crop on the land as a winter cover crop. It is recommended that the vetch be seeded at the rate of at least 25 pounds per acre with a supporting crop such as rye or wheat.

Practice No. 13—Mulching orchard land or vegetable land rate of payment: $3 per ton. The application to orchard land or land in perennial vegetables of at least 2 tons per acre of air-dried straw or equivalent mulching material, excluding barnyard manure, stable manure, and any materials grown in orchards. Payment will not be allowed if any of the mulching material or material produced on the land during 1940 from grasses, legumes, green manure crops, or cover crops is taken from the land. The crops produced on the land and the mulching material may be plowed or disked into the soil.

Practice No. 14—Planting forest trees rate of payment: $7.50 per acre. The planting of nursery-grown forest-tree transplants or seedlings or lifted wild stock at the rate of at least 1,000 trees per acre, spaced about 6 by 6 feet on open farm land. Payment will not be allowed for white-pine plantings unless currant and gooseberry bushes within 1,000 feet of the planting site are removed. Shrubs helpful to wildlife may be included in the planting.

Areas planted must be given reasonable protection against fire and damage by livestock-grazing and must be cared for in accordance with good tree culture and wildlife-management practice.

The following varieties of forest trees are recommended for planting: White cedar, balsam fir, European larch, Japanese larch, black locust, red pine, Scotch pine, white pine, Jack pine, white spruce, Norway spruce, white ash, basswood, black cherry, sugar maple, red oak, and bitternut hickory.

Other varieties may be planted if the county committee, upon advice of the Extension Service of the New York State College of Agriculture, approves the selection.

Practice No. 15—Woodland management rate of payment: $3 per acre. The improvement of the stand of forest trees on not more than 4 acres under a system of farm woodland and wildlife management which includes pruning or thinning, or, if needed, both. At least 100 good timber trees or trees which can become good timber trees must be left well scattered on each acre of woodland improved.

This practice must be carried out according to plans approved in advance by the county committee based on the recommendations of the Extension Service of the New York State College of Agriculture.

Practice No. 16—Excluding livestock from farm woodland rate of payment: $0.75 for each 2 acres. The restoration of farm woodland previously used for pasture by keeping out livestock.

Payment will be allowed for each acre of woodland out of which livestock are kept, but for not more than 2 acres for each animal unit which is normally allowed to graze in the woodland.

Animal unit means one cow, two calves, one horse, two colts, five sheep, or five goats, or the equivalent thereof.

The operator must obtain the approval of the county committee before performing this practice.

If under the 1936, 1937, 1938, or 1939 program a farmer has received payment for constructing fence to keep livestock out of woodland or for keeping livestock out of sugar maple orchards or other woodlands and the county committee determines that in 1940 livestock were again allowed by that farmer to graze in a part or all of the same woodland or sugar maple orchard, an amount equal to the previous payments will be withheld from any payment which would otherwise be made to such farmer under the 1940 program.

Practice No. 17—Contour stripcropping rate of payment: $0.75 for each 2 acres. The establishment and maintenance of alternate contour strips of intertilled and close-growing crops.

This practice must be carried out according to plans approved in advance by the county committee based on recommendations of the Soil Conservation Service or the Extension Service of the New York State College of Agriculture.

Practice No. 18—Terracing rate of payment: $1.50 for each 200 linear feet. The construction of diversion ditches for which proper outlets are provided.

This practice must be carried out according to plans approved in advance by the county committee based on the recommendations of the Soil Conservation Service or the Extension Service of the New York State College of Agriculture.

SECTION III—DIVISION OF PAYMENTS AND DEDUCTIONS

A. *Payments and deductions in connection with potatoes, wheat, and commercial vegetables.* 1. The net payment or net deduction computed for any farm with respect to potatoes, wheat, or commercial vegetables, shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares expressed in terms of percentages) that such persons are entitled, as of the time of harvest, to share in the proceeds (other than a fixed commodity payment) of such crop grown on the farm in 1940: *Provided*, That if any such crop is not grown on the farm in 1940 or the acreage of such crop is substantially reduced by flood, hail, drought, insects, or plant bed diseases, the net payment or net deduction computed for such crop shall be divided among the landlords, tenants, and sharecroppers in the proportion that the county committee determines such persons would have been entitled to share in the proceeds of such crop if the entire acreage in the acreage allotment for such crop had been planted and harvested in 1940.

2. In computing such net payments and such net deductions with respect to wheat, potato, and commercial vegetable acreage allotments, the deduction with respect to corn for grain shall be regarded as a pro rata deduction with respect to the payments computed in connection with the wheat, potato, and commercial vegetable acreage allotments.

B. *Payments in connection with soil-building practices.* The amount of net payment earned for the farm in connection with soil-building practices shall be paid to the landlord, tenant, or sharecropper who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying-out of soil-building practices on the farm in the 1940 program, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in the 1940 program. All persons contributing to the carrying-out of any soil-building practice on a particular acreage shall be deemed to have contributed equally to the units of such practice unless it is established to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion in which event such units shall be divided in the proportion which the county committee determines each such person contributed thereto.

C. *Proration of net deductions.* If the sum of the net payments computed for all persons on a farm exceeds the sum of the net deductions computed for all persons on such farm, the sum of the net deductions computed for all persons on such farm shall be prorated among the persons on such farm for whom a net payment is computed, on the basis of such computed net payments.

If the sum of the net deductions computed for all persons on a farm equals or exceeds the sum of the net payments computed for all persons on such farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on such farm for whom a net deduction is computed, on the basis of such computed net deductions.

SECTION IV—INCREASE IN SMALL PAYMENTS

The total payment computed under Sections I to III, inclusive, for any person with respect to any farm shall be increased as follows:

A. Any payment amounting to 71 cents or less shall be increased to $1.00;

B. Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

C. Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed:	*Increase in payment*
$1.00 to $1.99	$0.40
$2.00 to $2.99	.80
$3.00 to $3.99	1.20
$4.00 to $4.99	1.60
$5.00 to $5.99	2.00
$6.00 to $6.99	2.40
$7.00 to $7.99	2.80
$8.00 to $8.99	3.20
$9.00 to $9.99	3.60
$10.00 to $10.99	4.00
$11.00 to $11.99	4.40
$12.00 to $12.99	4.80
$13.00 to $13.99	5.20
$14.00 to $14.99	5.60
$15.00 to $15.99	6.00
$16.00 to $16.99	6.40
$17.00 to $17.99	6.80
$18.00 to $18.99	7.20
$19.00 to $19.99	7.60
$20.00 to $20.99	8.00
$21.00 to $21.99	8.20
$22.00 to $22.99	8.40
$23.00 to $23.99	8.60
$24.00 to $24.99	8.80
$25.00 to $25.99	9.00
$26.00 to $26.99	9.20
$27.00 to $27.99	9.40
$28.00 to $28.99	9.60
$29.00 to $29.99	9.80
$30.00 to $30.99	10.00
$31.00 to $31.99	10.20
$32.00 to $32.99	10.40
$33.00 to $33.99	10.60
$34.00 to $34.99	10.80
$35.00 to $35.99	11.00
$36.00 to $36.99	11.20
$37.00 to $37.99	11.40
$38.00 to $38.99	11.60
$39.00 to $39.99	11.80
$40.00 to $40.99	12.00
$41.00 to $41.99	12.10
$42.00 to $42.99	12.20
$43.00 to $43.99	12.30
$44.00 to $44.99	12.40
$45.00 to $45.99	12.50
$46.00 to $46.99	12.60
$47.00 to $47.99	12.70
$48.00 to $48.99	12.80
$49.00 to $49.99	12.90
$50.00 to $50.99	13.00
$51.00 to $51.99	13.10
$52.00 to $52.99	13.20
$53.00 to $53.99	13.30
$54.00 to $54.99	13.40
$55.00 to $55.99	$13.50
$56.00 to $56.99	13.60
$57.00 to $57.99	13.70
$58.00 to $58.99	13.80
$59.00 to $59.99	13.90
$60.00 to $185.99	14.00
$186.00 to $199.99	(1)
$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SECTION V—PAYMENTS LIMITED TO $10,000

The total of all payments made in connection with programs for 1940 under Section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate with respect to farms located within a single State shall not exceed the sum of $10,000 prior to deduction for association expenses in the county or counties with respect to which the payment is made. The total of all payments made in connection with such programs to any person other than an individual, partnership, or estate with respect to farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, and Puerto Rico) shall not exceed the sum of $10,000 prior to deduction for association expenses in the county or counties with respect to which the payment is made.

All or any part of any payment which has been or otherwise would be made to any person under the 1940 program may be withheld or required to be returned if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, revival, formation or use of any corporation, partnership, estate, trust, or any other means, which was designed to evade, or would have the effect of evading, the provisions of this section.

SECTION VI—DEDUCTIONS INCURRED ON OTHER FARMS

A. *Other farms in the same county.* If the total of the deductions computed under Section I with respect to any farm in a county exceeds the payment for full performance on such farm computed under Section I and II, a landlord's or tenant's share of the amount by which the total deduction exceeds the total payment shall be deducted from that landlord's or tenant's share of the payments which would otherwise be made to him with respect to any other farm or farms in such county.

B. *Other farms in the State.* If the deductions computed under Section I for a landlord or tenant with respect to one or more farms in a county exceed the payments computed for such landlord or tenant on other farms in the county, the amount of those excess deductions shall be taken from the payments computed for the landlord or tenant with respect to any other farm or farms in the State, provided the State committee finds that the crops grown and practices adopted on the farm with respect to which the de-

ductions are computed substantially offset the contribution to the program made on the other farm or farms.

SECTION VIII—DEDUCTION FOR ASSOCIATION EXPENSES

There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

SECTION VIII—GENERAL PROVISIONS RELATING TO PAYMENTS

A. *Payment restricted to effectuation of purposes of the program.* 1. All or any part of any payment which otherwise would be made to any person under the 1940 program may be withheld or required to be returned (a) if he adopts or has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1940 or previous agricultural conservation programs, (b) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (c) if the county committee, acting in accordance with instructions issued by the State committee and having the approval of the regional director, finds that the forest lands owned or controlled by him have been abused by improper cutting.

2. Allotment payments will be made only for farms which are being operated in 1940. A farm will not be considered to be operated in 1940 unless it is tilled. For the purposes of the 1940 Agricultural Conservation Program a farm will be considered to be tilled only if an acreage equal to at least one-half the sum of the 1940 wheat, potato, and vegetable allotments established for the farm is devoted to one or more of the following uses:

a. Seeded to a crop in 1940.

b. A crop other than biennial or perennial hay is harvested in 1940.

c. Green manure crops are plowed or disked under in 1940.

The farm will also be considered to be tilled if the State committee finds that none of the operations a, b, and c above were carried out because of conditions beyond the control of the operator, or if upon recommendation of the State committee, the regional director finds that the farm is actually being operated in 1940.

B. *Payment computed and made without regard to claims.* Any payment or share of payment shall be computed and made (1) without regard to questions of title under State law, (2) without deduction of claims for advances (except as provided in subsection D of this Section VIII and indebtedness to the United States subject to setoff under orders issued by the Secretary), and (3) without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.* If on any farm in 1940 any change of the arrangements which existed on the farm in 1939 is made between the landlord or operator and the tenants or sharecroppers and such change would cause a greater proportion of the payments to be made to the landlord or operator under the 1940 program than would have been made to the landlord or operator for performance on the farm under the 1939 program, payments to the landlord or operator under the 1940 program with respect to the farm shall not be greater than the amount that would have been paid to the landlord or operator if the arrangements which existed on the farm in 1939 had been continued in 1940. This provision shall be exercised only if the county committee certifies that the change is not justified and disapproves such change.

If on any farm the number of sharecroppers or share tenants in 1940 is less than the average number on the farm during the years 1937 to 1939, inclusive, and the reduction would increase the payments that would otherwise be made to the landlord or operator, such payments to the landlord or operator shall not be greater than the amount that would otherwise be made, if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1940 program has employed any other scheme or device (including coercion, fraud or misrepresentation), the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1940 program.

D. *Assignments.* Any person who may be entitled to any payment in connection with the 1940 program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1940. No such assignment will be recognized unless the assignment is made in writing on Form ACP–69 in accordance with instructions (ACP–70) issued by the Agricultural Adjustment Administration and unless such assignment is entitled to priority as determined under the instructions governing the recording of such assignments issued by the Agricultural Adjustment Administration.

Nothing contained in this subsection (D) shall be construed to give the assignee a right to any payment other than that to which the farmer is entitled nor (as provided in the Statute) shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Excess cotton acreage.* Any person who knowingly plants cotton or causes cotton to be planted on his farm in 1940 on acreage in excess of the cotton acreage allotment for the farm for 1940 shall not be eligible for any payment whatsoever on that farm or any other farm under the provisions of the 1940 program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1940 on an acreage in excess of the cotton acreage allotment for the farm for 1940 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting of cotton on the farm, unless the farmer establishes the fact that the excess acreage was planted to cotton due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1940.

SECTION IX—APPLICATION FOR PAYMENT

A. *Persons eligible to file applications.* An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section III, a payment or share in the payment with respect to the farm may be computed and (1) who at the time of harvest is the owner-operator or cash tenant or who is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1940 in carrying out approved soil-building practices.

B. *Time and manner of filing application and information required.* Payment will be made only upon application submitted through the county office not later than March 31, 1941. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if any form or information required is not submitted to the county office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms and any time limit fixed shall be such as affords a full

and fair opportunity to those eligible to file the form within the period prescribed. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

C. *Applications for other farms.* If a person has the right to receive all or a portion of the crops, or proceeds therefrom, produced on more than one farm in a county and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms which he operates or rents to other persons. Upon request by the State committee any person shall file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof or which he rents to another for cash.

SECTION X—APPEALS

Any person may, within 15 days after notice thereof is forwarded to or made available to him, request the county committee in writing to reconsider its recommendation or determination in any of the following matters respecting any farm in the operation of which he has an interest as landlord, tenant or sharecropper: (a) Eligibility to file an application for payment; (b) any soil-depleting acreage allotment, usual acreage, normal or actual yield, measurement or soil-building goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee, he may within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded or made available to him, request the regional director to review the decision of the State committee.

Written notice of any decision rendered under this section by the county or State committee shall also be issued to each person known to it who, as landlord, tenant, or sharecropper having an interest in the operation of the farm, may be adversely affected by such decision. Only a person who shows that he is adversely affected by the outcome of any request for reconsideration or appeal may appeal the matter further, but any person who, as landlord, tenant, or sharecropper having an interest in the operation of the farm, would be affected by the decision to be made on any reconsideration by the county committee or subsequent appeal shall be given a full and fair hearing if he appears when the hearing thereon is held.

SECTION XI—DEFINITIONS

For the purposes of the 1940 program, unless the context otherwise requires:

A. *Officials.* 1. Secretary means the Secretary of Agriculture of the United States.

2. Regional director means the director of the division of the Agricultural Adjustment Administration in charge of the agricultural conservation program in the Northeast Region.

3. State committee means the group of persons designated within the State to assist in the administration of the 1940 program.

4. County committee means the group of persons elected within any county to assist in the administration of the 1940 program in such county.

B. *Northeast region* means the area included in the States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

C. *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land; and

2. 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.

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

D. *Miscellaneous.* 1. Person means an individual, partnership, association, corportion, estate, or trust, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

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

3. 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 a crop produced thereon or of the proceeds thereof.

4. 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.

SECTION XII—AUTHORITY, AND AVAILABILITY OF FUNDS

A. *Authority.* Pursuant to the authority vested in the Secretary of Agriculture by Sections 7 to 17, inclusive of the Soil Conservation and Domestic Allotment Act, as amended, payments and grants of aid will be made in Nassau and Suffolk Counties for participation in the 1940 Agricultural Conservation Program for these counties. This participation shall be in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

B. *Availability of funds.* The provisions of the 1940 program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact and the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose. The amounts of such payments and grants of aid in each county will necessarily be within the limits finally determined by (1) such appropriation, (2) the apportionment of such appropriation under the provisions of the Soil Conservation and Domestic Allotment Act, as amended, (3) the final estimate of payments which would be made in each county under the national 1940 Agricultural Conservation Program, and (4) the extent of participation in the 1940 Agricultural Conservation Program for Suffolk and Nassau Counties. As an adjustment for participation, the rates of payment and deduction specified herein for either county may be increased or decreased by as much as 10 percent.

The Agricultural Adjustment Administration is hereby authorized, in each special program covering one or more counties, such as this, to make such determinations and to prepare and issue such instructions and forms as may be required in administering such program pursuant to the provisions thereof.

Done at Washington, D. C. on this 12th day of April, 1940. Witness my hand and the seal of the Department of Agriculture.

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

[F. R. Doc. 40–1488; Filed, April 12, 1940; 11:44 a. m.]

Bureau of Animal Industry.

[Docket No. A–133 O–133]

NOTICE OF HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO THE MARKETING AGREEMENT AND B. A. I. ORDER NO. 361 REGULATING THE HANDLING OF ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Whereas, pursuant to the provisions of Sections 56 to 60, inclusive, of Public Act

No. 320, 74th Congress, approved August 24, 1935, 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, 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 December 2, 1936, effective on and after December 7, 1936, regulating the handling of anti-hog-cholera serum and hog-cholera virus; and

Whereas, Article VI of said marketing agreement and order regulating the handling of anti-hog-cholera serum and hog-cholera virus provides for hearing upon amendments to said marketing agreement and order; and

Whereas, the Control Agency for handlers of anti-hog-cholera serum and hog-cholera virus has proposed certain amendments to said order and marketing agreement:

Now, therefore, pursuant to said act, said general regulations, and said marketing agreement and order, 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 anti-hog-cholera serum and hog-cholera virus in the Palmer House, Chicago, Illinois, on April 17, 1940, at 10:00 a. m., c. s. t.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which, in order to effectuate the declared policy of the act, may necessitate amendments to the aforesaid marketing agreement and order and specifically as to the necessity for amendments to the marketing agreement and order to (1) redefine the terms "dealer" and "wholesaler"; (2) define the terms "consumer", "producer wholesaler", "price", "discount", "terms of sale"; (3) eliminate the term "volume contract purchaser"; (4) revise the method of filing "open prices"; (5) revise the method of selling under open price filings including the use of contracts and invoices; (6) revise the method of making open price filings available to the consuming public; (7) revise the method of classifying trade buyers; and (8) revise the fair trade provisions with respect to receiving as well as giving rebates, refunds, commissions or unearned discounts and with respect to loaning as well as giving any article of value to influence sales.

Copies of the proposed amendments to the marketing agreement and to the order may be procured 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.

H. A. WALLACE,
Secretary of Agriculture.

APRIL 12, 1940.

[F. R. Doc. 40-1497; Filed, April 12, 1940; 11:55 a. m.]

DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[General Order No. C-19]

ADMISSION UNDER IMMIGRATION LAWS OF ALIENS PARTICIPATING IN GOLDEN GATE INTERNATIONAL EXPOSITION AND NEW YORK WORLD'S FAIR, 1940

APRIL 11, 1940.

Pursuant to the authority contained in the Immigration Act of 1917 (Act of February 5, 1917, sec. 3 and sec. 23; 39 Stat. 875, 892; 8 U.S.C. 136, 102); the Immigration Act of 1924 (Act of May 26, 1924, sec. 24; 43 Stat. 166; 8 U.S.C. 222), and section 3 of the Act of April 29, 1902 (32 Stat. 177), notice is hereby given that the provisions of General Order No. 261 of April 6, 1938 (3 F.R. 724)[1] are hereby extended to regulate the temporary admission and return of aliens who apply for entry to the United States for the purpose of participating as employees of an alien exhibitor, concessionaire or holder of any privilege at the Golden Gate International Exposition to be held during 1940 at San Francisco, California, and the New York World's Fair to be held during 1940 at New York, N. Y., as authorized by the 8th proviso to section 3 of the Immigration Act of 1917 (39 Stat. 878; 8 U.S.C. 136 [h]), and sec. 3 of the Act of April 29, 1902 (32 Stat. 177).

Nothing in this order shall be construed to alter the status under the immigration laws of any alien who has heretofore been admitted to the United States under the authority contained in General Order No. 261. Form 693 shall be used for bonds required of aliens under said General Order as hereby extended. Such bonds shall otherwise be handled in the same manner as is provided by § 3.33 of Title 8, Code of Federal Regulations (Rule 3, Subd. H, Par. 6, Immigration Rules of January 1, 1930, Edition of December 31, 1936, as amended by G.O. 241, of January 23, 1937, 2 F.R. 163, and renumbered by G. O. 244, of February 24, 1937, 2 F.R. 397),[1] for handling the bonds enumerated therein.

[SEAL] JAMES L. HOUGHTELING,
Commissioner.

Approved:

FRANCES PERKINS,
Secretary.

[F. R. Doc. 40-1495; Filed, April 12, 1940; 11:49 a. m.]

[1] Citations are to bound volumes.

CIVIL AERONAUTICS AUTHORITY.

[Docket Nos. 3-401 (B)-1, 3-401 (B)-2, 132, 194]

IN THE MATTER OF THE APPLICATIONS OF MID-CONTINENT AIRLINES, INC., BRANIFF AIRWAYS, INC., NORTHWEST AIRLINES, INC., FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (B) OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF ORAL ARGUMENT

The above-entitled proceeding, being the applications of Mid-Continent Airlines, Inc., Braniff Airways, Inc., and Northwest Airlines, Inc., for certificates of public convenience and necessity involving air transportation between Minneapolis-St. Paul, Minn., Des Moines, Iowa, Kansas City, Mo., and St. Louis, Mo., being Docket Nos. 3-401(B)-1, 3-401(B)-2, 132 and 194, is assigned for oral argument before the Authority on April 16, 1940, 10 o'clock a. m., (Eastern Standard Time) in Room 5044 Commerce Bldg., Washington, D. C.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

APRIL 10, 1940.

[F. R. Doc. 40-1482; Filed, April 12, 1940; 10:38 a. m.]

[Docket No. 148]

IN THE MATTER OF THE APPLICATION OF NEW YORK AND BERMUDIAN AIR LINE FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF POSTPONEMENT OF HEARING

The above-entitled proceeding, being the application of New York and Bermudian Air Line for a certificate of public convenience and necessity authorizing air transportation between Newark, New Jersey, and the Island of Bermuda, now assigned for public hearing on April 22, 1940, is hereby postponed to July 29, 1940, 10 o'clock a. m. (Eastern Standard Time) at the Raleigh Hotel, 12th Street and Pennsylvania Ave. NW., Washington, D. C., before Examiner Frank P. McIntyre.

[SEAL] FRANK P. McINTYRE,
Examiner.

APRIL 11, 1940.

[F. R. Doc. 40-1481; Filed, April 12, 1940; 10:38 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of April, A. D. 1940.

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

[Docket No. 3995]

IN THE MATTER OF DAVID H. GOLDMAN, AN INDIVIDUAL, TRADING AS ZEEN CHEMICAL COMPANY

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

It is further ordered, That the taking of testimony in this proceeding begin on Friday, April 26, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in Room 4083, Main Post Office, Cleveland, Ohio.

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

By the Commission.

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

[F. R. Doc. 40–1487; Filed, April 12, 1940; 11:28 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of April, A. D. 1940.

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

[Docket No. 3557]

IN THE MATTER OF CHICAGO MEDICAL BOOK COMPANY, W. B. SAUNDERS COMPANY, J. B. LIPPINCOTT COMPANY, C. V. MOSBY COMPANY, VAN ANTWERP LEA AND CHRISTIAN FEBIGER, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF LEA & FEBIGER, RESPONDENTS

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 W. W. Sheppard, 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 Tuesday, April 23, 1940, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

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

By the Commission.

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

[F. R. Doc. 40–1486; Filed, April 12, 1940; 11:28 a. m.]

RAILROAD RETIREMENT BOARD.

NOTICE OF POSTPONEMENT OF HEARING ON PROPOSED REVISION OF REGULATIONS ON TIME LOST CLAIMS

Notice is hereby given to all persons interested that pursuant to the authority vested in me by Board Order 40–39, dated January 23, 1940, (5 F.R. 344–766–1118–1145–1203) the hearing to be held on proposed revision of regulations on time lost claims, scheduled for April 15, 1940, is postponed to Monday, April 29, 1940, at 10: 00 a. m., at the offices of the Board, 10th and U Streets, Northwest, Washington, D. C. Any party interested therein may appear and may, prior thereto, on request, receive from the Chairman, copy of a statement on the proposed revision.

By Authority of the Board.

MURRAY W. LATIMER, *Chairman.*

APRIL 11, 1940.

[F. R. Doc. 40–1480; Filed, April 12, 1940; 10:09 a. 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 11th day of April, A. D. 1940.

[File No. 1–2240]

IN THE MATTER OF ARROWHEAD DEVELOPMENT COMPANY COMMON STOCK, 10¢ PAR VALUE

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934 to determine whether or not the registration on the San Francisco Mining Exchange of the common stock, 10¢ par value, of Arrowhead Development Company should be suspended, or whether or not the registration of such stock should be withdrawn; and

A hearing having been held after appropriate notice, the trial examiner having filed an advisory report, and exceptions having been taken thereto; and

The Commission having fully considered this matter and having entered its findings herewith;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, that the registration on the San Francisco Mining Exchange of the common stock, 10¢ par value, of the Arrowhead Development Company shall be and the same is hereby withdrawn, effective at the close of business on May 11, 1940.

By the Commission.

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

[F. R. Doc. 40–1490; Filed, April 12, 1940; 11:46 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11 day of April, A. D. 1940.

[File Nos. 70–1, 70–9]

IN THE MATTER OF WISCONSIN ELECTRIC POWER COMPANY AND THE NORTH AMERICAN COMPANY

NOTICE OF AND ORDER FOR HEARING

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

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 17, 1940, at 10: 00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 15, 1940.

The matter concerned herewith is in regard to the proposed issuance and sale by said Wisconsin Electric Power Company of 262,098 shares of 4¾% Series Preferred Stock, of the par value of $100 per share and a maximum of 382,098 shares of additional common stock, with a par value of $10 per share, the proposal by said Wisconsin Electric Power Company, through amendment of its Articles of Incorporation, to confer certain additional rights upon the holders of the Preferred Stock of said applicant and declarant by investing such stock with certain special voting rights in the event of default in payment of dividends thereon and in other special instances and the acquisition and retirement by said applicant of its presently outstanding 6% Preferred Stock, Issue of 1921.

Said Wisconsin Electric Power Company proposes to offer, for approximately 10 days, to exchange one share of the new 4¾% Series Preferred Stock, abovementioned, and one share of the abovementioned common stock plus a cash dividend adjustment of 31¼ cents for each share of its presently outstanding 6% Preferred Stock, above mentioned. The unexchanged portion of said 6% Preferred Stock will be called for redemption on June 1, 1940 at $110 a share plus accrued and unpaid dividends. The exchange and redemption, and the issuance and sale, will be effective only if at least 60% of said 6% Preferred Stock held by persons other than The North American Company, parent of said applicant, is deposited for exchange.

Wisconsin Electric Power Company further proposes to reduce the par value of all authorized shares of its common stock from $20 per share to $10 per share, and to increase the authorized number of shares of such common stock from 2,000,000 shares to 4,000,000 shares, which reduction in par value will result in the transfer of $10,500,000 from the capital stock account of said applicant to its paid in surplus.

It is stated that The North American Company will deposit 58,710 shares of the above-mentioned 6% Preferred Stock of the Wisconsin Electric Power Company with said company for exchange upon the basis above set forth, the 20,000 additional shares of said 6% Preferred Stock of the Wisconsin Electric Power Company presently owned by The North American Company, to be exchanged for 120,000 shares of common stock ($10 par value) of Wisconsin Electric Power Company plus an amount per share of said 20,000 shares equal to the dividend adjustment above described.

It is proposed that such of the new 4¾% Series Preferred Stock of the Wisconsin Electric Power Company as is not issued pursuant to the exchange offer, will be sold to the public through underwriters, the proceeds from such sale to be applied to the redemption of the unexchanged portion of the 6% Preferred Stock to be retired. It is also contemplated that a management fee and certain commissions will be paid to the prospective underwriters for services in connection with the exchange regardless of whether or not sufficient stock is deposited for exchange for the same to become effective.

The hearing hereby ordered is a continuation of hearings held pursuant to an order of this Commission dated March 1, 1940 in the matter of Wisconsin Electric Power Company, File No. 70–1, and an order entered March 17, 1940 in the matter of The North American Company, File No. 70–9, the plan of refinancing having, since said dates, been materially amended so that it is now as hereinabove described.

By the Commission.

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

[F. R. Doc. 40–1489; Filed, April 12, 1940; 11:46 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of April, A. D. 1940.

[File No. 70–18]

IN THE MATTER OF GENERAL WATER, GAS & ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

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

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 29, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 24, 1940.

The matter concerned herewith is in regard to an application by General Water Gas & Electric Company, a registered holding company and a subsidiary of International Utilities Corporation, a registered holding company, to purchase from time to time at current prices on the New York Curb Exchange or on the over-the-counter market as many of General Waterworks Corporation Fifteen Year 5% First Lien and Collateral Trust Gold Bonds, Series A, due June 1, 1943 (assumed by General Water Gas & Electric Company) as may be purchased with (a) the proceeds of the sale by its subsidiary, Indiana Water Works Company, of Bonds of the City of Greensburg, Indiana, amounting to $327,000, and (b) such sums as will be received from Walnut Electric & Gas Corporation as payment on its note or notes held by General Water Gas & Electric Company following the sale by Walnut Electric & Gas Corporation of the assets of its subsidiary, South Carolina Utilities Company, which sums are presently estimated not to exceed $600,000. The applicant has designated sections 12 (c) of the Act and Rule U-12C–1 as applicable to the above transaction.

By the Commission.

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

[F. R. Doc. 40–1491; Filed, April 12, 1940; 11:46 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of April, A. D. 1940.

[File Nos. 70–7, 70–25, 70–26]

IN THE MATTERS OF THE MANUFACTURERS LIGHT AND HEAT COMPANY, MANUFACTURERS GAS COMPANY, PENNSYLVANIA FUEL SUPPLY COMPANY, AND GREENSBORO GAS COMPANY, INDIVIDUALLY AND ON BEHALF OF THE MANUFACTURERS LIGHT AND HEAT COMPANY; THE MANUFACTURERS LIGHT AND HEAT COMPANY, MANUFACTURERS GAS COMPANY, PENNSYLVANIA FUEL SUPPLY COMPANY, AND GREENSBORO GAS COMPANY, ON BEHALF OF THE MANUFACTURERS LIGHT AND HEAT COMPANY, AND GETTYSBURG GAS CORPORATION, CUMBERLAND AND ALLEGHANY GAS COMPANY, NATURAL GAS COMPANY OF WEST VIRGINIA, AND FAYETTE COUNTY GAS COMPANY, INDIVIDUALLY; THE MANUFACTURERS LIGHT AND HEAT COMPANY, MANUFACTURERS GAS COMPANY, PENN-

SYLVANIA FUEL SUPPLY COMPANY, AND GREENSBORO GAS COMPANY, ON BEHALF OF THE MANUFACTURERS LIGHT AND HEAT COMPANY, AND COLUMBIA GAS & ELECTRIC CORPORATION, INDIVIDUALLY

NOTICE OF AND ORDER FOR CONSOLIDATED HEARING

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

It is ordered, That a hearing on such matters under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 30, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

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

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 April 24, 1940.

The matter concerned herewith is in regard to a series of proposed transactions which involve (a) Columbia Gas & Electric Corporation, a registered holding company and a subsidiary of The United Corporation, and (b) eight direct subsidiaries of Columbia Gas & Electric Corporation, viz., The Manufacturers Light and Heat Company, Manufacturers Gas Company, Pennsylvania Fuel Supply Company, Greensboro Gas Company and The Gettysburg Gas Corporation, each of which is a Pennsylvania corporation, and Cumberland and Allegheny Gas Company, Natural Gas Company of West Virginia and Fayette County Gas Company, the last three being West Virginia corporations, and (c) a new corporation, The Manufacturers Light and Heat Company (to be formed under the laws of the State of Pennsylvania and pursuant to an agreement of consolidation and merger), which will upon its organization be a direct subsidiary of Columbia Gas & Electric Corporation. The above companies are hereinafter referred to as Columbia, Manufacturers Light (old), Manufacturers Gas, Pennsylvania, Greensboro, Gettysburg, Cumberland, Natural Gas, Fayette, and Manufacturers Light (new).

The proposed transactions may be briefly summarized as follows:

(1) Manufacturers Light (old), Manufacturers Gas, Pennsylvania and Greensboro will consolidate to form Manufacturers Light (new), which will have an authorized capital stock of $37,550,000, being the total authorized capital stock of the four consolidating corporations. In the consolidation Manufacturers Light (new) will acquire all of the assets of Manufacturers Light (old), Manufacturers Gas (except assets of Manufacturers Gas in the State of New York), Pennsylvania and Greensboro and assume all their liabilities consisting of current liabilities and a loan on open account owed to Columbia by Pennsylvania. Manufacturers Light (new) will issue and deliver 581,660 shares of its $50 Par Common Stock to the stockholders of the four consolidating corporations; 581,534 shares of such stock will be received by Columbia.

(2) Thereafter, Manufacturers Light (new) will acquire all the assets and assume all the liabilities of Gettysburg, Cumberland, Natural Gas and Fayette, issuing to the stockholders of such companies in exchange therefor 105,734 shares of its $50 Par Common Stock. The assumption consists of current liabilities of each of these four companies and $222,656.28 of loans on open account and $112,500 principal amount of First Mortgage Bonds of Gettysburg, $366,864.22 principal amount of 6% Demand Notes and $1,800,000 principal amount of First Mortgage Bonds of Cumberland and $2,400,000 principal amount of 6% Demand Notes of Natural Gas. Subsequently, the four companies will dissolve and distribute to their stockholders as a liquidating dividend the shares of Manufacturers Light (new) to be received in the exchange.

(3) Following the consummation of the above consolidations and mergers, Manufacturers Light (new) will issue and sell to Columbia, for cash, $7,500,000 principal amount of its 4½% Non-Transferable, 30-Year Unsecured Notes, the proceeds of which are to be used to pay all of the indebtedness (except current liabilities) assumed in the consolidations and mergers and to provide funds for construction purposes.

(4) Applicants designate the third sentence of Section 6 (d) and Section 9 (a) of the Public Utility Holding Company Act of 1935, and Rules U-12C-1, U-12C-2, U-12D-1 and U-12F-1 promulgated thereunder, as being applicable to the transactions involved in the above proceedings and state that Columbia will file appropriate applications under Instruction 8-C of the Uniform System of Accounts for Holding Companies promulgated under the Act with respect to the amounts at which it will record its investments in the securities of Manufacturers Light (new) to be received by Columbia in connection with the proposed transactions.

It appearing to the Commission that the matters herein are related and involve common questions of law or fact and that evidence offered in respect of each of the matters may have a bearing on the other; that substantial savings in time, effort and expense will result if the hearings on said matters are consolidated so that they may be heard as one matter and so that evidence adduced in each matter may stand as evidence in the other for all purposes;

It is ordered, That the proceedings hereupon Commission File Nos. 70-25, 70-26 and 70-7 be and they are hereby consolidated for the purpose of hearing thereon. The Commission reserves the right, if at any time it may appear conducive to an orderly and economic disposition of either of such matters, to order a separate hearing concerning the same or any part thereof, or to close the record with respect thereto and/or to take action thereon prior to closing the record on said other matter.

By the Commission.

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

[F. R. Doc. 40-1492; Filed, April 12, 1940; 11:47 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 12th day of April, A. D. 1940.

[File No. 54-23]

IN THE MATTER OF THE UNITED ILLUMINATING TRUST AND THE ILLUMINATING SHARES COMPANY

NOTICE OF AND ORDER FOR HEARING

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

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 30, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That 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.

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 April 25, 1940.

The matter concerned herewith is in regard to an application by The United Illuminating Trust and The Illuminating Shares Company, each of which is a registered holding company under the Public Utility Holding Company Act of 1935 and parent of The United Illuminating Company; the application was filed pursuant to section 11(e) of said Act, for an order approving a plan for the simplification of the corporate structure, for the fair and equitable distribution of voting power among security holders, and for the divestment of control and securities of The United Illuminating Company, as necessary to effectuate the provisions of subsection (b) of section 11 of said Act and as fair and equitable to the persons affected by the plan.

It is stated that The United Illuminating Company has 623,114 shares of capital stock, no par value, of the same class and with equal voting rights, outstanding. It is further stated that in excess of 93% of the total outstanding stock of The United Illuminating Company has been deposited with and is held by the Trustees of The United Illuminating Trust, a trust created under the laws of the State of Connecticut; that under the provisions of the declaration of trust, the Trustees control and hold with power to vote such deposited stock; that such deposited stock is held for the sole and exclusive benefit of the holders of Class A stock of The Illuminating Shares Company, a Delaware corporation. It is further stated that The Illuminating Shares Company has 1,159,302 shares of Class A Stock outstanding; that the holders of capital stock of The United Illuminating Company who deposited such stock with the Trustees of The United Illuminating Trust received in exchange therefor Class A stock of The Illuminating Shares Company in the ratio of two shares of such Class A Stock for each share of stock of The United Illuminating Company so deposited; it is further stated that The Illuminating Shares Company has issued 30 shares of Trustees stock; that six shares of such stock were issued to each of the five Trustees of The United Illuminating Trust, and that each of such five present Trustees, as trustees, owns, controls and holds such Trustee stock with power to vote and with all other rights and powers incident thereto.

It is further stated that the declaration of trust of The United Illuminating Trust provides that the Trust is to continue until the first Monday in January, 1946 unless sooner terminated, but that the Trust may be terminated at any time by a vote of not less than four-fifths of the Trustees thereof, approved by a vote of not less than eighty percent (80%) of the Class A Stock of The Illuminating Shares Company. It is further stated that for the purpose of enabling The United Illuminating Trust and The Illuminating Shares Company to comply with the provisions of subsection (b) of section 11 of the said Act and to effectuate the provisions and purposes thereof The United Illuminating Trust and The Illuminating Shares Company proposed to divest themselves of control and of the stock of The United Illuminating Company and to terminate their respective existences, so that the legal title to the voting power of the stock of The United Illuminating Company now held in the trust will be fairly and equitably distributed among all the persons who are the beneficial owners of such stock instead of permitting the voting power of more than 93% of the stock of The United Illuminating Company to continue and remain in the five Trustees of The United Illuminating Trust, who are a self-perpetuating body. It is stated that the steps by which it is proposed to carry out such plan are as follows: (a) termination of The United Illuminating Trust pursuant to a vote of not less than four-fifths of the Trustees thereof and approved by a vote of not less than eighty percent (80%) of the Class A Stock of The Illuminating Shares Company; (b) transfer by said Trustees to The Illuminating Shares Company of the 579,651 shares of the stock of The United Illuminating Company, held by said Trustees; that such stock is to be held by The Illuminating Shares Company for the sole and exclusive benefit of its holders of Class A Stock; (c) exchange by The Illuminating Shares Company with its Class A stockholders of the 579,651 shares of stock of The United Illuminating Company, so received from said Trustees, for the 1,159,302 shares of said Class A Stock outstanding, on the basis of one share of The United Illuminating Company for two shares of Class A Stock of The Illuminating Shares Company; (d) dissolution of The Illuminating Shares Company.

It is further stated that the Trust does not own any assets other than the deposited stock of The United Illuminating Company and has no indebtedness; that The Illuminating Shares Company does not own any assets, other than such interest as it may have in the deposited stock of the United Illuminating Company and a balance on hand amounting to approximately $177,128 which is being held for the payment of transfer taxes in connection with the carrying out of the plan, possible other tax liabilities, counsel fees and other current expenses; that The Illuminating Shares Company has no indebtedness other than such current liabilities.

It is further stated that if the proposed plan is consummated the holders of Class A Stock of The Illuminating Shares Company will be entitled to receive the balance of the aforementioned amount on deposit, if any, remaining after the payment of all of such indebtedness and expenses; that it will be impossible to determine the amount of such balance at the time of the aforementioned exchange of Class A Stock for The United Illuminating Company stock, becomes effective; that it is proposed that certificates evidencing the respective proportionate interest of such holders of Class A Stock of The Illuminating Shares Company, be delivered to them at the time of the aforementioned exchange, that such certificates be payable in cash to the holders thereof as soon as the amount of such deposit available for distribution, if any, can be definitely determined.

It is further stated that until the enactment of the Public Utility Holding Company Act of 1935 the existence of The United Illuminating Trust and The Illuminating Shares Company, although complicating the structure of the system, was justified as a necessary or advisable method of protection against possible control of The United Illuminating Company by a foreign holding Company; that the restrictions on the acquisition of operating company securities contained in the Public Utility Holding Company Act of 1935 and recent amendments to the statutes of the State of Connecticut limiting the activities of holding companies in relation to operating companies within that state, seem now to afford adequate protection for the continued local control and management and for the independence of The United Illuminating Company.

The application further asks for such other findings, such reports, and such other orders as may be appropriate or necessary in connection with the consummation of the plan, including, but without limitation, a report under section 11 (g) of the Act, and, if necessary appropriate orders pursuant to sections 10 and 12 of the Act approving the acquisitions and dispositions of securities necessary to carry out the plan, and such further relief as may be deemed just and proper.

It is further ordered, That copies of this order be mailed by applicants not later than April 20, 1940 to the Class A stockholders of The Illuminating Shares Company of record at 2:00 p. m., Eastern Standard time, April 15, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–1493; Filed, April 12, 1940; 11:47 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 12th day of April, A. D. 1940.

[File No. 43–195]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF COLORADO

NOTICE OF AND ORDER FOR HEARING

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

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 18, 1940, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That 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.

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 April 17, 1940.

The matter concerned herewith is in regard to an application by the above company for an order permitting it to acquire each year not in excess of $800,000 principal amount of its 4% Sinking Fund Debentures due 1949 for the purpose of satisfying the Sinking Fund provided in its Indenture pursuant to which such debentures were issued. The debentures are to be acquired in the manner and method provided by such Indenture.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–1494; Filed, April 12, 1940; 11:48 a. m.]