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TITLE 7—AGRICULTURE

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 727—FLUE-CURED TOBACCO

MARKETING QUOTA REGULATIONS; 1940–41 MARKETING YEAR

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

(a) *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) *County office* means the office of the County Agricultural Conservation Association, or the county or local committees or employees of such association, according to the sense in which such term is used.

(c) *Dealer* means a person who engaged, to any extent, in the business of acquiring tobacco from producers.

(d) *Field assistant* means a field assistant, junior field officer, or a field officer of the Marketing Quota Section, according to the sense in which such term is used.

(e) *Floor sweepings* means that tobacco which in the course of the warehouse sale is dropped on the warehouse floor and is picked up by the warehouse. Any tobacco accumulated in the course of the grading of tobacco for farms shall not be included as floor sweepings.

(f) *Market* means the first bona fide disposition of tobacco by sale, barter or exchange. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(g) *Marketing Quota Section* means the Marketing Quota Section, East Central Division, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

(h) *Nonwarehouse sale* means a marketing other than at a warehouse sale.

(i) *Operator* means the person who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(j) *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Gov-

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ernment. The term "person" shall include two or more persons having a joint or common interest.

(k) *Pound* means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by a producer, would equal one pound standard weight.

(l) *Producer* means a person who, as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of tobacco.

(m) *Resale* means the disposition by sale, barter, or exchange of tobacco which has been marketed previously.

(n) *Sale day* means the period covered by any warehouse sale at the end of which the warehouseman bills to buyers the tobacco so purchased during such warehouse sale.

(o) *Suspended sale* means any marketing of tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the particular sale day on which such marketing occurred.

(p) *Tobacco* means flue-cured tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as types 11, 12, 13 and 14, and collectively known as flue-cured tobacco.

(q) *Tobacco available for marketing* means all tobacco produced on a farm in the calendar year 1940 (and any tobacco produced on the farm prior to the calendar year 1940 and carried over to the 1940–41 marketing year) which is not disposed of through use on the farm or storage prior to the issuance of a marketing card for the new farm.

(r) *Warehouseman* means a person engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(s) *Warehouse sale* means a marketing by sale at auction through a warehouse in the regular course of business.*

§ 727.132 *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out these regulations.*

§ 727.133 *Tobacco subject to marketing quotas.* Any tobacco marketed during the period July 1, 1940, to June 30, 1941, inclusive, and any tobacco produced in the calendar year 1940 and marketed prior to July 1, 1940, shall be subject to the marketing quotas for the 1940–41 marketing year.*

FARM MARKETING QUOTAS [1]

§ 727.134 *Amount of farm marketing quota.* The marketing quota for a farm (hereinafter referred to as the "quota") shall be the actual production of tobacco on the farm acreage allotment, as established for such farm in accordance with the "Procedure for Determination of Flue-cured Tobacco Acreage Allotments for 1940" (Form 40–Tob–8 and Supplements 1 and 2). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1940 times the farm acreage allotment. The excess tobacco on any farm shall be that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1940 times the number of acres harvested in excess of the farm acreage allotment.*

§ 727.135 *Issuance of marketing card.* A marketing card shall be issued for every farm having tobacco available for marketing. Such card shall be issued after information required for its preparation (including measurements of the harvested acreage of tobacco and an estimate of the actual production of tobacco) has been furnished to or obtained by the county office. If the farm operator refuses to furnish or to allow the county office to obtain such information, the card shall show that all of the tobacco available for marketing from the farm is subject to penalty.*

(a) *Within quota card (Form 40–Tob–28).* A "Within Quota Marketing Card" authorizing the marketing without penalty of the actual production of tobacco on the farm acreage allotment in 1940 shall be issued for a farm (other than a farm having tobacco carried over from a crop produced prior to 1940) under the following conditions:

*§§ 727.131 to 727.160, inclusive, issued under the authority contained in sec. 375, 52 Stat. 66; 7 U.S.C. 1375.

[1] Instructions for determining marketing quotas and issuing marketing cards and with respect to the rights of producers in the quota for farms having tobacco which was produced thereon in a calendar year prior to 1940 and carried over to the 1940–41 marketing year will be issued in Supplement 1 to these regulations.

(1) If the harvested acreage of tobacco in 1940 is not in excess of the farm acreage allotment and the operator of such farm does not operate any other farm on which the harvested acreage exceeds the acreage allotment.

(2) If a quantity of tobacco equal to the estimated production of the acreage harvested in excess of the allotment for the farm, and all other farms operated by the same person, is disposed of prior to the issuance of the marketing car.

(3) If the farm is operated by a publicly owned experiment station and the tobacco is produced for experimental purposes only.

(b) *Excess card (Form 40–Tob–29).* An "Excess Marketing Card" showing the extent to which marketings of tobacco from the farm are subject to penalty shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1940 is in excess of the farm acreage allotment or the operator of the farm also operates any other farm on which the harvested acreage of tobacco in 1940 exceeds the farm acreage allotment, and the excess tobacco on any of such farms is not disposed of before the marketing card is issued.

(2) If there is tobacco available for marketing from the farm but no tobacco acreage allotment was established.

(3) If information required for preparation of the marketing card is not furnished.

(c) *Number of marketing cards and entries and signatures thereon.* One or more marketing cards may be issued for any farm as requested by the farm operator and approved by the county office. All entries on each marketing card shall be made in accordance with instructions for issuing marketing cards. The "Operator's Agreement" on each marketing card shall be properly executed by the farm operator and the person who delivers the card to the operator.*

§ 727.136 *Farm operator's report.* The operator of each farm on which the harvested acreage exceeds the acreage allotment for such farm shall submit a report on Form 40–Tob–33 as follows:

(1) If the excess tobacco is disposed of prior to the issuance of a Within Quota Marketing Card for the farm, such report shall be made before any tobacco is marketed from the farm and shall show the estimated production, the estimated amount of excess tobacco and the method of disposition thereof.

(2) If the excess tobacco is not disposed of prior to the issuance of the marketing card such report shall be made when the marketings of tobacco for the 1940–41 marketing year have been completed for the farm. Such report shall show the actual production of tobacco on the farm and the amount and disposition of any excess tobacco which will not be marketed from the farm during the 1940–41 marketing year.

In the event any tobacco is disposed of by use on the farm the county committee, prior to approval of the farm operator's report of the disposition of such tobacco, shall determine that the condition of the tobacco is such that it can be used only on the farm and that such tobacco is reasonably representative of the tobacco available for marketing from the farm and does not contain an undue proportion of scrap or other low-grade tobacco. In the event disposition of the tobacco is by storage the county committee shall determine the exact amount of tobacco placed in storage and the place of storage prior to approval of the operator's report of disposition of the tobacco.

No application for return of penalty on Form 40–Tob–41 shall be approved until after the report on Form 40–Tob–33 has been filed with and approved by the county office.*

§ 727.137 *Rights of producers in marketing card.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to the use of the marketing card for marketing that proportion of his share of such tobacco which the marketing quota for the farm is of the total amount of tobacco available for marketing from the farm and also to market any additional amount of his tobacco which can be marketed for a net price of more than ten cents per pound.*

§ 727.138 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer to the use of marketing card for the farm.*

§ 727.139 *Person authorized to issue cards.* The county office shall designate one person to sign marketing cards for farms in the county as issuing agent. No marketing card shall be signed by the issuing agent until all other entries required to be made thereon have been made by the county office, except that the operator's receipt therefor and the Operator's Agreement therein may be signed after the issuing agent has signed the card, but prior to its delivery to the farm operator. Only one person shall be designated as issuing agent but such person may, subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards; provided that each such person shall place his initials immediately beneath the name of the issuing agent as written by him on the card.*

§ 727.140 *Invalid cards.* A marketing card shall be invalid under any of the following conditions:

(1) If it is not issued or delivered in the form and manner prescribed;

(2) If entries are not made as required thereon; or

(3) If it is lost, destroyed, stolen, or becomes illegible.

In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or omission or incorrect entry which can be corrected by a field assistant) the farm operator (or the person having the card in his possession) shall return it to the county office at which it was issued.

If any marketing card is lost, destroyed, or stolen, the person having knowledge of such loss, destruction, or theft shall notify the county office to that effect, and the county office shall immediately notify the Marketing Quota Section.

At the end of two weeks after receipt of notice of the loss, destruction, or theft of any marketing card the county office may issue a duplicate marketing card to replace the lost, destroyed, or stolen card in accordance with instructions issued pursuant to these regulations.

If any marketing card which was reported as lost, destroyed, or stolen is later received by the county office, the county office shall immediately notify the Marketing Quota Section of the receipt of such card.

In the event any marketing card was improperly issued or became illegible and the county office can determine upon the return of such card that a new marketing card may be issued properly, then a new marketing card may be issued immediately.

If any entry is not made on a marketing card as required thereon (either through omission or incorrect entry) and a correction of such entry is made by a field assistant then such card shall become valid. If the field assistant is unable to make such correction, the field assistant shall return the card to the county office where it shall be retained until such correction is made, or a new marketing card is issued, as provided above.*

§ 727.141 *Additional cards and disposition of used cards.* When all the memoranda of sale contained in a marketing card have been used or the marketings from the farm have been completed, the marketing card shall be returned to the county office. If the marketing of tobacco from the farm has not been completed, a new marketing card of the same kind, bearing the same name, information, and identification as the used card shall be issued for the farm. Any marketing card issued to replace another card shall have entered thereon in accordance with instructions the total sales as shown on the marketing card which is replaced.*

§ 727.142 *Report of possible misuse of marketing card.* If a field assistant, a member of the local committee, or an employee of the county office has information which causes him to believe that any tobacco has been or is being mar-

keted under the marketing card for a particular farm, which actually was produced on a different farm, then such person shall report such information immediately to the Marketing Quota Section.*

§ 727.143 *No transfers.* There shall be no transfer of marketing quotas.*

MARKETING OF TOBACCO AND PENALTIES

§ 727.144 *Memorandum of sale to identify every marketing.* Each marketing of tobacco from a farm shall be identified by a memorandum of sale issued from the marketing card (Form 40–Tob–28 or 40–Tob–29) for the farm, but if a memorandum of sale cannot be obtained within four weeks after the date of the marketing of any tobacco at a warehouse sale such marketing of tobacco shall be subject to penalty and the amount of penalty shall be shown on the memorandum of suspended sale. A memorandum of sale shall be issued only by field assistants, with the following exceptions:

(1) A warehouseman may issue a within quota memorandum of sale to identify a warehouse sale if a field assistant is not available at the warehouse when the card is presented by the farmer, but in such case the memorandum of sale shall be presented promptly to the field assistant for verification with the warehouse records and shall be initialed by him if found to be valid. The authorization to issue within quota memoranda of sale under this paragraph shall be withdrawn for any warehouseman upon written notice by the Chief of the Marketing Quota Section.

(2) A dealer (or warehouseman) who purchases tobacco from the farmer at any place other than a warehouse sale may issue a within quota memorandum of sale provided that such memorandum is supported by a Bill of Nonwarehouse Sale on Form 40–Tob–43 which shall be obtained as hereinafter provided in this section.

(3) The county office shall issue a memorandum of sale in any case where the certification on a Bill of Nonwarehouse Sale (Form 40–Tob–43) is executed by the county office as provided below for a dealer (or warehouseman) prior to the issuance of the marketing card for the farm on which the tobacco covered by the Bill of Nonwarehouse Sale was produced. In such case the memorandum of sale will be issued by the county office on the basis of its copy of the Bill of Nonwarehouse Sale prior to the delivery of the marketing card to the farm operator.

Each marketing of tobacco at any place other than a warehouse sale shall be identified by a Bill of Nonwarehouse Sale on Form 40–Tob–43. The dealer (or warehouseman) may present the Bill of Nonwarehouse Sale (Form 40–Tob–43) to the county office which, if the marketing card for the farm has not been issued shall execute the certificate provided on the Bill of Nonwarehouse Sale to show whether the farm is entitled to receive a within quota marketing card or an excess marketing card. If the farm is to receive an excess card the county office also will enter the percent which the acreage of tobacco harvested in excess of the acreage allotment for the farm is of the total harvested acreage of tobacco.

If any person issuing a memorandum of sale as authorize above, has reason to believe that the tobacco to be covered by the memorandum was not produced on the farm for which the marketing card containing the memorandum was issued, such person shall require the farm operator to sign the statement on the back of the memorandum and if he is satisfied that such signature is the same as the signature of the farm operator on the marketing card he may issue the memorandum, but he shall make a written report to the Marketing Quota Section, within one week after the memorandum is issued, of the circumstances in the case.*

§ 727.145 *Marketings free of penalty.* Any marketing of tobacco shall be free of penalty to the extent that such tobacco is so identified by a valid memorandum of sale issued to cover such marketing.*

§ 727.146 *Collection of penalties and marketings subject to penalty.*

(a) *Farm tobacco.* With respect to farms having excess tobacco available for marketing (and for which excess marketing cards are issued) the penalty shall be collected upon that proportion of each lot of tobacco marketed from the farm which the tobacco available for marketing from the farm in excess of the farm quota is of the total amount of tobacco available for marketing from the farm. The memorandum of sale issued to identify each marketing of tobacco shall show that portion of such marketing which is subject to penalty, and any portion of such marketing of tobacco which is not shown by such memorandum as being subject to penalty shall be free of penalty.

(b) *Dealer's tobacco.* Any sale of tobacco by a dealer which such dealer represents to be a resale but all or any part of which, when added to prior resales by such dealer as shown on the Dealer's Record, is in excess of the total amount of purchases as shown on such Dealer's Record shall be deemed to be a marketing of tobacco subject to penalty. Any sale of tobacco by a dealer which such dealer represents to be a resale of tobacco previously purchased by him but which, because of the difference in the price at which such tobacco is resold as compared with the price at which such dealer had purchased the tobacco, cannot reasonably be construed to be tobacco previously purchased by such dealer shall be deemed to be a marketing of tobacco subject to penalty.

(c) *Tobacco Not Identified by Memorandum.* Any marketing of tobacco not identified by a valid memorandum of sale shall be subject to penalty.

(d) *Liability in case of error on memorandum.* The person liable for the payment of the penalty upon any marketing of tobacco shall not be relieved of such liability because of any error which may occur on the memorandum of sale.*

§ 727.147 *Persons to pay penalty and deduction from purchase price.*

(a) *Warehouse sale.* If the tobacco is marketed by the producer through a warehouseman the penalty shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Sale other than warehouse sale.* If the tobacco is acquired from the producer in any manner other than through a warehouse sale, the penalty shall be paid by the person who acquired the tobacco, but such person may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Agent.* If the tobacco is marketed by the producer through an agent other than a warehouseman, the penalty shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Agent in case of false representation.* If any person sells tobacco representing that such tobacco is being marketed from one farm when in fact such tobacco is being marketed from another farm, then such person, as agent, shall pay any penalty due upon such marketing of tobacco.

(e) *Warehouseman and Dealer on dealer's tobacco.* Any penalty due upon tobacco subject to penalty under paragraph (b) of § 727.146 shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the dealer, but the dealer shall not be relieved of responsibility for payment of such penalty in the event payment is not made by the warehouseman.

(f) *Producer marketing outside United States.* If the tobacco is marketed by the producer directly to any person outside the United States the penalty shall be paid by the producer.

§ 727.148 *Amount of penalty.* The penalty upon any marketing of tobacco subject to penalty (or upon that portion of any marketing of tobacco which is identified as being subject to penalty) shall be ten cents per pound.*

§ 727.149 *Penalty for false identification or failure to account for disposition of tobacco.* If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in 1940 in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm and the penalty in respect thereof shall be paid and remitted by the producer.

Such penalty shall be in addition to any other penalties imposed by this Act.*

§ 727.150 *Payment of penalty.* Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Marketing Quota Section, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week following the week in which the memorandum of sale was issued, or, in the event a memorandum is not issued, not later than four weeks after the date upon which the tobacco was sold. A draft, money order, or check, payable to the order of the Treasurer of the United States may be used to pay any penalty, but any such draft, money order, or check shall be received subject to payment at par.*

§ 727.151 *Application for return of penalty.* After marketings of tobacco have been completed for any farm and disposition of excess tobacco has been made as required in § 727.136, producers of tobacco on the farm may file an application for return of any amount of penalty collected in excess of that amount which is equal to ten cents per pound upon the number of pounds of tobacco marketed in excess of the farm marketing quota. Such application shall be filed on Form 40–Tob–41 "Application for Return of Penalty", and entries thereon shall be made in accordance with the instructions for the preparation of such form. Return of penalty collected upon marketings of tobacco from any farm shall be made only upon the basis of tobacco produced on the farm and if the county committee has reason to believe that any of the unmarketed excess tobacco as reported for a farm by the farm operator was not actually produced thereon the application for such farm shall not be approved with respect to that tobacco which the committee has reason to believe was not produced on the farm. Any unmarketed excess tobacco which is used as a basis for filing an application shall be tobacco which the committee determines is reasonably representative of the tobacco available for marketing from the farm in the 1940–41 marketing year and shall not contain an undue proportion of scrap or other low-grade tobacco.*

RECORDS AND REPORTS

§ 727.152 *Warehouseman's records and reports*—(a) *Record of marketings.* Each warehouseman shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse; the name of the seller (and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco was produced), the name of the purchaser, the date of sale, the number of pounds sold, the sale price, the amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer (or a dealer). All purchases and resales for the warehouse leaf account shall be so identified in the record and a separate account shall be maintained with respect to the amount of floor sweepings picked up and the disposition of such floor sweepings. Any warehouseman who grades tobacco for farmers shall maintain a separate account showing the approximate amount of grading house scrap obtained from the tobacco graded from each farm. In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Memorandum of sale record and bill of sale record.* A record in the form of a valid memorandum of sale (or a memorandum of suspended sale showing the amount of penalty) shall be obtained by every warehouseman to cover each marketing of tobacco from a farm through the warehouse, and if a warehouseman buys tobacco directly from a farmer (other than at a warehouse sale as defined in these regulations) such warehouseman shall obtain a valid memorandum of sale to cover each such purchase of tobacco, together with a properly executed Bill of Nonwarehouse Sale (Form 40–Tob–43); except that at any time prior to the issuance of the marketing card for the farm the warehouseman, in lieu of obtaining a memorandum of sale, may have the "Certificate of County Office" executed on the Bill of Nonwarehouse Sale (Form 40–Tob–43) and deliver a copy thereof to the county office. If a warehouseman obtains possession of any grading house scrap in the course of grading tobacco from any farm, a memorandum of sale shall be obtained to cover the approximate amount of such scrap tobacco from each farm.

(c) *Suspended sale record.* Any warehouse bills for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills as "suspended", write thereon the serial number of the memorandum of suspended sale, and record the bills on the register of suspended sales for the warehouse (Form 40–Tob–38): *Provided,* That if a field assistant is not available, the warehouseman may stamp such bills and write thereon the said serial number and record them on the register.

(d) *Warehouse entries on dealers' records.* Each warehouseman shall enter on each dealer's record (Form 40–Tob–35) the total of purchases and resales made by such dealer during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1940 the entry on the Dealer's Record shall clearly show such fact.

(e) *Daily Report of warehouse business and report of penalties.* Each warehouseman shall make reports on Form 40–Tob–36, Auction Warehouse Report, and on Form 40–Tob–37, Listing of Penalties, showing the information required on the respective reports. Form 40–Tob–36 shall be prepared for each sale day and all reports for the sale days occurring during any week shall be forwarded to the Marketing Quota Section on or before the end of the next following calendar week. Form 40–Tob–37 shall be prepared for each week and the report for each week shall be forwarded, together with the remittance of the penalty due as shown thereon to the Marketing Quota Section not later than the end of the next following calendar week.

(f) *Summary report for warehouse accounts.* Each warehouseman shall assist field assistants to prepare summaries of the warehouse account by making available all records kept and reports made by the warehouse as required by these regulations.

(g) *Additional records and reports.* In addition to the records and reports provided above each warehouseman shall keep such additional records and make such additional reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may request.*

§ 727.153 *Dealer's records and reports.* Each dealer, except as provided in § 727.154 below, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the field assistant shall detach and forward to the Marketing Quota Section the page "Receipt for Dealer's Record" contained in Form 40–Tob–35, "Dealer's Record" which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on Form 40–Tob–35, "Dealer's Record," showing all purchases and resales of tobacco made by the dealer and in the event of resale of tobacco bought from a crop produced prior to 1940 the fact that such tobacco was bought by him and carried over from a crop produced prior to 1940.

(c) *Report of penalties.* Each dealer shall make a report on Form 40–Tob–37 showing the information with respect to all purchases subject to penalty made by him during each calendar week. The amount of penalty shown to be due by each such report shall be remitted with the report.

(d) *Memorandum of sale record and bill of sale record.* Each dealer shall obtain a record in the form of a valid memorandum of sale covering each lot of tobacco purchased by him directly from the farmer except that at any time prior to the issuance of the marketing card for the farm the dealer, in lieu of obtaining a memorandum of sale, may have the county office execute the "Certificate of County Office" on the Bill of Nonwarehouse Sale (Form 40–Tob–43) and deliver a copy thereof to the county office. No memorandum of sale obtained

by a dealer shall be valid unless it is supported by a properly executed Bill of Nonwarehouse Sale (Form 40–Tob–43) and unless all entries required thereon and on the marketing card are made and in addition, the following entries are made on the memorandum:

(1) The signature of the farm operator on the back of the memorandum.

(2) The name of the dealer and the Dealer's Internal Revenue Registration Number under the heading "Warehouse and Date Issued."

(3) In case the tobacco is scrap, the word "scrap" beside the entry of "pounds sold."

(c) *Additional records.* Each dealer shall keep such records, in addition to the foregoing, as may be required to enable him to furnish the following information with respect to each lot of tobacco purchased or sold by him: The name of the seller (and in the case of a purchase from a producer, the name of the operator of the farm on which the tobacco was produced), the name of the purchaser, the date of the transaction, the number of pounds and the gross sale price; and in the event of resale of tobacco bought by him and carried over from a crop produced prior to 1940, the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the Marketing Quota Section not later than the end of the week following the calendar week covered by the reports.*

§ 727.154 *Dealers exempt from regular records and reports.* Any dealer who does not purchase or otherwise acquire tobacco except at a warehouse sale and who does not resell, in the form in which tobacco ordinarily is sold, more than ten percent of the tobacco purchased by him, shall not be subject to the provisions of § 727.151 of these regulations; but each such dealer shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may request.*

§ 727.155 *Records and reports of redryers, etc.* Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received, (and if received from a producer, the name and address of the farm operator, and the code and serial number of the farm on which the tobacco was grown), the amount of advance made by him on the tobacco, and the disposition of the tobacco.

Every person shall make such reports to the Secretary of Agriculture as the Chief of the Marketing Quota Section may request.*

§ 727.156 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, processor, or as a person engaged in the business of redrying, prizing or stemming tobacco for producers, and who engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business, except that a warehouseman shall not be required to keep a record and make reports on Form 40–Tob–35, "Dealer's Record", if the transactions which would be recorded and reported on such forms are recorded on the records kept by the warehouse in its regular course of business and reported as required on Form 40–Tob–36.*

§ 727.157 *Failure to keep record or make report.* Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or persons engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under these regulations, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under these regulations within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation; *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at any established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or dealer shall be given by the Chief of the Marketing Quota Section.*

§ 727.158 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, any warehouseman, dealer, processor, common carrier or person engaged in the business of redrying, prizing or stemming tobacco for producers shall make available for examination, upon written request by the Chief of the Marketing Quota Section, such books, papers, records, accounts, correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of such person.*

§ 727.159 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under these regulations for the 1940–41 marketing year shall be kept by him until June 30, 1942, and for a longer period upon written request by the Chief of the Marketing Quota Section.*

§ 727.160 *Information confidential.* All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of these regulations shall be kept confidential by all officers and employees of the Department of Agriculture, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the Act.*

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938) as amended, I, Claude R. Wickard, Acting Secretary of Agriculture, do hereby make, prescribe, publish and give public notice of the foregoing regulations pertaining to flue-cured tobacco marketing quotas for the 1940–41 marketing year to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 6th day of July 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Acting Secretary.

[F. R. Doc. 40–2808; Filed, July 8, 1940; 10:25 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER II—AGRICULTURAL MARKETING SERVICE

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

JULY 8, 1940.

To HARRY BLASDEL and HAL COOPER, *Doing business as Woodward Livestock Commission Company, Stockyard owner, Woodward, Okla.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b)), it has been ascertained by me that the stockyard known as the Woodward Livestock Commission Company, at Woodward, State of Oklahoma, is subject to the provisions of said Act.

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

[SEAL] GROVER B. HILL,
Assistant Secretary of Agriculture.

[F. R. Doc. 40–2807; Filed, July 8, 1940; 10:25 a. m.]

[1] Modifies list posted stockyards 9 CFR 204.1.

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3879]

IN THE MATTER OF THE CARDINAL CO., ETC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety:* § 3.71 (e) *Neglecting, unfairly or deceptively, to make material disclosure—Safety.* Disseminating, etc., in connection with offer, etc., of respondent's "Femalade Tablets" and "Femalade Liquid", or other similar medicinal preparations, any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparations, which advertisements represent, directly or through inference, that such preparations are cures or remedies for delayed menstruation or constitute competent or effective treatments therefor; or which advertisements with respect to said preparation "Femalade Tablets" fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, The Cardinal Co., etc., Docket 3879, June 26, 1940]

IN THE MATTER OF CHARLES L. KLAPP, AN INDIVIDUAL TRADING AS THE CARDINAL CO., AND AS THE CARDINAL COMPANY OF ST. LOUIS

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of June, A. D. 1940.

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Charles L. Klapp, an individual trading as The Cardinal Co. and as The Cardinal Company of St. Louis, or trading under any other name or names, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his medicinal preparations designated "Femalade Tablets" and "Femalade Liquid", or any other medicinal preparations composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same names or under any other names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent, directly or through inference, that said preparations are cures or remedies for delayed menstruation or constitute competent or effective treatments therefor; or which advertisements with respect to said preparation "Femalade Tablets" fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of said preparations, which advertisements contain any of the representations prohibited in Paragraph 1 hereof, or which advertisements with respect to the preparation "Femalade Tablets" fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user.

It is further ordered, That the respondent shall, within ten (10) days after service upon him of this order, file with the Commission an interim report in writing, stating whether he intends to comply with this order and, if so, the manner and form in which he intends to comply; and that within sixty (60) days after the service upon him of this order, said respondent shall file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

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

[F. R. Doc. 40-2815; Filed, July 8, 1940; 11:39 a. m.]

[1] 5 F.R. 1110.

[Docket No. 3899]

IN THE MATTER OF JOHNS-MANVILLE CORPORATION ET AL.

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product.* Using, in connection with offer, etc., in commerce, of respondents' "Rock Cork" insulating material, the terms "entirely mineral," "mineral composition," "mineral in composition," "mineral—not vegetable," or any other words of similar import and meaning to describe or in any way refer to a product which is not in fact entirely mineral in composition, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Johns-Manville Corporation et al., Docket 3899, June 26, 1940]

IN THE MATTER OF JOHNS-MANVILLE CORPORATION AND JOHNS-MANVILLE SALES CORPORATION

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of June, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Johns-Manville Corporation and Johns-Manville Sales Corporation, their officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of insulating material now known as "Rock Cork," whether sold under that name or any other name, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the terms "entirely mineral," "mineral composition," "mineral in composition," "Mineral—not vegetable," or any other words of similar import and meaning to describe or in any way refer to a product which is not in fact entirely mineral in composition.

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

By the Commission.

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

[F. R. Doc. 40-2820; Filed, July 8, 1940; 11:40 a. m.]

[Docket No. 3993]

IN THE MATTER OF AURINE COMPANY, INC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (w) *Advertising falsely or misleadingly—Refunds and replacements:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.72 (i) *Offering deceptive inducements to purchase—Money back guarantee.* Disseminating, etc., in connection with offer, etc., of

respondent's "Ourine" or other similar medicinal preparation, any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparation, which advertisements represent directly or through inference, that said preparation is a cure or remedy or a competent or effective treatment for deafness or partial deafness, or possesses any therapeutic value in excess of such aid as it may render in softening coagulated wax in the ear, or that respondent makes refunds to dissatisfied purchasers of said preparation, when respondent does not in fact establish and maintain a definite policy and practice of making such refunds, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Aurine Company, Inc., Docket 3993, June 26, 1940]

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of June, A. D. 1940.

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and its conclusions that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Aurine Company, Inc., a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its medicinal preparation designated "Ourine" or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent, directly or through inference, that said preparation is a cure or remedy or a competent or effective treatment for deafness or partial deafness; that said preparation possesses any therapeutic value in excess of such aid as it may render in softening coagulated wax in the ear; that respondent makes refunds to dissatisfied purchasers of said preparation, when respondent does not in fact establish and maintain a definite policy and practice of making such refunds;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisements contain any of the representations prohibited in Paragraph 1 hereof.

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

By the Commission.

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

[F. R. Doc. 40-2821; Filed, July 8, 1940; 11:41 a. m.]

[Docket No. 4015]

IN THE MATTER OF GREAT BUCKEYE CANDIES, INC.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy or other merchandise, assortments of any merchandise so packed and assembled that sales of said merchandise to the general public are to be, or may be, made by means of a lottery, gaming device, or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Great Buckeye Candies, Inc., Docket 4015, June 26, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy or other merchandise, others with assortments of any merchandise, either together with lottery devices or separately, which said lottery devices are to be, or may be, used in selling or distributing said merchandise to the general public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Great Buckeye Candies, Inc., Docket 4015, June 26, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy or other merchandise, any merchandise by means of a game of chance, gift enterprise or lottery scheme, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Great Buckeye Candies, Inc., Docket 4015, June 26, 1940]

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of June, A. D. 1940.

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, and the substitute answer of respondent, in which substitute answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

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

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

(2) Supplying to or placing in the hands of others assortments of any merchandise, either together with lottery devices or separately, which said lottery devices are to be used, or may be used, in selling or distributing said merchandise to the general public;

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

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

By the Commission.

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

[F. R. Doc. 40-2816; Filed, July 8, 1940; 11:39 a. m.]

[Docket No. 4066]

IN THE MATTER OF NORTHWESTERN PRODUCTS COMPANY, ETC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety:* § 3.71 (e) *Neglecting, unfairly or decep-*

[1] 5 F.R. 1110.

[1] 5 F.R. 1658.

tively, to make material disclosure—Safety. Disseminating, etc., in connection with offer, etc., of respondent's "Periodic Relief Pills" or other similar medicinal preparation, any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparation, which advertisements represent, directly or through inference, that such preparation is a cure or remedy for delayed menstruation or constitutes a competent or effective treatment therefor; or which advertisements fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b. [Cease and desist order, Northwestern Products Company, etc., Docket 4066, June 26, 1940]

IN THE MATTER OF WILLIAM W. KELSO, INDIVIDUALLY, AND TRADING AS NORTHWESTERN PRODUCTS COMPANY, AND AS NORTHWESTERN HEALTH CLINIC

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of June, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, William W. Kelso, individually and trading as Northwestern Products Company and as Northwestern Health Clinic, or trading under any other name or names, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his medicinal preparation designated "Periodic Relief Pills", or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent, directly or through inference, that said preparation is a cure or remedy for delayed menstruation or constitutes a competent or effective treatment therefor; or which advertisements fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisements contain any of the representations prohibited in Paragraph 1 hereof, or which fail to reveal that the use of said preparation may result in serious and irreparable injury to the health of the user.

It is further ordered, That the respondent shall, within ten (10) days after service upon him of this order, file with the Commission an interim report in writing, stating whether he intends to comply with this order and, if so, the manner and form in which he intends to comply; and that within sixty (60) days after the service upon him of this order, said respondent shall file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

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

[F. R. Doc. 40-2819; Filed, July 8, 1940; 11:40 a. m.]

[Docket No. 4077]

IN THE MATTER OF POPULAR PUBLICATIONS, INC.

§ 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product.* Representing, directly or by implication, in connection with offer, etc., in commerce, of rings, that the rings offered for sale and sold by respondent are set with precious or semi-precious stones identified as the birthstones for the respective months of the year, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Popular Publications, Inc., Docket 4077, June 26, 1940]

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of June, A. D. 1940.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Popular Publications, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of rings in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, that the rings offered for sale and sold by respondent are set with precious or semi-precious stones identified as the birthstones for the respective months of the year.

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

By the Commission.

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

[F. R. Doc. 40-2817; Filed, July 8, 1940; 11:39 a. m.]

[Docket No. 4099]

IN THE MATTER OF OAK LANE CANDY COMPANY

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy and peanuts or other merchandise, any merchandise so packed and assembled that sales thereof to the general public are to be, or may be, made by means of a lottery, gaming device, or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Oak Lane Candy Company, Docket 4099, June 26, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy and peanuts or other merchandise, others with packages or assortments of any merchandise, together with push or pull cards, punchboards or other lottery devices, which said push or pull cards, punchboards or other lottery devices are to be, or may be, used in selling or distributing said merchandise to the general public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Oak Lane Candy Company, Docket 4099, June 26, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of candy and peanuts or other merchandise, others with push or pull cards, punchboards or other lottery de-

[1] 5 F.R. 1638.

vices, either with assortments of said candy and peanuts or any other merchandise, or separately, which said push or pull cards, punchboards or other lottery devices are to be, or may be, used in selling or distributing such candy and peanuts or other merchandise to the general public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Oak Lane Candy Company, Docket 4099, June 26, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of candy and peanuts or other merchandise, any merchandise by means of a game of chance, gift enterprise, or lottery scheme, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Oak Lane Candy Company, Docket 4099, June 26, 1940]

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 26th day of June, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondent, in which substitute answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

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

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

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

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

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

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

By the Commission.

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

[F. R. Doc. 40-2818; Filed, July 8, 1940; 11:40 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T. D. 4980]

INCOME TAX

IMPROVEMENTS BY LESSEE

To Collectors of Internal Revenue and others concerned:

Section 19.22 (a)-13 of Regulations 103[1] [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] is amended to read as follows:

Improvements by lessee.—If buildings are erected or other improvements are made by a lessee, the lessor shall include in gross income as of the date he acquires possession or control of the real estate with such improvements thereon, at the termination of the lease by forfeiture or otherwise, an amount equal to the excess of the value as of such date of the real estate with such improvements thereon over the value as of such date of the real estate without such improvements.

If for taxable years ending prior to January 1, 1940, other than the year in which the taxpayer acquired possession or control of the real estate with the improvements thereon, there has been included in gross income the value of such improvements or the several parts thereof fixed by reference to an option granted in any income tax regulations, then such inclusion shall not be disturbed and the taxpayer, for all taxable years subsequent to the one in which there was first so included any of such income, may continue to return income with respect to such property on such basis, if within 90 days after the approval of this Treasury Decision, or within such later period as may be acceptable to the Commissioner, he files Form 968, in duplicate, with the Commissioner of Internal Revenue, Washington, D. C., Attention Income Tax Unit, Records Division, signifying his election to have income in respect of such property for all taxable years determined upon the basis heretofore employed, and expressly waiving any right which he might have had to claim or receive any refund, credit, or other tax advantage which would result from the exclusion of such items from income for the years for which included.

The rule stated in the first paragraph of § 19.22 (a)-13 of Regulations 103, as amended by this Treasury Decision, shall be applicable with respect to taxable years beginning prior to January 1, 1939, unless the taxpayer files Form 968 pursuant to § 19.22 (a)-13 of Regulations 103, as amended by this Treasury Decision, in which case the rule stated herein shall be disregarded and the rule stated in prior regulations shall be applicable.

(This Treasury Decision is prescribed pursuant to sections 22 (a), 62, and 3791 (b) of the Internal Revenue Code (53 Stat. 9, 32, 467), and the corresponding provisions of prior internal revenue laws.)

GUY T. HELVERING, *Commissioner of Internal Revenue.*

Approved, July 2, 1940.

JOHN L. SULLIVAN, *Acting Secretary of the Treasury.*

[F. R. Doc. 40-2791; Filed, July 5, 1940; 12:52 p. m.]

[T. D. 4981]

INCOME TAX

NEED OF INVENTORIES; INVENTORIES OF CONTAINERS

To Collectors of Internal Revenue and others concerned:

Section 19.22 (c)-1 of Regulations 103;[1] [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] is hereby amended to read as follows:

§ 19.22 (c)-1 *Need of inventories.*—In order to reflect the net income correctly, inventories at the beginning and end of each taxable year are necessary in every case in which the production, purchase, or sale of merchandise is an income-producing factor. The inventory should include all finished or partly finished goods and, in the case of raw materials and supplies, only those which have been acquired for sale or which will physically become a part of merchandise intended for sale, in which class fall containers, such as kegs, bottles, and cases, whether returnable or not, if title thereto will pass to the purchaser of the product to be sold

[1] 5 F.R. 347, 437, 569.

[1] 5 F.R. 347, 437, 569.

therein. Merchandise should be included in the inventory only if title thereto is vested in the taxpayer. Accordingly, the seller should include in his inventory goods under contract for sale but not yet segregated and applied to the contract and goods out upon consignment, but should exclude from inventory goods sold (including containers), title to which has passed to the purchaser. A purchaser should include in inventory merchandise purchased (including containers), title to which has passed to him, although such merchandise is in transit or for other reasons has not been reduced to physical possession, but should not include goods ordered for future delivery, transfer of title to which has not yet been effected. (But see § 19.22 (d)-1.)*

(This Treasury decision is issued under the authority contained in sections 22 and 62 of the Internal Revenue Code (53 Stat., 9, 32).)

[SEAL] GUY T. HELVERING,
Commissioner.

Approved, July 3, 1940.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 40-2805; Filed, July 8, 1940; 10:03 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 149—AMENDMENT TO GENERAL LICENSE NO. 19, AS AMENDED,[1] UNDER EXECUTIVE ORDER NO. 8389,[2] APRIL 10, 1940, AS AMENDED, AND REGULATIONS[3] ISSUED PURSUANT THERETO, RELATING TO TRANSACTIONS IN FOREIGN EXCHANGE, ETC.

General License No. 19, as amended, is hereby amended to read as follows:

A general license is hereby granted authorizing banking institutions within the United States to make all payments, transfers and withdrawals from accounts in the name of any of the following: Banco Holandés Unido, Buenos Aires, Argentina, Caracas and Maracaibo, Venezuela; Banco Hollandez Unido, Rio de Janeiro, Santos and São Paulo, Brazil; the branches of the Hollandsche Bank-Unie in Willemstad, Curacao and Oranjestad, Aruba; Holland Bank Union, Haifa, Palestine and Istanbul, Turkey.

Banking institutions within the United States making such payments, transfers or withdrawals shall file promptly with the appropriate Federal Reserve bank weekly reports showing the details of the transactions during such period.*

D. W. BELL,
Acting Secretary of the Treasury.

JULY 6, 1940.

[F. R. Doc. 40-2806; Filed, July 8, 1940; 10:03 a. m.]

[1] 5 F.R. 2428.
[2] 5 F.R. 1677, 2279.
[3] 5 F.R. 1680.

*Part 149; Sec. 5 (b), 40 Stat. 415 and 966; Sec. 2, 48 Stat. 1; Public Resolution No. 69, 76th Congress; 12 U. S. C. 95a; E.O. 6560, Jan. 15, 1934; E.O. 8389, April 10, 1940; E.O. 8405, May 10, 1940; E.O. 8446, June 17, 1940; Regulations, April 10, 1940, as amended May 10, 1940 and June 17, 1940.

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

CHAPTER I—VETERANS' ADMINISTRATION

JURISDICTION[1]

§ 2.1004 *Jurisdiction of authorization unit.* The authorization unit will have jurisdiction over the determination of basic eligibility for monetary benefits in claims under the jurisdiction of the field office; the development of claims in conformity with established Veterans' Administration policy; the adjudication of all claims upon completion of rating action; the maintenance of such follow-up procedure as may be required (this does not apply to follow-up of requested physical examinations); the development and certification of appeals; the certification, upon proper request, of data for consideration in determining eligibility for domiciliary care, or hospital or out-patient treatment; the furnishing of technical information, through correspondence or otherwise, to veterans or their representatives, in explanation of action taken upon individual claims, and the carrying out of such duties in relation to the foregoing, and adjudication matters, general or otherwise, as may be properly assigned by central office. (July 8, 1940) [48 Stat. 9; 38 U.S.C. 707]

§ 2.1005 *Jurisdiction of Rating Board.* (b) The rating boards will have original jurisdiction to rate claims involving disability compensation or pension under the jurisdiction of the field office, and will have authority to make recommendatory ratings under Section 31, Title III, Public No. 141, 73d Congress. (July 8, 1940) [48 Stat. 9; 38 U.S.C. 707]

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 40-2812; Filed, July 8, 1940; 11:23 a. m.]

PROOF OF RELATIONSHIP AND DEPENDENCY[2]

§ 2.1046 *Proof of birth or relationship.* The date of birth, age or relationship for the purposes of pension, compensation, or retirement pay, shall be established by the best evidence obtainable, in the following order of preference:

(a) Certified copy of the public record of birth; or

(b) Certified copy of the church record of baptism, the certification to be made by the legal custodian of such records. If the name of the person appearing on the copy of the record is not the same as that appearing upon the records of the Veterans Administration, an affidavit will be required identifying the person having the changed name as the same person whose name appears in the record of birth.

(c) If neither of the records mentioned is obtainable, the reason therefor should be furnished, and

(d) Affidavit of the physician or midwife in attendance at birth; or

(e) Affidavit of two or more persons, preferably disinterested, who shall state their ages, showing the name, date and place of birth of the person whose birth or age is being established, and that to their own knowledge such person is the child of such parents (naming the parents).

(f) If none of the evidence set forth above can be obtained and the failure to secure this evidence is satisfactorily explained, consideration will be given to the best evidence otherwise obtainable; e. g., if there is a Bible or other family record of birth, a copy of such record should be furnished, certified to by a notary public or other officer with authority to administer oaths for general purposes, who should state in what year the Bible or other book in which the record appears was printed, whether the record bears any erasures or other marks of alteration, and whether from the appearance of the writing he believes the entries to have been made recently or at the time reputed.

(g) Age and relationship may be shown by census records—when a claimant satisfactorily explains his failure to secure other evidence, he should be requested to submit his written consent for the Census Bureau to furnish information from their records, and the name of the city, town, or township, county and State in which he resided during a census year prior to his enlistment, and if in a city, the name of the street on which he lived and the number of the residence, number of the ward in which the residence was located; also the names in full of parents and the names of brothers and sisters who were living at home, or, if not then living with his parents, the names of the persons with whom he lived during that year.

(h) In claims for pension based on attained age where the age of a veteran is material and his statements of age agree with that shown at enlistment by

[1] §§ 2.1004 and 2.1005 (b) amended.
[2] § 2.1046 revised; § 4.2034 canceled July 10, 1940.

official records, such statements may be accepted. If his statement agrees with the service department report as to year, but not as to month, the youngest age will be accepted, but if there is lack of agreement as to year, proof as outlined in paragraphs (a) to (g), supra will be required. When the year of birth is satisfactorily established, but evidence is not obtainable as to the exact day and month, the claimant's sworn statement in that respect may be accepted.

(i) In claims for increased pension or compensation where the age of a widow of a veteran is material, her statements of her age will be accepted, provided such statements agree with that shown (1) on documents executed by her and filed in the Veterans Administration prior to the time age became a factor in determining the rate of pension or compensation of such widows or (2) on records (e. g., a certified copy of the public or church record of her marriage, or a certified copy of the public record of birth or church record of baptism of any of her children) established prior to the time age became a factor in determining the rate of pension or compensation of such widows. If her statement agrees with that shown on the document or record as to year, but not as to month and day, the youngest age will be accepted, but if there is lack of agreement as to year, proof as outlined in paragraphs (A) to (G) supra will be required. When the year of birth is satisfactorily established, but evidence is not obtainable as to the exact day and month, the claimant's sworn statement in that respect may be accepted. (July 10, 1940) [46 Stat. 1016; 38 U.S.C. 11, 11a]

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 40-2813; Filed, July 8, 1940; 11:23 a. m.]

INSURANCE[1]

§ 10.3008 *Evidence to establish date of birth, age or relationship.* The date of birth, age or relationship for the purposes of yearly renewable term or United States Government life insurance, shall be established by the best evidence obtainable, in the following order of preference:

(a) A certified copy of the public record of birth; or

(b) A certified copy of the church record of baptism, the certification to be made by the legal custodian of such records. If the name of the person appearing on the copy of the record is not the same as that appearing upon the records of the Veterans Administration, an affidavit will be required identifying the person having the changed name as the same person whose name appears in the record of birth.

(c) If neither of the records mentioned is obtainable, the reason therefor should be furnished, and

(d) Affidavit of the physician or midwife in attendance at birth; or

(e) Affidavit of two or more persons, preferably disinterested, who shall state their ages, showing the name, date and place of birth of the person whose birth or age is being established, and that to their own knowledge such person is the child of such parents (naming the parents).

(f) If none of the evidence set forth above can be obtained and the failure to secure this evidence is satisfactorily explained, consideration will be given to the best evidence otherwise obtainable; e. g., if there is a Bible or other family record of birth, a copy of such record should be furnished, certified to by a notary public or other officer with authority to administer oaths for general purposes, who should state in what year the Bible or other book in which the record appears was printed, whether the record bears any erasures or other marks of alteration, and whether from the appearance of the writing he believes the entries to have been made recently or at the time reputed.

(g) Age and relationship may be shown by census records—when a claimant satisfactorily explains his failure to secure other evidence, he should be requested to submit his written consent for the Census Bureau to furnish information from their records, and the name of the city, town, or township, county and state in which he resided during a census year prior to his enlistment, and if in a city, the name of the street on which he lived and the number of the residence, number of the ward in which the residence was located; also the names in full of parents and the names of brothers and sisters who were living at home, or, if not then living with his parents, the names of the persons with whom he lived during that year. (July 10, 1940) [46 Stat. 1016, 38 U.S.C. 11, 11a]

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 40-2814; Filed, July 8, 1940; 11:23 a. m.]

TITLE 45—PUBLIC WELFARE

CHAPTER III—FEDERAL WORKS AGENCY—WORK PROJECTS ADMINISTRATION

[General Order No. 1, Amendment No. 1]

MONTHLY EARNING SCHEDULE

By virtue of and pursuant to the authority vested in me by the provisions of subsection (a) of section 14 of the Emergency Relief Appropriation Act, fiscal year 1941, approved June 26, 1940 (Public Resolution No. 88—76th Congress), I hereby prescribe that the monthly earning schedule established in General Order No. 1,[1] dated August 15, 1939, shall continue in effect, together with all general wage adjustments which have been properly authorized.

All rules and regulations issued under the Emergency Relief Appropriation Act of 1939 and prior Emergency Relief Appropriation Acts shall be continued in effect until superseded or rescinded and unless otherwise in conflict with law. Each State Administrator shall issue a blanket order continuing the rates currently in effect.

[SEAL] F. C. HARRINGTON,
Commissioner of Work Projects.

Approved July 1, 1940.
Effective Date July 1, 1940.

[F. R. Doc. 40-2804; Filed, July 8, 1940; 9:24 a. m.]

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 12—RULES GOVERNING AMATEUR RADIO: STATIONS AND OPERATORS

The Commission on July 5, 1940, adopted the following sections, effective immediately:

§ 12.156 *Obscenity, indecency, profanity.* No licensed radio operator or other person shall transmit communications containing obscene, indecent, or profane words, language, or meaning.

§ 12.157 *False signals.* No licensed radio operator shall transmit false or deceptive signals or communications by radio, or any call letter or signal which has not been assigned by proper authority to the radio station he is operating.*

§ 12.158 *Unidentified communications.* No licensed radio operator shall transmit unidentified radio communications or signals.*

§ 12.159 *Interference.* No licensed radio operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal.*

§ 12.160 *Damage to apparatus.* No licensed radio operator shall willfully damage, or cause or permit to be damaged, any radio apparatus or installation in any licensed radio station.*

§ 12.161 *Fraudulent licenses.* No licensed radio operator or other person shall obtain or attempt to obtain, or assist another to obtain or attempt to obtain, an operator license by fraudulent means.*

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-2809; Filed, July 8, 1940; 10:28 a. m.]

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[1] § 10.3008 added; § 10.3010 canceled July 10, 1940.

[1] 4 F.R. 3705.

*Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i).

PART 13—RULES GOVERNING COMMERCIAL RADIO OPERATORS

The Commission on July 5, 1940, adopted the following sections, effective immediately:

§ 13.64 *Obedience to lawful orders.* All licensed radio operators shall obey and carry out the lawful orders of the master or person lawfully in charge of the ship or aircraft on which they are employed.*

§ 13.65 *Damage to apparatus.* No licensed radio operator shall willfully damage, or cause or permit to be damaged, any radio apparatus or installation in any licensed radio station.*

§ 13.66 *Unnecessary, unidentified, or superfluous communications.* No licensed radio operator shall transmit unnecessary, unidentified, or superfluous radio communications or signals.*

§ 13.67 *Obscenity, indecency, profanity.* No licensed radio operator or other person shall transmit communications containing obscene, indecent, or profane words, language, or meaning.*

§ 13.68 *False signals.* No licensed radio operator shall transmit false or deceptive signals or communications by radio, or any call letter or signal which has not been assigned by proper authority to the radio station he is operating.*

§ 13.69 *Interference.* No licensed radio operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal.*

§ 13.70 *Fraudulent licenses.* No licensed radio operator or other person shall obtain or attempt to obtain, or assist another to obtain or attempt to obtain, an operator's license by fraudulent means.*

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 40–2810; Filed, July 8, 1940; 10:28 a. m.]

Notices

DEPARTMENT OF STATE.

REGULATION UNDER SECTION 3 OF THE JOINT RESOLUTION OF CONGRESS APPROVED NOVEMBER 4, 1939, AS AMENDED JUNE 26, 1940

The Secretary of State announces that the S. S. *McKeesport* has, by arrangement with the appropriate authorities of the United States Government, been commissioned to proceed into and through the combat area defined by the President in his proclamation, numbered 2410,[1] of June 11, 1940, under charter by the American Red Cross. The provisions of the President's proclamation of June 11, 1940, therefore, shall not apply to the voyage which the S. S. *McKeesport* has been commissioned to undertake under the aforesaid auspices.

[SEAL] CORDELL HULL, *Secretary of State.*

JULY 5, 1940.

[F. R. Doc. 40–2811; Filed, July 8, 1940; 10:51 a. m.]

*Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i)

[1] 5 F.R. 2209.

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[General Docket No. 15–A]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES IN RESPECT TO COALS FOR WHICH PRICE CLASSIFICATIONS WERE PROPOSED BY THE DISTRICT BOARDS SUBSEQUENT TO THE CLOSE OF THE HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE IN GENERAL DOCKET NO. 15

AN ORDER POSTPONING HEARING

The Bituminous Coal Division, United States Department of the Interior, having heretofore entered an order herein dated the 24th day of June, 1940,[1] which provided for a hearing on the 15th day of July 1940, and

The Director having for good cause determined that said hearing should be postponed;

It is, therefore, ordered, That the hearing herein be and the same hereby is postponed to a date hereafter to be specified by written notice to be mailed and published in the FEDERAL REGISTER not less than five (5) days prior to the date specified for said hearing; and

It is further ordered, That, except as herein provided, the aforesaid order of June 24, 1940, be and the same hereby is continued in full force and effect.

Dated, July 2, 1940.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 40–2792; Filed, July 5, 1940; 1:59 p. m.]

[1] 5 F.R. 2393.

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

CONNECTICUT

JULY 5, 1940.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Connecticut State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1941:

Windham, Litchfield, Hartford, and Tolland.

[SEAL] GROVER B. HILL, *Acting Secretary.*

[F. R. Doc. 40–2798; Filed, July 6, 1940; 12:15 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

FLORIDA

JULY 5, 1940.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Florida State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1941: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1940; and (2) the following additional counties:

Jefferson, Gadsden, Washington, Polk, Suwanee, Union, and Levy.

[SEAL] GROVER B. HILL, *Acting Secretary.*

[F. R. Doc. 40–2802; Filed, July 6, 1940; 12:17 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

IDAHO

JULY 5, 1940.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Idaho State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1941: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1940; and (2) the following additional counties:

Bonneville, Gam, and Idaho.

[SEAL] GROVER B. HILL, *Acting Secretary.*

[F. R. Doc. 40–2799; Filed, July 6, 1940; 12:16 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

OKLAHOMA

JULY 5, 1940.

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

Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Oklahoma State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1941:

All counties in Oklahoma.

[SEAL] GROVER B. HILL,
Acting Secretary.

[F. R. Doc. 40-2801; Filed, July 6, 1940; 12:16 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

VIRGINIA

JULY 5, 1940.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Virginia State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1941: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1940; and (2) the following additional counties:

Albemarle, Amelia, Carroll, Fluvanna, Hanover, Loudoun, Louisa, Princess Anne, Rockbridge, and Tazewell.

[SEAL] GROVER B. HILL,
Acting Secretary.

[F. R. Doc. 40-2803; Filed, July 6, 1940; 12:17 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

WASHINGTON

JULY 5, 1940.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Washington State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1941: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1940; and (2) the following additional counties:

Spokane and Snohomish.

[SEAL] GROVER B. HILL,
Acting Secretary.

[F. R. Doc. 40-2800; Filed, July 6, 1940; 12:16 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and § 522.5 of Regulations Part 522, as amended, to the employers listed below effective July 9, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of §§ 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 22, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F.R. 4531), as amended, April 27, 1940 (5 F.R. 1586).

Glove Order, February 20, 1940 (5 F.R. 714).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Sport-Wear Hosiery Mills, D & Ontario Street, Philadelphia, Pennsylvania; Hosiery; Seamless; 5 learners; September 18, 1940.

Morristown Knitting Mills, Dandridge, Tennessee; Hosiery; Seamless; 100 learners; September 18, 1940.

Martin Shirt Company, Shenandoah, Pennsylvania; Apparel; Shirts and Blouses; 4 learners; October 24, 1940.

Signed at Washington, D. C., this 8th day of July 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40-2827; Filed, July 8, 1940; 11:58 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5879]

IN RE APPLICATION OF H. E. STUDEBAKER (KRLC)

Dated, October 6, 1939; for modification of license; class of service, broadcast; class of station, broadcast; location, Lewiston, Idaho; operating assignment specified: Frequency, 1370 kc. contingent on grant of KUJ application; power, 250 w.; hours of operation, unlimited

[File No. B5-ML-902]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. Because of the pendency of the application of Station KUJ, Inc. (B5-P-2610).

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

H. E. Studebaker,
Radio Station KRLC,
Lewis-Clark Hotel Building,
Lewiston, Idaho.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-2795; Filed, July 6, 1940; 11:49 a. m.]

[Docket No. 5880]

IN RE APPLICATION OF KUJ, INCORPORATED (KUJ)

Dated, October 6, 1939; for construction permit; class of service, broadcast; class of station, broadcast; location, Walla Walla, Washington; operating assignment specified: Frequency, 1390 kc. contingent on grant of KRLC application; power, 1 kw.; hours of operation, unlimited

[File No. B5-P-2610]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above de-

scribed application and has designated the matter for hearing for the following reasons:

1. To determine whether the application may be granted in view of the Commission's Rules Governing Standard Broadcasting Stations, particularly § 3.22 (1) and the Standards of Good Engineering Practice.

2. To determine the extent and effect of any interference which would result should applicant's station operate simultaneously on 1390 kc. with 1 kw. power with station KYOS operating as proposed in its application B5–P–2545 and with the new station as proposed by Broadcasting Corporation of America operating as proposed in its application B5–P–2296.

3. To determine whether the application may be granted in view of the provisions of Section 307 (b) of the Communications Act of 1934, as amended.

4. To determine the present area and population which receive interference-free primary service both day and night.

5. To determine the area and population which would be expected to receive interference-free primary service both day and night should the applicant operate as proposed.

6. To determine whether the proposed equipment conforms to the Commission's Rules and Standards of Good Engineering Practice, particularly § 3.46.

7. To determine whether the station is making the most efficient use of the facilities presently assigned it.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

KUJ, Incorporated,
Radio Station KUJ,
Marcus Whitman Hotel, 2d & Rose Sts.,
Walla Walla, Washington.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 40–2796; Filed, July 6, 1940; 11:49 a. m.]

[Docket No. 5881]

IN RE APPLICATION OF MERCED BROADCASTING CO. (KYOS)

Dated, August 24, 1939; for construction permit; class of service, broadcast; class of station, broadcast; location, Merced, California; operating assignment specified: Frequency, 1390 kc.; power, 500 w. night; 1 kw. day; hours of operation, unlimited

[File No. B5–P–2545]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether this application may be granted in view of the provisions of the Commission's Rules Governing Standard Broadcast Stations, particularly § 3.22 (c) and (c) (1) (Part 3), and the requirements of good engineering practice.

2. To determine whether the granting of the instant application will tend toward a fair, efficient and equitable distribution of radio service as contemplated by Section 307 (b) of the Communications Act of 1934, as amended.

3. To determine the nature, extent and effect of any interference which would result should Station KYOS operate as proposed simultaneously either with the proposed station of Broadcasting Corporation of America, as requested in its pending application (B5–P–2296), or with Station KUJ as proposed in its pending application (B5–P–2610).

4. To determine the present area and population which would receive interference-free primary service from applicant's station.

5. To determine the area and population which may be expected to receive interference-free primary service during nighttime from the proposed operation of applicant's station.

6. To determine whether applicant is making the most efficient use of the facilities now assigned to it.

7. To determine whether there is a local frequency assignment which might be employed at applicant's station and whether or not such an assignment would be more consistent with the Commission's plan of allocation than the assignment requested.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Merced Publishing Co.,
Radio Station KYOS,
G St. Grade, 1¾ miles Northeast of Merced,
Merced, California.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 40–2797; Filed, July 6, 1940; 11:50 a. m.]

FEDERAL DEPOSIT INSURANCE CORPORATION.

RESOLUTION APPROVING CERTIFIED STATEMENT FORMS

Paragraph (1) of subsection (h) of Section 12B of the Federal Reserve Act, as amended, provides in part:

"The certified statements required to be filed with the Corporation under paragraphs (2), (3), and (4) of this subsection shall be in such form and set forth such supporting information as the board of directors shall prescribe."

Resolved, That pursuant to the provisions of paragraph (1) of subsection (h) of Section 12B of the Federal Reserve Act, as amended, the following described certified statement forms[1] be approved:

(1) Certified Statement—Part One, Based on Deposits for the Six Months Ending June 30, 1940, Form 545J, in quadruplicate.

(2) Recapitulation of the Monthly Totals of Certified Statement—Part Two, for the Six Months Ending June 30, 1940, Form 555J, in triplicate.

Adopted by the Board of Directors of the Federal Deposit Insurance Corporation on June 29, 1940.

[SEAL] E. F. DOWNEY, *Secretary.*

[F. R. Doc. 40–2793; Filed, July 6, 1940; 11:15 a. m.]

RESOLUTION AUTHORIZING CALL FOR REPORT OF CONDITION

Pursuant to the provisions of paragraph (3) of subsection (k) of Section 12B of the Federal Reserve Act, as amended, be it resolved that each insured State nonmember bank, except a District bank, be, and hereby is, required to submit to the Federal Deposit Insurance Corporation within ten days after receipt of notice of this resolution a report of its condition as of the close of business Saturday, June 29, 1940, on Form 64—Call No. 13. Said report of condition shall be prepared in accordance with the booklet entitled "Instructions for the Preparation of Reports of Condition on Form 64."[1]

Adopted by the Board of Directors of the Federal Deposit Insurance Corporation on June 29, 1940.

[SEAL] E. F. DOWNEY, *Secretary.*

[F. R. Doc. 40–2794; Filed, July 6, 1940; 11:16 a. m.]

[1] Filed as a part of the original document.

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES ACT OF 1933

AMENDMENT NO. 34 TO INSTRUCTION BOOK FOR FORM A–2

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, particlarly Sections 7, 10, and 19 (a) thereof [Sec. 7, 48 Stat. 78; 15 U.S.C. 77g; Sec. 10, 48 Stat. 81; sec. 205, 48 Stat. 906; 15 U.S.C. 77j; sec. 19, 48 Stat. 85; sec. 209, 48 Stat. 908; 15 U.S.C. 77s], and finding such action necessary and appropriate in the public interest and for the protection of investors, and necessary for the execution of the functions vested in it by the said Act, hereby amends the Instruction Book for Form A–2 as follows:

The "Instructions as to Prospectuses other than Newspaper Prospectuses" are amended by inserting after Instruction 6 thereof a new instruction reading as follows:

"6A. In case of financial statements prepared in accordance with the requirements of Regulation S–X [Part 210] there may be omitted from the prospectus any financial statements and any schedules or parts thereof, except those corresponding to the financial statements and the schedules or parts thereof the inclusion of which was required immediately prior to the adoption of Regulation S–X [Part 210]."

The foregoing amendment shall be effective July 8, 1940.

By the Commission.

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–2826; Filed, July 8, 1940; 11:44 a. m.]

[File No. 70–93]

IN THE MATTER OF CALIFORNIA PUBLIC SERVICE COMPANY AND WESTERN STATES UTILITIES COMPANY

ORDER GRANTING EXEMPTION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1940.

California Public Service Company and Western States Utilities Company, subsidiaries of Peoples Light and Power Company, a registered holding company, having filed a joint application pursuant to the provisions of Rule U-12C–1 promulgated under Section 12 (c) of the Public Utility Holding Company Act of 1935 regarding the use of sinking fund moneys for the retirement of bonds in accordance with the terms of the indentures securing such bonds; a public hearing having been held after appropriate notice; the Commission having considered the record and having made and filed a memorandum opinion herein;

It is ordered, That California Public Service Company be, and it hereby is, exempted from Section 9 (a) of the Act and Rule U-12C–1 promulgated thereunder with respect to the application of the sum of $10,000 for the retirement of First Mortgage Bonds, Series B, 2¼%, due 1964, in accordance with the sinking fund provisions of the indenture securing said bonds, and that Western States Utilities Company be, and it hereby is, exempted from Section 9 (a) of the Act and Rule U-12C–1 promulgated thereunder with respect to the application of the sum of $8,750 for the retirement of First Mortgage Bonds, 4½%, due 1959, in accordance with the sinking fund provisions of the indenture securing said bonds, subject, however, to the condition that the transactions be carried out in accordance with the terms of and for the purpose represented by the application as filed.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 40–2822; Filed, July 8, 1940; 11:43 a. m.]

[File No. 70–75]

IN THE MATTER OF THE CENTRAL KANSAS POWER COMPANY

ORDER APPROVING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of July, A. D. 1940.

The Central Kansas Power Company, a subsidiary of United Utilities, Inc., a registered holding company, having filed an application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of section 6 (a) thereof, of the issuance and sale of $900,000 principal amount of its First Mortgage 4¼% Twenty-Five Year Bonds, Series A, due July 1, 1965;

A public hearing having been held upon the application, after appropriate notice, the Commission having examined the record and having made and filed its Findings and Opinion herein;

It is ordered, That the application be and the same hereby is approved: *Provided, however,* That in connection with the issuance of the Bonds the following terms and conditions are hereby imposed upon the applicant, to-wit:

(1) That the proposed issue and sale of the Bonds be effected in accordance with the terms of and for the purposes represented by the application filed herein;

(2) That within 10 days after the consummation of the transaction hereby authorized, the applicant shall file with this Commission a certificate of notification showing that the transaction has been effected in accordance with the terms of and for the purposes represented by the application filed herein;

(3) That when all expenses incurred in connection with the issue and sale of the Bonds and the preparation and prosecution of the application filed herein shall be actually paid, the applicant shall file a detailed statement of such expenses showing the names of persons or entities to whom such payments were made, the amounts of such payments, the accounts charged and a detailed description of the services rendered for which payments were made;

(4) That until further order of this Commission so long as any shares of Preferred Stock are outstanding, the applicant shall not pay any dividends on or make any other distributions to the holders of shares of its Common Stock in excess of $36,000 per annum, if, after giving effect to such payment or distribution, the capital of the applicant represented by its Common Stock, together with its surplus, as then stated on its books of account, shall in the aggregate be less than the aggregate par value of its Preferred Stock.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 40–2823; Filed, July 8, 1940; 11:43 a. m.]

[File Nos. 7–453, 7–454, 7–455, 7–456, 7–457, 7–458, 7–459]

IN THE MATTER OF APPLICATIONS BY THE NEW YORK CURB EXCHANGE RELATIVE TO AMERICAN GAS & ELECTRIC COMPANY (SINKING FUND 2¾% DEBENTURES DUE JANUARY 1, 1950; SINKING FUND 3½% DEBENTURES DUE JANUARY 1, 1960; SINKING FUND 3¾% DEBENTURES DUE JANUARY 1, 1970; 4¾% CUMULATIVE PREFERRED STOCK PAR VALUE $100); PUBLIC SERVICE COMPANY OF COLORADO (FIRST MORTGAGE BONDS, 3½% SERIES DUE DECEMBER 1, 1964; 4% SINKING FUND DEBENTURES DUE DECEMBER 1, 1949), THE WASHINGTON WATER POWER COMPANY (FIRST MORTGAGE BONDS, 3½% SERIES DUE JUNE 1, 1964)

ORDER DISPOSING OF APPLICATIONS FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of July, A. D. 1940.

The New York Curb Exchange having made application to the Commission, pursuant to section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule X-12F–1, to extend unlisted trading privileges to the above-mentioned securities; and

After appropriate notice a hearing having been held in this matter in Washington, D. C.; and

The Commission having this day made and filed its findings and opinion herein;

It is ordered, Pursuant to section 12 (f) of the Securities Exchange Act of 1934, as amended, that the instant applications of such exchange be and the

same are hereby granted by the Commission to extend unlisted trading privileges to the American Gas & Electric Company Sinking Fund 2¾% Debentures due January 1, 1950; American Gas & Electric Company Sinking Fund 3½% Debentures due January 1, 1960; American Gas & Electric Company Sinking Fund 3¾% Debentures due January 1, 1970; American Gas & Electric Company, 4¾% Cumulative Preferred Stock, Par Value $100; Public Service Company of Colorado First Mortgage Bonds, 3½% Series due December 1, 1964; Public Service Company of Colorado 4% Sinking Fund Debentures due December 1, 1949; and the Washington Water Power Company First Mortgage Bonds, 3½% Series due June 1, 1964.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 40-2824; Filed, July 8, 1940; 11:43 a. m.]

No. 132——3

[File No. 1-3023]

IN THE MATTER OF TREADWELL YUKON CORPORATION, LTD.; CAPITAL STOCK, $1.00 PAR VALUE

ORDER POSTPONING HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 6th day of July, A. D. 1940.

The Treadwell Yukon Corporation, Ltd., pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Capital Stock, $1.00 Par Value, from listing and registration on the San Francisco Stock Exchange; and

The Commission having ordered that a hearing be held in this matter on July 22, 1940, in San Francisco, California; and

The issuer having requested a postponement of said hearing;

It is ordered, That said hearing be postponed until 10 A. M. on Thursday, September 5, 1940, at the office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as the Commission or its officer herein designated may determine; and

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

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 40-2825; Filed, July 8, 1940; 11:43 a. m.]