

Washington, Tuesday, October 22, 1940

The President

PERU—SUSPENSION OF TONNAGE DUTIES
 BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS section 4228 of the Revised Statutes of the United States, as amended by the act of July 24, 1897, c. 13, 30 Stat. 214 (U.S.C., title 46, sec. 141), provides, in part, as follows:

Upon satisfactory proof being given to the President, by the government of any foreign nation, that no discriminating duties of tonnage or imposts are imposed or levied in the ports of such nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country, the President may issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, so far as respects the vessels of such foreign nation, and the produce, manufactures, or merchandise imported into the United States from such foreign nation, or from any other foreign country; the suspension to take effect from the time of such notification being given to the President, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and their cargoes, shall be continued, and no longer * * *:

AND WHEREAS satisfactory proof was received by me from the Government of Peru on October 1, 1940, that no discriminating duties of tonnage or imposts are imposed or levied in the ports of Peru upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in such vessels, from the United States, or from any foreign country:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, under and by virtue of the authority vested in me by the above-quoted statutory provisions, do hereby declare and proclaim that the foreign discriminating duties of tonnage and imposts within the United States are suspended and discontinued so far as respects the vessels of Peru and the produce, manufactures, or merchandise imported in said vessels into the United States

from Peru or from any other foreign country; the suspension to take effect from October 1, 1940, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued, and no longer.

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

DONE at the City of Washington this 17th day of October in the year [SEAL] of our Lord nineteen hundred and forty, and of the Independence of the United States of America the one hundred and sixty-fifth.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2432]

[F. R. Doc. 40-4427; Filed, October 19, 1940; 10:34 a. m.]

ARMISTICE DAY—1940

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS on November 11, 1918, the nations then at war laid down their weapons and turned their thoughts to the hoped-for dawn of an era of peace and order; and

WHEREAS Senate Concurrent Resolution 18, Sixty-ninth Congress, passed June 4, 1926 (44 Stat. 1932), requests the President of the United States to issue a proclamation calling for the display of the flag of the United States on all Government buildings on November 11 and for the observance of the day with appropriate ceremonies, and the act of May 13, 1938 (52 Stat. 351) designates the 11th day of November of each year as a legal public holiday; and

WHEREAS observance of the anniversary of the armistice of 1918 will direct our minds to the need of the world then as now not only for peace but also for peace with understanding, not only for a

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cessation of hostilities but also for mutual respect in the intercourse between nations:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, do hereby direct that the flag of the United States be displayed on all Government buildings on November 11, 1940, and I call upon the people of the United States to observe the day with appropriate ceremonies in schools and churches, or other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal

of the United States of America to be affixed.

Done at the City of Washington this 17th day of October, in the year of our Lord nineteen hundred and [SEAL] forty, and of the Independence of the United States of America the one hundred and sixty-fifth.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

[No. 2433]

[F. R. Doc. 40-4428; Filed, October 19, 1940; 10:34 a. m.]

EXECUTIVE ORDER

SELECTIVE SERVICE REGULATIONS

By virtue of the authority vested in me by the Selective Training and Service Act of 1940, approved September 16, 1940, I hereby prescribe Volume Six of regulations governing the administration of said Act, such regulations to be known as the Selective Service Regulations:

VOLUME SIX—PHYSICAL STANDARDS

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VOLUME SIX—PHYSICAL STANDARDS

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The first paragraph in Volume Six is numbered 601.

601. *Physical standards governing.* The physical standards governing the physical examination of registrants by the examining physicians of the Selective Service System shall be those which govern medical officers of the armed forces in the examination of selected men at Army and Navy induction stations. These standards are published in the following official documents of the War and Navy Departments:

a. Standards of Physical Examinations during Mobilization, MR 1-9, War Dept. Aug. 31, 1940.

b. Physical Examinations for the Medical Department of the U. S. Navy, 1938. (To be issued when required.)

602. *Objective of physical examination.* The objective is to procure men who are physically fit for the rigors of general service. The registrant must be able to see well; have comparatively good hearing; have a heart able to withstand the stress of physical exertion; be intelligent enough to understand and execute military maneuvers, obey commands, and protect himself; and be able to transport himself by walking as the exigencies of military life may demand. Examining physicians will accordingly so construe these standards that the objective stated above may be realized.

603. *Definitions.* a. The term "military" shall comprehend the Army, Navy, and Marine Corps, except where such construction would be unreasonable.

b. The term "physical," in such phrases as "physical examination," "physical defect," "physical condition," shall com-

prehend the physical, psychic, and nervous aspects, except where such construction would be unreasonable.

604. *Classification on physical qualifications.* Local boards under Selective Service Regulations have original jurisdiction with respect to all registrants, subject to appeal. Local boards shall classify a registrant, based on his physical qualifications, in:

a. Class I-A as qualified for general military service, provided the registrant comes within the standards of general military service. Certain college students qualified for general military service are placed in Class I-D; certain conscientious objectors, in Class IV-E.

b. Class IV-F as totally and permanently disqualified for military service, provided the registrant comes within the standards of unconditional rejection.

c. Class I-B as qualified for limited military service provided the registrant does not come within the standards of unconditional acceptance or unconditional rejection. Certain college students qualified for limited military service are placed in Class I-E; certain conscientious objectors, in Class IV-E.

605. *Application of physical standards.* It will be noted that physical standards prescribed for various organs or parts are stated in terms of decreasing availability for military service as follows:

a. Deviations from normal function or structure acceptable for general military service (I-A).

b. Deviations from normal function or structure acceptable for limited military service (I-B).

c. Deviations from normal function or structure causing unconditional rejection for any military service (IV-F).

It will frequently become necessary, in determining whether an observed deviation from the normal is acceptable, to consider not only the stated minimum standards for Class I-A but also the causes for classification in Classes I-B or IV-F. It is therefore suggested that medical examiners note the character and degree of all deviations from normal function or structure and then consult the appropriate sections of Army Standards (or, when applicable, Navy Standards) to determine by elimination the class under which each deviation is listed.

606. *Scope of examination.* In all cases the examining physician shall make a complete examination of the registrant, and record all minor defects as well as disqualifying defects. Medical Advisory Boards, or a member or members thereof, shall make such examination as is necessary to determine the matters for which the registrant has been referred, and shall make an appropriate report as prescribed in paragraph 339. The registrant should be questioned about his past and his present physical condition. His mental charac-

teristics and speech should be observed. The possibility of malingering should be borne in mind at all stages of the examination. Examining physicians shall be especially careful in the examination of registrants who suffer from defects of vision; defects of hearing, and with chronic discharge from the ears; toxic conditions associated with abnormal conditions of the thyroid gland; valvular disease of the heart; tuberculosis; epilepsy; mental and nervous disease or deficiency; emotional instability; and defects of the feet. When in doubt about these or other conditions, the examining physician of the local board shall request reference to a medical advisory board for examination.

607. *Arrangements for examination.* The physical examination should be made in a large well-lighted room. A quiet communicating room should be used for the examination of the heart, lungs, and hearing. The temperature of the room should be regulated in cold weather to prevent the registrant from becoming chilled. The conduct of the examination in the rooms of the local board is not mandatory; the examination may be held in the office of the examining physician.

608. *Examining groups.* In localities where additional examining physicians have been appointed to assist the designated examining physician of the local board, as provided in Volume One, "Organization and Administration," or in municipalities where several local boards and their examining physicians are located within reasonable distance, the formation of an examining group or groups for the conduct of physical examinations is authorized and encouraged. The Report of Physical Examination, Form 200, of each registrant shall be signed by the examining physician of the local board for which the examination is made, as prescribed in paragraph 621.

609. *Supplies and equipment.* The list of supplies and equipment shown below, or their equivalents, is believed to represent a minimum required by an examining physician for the physical examination of registrants. The items of equipment are usually owned by physicians and will be provided only on special requisition to State headquarters. For procuring equipment and supplies, see paragraphs 528 and 529.

Item	Unit	Number
Alcohol, denatured.....	qt.....	1
Cotton, absorbent, 1 oz. compressed, sterilized.....	oz.....	32
Specula, ear, 2 in nest.....	set.....	1
Specula, nasal.....	ea.....	1
Applicators, wood.....	ctn.....	1
Depressors, tongue, wood.....	ctn.....	1
Head mirror and band.....	ea.....	1
Apparatus, blood pressure.....	ea.....	1
Stethoscope.....	ea.....	1
Vision test set.....	ea.....	1
Tape measure, 60 inches.....	ea.....	1
Thermometer, clinical.....	ea.....	6
Scale, platform.....	ea.....	1
Urinalysis set.....	ea.....	1
Sterilizer, instrument.....	ea.....	1

610. *Laboratory and other special examinations.* In localities where there is no provision for serological and other laboratory work, the examining physician should consult municipal or State health authorities, the United States Public Health Service, or other Federal agencies. (Also see pars. 528 and 529.)

611. *Anesthetics.* No anesthetic may be given to a registrant without his voluntary consent for the purpose of examination or to aid in the diagnosis of defects. This consent shall be in writing, signed by the registrant, and filed with his record.

612. *Finality of military examination.* The final decision as to the acceptance or rejection of men selected under these regulations rests with the examining physicians at induction stations of the land and naval forces. Physical examinations of registrants should be therefore made as close to the date of induction as practicable.

613. *Limited service.* The results of examination of a registrant found to be below the standard for full military service (Class I-A) shall be carefully evaluated to determine his ability to perform limited military service (Class I-B). When a registrant is believed to be fit for limited military service, entry shall be made on the Report of Physical Examination (Form 200), stating concisely his physical limitation in terms such as, "cannot march," "cannot do heavy work," "insufficient vision for fine work," "can do sedentary work."

614. *Reports of disease.* Examining physicians, additional examining physicians, and members of Medical Advisory Boards shall report to the appropriate civil authority, in the required manner and form, those diseases which are found during the physical examination made under these regulations, and which have been declared to be reportable by law.

615. *Venereal disease.* a. Whenever the history or the physical examination of a registrant indicates the possibility of venereal disease, the matter shall be thoroughly investigated, employing such additional examinations and laboratory tests as are deemed necessary to determine the presence of disqualifying sequelae or of contagiousness. A serological test for syphilis shall be made on every registrant as part of his physical examination. The blood specimen will be taken by the examining physician in containers furnished by the State Health officer and forwarded to the State Laboratory or other laboratory designated by State Selective Service Headquarters, together with the accomplished forms prescribed within the State for such purpose. A second serological test shall be completed promptly and prior to his call for induction on every registrant whose first test is reported positive. The dates and results of such examinations and tests shall be noted on the Report of Physical Examination (Form 200).

b. A diagnosis of syphilis shall not be made on the basis of a single positive

serological test in the absence of definite clinical manifestations of the disease.

c. A diagnosis of latent syphilis shall be made on a registrant who has no clinical manifestations of the disease, but whose blood serum has been found positive by a second serological test performed under these regulations and within three months of the first positive serological examination.

d. Syphilis shall be considered contagious only in the presence of skin or mucous-membrane lesions manifested within five years from the date of infection.

SECTION XLVII—EXCERPTS FROM OTHER VOLUMES OF SELECTIVE SERVICE REGULATIONS

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616. *Explanation of section.* The following excerpts from other volumes of Selective Service Regulations are published for the information of examining physicians and members of medical advisory boards.

MEDICAL PERSONNEL

123. *State medical officers.* In each State, one or more medical officers of the Army, Navy, National Guard, Naval Reserves, or Organized Reserves shall be assigned by the President, upon recommendation of the Governor. Medical officers shall report to the Governor for duty at State headquarters.

134. *Local boards: Examining physician.* Each board will have assigned to it one physician appointed by the Presi-

dent, upon recommendation of the Governor. If more than one examining physician is needed, the board shall request the Governor to recommend the necessary additional appointments. All examining physicians shall take the prescribed oath (Form 21), which shall be sent to the Governor for filing. No examining physician shall examine for a board any registrant who is his first cousin, or a closer relation, either by blood or marriage, or who is an employee or employer, or stands in the relation of superior or subordinate in connection with any employment, or is a partner or close business associate, of the physician. The board shall request the Governor to recommend the appointment of another physician for such registrant, or shall use the examining physician of another board.

146. *Medical advisory boards.* In each State, medical advisory boards shall be appointed by the Governor to assist local boards in determining the physical qualifications of registrants. The board shall if practicable consist of internists; eye, ear, nose, and throat specialists; orthopedists; surgeons; psychiatrists; clinical pathologists; radiographers; and dentists. In event that a medical advisory board cannot be made available to a local board, the Governor shall appoint individual specialists, who shall act as a medical advisory board, to assist the local board.

PHYSICAL EXAMINATION

336. *Order to report for physical examination.* a. If the local board, in making its classifications before physical examination, did not classify the registrant in Class IV, Class III, Class II, or Class I-C (see par. 330), it shall, in time to allow it to fill its quota requirements, mail him a notice to appear for physical examination (Form 201). The notice shall fix a time and place for the registrant to report. The appointed time will normally be five days after the date of mailing the notice.

b. *Permissible delays.* Any registrant who is quarantined because of a communicable disease shall be excused from examination until he is released from quarantine by the health authorities. Any registrant who is sick, or has some temporary defect, or is awaiting an operation, or who has any other good excuse, may be granted a reasonable delay for completing his physical examination.

c. *Entry on Classification Record (Form 100).* The date of mailing of Form 201 shall be noted on the Classification Record (Form 100). The date on which the registrant reports for examination shall also be noted.

337. *Preparing Report of Physical Examination (Form 200).* a. After the local board has mailed to the registrant an order to report for examination, it shall prepare Form 200 ("Report of Physical Examination") for delivery to the examining physician. The local board shall enter its stamp and the registrant's

name, address, and other information on this form. Entries should be made with typewriter or black ink. All entries shall be made on both copies. Only originals should be signed.

b. The local board shall deliver the prepared forms to the examining physician before the date on which the registrant is to report.

338. *Physical examination.* a. The examining physician shall examine the registrant, in accordance with Volume Six, "Physical Standards."

b. The examining physician shall fill out the appropriate parts of the Report of Physical Examination (Form 200), in duplicate. Unless in doubt about the registrant's physical qualifications, the examining physician shall enter his findings as to the registrant's qualification for military service.

c. When in doubt about the registrant's physical qualification, the examining physician shall request the local board to send the registrant to a medical advisory board. (See par. 339.) Upon receiving the report of the medical advisory board, the examining physician shall enter his findings, as in b above.

339. *Cases sent to medical advisory board, by local board.* a. *What cases sent.* The local board shall send a registrant before the nearest medical advisory board whenever the examining physician or the government appeal agent so requests, or a majority of the local board is dissatisfied with the examining physician's finding.

b. *How sent.* After proper entries are made on both copies of the Report of Physical Examination (Form 200), the original Form 200 and any other evidence on the registrant's physical condition shall be sent to the medical advisory board. The duplicate Form 200 remains in the registrant's cover sheet. The local board shall direct the registrant when and how to report to the medical advisory board. He shall be given necessary transportation, meals, and lodging for the travel and for the time, not exceeding 3 days, that he will be before the medical advisory board. (See Volume Five, "Finance.")

c. *Action by medical advisory board.* The full board, or one or more of its members, as may be necessary in the particular case, shall act on the case. The board, or one or more members, shall examine the registrant, record the findings on the Form 200, and return the Form 200 to the local board.

d. *Delay by medical advisory board.* If the medical advisory board delays its examination of a registrant more than 3 days to await correction of a temporary defect, it shall return the registrant's Form 200 to the local board, with a statement (attached to the Form 200 but not written upon it) of the cause of delay and the time when the registrant should return for further examination. The local board normally shall send the registrant and his Form 200 back to the medical advisory board at the time specified.

However, if the local board believes the defect corrected, it may send him back earlier; or if it believes more delay is needed, it may set a later date; or if it decides that further examination is unnecessary, it may proceed without sending him back to the medical advisory board. If in a case of an appeal the local board, after receiving the report of the medical advisory board, determines that the registrant should be reclassified it shall reclassify him in accordance with the rules governing reclassification (section XXX) and shall not forward the appeal to the appeal board.

e. Completing Form 200. All entries made by the medical advisory board on the original Form 200 will be copied by the local board onto the duplicate Form 200 in the registrant's file.

341. Transmitting duplicate of Form 200 to Governor. As soon as the time allowed for appeal of the registrant's classification has elapsed, or as soon as the board of appeal has acted on the appeal (sec. XXVII), the duplicate of the Report of Physical Examination (Form 200) shall be sent to the Governor for forwarding to the Director of Selective Service.

APPEALS

371. Time allowed for appeal. *a.* Unless the time therefor is extended by the local board, an appeal from any appealable local board classification (other than an appeal by a registrant classified in Class I-B or Class I-E who claims a lower classification) shall be made within five days after the local board has mailed to the registrant his notice of classification (Form 57), as distinguished from a notice of continuance of classification (Form 58), or, if the registrant has requested an opportunity to appear in person before the local board pursuant to paragraph 368, within five days after the day set for the registrant's appearance, whichever is the later. The five days are counted as beginning on the day after the notice of classification is mailed or, if the registrant has requested an opportunity to appear in person before the local board pursuant to paragraph 368, on the day after the day set for the registrant's appearance, whichever is the later.

b. Unless the time therefor is extended by the local board, an appeal from any appealable local board classification by a registrant classified in Class I-B or Class I-E who claims a lower classification shall be made within five days after the local board has mailed to the registrant a notice advising the registrant that the land or naval forces have called for induction registrants in such class and that such registrant has an opportunity to appear and to make an appeal to the board of appeal (par. 368). If the registrant has requested an opportunity to appear in person before the local board pursuant to paragraph 368, the appeal shall be made within five days after the day set for the registrant's

appearance. The five days are counted as beginning on the day after such notice is mailed to the registrant or, if the registrant has requested an opportunity to appear in person before the local board pursuant to paragraph 368, on the day after such appearance.

c. An appeal can be taken by the Director of Selective Service or by the State Director of Selective Service at any time from any determination of the local board.

372. How appeal to board of appeal is made. *a.* If the person appealing wishes the board of appeal to review a determination of the local board with respect to the registrant's physical or mental qualifications, the person appealing shall fill out and sign the form for appeal which appears on the Report of Physical Examination (Form 200). The person appealing shall attach to the report of physical examination a written statement specifying the class in which the person appealing believes the registrant should be placed.

TRANSFERRING FOR CLASSIFICATION

382. Registrants transferred for classification. After returning the questionnaire, a registrant can be transferred to another local board for classification or for physical examination. He may be transferred if he is to be so far from his local board as to make complying with notices a hardship. The registrant shall be transferred for classification if a majority of a local board or—when a physical examination is required—if the examining physician cannot act on the registrant's case because disqualified (Volume One, "Organization and Administration"), or if a majority of the local board, or the physician, withdraws from consideration of the registrant's classification because of any conflicting interest, bias, or other reason.

383. Procedure upon transfer for classification. *a.* The local board from which the registrant is transferred shall prepare, in triplicate, an Order of Transfer (Form 63), and the board shall send one copy of the order of transfer to the registrant. The board shall send to the local board to which the registrant is transferred all papers pertaining to the registrant except the registration card and one copy of the Order of Transfer (Form 63). The board shall, with red ink, note the transfer in the proper column of the Classification Record (Form 100).

b. The local board to which the registrant is transferred shall classify the registrant. It shall mail the proper notices. It shall provide for appeal to its board of appeal. The local board shall use a special page in the Classification Record for transferred registrants, and shall make all entries on that page with red ink. The board shall prepare a duplicate cover sheet and, if the registrant was given a physical examination, a third copy of the Report of Physical Examination (Form 200). After the classification

and appeals, the board shall return to the local board from which the registrant was transferred all papers pertaining to the registrant except the duplicate cover sheet, one copy of the Report of Physical Examination, and the Order of Transfer (Form 63). In the proper column of the Classification Record the board shall note returning the papers.

384. Accepting reports on transferred registrants. The classification made by the local board to which a registrant is transferred shall be appealed through that local board only. The local board from which the registrant was transferred shall accept and enter on its records, without any change, the classification reported by the board which classified the registrant. If the local board from which the registrant was transferred receives new evidence that might affect his classification, the board shall send the evidence and the registrant's file to the board to which he was transferred.

CLASSIFICATION BASED ON PHYSICAL EXAMINATION

342. Class I-A: Available; fit for general military service. In Class I-A shall be placed every registrant who after physical examination is found fit for general military service, according to the standards prescribed in Volume Six, "Physical Standards," and who is not classified in Class I-D.

343. Class I-B: Available; fit only for limited military service. In Class I-B shall be placed every registrant who after physical examination is found fit only for limited military service according to the standards prescribed in Volume Six, "Physical Standards," and who is not classified in Class I-E. Men in Class I-B, unless reclassified, shall not be inducted until such time as they may be acceptable to, and called by, the land or naval forces for training and service.

345. Class I-D: Student fit for general military service; available not later than July 1, 1941. In Class I-D shall be placed every college or university student who meets all of the conditions specified in paragraph 347 and who after physical examination is found fit for general military service, according to the standards prescribed in Volume Six, "Physical Standards."

346. Class I-E: Student fit only for limited military service; available not later than July 1, 1941. In Class I-E shall be placed every college or university student who meets all of the conditions specified in paragraph 347 and who after physical examination is found fit only for limited military service, according to the standards prescribed in Volume VI, "Physical Standards."

361. Class IV-E: Conscientious objector available only for civilian work of national importance. In Class IV-E shall be placed conscientious objectors who are classified for civilian work of national importance in accordance with paragraph 365.

365. *Conscientious objectors opposed to combatant and noncombatant services.* If the local board finds that a registrant, who but for his conscientious objection to both combatant and noncombatant service, would have been placed in Class I-A, Class I-B, Class I-D, or Class I-E, is, by reason of his religious training and belief, opposed to both combatant and noncombatant service, he shall be placed in Class IV-E. Registrants in Class IV-E shall be liable to be assigned to work of national importance under civilian direction under such rules and regulations as may be later prescribed.

362. *Class IV-F: Physically, mentally, or morally unfit.* a. In Class IV-F shall be placed registrants who are found to be physically, mentally, or morally unfit for military service; habitual criminals or persons convicted of treason, or any crime which under the laws of the jurisdiction in which they were convicted is a felony and which the local board determines renders the registrant morally unfit for service.

b. The local board may put a registrant in Class IV-F without physical examination if he has an obvious physical or mental disability which permanently disqualifies him for any form of military service.

c. The local board shall put a registrant in Class IV-F if he, upon being discharged from the Regular Army, Navy, or Marine Corps, received any one of the following:

Dishonorable discharge...	Army, Navy, or Marine Corps
Bad-conduct discharge...	Navy or Marine Corps
Discharge, not honorable (blue).	Army
Undesirable discharge...	Navy or Marine Corps

434. *Reclassification after delivery to induction station.* a. Upon receiving notice from the induction station that a selected man has been inducted the local board shall transfer him to Class I-C.

b. Upon receiving notice from the induction station that a selected man has been found not acceptable because physically unqualified, the local board shall reclassify him into Class I-B or class IV-F. In determining whether the man should be placed in Class I-B or Class IV-F, the board shall consider the induction record (AGO Form 221) and the opinion of its examining physician.

c. Upon receiving notice from the induction station that a selected man has been found not acceptable because morally unqualified, the local board shall reclassify him into Class IV-F.

d. A registrant reclassified as in b or c above shall not be again placed in Class I-A unless the condition causing his rejection at the induction station entirely and permanently disappears.

e. A registrant reclassified as in b or c above shall be mailed the notices prescribed, and shall be entitled to the appeals authorized, by Volume Three, "Classification and Selection."

435. *Reclassification after separation from the land and naval forces.* a. Upon

receiving a report (par. 409c) that a registered man has been reported as being a deserter or has been separated from the land and naval forces other than by death, the local board shall reclassify him. A man so reclassified shall be mailed the notices prescribed, and shall be entitled to the appeals authorized, by Volume Three, "Classification and Selection."

b. Upon receiving a report (par. 409c) that a registrant has been separated from the land and naval forces by death, the local board shall note that fact in the Classification Record, on the registrant's cover sheet, and on his registration card.

MALINGERERS

340. *Malingers.* a. If a registrant claims an ailment or defect which the local board cannot detect, or if the local board believes him to be feigning the ailment or defect, it shall attach a statement of the facts and its opinion to both copies of Form 200.

b. If the local board believes that a registrant's disqualifying physical defects are self-inflicted or purposely caused to avoid military service the board shall immediately prepare in duplicate a full statement of the facts and the board's recommendations. The original of this statement, with the original Report of Physical Examination (Form 200) shall be sent to the Governor, and the duplicate filed with the duplicate Form 200 in the cover sheet. If the registrant is capable of any duty at all, and the local board recommends his induction, the Governor shall transmit the record to the Director of Selective Service, or may direct that the registrant be reported to a United States district attorney for prosecution.

ADMINISTRATIVE MATTERS

528. *Supplies and services for examining physician.* a. The chairman of each local board is authorized to request the State procurement officer for selective service to furnish such supplies as may be required by the examining physician of such board (DSS Form 259).

b. When it is not practicable for the State procurement officer to furnish the necessary supplies, he may authorize the chairman of the local board to purchase them.

c. The chairman of each local board may authorize such special examinations and laboratory tests as he deems necessary and shall cause to be forwarded to the State procurement officer for payment the bill for such examinations and tests after affixing his approval. Such bill or invoice shall contain the following certificate by the person or laboratory rendering such services:

I certify that the above bill is correct and just; that payment therefor has not been received; that the rates charged were in effect at the time the services were rendered; and that such rates are not in excess of those charged the general public for similar services.

529. *Services for medical advisory board.* The chairman of a medical ad-

visory board shall authorize such special examinations and laboratory tests as he may deem necessary and shall cause to be forwarded to the State procurement officer for payment the bill for such examinations and tests after affixing his approval. The bill or statement shall contain the following certificate by the person or laboratory rendering such services:

I certify that the above bill is correct and just; that payment therefor has not been received; that the rates charged were in effect at the time the services were rendered; and that such rates are not in excess of those charged the general public for similar services.

165. *Records: Confidential records.* a. All records pertaining to the physical condition of a registrant, and all answers on the questionnaire (Form 40) under the subject "Dependency" (except the names and addresses of claimed dependents), and to the questions on previous military service, shall be confidential and shall not be disclosed without the consent of the registrant, except as provided in subdivisions c and d below. The fact that a claim for deferment has been made on grounds of dependency or physical unfitness, and the classification of the registrant, are not confidential.

b. Without limiting any other rights he may have, a registrant shall be entitled to know of all entries on his own record, including his questionnaire (Form 40) and record of physical examination (Form 200). He shall be further entitled to know of all statements and allegations which form part of his record.

c. Confidential records may be examined at any time by the following named officials: the members of the local board, members of the board of appeal, the examining physician, and the government appeal agent, who have to deal with the case; Federal officials and employees duly authorized by the Governor or the Director of Selective Service; and United States attorneys and their duly authorized representatives.

d. Confidential records shall be produced and published in response to the subpoena or summons of a court, without the consent of the registrant, only in the prosecution of the registrant or of a person in collusion with the registrant, for perjury, or for any violation of the selective service law or directions given pursuant thereto, or in behalf of the Government in suits or claims arising out of the executive acts in the performance of which such records were compiled.

168. *Records: Making entries.* Selective service agencies shall make entries on records with typewriter, black ink, or rubber stamp. Red ink shall be used only as specifically directed.

150. *Correspondence: Official letters.* Communication should generally be by letter. Official letters in execution of the selective service law may be sent in official penalty envelopes, marked in the upper left-hand corner "Selective Service—Official Business" and the name of the sending agency; and in the upper

right-hand corner, "Penalty for private use to avoid payment of postage, \$300." When printed envelopes furnished by the Director of Selective Service are not available, these inscriptions may be written, typed, or rubber stamped on a plain envelope.

153. *Correspondence: Personal messages.* No personal inquiries or messages shall be sent by official envelope, telegram, etc. Messages regarding leave of absence, payment of salary or expense account, etc., fall under this prohibition.

154. *Correspondence: File.* Each selective service agency shall keep a file of correspondence received and sent.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

October 18, 1940.

[No. 8570]

[F. R. Doc. 40-4431; Filed, October 19, 1940; 11:57 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

[F.C.A. 207]

PART 71—LOAN POLICIES

DIVISION OF LENDING AUTHORITY BETWEEN THE CENTRAL BANK FOR COOPERATIVES AND THE DISTRICT BANKS FOR COOPERATIVES

Amendment

Section 71.3 of Title 6, Code of Federal Regulations, is amended to read as follows:

§ 71.3 *Division of lending authority between the Central Bank for Cooperatives and the District Banks for Cooperatives.* Except with the written approval of the Cooperative Bank Commissioner, the lending limits of each district bank for cooperatives are hereby fixed, as to each borrower, so that at any one time:

1. Facility loans may not exceed 10 percent of a bank's capital and surplus;
2. Operating capital loans may not exceed 15 percent of a bank's capital and surplus;
3. Commodity loans may not exceed 25 percent of a bank's capital and surplus;
4. The sum of facility loans and operating capital loans may not exceed 15 percent of a bank's capital and surplus;
5. The sum of facility loans, operating capital loans, and commodity loans may not exceed 25 percent of a bank's capital and surplus.

The district bank shall request the Central Bank for Cooperatives to participate in the extension of credit for amounts which exceed the lending limits set forth above, and, except when otherwise agreed, such participation shall take place in the following order: First, commodity loans; second, operating capital loans; and third, facility loans. Nothing

contained in this section shall be construed to prevent a district bank for cooperatives from requesting the Central Bank for Cooperatives to participate in the extension of credit to any borrower before its lending limits are reached. (Sec. 38, 48 Stat. 264; 12 U.S.C. 1134j) [F.C.A. Order No. 296, October 17, 1940]

[SEAL]

A. G. BLACK,
Governor.

[F. R. Doc. 40-4438; Filed, October 21, 1940; 11:24 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER II—AGRICULTURAL MARKETING SERVICE

PART 204—POSTED STOCKYARD AND LIVE POULTRY MARKETS

NOTICE UNDER PACKERS AND STOCKYARDS ACT¹

OCTOBER 18, 1940.

TO JOE TOBIN, TOM ORMESHER and WILLIAM DIERCKS, *doing business as Gordon Sales Company, at Gordon, Nebr.*

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 Gordon Sales Company at Gordon, State of Nebraska, 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. 40-4421; Filed, October 18, 1940; 3:07 p. m.]

TITLE 20—EMPLOYEES' BENEFITS

CHAPTER III—SOCIAL SECURITY BOARD

[Regs. 3, as amended]

PART 403—FEDERAL OLD-AGE AND SURVIVORS INSURANCE

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SUBPART G—PROCEDURES (CONTINUED)¹

SECTION 205 (b) OF THE ACT

The Board is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Whenever requested by any such individual or whenever requested by a wife, widow, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Board has rendered, it shall give such applicant and such other individual reasonable notice and opportunity

¹ These regulations amend Regulations No. 3 (Part 403, Title 20, Code of Federal Regulations, 1940 Supp.; 5 F.R. 1849-1882) by adding §§ 403.706 to 403.713, inclusive, to Subpart G, Procedures, of Regulations No. 3 (5 F.R. 1862).

These regulations relate to the making of determinations and decisions and to the hearing and review of matters affecting payments and the revision of the Board's wage records. They also relate to the certification of payments and the representation of parties.

For a chronological description of the statutory basis for the old-age and survivors insurance system under title II of the Social Security Act, as amended, and the regulations which have been issued thereunder, see § 403.1 (5 F.R. 1850).

for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse its findings of fact and such decision. The Board is further authorized, on its own motion, to hold such hearings and to conduct such investigations and other proceedings as it may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, it may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Board even though inadmissible under rules of evidence applicable to court procedure.

SECTION 205 (C) OF THE ACT

(1) On the basis of information obtained by or submitted to the Board, and after such verification thereof as it deems necessary, the Board shall establish and maintain records of the amounts of wages paid to each individual and of the periods in which such wages were paid and, upon request, shall inform any individual, or after his death shall inform the wife, child, or parent of such individual, of the amounts of wages of such individual and the periods of payments shown by such records at the time of such request. Such records shall be evidence, for the purpose of proceedings before the Board or any court, of the amounts of such wages and the periods in which they were paid, and the absence of an entry as to an individual's wages in such records for any period shall be evidence that no wages were paid such individual in such period.

(2) After the expiration of the fourth calendar year following any year in which wages were paid or are alleged to have been paid an individual, the records of the Board as to the wages of such individual for such year and the periods of payment shall be conclusive for the purposes of this title, except as hereafter provided.

(3) If, prior to the expiration of such fourth year, it is brought to the attention of the Board that any entry of such wages in such records is erroneous, or that any item of such wages has been omitted from the records, the Board may correct such entry or include such omitted item in its records, as the case may be. Written notice of any revision of any such entry, which is adverse to the interests of any individual, shall be given to such individual, in any case where such individual has previously been notified by the Board of the amount of wages and of the period of payments shown by such entry. Upon request in writing made prior to the expiration of such fourth year, or within sixty days thereafter, the Board shall afford any individual, or after his death shall afford the wife, child, or parent of such individual, reasonable notice and opportunity for hearing with respect to any entry or alleged omission of wages of such individual in such records, or any revision of any such entry. If a hearing is held, the Board shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall revise its records as may be required by such findings and decision.

(4) After the expiration of such fourth year, the Board may revise any entry or include in its records any omitted item of wages to conform its records with tax returns or portions of tax returns (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or the Federal Insurance Contributions Act or under regulations made under authority thereof. Notice shall be given of such revision under such conditions and to such individuals as is provided for revisions under paragraph (3) of this subsection. Upon request, notice and opportunity for hearing with respect to any such entry, omission, or revision, shall be afforded under such conditions and to such individuals as is provided in paragraph (3) hereof, but no evidence shall be introduced at any such hearing except with respect to conformity of such records with such tax returns and such

other data submitted under such Title VIII or the Federal Insurance Contributions Act or under such regulations.

(5) Decisions of the Board under this subsection shall be reviewable by commencing a civil action in the district court of the United States as provided in subsection (g) hereof.

§ 403.706 *Initial determination*—(a) *Determinations affecting benefits, lump sums, and wage records*—(1) *Benefits and lump sums.* The Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to the entitlement to benefits or a lump sum (see §§ 403.402–403.408) of any person (hereafter referred to as the party to the determination) who has filed an application for benefits or a lump sum. The determination shall include the amount, if any, to which the party is entitled and any reduction or increase in the benefits to be made under section 203 (a), (b), or (c) of the Act (see § 403.502).

(2) *Modification in the amount of benefits or a lump sum.* The Bureau shall, under the circumstances hereafter stated, make findings, setting forth the pertinent facts and conclusions, and an initial determination.

(i) as to whether the benefits to which an individual is entitled should be reduced under sections 202 (b) (2), 202 (d) (2) or 202 (e) (2) of the Act or reduced or increased under section 202 (f) (2) of the Act (see paragraph (c) of §§ 403.403, 403.405, 403.406, and 403.407), and, if so, the amount thereof, because such individual, after the determination of his entitlement, becomes or ceases to be entitled to other or additional benefits as provided in the above sections; or

(ii) as to whether a reduction or increase, under section 203 (a), (b), or (c) of the Act (see § 403.502) should be made in the benefits to which an individual is entitled, because of circumstances arising after the determination of such individual's entitlement to such benefits, and, if a reduction or increase is to be made, the amount thereof; or

(iii) as to whether a reduction or increase, under section 203 (a), (b), or (c) of the Act (see § 403.502), which has been made in the benefits to which an individual is entitled, is no longer required because of circumstances arising after the determination that such reduction or increase should be made, and, if such reduction or increase is no longer required, the extent to which it should be modified; or

(iv) as to whether a deduction or deductions under section 203 (d), (e), (g), or (h) of the Act or under section 907 of the Social Security Act Amendments of 1939 (see §§ 403.503–403.505) should be made from the benefits or lump sum to which a person is entitled, and, if so, the amount thereof; or

(v) as to whether an overpayment or an underpayment has been made, and, if so, the amount thereof, and the adjustment, under section 204 (a) of the

Act (see § 403.601), which is to be made by increasing or decreasing the benefits or lump sum to which a person is entitled; or

(vi) as to whether an adjustment or the recovery of an overpayment is to be waived, with respect to a person, under section 204 (b) of the Act (see § 403.602).

(The individual or person designated above is hereafter referred to as the party to the determination.) Such findings of fact and determination shall be made whenever it appears to the Bureau, or whenever a party requests in writing, that, as above provided, a reduction or increase should be made or terminated, that a deduction should be made, or that an adjustment or recovery should be made or waived.

(3) *Termination of benefits.* The Bureau shall, with respect to an individual who has been determined to be entitled to benefits (hereafter referred to as the party to the determination), make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether, under the applicable provisions of section 202 of the Act (see paragraph (b) of each of §§ 403.402–403.407), such party's entitlement to benefits has ended and, if so, the last month for which such party is entitled to benefits. Such findings of fact and determination shall be made whenever it appears to the Bureau that such party's entitlement to benefits has ended.

(4) *Parent's dependency.* The Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether a parent (hereafter referred to as the party to the determination) was wholly dependent upon and supported by a fully insured individual at the time of such individual's death. Such findings of fact and determination shall be made when evidence of such dependency and support is submitted by the party at a time prior to the filing of an application by him for parent's insurance benefits, but within 2 years after the death of the insured individual. (See §§ 403.407 (a) (3) and 403.702 (i).)

(5) *Revision of wage records.* When requested by an individual, or, after his death, by his widow, child, or parent (see § 403.703), the Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether the Board's record of such individual's wages should be revised, either by changing the records as to the amount or time of payment of wages or by entering new items of wages in such records. (The person filing the request for revision is hereafter referred to as the party to the determination.) The determination as to revision, if it is determined that the records shall be revised, shall specify the amount of any increase or decrease to be made, the amount of any omitted item to be included, and the period or periods of payment to be shown by the records.

(b) *Notice of initial determination.* Written notice of an initial determination shall be mailed to the party to the determination at his last known address, except that no such notice is necessary where there is a determination that a party's entitlement to benefits has ended because of such party's death (see paragraph (a) (3) of this section).

If the initial determination disallows, in whole or in part, the application or request of a party, or if the initial determination is to the effect that a parent was not wholly dependent upon and supported by a fully insured individual, or that a party's entitlement to benefits has ended, or that a reduction, deduction, or adjustment is to be made in benefits or a lump sum, or an increase in benefits is to be terminated, the notice of the determination sent to the party shall state the basis for the determination; the notice of such a determination shall also inform the party of the right to reconsideration and hearing (see §§ 403.707-403.709) unless such determination is to the effect that a deduction is to be made and such determination as to deduction is based upon facts reported to the Bureau by the party to the determination.

(c) *Effect of initial determination.* The initial determination shall be final and binding upon the party to such determination unless (1) it is reconsidered in accordance with § 403.708, or (2) a hearing is held in accordance with § 403.709, or (3) it is revised in accordance with § 403.711 (b).*

§ 403.707 *Reconsideration or hearing.* A party who is dissatisfied with an initial determination may, at his option, request that the Bureau reconsider such determination, as provided in § 403.708, or request a hearing before a referee, as provided in § 403.709. If a request for reconsideration is filed, such action shall not constitute a waiver of the right to a hearing, and a request for a hearing may be thereafter filed, as is provided in § 403.709.*

§ 403.708. *Reconsideration — (a) Right to reconsideration.* The Bureau shall reconsider an initial determination if, prior to the filing of a request for a hearing (see § 403.709 (a), (b), and (c)), a written request for reconsideration is filed, as provided in paragraph (b) of this section, by the party to the initial determination (see § 403.706 (a)).

The Bureau shall also reconsider an initial determination (see § 403.706 (a) (1)-(4)), unless the determination is with respect to the revision of the Board's wage records, if, prior to the filing of a request for a hearing, a written request for reconsideration is filed, as provided in paragraph (b) of this section, by any individual who makes a showing in writing that his rights with respect to benefits or a lump sum may be prejudiced by such determination.

*Statutory authority for §§ 403.706-403.715 is same as indicated in note to § 403.1 (5 F.R. 1850).

The Bureau shall also reconsider an initial determination relating to the revision of the Board's record of an individual's wages (see § 403.706 (a) (5)), if, prior to the filing of a request for a hearing, a written request for reconsideration is filed, as provided in paragraph (b) of this section, by the widow, child, or parent of such individual after his death.

(b) *Time and place of filing request for reconsideration.* The request for reconsideration shall be made in writing and filed at an office of the Bureau.

The request for reconsideration, unless the determination to be reconsidered is with respect to the revision of the Board's wage records (see § 403.706 (a) (5)), must be filed within 6 months from the date of mailing notice of the initial determination, except as is provided in § 403.711 (a). The request for the reconsideration of an initial determination as to the revision of the Board's wage records may be filed at any time after the mailing of notice of such determination, but, if the request is filed more than 60 days after the fourth calendar year following the year in which the wages in question were paid or are alleged to have been paid, such determination will not be reconsidered except for the purpose of revising the wage records in accordance with section 205 (c) (4) of the Act. (See § 403.703)

(c) *Parties to the reconsideration.* The parties to the reconsideration shall be the person who was the party to the initial determination (see § 403.706 (a)) and any other individual (see paragraph (a) of this section), if there be such, upon whose request the initial determination is reconsidered.

(d) *Notice of reconsideration.* If the request for reconsideration is filed by an individual other than the party to the initial determination, the Bureau shall, before revising the initial determination adversely to the interests of such party, mail a written notice to such party, at his last known address, informing him that the initial determination is being reconsidered, and the Bureau shall give such party a reasonable opportunity to present such evidence or contentions, as he may desire, relative to the determination.

(e) *Reconsidered determination.* The Bureau shall, when a request for reconsideration has been filed, as provided in paragraphs (a) and (b) of this section, reconsider the initial determination in question and the findings upon which it was based, and, upon the basis of the evidence considered in connection with the initial determination and such other evidence as is submitted by the parties or otherwise obtained, the Bureau shall make a reconsidered determination affirming or revising, in whole or in part, the findings and determination in question.

(f) *Notice of reconsidered determination.* Written notice of the reconsidered determination shall be mailed to the parties at their last known addresses.

The notice of the reconsidered determination shall state the basis for such determination and inform the parties of their right to a hearing. (See § 403.709)

(g) *Effect of reconsidered determination.* The reconsidered determination shall be final and binding upon all parties to the reconsideration unless a hearing is requested in accordance with § 403.709 or unless such determination is revised in accordance with § 403.711 (b).*

§ 403.709. *Hearing—(a) Right to hearing.* Any party designated in paragraph (c) of this section shall be entitled to a hearing with respect to any matter designated in § 403.706 (a), after an initial or reconsidered determination has been made by the Bureau (see §§ 403.706-403.708), if such party files, as provided in paragraph (b) of this section, a written request for a hearing.

(b) *Time and place of filing request for hearing.* The request for hearing shall be made in writing and filed at an office of the Bureau, with a referee, or with the Appeals Council of the Social Security Board.

If no request for reconsideration has been filed, as provided in § 403.708 (a) and (b), and the matter to be heard is not with respect to the revision of the Board's wage records, the request for hearing must be filed within 6 months from the date of mailing notice of the initial determination, except as is provided in § 403.711 (a). If a request for reconsideration has been filed and the matter to be heard is not with respect to the revision of the Board's wage records, (1) the request for hearing may be filed at any time prior to the mailing of notice of the reconsidered determination if such notice has not been mailed within 45 days after the filing of the request for reconsideration, or (2) the request for hearing must be filed within 3 months after the date of mailing notice of the reconsidered determination, except as is provided in § 403.711 (a).

If the matter to be heard is with respect to the revision of the Board's wage records, the request for hearing may be filed at any time after the mailing of notice of the initial or reconsidered determination, but if a request for reconsideration has been filed the request for hearing may not be filed until after the mailing of notice of the reconsidered determination unless such notice has not been mailed within 45 days after the filing of the request for reconsideration. However, if the request for hearing is filed more than 60 days after the expiration of the fourth calendar year following the year in which the wages in question were paid or are alleged to have been paid, no hearing will be held with respect to the revision of the wage records except as is provided in section 205 (c) of the Act. (See § 403.703)

(c) *Parties to a hearing.* The parties to a hearing shall be the person or persons who were parties to the initial determination in question and the reconsid-

eration, if there has been reconsideration. Any other individual shall be a party, if such individual's rights with respect to benefits or a lump sum may be prejudiced and if notice is given to him by the referee to appear at the hearing and answer as to his interests.

The following individuals, in addition to those named above, may also be parties to the hearing: Unless the hearing is with respect to the revision of the Board's wage records, any individual may be a party to the hearing who makes a showing in writing that his right to benefits or a lump sum may be prejudiced. Where the hearing is with respect to the revision of the Board's record of an individual's wages, the widow, child, or parent of such individual may be, after his death, a party to the hearing upon filing a written notice of desire to be a party.

(d) *Referee.* The hearing provided for in this section shall be, except as herein provided, conducted by a referee designated by the Chairman of the Appeals Council. The Chairman may designate a member of the Appeals Council to conduct a hearing. The Territorial Director of the Social Security Board may conduct hearings in the Territories of Alaska and Hawaii. The provisions of this section governing the referee shall be applicable to a member of the Appeals Council or a Territorial Director in conducting a hearing.

No referee shall conduct a hearing in which he is personally prejudiced or partial with respect to any party. Notice of any objections which a party may have to the referee shall be made by such party at his earliest opportunity. The referee shall consider such objections and shall, according to his determination, either proceed with the hearing or withdraw. If the referee withdraws, another referee shall be designated by the Chairman of the Appeals Council to conduct the hearing. If the referee does not withdraw, the objecting party may, after the hearing, present his objections to the Appeals Council, as provided in § 403.710, as a reason why the referee's decision should be revised or a new hearing held before another referee.

(e) *Time and place of hearing.* The referee shall fix a time and place for the hearing. Written notice of the time and place of hearing, unless waived by a party, shall be mailed not less than 10 days prior to such time, to the parties at their last known addresses or given to them by personal service. Written notice of the objections of any party to the time and place fixed for a hearing shall be filed with the referee at the earliest opportunity of the objecting party. The notice shall state the reasons for the party's objections and his desires as to the time and place for hearing.

The referee may change the time and place for the hearing, either upon his own motion or for good cause shown by a party. The referee may adjourn or postpone the hearing, or reopen the

hearing for the receipt of additional evidence at any time prior to the mailing of notice of the decision in the case. Reasonable notice shall be given to the parties of any change in the time or place of hearing or of an adjournment or a reopening of the hearing.

(f) *Subpenas.* When reasonably necessary for the full presentation of a case, the referee, a member of the Appeals Council, or other duly authorized employee of the Board, may, either upon his own motion or upon the request of a party, issue subpenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are material and relevant to any matter in issue at the hearing. Parties who desire the issuance of a subpoena shall, within 5 days prior to the time fixed for the hearing, file with the referee or a field office of the Bureau a written request therefor designating the witness or document to be produced, and the address or location thereof, with sufficient particularity to permit such witness or document to be found. The request for a subpoena shall state the pertinent facts which the party expects to establish by such witness or document and as to whether such facts may reasonably be established by other evidence without the use of a subpoena.

Subpenas, as provided for above, shall be issued in the name of the Board, and the Board shall pay the cost of issuance and the fees and mileage of the witnesses so subpoenaed as provided in section 205 (d) of the Act.

(g) *Conduct of hearing and evidence.* Hearings shall be open to the parties and to such other persons as the referee deems necessary and proper.

The referee shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to the issues. If the referee believes that there is relevant and material evidence available which has not been presented at the hearing, the referee may adjourn the hearing, or at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence.

Evidence may be received at the hearing even though inadmissible under rules of evidence applicable to court procedure. However, if the request for the hearing was filed more than 60 days after the fourth calendar year following any year in which wages were paid or are alleged to have been paid an individual, the records of the Board as to the wages of such individual for any such year shall be conclusive and no evidence other than the Board's wage records shall be introduced with respect to the wages for any such year except evidence with respect to the conformity of the Board's wage records with tax returns or portions of tax returns (including information returns and other written statements) filed with the Commissioner of Internal Revenue

under title VIII of the Social Security Act or the Federal Insurance Contributions Act or under regulations made under authority thereof.

Witnesses at the hearing shall testify under oath or affirmation, unless they are excused by the referee for cause. The referee may examine the witnesses or allow the parties or their representatives to do so. If the referee conducts the examination of a witness, he shall allow the parties to suggest matters as to which they desire the witness to be questioned, and the referee shall question the witness with respect to such matters if they are relevant and material to the issues.

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral arguments or for the filing of briefs or other written statements of contentions. Where there is more than one party to the hearing, copies of any brief or other written statement shall be filed in a sufficient number that they may be made available to any party requesting a copy and to such other parties as the referee may designate.

The order in which evidence and contentions shall be presented and the procedure at the hearing generally, except as is expressly provided by these regulations, shall be in the discretion of the referee and shall be of such nature as to afford the parties a reasonable opportunity for a fair hearing.

A complete stenographic record of the proceedings at the hearing shall be made. The record shall be transcribed where the case is certified to or reviewed by the Appeals Council (see paragraph (k) of this section and § 403.710 (a) and (b)) and on such other occasions as the referee may direct.

(h) *Joint hearings.* When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters in issue at each such hearing, the referee may fix the same time and place for each hearing and conduct all such hearings jointly. Where joint hearings are held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the others, but a separate decision shall be made in each case.

(i) *Waiver of right to appear and present evidence.* If all parties waive their right to appear and present evidence and contentions at a hearing, it shall not be necessary for the referee to give notice of and conduct a hearing, as provided in this section. The waiver of the right to appear and present evidence and contentions shall be made in writing and filed with the referee. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in such case.

Where all of the parties have filed a waiver of the right to appear and present evidence at a hearing before the referee, the referee may, nevertheless, give notice of a time and place and conduct a hearing

as provided in this section if he believes that such action is reasonably necessary in order to ascertain the facts in issue. Where such waiver has been filed by all parties, and a hearing is not held, the referee shall make a record of the relevant certificates, affidavits, reports, and other documents which were considered in connection with the initial determination and reconsideration if there has been reconsideration. Such documents shall be considered as all of the evidence in the case and the decision, as provided for in paragraph (k) of this section, shall be based upon them.

(j) *Dismissal of request for hearing.* The referee may, at any time prior to the mailing of the notice of the decision, dismiss a request for hearing if all parties have consented to or requested the dismissal or have abandoned the hearing. Notice of the referee's action of dismissal shall be given to the parties or mailed to them at their last known addresses.

A party may consent to or request the dismissal by filing a written notice of such request or consent with the referee or orally stating such request or consent at the hearing.

A party shall be deemed to have abandoned a hearing if neither the party nor his representative appears at the time and place fixed for the hearing and, either (1) prior to the time for hearing such party does not show good cause as to why neither he nor his representative can appear or (2) within 15 days after the mailing of a notice to him by the referee to show cause, such party does not show good cause for such failure to appear and failure to notify the referee prior to the time fixed for hearing.

(k) *Referee's decision, remanding to Bureau, or certification to Appeals Council.* As soon as practicable after the close of a hearing, the referee, except as herein provided, shall make a decision in the case or certify the case to the Appeals Council for decision (see § 403.710 (a)). However, if new and material evidence has been presented at the hearing which was not before the Bureau when the initial or reconsidered determination was made, the referee may, in his discretion, remand the case to the Bureau in the event that he believes such procedure to be advisable.

If a case is remanded to the Bureau, the Bureau may, upon the basis of the evidence adduced at the hearing, revise its previous determination. If the Bureau does so revise its previous determination, written notice of such revision, containing findings of fact and a statement of reasons, shall be mailed to the parties to the hearing at their last known addresses. If the Bureau does not revise its determination, when a case is remanded, the Bureau shall return the case to the referee for his decision or for certification by him to the Appeals Council.

If the referee makes a decision in the case, such decision shall, except as is

provided in paragraph (i) of this section, be based upon the evidence adduced at the hearing. The decision shall be made in writing and contain findings of fact and a statement of reasons. A copy of the decision shall be mailed to the parties at their last known addresses.

(l) *Effect of referee's decision or revision by the Bureau.* The referee's decision or the revised determination of the Bureau, provided for in paragraph (k) of this section, shall be final and binding upon all parties to the hearing unless it is reviewed by the Appeals Council (see § 403.710 (b)) or unless it is revised in accordance with § 403.711 (b). If a party's request for review of the referee's decision or the revised determination of the Bureau is denied (see § 403.711 (b)), such decision or revised determination shall be final and binding upon all parties to the hearing unless a civil action is filed in a district court of the United States, as is provided in section 205 (g) of the Act, or unless the decision is revised in accordance with § 403.711 (b).*

§ 403.710 *Appeals Council proceedings on certification and review—(a) Procedure before Appeals Council on certification by the referee.* The Appeals Council of the Social Security Board shall, when a case has been certified to it by a referee without decision (see § 403.709 (k)), mail notice of such action to the parties at their last known addresses. A copy of the transcript of evidence adduced at the hearing shall be made available to the parties or, where the hearing before the referee has been waived (see § 403.709 (i)), copies of the documents which are the evidence in the case.

When a case has been certified to the Appeals Council for decision, the parties shall be given, upon their request, a reasonable opportunity to appear before the Appeals Council for the purpose of presenting oral argument. The parties shall also be given, upon their request, a reasonable opportunity to file briefs or other written statements of contentions. Where there is more than one party, copies of such a brief or written statement shall be filed in a sufficient number that they may be made available to any party requesting a copy or any other party designated by the Appeals Council.

Evidence in addition to the evidence introduced at the hearing before the referee, or the documents before the referee where the hearing is waived, may not be presented except where it appears to the Appeals Council that additional, material evidence is available which may affect its decision. If it appears that such additional evidence is available, the Appeals Council shall designate a referee or member of the Council before whom the evidence shall be introduced. Before additional evidence may be presented, as above provided, notice shall be mailed to the parties, unless such notice is waived, at their last known addresses, that evidence will be received with respect to cer-

tain matters, and the parties shall be given a reasonable opportunity to present evidence which is relevant and material to such matters. When the additional evidence is introduced before a referee or a member of the Appeals Council, a transcript of such evidence shall be made available to the parties.

The decision of the Appeals Council, when a case has been certified to it by a referee, shall be made in accordance with the provisions of paragraph (d) of this section.

(b) *Review of referee's decision or Bureau's revised determination.* If a referee has made a decision or the Bureau has revised its determination, as provided in § 403.709 (k), any party thereto may request the Appeals Council to review such decision or revised determination. The request for review shall be made in writing and filed with an office of the Bureau, a referee, or the Appeals Council. The request for review shall be filed within 30 days from the date of mailing notice of the referee's decision or the Bureau's revised determination, except as is provided in § 403.711 (a).

The Appeals Council may, in its discretion, decline a party's request for the review of a referee's decision or the Bureau's revised determination, or the Council may, within 90 days from the date of mailing notice of such decision or revised determination, review such decision or revised determination on its own motion. Notice of the action by the Appeals Council in determining to review on its own motion or granting or declining a party's request for review shall be mailed to the parties at their last known addresses.

(c) *Procedure before Appeals Council on review of referee's decision or Bureau's revised determination.* Whenever the Appeals Council determines to review a referee's decision or the revised determination of the Bureau, the Council shall make a copy of the transcript of evidence adduced at the hearing available to the parties or, where the hearing before the referee was waived (see § 403.709 (i)), copies of the documents upon which the referee's decision was based. The parties shall be given, upon their request, a reasonable opportunity to file briefs or other written statements of contentions. Copies of such brief or other written statement, where there is more than one party, shall be filed in a sufficient number that they may be made available to any party requesting a copy and to any other party designated by the Appeals Council.

Evidence in addition to the evidence introduced at the hearing before the referee, or the documents before the referee where the hearing is waived, may not be presented except where it appears to the Appeals Council that additional, material evidence is available which may affect its decision. If it appears that such additional evidence is available, the Appeals Council shall designate a referee or member of the Council before whom the evidence shall be introduced. Before addi-

tional evidence may be presented, as above provided, notice shall be mailed to the parties, unless such notice is waived, at their last known addresses, that evidence will be received with respect to certain matters, and the parties shall be given a reasonable opportunity to present evidence which is relevant and material to such matters. When the additional evidence is introduced before a referee or a member of the Appeals Council, a transcript of such evidence shall be made available to the parties.

(d) *Decision by Appeals Council or remanding of case.* If a case is certified to the Appeals Council by a referee or if the Council reviews a referee's decision or the Bureau's revised determination, as provided in this section, the Appeals Council shall, except as hereafter stated, make a decision. If, in the proceedings before the referee, there has been a substantial failure to comply with the provisions of § 403.709 governing the hearing, the Appeals Council may, where such action is reasonably necessary for the correction of the error, remand the case to a referee for further hearing and decision in accordance with such section.

The decision of the Appeals Council, where the case is not remanded to the referee, shall be based upon the evidence adduced at the hearing or, where the hearing before the referee was waived (see § 403.709 (i)), the documents upon which the referee's decision was based, and such further evidence as the Appeals Council may receive, as provided in paragraphs (a) and (c) of this section. The decision shall be made in writing and contain findings of fact and a statement of reasons. A copy of the decision shall be mailed to the parties at their last known addresses.

(e) *Effect of Appeals Council's decision or refusal to review.* The decision of the Appeals Council, or the decision of the referee, or revised determination of the Bureau where the request for review of such decision or revised determination is denied (see paragraph (b) of this section), shall be final and binding upon all the parties to the hearing unless a civil action is filed in a district court of the United States, as provided in section 205 (g) of the Act, or unless the decision is revised in accordance with § 403.711 (b).*

§ 403.711 *Extension of time and revision—(a) Extension of time.* If a party to an initial determination desires to file a request for reconsideration, after the time for filing such request has passed (see § 403.708 (b)), such party may file a petition with the Bureau for an extension of time for the filing of such request. Such petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown the Bureau may extend the time for filing the request for reconsideration.

If a party to an initial determination, a reconsidered determination, a revised determination of the Bureau made after a hearing (see § 403.709 (k)), a decision

of a referee, or a decision of the Appeals Council desires to file a request for hearing or review or commence a civil action in a district court, as the case may be, after the time has passed for filing such request or civil action (see §§ 403.709 (b) and 403.710 (b) and section 205 (g) of the Act), such party may file a petition with the Appeals Council for the extension of time for filing such request or action. Such petition shall be in writing and shall state the reasons why the request or action was not filed within the required time. For good cause shown the Appeals Council may extend the time for filing the request or action.

(b) *Revision for error.* An initial determination or reconsidered determination of the Bureau, provided for in §§ 403.706 (a) and 403.708 (e), or a determination of the Bureau which has been revised by it when the case has been remanded, as provided for in § 403.709 (k), may be revised by the Bureau, either upon the Bureau's own motion or upon the petition of any party when it clearly appears that there was an error of fact or law in such determination or that such determination was procured by misrepresentation or fraud. However, no determination as to the wages of an individual will be revised, except for the purposes provided in section 205 (c) (4) of the Act, after the fourth calendar year following the year in which the wages were paid or are alleged to have been paid, unless a party's petition for such revision was filed prior to the expiration of such fourth year and 60 days thereafter.

Any decision of a referee or the Appeals Council, provided for in §§ 403.709 (k) and 403.710 (d), may be revised by the Appeals Council, either upon the motion of the Appeals Council or upon the petition of any party, when it clearly appears that there was an error of fact or law in such decision or that such decision was procured by fraud or misrepresentation. However, no decision as to the wages of an individual will be revised, except for the purposes provided in section 205 (c) (4) of the Act, after the fourth calendar year following the year in which wages were paid or are alleged to have been paid, unless a party's petition for such revision was filed prior to the expiration of such fourth year and 60 days thereafter.

When any determination or decision is revised, as provided in this paragraph, notice of such revision shall be mailed to the parties to such determination or decision at their last known addresses. The notice of revision, which is mailed to the parties, shall state the basis for the revision and inform the parties of their right to a hearing, as provided herein. The revision of the determination or decision shall be final and binding upon all such parties unless such a party, within 60 days after the date of mailing notice of the revision, files a written request for a hearing. Upon the filing of such a request, a hearing with

respect to such revision shall be held and decision made in accordance with the provisions of § 403.709.*

SECTION 205 (1) OF THE ACT

Upon final decision of the Board, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this title, the Board shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made and the Managing Trustee, through the Division of Disbursement of the Treasury Department, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Board: *Provided*, That where a review of the Board's decision is or may be sought under subsection (g) the Board may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Board.

SECTION 207 OF THE ACT

The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

§ 403.712 *Certification of payments—*

(a) *Determination or decision providing for payment.* When a determination or decision has been made under any of §§ 403.706 to 403.711, inclusive, to the effect that a payment or payments under title II of the Act should be made to any person, the Board shall, except as hereafter provided, certify to the Managing Trustee of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund the name and address of the person to be paid (see § 403.705), the amount of the payment or payments, and the time at which such payment or payments should be made.

When a determination or decision, as above-described, has been made, the Board may withhold certification to the Managing Trustee, or if certification has been made, may notify the Managing Trustee to withhold payment, to the extent and during such time that the payment or payments, to be made pursuant to such determination or decision, are in question by reason of the fact that

(1) a reconsideration, hearing, or review, is being conducted, or a civil action has been filed in a district court of the United States, with respect to such determination or decision; or

(2) an application or request is pending with respect to the payment of benefits or a lump sum to another person and such application or request is inconsistent, in whole or in part, with the payment or payments under such determination or decision;

Provided, however, That certification or payment shall not be withheld, under the above circumstances, unless, in connection with the request or application described in (1) and (2) above, evidence is

submitted which is sufficient to raise a substantial question with respect to the correctness of the payment or payments under the determination or decision. The Board shall, however, certify for payment, as above provided, the amount of the payment or payments which is not in question. The acceptance of any payment or payments by a person entitled thereto shall be without prejudice to his rights to reconsideration, hearing, or review, as to any additional payment or payments claimed by such person.

(b) *Transfer or assignment.* The Board shall not certify, as provided in paragraph (a) of this section, any amount for payment to the assignee or transferee of the person entitled to such payment under the Act, nor shall the Board certify such amount for payment to any person claiming such payment by virtue of an execution, levy, attachment, garnishment, or other legal process or by virtue of bankruptcy or insolvency proceeding against or affecting the person entitled to the payment under the Act.*

SECTION 206 OF THE ACT

The Board may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Board, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Board upon filing with the Board a certificate of his right to so practice from the presiding judge or clerk of any such court. The Board may, after due notice and opportunity for hearing, suspend or prohibit from further practice before it any such person, agent, or attorney who refuses to comply with the Board's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Board may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Board under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Board shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year or both.

§ 403.713 Representation of parties

(a) *Appointment of representatives.* A party to an initial determination, reconsideration, hearing, or review, as provided for in §§ 403.706-403.711, may ap-

point as his representative in such proceeding any individual who is qualified under paragraph (b) of this section to act as a representative. Notice of the appointment of a representative shall be made in writing, signed by the party appointing the representative, and shall be acknowledged by the representative appointed. The notice of appointment shall be filed at an office of the Bureau or with a referee or with the Appeals Council of the Social Security Board.

(b) *Qualifications of representatives.* Any individual, appointed in accordance with paragraph (a) of this section, unless otherwise prohibited by law, may act as a representative, except that no individual may act as a representative who is disbarred or under suspension from acting as a representative in proceedings before the Social Security Board (see paragraph (f) of this section).

(c) *Authority of representatives.* A representative, appointed and qualified as provided in paragraphs (a) and (b) of this section, may make or give, on behalf of the party he represents, any request or notice relative to the proceedings except that such representative may not execute an application for benefits or a lump sum, a request for reconsideration, hearing, or review, unless he is a person designated in section 403.701 (c) as authorized to execute the application for benefits or a lump sum. A representative shall be entitled to present evidence and contentions in any proceedings affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any action, determination, or decision, or request to any party for the production of evidence, may be sent to the representative of such party, and such notice or request shall be of the same force and effect as if sent to the party represented.

(d) *Fees for services.* Fees for the services of a representative, appointed and qualified in accordance with paragraphs (a) and (b) of this section, may be charged and received from the party represented only as is provided in this paragraph.

A fee in an amount not greater than \$10.00 may be charged and received by an attorney who is admitted to practice before the highest court, or an inferior court of a State, Territory, District, or insular possession, or before the Supreme Court of the United States or an inferior Federal court, and who is not otherwise prohibited by law from charging or receiving such a fee. Upon the petition of such an attorney the Bureau, a referee, or the Appeals Council may, for good cause shown, authorize the attorney to charge and receive a maximum fee in excess of \$10.00.

No individual other than an attorney, as above provided, may charge or receive a fee unless he is authorized to do so by the Bureau, a referee, or the Ap-

peals Council as herein stated. An individual other than an attorney who desires authorization to charge or receive a fee shall file a written petition therefor and make a showing that he is not otherwise prohibited from charging or receiving a fee, that he has special qualifications which enable him to render valuable services to a party, and that he has rendered such services to the party he represents. Upon the filing of such petition and the making of such showing the amount of the fee, if any, which may be charged or received, shall be determined in each case by the Bureau, a referee, or the Appeals Council, and no fee shall be charged or received in excess thereof.

(e) *Rules governing the representation and advising of claimants and parties.* No attorney or other person shall:

(1) With intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten (by word, circular, letter, or advertisement) any claimant or prospective claimant or beneficiary with respect to benefits, lump sums, or wage records; or

(2) Knowingly charge or collect, directly or indirectly, or make any agreement, directly or indirectly, to charge or collect, any fee in connection with any claim except under the circumstances stated in paragraph (d) of this section and not in excess of the amount provided for in paragraph (d); or

(3) Knowingly make or participate in the making or representation of any false statement, representation, or claim as to the amount of wages paid an individual, or the time of payment, or as to any material fact affecting the right of any person to benefits or a lump sum, or the amount thereof; or

(4) Divulge, except as may be authorized by regulations now or hereafter prescribed by the Board, any information furnished or disclosed to him by the Board relating to the claim or prospective claim of another person.

(f) *Proceedings for suspension or disbarment.* Whenever the Board has knowledge or information that an attorney or other individual has violated any of the provisions of paragraph (e) of this section, a written statement of the Board's charges shall be mailed to such attorney or other individual at his last known address, together with a notice to file an answer, within 30 days from the date of mailing, as to why such attorney or other individual should not be prohibited from acting as a representative and from charging and receiving fees for services, as is provided in the preceding paragraphs of this section. The Board may, for good cause shown, extend the time within which the answer may be filed. No answer will be accepted unless it is made in writing under oath and is filed within the 30-day period or such extended time as the Board may allow.

At the expiration of the time within which an answer may be filed, a time and place shall be fixed for a hearing with respect to such charges, and notice thereof shall be mailed, not less than 15 days prior to the time fixed for the hearing, to the attorney or other individual at his last known address.

The hearing shall be conducted by the Board or its authorized representative. Witnesses shall be sworn and evidence recorded. If the attorney or other individual has filed an answer as above provided, he may present evidence in support of his statements in such answer. If he has filed no answer, he shall have no right to present evidence, but he may appear at the hearing for the purpose of presenting to the Board or its authorized representative his contentions with regard to the sufficiency of the evidence or proceedings as the basis for his disbarment or suspension. Upon the basis of the evidence adduced at the hearing, the Board, or its authorized representative, shall determine whether or not the charges have been sustained. If it is determined that the charge or charges have been sustained, such attorney or other individual shall not be qualified to act as a representative and shall not be qualified to charge or receive any fee for services, as provided in this section. Such disqualification, however, to act as a representative and to charge and receive fees may be limited to a specified period of time.

Such determination shall be made in writing and a copy shall be mailed to the attorney or individual affected.*

§ 403.714 *Definitions*—(a) *Bureau*. The term Bureau as used in §§ 403.706 to 403.713, inclusive, of these regulations means those officers and employees of the Bureau of Old-Age and Survivors Insurance who have been authorized by the Social Security Board to perform the functions referred to in said sections.

RULES AND REGULATIONS

SECTION 205 (a) OF THE ACT

The Board shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

SECTION 1102 OF THE ACT

The Secretary of the Treasury, the Secretary of Labor, and the Social Security Board, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act.

§ 403.715 *Promulgation of regulations*. In pursuance of sections 205 (a) and 1102 of the Act, the foregoing regulations are hereby prescribed.

Adopted by the Social Security Board, October 8, 1940.

[SEAL]

A. J. ALTMAYER,
Chairman.

Approved October 18, 1940.

WAYNE COY,
Acting Federal Security Administrator.

[F. R. Doc. 40-4436; Filed, October 21, 1940;
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TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-113]

PETITION OF DISTRICT BOARD 8 FOR RECLASSIFICATION OF ALLBURN COLLIERIES COMPANY

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF

A petition, accompanied by a request for temporary relief, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937 (hereinafter referred to as the Act), having been filed by District Board 8, with the Bituminous Coal Division of the Department of the Interior (hereinafter referred to as the Division), requesting that coal from the Allburn mine of Allburn Collieries Company, a producer in District 8, in Size Groups 18-21, be reduced in classification from "C" to "E" and requesting the granting of temporary relief pending the disposition of the petition; and

The Director having considered said petition and the views expressed in support thereof by petitioner and Allburn Collieries Company at an informal conference held on October 15, 1940 on notice to interested persons, and there having been no opposition thereto,

Now, therefore, it is ordered, That the petition for temporary relief is granted, and that pending the final disposition of the original petition herein, this section (the Schedule of Effective Minimum Prices for District No. 8 For All Shipments Except Truck, Section 328.11, Alphabetical list of code members) is amended by changing the classification in Size Groups 18-21 of the Allburn Collieries Company from "C" to "E" for shipment to all destinations.

It is further ordered, That applications to stay, terminate or modify this temporary order, or pleadings in opposition to the final relief requested in said petition, may be filed within forty-five (45) days hereof, pursuant to the rules and regulations governing practice and procedure before the Division in proceedings instituted pursuant to Section 4 II (d) of the Act, and that this order and the relief herein granted shall become final

sixty (60) days from the date hereof unless the Director shall otherwise order. Dated: October 18, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-4429; Filed, October 19, 1940;
11:36 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-26]

PETITION OF THE ARROW COAL CORPORATION FOR A CHANGE IN PRICE CLASSIFICATIONS, AND FOR THE ESTABLISHMENT OF ADDITIONAL PRICE CLASSIFICATIONS AND MINIMUM PRICES

MEMORANDUM OPINION AND ORDER GRANTING, IN PART, TEMPORARY RELIEF

The original petitioner in the above entitled matter, a Code member in District No. 1, prays for the issuance of temporary and final orders changing the price classifications for petitioner's Arrow Mine No. 6 (Mine Index No. 18) from C to E, and establishing an E classification for Arrow Mine No. 5 (Mine Index No. 17) and Arrow Mine No. 6, mixed.

The Bituminous Coal Producers Board for District No. 1 intervened in opposition to the original petition.

On October 5, 1940, an informal conference, concerning the matter of temporary relief in the above entitled matter, was held by the Division, pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to Section 4 II (d) of the Bituminous Coal Act of 1937 (the "Rules"). The conference was held upon telegraphic notice, sent on October 3, 1940, to District Board No. 1, to the Statistical Bureau for that district, the Consumers' Council, Loyal Hanna Coal Company, Heisley Coal Company and the petitioner. The District Board was instructed to notify interested Code members of the conference and the Statistical Bureau was instructed to post conspicuously the notice of the conference.

Represented at the conference were the original petitioner, District Board No. 1, Heisley Coal Company, and the Consumers' Council.

District Board 1 moved that the original petition be dismissed on the ground that it failed to set forth all the pertinent data and information required by the Rules and that it was not verified.

It appears, however, that the petition filed with the Division was duly verified.

The original petition, although not as complete as it might have been, was sufficient to present the issues involved. The petitioner, however, should serve and file, on or before October 22, an amended petition setting forth with particularity the information required by §§ 301.102 (b) (1) (i) and 301.102 (b) (1) (ii) of the Rules. In the event such an amendment is not duly served and filed within the time specified, District Board 1 may renew its motion to dismiss the original petition herein.

At the informal conference petitioner contended that it could not continue in business if the temporary relief were denied and that the coal produced at Arrow Mine No. 6 was generally inferior analytically to other coals having a C classification. It affirmatively appeared that no substantial effort had been made to sell this coal at the effective minimum prices, and that the temporary relief was, among other things, requested for the purpose of submitting a bid on a potential order for 100,000 tons of coal, although petitioner's production never exceeded 80,000 tons. A representative of District Board 1 opposed the granting of temporary relief on the ground that the analytical values would not justify the relief; that numerous similar petitions would be filed by Code members in District 1, whose situation might be analogous to that of the petitioner; that the matter of the classification for Arrow Mine No. 5 had been the subject of considerable discussion in General Docket 15; that any temporary cessation of production was the result of general market conditions; that persons in interest had not been notified of the conference and that the petitioner would enjoy competitive advantages not heretofore had.

While it does not appear how many producers would be affected by the granting of the temporary relief requested in connection with Arrow Mine No. 6, there is reason to believe that a considerable number of producers would be affected thereby. In view of the highly controversial nature of the issues involved in connection with the relief requested for this mine, the petitioner's avowed intent to seek business, not heretofore enjoyed, if such relief is granted, and the petitioner's failure to show that it would suffer irreparable injury if the temporary relief is denied, the Director is of the opinion that the effective price classifications for Arrow Mine No. 6 should not, at this time be changed.

It appears that the establishment of price classifications of D for Arrow Mine No. 5 and Arrow Mine No. 6, when mixed on a 50-50 basis, is proper and that the objections which the District Board advanced in opposition to changes in classifications for Arrow Mine No. 6 do not similarly apply to the establishment of such new classifications. The Director is of the opinion that pending the final disposition of the petition herein, the

Schedule of Effective Minimum Prices for District 1, for all shipments except truck, should be amended by adding the following:

Mine index No.	Code member	Mine name
"17-18.....	Arrow Coal Corporation.	Arrow No. 5-6 (50/50 basis).

Sub-district No.	Seam	f. o. b.	Size groups				
			1	2	3	4	5
38	B & C'.....	49	D	D	D	D	D"

Accordingly, it is so ordered.

Dated: October 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4422; Filed, October 18, 1940; 3:56 p. m.]

[Docket No. A-70]

PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 15, FILED PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937 PRAYING FOR CHANGES IN SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 15 FOR ALL SHIPMENTS EXCEPT TRUCK, PRICE SCHEDULE NO. 1, DISTRICT NO. 15, APPENDIX A-15, ESTABLISHED BY THE BITUMINOUS COAL DIVISION — PRICES INTO THE STATE OF IOWA (EXCEPT COUNCIL BLUFFS AND SIOUX CITY), MARKET AREAS NOS. 47 THROUGH 50, 52 THROUGH 55, 57, 59 THROUGH 68, AND 76, PAGES 34 TO 41, INCLUSIVE, OF THE SCHEDULE

MEMORANDUM OPINION AND ORDER CONCERNING PETITION FOR TEMPORARY RELIEF

The original petition in the above-entitled matter prays that a temporary order granting the relief requested be issued pending final disposition of the matter.

The Director, by order dated October 5, 1940, has scheduled a final hearing in this matter to be held on October 30, 1940, at 10 a. m. at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C.

An informal conference, upon notice to interested parties, was held on October 9, 1940, pursuant to the Rules and Regulations Governing Practice and Procedure in 4 II (d) Proceedings, for the purpose of affording interested parties the opportunity of expressing their views concerning the temporary relief prayed for.

Represented at the conference were the original petitioner, District Board No. 10, District Board No. 12, and Consumers' Counsel Division.

The original petitioner requests a modification of the effective minimum

prices established for District No. 15 coals, for all shipments except truck, for movement into the Iowa Market Areas, except Council Bluffs and Sioux City. Exceptant contends that the alleged average differential of \$1.20 per ton between the minimum prices established for District No. 15 coals and the minimum prices established for the base group coals of District No. 10 is insufficient and therefore should be increased in order to preserve the existing fair competitive opportunities of the Code members in District No. 15. The requested relief involves the coordination of minimum prices for coals which are competitive in the Iowa Market Areas. Coals from several of the producing districts compete in these market areas, and the distribution figures for 1937 show that District No. 15 coals are less significant in these market areas than several of the competing districts; and the original petitioner has not made a showing that irreparable injury will occur to designated or individual Code members if the temporary relief prayed for is not granted. The granting of temporary relief as requested by the petitioner was opposed, at the informal conference, by District Board No. 10 upon the ground that the relief sought is so wide in scope and involves so many basic considerations that have been thoroughly considered in General Docket No. 15, that the matter is peculiarly one for disposition upon the basis of evidence presented at a final hearing. It appears that the issues involved are highly controversial and might affect many producers located in the various producing districts which compete in the Iowa Market Areas. The competitive relationships of the coals competing in the Iowa Market Areas were carefully considered in General Docket No. 15.

In view of the foregoing and the fact that this matter has been set for final hearing, on October 30, 1940, in which all interested parties will be afforded an opportunity to participate, the Director is of the opinion that the temporary relief prayed for should not be granted.

Accordingly, it is so ordered.

Dated: October 17, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4423; Filed, October 18, 1940; 3:56 p. m.]

[Docket No. A-100]

PETITION OF HATFIELD-CAMPBELL CREEK COAL COMPANY FOR MODIFICATION OF EFFECTIVE MINIMUM PRICES PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING, IN PART, TEMPORARY RELIEF

A petition dated October 4, 1940, pursuant to the provisions of section 4 II

(d) of the Bituminous Coal Act of 1937, having been filed by The Hatfield-Campbell Creek Coal Company with the Bituminous Coal Division of the Department of the Interior; and

Petitioner having requested temporary relief pending final disposition of the petition; and

An informal conference, after notice to interested parties having been held for the purpose of affording interested parties the opportunity of expressing their views with respect to the temporary relief requested; and

The Director having considered said petition and the views expressed at said conference, and there having been no opposition to the granting of temporary relief as hereinafter provided:

Now, therefore, it is ordered, That a hearing in respect to the subject matter of such petition be held on November 26, 1940, at 10 a. m. at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street N.W., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Floyd McGown or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearings from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such petitioner and to any other party herein and to such persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 21, 1940.

The matter concerned herewith is in regard to affording the Hatfield-Campbell Creek Coal Company equal opportunity to compete with other producers in the sale of coal to Carbide & Carbon Chemicals Corporation, South Charleston, West Virginia, American Fork and Hoe Company, Kelly Axe and Tool

Works, West Charleston, West Virginia, Barium Reduction Corporation, South Charleston, West Virginia, J. Q. Dickinson Company, Malden, West Virginia, and to others within the West Virginia area.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters incidental and related thereto, whether raised by amendment of the petition, petitions of intervention or otherwise, and all persons are cautioned to be guided in their actions accordingly.

It is further ordered, That a reasonable showing therefor having been made, pending final disposition of the petition in the above entitled proceedings, that temporary relief be and the same hereby is granted to the effect that effective minimum prices applicable to petitioner's coals are reduced by an amount sufficient to enable petitioner to compete as follows:

1. With the Wyatt Coal Company for sales of coal to Westvaco Chlorine Products Company, Inc., South Charleston, Kanawha County, West Virginia; Carbide and Carbon Chemicals Corporation, South Charleston, Kanawha County, West Virginia; Fuel Process Company, South Charleston, Kanawha County, West Virginia.

2. With the Winifrede Collieries for sales of coal to Westvaco Chlorine Products Company, Inc., South Charleston, Kanawha County, West Virginia; E. I. duPont de Nemours & Company, Belle, Kanawha County, West Virginia.

3. With Carbon Fuel Company for sales of coal to E. I. duPont de Nemours & Company, Belle, Kanawha County, West Virginia; American Fork & Hoe Company, Kelly Axe and Tool Works, West Charleston, Kanawha County, West Virginia; Barium Reduction Corporation, South Charleston, Kanawha County, West Virginia; Carbide and Carbon Chemicals Corporation, South Charleston, Kanawha County, West Virginia.

4. With Truax-Traer Coal Company for sales of coal to Barium Reduction Corporation, South Charleston, Kanawha County, West Virginia; Carbide and Carbon Chemicals Corporation, South Charleston, Kanawha County, West Virginia; E. I. duPont de Nemours & Company, Belle, Kanawha County, West Virginia.

5. With Cedar Grove Collieries, Inc., for sales of coal to E. I. duPont de Nemours & Company, Belle, Kanawha County, West Virginia; Carbide and Carbon Chemicals Corporation, South Charleston, Kanawha County, West Virginia; Belle Alkali Company, Belle, Kanawha County, West Virginia; Westvaco Chlorine Products Company, Inc., South Charleston, Kanawha County, West Virginia.

6. With Kelley's Creek Colliery Company for sales of coal to E. I. duPont de

Nemours & Company, Belle, Kanawha County, West Virginia.

7. With Riverton Coal Company for sales of coal to E. I. duPont de Nemours & Company, Belle, Kanawha County, West Virginia.

8. With Kanawha and New River Barge and Rail Coal Mines, Inc., for sales of coal to E. I. duPont de Nemours & Company, Belle, Kanawha County, West Virginia.

It is further ordered, That petitioner shall file with the Division, on the first of each month, a report showing the size, quality and price of each ton of coal sold during the preceding month to any of the above mentioned purchasers.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: October 17, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-4424; Filed, October 18, 1940; 3:56 p. m.]

[Docket No. A-111]

PETITION OF DISTRICT BOARD 8 FOR RECLASSIFICATION OF THE AMERICAN ROLLING MILL COMPANY

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING, IN PART, TEMPORARY RELIEF

A petition, accompanied by a request for temporary relief, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937 (hereinafter referred to as the Act), having been filed by District Board 8, with the Bituminous Coal Division of the Department of the Interior (hereinafter referred to as the Division), requesting that coal from the Nellis Mine of the American Rolling Mill Company, a producer in District 8, be reduced in classification in Size Groups 11-14 from "B" to "F", Size Groups 15-17 from "B" to "E", Size Groups 18-21 from "F" to "J", Size Groups 25 and 26 from "B" to "C", and Size Group 27 from "B" to "D", and requesting the granting of temporary relief pending the disposition of the petition; and

An informal conference having been held on notice to interested persons on October 17, 1940, at which conference petitioner withdrew its request for a temporary order granting reductions in Size Groups 11 to 21 and 27 and at which conference there was no opposition to the request for temporary relief; and

The Director having considered the petition and the views expressed in its support by the petitioner and the American Rolling Mill Company,

Now, therefore, it is ordered, That the petition for temporary relief is granted,

and that pending the final disposition of the original petition herein, the Schedule of Effective Minimum Prices for District No. 8 For All Shipments Except Truck is amended by changing the classification in Size Groups 25 and 26 of the Nellis Mine of the American Rolling Mill Company from "B" to "C" for shipment to Market Area 100 only.

Notice is hereby given, that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to Section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That a hearing in respect to the subject matter of such petition be held on November 12, 1940, at 10 a. m. at a hearing room of the Bituminous Coal Division, 734 15th Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearings will be held;

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, to examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendations of appropriate orders in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such petitioner and to any other party herein and to such persons or entities having an interest in this proceeding and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to Section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petitions is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 8, 1940.

Dated: October 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4426; Filed, October 19, 1940; 10:25 a. m.]

No. 206—3

[Docket No. A-53]

PETITION OF DISTRICT BOARD NO. 10 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS FOR WASHED COALS, SIZE GROUPS 17 TO 25, FOR MINE INDEX NOS. 108, 124, 118, 119, 120 AND 121

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition dated September 30, 1940 pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937 having been filed by District Board No. 10 with this Division;

It is ordered, That a hearing in respect of the subject matter of such petition be held on November 13, 1940 at 10 a. m. at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street, NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Edward J. Hayes or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, to examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearings from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such petitioner and to any other party herein and to such persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to Section 4 II (d) of the Act setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 1, 1940.

The matter concerned herewith is in regard to a petition filed by the Bituminous Coal Producers Board for District No. 10 requesting the establishment of price classifications for certain mines stated to be made necessary by the initiation of the operation of washing and cleaning facilities at these mines.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern in addition to the matters specifically alleged in the petition of District Board No. 10 other matters incidental and related thereto whether raised by amendment of the petition, petitions of intervention or otherwise.

It is further ordered, That, a reasonable showing of necessity therefor having been made, pending the final disposition of the petition in the above-entitled proceeding, commencing forthwith, (1) the price group designation for shipment by rail for Mine Index Nos. 108 and 124 in District No. 10 be changed from Price Group No. 2 to Price Group No. 1; (2) the prices for shipment by truck from Mine Index Nos. 108 and 124 in District No. 10 to all market areas for Size Groups 17 to 25, inclusive, be the same as those shown for the same size groups of other mines in Franklin County already having prices for such size groups; (3) the coals in Size Groups 19 and 22 of Mine Index Nos. 118, 119, 120, and 121 in District No. 10 have the same prices for shipment by rail as are applicable to mines of Price Group No. 1 for Size Groups 19 and 22; and (4) the coals in Size Groups 19 and 22 of Mine Index No. 120 in District No. 10 have the same price for shipment by truck to all market areas as those shown for the same size groups of other mines in Franklin County already having prices for such size groups.

Notice is hereby given, that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to Section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: October 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4430; Filed, October 19, 1940; 11:36 a. m.]

Grazing Service.

ORDER ESTABLISHING GRAZING DISTRICT NO. 7 AND MODIFYING GRAZING DISTRICTS NOS. 1 AND 3 IN THE STATE OF COLORADO

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269, 43 U. S. Code, sec. 315, *et seq.*), as amended, commonly known as the Taylor Grazing Act, and subject to the limitations and conditions therein contained, Colorado Grazing District No. 7 is hereby established. The district shall embrace all vacant, unappropriated, and unreserved public lands and all lands hereafter acquired by lease under the provisions of the act of June 23, 1938 (32

Stat. 1033, 43 U. S. Code, sec. 315 m-1, 2, 3, 4), commonly known as the Pierce Act, not excluding lands withdrawn by Executive Order of November 26, 1934 (No. 6910), within the following-described legal subdivisions:

COLORADO

Sixth Principal Meridian

T. 6 S., R. 90 W., that part north of the Colorado River;
T. 5½ S., R. 93 W., sec. 1, all;
T. 6 S., R. 105 W.,
sec. 25, S½;
sec. 36, all;
Tps. 7 and 8 S., R. 105 W., all;

and within the following legal subdivisions, heretofore included in Colorado Grazing Districts Nos. 1 and 3:

COLORADO GRAZING DISTRICT NO. 1

Sixth Principal Meridian

T. 5 S., R. 88 W., sec. 31, all;
T. 5 S., R. 89 W.,
secs. 4 to 9, secs. 16 to 21, and secs. 25 to 30, inclusive;
sec. 31, that part north of the Colorado River;
secs. 32 to 36, inclusive;
T. 6 S., R. 89 W., that part north of the Colorado River;
T. 5 S., R. 89½ W., that part north of the Colorado River;
T. 5 S., R. 90 W., that part north of the Colorado River;
T. 4 S., R. 91 W., secs. 31 to 36, inclusive;
T. 5 S., R. 91 W., that part north of the Colorado River;
T. 6 S., R. 91 W., that part north of the Colorado River;
Tps. 4 and 5 S., R. 92 W., all;
T. 6 S., R. 92 W., that part north of the Colorado River;
Tps. 4 and 5 S., R. 93 W., all;
T. 6 S., R. 93 W., that part north of the Colorado River;
T. 4 S., R. 94 W.,
secs. 1 to 3, inclusive;
sec. 4, E½;
sec. 9, E½;
secs. 10 to 15, inclusive;
sec. 16, E½;
sec. 21, E½;
secs. 22 to 27, inclusive;
sec. 34, E½;
secs. 35 and 36;
T. 5 S., R. 94 W., all;
T. 6 S., R. 94 W., that part north of the Colorado River;
T. 4 S., R. 95 W., secs. 31 and 32;
T. 5 S., R. 95 W.,
secs. 1 to 3, inclusive;
sec. 4, S½;
secs. 5 to 36, inclusive;
Tps. 6 and 7 S., R. 95 W., those parts north of the Colorado River;
T. 5 S., R. 96 W., secs. 25 to 36, inclusive;
T. 6 S., R. 96 W., all;
Tps. 7 and 8 S., R. 96 W., those parts northwest of the Colorado River;
T. 5 S., R. 97 W.,
secs. 25 and 26;
sec. 31, S½;
secs. 35 and 36;
Tps. 6 and 7 S., R. 97 W., all;
Tps. 8 to 10 S., inclusive, R. 97 W., those parts west of the Colorado River;
T. 5 S., R. 96 W.,
sec. 4, E½SW¼, SE¼;
sec. 5, SW¼;
sec. 6, SE¼;
sec. 7, E½;
sec. 8, W½, W½E½;
sec. 9, NW¼, E½SE¼;
sec. 10, W½;
sec. 13, S½S½;
sec. 14, SE¼SE¼;
sec. 15, W½, W½E½;
sec. 16, E½NE¼, S½;

sec. 17, W½NE¼, NW¼, S½;
secs. 18 to 23, inclusive;
sec. 23, E½E½;
sec. 24, all;
sec. 25, NW¼, N½SW¼;
sec. 26, E½NE¼, NW¼, S½;
secs. 27 to 35, inclusive;

T. 6 S., R. 98 W.,
secs. 3 to 9, inclusive;
sec. 10, W½;
sec. 11, SW¼;
sec. 13, NE¼, S½;
sec. 14, W½;
sec. 15, NW¼, S½;
Secs. 16 to 36, inclusive;
Tps. 7 and 8 S., R. 98 W., all;
Tps. 9, 10, and 11 S., R. 98 W., those parts west of the Colorado River;
T. 5 S., R. 99 W., secs. 5 to 8 and secs. 13 to 36, inclusive;
Tps. 6 to 11 S., inclusive, R. 99 W., all;
T. 5 S., R. 100 W.,
secs. 1 to 4, inclusive;
sec. 5, E½;
secs. 8 to 17 and secs. 19 to 36, inclusive;
Tps. 6 to 10 S., inclusive, R. 100 W., all;
T. 5 S., R. 101 W.,
secs. 25 to 29, inclusive;
sec. 30, E½;
secs. 31 to 36, inclusive;
Tps. 6 to 10 S., inclusive, R. 101 W., all;
T. 11 S., R. 101 W., that part northeast of the Colorado River;
T. 5 S., R. 102 W.,
sec. 19, S½;
sec. 20, S½;
sec. 21, S½;
secs. 27 to 34, inclusive;
Tps. 6 to 9 S., inclusive, R. 102 W., all;
T. 5 S., R. 103 W.,
secs. 25 to 27, inclusive;
sec. 28, E½;
secs. 33 to 36, inclusive;
Tps. 6 to 9 S., inclusive, R. 103 W., all;
T. 10 S., R. 103 W., that part north of the Colorado River;
T. 6 S., R. 104 W.,
secs. 1 to 3 and secs. 10 to 16, inclusive;
sec. 15, S½;
sec. 20, S½;
secs. 21 to 36, inclusive;
Tps. 7 to 9 S., inclusive, R. 104 W., all;
Tps. 10 and 11 S., R. 104 W., those parts northwest of the Colorado River.

Ute Principal Meridian

T. 1 N., R. 1 E., all;
T. 1 N., R. 1 W., all;
T. 1 N., Rs. 2 and 3 W., those parts north of the Colorado River;
T. 2 N., Rs. 2 and 3 W., all;
T. 1 S., R. 1 W., that part north of the Colorado River;
T. 1 S., Rs. 1 and 2 E., those parts north of the Colorado River.

COLORADO GRAZING DISTRICT NO. 3

Sixth Principal Meridian

T. 10 S., R. 84 W., secs. 5 to 8, inclusive, and secs. 17 and 18;
T. 9 S., R. 85 W., secs. 3 to 10, secs. 14 to 23, and secs. 26 to 35, inclusive;
T. 10 S., R. 83 W., secs. 1 to 6 and secs. 11 to 14, inclusive;
T. 8 S., R. 86 W., secs. 3 to 10, secs. 15 to 22, and secs. 25 to 36, inclusive;
T. 9 S., R. 86 W., secs. 1 to 30 and secs. 34 to 36, inclusive;
T. 10 S., R. 86 W., secs. 1, 2, and 3;
T. 7 S., R. 87 W., secs. 1 to 11, secs. 14 to 23, and secs. 26 to 35, inclusive;
T. 8 S., R. 87 W., all;
T. 9 S., R. 87 W., secs. 1, 12, 13, 24, and 25;
Tps. 7 and 8 S., R. 88 W., all;
Tps. 5 and 6 S., R. 89 W., those parts south of the Colorado River;
T. 7 S., R. 89 W., secs. 1 to 16, secs. 22 to 27, and secs. 34 to 36, inclusive;
T. 8 S., R. 89 W., secs. 1 and 2, secs. 11 to 14, inclusive, and secs. 23, 26, 35, and 36;
T. 5 S., R. 89½ W., that part south of the Colorado River;
Tps. 5 and 6 S., R. 90 W., those parts south of the Colorado River;
T. 7 S., R. 90 W., all;
Tps. 5 and 6 S., R. 91 W., those parts south of the Colorado River;
T. 7 S., R. 91 W., all;
T. 8 S., R. 91 W., secs. 5 to 8, secs. 17 to 20, and secs. 29 to 32, inclusive;
T. 6 S., R. 92 W., that part south of the Colorado River;
T. 7 S., R. 92 W., all;
T. 8 S., R. 92 W., secs. 1 to 18, inclusive;
T. 9 S., R. 92 W.,
secs. 6 and 7;
sec. 18, lots 1, 2, 3, and 4, N½NE¼, SW¼NE¼, W½SE¼, SE¼SE¼;
sec. 19, all;
T. 6 S., R. 93 W., that part south of the Colorado River;
T. 7 S., R. 93 W., secs. 1 to 18, secs. 22 to 27, and secs. 34 to 36, inclusive;
T. 8 S., R. 93 W., secs. 1, 2, 11, 12, and 36;
T. 9 S., R. 93 W., all;
T. 10 S., R. 93 W., secs. 3 to 10, inclusive;
T. 6 S., R. 94 W., that part south of the Colorado River;
T. 7 S., R. 94 W., secs. 1 to 18, inclusive;
T. 9 S., R. 94 W., all;
T. 10 S., R. 94 W., secs. 1 to 21, and secs. 28 to 30, inclusive;
Tps. 6 and 7 S., R. 95 W., those parts south of the Colorado River;
T. 8 S., R. 95 W., secs. 4 to 9 and secs. 16 to 18, inclusive;
T. 9 S., R. 95 W.,
sec. 1, all;
sec. 2, SE¼;
secs. 11 to 16 and secs. 19 to 36, inclusive;
T. 10 S., R. 95 W., all;
T. 11 S., R. 95 W., secs. 5 and 6;
T. 7 S., R. 96 W., that part southeast of the Colorado River;
T. 8 S., R. 96 W.,
secs. 1 to 3, inclusive;
secs. 4, 5, 7, and 8, those parts south of the Colorado River;
secs. 9 to 21 and secs. 28 to 33, inclusive;
T. 9 S., R. 96 W.,
sec. 6, all (fractional);
sec. 19, W½;
secs. 25 to 36, inclusive;
T. 10 S., R. 96 W., all;
T. 11 S., R. 96 W.,
secs. 1 to 10, inclusive, and sec. 15;
sec. 16, NW¼, S½;
secs. 17 to 21, inclusive;
Tps. 8 to 10 S., inclusive, R. 97 W., those parts east of the Colorado River;
T. 11 S., R. 97 W., all;
T. 12 S., R. 97 W., secs. 6, 7, 18, and 19, and secs. 30 to 34, inclusive;
T. 13 S., R. 97 W.,
secs. 4 to 9, secs. 16 to 21, and secs. 28 to 31, inclusive;
secs. 32 and 33, those parts in Mesa County;
T. 14 S., R. 97 W., secs. 5 and 6, those parts in Mesa County;
Tps. 9, 10, and 11 S., R. 98 W., those parts east of the Colorado River;
Tps. 12 and 13 S., R. 98 W., all;
T. 14 S., R. 98 W., that part in Mesa County;
T. 15 S., R. 98 W., that part northwest of Little Dominguez Creek and in Mesa County;
Tps. 12 to 14 S., inclusive, R. 100 W., all;
T. 15 S., R. 99 W., that part north of Little Dominguez Creek (unsurveyed);
Tps. 12 to 14 S., inclusive, R. 100 W., all;
T. 15 S., R. 100 W., secs. 1 to 5, secs. 8 to 16, and secs. 23 to 25, inclusive;
T. 11 S., R. 101 W., that part southwest of the Colorado River and outside of the Colorado National Monument;
T. 12 S., R. 101 W., sec. 7 and secs. 15 to 36, inclusive;
Tps. 13 and 14 S., R. 101 W., all;
T. 15 S., R. 101 W., secs. 5 and 6;
T. 11 S., R. 102 W.,
sec. 13, W½;
secs. 14 to 23, inclusive;
sec. 24, W½;
sec. 25, W½;
secs. 26 to 35, inclusive;
sec. 36, W½;
Tps. 12 and 13 S., R. 102 W., all;
T. 14 S., R. 102 W., secs. 5 to 8, and secs. 17 to 36, inclusive;

T. 15 S., R. 102 W.,
secs. 1 to 12, inclusive;
sec. 13, N $\frac{1}{2}$;
sec. 14, N $\frac{1}{2}$;
sec. 15, N $\frac{1}{2}$;
T. 10 S., R. 103 W., that part south of the
Colorado River;
Tps. 11 to 14 S., inclusive, R. 103 W., all;
Tps. 10 and 11 S., R. 104 W., those parts
southeast of the Colorado River;
Tps. 12 to 14 S., inclusive, R. 104 W., all.

Ute Principal Meridian

T. 1 N., R. 2 W., that part south of the Colo-
rado River and outside of the Colorado National
Monument.
T. 1 N., R. 3 W., that part south of the Colo-
rado River;
T. 1 S., R. 1 W., that part south of the Colo-
rado River and outside of the Colorado
National Monument;
T. 2 S., R. 1 W., all (fractional);
T. 1 S., R. 1 E., that part south of the Colo-
rado River;
T. 2 S., R. 1 E., all;
T. 1 S., R. 2 E., that part south of the Colo-
rado River;
Tps. 2 and 3 S., R. 2 E., all;
T. 4 S., R. 3 E., all.

The Federal Range Code, as revised,
shall be effective as to the lands em-
braced herein from and after the date
of the publication of this order in the
FEDERAL REGISTER.

A. J. WIRTZ,
Acting Secretary of the Interior.
OCTOBER 12, 1940.

[F. R. Doc. 40-4425; Filed, October 19, 1940;
9:26 a. m.]

COLORADO GRAZING DISTRICT NO. 3
MODIFICATION
Correction

The land description in F.R. Doc. 40-
4199 (filed, October 7, 1940 at 10:11
a. m.), appearing at page 3954 of the is-
sue for Tuesday, October 8, 1940, is cor-
rected by changing the first two lines to
read as follows:

T. 40 N., R. 3 E.,
Secs. 25 to 28 and secs. 33 to 36, inclusive;

DEPARTMENT OF AGRICULTURE.
Surplus Marketing Administration.
DAIRY DIVISION
[Docket No. A-145 O-145]

NOTICE OF HEARING ON PROPOSAL TO AMEND
TENTATIVELY APPROVED MARKETING AGREE-
MENT AND ORDER NO. 47 REGULATING
HANDLING OF MILK IN FALL RIVER, MASSA-
CHUSETTS, MARKETING AREA

Whereas pursuant to the powers con-
ferred upon the Secretary of Agriculture
by Public Act No. 10, 73d Congress, as
amended and as reenacted and amended
by the Agricultural Marketing Agreement
Act of 1937, as amended, the Secretary
tentatively approved, on April 25, 1940,
a marketing agreement and thereafter
issued an order¹ regulating the handling
of milk in the Fall River, Massachusetts,

¹ 5 F.R. 2079.

marketing area, effective June 1, 1940;
and

Whereas various interested parties
have proposed certain amendments to
said tentatively approved marketing
agreement and to said order; and

Whereas the Secretary has reason to
believe that the declared policy of said
act will be effectuated by holding a hear-
ing on a proposal to amend said tenta-
tively approved marketing agreement
and said order; and

Whereas under the aforesaid act, notice
of hearing is required in connection with
a proposal to amend an order, and the
General Regulations, Series A, No. 1,²
as amended, of the Agricultural Adjust-
ment Administration, United States De-
partment of Agriculture, provide for no-
tice of and opportunity for hearing upon
amendments to marketing agreements
and orders:

Now, therefore, pursuant to said act
and general regulations, notice is hereby
given of a hearing to be held on said
proposal to amend the tentatively ap-
proved marketing agreement and Order
No. 47 regulating the handling of milk
in the Fall River, Massachusetts, mar-
keting area, beginning at 10:00 a. m.,
e. s. t., on October 28, 1940, in the Wa-
tuppa Grange Hall, Westport, Massa-
chusetts.

This public hearing is for the purpose
of receiving evidence with respect to pro-
posals to (1) increase the Class I price
from \$3.35 to \$3.55 or \$3.60 per hundred-
weight for milk of 3.7 percent butterfat
content, (2) provide for market service
payments to qualified cooperative asso-
ciations, (3) provide that the order shall
apply to producer-handlers as well as
to handlers, (4) revise the butterfat dif-
ferential, (5) revise the base rating
provisions, and (6) revise the provisions
relative to milk transferred to and from
other markets.

Copies of the proposed amendments
to said tentatively approved marketing
agreement and said order may be ob-
tained from the Hearing Clerk, Office
of the Solicitor, Room 0310 South Build-
ing, United States Department of Agri-
culture, Washington, D. C., or may be
there inspected.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

OCTOBER 19, 1940,
Washington, D. C.

[F. R. Doc. 40-4437; Filed, October 21, 1940;
11:11 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFI-
CATES FOR THE EMPLOYMENT OF LEARN-
ERS UNDER THE FAIR LABOR STANDARDS
ACT OF 1938

Notice is hereby given that Special
Certificates authorizing the employment

² 7 CFR 900.1-900.20.

of learners at hourly wages lower than
the minimum rate applicable under Sec-
tion 6 of the Act are issued under Sec-
tion 14 thereof and part 522.5B of the
Regulations issued thereunder (August
16, 1940, 5 F.R. 2862) to the employers
listed below effective October 22, 1940.

The employment of learners under
these Certificates is limited to the terms
and conditions as designated opposite
the employer's name. These Certifi-
cates are issued upon the employers
representations that experienced work-
ers for the learner occupations are not
available for employment and that they
are actually in need of learners at sub-
minimum rates in order to prevent cur-
tailment of opportunities for employ-
ment. The Certificates may be canceled
in the manner provided for in the Regu-
lations and as indicated on the Certifi-
cate. Any person aggrieved by the
issuance of these Certificates may seek
a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT,
NUMBER OF LEARNERS, LEARNING PERIOD,
LEARNER WAGE, LEARNER OCCUPATIONS,
EXPIRATION DATE

Ericksen Textile Company, 626 N.
Locust Street, Mokense, Illinois; Miscel-
laneous; Minnow Seines; 2 learners; 4
weeks for any one learner; 25 cents per
hour; Sewing Machine Operator; De-
cember 31, 1940.

Jordan Industries, Colfax, Indiana;
Miscellaneous; Novelty Furniture & Oc-
casional Pieces; 3 learners; 4 weeks for
any one learner; 25 cents per hour;
Woodworking Machine Operator, Assem-
bler, Finisher; December 31, 1940.

Musictype Corporation, 1565 Broad-
way, New York, New York; Miscella-
neous; Photographic Mastersheet for
the Reproduction of Music by Photo-
Mechanic Means; 25 learners; 12 weeks
for any one learner; 25 cents per hour;
Musictype Setter; July 29, 1941.

Signed at Washington, D. C., this 21st
day of October, 1940.

GUSTAV PECK,
*Authorized Representative
of the Administrator.*

[F. R. Doc. 40-4441; Filed, October 21, 1940;
11:55 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFI-
CATES FOR THE EMPLOYMENT OF LEARN-
ERS UNDER THE FAIR LABOR STANDARDS
ACT OF 1938

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 Act are issued under sec-
tion 14 thereof, Part 522 of the Regula-
tions issued thereunder (August 16, 1940,
5 F.R. 2862) and the Determination and
Order or Regulation listed below and
published in the FEDERAL REGISTER as
here stated.

Hosiery Learner Regulations, Septem-
ber 4, 1940 (5 F.R. 3530)

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591)

Millinery Learner Regulations, Custom Made, August 29, 1940 (5 F.R. 3392)

Millinery Learner Regulations, Popular Priced, August 29, 1940 (5 F.R. 3393)

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)

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective October 22, 1940. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

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

Acme Hosiery Dye Works, Inc., Pulaski, Virginia; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Carroll Silk Hosiery Mills, Inc., Hillsville, Virginia; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Garrou Knitting Mills, Morganton, North Carolina; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Golden Belt Manufacturing Company, Durham, North Carolina; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Clay County Products Company, Inc., Green Cove Springs, Florida; Hosiery; Full-Fashioned; 20 learners; June 22, 1941.

Clay County Products Company, Inc., Green Cove Springs, Florida; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

East Shore Hosiery Mills, Berlin, Maryland; Hosiery; Full-Fashioned; 5 learners; June 22, 1941.

East Shore Hosiery Mills, Berlin, Maryland; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Gray-Line Hosiery Company, Chambersburg, Pennsylvania; Hosiery; Full-Fashioned; 6 learners; June 22, 1941.

Herbert Hosiery Mills, Inc., Penn Street at Arch Street, Norristown, Pennsylvania; Hosiery; Seamless; 152 learners; June 22, 1941.

Herbert Hosiery Mills, Inc., Washington and Noble Streets, Norristown, Pennsylvania; Hosiery; Seamless; 60 learners; June 22, 1941.

Holeproof Hosiery Company, Milwaukee, Wisconsin; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Infants Socks, Inc., Fond Du Lac, Wisconsin; Hosiery; Seamless; 5 percent; October 22, 1941.

Larkwood Silk Hosiery Mills, Inc., Charlotte, North Carolina; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Morganton Full Fashioned Hosiery Company, Morganton, North Carolina; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Newfield Textile Mill, Newfield, New Jersey; Hosiery; Full-Fashioned; 5 learners; October 22, 1941.

Phoenix Hosiery Company, Milwaukee, Wisconsin; Hosiery; Seamless & Full-Fashioned; 5 percent; October 22, 1941.

Spalding Knitting Mills, Griffin, Georgia; Hosiery; Seamless; 5 percent; October 22, 1941.

Tip-Top Hosiery Mills, Inc., Asheboro, North Carolina; Hosiery; Seamless; 5 learners; October 22, 1941.

Virginia Maid Hosiery Mills, Inc., Pulaski, Virginia; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Walker County Hosiery Mills, Lafayette, Georgia; Hosiery; Seamless; 5 percent; October 22, 1941.

Wallner Silk Hosiery Mills, Inc., Pulaski, Virginia; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

Diamond Full Fashion Hosiery Company, Inc., High Point, North Carolina; Hosiery; Full-Fashioned; 5 learners; October 22, 1941.

Morristown Knitting Mills, Inc., Danbridge, Tennessee; Hosiery; Seamless; 80 learners; June 22, 1941.

Morristown Knitting Mills, Inc., White Pine, Tennessee; Hosiery; Seamless; 5 percent; October 22, 1941.

Morristown Knitting Mills, Inc., Morristown, Tennessee; Hosiery; Seamless; 5 percent; October 22, 1941.

Orange Knitting Mills, Orange, Virginia; Hosiery; Full-Fashioned; 25 learners; June 22, 1941.

Paul Knitting Mills, Pulaski, Virginia; Hosiery; Seamless; 5 percent; October 22, 1941.

Van Raalte Company, Athens, Tennessee; Hosiery; Full-Fashioned; 15 learners; June 22, 1941.

Van Raalte Company, Inc., Athens, Tennessee; Hosiery; Full-Fashioned; 5 percent; October 22, 1941.

A. & L. Brand Incorporated, 55 Minor Street, New Haven, Connecticut; Apparel; Children's Dresses; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Allen Underwear Manufacturing Company, Inc., 153 Bellemonte Avenue, Hawley, Pennsylvania; Apparel; Ladies' Underwear; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

C. A. Baltz and Sons, Salem, New York; Apparel; Pajamas; 20 learners (75% of the applicable hourly minimum wage); February 18, 1941.

Blauer Manufacturing Company, Inc., 169 Bridge Street, Cambridge, Massachusetts; Apparel; Sportswear, (Gabardine Coats, Golf Jackets); 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Borman Sportswear Incorporated, 21 E. Main Street, Johnstown, New York; Apparel; Leather Sport Clothing, Gabardine & Poplin Jackets, Sheep Lined Clothing; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Boulevard Frocks, Inc., 510 1st Avenue, North, Minneapolis, Minn.; Apparel; Dresses, Housecoats, Smocks; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Brand Brothers, Inc., 55 Minor Street, New Haven, Connecticut; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Chic Manufacturing Company, 1001 S. Adams Street, Peoria, Illinois; Apparel; Cotton Dresses; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Cohen, Goldman and Company, Inc., Queen & Pasteur Streets, New Bern, North Carolina; Apparel; Men's Suits and Separate Trousers; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Consolidated Garment Manufacturing Company, 225 North Market Street, Galion, Ohio; Apparel; Cotton Undergarments; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Enterprise & Century Underwear Company, Inc., N. Main Street, South Norwalk, Connecticut; Apparel; Ladies' Underwear; 20 learners (75% of the applicable hourly minimum wage); February 18, 1941.

The Flossie Dress Company, 795 Atlantic Street, Stamford, Connecticut; Apparel; Children's Wear; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Freedman-Roadelheim Company, Quakertown, Pennsylvania; Apparel; Shirts; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

General Sportswear Company, Inc., 23 Market Street, Ellenville, New York; Apparel; Gym Suits, Playsuits, Coveralls; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Gopher Sportswear Company, 22 North Third Street, Minneapolis, Minnesota; Apparel; Dresses; 3 learners (75% of the applicable hourly minimum wage); October 22, 1941.

William Haberman Corporation, 1 Virginia Avenue, Newark, New Jersey; Apparel; Shirts; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Herbert Manufacturing Company, 206 E. 5th Street, St. Paul, Minnesota; Apparel; Overcoats and Topcoats; 12

learners (75% of the applicable hourly minimum wage); February 18, 1941.

Katz Underwear Company, Sixth Street, Honesdale, Pennsylvania; Apparel; Ladies' and Juniors' Underwear and Nightwear; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Kops Brothers, Inc., 100-02 Rockaway Boulevard, Ozone Park, Long Island, New York; Apparel; Corsets, Brassieres, Foundations; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Liberty Trouser Company, 2211 1st Avenue, Birmingham, Alabama; Apparel; Overalls, Pants (Cotton and other); 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

S. Liebovitz and Sons, Inc., E. Seminary Street, Mercersburg, Pennsylvania; Apparel; Men's and Boys' Shirts; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Liederman Manufacturing Company, 303 W. Monroe Street, Chicago, Illinois; Apparel; Caps, Spats, Ear Muffs, Ski Suits; 10 learners (75% of the applicable hourly minimum wage); February 18, 1941.

London Clothing Corporation, Corner Birch and Brighton Streets, North Abington, Massachusetts; Apparel; Men's and Boys' Clothing; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

MacSmith Garment Company, Inc., 28th Street, Gulfport, Mississippi; Apparel; Shirts; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Marathon Underwear Corporation, 960 South Los Angeles Street, Los Angeles, California; Apparel; Slips and Gowns; 20 learners (75% of the applicable hourly minimum wage); February 18, 1941.

Marso and Rodenborn Manufacturing Company, 700 1st Avenue, North, Fort Dodge, Iowa; Apparel; All Cotton Pants, Shirts, Overalls, Overall Jackets, Children's Garments, Part-Rayon Pants, Odd Outer Jackets, Shop Caps; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Maryland Sportswear Company, 113 Water Street, Baltimore, Maryland; Apparel; Sportswear, Sport Shirts; 30 learners (75% of the applicable hourly minimum wage); February 18, 1941.

Nancy Ellen Frocks, Inc., Camden, Maine; Apparel; Children's Dresses; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Nature's Rival Company, Inc., 802 E. King Street, Garrett, Indiana; Apparel; Corsets and Allied Garments; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

M. Nirenberg Sons, Incorporated, 750 Second Avenue, Troy, New York; Apparel; Shirts; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Patterson Manufacturing Company, 428 North Main Street, Miami, Oklahoma; Apparel; Overalls; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Perfection Garment Company, Inc., Winchester Avenue, Martinsburg, West Virginia; Apparel; House Dresses; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Puritan Mills, Inc., 330 West Campbell Avenue, Roanoke, Virginia; Apparel; Nightwear; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Red Lion Manufacturing Company, 224-232 1st Avenue, Red Lion, Pennsylvania; Apparel; Children's Dresses, Ladies' Pajamas, Ladies' Sportswear; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Rice Stix of Arkansas, Inc., Blytheville, Arkansas; Apparel; Shirts and Pajamas; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Rice Stix Dry Goods Company, Factory #20, Slater, Missouri; Apparel; Men's Cotton Underwear; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Rice Stix Factory #10, 10 N. Division Street, Bonne Terre, Missouri; Apparel; Men's and Boys' Shirts; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Rice Stix Factory #25, 1st & S. A. Streets, Farmington, Missouri; Apparel; Men's and Boys' Shirts; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Rice Stix Factory, No. 15, Lebanon, Missouri; Apparel; Coveralls, Overalls; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Rice Stix Factory #5, St. James, Missouri; Apparel; Dresses; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Robinson Manufacturing Company, Dayton, Tennessee; Apparel; Woven Cotton Underwear; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Russbro, Incorporated, 809 N. Main Street, Jamestown, New York; Apparel; Skirts; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Salant & Salant, Inc., Henderson, Tennessee; Apparel; Work Shirts; 72 learners (75% of the applicable hourly minimum wage); April 15, 1941.

Charles Smithline Underwear Company, Inc., 248 Broad Avenue, Palisades Park, New Jersey; Apparel; Ladies' Underwear; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Solomon Underwear Company, Inc., 406-406A Broad Avenue, Palisades Park, New Jersey; Apparel; Ladies' Underwear; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

E. H. South Company, Bethel, Ohio; Apparel; Men's and Boys' Single Pants; 4 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Southland Manufacturing Company, Inc., 2nd & Greenfield Streets, Wilmington, North Carolina; Apparel; Shirts; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

J. H. Stern Garment Company, Seven Valleys, Pennsylvania; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Stylecraft Studios, Inc., 1043 East Genesee Avenue, Saginaw, Michigan; Apparel; Corsets and Brassieres; 4 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Union Underwear Company, Inc., Frankfort, Kentucky; Apparel; Men's and Boys' Underwear; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

United Garment Manufacturing Company, 400 First Avenue, North, Minneapolis, Minnesota; Apparel; Sportswear and Outerwear, Leather and Sheep-lined Garments; 3 learners (75% of the applicable hourly minimum wage); October 22, 1941.

United Shirt and Blouse Company, Inc., 84 Center Street, Shelton, Connecticut; Apparel; Men's and Boys' Shirts, Ladies' and Children's Dresses; 5 learners (75% of the applicable hourly minimum wage); October 22, 1941.

Wilson Brothers, 1008 West Sample Street, South Bend, Indiana; Apparel; Men's Furnishings; 5 percent (75% of the applicable hourly minimum wage); October 22, 1941.

Lord Hat Company, 640 S. Broadway, Los Angeles, California; Millinery; Custom-Made; 5 learners; October 22, 1941.

Simon Millinery Company, 989 Market Street, San Francisco, California; Millinery; Custom-Made; 4 learners; October 22, 1941.

Alabama Bedspread Company, Scottsboro, Alabama; Textile; Chenille Bedspreads; 50 learners; April 8, 1941.

The Boysell Company, Inc., 118 East Airline Avenue, Gastonia, North Carolina; Textile; Tufted Bedspreads and Rugs; 50 learners; March 18, 1941.

Buffalo Woven Label Works, Inc., 567 Washington Street, Buffalo, New York; Textile; Woven Labels; 3 learners; October 22, 1941.

National Shipping Supply Company, 1828 Main Street, Kansas City, Missouri; Textile; Cotton; 3 learners; February 18, 1941.

Essex-Leather Products Company, Newark, New Jersey; Glove; Work Gloves; 15 learners; April 22, 1941.

Smoler Brothers, Inc., 318 E. Colfax Avenue, South Bend, Indiana; Apparel; Wash Dresses; 30 learners (75% of the applicable hourly minimum wage); August 22, 1941.

Muller and Raas, 820 Mission Street, San Francisco, California; Millinery; Custom-Made; 2 learners; October 11,

1941. (Amending learning period of Certificate issued October 11 to 30 cents for first 14 weeks and 35 cents for next 12 weeks.)

Signed at Washington, D. C., this 21st day of October 1940.

GUSTAV PECK,
Authorized Representative
of the Administrator.

[F. R. Doc. 40-4442; Filed, October 21, 1940;
11:55 a. m.]

EXTENSION OF CLOSING DATE FOR SUBMISSION OF WRITTEN BRIEFS IN THE MATTER OF MINIMUM WAGE RECOMMENDATIONS OF INDUSTRY COMMITTEE NO. 15 FOR THE EMBROIDERIES INDUSTRY

Whereas, certain persons, who appeared at the public hearing on September 30, 1940 in connection with minimum wage rates recommended by Industry Committee No. 15, for the Embroideries Industry, have presented reasonable ground for the extension of time from October 21, 1940 until November 1, 1940 in which written briefs bearing on the issues before the Administrator on this matter may be filed;

Therefore, notice is hereby given that the Administrator of the Wage and Hour Division will receive at his office, in the Department of Labor Building, Washington, D. C., from persons who appeared at the hearing of September 30, 1940, on the recommendations of Industry Committee No. 15 concerning minimum wage rates for the Embroideries Industry, written briefs bearing on the issues which are before him in this matter, provided that at least twelve copies of each brief shall be submitted to him before 4:30 P. M., Friday, November 1, 1940.

Signed at Washington, D. C., this 21st day of October 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-4443; Filed, October 21, 1940;
11:55 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4148]

IN THE MATTER OF LIGHTFOOT SCHULTZ COMPANY, A CORPORATION; CONTINENTAL BLADE CORPORATION, A CORPORATION; AND LAWRENCE DISTRIBUTING CORPORATION, A CORPORATION

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in

the City of Washington, D. C. on the 17th day of October, A. D. 1940.

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

It is ordered, That Lewis C. Russell, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 4, 1940, at ten o'clock in the forenoon of that day (eastern standard time), at the St. George Hotel, Brooklyn, New York.

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

By the Commission:
[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-4433; Filed, October 21, 1940;
10:13 a. m.]

[Docket No. 4178]

IN THE MATTER OF INLAID OPTICAL CORPORATION

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1940.

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

It is ordered, That Lewis C. Russell, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 12, 1940, at ten o'clock in the forenoon of that day (eastern Standard time) in the Biltmore Hotel, Providence, Rhode Island.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Ex-

aminer will then close the case and make his report upon the evidence.

By the Commission:
[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-4434; Filed, October 21, 1940;
10:13 a. m.]

[Docket No. 4285]

IN THE MATTER OF T. A. WARD, CARR WARD AND WILMA WARD, INDIVIDUALLY AND TRADING AS MINETREE BROKERAGE COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U.S.C.A., Section 41), and (49 Stat. 1526, U.S.C.A., Section 13, as amended)

It is ordered, That John L. Hornor, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, October 25, 1940, at ten o'clock in the forenoon of that day (central standard time) in the Circuit Court Room, County Court House, Poplar Bluff, Missouri.

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

By the Commission:
[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-4435; Filed, October 21, 1940;
10:13 a. m.]

[Docket No. 4181]

IN THE MATTER OF LUCIAN V. SEGAL, AN INDIVIDUAL TRADING AS SEGAL OPTICAL COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1940.

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

It is ordered, That Lewis C. Russell, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 6, 1940, at ten o'clock in the forenoon of that day (eastern standard time) at the St. George Hotel, Brooklyn, New York.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-4439; Filed, October 21, 1940; 11:38 a. m.]

[Docket No. 4312]

IN THE MATTER OF WALLACE BROWN, INC.,
A CORPORATION

ORDER APPOINTING TRIAL EXAMINER AND
FIXING TIME AND PLACE FOR TAKING
TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1940.

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

It is ordered, That Lewis C. Russell, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, October 31, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in the St. George Hotel, Brooklyn, New York.

Upon completion of testimony for the Federal Trade Commission, the Trial

Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-4440; Filed, October 21, 1940; 11:38 a. m.]

UNITED STATES CIVIL SERVICE
COMMISSION.

CONDITION OF THE APPORTIONMENT AT
CLOSE OF BUSINESS TUESDAY, OCTOBER
15, 1940

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

State	Number of positions to which entitled	Number of positions occupied
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IN ARREARS

1. Virgin Islands	10	0
2. Puerto Rico	699	48
3. Hawaii	167	18
4. California	2,569	948
5. Alaska	27	10
6. Texas	2,636	1,139
7. Louisiana	951	450
8. Michigan	2,191	1,126
9. Arizona	197	106
10. South Carolina	787	464
11. Arkansas	839	519
12. Alabama	1,198	744
13. Mississippi	910	578
14. Ohio	3,008	1,912
15. New Jersey	1,829	1,170
16. Georgia	1,316	851
17. Kentucky	1,183	769
18. New Mexico	192	132
19. North Carolina	1,435	1,002
20. Oklahoma	1,084	763
21. Nevada	41	32
22. Tennessee	1,184	941

IN ARREARS—Continued

State	Number of positions to which entitled	Number of positions occupied
23. Illinois	3,453	2,885
24. Wisconsin	1,330	1,153
25. Indiana	1,466	1,310
26. Vermont	163	150
27. Delaware	108	102
28. Connecticut	727	692
29. Florida	664	638
30. Utah	230	226
31. Rhode Island	311	306
32. Kansas	851	842
33. North Dakota	308	305

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34. Idaho	201	201
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State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1940
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IN EXCESS

35. Pennsylvania	4,359	4,367	-108
36. New York	5,697	5,712	-178
37. New Hampshire	211	212	+0
38. Maine	361	366	+13
39. Missouri	1,642	1,668	+11
40. Minnesota	1,160	1,181	-22
41. West Virginia	783	800	+25
42. Oregon	432	442	+31
43. Iowa	1,118	1,176	-52
44. Washington	707	750	+36
45. South Dakota	314	335	-15
46. Colorado	469	503	-4
47. Wyoming	102	110	+10
48. Massachusetts	1,923	2,085	+168
49. Montana	243	296	+59
50. Nebraska	624	776	+111
51. Virginia	1,096	2,085	-27
52. Maryland	738	2,152	+7
53. District of Columbia	220	8,907	+44

GAINS

By appointment	593
By transfer	11
By reinstatement	1
By correction	1
Total	606

LOSSES

By separation	13
By transfer	23
Total	36
Total appointments	56,464

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Sec. 3, Rule VII, and the Attorney General's Opinion of August 25, 1934, 17,228.

By direction of the Commission.

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

[F. R. Doc. 40-4432; Filed, October 21, 1940; 9:21 a. m.]

