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# FEDERAL REGISTER

VOLUME 3 NUMBER 158

*Washington, Saturday, August 13, 1938*

**Rules, Regulations, Orders**

**TITLE 7—AGRICULTURE  
 AGRICULTURAL ADJUSTMENT  
 ADMINISTRATION**

**ORDER REGULATING HANDLING IN INTERSTATE OR FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF HOPS GROWN IN STATES OF OREGON, CALIFORNIA, AND WASHINGTON**

Whereas, under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, (hereinafter referred to as the "act") it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of said act, issue orders regulating such handling of certain agricultural commodities, including hops, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities; and

Whereas, the Secretary having reason to believe that the issuance of an order would tend to establish and maintain such marketing conditions for hops grown in the States of Oregon, California, and Washington as would establish prices to the producers of such hops at a level that would give such hops a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such hops in the base period, August 1909–July, 1914, did, pursuant to the provisions of the act and the regulations thereunder, on the 27th day of May, 1938, give notice of a hearing<sup>1</sup> to be held at Santa Rosa, California, on June 14, 1938, and in Salem, Oregon, on June 17, 1938, and in Yakima, Washington, on June 20, 1938, on a proposed marketing agreement and a proposed order regulating the handling of hops grown in the States of Oregon,

California, and Washington, at which times all interested persons in attendance at such hearing were afforded due opportunity to be heard concerning the proposed marketing agreement and the proposed order; and

Whereas, the Secretary finds upon the evidence introduced at the hearing and the record thereof:

(1) That, in order to give such hops a purchasing power with respect to articles that farmers buy equivalent to the average purchasing power of such hops during the aforesaid base period, the average price received by the grower of such hops should have been approximately 31.4 cents per pound of hops during the 1937–38 marketing season;

(2) That the average price received by growers of such hops for the 1937–38 marketing season was 16.7 cents per pound of hops;

(3) That the average price per pound of said hops received by growers during the period from 1928 to 1937 was substantially less than the purchasing power of such hops during the aforesaid base period;

(4) That, in the past, the lack of regulation of the shipment of hops produced in the aforesaid States of Oregon, California, and Washington was an important factor contributing toward unstable marketing conditions for such hops and consequently depressed prices to growers;

(5) That the regulation of shipments of hops by proration, as provided in article IV of this order, subject to the terms and provisions contained in this order, will tend to prevent fluctuation of prices to growers, and thereby establish and maintain a more stable market for said hops, tending to restore prices to growers of said hops to a level that will have a purchasing power with respect to articles that producers buy equivalent to the purchasing power of said hops in the aforesaid base period;

(6) That the method of regulating shipments by proration among handlers, as provided in this order, is fair and equitable;

(7) That the method of issuing in the name of each grower an allotment cer-

**CONTENTS**

RULES, REGULATIONS, ORDERS	Page
<b>TITLE 7—AGRICULTURE:</b>	
Agricultural Adjustment Administration:	
Hops grown in Oregon, California, and Washington; order regulating handling of.....	1979
Federal Crop Insurance Corporation:	
Wheat crop insurance, regulations amended.....	1987
<b>TITLE 11—AVIATION:</b>	
Bureau of Air Commerce:	
National Airport Corp., revocation of order governing use of Military Road (Va.).....	1987
<b>TITLE 15—COMMERCE:</b>	
National Bituminous Coal Commission:	
Minimum Price Area 1:	
Minimum prices for kinds, qualities and sizes of coal produced in the several districts of.....	1988
Sale and distribution of coal by code members of respective districts of.....	1989
Weighted average of total costs of tonnage produced within.....	1987
<b>TITLE 24—HOUSING CREDIT:</b>	
Federal Home Loan Bank Board:	
Bank Presidents' Council, name changed to Bank Presidents' Conference....	1989
Home Owners' Loan Corporation:	
Analysis and Review Section; remittance by mortgagors and vendees.....	1990
Assistant Treasurer to act as well as Treasurer.....	1990
Prepayments and curtailments; funds received for credit to loan accounts....	1990
<b>TITLE 39—POSTAL SERVICE:</b>	
Post Office Department:	
Air Mail service under supervision of First Assistant Postmaster General.....	1991
(Continued on next page)	

<sup>1</sup> 3 F. R. 1226 (DI).



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CONTENTS—Continued

TITLE 45—SECURITIES AND EXCHANGES:	Page
Securities and Exchange Commission:	
Proxy rules amended.....	1991

NOTICES

Interstate Commerce Commission:	
Applicants for admission to practice before Commission.....	1992
Securities and Exchange Commission:	
Greene, Chester and Patton Trust, withdrawal of application for exemption.....	1993
Gulf States Utilities Co., order adopting report.....	1993
Market Street Railway Co., extension of unlisted trading privileges denied.....	1993
West Ohio Gas Co., hearing....	1993

tificate or certificates, as evidence of the respective grower's salable allotment for the respective year, as provided in this order, is fair and equitable;

(8) That, as provided in this order, it is fair and equitable for the Control Board, on receipt of satisfactory proof, to issue in the name of any grower, who by reason of a written contract executed prior to June 14, 1938, is legally obligated to deliver, at a definite and stated price, a definite and stated quantity of hops grown by the respective grower during 1938 to any other person, an additional allotment certificate covering or relating to the excess quantity, if any, of the quantity of hops specified in such contract over and above the quantity represented by such grower's salable allotment;

(9) That, as provided in this order, it is fair and equitable to require that, subsequent to thirty days after the effective date of this order, hops produced prior to the year 1938 may be handled, pursuant to the provisions of such order, only in event there shall have been issued pursuant to the provisions of section 5 of article IV of such order a certificate or certificates covering such hops;

(10) That this order is limited in its application to the smallest regional production area and regional marketing area that is practicable;

(11) That the issuance of several orders applicable to any subdivision of the regional production and marketing areas covered by this order will not effectively carry out the declared policy of the act with respect to establishing and maintaining such marketing conditions for hops as will reestablish prices to growers that will give such commodities a purchasing power with respect to articles that producers buy equivalent to the purchasing power of such commodity in the aforesaid base period;

(12) That there are no differences in the production and marketing of hops in the production area covered by this order that make necessary different terms applicable to different parts of such area;

(13) That the pro rata contribution of handlers to the expenses of administrative agencies created by such order, based upon the quantity of hops handled as provided in this order, is fair and equitable;

(14) That this order and all of the terms and provisions thereof are fair and equitable and will tend to effectuate the declared policy of the act, with respect to said hops grown in said area, by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give said hops a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such hops in the aforesaid base period and by protecting the interest of the consumer by (a) approaching such level of prices, which it is declared in the act to be the policy of Congress to establish, by a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the aforesaid level which it is declared in the Act to be the policy of Congress to establish; and

Whereas, the Secretary further finds:

(1) That the marketing agreement regulating the handling of hops grown in the States of Oregon, California, and Washington executed by him on August 11th, 1938, and upon which a public hearing was held as aforesaid, was

signed by handlers who handled more than fifty percent of such commodity produced during the year of 1937;

(2) That this order regulates the handling of said hops in the same manner as the said marketing agreement does, and this order is applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement; and

Whereas, the Secretary finds and determines that the issuance of this order is favored by producers of hops who, during the year of 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of such commodity for market within the production area specified in this order;

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that the handling of hops grown in the States of Oregon, California, and Washington, in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such hops, from and after the date hereinafter specified, shall be in conformity to, and in compliance with, the terms and conditions of this order.

ARTICLE I.—DEFINITIONS

SECTION 1. *Terms.*—As used in this order:

1. "Secretary" means the Secretary of Agriculture of the United States.
2. "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937, as amended as of the effective date of this order.
3. "Person" means individual, partnership, corporation, association, or any other business unit.
4. "Hops" means hops grown in the State of Oregon, California, or Washington.
5. "1938 hops" means hops grown in the year 1938.
6. "1939 hops" means hops grown in the year 1939.
7. "Grower" means any individual (each member of a partnership), corporation, association, or any other business unit, engaged in growing hops in the State of California, Oregon, or Washington, and includes any (a) grower operating his or its own land, (b) any cash tenant, (c) any landlord with any crop share renter or share cropper, and (d) any share renter or share cropper.
8. "Dealer" means any handler other than a grower or brewer.
9. "Grower-dealer" means any handler (other than a brewer) who is also a grower of hops.
10. "Brewer" means any person who uses hops, or any product thereof, in the process of manufacturing any malt beverage.
11. "Handler" means any person who, as or through a principal, agent, broker, representative or otherwise, (a) markets

or transports to market hops in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, or (b) purchases, takes consignment of, accepts delivery of in connection with a purchase or sale (except as a common carrier of hops owned by another person), or otherwise acquires, within Oregon, California or Washington, hops from a grower or any other person, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

12. "To handle" or "handling" means (a) to market or transport to market hops in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, or (b) to purchase, take consignment of, accept delivery of in connection with a purchase or sale (except as a common carrier of hops owned by another person), or otherwise acquire, within Oregon, California or Washington, hops from a grower or any other person, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

13. "Control Board" means the Control Board provided for in and created pursuant to article II of this order.

14. "Managing Agent" means the Managing Agent selected pursuant to article II of this order.

15. "Advisory Committee" means a committee established pursuant to article III of this order.

16. "1938 fiscal year" means the period of time beginning on the effective date of this order and continuing until July 31, 1939; and the "1939 fiscal year" means the period of time beginning on August 1, 1939 and continuing thereafter until this order terminates or is terminated.

17. "Growers Allocation Committee" means the Growers Allocation Committee provided for in and created pursuant to article II of this order.

#### ARTICLE II.—ADMINISTRATIVE BODIES

SECTION 1. *Control board*.—1. A Control Board consisting of sixteen (16) members is hereby established to administer the terms and provisions of this order as herein specifically provided. The original members and their respective alternates shall be as follows:

##### *Grower Members*

(1) A. S. Gibbens, Sacramento, California, and his alternate is Paul Foster, Hopland, California;

(2) R. E. Oehlmann, Sebastopol, California, and his alternate is I. D. Wood, Santa Rosa, California;

(3) W. H. Anderson, Eugene, Oregon, and his alternate is Fred Kaser, Silverton, Oregon;

(4) Romeo Gouley, Brooks, Oregon, and his alternate is D. J. Collins, Independence, Oregon;

(5) B. D. McKelheer, Yakima, Washington, and his alternate is E. J. Dupree, Moxee City, Washington;

(6) J. R. Rutherford, Yakima, Washington, and his alternate is J. J. Coplan, Orting, Washington;

(7) Warren Brown, Ukiah, California, and his alternate is F. H. Spears, Guardian Building, Salem, Oregon;

(8) Wilfred Rivard, Moxee City, Washington, and his alternate is William S. Walton, Ladd and Bush Bank, Salem, Oregon;

##### *Grower-Dealer Members*

(9) Louis Lochmund, Salem, Oregon, and his alternate is Leonard Richardson, San Francisco, California;

(10) John I. Haas, Metropolitan Bank Building, Washington, D. C., and his alternate is Fred J. Haas, Metropolitan Bank Building, Washington, D. C.;

##### *Brewer Members*

(11) G. L. Becker, Ogden, Utah, and his alternate is Charles Lick, Los Angeles, California;

(12) Arnold Blitz, Portland, Oregon, and his alternate is Peter Schmidt, Olympia, Washington;

(13) Paul Esselborn, Cincinnati, Ohio, and his alternate is Karl Schusler, San Francisco, California;

(14) G. O. Goerl, Oakland, California, and his alternate is Irving Solomon, Chicago, Illinois;

##### *Dealer Members*

(15) Ludwig S. Lyon, 535 5th Avenue, New York City, New York, and his alternate is Franz Bing, 150 Nassau Street, New York City, New York;

(16) Robert Oppenheim, 33 Water Street, New York City, New York, and his alternate is Al Seidenberg, 17 Battery Place, New York City, New York.

The aforesaid members shall serve for a term ending on April 1, 1939; *Provided, however*, said members shall serve until their respective successors have been selected and qualified. The members of said Control Board selected subsequent to those selected for the aforesaid initial period ending April 1, 1938, shall be selected in accordance with the provisions of this article and shall serve thereafter so long as this order remains effective. Any person selected as a member of a Control Board, including but not being limited to those designated herein as the original members, shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

2. Six (6) members of the Control Board, selected subsequent to those designated as the initial members, shall be growers who are not grower-dealers; and of said group of six members two (2) members shall be growers of hops in and residents of the State of Oregon, and two (2) members shall be growers of hops in and residents of the State of California, and two (2) members shall

be growers of hops in and residents of the State of Washington. The grower members from each of said States shall be selected by the Secretary from a group of two (2) nominees designated by the Advisory Committee for the respective State, or the Secretary may select some or all of said grower members from among other growers of hops in the respective States.

3. Two (2) members of the Control Board shall be selected by the Secretary from a group of two (2) nominees designated by the six grower members of the Control Board, provided for in paragraph 2 of this section, or the Secretary may select some or all of said two members, provided for in this paragraph of section 1, from among other persons.

4. One member of the Control Board, selected subsequent to those designated as the initial members, shall be designated as a grower-dealer member and shall reside in California, Oregon, or Washington and shall be selected by the Secretary; the aforesaid member may be the person nominated by means of an election, as provided for hereinafter, in which all and only such grower-dealers shall be entitled to participate, or the Secretary may select said member from among other grower-dealers, or officers, or employees thereof, residing in the aforesaid States.

5. Three (3) members of the Control Board, selected subsequent to those designated as the initial members, shall be selected by the Secretary from a group of three (3) nominees designated by means of an election, as provided for hereinafter, in which all and only grower-dealers, residing outside of Oregon, California, and Washington, and all dealers shall be entitled to participate, or the Secretary may select any or all of said members from among other such grower-dealers and dealers, or officers or employees thereof: *Provided, however*, That one of the three members selected by the Secretary shall be a grower-dealer, or officer or employee thereof.

6. Four (4) members of the Control Board, selected subsequent to those designated as the initial members, shall be designated as brewer members, and shall be selected by the Secretary from a group of four (4) nominees designated by means of an election, as provided for hereinafter, in which all and only brewers shall be entitled to participate, or the Secretary may select some or all of the said four members of the Control Board from among other brewers, or officers or employees thereof.

7. Nominees for the members of the Control Board (other than grower members referred to in paragraphs numbered 2 and 3 of this section), selected subsequent to those designated as the initial members, shall be selected by the above-designated groups in the following manner: The Control Board, established and functioning pursuant to the provisions of this order, shall sub-

mit to the Secretary, not later than February 1, 1939, regulations prescribing the method or methods for the selection of groups of nominees, as in this article provided, from which the Secretary may select the succeeding members and alternates of the Control Board; and, upon the approval of regulations prescribing the method or methods for selecting said groups of nominees, which regulations shall assure to all persons eligible to participate in each such election adequate opportunity to suggest candidates and indicate preferences for such nominees and vote in accordance with the aforesaid regulations, the Control Board shall supervise and conduct said elections in accordance with the regulations thus approved by the Secretary.

8. In the event that any of the groups entitled hereunder to submit nominees, as aforesaid, shall fail to make such nomination for any successor member or alternate within twenty (20) days after the time fixed therefor by the Control Board as hereinbefore provided, the Secretary may select each such member or alternate without previous nomination.

Sec. 2. *Alternates.*—1. There shall be an alternate for each member of the Control Board. Each alternate shall be of the same qualifications, be nominated and selected in the same manner, and hold office for the same term, as the member for whom he is alternate. An alternate for a member of the Control Board shall, in the event of such member's absence, act in the place and stead of such member; and, in the event of such member's (a) removal, (b) resignation, (c) disqualification, or (d) death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected, act in the place and stead of said member.

2. In the event any member of the Control Board and his alternate are both unable or fail to attend a meeting of the Control Board, any alternate for any other member nominated by the same group that nominated the absent member may serve in the place and stead of the absent member and his alternate; or in the event such other alternate cannot attend, or there is no such other alternate, then the absent member, or, in the event of his disability or a vacancy, his alternate, may designate, subject to the approval of the Secretary, a temporary substitute to attend such meeting with the power to act in the place and stead of that member.

Sec. 3. *Vacancies.*—To fill any vacancy, which occurs prior to April 1, 1939, occasioned by the failure of any person, selected as a member of the Control Board or as an alternate, to qualify, or the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary; and to fill any vacancy which

occurs subsequent to April 1, 1939, occasioned by the failure of any person, selected as a member of the Control Board or as an alternate, to qualify, or the death, removal, resignation or disqualification of any qualified member or alternate, a successor for his unexpired term shall be nominated and selected in the manner in this order specified for the nomination and selection of the member or alternate thus to be succeeded. If such nomination for any such vacancy is not made within twenty (20) days after the beginning of such vacancy, the Secretary may select a member or alternate to fill such vacancy without waiting for a nomination to be made.

Sec. 4. *Compensation.*—The member of the Control Board, and their respective alternates, shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their respective duties.

Sec. 5. *Powers.*—The Control Board shall have the following powers:

1. To administer, as herein specifically provided, the terms and provisions of this order.

2. To make administrative rules and regulations in accordance with, and to effectuate the terms and provisions of, this order.

3. To receive, investigate, and report to the Secretary complaints of violations of this order.

4. To recommend to the Secretary amendments to this order.

Sec. 6. *Duties.*—The duties of the Control Board shall be as follows:

1. To act as intermediary between the Secretary and any handler.

2. To keep minute books and records which will clearly reflect all of its acts and transactions, and which shall be subject at any time to examination by the Secretary or his designated representative.

3. To assemble data on the growing, handling, shipping, and marketing conditions relative to hops; and to furnish to the Secretary at his request such information as may be available to the Control Board.

4. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress, approved August 24, 1935, as amended.

5. To submit to the Secretary from time to time, for his approval, a budget of its expenses, including but not being limited to the expenses of the Growers Allocation Committee and of the Advisory Committees.

6. To cause the books of the Control Board to be audited by one or more competent accountants at least once each fiscal year and at such other times as the Control Board may deem necessary,

or as the Secretary may request, and to file with the Secretary a copy of each audit report made.

7. To employ a Managing Agent who, during his employment as such, shall not be a grower, dealer, grower-dealer, or brewer, nor in the employment thereof, and who shall serve as the secretary of the Growers Allocation Committee, and shall have such other duties as are specified for him in this order or by the Control Board; and to employ such other employees as the Control Board may deem necessary, and to determine the salaries and define the duties thereof.

8. To give to the Secretary, or his designated representative, the same notice of meetings of the Control Board as is given to the members of the Control Board.

9. To defend all legal proceedings against any member, alternate, officer, or employee of the Control Board arising out of an act or omission made in good faith pursuant to the provisions of this order.

Sec. 7. *Procedure.*—1. The Control Board shall adopt rules and regulations governing its procedure and the performance of its duties under this order, and shall select a chairman and such other officers as it may deem advisable.

2. The Control Board shall not perform any of its powers or duties under this order while there are more than six (6) vacancies in its membership, not inclusive of alternates. A quorum shall consist of eleven (11) members, or alternates or substitutes then serving in the place and stead of any members, in attendance at the meeting, and all decisions of the Control Board shall be made by not less than nine (9) affirmative votes.

3. The Control Board may provide for voting by telephone, mail, or telegraph upon due notice to all members; and any member voting by telephone shall promptly thereafter confirm in writing his vote so cast.

4. The members of the Control Board, including successors and alternates, and any agent or employee appointed or employed by the Control Board, shall be subject to removal or suspension by the Secretary at any time. Each regulation, decision, determination, or other act of the Control Board shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to public announcement of such disapproval by the Secretary.

Sec. 8. *Funds and other property.*—

1. All funds received by the Control Board pursuant to this order shall be used solely for the purposes herein specified, and the Secretary may require the Control Board and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal, or expiration of term of any member or employee of the Control Board, all books, records, funds, and other property in his possession belonging to the Control Board, or to which the Control Board is entitled to possession, shall be delivered to the Control Board, or to that member's successor in office, and such assignments and other instruments shall be executed as may be necessary to vest in the Control Board, or in the successor of such member or employee, full title to all such books, records, funds, and other property.

3. The Control Board, with the approval of the Secretary, may maintain in its own name, or in the names of its members, legal action against any handler for the collection of that handler's pro rata share of expenses which may be due under this order.

**Sec. 9. Growers allocation committee.**

1. The initial members of the Control Board designated as grower members and those designated as grower-dealer members shall constitute the "Growers Allocation Committee." The Committee shall have such duties and functions as are expressly specified in this order for said Committee and such other duties and functions as may be incident thereto. The Growers Allocation Committee may incur only such expenses as are authorized by the Control Board. The members of the Control Board selected, subsequent to the initial members, in accordance with the provisions of paragraphs numbered 2, 3, and 4 of section 1, article II hereof, and the grower-dealer member selected in accordance with the provisions of paragraph numbered 5 of section 1, article II hereof, shall constitute the Growers Allocation Committee from and after April 1, 1939.

2. The Growers Allocation Committee shall select one of its members as its chairman and the Managing Agent shall serve as its secretary. It shall keep proper records of all of its proceedings and shall adopt regulations governing its procedure. Each regulation, decision, determination, or other act of the Growers Allocation Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to public announcement of such disapproval by the Secretary.

3. The alternate of each grower member or grower-dealer member of the Control Board shall also serve as the alternate of that member as a member of the Growers Allocation Committee, and shall have the same functions with regard to the Growers Allocation Committee as such alternate has with regard to the Control Board under the provisions of section 2 of this article.

**ARTICLE III.—ADVISORY COMMITTEE**

**SECTION 1. Membership.**—1. An Advisory Committee for each of the States of Oregon, California, and Washington is hereby established, each of which committee shall consist of twelve (12) members who shall be growers or grower-dealers engaged in growing hops in and shall be residents of the State for which the respective Committee shall function.

2. The initial members of each of said Advisory Committees, to serve until April 1, 1939, and until their respective successors are selected and qualified, shall be as follows:

**(a) Oregon Advisory Committee:**

Name	Address
Ben Hilton.....	Route 2, Grants Pass, Oregon.
L. S. Christoffer..	Box 366, Eugene, Oregon.
Wm. Krebs.....	Route 1, Jefferson, Oregon.
Romeo Gouley....	Route 1, Brooks, Oregon.
Edw. Novvak.....	Route 1, Aurora, Oregon.
John Gooding....	St. Paul, Oregon.
D. J. Collins.....	Independence, Oregon.
P. H. Hughes.....	Dallas, Oregon.
Fred Hartwick....	Banks, Oregon.
Fred Kaser.....	Route 3, Silverton, Oregon.
Urban Butsch....	Route 1, Mt. Angel, Oregon.
Hobart Mitchell..	633 S. E. Morrison Street, Portland, Oregon.

**(b) California Advisory Committee:**

Name	Address
A. A. Casselmar..	Route 3, Box 2630, Sacramento, California.
Geo. D. Bettzel..	Route 2, Elk Grove, California.
Geo. E. Miller....	Box 1024, Sacramento, California.
A. S. Gibbens....	Route 5, Sacramento, California.
I. D. Wood.....	Route 1, Santa Rosa, California.
E. H. Peterson...	Route 2, Santa Rosa, California.
Everett Ballard..	Route 1, Healdsburg, California.
E. E. Oehlmann..	RFD, Sebastopol, California.
Paul Foster.....	Hopland, California.
Warren Brown...	RFD, Ukiah, California.
F. E. Crawford..	RFD, Ukiah, California.
J. C. Johnson....	Ukiah, California.

**(c) Washington Advisory Committee:**

Name	Address
W. H. Hill.....	Route 5, Yakima, Washington.
J. R. Rutherford..	Route 5, Yakima, Washington.
Dan McDonald...	Route 2, Wapato, Washington.
Albert Gamache..	Route 1, Toppenish, Washington.
Dave Champoux..	Route 1, Moxee City, Washington.
Everett Schott..	Yakima, Washington.
Edward Mieras..	Route 1, Yakima, Washington.
Ezard Rabie....	Route 1, Moxee City, Washington.
E. J. Dupree....	Route 1, Moxee City, Washington.
B. D. McKelheer..	Route 1, Yakima, Washington.
Julius Copian...	Orting, Washington.
P. N. Campbell..	Route 1, Wapato, Washington.

3. The successors to the initial members of each Advisory Committee shall be selected on or before March 31, 1939, and shall serve thereafter as long as this order is effective, at elections held by

the growers and grower-dealers in each state under the supervision of the Managing Agent or his designated representative, in which each grower and each grower-dealer in that state shall have opportunity to participate. No delay in the selection of any member shall invalidate such selection. Such elections shall be conducted by districts, as follows:

(a) The Advisory Committee for the State of Oregon shall, subject to disapproval by the Secretary, delimit that state fairly and equitably into twelve (12) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district one (1) member of the Advisory Committee.

(b) The Advisory Committee for the State of California shall, subject to disapproval by the Secretary, delimit that state fairly and equitably into three (3) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district four (4) members to the Advisory Committee.

(c) The Advisory Committee for the State of Washington shall, subject to disapproval by the Secretary, delimit that state fairly and equitably into four (4) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district three (3) members of the Advisory Committee.

4. At any such election each grower or grower-dealer shall, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives, cast only one (1) vote for each nominee for membership on the aforesaid Advisory Committee. No grower or grower-dealer shall vote in more than one district in any one state, and, in the event he produces hops in more than one district, he shall vote in that district in which he harvested the largest tonnage of hops during the preceding crop year. The Control Board shall prescribe and submit to the Secretary rules and regulations governing elections of Advisory Committee members, which shall become effective if not disapproved by the Secretary within twenty (20) days after submitted to him.

5. Each member of an Advisory Committee may designate in writing addressed to the Managing Agent a grower or grower-dealer to act as his alternate at any meeting of the Advisory Committee at which that member is not present; such alternate must be a resident of the state and district thereof in which the member resides.

6. Any vacancy in the membership of an Advisory Committee shall be filled, for the balance of the term of the member whose place is vacant, by a grower or grower-dealer, residing in the same district as that represented by the former

member, selected by majority vote of the remaining members of that Committee.

7. Advisory Committee members may be reimbursed by the Control Board for all travel and other expenses necessarily incurred in the performance of their duties.

Sec. 2. *Functions.*—1. Each Advisory Committee shall promptly nominate to the Secretary a successor to any grower from that State whose term on the Control Board as a member or alternate shall expire or whose place on the Control Board for any reason may become vacant. Grower members of an Advisory Committee, as well as other growers, shall be eligible for nomination by that Advisory Committee to serve on the Control Board.

2. Each Advisory Committee shall select from its membership a chairman and a secretary, and shall keep proper records of all of its proceedings. It shall hold meetings upon the call of four (4) members, or upon the call of its chairman, or the Control Board, or the Managing Agent. Each Advisory Committee shall serve the Control Board in an advisory capacity, concerning the administration of this order in its State, and in general shall perform such functions as the Control Board from time to time may specify. Each Advisory Committee may incur only such expenses as are authorized by the Control Board.

#### ARTICLE IV.—REGULATION OF DISTRIBUTION

SECTION 1. *Limitation of total quantity to be handled.*—1. In order to effectuate the declared policy of the act, and in consideration of the estimated consumptive demand for hops, the estimated carryover of hops, and the estimated quantity of hops which will be produced during the year 1938, the maximum quantity of hops produced in the year 1938 which may, during the effective period of this order, be marketed in or transported to any and all markets in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such hops, shall be 28,500,000 pounds; provided, however, nothing contained in this paragraph shall prevent the handling of hops pursuant to certificates issued in accordance with paragraph 1, section 4 of this article, and section 7 of this article. The aforesaid quantity of 28,500,000 pounds shall be known, and is referred to hereinafter, as the "salable quantity of 1938 hops".

2. As soon after July 1, 1939, as may be feasible, the Control Board shall estimate the quantity of hops which will be produced during the year 1939, shall ascertain or estimate the total carryover of hops produced prior to 1938 and the carryover, if any, of the salable quantity of 1938 hops, and shall estimate the total consumptive demand for hops. The Control Board thereafter shall transmit to the Secretary its said estimates and find-

ings together with its recommendation of the maximum quantity of hops produced in the year 1939 which should, during the effective period of this order, in order to effectuate the declared policy of the act, be marketed or transported to market in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce. For the purpose of obtaining additional information pertinent to the determination of a salable quantity of 1939 hops, the Secretary shall hold a meeting or meetings, within the production area covered by this order, subsequent to such notice as the Secretary may deem proper. Thereafter, from the aforesaid estimates, data and recommendation of the Control Board and such other information as the Secretary may have, the Secretary shall determine, fix, and announce, such maximum quantity of hops produced in the year 1939 which may, during the effective period of this order, be marketed in or transported to any and all markets in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such hops, as he may deem to be proper in order to effectuate the declared policy of the act; provided, however, hops may be handled pursuant to certificates issued in accordance with paragraph 1, section 4 of this article, and section 7 of this article. The aforesaid quantity shall be known, and is referred to hereinafter, as the "salable quantity of 1939 hops".

Sec. 2. *Determination of quantity available for sale by growers.*—1. The Growers Allocation Committee shall estimate, or cause to be estimated under its supervision, as soon after the effective date of this order in the year 1938 and as soon after July 1, 1939, as the said Committee shall determine that the hop vines have reached such a stage of development that it is feasible to estimate the quantity of hops which will be produced during the respective year, the quantity of hops which will be produced by each grower of hops during the respective year (which quantity shall be deemed to constitute the quantity which will be available for sale by the respective grower) and shall then compute the total quantity of hops which will be produced by all growers during the respective year (which quantity shall be deemed to constitute the quantity which will be available for sale by all growers). The aforesaid estimated production shall be based upon the producing acreage of hops during the respective year and the estimated yield per acre thereon. In estimating the yield per acre, due consideration shall be given to the age and condition of the hop vines, the yield during recent years, and other factors pertinent to the current yield of said hop vines. The Growers Allocation Committee shall cause to be mailed to each grower notice of the aforesaid estimate of the quantity of hops which will be produced by the

respective grower during that year and, also, the aforesaid computation by the Growers Allocation Committee of the total quantity of hops which will be produced by all growers during the respective year; and the Growers Allocation Committee shall publicly announce the aforesaid computation of the total quantity of hops which will be produced by all growers during the respective year.

2. The Growers Allocation Committee shall prescribe regulations, subject to modification and approval by the Secretary, which provide a reasonable means whereby any grower who may be dissatisfied with such estimate of his production of hops may protest to that committee or its representative concerning that estimate, and in the event of such protest such estimate shall be reconsidered by the Growers Allocation Committee and revised to any such extent as the committee may find to be proper. Such regulations shall further provide a reasonable means whereby such grower may appeal to the Secretary from the Growers Allocation Committee's final decision on said protest, and the Secretary's determination on such appeal shall be conclusive.

3. Upon expiration of such time for protest as the Growers Allocation Committee may establish pursuant to the preceding paragraph, and after completion of action by said Committee upon all protests as in said paragraph provided, the Growers Allocation Committee shall report to the Secretary all estimates and computations made for or by the Growers Allocation Committee pursuant to this section, together with the data on which the same were predicated. On the basis of such estimates, computations and data and any other pertinent information which the Secretary may have, the Secretary shall determine and notify the Growers Allocation Committee of (a) the estimated total quantity of hops which will be produced during that year by each grower, and (b) the estimated total quantity of hops which will be produced during that year by all growers. Thereupon, the Growers Allocation Committee shall publicly announce the aforesaid determination of estimated total quantity of hops which will be produced during that year by all growers.

Sec. 3. *Allocation of Salable Quantity Among Growers.*—1. The "salable percentage" of the aforesaid estimated total quantity of hops which will be produced during the respective year by all growers shall be computed by dividing the salable quantity, fixed in or pursuant to section 1 of this article for the hops produced in the respective year, by the aforesaid estimated total quantity of hops which will be produced by all growers during that year. Each grower's allotment of said salable quantity shall be that same salable percentage applied to that grower's estimated production of hops during that year as determined

pursuant to section 2 of this article. Such allotment shall be known as the grower's "salable allotment."

2. The Growers Allocation Committee shall notify each grower of his salable allotment computed by that committee as hereinbefore provided. Within ten (10) days after the mailing to a grower, as hereinbefore provided, of his notice of salable allotment, that grower may elect, in writing delivered to the Growers Allocation Committee, to have his salable allotment determined on the basis of the quantity of hops actually harvested by him during that year. In that event, that grower's salable allotment of the salable quantity applicable to hops produced during that year shall be computed by applying the salable percentage to the hops which the Growers Allocation Committee shall determine actually are produced and harvested by that grower during that year.

Sec. 4. *Allotment certificates.*—1. The Control Board shall issue in the name of each grower certificates as evidence of his salable allotment; and, also, the Control Board shall, on receipt of satisfactory proof, issue in the name of any grower, who by reason of a written contract executed prior to June 14, 1938, is legally obligated to deliver, at a definite and stated price, a definite and stated quantity of hops grown by the respective grower during 1938 to any other person, an additional allotment certificate covering or relating to the excess quantity, if any, of the quantity of hops specified in such contract over and above the quantity represented by such grower's salable allotment. Each such certificate shall be known as an "allotment certificate." Each such certificate shall indicate the year of production and the quantity of hops covered thereby and shall be in such form as the Control Board shall prescribe, subject to approval by the Secretary. The Control Board shall maintain adequate and complete record of each such certificate issued and all pertinent facts relative thereto.

2. Each allotment certificate issued pursuant to this article may be delivered to the grower of the hops to which the certificate is applicable. No such certificate shall be accepted, used, disposed of or transferred by any handler except in connection with the hops to which the same shall relate and pursuant to such regulations as may be prescribed by the Control Board, and approved by the Secretary, relative to the acceptance, use and disposal thereof; and each handler acquiring, accepting, using, disposing of or transferring any such certificate shall render to the Control Board such report relative thereto, except as to terms of sale, as may be required by such regulations.

3. On satisfactory proof that any certificate issued pursuant to this article has been lost or destroyed, the Control Board shall issue a new certificate in lieu thereof in which event the lost certificate

shall become null and void, except as to a bona fide purchaser of the hops covered by such certificate, and any handler, except as a bona fide purchaser of the hops covered by such certificate, who may obtain possession of such null and void certificate shall immediately surrender the same to the Control Board.

Sec. 5. *Certificates for old hops.*—1. The Control Board shall issue to any person who may apply therefor in writing to the Control Board within thirty (30) days after the effective date of this order, or within such other time as the Control Board may specify by and with the approval of the Secretary, certificates covering hops, in Oregon, California, or Washington, owned or in the possession of such person and produced prior to the year 1938. Each such certificate shall be so designated as to be distinguishable from allotment certificates issued for hops grown in the year 1938 or the year 1939, and shall specify the year of production and the quantity of hops produced prior to the year 1938 which are covered by such certificate, and shall be in such form as the Control Board shall prescribe by and with the approval of the Secretary. The Control Board shall maintain an adequate and complete record of each such certificate issued and all pertinent facts relative thereto.

2. No certificate issued pursuant to the provisions of this section shall be accepted, used, disposed of, or transferred by any handler except in connection with the hops to which such certificate shall relate and pursuant to such regulations as may be prescribed by the Control Board, and approved by the Secretary, relative to the acceptance, use, and disposal thereof; and each handler acquiring, accepting, using, disposing of or transferring any such certificate shall render to the Control Board such report relative thereto, except as to the terms of sale, as may be required by such regulations.

Sec. 6. *Limitation of handling to certificated hops.*—No person, as principal, agent, broker, or otherwise, shall handle hops for which certificates are required to be issued pursuant to this article unless there shall have been issued pursuant to this article an allotment certificate or allotment certificates covering or applicable to all of those hops, or, if the hops were produced prior to the year 1938, a certificate or certificates issued pursuant to section 5 of this article, except that hops produced prior to 1938 may be handled without respect to certification during the thirty (30) days immediately following the effective date hereof, and, furthermore, unless each bale of said hops shall have been marked or tagged in such manner as the Control Board, by regulations approved by the Secretary, may have prescribed for the purpose of identifying such hops with the certificate applicable thereto, and unless that handler shall comply with any such regulations of the Control Board, as may have been approved by

the Secretary, relative to the certificates covering said hops; provided, however, that the foregoing shall not apply to any grower's uncertificated hops being purchased or otherwise acquired from the grower thereof by another grower who has failed to produce and harvest his full salable allotment of hops and is purchasing or acquiring said hops for the sole purpose of making up that deficiency.

Sec. 7. *Emergency certificates.*—In the event the Control Board at any time shall find that no production estimate has been made, or salable allotment determined, or allotment certificate issued, for or to a grower entitled thereto by virtue of the provisions of this order, the Control Board shall immediately cause to be issued, and may be delivered, to said grower the appropriate allotment certificate to which the Control Board shall find that such grower is entitled according to the provisions of article IV of this order. If any grower is dissatisfied with the determination by the Control Board with respect to such emergency certificate, or the application for an emergency certificate, such grower may appeal to the Secretary; provided, however, that such appeal must be taken promptly after the determination by the Control Board. Upon an appeal as aforesaid to the Secretary, the Secretary may modify or cancel the issuance of an emergency certificate or may authorize the issuance of an emergency certificate. The authority of the Secretary to supervise and control the issuance of emergency certificates is plenary and complete; and any determination made by the Secretary with respect to an emergency certificate, or application for an emergency certificate, shall be final.

#### ARTICLE V.—ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Control Board is authorized to incur such expenses as the Secretary shall find may be necessary to perform the functions of the Control Board, Growers Allocation Committee, and Advisory Committees under this order. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

2. Each handler of 1938 or 1939 hops, who is the first handler thereof, shall pay to the Control Board, upon its demand, the assessment rate provided hereinafter in respect to such hops as are handled by such handler as the first handler thereof; provided, however, that any grower who markets or transports to market hops, produced by the respective grower, within the State of production shall not be deemed to be the first handler of such hops insofar as the provisions of this article may be concerned. Beginning with the effective date hereof, the assessment rate shall be one fourth ( $\frac{1}{4}$ ) of one cent per pound, and such rate shall continue in effect until changed by the Control Board with the approval of the Secretary; provided,

however, that the Secretary shall not approve an assessment rate which exceeds two-fifths (%) of one cent per pound unless he shall have held, prior thereto and subsequent to such notice as he may deem proper, a meeting or meetings within the production area covered by this order for the specific purpose of obtaining information in respect to such assessment rate. Any change in the assessment rate shall not apply retroactively. A grower who, having failed to produce his full salable allotment of hops, purchases or otherwise acquires uncertificated hops from the grower thereof for the sole purpose of making up that deficiency shall not be deemed to be the first handler of those hops within the provisions of this article.

3. Upon the termination of this order the net assets of the Control Board shall be liquidated and disbursed pursuant to the provisions of section 3 of article IX hereof.

4. From the funds acquired pursuant to this article, the Control Board shall pay the salaries of its employees and the expenses necessarily incurred in the performance of the functions of the Control Board, Growers Allocation Committee and Advisory Committees.

#### ARTICLE VI.—REPORTS, BOOKS AND RECORDS

SECTION 1. *Books and records.*—Each handler and each subsidiary or affiliate thereof shall keep adequate books and records which will clearly show the details of its handling of hops.

Sec. 2. *Reports to managing agent.*—To enable the Control Board, the Growers Allocation Committee, or any Advisory Committee to perform its functions hereunder, each handler shall furnish to the Managing Agent, in such form and at such times and substantiated in such manner as shall be prescribed by the Control Board, complete information relating to (a) the volume of hops handled by the respective handler, (b) names and addresses of the growers and other persons from whom hops were purchased or acquired, (c) quantities of hops grown by that handler, and (d) the total quantity of hops owned by the respective handler. Such information furnished to the Managing Agent shall be confidential and shall not be disclosed to any person (including members of the Control Board as well as other persons) except to the Secretary at his request, and except that the Managing Agent may compile such information in such form as will not reveal the identity of individual informants and may make such compilations available to the Control Board, Growers Allocation Committee or any Advisory Committee or to the public. Disclosures by the Managing Agent of any information acquired under this section, except as herein expressly authorized, shall be cause for his removal from office by the Secretary.

#### ARTICLE VII.—AMENDMENTS

SECTION 1. *Proposal.*—Amendment of this order may from time to time be proposed by the Control Board or by the Secretary.

#### ARTICLE VIII.—AGENTS

SECTION 1. *Agents.*—The Secretary may, by a designation in writing, name any person, including but not being limited to any officer or employee of the Government or any Bureau or Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

#### ARTICLE IX.—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective Time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force so long as the provisions of the act authorizing it are in effect, unless this order is terminated in one of the ways hereinafter specified.

Sec. 2. *Termination.*—1. The Secretary may at any time terminate this order.

2. The Secretary shall terminate this order whenever he finds that such termination is favored by the majority of the growers of hops who, during the preceding crop year, have been engaged in the States of Oregon, California, and Washington in the production of hops for market, provided that such majority have, during such period, produced for market more than fifty per centum (50%) of the total volume of hops produced for market in said States during that period; but such termination shall become and be effective on and after the first day of July subsequent to the announcement thereof by the Secretary.

3. This order shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

Sec. 3. *Proceedings after termination.*—1. Upon the termination of this order, the members of the Control Board then functioning shall continue as joint trustees, for the purpose of liquidating this order, of all funds and property then in the possession or under the control of the Control Board, including but not being limited to claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary, and (b) shall from time to time account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Board and the joint trustees, to such person as the Secretary shall direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds or claims vested in the Control

Board or the joint trustees pursuant to this order. Any funds collected for expenses pursuant to article V of this order and held by such joint trustees or such persons over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination of this order, be disbursed among those handlers who have paid their assessments in full, pursuant to this order, pro rata in proportion to their contributions pursuant to this order.

2. Any person to whom funds, property or claims have been delivered by the Control Board or its members upon direction of the Secretary as herein provided shall be subject to the same obligations and duties with respect to said funds, property or claims as are hereinabove imposed upon the members of said Board or upon said joint trustees.

#### ARTICLE X.—DURATION OF IMMUNITIES

SECTION 1. *Duration of immunities.*—The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done under and during the existence of this order.

#### ARTICLE XI.—SEPARABILITY

SECTION 1. *Separability.*—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

#### ARTICLE XII.—DEROGATION

SECTION 1. *Derogation.*—Nothing contained in this order is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

#### ARTICLE XIII.—LIABILITY OF CONTROL BOARD MEMBERS

SECTION 1. *Liability.*—No member of the Control Board, Growers Allocation Committee, or any Advisory Committee, nor any employee thereof, shall be held liable individually in any way whatsoever to any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member or employee, except for acts of dishonesty.

In witness whereof, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within

the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this Order under his hand and the official seal of the United States Department of Agriculture, in the City of Washington, District of Columbia, on the 11th day of August, 1938, and declares this Order to be effective on and after 12:01 a. m., eastern standard time, August 15th, 1938.

[SEAL] H. A. WALLACE,  
Secretary of Agriculture.  
[F. R. Doc. 38-2356; Filed, August 12, 1938;  
12:46 p. m.]

### FEDERAL CROP INSURANCE CORPORATION

[F. C. I. R.—Series 1, No. 1]

#### AMENDMENT TO REGULATIONS RELATING TO WHEAT CROP INSURANCE

Part 5 of the "Regulations Relating To Wheat Crop Insurance" adopted by the Board of Directors on April 26, 1938, and approved by the Secretary of Agriculture on April 28, 1938,<sup>1</sup> is hereby amended by inserting between Sections 53 and 54 the following new section:

"SECTION 53A. Notwithstanding the provisions of Sections 52 and 53, for any county where the data regarding yields of wheat for the period 1930-35 compiled in connection with wheat adjustment programs are not available for a representative sample of the farms in the county, the loss cost adjustment figure and the adjusted average loss cost per acre will be determined so as to result in premium rates for farms in such county which the Corporation determines will be fair and just."

Adopted by the Board of Directors on July 25, 1938.

[SEAL] M. L. WILSON,  
Chairman.

Approved, August 11, 1938.

HARRY L. BROWN,  
Acting Secretary of  
Agriculture.

[F. R. Doc. 38-2346; Filed, August 11, 1938;  
1:11 p. m.]

### TITLE 11—AVIATION

#### BUREAU OF AIR COMMERCE

##### REVOCATION OF ORDER GOVERNING THE USE OF MILITARY ROAD FOR RUNWAY PURPOSES BY THE NATIONAL AIRPORT CORPORATION

Whereas, pursuant to the provisions contained in the Act approved April 13, 1938 (Public No. 481, 75th Congress), the Secretary of War, on May 16, 1938, conveyed by quit-claim deed to the National Airport Corporation all of the right, title and interest of the United

States in and to the land forming a part of Military Road, Fort Myer Military Reservation, Arlington County, Virginia, and further leased the remainder of said Military Road to the said National Airport Corporation for a period of fifty years, and,

Whereas, it now appears that the Order issued April 30, 1936,<sup>1</sup> pursuant to the provisions contained in the Act of March 2, 1936, governing the use of Military Road for runway purposes, should be revoked.

Now, therefore, pursuant to the authority contained in the Air Commerce Act of 1926 (44 Stat. 568), as amended by the Act of February 28, 1929 (45 Stat. 1404), the Act of June 19, 1934 (48 Stat. 1113), the Act of June 19, 1934 (44 Stat. 1116) and Sections 11 and 12 of the Act of June 12, 1934 (48 Stat. 933, 937), I hereby declare said Order of April 30, 1936, to be revoked and henceforth to be of no force and effect.

Approved, August 12, 1938.

[SEAL] DANIEL C. ROPER,  
Secretary of Commerce.

[F. R. Doc. 38-2355; Filed, August 12, 1938;  
12:34 p. m.]

### TITLE 15—COMMERCE

#### NATIONAL BITUMINOUS COAL COMMISSION

[General Docket No. 15]

##### ORDER IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS; IN RE DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREA 1

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 10th day of August 1938.

The Commission, by its Order No. 240, dated April 19, 1938,<sup>1</sup> having directed each District Board to determine the weighted average of the total costs of the ascertainable tonnage produced within its respective district in the calendar year 1936; and to adjust the average cost so determined as may be necessary to give effect to any changes substantially affecting costs, exclusive of seasonal changes, which may have been established since January 1, 1936; and directing that such determinations be submitted to the Commission together with the computations upon which they are based; and

District Boards Nos. 1, 2, 3, 4, 5, 6, 7, and 8 within Minimum Price Area 1, having made such determinations and having submitted them together with the data upon which they were computed, to the Commission, pursuant to said Order No. 240, and

The Commission, on the 25th day of May, 1938, having instituted the above

entitled proceedings, for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937, and having thereafter, upon the 16th day of June, 1938, directed that a hearing be held commencing on the 6th day of July, 1938,<sup>2</sup> at 10:00 A. M. in the Hearing Room of the Commission at 15th and Eye Streets, N.W., Washington, D. C., for the purpose of receiving evidence relating to the weighted average of the total costs per net ton of the tonnage of bituminous coal produced in the calendar year 1936, in each of Districts Nos. 1, 2, 3, 4, 5, 6, 7, 8, and so much of District No. 13 as is in Minimum Price Area 1, and evidence relating to any change or changes in wage rates, hours of employment, or other factors, exclusive of seasonal changes, substantially affecting costs, which may have been established since January 1, 1936 in each of said districts, to enable the Commission to determine the weighted average of the total costs of the tonnage for Minimum Price Area 1 as adjusted, within the meaning of Section 4, Part II, of the Act, and due public notice of said hearing having been given, and

This matter having been heard before the Commission at the time and place aforesaid, and all interested parties having been afforded an opportunity to be heard, and

The Commission being fully advised in the premises, and having made "Findings of Fact and Conclusions", which are filed herewith,

Now, therefore, Pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other Purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission *Hereby Determines* in conformity with the "Findings of Fact and Conclusions" made and filed herein, that the weighted average of the total costs of the tonnage for Minimum Price Area 1, in the calendar year 1936, adjusted so as to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, reflecting as accurately as possible any change or changes which have been established since January 1, 1936, is as follows:

Minimum Price Area 1 (Districts Nos. 1, 2, 3, 4, 5, 6, 7 and 8), \$2.157 per net ton.

*It is therefore ordered*, That the weighted average of the total costs, as herein determined, shall be taken as the basis, to be effective until changed by the Commission, for the proposal and establishment of minimum prices in accordance with further order of the Commission.

<sup>1</sup> 3 F. R. 1013 DI.  
No. 158—2

<sup>1</sup> 1 F. R. 404.  
<sup>2</sup> 3 F. R. 935 DI.

<sup>3</sup> 3 F. R. 1457 DI.

It is further ordered, That the Secretary of the Commission be and he is hereby directed to cause forthwith a copy of this order to be mailed to the Secretary of each District Board and to the Consumers' Counsel, and to cause a copy hereof to be published in the FEDERAL REGISTER; and the Secretary of the Commission is further directed forthwith to cause to be made available to the public the weighted average figures of total costs determined as aforesaid, and to place for public inspection in each of the Statistical Bureaus within the aforesaid Minimum Price Area 1 and at the office of the Secretary of the Commission at Washington, D. C., three (3) copies of this order and the "Findings of Fact and Conclusions" upon which the order is based, and one (1) copy of the official transcript of the evidence upon which said "Findings of Fact and Conclusions" are predicated.

By order of the Commission.

Dated this 10th day of August, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-2348; Filed, August 12, 1938; 10:24 a. m.]

[Order No. 247]

**AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREA 1 TO PROPOSE MINIMUM PRICES FOR THE KINDS, QUALITIES AND SIZES OF COAL PRODUCED IN SAID DISTRICTS**

**PROMULGATING AND APPROVING RULES AND REGULATIONS GOVERNING THE PROCEDURE THEREFOR**

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

1. That each district board within the area defined in said Act as Minimum Price Area 1 (District Nos. 1, 2, 3, 4, 5, 6, 7 and 8) shall forthwith proceed to consider and shall propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced in said district by code members, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as may be deemed proper and within the Authority conferred by said Act.

A schedule of such proposed minimum prices, together with the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship, shall be submitted to the Commission by each district board within Minimum Price Area 1 (District Nos. 1, 2, 3, 4, 5, 6, 7 and 8) on or before the 6th day of September 1938, and after hearing the Commission may approve, disapprove or modify such proposed minimum prices to conform with the requirements of subsection (a) of

Part II, Section 4 of the Act. The Minimum prices as approved or modified by the Commission shall serve as the basis for the coordination provided for in subsection (b) of Part II, Section 4 of the Act.

2. That the procedure for the proposal of minimum prices herein ordered and directed shall be in accordance with the following rules and regulations, which are hereby adopted and approved by the Commission therefor:

**Rules and Regulations for the Proposal of Minimum Prices**

I. Each district board, within 26 days following the issuance of this order directing the district boards to propose minimum prices authorized by subsection (a) of Part II, Section 4 of the Act, shall propose minimum prices by submitting to the Commission within said time a schedule of such proposed minimum prices together with all the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship.

II. All minimum prices proposed hereunder shall be f. o. b. transportation facilities at the mine, for the kinds, qualities and sizes of coal for which prices are proposed.

III. Each district board shall transmit its schedule of proposed minimum prices to each code member in the district at least fifteen (15) days before the district board files such schedule with the Commission pursuant to Rule I of these Rules and Regulations.

IV. During the interim between transmitting its schedule of proposed minimum prices to each code member in the district and the filing thereof with the Commission, each district board may make such changes or corrections in such schedule as in its judgment it deems proper.

To this end, each district board may arrange to receive protests of code members within the district, conduct such investigations and hold conferences or hearings, as in the judgment of the district board will assist it in formulating the schedule of proposed minimum prices in conformity with the requirements of subsection (a) of Part II, Section 4 of the Act. Any protests of code members shall be filed with the district board within seven (7) days from the date of transmission of its schedule of proposed minimum prices to code members.

V. Any changes or corrections made by a district board in its schedule pur-

suant to the rules and regulations herein shall be transmitted to each code member in the district not later than the date of submission of the schedule of proposed minimum prices to the Commission pursuant to Rule I hereof.

VI. Each district board submitting its schedule of proposed minimum prices to the Commission pursuant to the requirements of Rule I hereof shall, at the time of making such submission, file with the Commission one hundred (100) full and complete copies of such schedule, as changed or corrected, for such use as the Commission may deem proper.

VII. Each district board shall transmit to each other district board five (5) copies of its schedule of proposed minimum prices at the time of filing with the Commission pursuant to Rule I hereof.

VIII. The minimum prices proposed by any district board shall conform to the following standards therefor set out in subsection (a) of Part II, Section 4 of the Act:

a. They shall yield a return for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which the district is included, as such weighted average of the total costs shall theretofore have been determined by the Commission pursuant to the provision of subsection (a) of Part II, Section 4 of the Act.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of the coal to which they are applicable.

c. They shall be just and equitable as between producers within the district.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

IX. Each price schedule submitted in conformity with Rule I hereof shall contain an alphabetical list of code members. Opposite each code member's name shall be shown the name of the mine, the sub-district in which it is located, the seam or kind of coal produced and the price classification (represented by an alphabetical letter), in each size group (which size group shall be represented by a number), for all sizes applicable to such group that the mine is equipped to produce. As an example:

*Alphabetical list of code members showing price classifications by sizes for all uses except as separately shown*

Company	Mine	Sub-district	Size groups					
			Seam	1	2	3	4	Etc.
Adams Coal Company.....	Black.....	Coal.....	#5	A	B	C	D	E
Jones Coal Company.....	White.....	Coke.....	#6	B	C	B	A	B
Smith Coal Company.....	Red.....	Iron.....	B	E	D	C	E	A
Williams Coal Company.....	Green.....	Glass.....	E	G	G	G	G	G

A—Represents the highest quality coal produced in the district for the use indicated.  
B—Represents the next highest quality coal.  
C—Etc.

In addition thereto the district board may include a similar listing subdivided according to producing sub-districts or according to any other subdivision desired.

Prices applicable to such classification shall be listed in a table similar to the following:

Classification	Size groups					Etc.
	1	2	3	4	5	
A.....	2.75	2.65	2.55	2.45	2.35	.....
B.....	2.65	2.55	2.45	2.35	2.25	.....
C.....	2.55	2.45	2.35	2.25	2.15	.....

Each schedule of proposed prices shall include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

The Secretary of the Commission is directed forthwith to publish a copy of this order and the rules and regulations contained herein in the FEDERAL REGISTER and to mail a copy of this order and the rules and regulations contained herein to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the Minimum Price Area named herein.

By order of the Commission.

Dated this 11th day of August, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-2349; Filed, August 12, 1938;  
10:24 a. m.]

[Order No. 248]

**AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREA 1 TO PROPOSE REASONABLE RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY THE CODE MEMBERS OF THE RESPECTIVE DISTRICTS, IN ACCORDANCE WITH SUBSECTION (A) SECTION 4, PART II OF THE BITUMINOUS COAL ACT OF 1937**

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

1. That each district board within the Area defined in said Act as Minimum Price Area 1 (Districts Nos. 1, 2, 3, 4, 5, 6, 7 and 8) shall forthwith proceed to

consider and shall propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coal by the code members of the respective districts.

Such proposed rules and regulations shall not be inconsistent with the requirements of Section 4 of the Act and shall conform to the standards of fair competition therein established.

2. Such proposed rules and regulations, together with a statement of the reasons therefor, shall be submitted to the Commission by each of the aforesaid district boards on or before the 6th day of September 1938, in order that the Commission, after hearing, may approve, disapprove, or modify the same for the purpose of coordination.

3. Each district board shall transmit such proposed rules and regulations to each code member in its respective district at least fifteen days before said district board files such proposed rules and regulations with the Commission, and during the interim between the transmittal of such proposed rules and regulations to the code members and the filing of same with the Commission, each district board may make such changes in said proposals as in its judgment it may deem proper, and to this end, each district board may arrange to receive protests of its code members, conduct such investigations, conferences or hearings as in its judgment will assist it in proposing such reasonable rules and regulations as will best serve to carry out the purposes of the Act. Protests of code members shall be filed with the district board within seven days from the date of the transmittal to the code members.

4. Any changes made by a district board in its proposed rules and regulations, after the time of such transmittal to the code members, shall be forwarded to each code member in the district not later than the date of the submission thereof to the Commission.

5. Each district board shall file with the Commission, at the time set forth in paragraph two hereof, one hundred (100) copies of its proposed rules and regulations, and, at the same time, the district board shall transmit to each of the other district boards five copies of its proposals.

6. The Secretary of the Commission is directed to publish forthwith a copy of this order in the FEDERAL REGISTER and to mail a copy of this order to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the minimum price area named herein.

By order of the Commission.

Dated this 11th day of August, 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-2350; Filed, August 12, 1938;  
10:24 a. m.]

**TITLE 24—HOUSING CREDIT**

**FEDERAL HOME LOAN BANK BOARD**

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

**CHANGING THE NAME OF THE BANK PRESIDENT'S COUNCIL TO BANK PRESIDENT'S CONFERENCE**

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by Section 17 of the Federal Home Loan Bank Act, as amended, (12 U. S. C. 1437):

(1) The second sentence of paragraph a of Section 4,002 of the Rules and Regulations for the Federal Home Loan Bank System is hereby amended to read as follows:

"When in the opinion of the Board it is desirable to issue consolidated debentures, the Board may direct the Governor to submit, after such communication with the several Banks as may be practicable, recommendations as to the particulars of such issue, or may direct the Governor to convene the Bank Presidents' Conference or submit such question to the Federal Savings and Loan Advisory Council for the purpose of making such recommendations."

(2) Section 8,002 of the Rules and Regulations for the Federal Home Loan Bank System is hereby amended to read as follows:

"SECTION 8,002. *Bank presidents' conference.*—There shall be a Bank Presidents' Conference which shall be composed of the Presidents of the twelve banks. In the event the President of a bank is unable to attend a meeting of the Conference he may designate an officer of that bank to represent him. The Bank Presidents' Conference shall meet the second Monday in each April and October or at such other time or times as determined by the Governor, at the office of the Governor, Federal Home Loan Bank Board Building, Washington, D. C. Said Conference may elect its own Chairman and Secretary and may make recommendations to the Governor. Each bank is authorized to pay the expenses of its representative to meetings of the Bank Presidents' Conference."

Adopted by the Federal Home Loan Bank Board on August 9, 1938.

[SEAL] R. L. NAGLE,  
Secretary.

[F. R. Doc. 38-2354; Filed, August 12, 1938;  
12:26 p. m.]

## HOME OWNERS' LOAN CORPORATION

## ASSISTANT TREASURER TO ACT AS WELL AS TREASURER

## AMENDING TREASURY CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 7.01 of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations, the same being Section 701 of Chapter VII of the Manual relative to the Treasury Division be amended as follows:

The words "or Assistant Treasurer" shall be inserted immediately following the word "Treasurer" wherever it appears in this section except in the first paragraph.

Adopted by the Federal Home Loan Bank Board on August 9, 1938.

[SEAL] R. L. NAGLE,  
Secretary.

[F. R. Doc. 38-2351; Filed, August 12, 1938;  
12:25 p. m.]

## PREPAYMENTS AND CURTAILMENTS; FUNDS RECEIVED FOR CREDIT TO LOAN ACCOUNTS

## MANUAL AMENDMENT

Be it resolved, That Sub-Sections 8.00 (h) and (1) of Part 8 of Chapter IV of Title 24 of the Code of Federal Regulations, the same being Sub-Sections 800 (h) and (1) of Chapter VIII of the Manual, are hereby amended to read as follows:

SECTION 800 (h). Prepayments and curtailments shall be applied to the account of a borrower or vendee in the manner provided in the note or bond, mortgage, deed of trust, or contract held by the Home Owners' Loan Corporation, or in such other manner as the borrower or vendee directs under procedure prescribed and approved, as provided in Section 800 (a).

SECTION 800 (1). Funds received by the Corporation for credit to its loan accounts or to accounts owing to it by reason of sales of acquired real property, from partial releases, grants of easements and flowage rights, insurance losses, mineral deeds, transactions affecting oil, gas or mineral interests, sales of timber, condemnation awards under decree or judgment of a court or by agreement, substitution of security, additional security, other transactions which otherwise reduce or diminish the security held by the Corporation or the

property sold by it and any other credits to borrowers' or vendees' accounts other than repayments, are defined as "miscellaneous credits", and the net amount thereof shall be applied to the appropriate account (principal, interest, advances or other sums owing to the Corporation) in such manner consistent with law and the provisions of the loan or sales instrument as the General Manager, with the advice of the General Counsel, shall direct.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended).

Adopted by the Federal Home Loan Bank Board on August 9, 1938.

[SEAL] R. L. NAGLE,  
Secretary.

[F. R. Doc. 38-2353; Filed, August 12, 1938;  
12:26 p. m.]

## ANALYSIS AND REVIEW SECTION; REMITTANCE BY MORTGAGORS AND VENDEES

## MANUAL AMENDMENT—HOUSING AND CREDIT CHAPTER

Be it resolved, That Section 2.03 (d) and 2.08 of Part 2 of Chapter IV of Title 24 of the Code of Federal Regulations and the corresponding Sections 203 (d) and 208 of Chapter II of the Manual, are hereby amended to read as provided below, and

SEC. 2.03 (d) (Manual 203 (d)). The Analysis and Review Section shall be responsible for the consideration of cases beyond the authority of Control Supervisors, including cases of serious tax delinquency not being liquidated and the making of recommendations as to the action to be taken.

This Section shall review all cases where contemplated advances would affect the future servicing of the account, except those where advances may be made by the State Manager without prior authorization from the Regional Manager, any matters concerning the Extension of Payments and all offers of additional security.

At any time prior to the acquisition of complete title by the Corporation, the General Manager, with the advice of the General Counsel, may, on such terms and conditions as he may determine to be for the best interest of the Corporation, including the cancellation of the old indebtedness and the taking of new loan or sales instruments where necessary, provided no loss to the Corporation is involved in the transaction, direct that foreclosure proceedings or negotiations for a deed in lieu of foreclosure be suspended or withdrawn, and with like advice may arrange and deter-

mine the terms and conditions for a reinstatement of the loan or sale or a reacquisition of title by the home owner. The authority herein vested in the General Manager may be exercised also by the Regional Manager with the advice of the Regional Counsel or by the State Manager with the advice of the State Counsel under procedure and limitations prescribed by the General Manager with the approval of the General Counsel.

In cases where the home owner or other obligor has died, except in jurisdictions where it is legally necessary to file a claim to protect the interests of the Corporation, the General Manager shall determine whether a claim shall be filed against the estate of the decedent. Ordinarily probate claims will not be filed where it appears that any of the following circumstances obtain:

(a) That the account will be maintained in good standing or satisfactory payment made.

(b) That the assets of the estate are insufficient or of such nature that they cannot be reached by a claim.

(c) That the satisfaction of a claim from assets other than the security of the Corporation will deprive the family of its only means of livelihood or otherwise result in extreme hardship.

The General Manager shall refer the cases where he determines a claim should be filed to the Legal Department, and unless there are legal reasons which would make it inadvisable to file the claim, the Legal Department shall proceed to file the same.

The authority herein vested in the General Manager may be exercised also by Regional, State or District Managers under procedure and limitations prescribed by the General Manager with the approval of the General Counsel.

SEC. 2.08 (Manual 208). It is the policy of the Corporation to endeavor to have its mortgagors and vendees regularly remit their payments by mail to the Regional Offices, but the General Manager is authorized to establish or close collection facilities in any office as he may deem necessary. Instructions and procedure for such offices are included in Chapter VII of this Manual.

Be it further resolved, That this resolution shall become effective on September 1, 1938.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended).

Adopted by the Federal Home Loan Bank Board on August 10, 1938.

[SEAL] R. L. NAGLE,  
Secretary.

[F. R. Doc. 38-2352; Filed, August 12, 1938;  
12:25 p. m.]

TITLE 39—POSTAL SERVICE  
POST OFFICE DEPARTMENT

[Order No. 11979]

AIR MAIL SERVICE UNDER SUPERVISION OF  
THE FIRST ASSISTANT POSTMASTER GENERAL

AUGUST 8, 1938.

It is hereby ordered, That effective August 8th 1938 the First Assistant Postmaster General will be charged with the administration and supervision of the Air Mail Service, Domestic and Foreign.

Effective August 8th 1938 the Division of Air Mail Service is transferred from the Bureau of the Second Assistant Postmaster General to the Bureau of the First Assistant Postmaster General and such other personnel of the Department as may be required to facilitate the carrying out of this order shall also be transferred to the Bureau of the First Assistant Postmaster General.

Order No. 4866 dated January 23rd 1934 is hereby revoked.

Sections 11 and 12 and all other relevant sections of the Postal Laws and Regulations of 1932 are hereby amended in conformity with the foregoing transfer.

[SEAL] W. W. Howes,  
Acting Postmaster General.

[F. R. Doc. 38-2362; Filed, August 12, 1938;  
12:56 p. m.]

TITLE 45—SECURITIES AND  
EXCHANGES  
SECURITIES AND EXCHANGE  
COMMISSION

SECURITIES EXCHANGE ACT OF 1934

AMENDED PROXY RULES

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors and necessary for the execution of the functions vested in it so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 14 (a) and 23 (a) thereof, hereby takes the following action:

1. Rules LA1 to LA7 inclusive, as heretofore in effect, are hereby rescinded.

2. The following rules and schedule, designated "Regulation X-14," are hereby adopted:

*Regulation X-14.—Rules Relating to Solicitation of Proxies, Consents and Authorizations, Including Schedule 14A\**

Sec. 10.X-14A-1 (Rule X-14A-1). *Proxy statement.*—No solicitation subject to Section 14 (a) of the Act<sup>1</sup> shall be made unless a written "proxy statement" is concurrently furnished or has previously been furnished to each person solicited. Such proxy statement shall contain the information specified in such of the items of Schedule 14A as

may be applicable in the particular case: *Provided, however, That—*

(a) Except as to item 1 (a) of Schedule 14A, no statement need be made in the proxy statement in response to any item or sub-item of Schedule 14A which is inapplicable, or the answer to which is in the negative. None of the items need be restated in the proxy statement, and the order of the items and sub-items in the schedule need not be followed. Information required by more than one applicable item need not be repeated in the proxy statement.

(b) Any information required to be included in the proxy statement which is not known and not reasonably available to the persons making the solicitation may be omitted, if a brief statement of the circumstances rendering such information unavailable is made in the proxy statement. Likewise, information as to matters to occur or to be determined in the future need be given only in terms of present intention, but in such case there shall be set forth, to the extent practicable, the maximum and minimum limits of the authority to be conferred concerning each such matter.

(c) There may be omitted from the proxy statement any information contained in any document which has been furnished within a reasonable time in advance of the solicitation to each person solicited, if a clear reference is made to the place where such information appears. Any statement made in the proxy statement may be qualified by clear reference to any such document, or to any document which is on file with the Commission and with each exchange on which the securities are listed.

(d) In all cases in which past occurrences are to be consented to or acted upon pursuant to the proxy, the applicable items of Schedule 14A shall be read in the past tense, if appropriate.

(e) Unless the context clearly shows otherwise, whenever any fixed period of time in the past is indicated, such period shall be computed from the date of filing the proxy statement.\*

Sec. 10.X-14A-2 (Rule X-14A-2). *Duty to provide means by which desired action can be specified.*—No solicitation subject to Section 14 (a) of the Act<sup>1</sup> shall be made unless (a) means shall have been provided whereby the person solicited is afforded an opportunity to specify, in a space provided in the form of proxy or otherwise, the action which such person desires to be taken pursuant to the proxy on each matter, or each group of related matters as a whole, described in the proxy statement as intended to be acted upon, other than the election of directors or other officials, and (b) the authority conferred as to each such matter or group of matters is limited by the specification so made. Nothing in Regulation X-14 shall prevent the solicitation of a proxy conferring discretionary authority with respect to matters as to which the person solicited does not

make the specification provided for above, or with respect to matters not known or determined at the time of the solicitation, or with respect to elections of directors or other officials.\*

Sec. 10.X-14A-3 (Rule X-14A-3). *Legibility of soliciting material.*—Every printed proxy statement and form of proxy, and all related printed material furnished to the persons solicited in connection with any solicitation subject to Section 14 (a) of the Act,<sup>2</sup> other than documents not prepared in connection with the solicitation, shall be set in type not smaller than 10-point roman, at least 2-point leaded; except that financial statements may be set in type not smaller than 8-point roman, if necessary for convenient presentation.\*

Sec. 10.X-14A-4 (Rule X-14A-4). *Duty to file material with Commission and exchange.*—(a) Three copies of each of the following documents shall be filed with the Commission at its office in Washington, D. C., and one copy with each exchange on which is listed the security with respect to which any solicitation subject to Section 14 (a) of the Act<sup>3</sup> is made:

(1) The proxy statement, form of proxy, and any additional material intended to be furnished to security holders along with the proxy statement;

(2) Any additional material relating to the same subject matter or meeting furnished to any substantial number of security holders after the first solicitation; and

(3) Any document to which reference is made in the proxy statement in accordance with Rule X-14A-1 (c) [Sec. 10.X-14A-1], unless such document shall have been previously filed with the Commission and the exchange.

(b) The material described in paragraphs (a) (1) and (a) (3) above shall be filed not later than the time when the first solicitation is made. The material described in paragraph (a) (2) above shall be filed not later than the time when such material is first sent or given to any security holders.

(c) If any document filed pursuant to paragraph (a) of this rule is amended after the filing thereof, a copy of the amendment or amended document shall be filed with each exchange on which the security is listed and three copies with the Commission not later than the time when such amended document is first sent or given to any security holders.\*

Sec. 10.X-14A-5 (Rule X-14A-5). *False or misleading statements.*—No solicitation subject to Section 14 (a) of the Act<sup>4</sup> shall be made by means of any form of proxy, notice of meeting, or other communication containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or omits to state any material fact necessary in order to make the statements therein not false or misleading.\*

**SEC. 10.X-14A-6 (Rule X-14A-6).** *Duty of issuer to furnish information and mail proxies at request of security holder.*—No solicitation subject to Section 14 (a) of the Act<sup>1</sup> shall be made by or on behalf of the issuer or its management, directly or indirectly, unless the issuer performs or has performed such of the following acts as may be duly requested by any record owner of any security of the issuer (hereinafter called "the applicant") with respect to the same subject matter or meeting:

(a) At the written request of the applicant, the issuer shall furnish the following information:

(1) A statement of the approximate number of the holders of record of any specified class of securities of which any of the holders have been or are to be solicited by or on behalf of the issuer or its management (as of any date selected in connection with such solicitation, or if none has been selected, approximately as of the date designated by the applicant), and the approximate number of any other holders of the specified class of securities who have been or are to be solicited by or on behalf of the issuer or its management; and

(2) An estimate of the cost of mailing a specified form of proxy or other communication to such holders. Any information requested pursuant to this paragraph shall be mailed or otherwise furnished on or before the third business day after receipt of the written request.

(b) At the written request of the applicant, copies of any form of proxy or other communication furnished by the applicant shall be mailed by the issuer to holders of record (as of the date selected under (a)) of any specified class of securities of which any of the holders have been or are to be solicited by or on behalf of the issuer or its management, and to any other holders of the specified class of securities who have been or are to be solicited by or on behalf of the issuer or its management. Such material shall be mailed with reasonable promptness after receipt by the issuer of a tender of the material to be mailed, of envelopes or other containers therefor, of postage or payment for postage and of reasonable reimbursement to the issuer of all expenses incurred in connection with such mailing or of a surety company bond satisfactory to the issuer in an amount sufficient to cover such expenses; except that such material need not be mailed prior to the first day on which the solicitation is made by or on behalf of the issuer or its management.\*

**SEC. 10.X-14A-7 (Rule X-14A-7).** *Solicitations to which rules are not applicable.*—Notwithstanding any other provision in this regulation, the rules contained therein shall not apply to:

(a) Any solicitation made otherwise than by the use of the mails or by any means or instrumentality of interstate

commerce or of any facility of any national securities exchange;

(b) Any solicitation of a proxy by any person in respect of securities carried in his name or in the name of his nominee, or held in his custody, if (1) such person receives no commission or remuneration for such solicitation, directly or indirectly, other than reimbursement of reasonable out-of-pocket expenses and clerical expenses, and (2) such person furnishes to the person solicited a copy of all soliciting material which the persons on whose behalf the solicitation is made are sending to other persons: Provided, however, that this exemption shall not be applicable to any solicitation by a voting trustee in respect of securities of which he is trustee;

(c) Any solicitation of a proxy by any person in respect of securities of which he is the beneficial owner;

(d) Any solicitation of a proxy evidenced by a certificate of deposit or other security which is registered under the Securities Act of 1933;

(e) Any solicitation of an acceptance, conditional or unconditional, of a plan of reorganization under Chapter X of the Bankruptcy Act, as amended, or of an authority, conditional or unconditional, to accept any such plan, if such solicitation is made after the entry of an order approving such plan pursuant to Section 174 of said Act and after, or concurrently with, the transmittal of information concerning such plan as required by Section 175 of said Act; or

(f) Any solicitation made in connection with a reorganization of a registered holding company or any subsidiary company thereof, if such solicitation is made in compliance with paragraph (a) and with paragraph (b), (d) or (e) of Rule U-12E-3 [Sec. 15.U-12E-3] under the Public Utility Holding Company Act of 1935.\*

**SEC. 10.X-14A-8 (Rule X-14A-8).** *Effect of violation.*—Failure to comply with the rules contained in this regulation shall not invalidate any proxy pursuant to which action has been taken: Provided, however, that this rule shall not be construed to prevent the granting of injunctions in any proper proceedings, or to exempt any person from any penalty or prohibition provided by the Act in respect of violations of the Act or any rules or regulations thereunder.\*

**SEC. 10.X-14A-9 (Rule X-14A-9).** *Definitions.*—For the purposes of Regulation X-14, unless the context otherwise requires:

(a) The term "proxy" includes every proxy, consent, or authorization within the meaning of Section 14 (a) of the Act<sup>1</sup>;

(b) The term "solicitation" includes any request for a proxy, whether or not such request is accompanied by or included in a written form of proxy; but the term does not include the performance by the issuer or its agents of acts required by Rule X-14A-6 [Sec. 10.X-14A-6], or the performance by any per-

son of ministerial acts on behalf of a person soliciting a proxy;

(c) The term "proxy statement" means the statement required by Rule X-14A-1 [Sec. 10.X-14A-1], whether or not contained in a single document;

(d) The term "issuer" means the issuer of the security in respect of which the proxy is solicited;

(e) The term "associate", used to indicate a relationship with any person, means (1) any corporation or organization (other than the issuer) of which such person owns or beneficially 10% or more of any class of voting securities, (2) any firm of which such person is a partner, and (3) any relative or spouse of such person having the same home as such person;

(f) The term "affiliate", used to indicate a relationship with any person, means a person controlling, controlled by, or under common control with, such person.\*

[Here follows, in the original document, "Schedule 14A—Items of information in proxy statement under Rule X-14A-1.]

NOTES:  
\*C. 404, sec. 14, 48 Stat. 895; 15 U. S. C. 78n; c. 404, sec. 23, 48 Stat. 901; c. 462, sec. 8, 49 Stat. 1379; 15 U. S. C. 78w and Sup. III.  
<sup>1</sup>C. 404, sec. 14, 48 Stat. 895; 15 U. S. C. 78n.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-2357; Filed, August 12, 1938; 12:51 p. m.]

## Notices

### INTERSTATE COMMERCE COMMISSION.

#### APPLICANTS FOR ADMISSION TO PRACTICE BEFORE COMMISSION

AUGUST 11, 1938.

#### Notice to the Public:

The Commission has determined that all applicants for admission to practice before the Commission, who are not attorneys at law admitted to practice before the Supreme Court of the United States or of the highest court of any State or Territory or the District of Columbia, shall be admitted only upon written examination, in order that the applicant may show that he is "possessed of the necessary legal and technical qualifications to enable him to render valuable service before the Commission and is otherwise competent to advise and assist in the presentation of matters before the Commission." (Rules of Practice, I-B, 2 (b).)

All applications received up to August 2, 1938, will be passed upon according to the preexisting practice. Applicants who are not members of the bar, who file their applications on and after August 2, 1938, are advised that (a)

they should make return to the questionnaire sent them at the time the blank form of application for admission is given them; and that an inquiry will be made of the sponsors and those to whom the applicant has referred, as to the general standing of the applicant. An inquiry will also be made by the Committee of the Association of Practitioners before the Interstate Commerce Commission. If the applicant's standing is found to be good, then (b) applicant will be expected to appear for an examination as to his legal and technical qualifications, at the next succeeding general date on which examinations are held which is more than thirty days distant.

Examinations will be conducted three times a year—the first Tuesday in January, May and September of each year. In view of the shortness of time and the limited number of applications pending, the examination scheduled for September, 1938, will be omitted.

The applicants will be expected to appear for examination, after they have been notified to do so, at the office of the Commission in Washington, or, upon timely request being made, at a district office of the Bureau of Motor Carriers, in cities where such offices are maintained, or in other cities, at the office of the Commission's Bureau of Accounts or Service Agent of the Commission.

The examinations to be given will test the applicant's knowledge of (1) structure and history of the Interstate Commerce Act, as amended, and related acts, (2) the Commission's rules of practice, (3) the general rules of evidence, (4) the leading cases involving the Commerce Clause of the Constitution and the Interstate Commerce Act, and their significance, and (5) the principles of legal ethics. The decision as to admission or non-admission of candidates will be made upon the basis of the applications, the returns of sponsors and those to whom applicants have referred, and the examination papers.

[SEAL] GEORGE W. LAIRD,  
*Acting Secretary.*

[F. R. Doc. 38-2347; Filed, August 12, 1938;  
10:22 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 10th day of August A. D. 1938.

[File No. 31-113]

**IN THE MATTER OF THE APPLICATION OF GREENE, CHESTER AND PATTON TRUST**  
**ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION**

The Commission, having due regard to the public interest and the interest of

investors and consumers, upon the request of the applicant, consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.  
By the Commission.

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

[F. R. Doc. 38-2360; Filed, August 12, 1938;  
12:52 p. 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 10th day of August, A. D. 1938.

[File No. 43-104]

**IN THE MATTER OF GULF STATES UTILITIES COMPANY**

**ORDER ADOPTING REPORT**

Gulf States Utilities Company, a subsidiary company of Engineers Public Service Company, a registered holding company, having made application pursuant to Section 11 (g) of the Public Utility Holding Company Act of 1935 for a report of the Commission on a certain plan involving an offer to exchange a new issue of 6209 shares of \$6 preferred stock of said applicant for the outstanding 6209 shares of \$6 preferred stock of Baton Rouge Electric Company;

Hearings having been held on the said plan and application after appropriate notice; the Commission having considered the record in this matter and having made and filed its report on said plan, said report being in the form of the copy thereof attached to this order:

*It is ordered,* That the said report on said plan be and the same hereby is approved and adopted as the report made by the Commission on said plan, and as the form of copy of said report to be used by the applicant in solicitations in respect of said plan pursuant to the provisions of said Section 11 (g).

By the Commission.

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

[F. R. Doc. 38-2356; Filed, August 12, 1938; 12:51 p. 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 11th day of August 1938.

[File No. 7-235]

**IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, \$100 PAR VALUE, 6% CUMULATIVE PREFERRED STOCK, \$100 PAR VALUE, 6% CUMULATIVE PREFERRED STOCK, \$100 PAR VALUE, AND 6% NON-CUMU-**

**LATIVE SECOND PREFERRED STOCK, \$100 PAR VALUE**

**ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES**

The San Francisco Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the Market Street Railway Company Common Stock, \$100 Par Value, Prior Preference Stock, \$100 Par Value, Preferred Stock, \$100 Par Value, and Second Preferred Stock, \$100 Par Value; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein:

*It is ordered,* That the application of the San Francisco Stock Exchange, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the Market Street Railway Company Common Stock, \$100 Par Value, Prior Preference Stock, \$100 Par Value, Preferred Stock, \$100 Par Value, and Second Preferred Stock, \$100 Par Value, be and the same is hereby denied.

By the Commission.

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

[F. R. Doc. 38-2361; Filed, August 12, 1938;  
12:53 p. 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 11th day of August, A. D. 1938.

[File No. 52-4]

**IN THE MATTER OF WEST OHIO GAS COMPANY**

**NOTICE OF AND ORDER FOR HEARING**

An amended application and declaration having been duly filed with this Commission on August 3, 1938 by David C. Patterson, M. J. Mauermann, and David Copland, as a committee for the holders of First and Refunding Mortgage 6% Bonds of West Ohio Gas Company, a subsidiary of the Trustees of Midland Utilities Company, a registered holding company, pursuant to Sections 11 (f) and 11 (g) of the Public Utility Holding Company Act of 1935, and the rules adopted by the Commission under said Sections and Section 12 (e) of said Act;

*It is ordered,* That a further hearing on such matter be held on August 29, 1938, 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.

It is further ordered, That Richard Townsend, designated by order entered herein on November 19, 1937 to preside at hearings herein or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter, and shall exercise all the powers granted to such officer by said order.

Notice of such hearing is hereby given to such applicants and to any other person whose participation in such proceedings 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 August 23, 1938.

Said application, as amended, asks that the Commission approve and make

a report upon the amended plan of reorganization of West Ohio Gas Company attached to said amended application, which said amended plan of reorganization provides (1) that the holders of said company's First and Refunding Mortgage 6% Bonds outstanding in the principal amount of \$1,300,000 are to receive \$500 in principal amount of new 5% First Mortgage Bonds, \$30 in cash and 160 shares of new common stock of the par value of \$2 per share for each \$1,000 of outstanding Bonds; (2) that the holders of the 6% First Mortgage Bonds of Delphos Gas Company outstanding in the principal amount of \$53,000 shall receive \$500 principal amount of new 5% First Mortgage Bonds and 160 shares of common stock of the par value of \$2 per share for each \$1,000 of outstanding bonds of Delphos Gas Company, or in lieu thereof the property securing such bonds free from

liens; (3) that Midland Utilities Company as the holder of demand notes of West Ohio Gas Company in the principal amount of \$65,633 and accrued and unpaid interest thereon shall receive 16,324 shares of new common stock of the par value of \$2 per share; (4) that holders of the preferred stock of West Ohio Gas Company shall receive for each share of such stock and all accumulated and unpaid dividends thereon one share of new common stock of the par value of \$2 per share; (5) that no participation be given to the existing common stock, all of which is owned by Midland Utilities Company, and (6) that general claims be paid in cash or assumed by the new company as allowed by the Court.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-2359; Filed, August 12, 1938;  
12:52 p. m.]